

Mark D. Mettler  
Assistant Rabban  
Irem Shriners  
VIA E-MAIL: [mmsales393@comcast.net](mailto:mmsales393@comcast.net)

**RE: Wine Festival or Octoberfest**

Dear Mr. Mettler:

**ISSUE:** This office is in receipt of your e-mail correspondence of December 2, 2009, wherein you indicate that Irem Temple Country Club ("Country Club") is considering conducting a wine tasting festival and/or an Octoberfest wherein vendors would rent spaces. You indicated that a separate organization would sponsor, organize, and promote the event and the Country Club would receive monies generated by the rental fee charged to vendors. Vendors would make money by selling their products.

In a subsequent phone conversation on December 16, 2009, you provided additional information about the event. You stated that the festival would be held in the pavilion and parking lot on the licensed premises. You further advised that you did not think an admission fee will be charged. Finally, you indicated that the Country Club would also be selling food. You inquire as to how the event may be run so it complies with the Liquor Code and the Pennsylvania Liquor Control Board's ("Board") Regulations.

Board records indicate that Irem Temple AAONMS, Irem Temple Country Club holds Catering Club Liquor License No. CC-3449 (LID 3453) for the premises located at 1340 Country Club Road, Dallas, Pennsylvania.

**OPINION:** For the purposes of this letter, it will be assumed that the participating wineries in your event will be properly licensed limited wineries in the Commonwealth of Pennsylvania. Limited wineries are wineries licensed by the Board that may produce alcoholic ciders, wines and wine coolers, subject to certain exceptions. [47 P.S. Section 5-505.2].

Wine tastings and festivals are permissible in Pennsylvania, so long as they are conducted in accordance with the guidelines set forth in Section 13.211 of the Board's Regulations and explained in Board Advisory Notice No. 10 (6<sup>th</sup> Revision, *see attached*). [40 Pa. Code Section 13.211].

One (1) of the requirements is that there is no purchase requirement associated with the tasting. If there is any fee associated with the event, the payment of such fee may be construed as a sale of the wine being offered. [47 P.S. Section 1-102]. Because the sale of alcohol without a license is illegal in Pennsylvania, participating wineries could not sell wine at the festival, unless as described below, they obtain a wine exposition permit from the Board. [47 P.S. Section 5-505.2(a)(4)].

Limited wineries could participate in an event such as the one you propose, and sell their products by obtaining wine exposition permits. Section 505.2(a)(4) of the Liquor Code allows limited wineries to obtain wine exposition permits which allow them to participate in wine and food expositions off their licensed premises and sell wine by the bottle and sell or give away samples up to one (1) ounce. [47 P.S. Section 5-505.2(a)(4)]. A limited winery can obtain an unlimited number of special permits per calendar year, but each permit can be used for only up to five (5) consecutive days, and the total number of days for all of the special permits cannot exceed forty (40) days per year. The fee for each special permit is thirty dollars (\$30.00) per day, and applications for the permit are available from the Bureau of Licensing at (717) 783-8250, or on-line at the Board's website, [www.lcb.state.pa.us](http://www.lcb.state.pa.us).

Wine and food expositions are defined as "affairs held indoors or outdoors with the intent of promoting Pennsylvania products by educating those in attendance of the availability, nature, and quality of Pennsylvania-produced wines in conjunction with suitable food displays, demonstrations and sales," and may include other activities such as arts and crafts, musical activities, cultural and agricultural

exhibits, and similar activities. [47 P.S. Section 5-505.2(a)(4)]. In order to sell wine, the limited wineries must be located on an unlicensed portion of your premises or you must de-license the portion of the premises that will be used. Be advised that if you de-license a portion of the premises, there is a long and complicated procedure to re-license the premises. For additional information on this process, you should contact the Bureau of Licensing at 717-783-8250.

As to including malt or brewed beverage vendors in your proposed event, while limited wineries are permitted to not only serve tastings of their products but can also sell their products pursuant to wine exposition permits, there is no similar exposition permit for microbreweries. [47 P.S. Section 5-505.2(a)(4)]. Malt or brewed beverage tastings may be conducted by licensed brokers, distributors, importing distributors, and manufacturers, or their agents, upon licensed or unlicensed premises. The products used must be legally procured and properly registered and taxes on the products must be paid; no purchase requirements may be associated with the tasting; and no more than one (1) standard-size (i.e., twelve (12) fluid ounces of malt or brewed beverages) portion of each product may be provided to each tasting participant. [40 Pa. Code Section 13.211]. Thus, no sales by the brewery vendors would be permitted at the proposed event.

Lastly, if the Country Club intended to sell tickets to the proposed wine festival, which would involve the tasting of wines being sold and beers being offered by separate licensees, such would not be permissible, unless the tickets and advertising made clear that the charge was for admission to the event and non-alcoholic drink, food and entertainment. In addition, were anyone to request free admission purely for the purpose of tasting the wines or beers, they must be admitted, free of charge.

Finally, it should be noted that licensees are strictly liable for violations of the Liquor Code and its attendant laws and regulations that occur on the licensed premises. Pennsylvania Liquor Control Board v. TLK, Inc., 544 A.2d 931 (Pa. 1988). Licensees are specifically prohibited by Liquor Code section 493(1) [47 P.S. Section 4-493(1)] from selling, furnishing and/or giving alcohol, and from permitting the sale, furnishing or giving of alcohol, to minors or visibly intoxicated persons. Therefore, the Country Club would be liable and may be subject to fines and/or license suspension or revocation when alcohol is sold, furnished or given to minors or visibly intoxicated persons in the Country Club areas, regardless of whether the alcohol is supplied by the Country Club or a third party, and regardless of whether or not the Country Club had knowledge of the incident.

Should you have any further questions or concerns regarding the Liquor Code or the Board's Regulations, please do not hesitate to again contact this office.

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: Pennsylvania State Police,  
Bureau of Liquor Control Enforcement  
Jerry W. Waters, Sr., Director, Office of Regulatory Affairs  
Jane Melchior, Director, Bureau of Licensing  
Tisha Albert, Assistant Director, Bureau of Licensing