

May 2, 2011

Telephone: (717) 783-9454

FAX: (717) 787-8820

Gerald Forest

**RE: Limited Winery Tastings and Free Samples**

Dear Mr. Forest:

ISSUE: This office is in receipt of your e-mail dated Thursday, March 17, 2011, wherein you indicate that you own and operate a Pennsylvania Limited Winery. You inquire as to the size limit of free samples for wine tastings and ask if there is a limit on the number of samples that you may provide. You further ask if Limited Wineries may sell unlabeled bottles of wine or sparkling wine to each other. Additionally, you ask if there is a published Limited Winery law.

Pennsylvania Liquor Control Board (“Board”) records indicate that Gerald C. Forest and Kathleen F. Forest, t/a Buckingham Valley Vineyards, holds Limited Winery License No. LK-6 (LID 8854) for premises located at 1521 Route 413, Box 371, Buckingham, Pennsylvania.

OPINION: Tastings may be conducted by licensed brokers, distributors, importing distributors and manufacturers or their agents upon licensed or unlicensed premises. [40 Pa. Code § 13.211(a)]. Any products used must be properly procured and registered, and taxes on the products must be paid. [40 Pa. Code § 13.211(b)(1)]. There can be no purchase requirement associated with such tasting. [40 Pa. Code § 13.211(b)(2)]. Finally, no more than one (1) standard-sized alcoholic beverage of each product shall be provided to each tasting participant. [40 Pa. Code § 13.211(b)(3)]. A “standard-size” serving of wine is four (4) fluid ounces. [40 Pa. Code § 13.201]. Therefore, offering unlimited number of drinks would not be permissible.

Tasting or tasting events are different from sampling promotions, and are defined in the Board’s Regulations as presentations of alcoholic products to the public for the purpose of market research, disseminating product information and education

to the public as to quality and availability. [40 Pa. Code § 13.201]. A sampling promotion is intended to introduce consumers to a manufacturer's product. Samplings must adhere to the following criteria: (1) samples may be provided by the manufacturer's representatives and distributor or importing distributor licensees to licensed and unlicensed customers; (2) samples must be in unopened containers of the smallest commercially available size; (3) the providing of such samples cannot be conditioned upon any purchase requirement; (4) samples are limited to one (1) container per patron in any offering. [40 Pa. Code § 13.231 and Board Advisory Notice No. 10 (6th Revision)].

The Liquor Code or Board's Regulations do not address wine label requirements. However, be advised that there are federal labeling requirements, as required by the Alcohol and Tobacco Tax and Trade Bureau ("TTB") to which you must adhere. As such, you may wish to contact the TTB at [www.ttb.gov](http://www.ttb.gov) for more information.

By way of further answer, section 3.52(a) of the Board's Regulations provides that licensees may not permit other persons to operate another business on the licensed premises. [40 Pa. Code § 3.52(a)]. Furthermore, according to section 3.52(c) of the Board's Regulations, a licensee is not to operate another business on the licensed premises without Board approval. [40 Pa. Code § 3.52(c)]. In the matter at hand, the production and bottling of wine by your limited winery by or in conjunction with another limited winery would constitute another business and therefore would not be permitted.

However, licensed limited wineries may purchase and then offer for re-sale wine or alcoholic cider from other Pennsylvania licensed limited wineries **in bulk in bond**, although in quantities less than fifty percent (50%) of the purchasing limited winery's own production in the preceding calendar year. [47 P.S. § 5-505.2 (a)(2)]. It is important to understand that, even with a limited winery partner, another limited winery may not circumvent the intent of the limited winery law by simply collecting wines from multiple sources and rebranding them with their own label.

Should you wish to review the above-cited provisions, they are available on-line on the Board's website at [www.lcb.state.pa.us](http://www.lcb.state.pa.us), then click on "For Licensees," then "Legal Issues," and then "Pennsylvania Liquor Code," "PLCB Regulations," or "Advisory Notices."

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Please do not hesitate to contact this office should you have additional questions.

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, Director of Office of Regulatory Affairs  
Jane Melchior, Director, Bureau of Licensing  
Tisha Albert, Assistant Director, Bureau of Licensing

LCB Advisory Opinion No. 11-160