

August 19, 2013

Telephone: (717) 783-9454

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Peter J. M. Rohall, Esquire

P.O. Box 630

Westtown, PA 19395-0630

Re: Keg-Filling Business

Dear Mr. Rohall:

ISSUE: This is in response to your e-mails of June 6, 2013, and July 10, 2013, wherein you advise that your client, The Artisan's Cellar, LLC ("client"), is a licensed importer and has been in the business of importing wines and selling them through Pennsylvania's special liquor order program for more than three (3) years. Your client would like to fill wine kegs for its own account and also for those of other importers located within and outside of Pennsylvania.

Your client had previously been advised, in Advisory Opinion No. 12-474, that it may be necessary to obtain a winery or other manufacturing class license. However, you discovered that none of the categories on the application form applied to the keg-filling operation of your client. Therefore, you have written for further guidance.

Records of the Pennsylvania Liquor Control Board ("Board") indicate that the Artisan's Cellar, LLC, holds Importer License No. I-818 (LID 62851) for the premises located at 2 Hagerty Boulevard, Suite 300, West Chester, Pennsylvania.

OPINION: Although the importer's license allows your client to receive wines from outside Pennsylvania, it does not authorize your client to engage in the repackaging of wine. While Act 116 of 2012 amended the Liquor Code to give the Board the authority to sell wine in keg-sized containers [47 P.S. § 3-305], it did not authorize a licensed importer to engage in the filling of wine kegs. Upon further review, only a winery or limited winery could engage in this activity. However, in order to be eligible for either of these licenses, your client would need to operate a bona fide winery. Until such time, your client may not engage in the filling of wine kegs in Pennsylvania.

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Please be advised that the Pennsylvania General Assembly enacts the liquor laws in this Commonwealth; the Board's role is to interpret and apply those laws. Therefore, you may wish to contact your local legislator regarding the creation of a license that would allow the filling of wine kegs, since amendments to the Liquor Code are made by the Pennsylvania General Assembly, rather than the Board. Only the General Assembly can change the Liquor Code, not the Board.

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

LCB Advisory Opinion No. 13-386