

February 12, 2014

Telephone: (717) 783-9454  
FAX: (717) 787-8820

Matthew A. Shirk  
Adams Vintners LLC  
30 East Main Street  
Annville, PA 17003

**RE: Special Event Legal Question**

Dear Mr. Shirk:

ISSUE: This correspondence is in response to your e-mails of January 21, 2014, in which you indicate that you would like to hold a special event in your facility's off-street parking lot on your leased property. Although it is not entirely clear from your e-mails, you appear to be asking whether it is permissible to sell wine in your facility's unlicensed off-street parking lot and/or whether you are permitted to allow customers to take wine that was purchased inside your already-licensed premises outside to consume in your unlicensed parking lot.

Records maintained by the Pennsylvania Liquor Control Board ("Board) indicate that Adams Vintners LLC holds Limited Winery License No. LK-396 (LID 68669) for use at the premises located at 30 East Main Street, Annville, Pennsylvania.

OPINION: Limited winery licensees are permitted to sell their wine or alcoholic cider products by the bottle or by the glass from their main locations as well as at no more than five (5) Board-approved satellite locations. [47 P.S. § 5-505.2(a)(2)-(3), (6.1)]. Limited winery licensees are also eligible to obtain a special permit to participate in alcoholic cider, wine and food expositions off their licensed premises, as well as a farmers' market permit to participate in farmers' markets off their licensed premises. [47 P.S. § 5-505.2(4)-(5)]. However, limited winery licensees are not otherwise permitted to sell wine or alcoholic ciders off the licensed areas of their main and satellite locations. Thus, if the parking lot that you referenced in your e-mail is not currently licensed or otherwise covered by a

permit, then it would not be permissible for you to sell any wine or alcoholic cider products from such parking lot.

Nevertheless, you may apply for a temporary extension of the licensed premises to cover additional areas, including the parking lot. [40 Pa. Code § 7.25(a)]. Section 7.25 of the Board's Regulations provides for the following procedure:

- (a) The Board has the discretion to approve a temporary extension of licensed premises upon filing of an application accompanied by appropriate plans or surveys setting forth the metes and bounds, the names of the abutting streets and a plotting of the proximity of the principal licensed premises.
- (b) The application must describe the entire scope of business to be conducted at the temporarily extended licensed premises and include the specific dates and hours business will be conducted.
- (c) A nonrefundable fee of \$220 must accompany an application for temporary extension of premises.
- (d) The additional premises for which it is desired to temporarily extend a license shall be completely equipped for the carrying on of the type of business permitted under the license, but sales or storage of liquor or malt or brewed beverages may not take place in the temporarily extended premises until approval has been given by the Board.
- (e) Approval may be in the form of a new license, giving the additional address/location or a letter authorizing the use of the additional temporary premises extension. Board approval or letter of authorization shall be maintained on the temporarily extended licensed premises.

[40 Pa. Code § 7.25].

It has been held that, where a public road separates the licensed premises from the premises for which the license extension is sought, the Board has the discretion to approve an application for extension to an area that is not immediate, abutting, adjacent or contiguous; however, typically such an area must be on the same

premises or location as the licensed premises. [Roberts v. Pennsylvania Liquor Control Board, 604 A.2d 1152 (Pa. Cmwlth. 1992)]. The licensee must have the exclusive right to occupy the area proposed to be temporarily licensed. It should also be noted that typically the Board will not allow a parking lot to be used for parking while it is licensed.

The forms necessary to apply for a temporary extension of premises may be obtained by contacting the Board's Bureau of Licensing at (717) 783-8250 or by visiting the Board's website at [www.lcb.state.pa.us](http://www.lcb.state.pa.us), placing your cursor over the link for "Licensees," followed by "Applications/Forms Overview," selecting the link for "Forms," and then selecting "PLCB-49 Application for Extension of Retail License to Cover Additional Premises." The instructions for completing the form are located at the end of the document.

Please be advised that the three (3)-member Board ultimately has the discretion to grant or deny an application for temporary extension of premises.

In the absence of a temporary extension, there is nothing in the Liquor Code or the Board's Regulations that would prohibit individuals from purchasing wine or alcoholic cider by the bottle or by the glass from your already-licensed premises, taking such wine or alcoholic cider outside with them, and then consuming the same in the unlicensed parking lot area. However, please be advised that your local municipality may have open containers laws that would otherwise prohibit this type of activity. Therefore, you should contact your local municipality or police department to inquire about any applicable open container laws.

If you have any additional questions about this matter, 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**

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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. 14-029