

June 17, 2016

Minchel Seol
Downtown Indiana IUP Intern
39 North 7th Street, Suite 101
Indiana, PA 15701
VIA E-MAIL

RE: Pop Up Businesses for Wine Walk

Dear Mr. Seol:

ISSUE: Your e-mail of April 12, 2016 requests information regarding your organization's intention to conduct a wine walk using "pop up" businesses. Specifically, you state that each year, Downtown Indiana, Inc. hosts a local wine walk featuring local wineries selling their wines within the downtown area. This year, you would like to introduce a temporary wine pop up business that will only last a couple weeks. You propose to have one of the empty lots in your downtown area available for the wineries to set up booths and sell their wines. You inquire what type of license the wineries would need in order to participate in your pop up business idea.

Records of the Pennsylvania Liquor Control Board ("PLCB") indicate that Downtown Indiana, Inc. holds Special Occasion Permit No. SO-9224 (LID 66784).

OPINION: A license or permit is required to sell alcoholic beverages in Pennsylvania. As indicated above, Downtown Indiana, Inc. holds Special Occasion Permit No. SO-9224. The holder of a Special Occasion Permit ("SOP") is authorized to sell liquor, including wine, and/or malt or brewed beverages to persons of legal age on any day for which the permit is issued, and in any municipality in which the electorate has approved the sale of liquor and/or malt or brewed beverages. 47 P.S. § 4-408.4. This includes sales of any type of alcohol for consumption off the licensed premises. SOPs are generally issued for a period of not more than six consecutive or non-consecutive days during a calendar year. The SOP may be used for special events at which the permittee is raising funds for itself. The holder of an SOP may sell alcoholic beverages during the hours of 7:00 a.m. until 2:00 a.m. of the following day.

An SOP permits **the holder of the SOP, but not the individual participating wineries**, to sell alcohol to attendees. The participating local wineries would need their own, separate authority to sell their wines. Limited winery licensees may obtain a special permit to participate in alcoholic cider, wine and food expositions off the licensed premises. Samples at such expositions may be sold or offered free of charge. 47 P.S. § 5-505.2(a)(4). Each special permit lasts for no more than a day, however, and not the weeks contemplated by your proposal. Similarly, an SOP may only be used for six days each year; legislation recently signed by the Governor increases this to six nonconsecutive or ten consecutive days, effective August 8, 2016.

Although it appears that, as a practical matter, this may not be a viable option for your proposal, given your reference to the placement of booths on empty lots in the downtown area, you may wish to review section 3.64 of the PLCB's Regulations, 40 Pa. Code § 3.64, for more specific requirements regarding additional Board-approved locations, including a requirement that the location be enclosed by soundly constructed walls.

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