

October 4, 2013

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Thomas Morgan

**RE: Beer Tasting Event**

Dear Mr. Morgan:

ISSUE: This office is in receipt of your e-mail of September 13, 2013, wherein you state that Zembo Shrine is contemplating holding a beer tasting event on one (1) or two (2) occasions next year as a fundraiser. Vendors would bring their beer to the tasting. Participants would pay a fee to enter. You ask if you need a special occasion permit in addition to your catering club's liquor license or if the beer vendors' brewery licenses are sufficient. You state that you have equipment for checking identification and that your staff is Responsible Alcohol Management Program ("RAMP")-certified. You also ask whether the applicable rules would be the same or similar if the tasting event were a wine tasting instead of a beer tasting.

Records maintained by the Pennsylvania Liquor Control Board ("Board") indicate that Zembo Shrine is the holder of Catering Club Liquor License No. CC-6274 (LID 35755) for use by it at premises located at 2801 North Third Street, Harrisburg, Pennsylvania.

OPINION: Section 406 of the Liquor Code provides that no club liquor licensee, nor its officers, servants, agents or employees, other than one holding a catering club liquor license, shall sell any liquor or malt or brewed beverages to any person except a member of that club. [47 P.S. § 4-406(a)]. A catering club licensee, such as the Zembo Shrine, may, however, sell alcohol to groups of non-members at catered events held on the licensed premises. [47 P.S. § 4-401(b)].

As you may know, catered events are those involving the furnishing of liquor or malt or brewed beverages, or both, to be served with food prepared on the premises, or brought onto the premises already prepared, for the accommodation of groups of non-members who are using the club's facilities by prior arrangement at least twenty-four (24) hours in advance of the function and which are paid for by the non-members. [40 Pa. Code § 5.83]. A licensee may not self-sponsor a catered event, which must be conducted by a third party, although the third party can be a member of the club. The licensee remains accountable for violations of the Liquor Code and Board's

Regulations that may occur on the licensed premises, including sales or furnishing of alcohol to minors and/or to visibly intoxicated persons. [47 P.S. § 4-493(1)].

There is no limit on the number of catered events that may be held at the catering club's premises, so long as each event meets the catered event definition. There are no other exceptions allowing the service of alcohol to non-members by a catering club licensee found in the Liquor Code or the Board's Regulations. Records must be kept showing the date/time arrangements were made, the person making the arrangements, and the estimated number of persons to be accommodated. [40 Pa. Code § 5.83(b)].

During a catered event, non-members may purchase alcoholic beverages and consume them anywhere on the licensed premises. After the catered event has ended, non-members are no longer permitted to purchase alcoholic beverages, although members may purchase alcoholic drinks for non-members. Please note that the prohibition on selling alcohol to non-members does not, however, preclude a club from being open to the public (i.e., non-members) for the sale of food and non-alcoholic beverages.

Additionally, please note that section 5.81 of the Board's Regulations requires that a club licensee adhere to its constitution and bylaws. [40 Pa. Code § 5.81].

It is presumed, for purposes of this response, that you are asking if you would need a license in order to contact and coordinate with the breweries that intend to participate in the event. If you will only contact and coordinate with participating breweries, and your club will not be selling any beer, you would not need a license.

With regard to your question as to the distinction between wine and beer, be advised that unlike wine festivals, where limited wineries are permitted to not only serve tastings of their products but can also sell their products pursuant to wine exposition permits [47 P.S. § 5-505.2(4)], there is no equivalent provision in the liquor laws regarding beer sales at events such as the one that you are contemplating. Sales of beer by licensed breweries at your proposed event would not be permitted unless an eligible entity obtained a special occasion permit ("SOP") that covered the beer service area and sold the beer.

Specifically, if an eligible entity obtained a SOP for your event, then such an eligible entity would be permitted to sell liquor and/or malt or brewed beverages to persons of legal age who are not visibly intoxicated on any day for which the permit is issued, and in any municipality in which the electorate has approved the sale of liquor and/or malt or brewed beverages. [47 P.S. § 4-408.4]. This includes sales of any type of alcohol for consumption on or off the licensed premises. [Id.]. SOPs are generally issued for a period of not more than six (6) consecutive or non-consecutive days

during a calendar year. [Id.]. The SOP may be used for special events at which the permittee is raising funds for itself. [Id.]. The holder of an SOP may sell alcoholic beverages during the hours of 7:00 a.m. until 2:00 a.m. of the following day. [Id.].

However, it would still not be permissible for your club or other retail licensee to sell, or charge a fee to access, beer donated by a licensed brewery or other manufacturer, pursuant to the general prohibition in section 13.51 of the Board's Regulations on a licensee contributing to or accepting anything of value from a licensee of a different class. [40 Pa. Code § 13.51].

If you have any further questions about 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, Director of Office of Regulatory Affairs  
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