

August 21, 2015

Geoffrey T. Deen

RE: Selling Other Limited Wineries' Products

Dear Mr. Deen:

ISSUE: This is in response to your e-mail dated July 19, 2015, wherein you ask if you are permitted to purchase bottled wines at wholesale from other Pennsylvania limited wineries and resell them at your retail location. If so, you ask what reports are required.

Pennsylvania Liquor Control Board ("Board") records indicate that Bavarian Kingdom LLC, trading as Hardball Cider, holds Limited Winery License No. LK-409 (LID 69338) for the premises located at 805 Orchard Road, Mount Bethel, Pennsylvania.

OPINION: Pursuant to section 505.2 of the Liquor Code, a limited winery licensee is permitted to sell alcoholic cider, wine and wine coolers it has produced. [47 P.S. § 5-505.2(a)(2)]. A limited winery may also purchase wine, in bulk in bond, from another Pennsylvania limited winery, but shall not purchase more than fifty percent (50%) of the amount of wine the purchasing limited winery produced in the preceding calendar year. [Id.].

The Liquor Code provides that a limited winery may purchase bottled wines from another Pennsylvania-licensed limited winery if the wines undergo a second fermentation process. [Id.]. The Liquor Code further provides the following:

Such wine may be sold in bottles bearing the purchasing limited winery's label or the producing limited winery's label. Such wines, if sold by the board, may be sold by the producing limited winery to the purchasing limited winery at a price lower than the price charged by the board.

[Id.]. Therefore, you would only be permitted to sell wine that has been manufactured and bottled by another limited winery if the wine has undergone a second fermentation process.

The Board's Regulations provide that a limited winery shall file reports at the time of the renewal or validation of the license. [40 Pa. Code § 5.103(c)]. The reports shall cover operations of the licensed business during the preceding calendar year, and shall be signed and sworn to by the licensee or his authorized agent. [Id.]. A copy of each report shall be retained on the licensed premises for at least 2 years from the date of filing. [Id.]. Failure to file the reports will preclude the Board from renewing or validating the license in question. [Id.]. These reports are in addition to information or reports the licensed limited winery may be required to provide to the Department of Agriculture. [Id.].

If you have any further questions or concerns regarding 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. 15-355