

August 9, 2016

Victoria Housel
The American Spirits Exchange Ltd.
VIA E-MAIL

RE: Trade Show for Distillers

Dear Ms. Housel:

ISSUE: This is in response to your e-mail of June 9, 2016, wherein you inquire as to the legalities of distilleries selling products at a trade show as well as the guidelines regarding hosting a trade show and where a trade show may be held. You also inquire if there is a way to bring in inventory of out-of-state distilleries to be sold at a trade show under a vendor license.

Records of the Pennsylvania Liquor Control Board (“PLCB”) indicate that Redemptions Spirits LLC holds Importer License No. I-828 (LID 64137) for use by it at 205 Mill Street, Bridgeport, Pennsylvania, and Limited Winery License No. LK-341 (LID 66047) for use by it at 408 East 4th Street, Bridgeport, Pennsylvania.

OPINION: As per Act 39 of 2016 (“Act 39”), effective August 8, 2016, the PLCB will be permitted to issue permits to limited distilleries (“AL”) for the purpose of participating in alcoholic cider, liquor, and food expositions. Alcoholic cider, liquor, and food expositions are defined as “affairs held indoors or outdoors with the primary intent of educating those in attendance of the availability, nature, and quality of Pennsylvania-produced alcoholic cider and liquors in conjunction with suitable food displays, demonstration, and sales under the following conditions:

- The fee for the permit is \$30.00 per day.
- The permit can be used up to 100 days a year but no more than 30 consecutive days.
- The permittee can sell its liquor by the glass, bottle, or case.
- The permittee may provide tasting samples up to one and one-half fluid ounces, which may be sold or offered free of charge.

47 P.S. § 505.4(b)(8).

Accordingly, the limited distillers would be able to sell their products via permit at a trade show that qualifies as an exposition.

In regard to the location of a trade show for distillers, the method of conducting the show will dictate whether the venue is on licensed or unlicensed premises. If the distillers obtain permits to sell their products, the premises cannot be licensed. The PLCB's Bureau of Licensing ("Licensing") will not typically dual-license a location absent specific statutory authority. Thus, only one license may be in effect at one time at any particular area or location. Therefore, the portion of a licensed venue covered by the exposition permit(s) would need to be de-licensed for the dates and times during which the exposition will be occurring. This can be accomplished by the licensee submitting to Licensing a letter clearly specifying the area to be de-licensed, including a map of the licensed premises that denotes said area, and the dates and times that the area should be de-licensed.

Please be advised that the sale of inventory for out-of-state distilleries cannot be effectuated via your importer license. Section 410 of the Liquor Code states that importers may sell product outside of Pennsylvania or to Pennsylvania liquor stores within the Commonwealth. 47 P.S. § 4-410. However, Act 39 allows the PLCB to accept Special Liquor Orders ("SLOs") placed by licensed importers or licensed vendors on behalf of customers, in addition to accepting SLOs placed directly by customers. Orders placed by licensed importers or licensed vendors on behalf of customers do not need to come to rest at one of the PLCB's stores, but rather may be delivered directly to the customer by the licensed importer or vendors. Delivery may only occur after payment has been forwarded to the PLCB and the PLCB has authorized delivery of the order. Liability for SLOs placed by licensed importers or licensed vendors on behalf of customers remains with the importer or vendor until the time of delivery to the customer.

Section 491(1) of the Liquor Code provides that it shall be unlawful for anyone to sell any liquor within Pennsylvania except in accordance with the Liquor Code. 47 P.S. § 4-491(1). If the privilege to sell liquor is not expressly provided within the Liquor Code, then it is not permitted.

Should you have any other questions and/or issues related to the Liquor Code or the PLCB's Regulations, please feel free to once 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.

Sincerely,

A handwritten signature in cursive script that reads "Rodrigo J. Diaz".

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

LCB Advisory Opinion No. 16-286