

November 22, 2013

Telephone: (717) 783-9454  
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Steve Koch  
Manager  
Bullfrog Brewery  
**Re: Co-Locating Brewery and Limited Winery**

Dear Mr. Koch:

ISSUE: This is in response to your e-mail dated October 11, 2013, wherein you state that you have a licensed production brewery, not open to the public, and that you would like to know whether you may also lawfully have a licensed limited winery in the same building. You note that the limited winery would likewise be production only, and not open to the public. You note the reason for co-locating the entities is that you would like to have the ability to produce alcoholic cider, the alcohol by volume of which is not always under the required limit of five and one-half percent (5.5%) permitted under a brewery license. You refer to this configuration of a co-located brewery and limited winery as a “couplet.”

Records of the Pennsylvania Liquor Control Board (“Board”) indicate that Schnoch Corporation, trading as Bullfrog Brewery, holds Malt Beverage Manufacturer License No. G-470 (LID 66816) for premises located at 429 West Third Street, Williamsport, Pennsylvania. You are the manager of record.

OPINION: As a threshold matter, please be advised that the term “couplet” is generally used to refer to the situation wherein one (1) entity may, under very specific circumstances, hold both a manufacturing and a retail license. Thus the term is not applicable to your proposed scenario wherein one (1) entity would hold two (2) manufacturing licenses. As you know, both brewery and limited winery licenses are considered to be manufacturing licenses.

Next, as you know, a brewery (“G”) license allows the holder to produce and manufacture malt and brewed beverages; transport, sell, and deliver such

beverages in quantities of not less than a case or original containers containing one hundred twenty-eight (128) ounces or more which may be sold separately anywhere within Pennsylvania. [47 P.S. § 4-431(a)]. Alcoholic cider containing no more than five and one-half percent (5.5%) alcohol by volume is considered a malt or brewed beverage under this section. [Id.; see also 47 P.S. § 1-102].

The G license also allows the holder to sell malt and brewed beverages produced and owned by the brewery to unlicensed individuals on the licensed premises for off-premises consumption in containers or packages of unlimited quantity and of any volume. [47 P.S. § 4-440].

As you also know, the Liquor Code provides that licensed limited wineries may produce alcoholic cider, wine and wine coolers. [47 P.S. § 5-505.2(a)(1)]. Further, section 505.2(a)(3) of the Liquor Code provides that licensed limited wineries may, separately or in conjunction with other limited wineries, sell alcoholic cider, wine and wine coolers produced by the limited winery, at no more than five (5) Board-approved locations other than the licensed premises. [47 P.S. § 5-505.2(a)(3)].

Although the general rule in section 438(c) of the Liquor Code is that no person shall possess more than one (1) class of license, there is nothing in the Liquor Code or Board's Regulations prohibiting an entity from holding multiple licenses, provided such licenses are of the same class. [47 P.S. § 4-438(c)]. Therefore, notwithstanding the general rule, you may hold multiple manufacturing licenses.

However, be aware that the Board's Bureau of Licensing ("Licensing") will not typically dual-license a location, absent specific statutory authority. Thus, only one (1) license may be in effect at one (1) time at any particular portion or location. In addition, the Board has, in the past entered into a Conditional Licensing Agreement ("CLA") with a licensee that wishes to place two (2) manufacturing licenses at the same location.

Such an arrangement would require the consent of both Licensing and the Board, and a decision on whether such an arrangement is acceptable is not a decision made by this office. Thus, this office cannot provide any further guidance other than suggesting that if you wish to pursue this matter, you should submit an application to Licensing.

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. 13-500