

September 23, 2013

Telephone: (717) 783-9454

Fax: (717) 787-8820

**2<sup>ND</sup> AMENDED OPINION**

Robert J. Kolmus  
Peace Valley Winery, Inc.  
300 Old Limekiln Road  
P.O. Box 94  
Chalfont, PA 18914-0094

**RE: Wine Festival & Tasting Fee**

Dear Mr. Kolmus:

ISSUE: This office is in receipt of your letter dated July 11, 2013, wherein you state that with regard to an upcoming “Wine Tasting in the Hamptons” event sponsored by the Hampton Fire Company, the Pennsylvania State Police Bureau of Liquor Control Enforcement (“Bureau”) advised you that the host entity would need to hold a special occasion permit. The Bureau officer further advised that a required entrance fee would be considered payment for wine tastings. You state that, as a licensed limited winery, you license and insure your booths at festivals, own the wine, and offer the tastings. You further state that the general entrance fee is for entrance to the venue, rather than payment for the wine tastings. In a follow-up telephone conversation on July 19, 2013, you clarified that you are inquiring as to whether a tasting may occur at such an event with an entrance fee.

Pennsylvania Liquor Control Board’s (“Board”) records indicate that Peace Valley Winery, Inc. holds Limited Winery License No. LK-107 (LID 33015) for use at its premises located at 300 Old Limekiln Road, P.O. Box 94, Chalfont, Pennsylvania.

OPINION: In response to your specific question, the Bureau correctly advised you that the host entity for such an event may need a special occasion permit (“SOP”) if any kind of sale – direct or indirect – of wine or other alcohol is contemplated.

To put it differently, if an entrance fee or admission price is charged, and such fee or ticket is required in order to gain access to the tasting or wine samples offered at the event, then the host entity would need a license. Additionally, your licensed limited winery would need a wine exposition permit to sell wine at the event.

With regard to the need for an SOP, as an entrance fee is contemplated for the event described, it may be necessary for the Hampton Fire Company, presumed to be a non-profit, volunteer fire company, to obtain an SOP to conduct the wine tasting event on its own behalf. Pursuant to section 408.4 of the Liquor Code, the Board may issue SOPs to eligible entities. [47 P.S. § 4-408.4]. Entities that qualify may obtain an SOP that would authorize them to sell liquor and/or malt or brewed beverages to persons twenty-one (21) years of age or older who are not visibly intoxicated. [47 P.S. §§ 4-408.4, 4-493(1)]. SOPs are generally issued for a period of not more than six (6) consecutive or non-consecutive days during a calendar year. [47 P.S. § 4-408(i)]. The SOP is to be used as a means of raising funds for the holder, but can be used in conjunction with activities or events involving other entities. [47 P.S. § 4-408.4(m)]. The holder of an SOP may sell alcoholic beverages during the hours of 7:00 a.m. until 2:00 a.m. the following day. [47 P.S. § 4-408.4(k)].

With regard to the need for a wine exposition permit, be advised that the holder of an SOP is the only entity which can sell alcohol under the auspices of the SOP. A limited winery is not permitted to sell alcohol off its licensed premises unless it obtains a license which would permit such sales. Therefore, if a winery wants to sell alcohol at the event, it must obtain another license. Wine exposition permits allow limited wineries to participate in wine and food expositions off their licensed premises and sell wine by the glass, bottle or in case lots, and sell or give away samples in individual portions not to exceed one (1) fluid ounce. A limited winery can obtain a number of special permits per calendar year, but each permit can be used for only up to **THIRTY (30)** consecutive days and the total number of days for all of the special permits cannot exceed **ONE HUNDRED (100)** days per year. The fee for each special permit is thirty dollars (\$30.00) per day, and applications for the permit are available from Licensing at 717-783-8250, or via the Board's website, [www.lcb.state.pa.us](http://www.lcb.state.pa.us).

Be further advised that wine and food expositions are defined as "affairs held indoors or outdoors with the intent of 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. § 5-505.2(a)(4)].

Finally, with regard to tastings, please be advised that a "tasting" or "tasting event" is defined within the Board's Regulations as "[a] presentation of alcoholic products to the public for the purpose of market research, disseminating product information and education of the public as to quality and availability." [40 Pa. Code § 13.201]. In Pennsylvania, prior approval is not required to conduct product "tastings" for market research and for the purpose of educating consumers as to the quality and availability

of wines, spirits, and malt or brewed beverages. Tastings may be conducted by sponsors on licensed or unlicensed premises. [40 Pa. Code § 13.211(a)]. A sponsor may be any licensed vendor, importer, distributor, importing distributor or manufacturer or its agent or employee who is twenty-one (21) years of age or older.

[40 Pa. Code § 13.201].

When tastings are conducted by sponsors, they are subject to the following conditions: (1) the products used are legally procured, properly registered, and taxes paid [40 Pa. Code § 13.211(b)(1)]; (2) there is no purchase requirement associated with the tasting [40 Pa. Code § 13.211(b)(2)]; (3) there is no cooperative advertising associated with the tasting event; (4) wine and spirits manufacturers or their agents are registered pursuant to Board Regulations; and (5) no more than one (1) standard-sized alcoholic beverage shall be provided to each tasting participant. A standard-sized alcoholic beverage is four (4) ounces of wine [40 Pa. Code § 13.211(b)(3)].

Please feel free to again contact this office if you have any further questions concerning the Liquor Code or the Board's Regulations.

**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  
Tisha Albert, Director, Bureau of Licensing  
Jeffrey Lawrence, Assistant Director, Bureau of Licensing