

December 23, 2014

Arnie Jansen
3432 N Ravenwood Trail
Fort Loudon, PA 17224

RE: Sources of Grapes and Juices by a Limited Winery

Dear Mr. Jansen:

ISSUE: This is in response to your e-mail of November 12, 2014 wherein you seek approved sources of wine juice or wine grapes. Specifically, you ask if you are permitted to purchase wine juice or wine grapes from New York, California, Chile, Italy, Washington State, Maryland or other location for production at your limited winery.

Pennsylvania Liquor Control Board ("Board") records indicate that Jan Zell Wines, located at 3432 North Ravenwood Trail, Fort Loudon, Pennsylvania, holds Limited Winery License No. LK-440 (LID 70645).

OPINION: While the Liquor Code states that limited wineries may only produce wine made from Pennsylvania grown agricultural commodities, this limitation has been deemed unenforceable as a result of the U.S. Supreme Court decision in the case of Granholm v. Heald, 544 U.S. 460 (2005), and the Pennsylvania federal court decision in Cutner v. Newman, 398 F. Supp.2d 389 (E.D. Pa. 2005), both involving legislative distinctions between in-state and out-of-state wineries. Accordingly, a limited winery licensee is not required to produce its wine using fruit from sources in Pennsylvania; rather, it may utilize fruit from other sources, whether from Pennsylvania or outside of Pennsylvania, although actual wine purchases from other limited wineries for subsequent resale are limited to no more than fifty percent (50%) of the purchasing winery's previous year's production. Therefore, as the law presently stands, a licensed limited winery may produce wine from agricultural commodities without regard to the source of such commodities. Thus, you would be permitted to import and use fruits and/or juice from out-of-state.

Be advised that any importation of fruits falls within federal statutes and regulations. For further information, you may call the United States Department of

Agriculture, Animal and Plant Health Inspection Service, Fruits and Vegetables Import Requirements (FAVIR) at 1-301-851-2046 or 1-877-770-5990, or send an email inquiry to PPQ.FAVIR.Comments@aphis.usda.gov.

Should you have any further questions or concerns, 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

LCB Advisory Opinion No. 14-636