

August 29, 2016

Tim Kweeder  
**VIA E-MAIL**

**RE: Wine Growler Sales**

Dear Mr. Kweeder:

ISSUE: This office is in receipt of your e-mail dated August 3, 2016, wherein you ask whether Act 39 of 2016 (“Act 39”) permits “sales of growlers of draft wine to go.”

Records of the Pennsylvania Liquor Control Board (“PLCB”) indicate that HRCF Restaurant, Inc. holds Restaurant Liquor License No. R-12431 (LID 68484), for use at its premises located at 1310-1312 Frankford Avenue, Philadelphia, Pennsylvania.

OPINION: By way of general information, on June 8, 2016, Governor Wolf signed into law Act 39, making various changes to the Liquor Code. One such change is the creation of a wine expanded permit (“WEP”) for restaurant and hotel liquor licensees. 47 P.S. § 4-415(a)(1). A WEP allows its holder to sell wine for off-premises consumption, subject to various conditions. 47 P.S. § 4-415(a). For example, sales of wine-to-go must occur at a designated register which is staffed at all times by a cashier who is at least eighteen years old and RAMP-trained; other items (alcoholic and non-alcoholic) may also be purchased at this register. 47 P.S. §§ 4-415(a)(4), 4-415(a)(9). A WEP holder must use a transaction scan device to verify the age of anyone who appears to be under thirty-five years old and it must comply with all components of RAMP. 47 P.S. §§ 4-415(a)(6), (8), (9), 4-471.1. Wine may be stored in a non-contiguous area that is not accessible to the public, is locked at all times, and is not accessible to employees under eighteen years old. 47 P.S. § 4-415(a)(6).

More information on the requirements governing sales by WEP holders may be found on the PLCB’s website, [www.lcb.state.pa.us](http://www.lcb.state.pa.us), by placing your cursor on “Legal” and clicking on “Legislative Updates.” Click on “Act 39 of 2016” to open

a pdf document, and then select “Wine Expanded Permits” from the Table of Contents.

With regard to your question, holders of a WEP may sell wine-to-go in growlers for off-premises consumption, as long as the amount is limited to 3000 ml (3 liters) in a single sale.

However, please note that while the Liquor Code allows wine-to-go to be taken off of the licensed premises in sealed and unsealed containers, local municipalities may have ordinances which prohibit open containers of alcoholic beverages within the boundaries of that municipality. As this office cannot advise you as to the open container laws in your municipality, it is suggested that you contact your local municipality or local police department to determine if your municipality has any applicable open container ordinances.

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

LCB Advisory Opinion No. 16-332