

Rebecca Waldemar
VIA E-MAIL: rwaldemar@gmail.com

RE: Fundraising Event

Dear Ms. Waldemar:

ISSUE: This office is in receipt of your e-mail dated July 24, 2014, wherein you state that your church is planning an auction fundraiser for the fall. You explain that you have obtained a license that permits you to sell alcohol a few times per year. You ask if you may accept donations of wine or alcohol to sell at your event. You also ask if you may accept donations from auction attendees for any leftover alcohol.

OPINION: Please be advised that the sale of alcohol is illegal in Pennsylvania, unless the entity selling the alcohol has a license or permit from the Board. [47 P. S. Section 4-491(1), 4-492(2),(3)]. A "sale" is defined by section 102 of the Liquor Code as follows:

"SALE" or "SELL" shall include any transfer of liquor, alcohol or malt or brewed beverages for a consideration.

[47 P.S. Section 1-102]. Therefore, as you are aware, if you wish to sell alcohol at your event, you need a license or permit issued by the Board in order to do so.

You indicate that your church has a license that permits you to sell alcohol a few times a year. It is assumed for purposes of this response that the license to which you are referring is a special occasion permit ("SOP"), since SOPs are generally issued for a period of not more than six (6) consecutive or non-consecutive days during a calendar year and since churches are eligible to receive SOPs. [47 P.S. Section 4-408(i)].

The holder of a SOP is authorized to sell liquor and/or malt or brewed beverages to persons of legal drinking age on any day for which the permit is issued, in any municipality within which the electorate has approved the sale of liquor and/or malt or brewed beverages. [47 P.S. Section 4-408.4]. This includes sales of any type of alcohol for consumption off licensed premises. [Id.]. Further, be advised that the holder of a SOP may sell alcoholic beverages during the hours of 7:00 a.m. until 2:00 a.m. of the following day. [47 P.S. Section 4-408.4(k)].

Regarding the donation of wine or alcohol, as long as the SOP holder does not also hold any other liquor license, it is permissible for sponsors to donate alcoholic beverages to SOP holders.

In addition, please note that the alcohol must be legally procured, properly registered, and taxes paid. Section 491 of the Liquor Code makes it unlawful for any person to possess any wine or liquor within Pennsylvania that has not been purchased through the Board's wine and spirits stores, a sacramental wine dealer, or a limited winery or limited distillery. [47 P.S. Section 4-491(2), (3)]. It is unlawful in Pennsylvania to possess beer upon which the state tax has not been paid. [72 P.S. Section 9011]. Beer may only be lawfully purchased from a distributor, an importing distributor, or from a brewery.

Further, please note that there is nothing in the Liquor Code that would prohibit you from accepting monetary donations from auction attendees for any leftover alcohol provided that the donations were accepted by the SOP holder during the hours and days that the SOP holder is permitted to sell alcoholic beverages.

Finally, please be aware that it is unlawful for *anyone* "to sell, furnish or give any liquor or malt or brewed beverages, or to permit any liquor or malt or brewed beverages to be sold, furnished or given, to any person visibly intoxicated, or to any minor." [47 P.S. Section 4-493(1)].

If you have any additional questions, 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

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