

July 1, 2014

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Francis X. O'Brien, Esquire
F.X. O'Brien Associates LLC
411 Walnut Street
Harrisburg, PA 17101

Re: Production at Additional Board Approved Location

Dear Mr. O'Brien:

ISSUE: This office is in receipt of your correspondence dated June 5, 2014, wherein you request an Advisory Opinion on behalf of an unnamed licensee. Specifically you ask whether a limited winery may produce wine at the five (5) Pennsylvania Liquor Control Board ("Board") approved locations authorized under section 505.2(a)(3) of the Liquor Code [47 P.S. § 5-505.2(a)(3)].

OPINION: As you are aware 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, on no more than five (5) Board-approved locations other than the licensed premises. [47 P.S. § 5-505.2(a)(3)].

Section 505.2(a)(3) sets forth the requirements for satellite locations and states, in pertinent part, that a limited winery may:

Separately or in conjunction with other limited wineries, sell alcoholic cider, wine and wine coolers produced by the limited winery on no more than five (5) board-approved locations other than the licensed premises, **with no bottling or production requirement** at those additional board-approved locations and under such conditions and regulations as the board may enforce, to the board, to individuals and to brewery, hotel, restaurant, club and public service liquor licensees.

[47 P.S. § 5-505.2(a)(3) (emphasis added)]. While this section of the Liquor Code does not require bottling or production operations at a satellite location, it leaves open the possibility that bottling or production operations may permissibly occur at

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a satellite location. Accordingly, there would be no prohibition to manufacturing at a limited winery's additional Board approved location.

Be aware, however, that if your client decides to have bottling or production operations at a satellite location, and your client decide to enter into a lease for the premises, section 411(d) of the Liquor Code prohibits a hotel licensee, restaurant licensee or its officers, directors, shareholders, agent or employees from having any interest in the ownership or leasehold of any property or from having any interest in any mortgage lien against any property used by a manufacturer in the manufacturing of liquor or malt or brewed beverages. [47 P.S. § 4-411(d)]. Accordingly, such retail licensees may not be your client's landlord at such a facility.

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. 14-391