

Grocery Store Liquor Sales

By the end of April, shoppers will be able to purchase six-packs of beer in a grocery store here in Central Pennsylvania. The Pennsylvania Liquor Control Board recently approved a restaurant liquor license transfer to the Wegmans grocery store in Silver Springs Township.

Restaurant category liquor licenses allow beer, wine and hard liquor to be sold for drinking at the restaurant and the equivalent of two six-packs of beer per customer for take-out.

In Wegmans, beer will be available at the store's Market Café. The purchase of six-packs will be paid for at separate registers from those used for café food purchases.

A spokesperson for the grocery chain has said the store will initially sell beer to be followed by wine and liquor at a later date.

Wegmans is the first grocery chain in the mid-state to acquire a restaurant liquor license. Wegmans sells beer at several of its other Pennsylvania locations.

The Pennsylvania Malt Beverage Distributors Association (MBDA) has opposed the acquisition of licenses by the grocery chain. In February, the Pennsylvania Commonwealth Court ruled that the PLCB could grant restaurant liquor licenses to the grocery chain allowing Wegmans to sell beer, wine and liquor in its stores.

The MBDA in its appeal to Commonwealth Court presented two main arguments against the transfer of a license to Wegmans. The first argument presented was the concern that Wegmans' Market Café is directly connected to the grocery store. The PLCB ruling found that Wegmans conforms to regulations governing interior connections and that Wegmans satisfies the statutory "restaurant" definition set forth in Section 102 of the Pennsylvania Liquor Code, 47 P.S. §1-102. An Eating place is

defined by statute as “a premise where food is regularly and customarily prepared and sold, having a total area of not less than three hundred square feet available to the public in one or more rooms, other than living quarters, and equipped with tables and chairs, including bar seats, accommodating thirty persons at one time. The board shall, by regulation, set forth what constitutes tables and chairs sufficient to accommodate thirty persons at one time.”

The second argument raised by MBDA is an economic issue. The issuance of a restaurant to Wegmans allowing the sale of six-packs would hurt beer distributors in the immediate surrounding areas near a Wegmans. It was felt by MBDA that patrons of the grocery area would purchase six-packs while in the store doing their normal grocery shopping. Wegmans would have an unfair advantage over the local distributors who, by law, can sell beer only in case quantities.

The Pennsylvania Commonwealth Court upheld the PLCB’s decision to grant licenses to Wegmans. The MBDA in March, 2009 requested that the Pennsylvania Supreme Court hear their appeal of the Commonwealth Court Ruling. As of today the Pennsylvania Supreme Court has not decided whether it will allow the appeal.

By:

Frank C. Sluzis, Esq.
Liquor Attorney
Former Prosecutor for the PLCB