

December 15, 1999

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Melissa Cullin
Special Events Coordinator
Seven Springs Mountain Resort
Champion, PA 15622

Dear Ms. Cullin:

ISSUE: This is in response to your letter of October 21, 1999 to John Victor, which was forwarded to this office for response. You are thinking of holding a five or six course dinner/wine-tasting event at your licensed premises, which holds a hotel license. You would have two representatives from each Pennsylvania winery attend and speak about their wines during dinner. The event would cost about \$50.00 per person and would last four hours. You ask the following: (1) Can the wineries donate the wine for the dinner or must the wines be purchased by the hotel?; (2) Must you advertise the event as a dinner with complimentary wine-tasting?; (3) Would the wineries be able to sell their wines after the dinner? If so, is that considered one of the twenty days they are allowed each year under wine exposition permits? Would it be more feasible for them to take orders for shipment?; and (4) Do we know which wineries have days left on their exposition permits?

OPINION: Wine-tastings are permissible in Pennsylvania so long as they are conducted in accordance with the guidelines set forth in Advisory Notice 10 (5th Revision), a copy of which is enclosed. One of those requirements is that there be no purchase requirement associated with the tasting. A mandatory \$50.00 fee, even if the payment is for food, may be construed as a sale of the wine in question if its purchase is mandatory for participating in the wine-tasting. However, since you hold a hotel liquor license, you are permitted to sell wine. Even so, there must be a definite and limited amount of wine offered and it must be offered at a price and in a manner that does not violate the Board's Regulations pertaining to discount pricing practices. [40 Pa. Code Section 13.102]. In this way, the ban on an unlimited amount of wine for a set price is not violated and the guidelines on tastings are also complied with.

Because the liquor laws prohibit a licensee of one class from giving something of value to a licensee of another class, the wineries cannot give or donate their wine to you. [40 Pa. Code Section 13.51(a)]. You may, however, buy the wine from the wineries and then give it away under the rules for tastings. Another option is for the wineries to rent out your facility and then they could conduct the \$50.00 dinner and wine-tasting as a catered event. To answer your last two questions, limited wineries can only sell directly to the public at their winery locations, or at one of their five Board-approved other locations, or with a special permit issued by the Board pursuant to section 505.2 of the Liquor Code [47 P.S. Section 5-505.2]. These special permits allow the limited wineries to participate in wine and food expositions off their licensed premises and sell wine by the bottle and sell or give away samples up to one ounce. A limited winery can obtain an unlimited number of special permits per calendar year. Each permit can be used for up to five consecutive days, but the total number of days for all of the special permits cannot exceed twenty days per year. This office has no records on how many days any winery may have left; you might want to check with the limited wineries for that information.

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.

Very truly yours,

FAITH S. DIEHL
Chief Counsel

c.c. Pennsylvania State Police
Bureau of Liquor Control Enforcement

LCB Advisory Opinion No. 99-397