

May 14, 2014

Telephone: 717-783-9454

Fax: 717-787-8820

Judith W. Nissley
Nissley Vineyards
140 Vintage Drive
Bainbridge, PA 17502

RE: Opening and Transporting a Bottle of Wine

Dear Ms. Nissley:

ISSUE: This office is in receipt of your e-mail correspondence of April 1, 2014, wherein you inquire whether it is permissible for you to remove the cork from a bottle of wine purchased by a customer, in lieu of the customer purchasing a corkscrew. You also ask whether, under Title 75, the operator/occupant of a motor vehicle is considered to be in possession of an open wine bottle stored in the trunk.

Pennsylvania Liquor Control Board (“Board”) records indicate that you are the president, director, stockholder, and manager/steward of A & R Nissley, Inc., t/a Nissley Vineyards, which holds Limited Winery License No. LK-17 (LID 8858) for use at its premises located at 140 Vintage Drive, Bainbridge, Pennsylvania.

OPINION: Section 505.2 of the Liquor Code authorizes the holder of a limited winery license to separately, or in conjunction with other limited wineries, sell alcoholic cider, wine and wine coolers produced by the limited winery to the Board, individuals and licensees, on the licensed premises and at no more than five (5) Board-approved locations other than the licensed premises, with no bottling or production requirement at those additional locations. [47 P.S. § 5-505.2]. Limited winery licensees may also sell food for consumption on or off premises and may sell by the glass the wine and alcoholic ciders that they may otherwise sell by the bottle from Board-approved satellite locations. [47 P.S. § 5-505.2(a)(6.1)].

Accordingly, in response to your first question, there is nothing in the Liquor Code or the Board’s Regulations that would prohibit you from removing the cork from a bottle of wine purchased on-premises by a customer, in lieu of the customer purchasing a corkscrew. There is also nothing requiring you to open a bottle of wine which has been purchased by a customer for on or off-premises consumption.

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However, please be advised generally that licensees are strictly liable for the furnishing of alcohol to minors and visibly intoxicated persons. [47 P.S. § 4-493(1)].

In response to your second question, whether under Title 75 (the Pennsylvania Vehicle Code) the operator/occupant of a motor vehicle is considered to be in possession of an open wine bottle stored in the trunk, please be advised that this office does not interpret or enforce Title 75. Therefore, you may wish to contact the Pennsylvania State Police, your local police, and/or the District Attorney's office in your county for their opinions regarding such activity.

Additionally, 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 local police department to inquire about any applicable open container laws.

If you have any further questions or concerns regarding the Liquor Code or the Board's Regulations, please feel free 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. 14-209