

July 18, 2014

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Marianne Kambel
Compliance Analyst
E & J Gallo Winery

RE: Product Donations to Charity/Nonprofit Events

Dear Ms. Kambel:

ISSUE: This is in response to your correspondence dated June 17, 2014, wherein you inquire as to whether a manufacturer who possesses a Pennsylvania importer license may provide a product donation directly for a charity event without obtaining approval from the Board. You explain that the charity conducting the event will hold a temporary event liquor license, which it is assumed means a Special Occasion Permit (“SOP”) authorized under section 408.4 of the Liquor Code [47 P.S. § 4-408.4].

The Pennsylvania Liquor Control Board’s (“Board”) Records indicate that E & J Gallo Winery holds Importer License No. I-729 for use at the premises located at Stauffer Industrial Park, Building 5, Taylor, Pennsylvania, 18517.

OPINION: Please be advised that the donation of wine or spirits to unlicensed charitable organizations or charitable organizations operating with an SOP is usually considered lawful. However, any wine or spirits being donated must be lawfully imported into and procured within Pennsylvania.

Generally, only the Board or the holder of a sacramental wine license, an importer’s license or a direct shipper’s license is permitted to import any liquor into Pennsylvania. [47 P.S. § 491(8), (11)]. Moreover, it is generally unlawful for any person, except a manufacturer, the Board, the holder of a sacramental wine license, or the holder of an importer’s license, to possess or transport any liquor or alcohol within the Commonwealth that has not been lawfully procured from a Pennsylvania wine and spirits store, a licensed limited winery, a direct wine shipper, a licensed limited distillery, or a licensed distillery. [47 P.S. §§ 4-491(2), 4-488, 5-505.2, 5-505.4].

While E & J Gallo Winery, as the holder of an importer license, is lawfully permitted to import wine and spirits into Pennsylvania, it is not an entity from whom the holder of an SOP may lawfully procure wine and spirits products. Thus, it would not be permissible for E & J Gallo Winery to donate wine that is imported pursuant to its Importer license directly to the holder of an SOP. However, assuming that the SOP holder is not otherwise licensed as a retail establishment, there is nothing that would prohibit E & J Gallo Winery from making a cash donation to the holder of the SOP, which could then, in turn, be used to lawfully procure the wine and/or spirits products from the Board. Similarly, there is nothing that would prohibit a third party from lawfully procuring the wine and/or spirits products from the Board and then donating them to the SOP holder for use at its event.

Should you have any further questions regarding 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 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

LCB Advisory Opinion No. 14-424