

September 20, 2016

Andrew H. Martin
Thistle Finch Distilling, LLC
VIA E-MAIL

RE: Act 39 Questions

Dear Mr. Martin:

ISSUE: This office is in receipt of your e-mail of August 17, 2016, wherein you state that Act 39 of 2016 (“Act 39”) has enhanced the rights of Pennsylvania manufacturers to serve alcohol made by other manufacturers. You advise your understanding is that products produced only by licensed Pennsylvania manufacturers may be sold. You advise you have heard that since Act 39 is unclear, that some manufacturers have interpreted the statute to permit the sale of all alcohol regardless of the maker’s licensure. You seek clarification.

Pennsylvania Liquor Control Board (“PLCB”) records indicate that Thistle Finch Distilling, LLC, holds Limited Distillery License No. AL-5 (LID 67167) for use by it at premises located at 417 West Grant Street, Lancaster, Pennsylvania.

OPINION: Your interpretation of Act 39 is correct. Act 39 revised sections 446, 505.2 and 505.4 of the Liquor Code, 47 P.S. §§ 4-446; 5-505.2; 5-505.4, and expanded the privileges bestowed upon Pennsylvania manufacturers. Pennsylvania limited distilleries may sell “...wines produced by the holder of a limited winery license or malt or brewed beverages produced by a licensed brewery...” 47 P.S. § 5-505.4(B)(1)(emphasis supplied). These entities would be required to hold a valid Pennsylvania liquor license but may reside both within and outside of Pennsylvania.

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, appearing to read "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. 16-365