

March 31, 2015

Ron Rushe
Director, Corporate Partnerships
Lehigh Valley IronPigs
1050 IronPigs Way
Allentown, PA 18109-3509

RE: Wine Tasting Events

Dear Mr. Rushe:

ISSUE: This correspondence is in response to your letter received by this office on March 13, 2015, wherein you indicate that the Lehigh Valley IronPigs are scheduled to host a series of wine tasting events at Coca-Cola Park in Allentown, Pennsylvania, on six (6) different dates during the 2015 season. You explain that the events are part of a national advertising agreement between Minor League Baseball and E&J Gallo Winery/Barefoot. Representatives from E&J Gallo Winery/Barefoot, under the supervision of employees from J & E Baseball (the IronPigs concessions & catering company), will be on site at Coca-Cola Park on each date to provide guests who enter a designated, enclosed tented area on the main concourse with a small wine sample. Photo identification will be requested from anyone wishing to enter the restricted area, and no guests will exit the enclosed, designated wine tasting area until they have appropriately discarded their small sample cup. Guests will be limited to one (1) visit into the restricted area that has been designated for the wine sampling, and will not be permitted to exit the area with any wine. Accordingly, you ask whether these wine tasting events would be permissible as proposed.

The Pennsylvania Liquor Control Board's ("Board") records indicate that J & E Baseball Concessions LLC holds Public Venue Liquor License No. PV-98 (LID 59867) for use at the premises located at 1050 IronPigs Way, Allentown, Pennsylvania.

OPINION: A "tasting" or "tasting event" is defined within the Board's Regulations as "[a] presentation of alcoholic products to the public for the purpose of market research, disseminating product information and education of the public

as to quality and availability.” [40 Pa. Code § 13.201]. Tastings may be conducted by sponsors on licensed or unlicensed premises. [40 Pa. Code § 13.211(a)]. A sponsor may be any licensed vendor, importer, distributor, importing distributor or manufacturer or its agent or employee who is twenty-one (21) years of age or older. [40 Pa. Code § 13.201].

Sponsors conducting a tasting or tasting event must adhere to the following requirements. Any products used must be properly procured and registered, and taxes on the products must be paid. [40 Pa. Code § 13.211(b)(1)]. There can be no purchase requirement associated with such tasting. [40 Pa. Code § 13.211(b)(2)]. Finally, no more than one (1) standard-sized alcoholic beverage of each product shall be provided to each tasting participant. [40 Pa. Code § 13.211(b)(3)]. A “standard-sized” alcoholic beverage is twelve (12) ounces of a malt or brewed beverage, four (4) ounces of wine (including fortified wine) or one and a half (1 ½) ounces of spirits. [40 Pa. Code § 13.201].

As mentioned above, there can be no purchase requirement for a sponsor-conducted tasting event. This means that the alcohol being provided as part of the tasting must truly be free and cannot be predicated upon the purchase of an admission ticket, a donation or payment of any other fee. In other words, anyone who attends a sponsor-led tasting must be able to request and receive a tasting, provided that the individual is twenty-one (21) years of age or older and not visibly intoxicated.

Consequently, if the proposed wine tasting events are held inside Coca-Cola Park and participation therein is limited to persons who have purchased a ticket to attend the baseball games occurring on the dates of those events, then such wine tasting events would not be permissible. However, if the proposed wine tasting events are held somewhere outside of Coca-Cola Park or in an area of Coca-Cola Park that is accessible to all persons, regardless of whether they have purchased a ticket to attend the baseball games occurring on the dates of those events, then such wine tasting events would be permissible as long as they are conducted in accordance with the other requirements set forth above.

Should you have any additional 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
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. 15-131