

March 27, 2015

Scott D. Bowser  
Managing Partner, Director  
Mazza Vineyards, Inc.

**RE: Malt Beverage Packaging – 12 Packs**

Dear Mr. Bowser:

ISSUE: This office is in receipt of your e-mail and letter dated March 2, 2015, wherein you indicate that your company would like to prepare, at its place of manufacture, group packages that would contain twelve (12) individual bottle or cans of beer, each containing from 11.2 to 12 ounces of your product. The total volume of the package would be greater than one hundred twenty-eight (128) ounces. You state that the packages would be securely held together by a containment device made of either corrugated cardboard, plastic or paperboard, bound together with an adhesive as one original container. This package would not be separated until purchased by the ultimate retail consumer. You ask if you may sell these group packages, either directly or through a “D” or “ID”.

Records maintained by the Pennsylvania Liquor Control Board (“Board”) indicate that Mazza Vineyards, Inc., t/a Swashbuckler Brewing Company, hold Brewery License No. G-333 (LID 62175) for premises located at 2775 Lebanon Road, Manheim, Pennsylvania.

OPINION: Please be advised that on March 6, 2015, this office published Advisory Opinion No. 2015-77 which addresses this question as posed by other license holders.

The holder of a brewery license, also referred to as a manufacturing license, may sell malt or brewed beverages produced and owned by the brewery to individuals for off-premises consumption in containers or packages of unlimited quantity and of any volume. See 47 P.S. § 4-440. Sales to other licensees must be in one of two configurations; such sales must be in “case” quantities or they must be in original

containers containing one hundred twenty-eight (128) ounces or more. See 47 P.S. § 4-431.

Similarly, licensed distributors and importing distributors are authorized to sell and deliver malt or brewed beverages in one of two configurations; they can sell in “case” quantities or they can sell in original containers, as prepared for the market by the manufacturer, containing one hundred twenty-eight (128) ounces or more. See 47 P.S. § 4-431(b).

Section 102 of the Liquor Code defines a “case” as “a package prepared by the manufacturer for sale or distribution of twelve or more original containers totaling two hundred sixty-four or more fluid ounces of malt or brewed beverages excepting those packages containing twenty-four or more original containers each holding seven fluid ounces or more.” 47 P.S. § 1-102. Twelve (12) containers, each holding approximately twelve (12) fluid ounces, would not meet the definition of a “case.”

An “original container” means “all bottles, casks, kegs or other suitable containers that have been securely capped, sealed or corked by the manufacturer. . . .” 47 P.S. § 1-102 (emphasis added). A “container” is defined as “any receptacle, vessel or form of package, tank, vat, cask, barrel, drum, keg, can, bottle or conduit used or capable of use for holding, storing, transferring or shipment of alcohol, liquor or malt or brewed beverages.” [Id].

As noted above, breweries are authorized to sell malt or brewed beverages to other licensees in “original containers” containing one hundred twenty-eight (128) ounces or more. Given that the single large container of malt or brewed beverages which Mazza Vineyards intends to manufacture and prepare for the market consists of smaller containers totaling more than one hundred twenty-eight (128) ounces, the proposed package would constitute an “original container.” Therefore, it would be permissible for Mazza Vineyards to market and sell such group package as an “original container” to other licensees.

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

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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. 15-121