

October 20, 2015

Erin Sales  
**VIA E-MAIL**

**RE: Events at Unlicensed Premises**

Dear Ms. Sales:

ISSUE: Your e-mail of September 14, 2015 requests information about what one is able to do on an unlicensed premises. Specifically, you inquire, if there is an event that is being put on by a promoter and there is no entrance fee or charge for alcohol, can full glasses be poured on an unlicensed premises, and if so, who is allowed to pour.

Records of the Pennsylvania Liquor Control Board (“Board”) indicate that E & J Gallo Winery holds Brand Registration No. BC-142 (LID 62507) for use by it at premises located at 600 Yosemite Boulevard, P.O. Box 1130, Modesto, California and Importer License No. I-729 (LID 51867) for use by it at premises located at Stauffer Industrial Park, Building 5, Taylor, Pennsylvania.

OPINION: It is not clear what type of “event” is contemplated in your question; however, given the types of licenses held by your company, it is likely that you are referring to tasting events.

A “tasting” or “tasting event” is defined by 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]. In Pennsylvania, prior approval is not required to conduct product “tastings” for market research and for the purpose of educating consumers as to the quality and availability of wines, spirits, and malt or brewed beverages. **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].

When conducted by a sponsor, a tasting is subject to the following: (1) the products used must be legally procured, properly registered, and taxes paid [40 Pa. Code § 13.211(b)(1)]; (2) there can be no purchase requirement associated with the tasting [40 Pa. Code § 13.211(b)(2)]; (3) there can be no cooperative advertising associated with the tasting event; (4) wine and spirits manufacturers or their agents must be registered pursuant to Board Regulations; and (5) no more than one (1) standard-sized alcoholic beverage of each product shall be provided to each tasting participant. A standard-sized serving of wine is four (4) ounces. [40 Pa. Code § 13.211(b)(3)].

As mentioned above, there can be no purchase requirement for a tasting event. Therefore, the alcohol provided must truly be free and cannot be predicated upon the purchase of an admission ticket, a donation or payment of any other fee. Accordingly, anyone who attends a sponsor-led tasting must be able to request and receive a tasting of wine provided that the individual is over twenty-one (21) and not visibly intoxicated.

In addition, note that, generally, a license or permit is required to sell alcoholic beverages in Pennsylvania. “Sale” or “sell” is defined as any transfer of alcohol for a consideration. [47 P.S. § 1-102]. This includes a fee or cover charge which is necessary in order to obtain access to alcohol. Therefore, if the provision of alcoholic beverages is conditioned upon the payment of a fee such as an admission charge, this could be considered a sale as defined by the Liquor Code, and would require a license or permit.

No license or permit is needed to charge a fee to attendees of an event if such fee specifically excludes the provision of alcohol. However, there cannot be any payment or purchase required or associated with the offer of alcohol; otherwise, the offeror could be charged with selling alcohol without a license in violation of section 491(1) of the Liquor Code. [47 P.S. § 4-491(1)]. To avoid such a charge, the alcohol must truly be free; it cannot be predicated upon the purchase of a meal, an admission ticket, donation or payment of any other fee, or offered only as part of a larger package of services for which payment is received. Should any person, not a minor or visibly intoxicated, request alcohol without paying the fee or cover charge for items such as food and entertainment, he or she must be granted access to the alcohol on the same terms as persons who have paid a fee or cover charge. Tips or donations could be accepted if made voluntarily, but may not be required. Such an event may be held on unlicensed premises. Full glasses of wine may be

poured. There is no restriction on who is allowed to pour. Note that strict liability applies for service to minors and visibly intoxicated persons. [47 P.S. § 4-493(1)].

Note that there are restrictions found in the Pennsylvania Crimes Code and, frequently, in local ordinances. For example, section 7327 of the Crimes Code [18 Pa. C.S. § 7327] prohibits an unlicensed business from storing liquor or beer on its premises for the purpose of consumption between the hours of 2:00 a.m. and 8:00 a.m., or from allowing others to consume liquor or beer after payment of an entry/membership fee or cover charge, between the hours of 2:00 a.m. and 8:00 a.m.

If you require further assistance, 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  
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