

July 17, 2015

Lori Webber

VIA E-MAIL: [momlori@dejazzd.com](mailto:momlori@dejazzd.com)

**RE: Fire Company Chili Cook-Off Event**

Dear Ms. Webber:

ISSUE: This office is in receipt of your e-mail dated June 25, 2015, wherein you indicate that you are a member of a fundraising committee for an unidentified Pennsylvania volunteer fire company that is planning a chili cook-off event. You would like to invite local wineries and breweries to set up tables at which they would offer samples/tastings for a fee and also sell their items.

It is presumed for purposes of this response that you are referring to wine and beer manufactured by the local wineries and breweries, although it is not known whether it is intended that such sales would be for off-premises consumption (i.e., bottles of alcohol), for on-premises consumption, or both.

You note that the volunteer fire company does hold a liquor license for your social quarters; however, as described, the fire company would not be selling the alcohol. Furthermore, you state that the event will be held on property owned by the fire company, adjacent to the licensed premises. You ask whether the fire company needs to obtain a license for this event or if it is the responsibility of the participating wineries and breweries to obtain proper licensure.

OPINION: Your planned event is problematic for a number of reasons; however, these problems may be avoided if the fire company applies for and is granted a special occasion permit (“SOP”). Certain “eligible entities,” as defined in section 102 of the Liquor Code [47 P.S. § 1-102], may apply for and obtain an SOP which authorizes the holder thereof to sell liquor (including wine) and/or malt or brewed beverages to persons of legal drinking age for consumption on or off the licensed premises on any day for which the SOP is issued. [47 P.S. § 4-408.4(k)].

A determination as to whether a particular organization qualifies for an SOP is made by the Board’s Bureau of Licensing (“Licensing”) upon receipt of an

application for an SOP. In order to view a list of the entities which are eligible to obtain an SOP, please visit the Board's website at [www.lcb.state.pa.us](http://www.lcb.state.pa.us), and select "PA Liquor Code" under the heading "Legal." Then, under "Title 47 P.S. Liquor," select "Chapter 1. Liquor Code," followed by "Article I. Preliminary Provisions." From that point, select "§ 1-102 Definitions," and then scroll down until you find the term "Eligible Entity." Generally, volunteer fire companies are considered to be "eligible entities" and SOPs are routinely granted to volunteer fire companies holding fundraising events.

The purpose of an SOP is to provide the eligible entity with a means of raising funds for itself. [47 P.S. § 4-408.4(m)]. An SOP may be used in conjunction with activities and events involving other entities; however, no one other than the holder of the SOP may acquire a pecuniary interest therein. [Id.]. This means that the fire company would need to lawfully obtain wine and beer to sell at the event. The fire company could not allow wineries or breweries to sell or serve alcohol at the event, although representatives from the wineries and/or breweries could be present to provide information to patrons of the event.

An SOP generally cannot be obtained for premises already licensed by the Board because the Board will not dual license a location absent specific statutory authority. Since you have indicated that the event is planned to occur on property owned by the fire company but adjacent to the licensed premises, this should not be an issue.

SOPs are generally issued for a period of not more than six (6) consecutive or nonconsecutive days during a calendar year. [47 P.S. § 4-408.4(i)]. The holder of an SOP may sell alcoholic beverages for consumption on or off the licensed premises during the hours of 7:00 a.m. until 2:00 a.m. of the following day. [47 P.S. § 4-408.4(k)]. Note that this means that the fire company, as holder of an SOP, could sell wine and/or beer in glasses for on-premises consumption and in closed containers for off-premises consumption.

The holder of an SOP is also required to give the local police department, or the Pennsylvania State Police if there is no local police department, written notice at least forty-eight (48) hours prior to each use of the special occasion permit. [47 P.S. § 4-408.4(j)]. Written notice consists of notifying the police of the date, time and place of the impending sale of alcoholic beverages. [Id.].

The application for an SOP is available online on the above-linked website under the heading “Licensees,” then select “Applications/Forms Overview,” followed by “Forms.” The application for an SOP is titled “PLCB-1229 Application for Special Occasion Permit.” Please note that it ordinarily takes a minimum of thirty (30) days to process an initial application for an SOP. For additional information, you may contact Licensing at (717)-783-8250.

If the fire company is not interested in handling alcohol at the event, then licensed limited wineries and breweries could still participate in the event by offering free tastings to patrons of legal age. Wineries and breweries may not sell alcohol in this scenario, whether for on-premises or off-premises consumption.

Tasting or tasting events are defined in the Board’s Regulations as presentations of alcoholic products to the public for the purpose of market research, disseminating product information and education to the public as to quality and availability. [40 Pa. Code § 13.201]. Tastings may be conducted by sponsors, which are defined as “any licensed vendor, importer, distributor, importing distributor or manufacturer or its agent or employee who is 21 years of age or older.” [Id.].

Note that such tastings must truly be free and cannot be predicated upon the purchase of an admission ticket, a donation or payment of any other fee. Therefore, charging admission to the chili cook-off and only providing tastings to those who have paid the admission fee would be considered the unlawful sale of alcohol. [40 Pa. Code § 13.211(b)].

Tastings may be conducted on licensed or unlicensed premises, provided the following conditions are met: (1) any products used must be legally procured and registered, and the taxes thereon must be paid; (2) there can be no purchase requirement associated with the tasting or tasting event; and (3) no more than one (1) standard size alcoholic beverage of each product may be provided to each tasting participant. [40 Pa. Code § 13.211(b)]. Board Regulations provide that a standard-sized alcoholic beverage is twelve (12) fluid ounces of malt or brewed beverage, four (4) fluid ounces of wine (including fortified wine), or one and one-half (1½) fluid ounces of spirits. [40 Pa. Code § 13.201].

Finally, licensed limited wineries may obtain wine exposition permits that would, under specific circumstances, permit them to sell their products by the bottle for off-premises consumption and to sell or give away samples up to one (1) ounce. [47 P.S. § 5-505.2]. There is no similar provision in the law for beer.

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Furthermore, this solution does not seem to fit the intent of your proposed chili cook-off event as described.

If you have any further questions about the Liquor Code or Board's Regulations, please contact this office again.

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, Office of Regulatory Affairs  
Tisha Albert, Director, Bureau of Licensing  
Jeffrey Lawrence, Assistant Director, Bureau of Licensing

LCB Advisory Opinion No. 15- 302