

May 31, 2016

Ed Belfoure
Red Pump Spirits, LLC
VIA E-MAIL

RE: Off-Premises Limited Distillery Sales

Dear Mr. Belfoure:

ISSUE: This is in response to your e-mail dated May 3, 2016 in which you ask whether your licensed limited distillery may lawfully sell bottles of your products at three specific events being held by The Bradford House, which you note is “the official home of the Whiskey Rebellion organization.”

Records of the Pennsylvania Liquor Control Board (“PLCB”) indicate that Red Pump Spirits, LLC holds Limited Distillery License No. AL-67 (LID 72865) for use at the premises located at 32 North Main Street, Washington, Pennsylvania.

OPINION: Limited distilleries may not sell their products except from their own licensed premises or PLCB-approved locations. Section 505.4(b)(1) of the Liquor Code authorizes a licensed limited distillery to manufacture and sell on its licensed premises its distilled spirits to the PLCB, to other licensees of the PLCB, and to the general public. 47 P.S. § 5-505.4(b)(1). Furthermore, a licensed limited distillery may sell its bottled products at up to two additional Board-approved locations, either alone or in conjunction with other licensed limited distilleries. 47 P.S. § 5-505.4(b)(2)(i).

There is currently no provision in the Liquor Code or PLCB’s Regulations that would allow a licensed limited distillery to sell its products from any other location, even for a limited time. Please note that the taking of orders and acceptance of payment constitutes a “sale” of alcohol under the Liquor Code. 47 P.S. § 102. There is, however, nothing that precludes a limited distillery licensee from simply taking orders for its products off-site, for subsequent payment to be made at the licensed premises, with delivery of the alcohol to the customers following such payment.

In addition, it is permissible for a licensed limited distillery to conduct both samplings and tastings, either on its own licensed premises or elsewhere, in accordance with PLCB Regulations. Information concerning samplings and tastings can be found on the PLCB’s website at www.lcb.state.pa.us. A key point in the regulations is that

there can be no purchase requirement imposed, directly or indirectly, including an entry fee to the overall event (here, the Bradford House's Garden Party, Wine & Spirits Event, and Holiday Shoppe). It is noted that the Bradford House's website indicates that admission is charged for each of these events, which admission covers entertainment, food and drink. Therefore, you would not be permitted to provide samplings or tastings at the events.

Finally, if an "eligible entity," as defined by the Liquor Code at section 102, obtained a Special Occasion Permit ("SOP") and either lawfully purchased alcohol or had alcohol donated by a licensee such as your limited distillery, then the SOP holder could sell that alcohol for either on or off-premises consumption, including selling bottles. Please note that the SOP holder cannot simply act as a sales agent for a limited distillery licensee. Information concerning SOPs is available on the PLCB's website.

Should you have any additional questions, do not hesitate to 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.

Sincerely,



**RODRIGO J. DIAZ
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

