

November 18, 2016

Tiffany Fulk
VIA E-MAIL

Re: Selling Mead to an E Licensee

Dear Ms. Fulk:

ISSUE: This is in response to your e-mail of October 17, 2016, wherein you ask if an E licensee can purchase mead produced by your unidentified winery which is located in Pennsylvania.

OPINION: Act 39 of 2016 (“the Act”) creates a wine expanded permit for restaurant (“R”) licensees and hotel (“H”) licensees. 47 P.S. § 4-415(a)(1). The wine expanded permit is the only means by which these licensees may purchase and sell wine produced by licensed limited wineries. Since the buyer in question does not hold an R or H license, they would not be eligible for a wine expanded permit; and therefore, would not be permitted to purchase and sell mead from your winery.

To that end, be advised that the Act allows for the conversion of an E license to a R license, without regard to the quota, provided that the municipality is “wet” for liquor, which means that the municipality allows for the issuance or transfer of R licenses. The fee for such a conversion is for \$30,000.00. Please note that the E license cannot be converted if there is currently a pending objection by the PLCB’s Bureau of Licensing or if the E license is located in Philadelphia. 47 P.S. § 4-432(h). Additionally, be advised that such a conversion is considered a transfer or an issuance of a new license for purposes of section 402 (proximity issues). 47 P.S. § 4-432(h).

Please note that Act 166 of 2016 (“Act 166”) was recently signed by Governor Tom Wolf. Act 166 contains a provision that will re-classify mead as a malt or brewed beverage. While an E licensee would still not be permitted to purchase mead directly from the manufacturer, it will be able to purchase mead through a licensed distributor or importing distributor.

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
Tisha Albert, Director of Office of Regulatory Affairs
Jeffrey Lawrence, Assistant Director, Bureau of Licensing

LCB Advisory Opinion No. 16-456