

October 12, 2016

Kelly Thomas
Wholesale Business Manager
Victory Brewing Company
420 Acorn Lane
Downingtown, PA 19335
VIA E-MAIL

RE: Sale of Beer by Limited Wineries

Dear Ms. Thomas:

ISSUE: This office is in receipt of your e-mail dated August 16, 2016, wherein you indicate that two Pennsylvania wineries have approached your brewery, which is located in Downingtown, Pennsylvania, regarding selling your Victory malt beverage products. You ask if the wineries that approached you are permitted to sell beer, provided that these wineries hold limited winery licenses. Additionally, you ask if limited wineries located in territories where you do not have an identified wholesaler may purchase your products directly from your brewery.

Pennsylvania Liquor Control Board (“PLCB”) records indicate that Victory Brewing Company holds the following licenses for use by it at premises located at 420 Acorn Lane, Downingtown, Pennsylvania: (1) Brewery License No. G-278 (LID 36829); (2) Brewery Pub License No. GP-278 (LID 36830); and (3) Brewery Storage License No. GS-278 (LID 66639).

OPINION: Act 39 of 2016 allows limited winery licensees, limited distilleries, and distilleries to sell malt or brewed beverages and liquor for on-premises consumption provided that the malt or brewed beverages and liquor are produced by licensed breweries, limited distilleries, or distilleries. 47 P.S. §§ 5-505.2(a)(6.1), 5-505.4(b)(1), (c)(1). To that end, Pennsylvania limited wineries, limited distilleries, and distilleries may purchase beer manufactured by Pennsylvania breweries either directly from the brewery or from an importing distributor or distributor that has been given territorial rights for the specific brand of beer that it wants to sell.

However, if a brewery's product is distributed by a distributor or importing distributor, such distribution will be subject to a territorial agreement. 47 P.S. § 4-431, 40 Pa. Code § 9.96. These territorial agreements may limit from whom certain products can be purchased.

Considering the above, you would be permitted to sell your products to limited wineries, limited distilleries, and distilleries provided that such sales do not violate any territorial agreements that are in effect.

Please do not hesitate to contact this office should you have additional questions.

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 No. 16-403