

December 20, 2013

Telephone: 717-783-9454

Fax: 717-787-8820

Glenn McComas
Concessions Manager, Altoona Curve
1000 Park Avenue
Altoona, Pa 16602

RE: Sales of Wine by the Glass at Public Venues

Dear Mr. McComas:

ISSUE: This office is in receipt of your e-mail of November 21, 2013, wherein you indicate that you run the concessions for Altoona Curve Baseball at Natural Gas Field, and you ask whether you are permitted to sell wine by the glass.

Records of the Pennsylvania Liquor Control Board (“Board”) indicate that TMW Concessions, LLC, t/a Altoona Curve Baseball, holds Public Venue License PV-107 (LID 61336) for use at its premises located at 1000 Park Avenue, Altoona, Pennsylvania.

OPINION: Section 412(a) of the Liquor Code [47 P.S. § 4-412(a)] authorizes the Board to issue a restaurant liquor license to public venues as defined in section 102 of the Liquor Code. [47 P.S. § 1-102]. The actual liquor license may be held by the owner of the public venue, the operator of the public venue, or a concessionaire designated by the owner or operator. [47 P.S. § 4-412(b)]. While public venue licenses are considered to be restaurant liquor licenses, section 412(f) imposes the following additional restrictions on public venue licensees, among others:

(2) Sales of alcoholic beverages before, during and after all professional and amateur athletic events on the premises shall be limited to sales of malt or brewed beverages in shatterproof containers. Sales of alcoholic beverages before, during and after performing arts events or other entertainment events may consist of

liquor or malt or brewed beverages in shatterproof containers. Sales during trade shows, conventions, banquets or at other events, or sales made in the club seats or at a restaurant facility, may consist of liquor or malt or brewed beverages in any type of container; however, any liquor or malt or brewed beverages sold in the club seats or restaurant facility must remain in the club seating level or restaurant facility. For purposes of this section, a club seat is any seating located on the designated club seating level and partitioned from general seating by a wall, divider, partial wall or railing. The club seating level must not be accessible by the general public. . . . The board's records shall clearly delineate where the sale of liquor or malt or brewed beverages in any type of container may occur.

(3) Sales of malt or brewed beverages for off-premises consumption are prohibited.

[47 P.S. § 4-412(f)(1)-(3)]. Thus, based on the above provisions, the answer to your question depends on what type of event is being held at your public venue and from what location on the public venue alcohol is being served.

If the event being held is a professional or amateur athletic event, then sales of malt or brewed beverages, wine, or spirits in any type of container are permitted from areas of the public venue qualifying as club seating or a restaurant facility. However, any malt or brewed beverage, wine, or spirits products sold in an area qualifying as club seating or a restaurant facility must remain in those designated areas. Only sales of malt or brewed beverages are permitted from other licensed areas of the public venue, and products sold from those other licensed areas must be in shatterproof containers.

Moreover, if the event being held is a performing arts event or other entertainment event, then sales of malt or brewed beverages, wine, or spirits in any type of container are permitted from areas of the public venue qualifying as club seating or a restaurant facility. However, any malt or brewed beverage, wine, or spirits products sold in an area qualifying as club seating or a restaurant facility must remain in those designated areas. Sales of malt or brewed beverages, wine, or spirits are also permitted from other licensed areas of the public venue, but products sold from those other licensed areas must be in shatterproof containers.

Furthermore, if the event being held is a trade show, convention, banquet, or other similar event, then sales of malt or brewed beverages, wine, or spirits in any type of container are permitted from all licensed areas of the public venue.

Finally, please remember that it is your responsibility to ensure that the Board's records properly reflect which areas of your public venue are licensed for alcohol sales and also which areas have been designated as club seating or restaurant facilities. If that information is not already in your records, you can obtain it from the Bureau of Licensing at 717 783-8250.

If you have any further questions regarding this matter or any other matter involving 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
Tisha Albert, Director, Bureau of Licensing
Jeffrey Lawrence, Assistant Director, Bureau of Licensing

LCB Advisory Opinion No. 13-534