

October 3, 2016

Gina Kyttle
VIA E-MAIL

RE: Sangria-to-Go

Dear Ms. Kyttle:

ISSUE: This is in response to your e-mail of August 12, 2016, wherein you state that you are interested in selling house-made sangria in containers to go. The sangria is made with boxed wine purchased from the state store to which you add one-half ounce each of brandy and rum and one and one-half ounce of schnapps fruit; the mixture is then placed in a twenty-four ounce sealed container. You inquire which permit is required in addition to your current restaurant liquor license.

Records of the Pennsylvania Liquor Control Board (“PLCB”) indicate that CK’s Cantina & Grill, LLC, holds Restaurant Liquor License No. R-21305 (LID 67359) for use by it at 63 Gerald Avenue, Dallas, Pennsylvania.

OPINION: Act 39 creates a wine expanded permit for restaurant and hotel licensees. 47 P.S. § 4-415(a)(1). This permit allows its holder to sell wine-to-go until 11:00 p.m. on Monday through Saturday, and on Sundays if the holder holds a Sunday sales permit. 47 P.S. § 4-415(a)(2). A permittee may sell up to 3,000ml (3 liters) of wine in a single transaction. 47 P.S. § 4-415(d). The permittee must purchase the wine that will be sold for off-premises consumption from a PLCB store or a PLCB limited winery licensee. 47 P.S. § 4-415(e).

Although you stated that you purchase boxed wine from a PLCB store, its sale for off-premises consumption is not permitted once you mix it with spirits and place it in other containers. Further, as defined in section 102, “wine” shall mean liquor which is fermented from grapes and other fruits, having alcoholic content of twenty-four per centum or less. The term “wine” shall not include any products containing alcohol derived from malt, grain, cereal, molasses or cactus. (emphasis added). 47 P.S. § 1-102. With the addition of ingredients, including the aforementioned, your house-made sangria cannot be sold as a wine or pursuant to a wine expanded permit. There is no other permit by which you are able to sell house-made sangria-to-go.

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,



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. 16-397