

October 31, 2016

Jayne McPherson-Young
VIA E-MAIL

Re: Limited Winery Purchasing Beer

Dear Ms. McPherson-Young:

ISSUE: This is in response to your e-mail of October 6, 2016, wherein you ask if limited wineries may purchase Pennsylvania beers through beer distributors or if they must purchase directly through the brewery. You also ask, if you purchase beer through a distributor, do you need a transporter-for-hire license to pick up the product.

Records maintained by the Pennsylvania Liquor Control Board (“PLCB”) indicate that Gerald C. Forest and Kathleen Forest, doing business as Buckingham Valley Vineyards, hold Limited Winery License No. LK-6 (LID 8854) for the premises located at 1521 Route 413, Box 371, Buckingham, Pennsylvania. PLCB records also indicate that 483 Pond Street in Bristol, Pennsylvania has been approved as an additional location and that you are that location’s manager.

OPINION: As you appear to be aware, Act 39 of 2016 (“Act 39”) gave Pennsylvania-licensed manufacturers, such as a limited winery, the ability to sell different types of alcohol, such as beer, that are manufactured by Pennsylvania-licensed manufacturers.

You may purchase beer from either importing distributors (“IDs”), distributors (“Ds”), or directly from Pennsylvania-licensed breweries. Pennsylvania-licensed breweries may self-distribute their product, which means they may sell their product directly to you. However, they may opt to use the three-tier distribution system, as out-of-state manufacturers are required to do, which includes the assignment of written territorial franchise agreements between the manufacturer and the IDs for a specific geographical area within Pennsylvania. 47 P.S. § 4-431. IDs may then sell the products to IDs, Ds and other licensees within their appointed territories. Id. It is suggested that you contact Pennsylvania-licensed breweries directly to learn how you may obtain their product.

With regard to delivery, either the manufacturer, the D or ID is authorized by its license to deliver beer to your location. However, please note that your limited winery license does not allow you to pick up beer from either location. The beer would have to be delivered to you by the manufacturer, the D or ID, or by a transporter-for-hire. Obtaining a transporter-for-hire license yourself would not help you, since transporters-for-hire may only deliver alcohol that is owned by others.

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. 16-441