

September 10, 1998

Joseph V. Raspanti, Controller

Dockpub Associates

The Dock Street Companies

100 North 17th Street, 8th Floor

Philadelphia, PA 19103

Re: License Nos. R-499 and G-254

Dear Mr. Raspanti:

ISSUE: In your letter dated August 12, 1998, you inquired on behalf of Dockpub Associates, the holder of restaurant liquor license No. R-499 and brewery license No. G-254, as to whether Dockpub Associates is required to maintain the records set forth in section 5.101(a)(6) through (9) of the Board's regulations [40 Pa. Code Sections 5.101(a)(6)-(9)] if Dockpub does not sell its product to any other entity. According to your letter, Dockpub produces malt or brewed beverages which are sold exclusively at its restaurant licensed premises. At this point, Dockpub maintains a daily perpetual inventory to document the transfer of its product from the brewery to its restaurant.

OPINION: As a brewery licensee, you are also permitted to operate a licensed restaurant on the premises of the brewery. [47 P.S. Section 4-446(2)]. Since Dockpub holds two licenses, it is required to keep the pertinent records for each license.

With respect to the restaurant license, section 493(12) of the Liquor Code requires a restaurant licensee to keep on the licensed premises for a period of at least two years complete and truthful records covering the operation of the licensed business, particularly showing the date of all purchases of liquor and malt or brewed beverages, the actual price paid therefor, and the name of the vendor, including state store receipts. [47 P.S. Section 4-493(12)].

With respect to the brewery license, section 5.101 of the Board's regulations sets forth the record keeping requirements. [40 Pa. Code Section 5.101]. Subsections (a)(6), (7), (8) and (9) refer to records which the brewery must keep, particularly if it is selling its product to other entities. Since Dockpub is not selling its product to other entities, it would not be required to maintain these records or, in the alternative, Dockpub could keep these records which would indicate that no sales have occurred and no product has been removed from the licensed premises. However, subsection (a)(5) does require that records must include the quantity of tax-paid or nontax-paid malt or brewed beverages used for consumption on the premises. Since Dockpub's product is being consumed on its premises, it must keep records of the quantity which is used for consumption on the premises. The daily perpetual inventory documenting the transfer of beer from the brewery to the restaurant would appear to satisfy

the requirements of subsection (a)(5). Please be advised, that should Dockpub sell its product to another entity, it would be required to comply with subsections (a)(6) through (9).

THIS OPINION APPLIES ONLY TO THE FACTUAL SITUATION DESCRIBED HEREIN AND DOES NOT INSULATE THE LICENSEE OR OTHERS FROM CONSEQUENCES OF CONDUCT OCCURRING PRIOR TO ITS ISSUANCE. THE PROPRIETY OF THE PROPOSED CONDUCT HAS BEEN ADDRESSED ONLY UNDER THE LIQUOR CODE AND REGULATIONS. THE LAWS AND POLICIES ON WHICH THIS OPINION IS BASED ARE SUBJECT TO CHANGE BY THE LEGISLATURE OR THE PENNSYLVANIA LIQUOR CONTROL BOARD.

Very truly yours,

FAITH S. DIEHL

CHIEF COUNSEL

cc: Bureau of Liquor Control Enforcement,
Pennsylvania State Police

Refer to: (717) 783-9454

FAX: (717) 787-8820

Advisory Opinion No. 98-292