



ADVISORY NOTICE NO. 17

CONTRACT BREWING REQUIREMENTS OCTOBER 4, 2000

TO: All Pennsylvania Malt or Brewed Beverage Manufacturers

The purpose of this notice is to summarize Pennsylvania law and provide guidance in the area of contract brewing agreements in the Commonwealth. The agency has received an increasing number of questions regarding the guidelines for contract brewing in recent months.

Under Pennsylvania law, a manufacturer/brewery (G) license is required to “produce and manufacture malt or brewed beverages, and to transport, sell and deliver malt or brewed beverages... in original containers....” [47 P.S. §4-431(a)]. Contract brewing, in which a Pennsylvania manufacturer enters into an agreement with either another in-state manufacturer or an out-of-state manufacturer to brew some of its products, has been permitted under certain conditions, as set forth in legal opinions over the last few years.

The following requirements must be met in any contract brewing situation involving a Pennsylvania manufacturer of malt or brewed beverages:

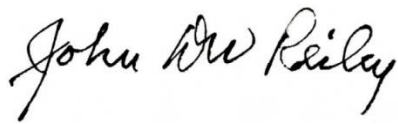
1. The manufacturer having its products brewed under contract, which is the ultimate seller of the malt or brewed beverages, must retain title to the products brewed by the contract brewer;
2. Both manufacturers involved in the contract must have manufacturer licenses in their respective states;
3. Both manufacturers must keep complete records for two years on production and sales of their respective products;
4. All brands of malt or brewed beverages offered, sold or delivered within the Commonwealth shall be properly registered [47 P.S. §4-445; 40 Pa. Code §9.108];
5. Distribution of malt or brewed beverages within Pennsylvania shall be either by a Pennsylvania licensed manufacturer whose principal place of business is located in Pennsylvania and who retains title to the products or by the appointed importing distributor or distributor for a specific geographical area by written agreement [47 P.S. §4-431(b)];
6. All other Pennsylvania Liquor Control Board and federal Bureau of Alcohol, Tobacco and Firearms (BATF) requirements must be met by both parties to a contract brewing arrangement; and
7. All contractual agreements between manufacturers must be forwarded to Malt Beverage Compliance, listing complete details of the contract before production begins.

A manufacturer located outside Pennsylvania must provide proof of a current manufacturing license issued by the state in which it is located. If the manufacturers with the contract brewing agreement are both located in Pennsylvania, they must each have licenses from the Liquor Control Board to allow them to manufacture malt or brewed beverages. The licenses may not be issued for the same location within Pennsylvania or used in an alternating brewing arrangement. All manufacturers are required to have their own facility, equipment and employees necessary for production of malt or brewed beverages in order to be licensed. A federal brewer's permit alone is not sufficient to authorize contract brewing.

Brand registration applications may be filed by either the manufacturer holding title to the product being contract-brewed or by a franchisee, which is the entity given rights by a licensed manufacturer to offer, sell or deliver products to importing distributors in Pennsylvania. To obtain information about brand registration, please contact the Malt Beverage Compliance Office at (717) 705-0723.

The provisions of this Advisory Notice are effective immediately. Please govern your operations accordingly.

**BY ORDER OF:
THE PENNSYLVANIA LIQUOR CONTROL BOARD**

A handwritten signature in black ink that reads "John D.W. Reiley". The signature is written in a cursive, flowing style.

**JOHN D.W. REILEY
Secretary to the Board**