



STATE OF NEBRASKA
Office of the Attorney General

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ATTORNEY GENERAL



SUBJECT: Whether an entity which has received both Class "Y" (Farm Winery) and Class "L" (Craft Brewery) licenses issued by the Liquor Control Commission may obtain an additional retail license to sell alcoholic products not produced at the farm winery or craft brewery.

REQUESTED BY: Hobert Rupe, Executive Director
Nebraska Liquor Control Commission

WRITTEN BY: Douglas J. Peterson, Attorney General
Milissa Johnson-Wiles, Assistant Attorney General

You have requested an opinion from our office asking whether an entity which has received both Class "Y" (farm winery) and Class "L" (craft brewery) liquor licenses issued by the Liquor Control Commission ("Commission") may obtain a retail license to sell other alcoholic products not produced at the licensed locations. As stated in your request, the Commission has granted some Class "L" licenses to the holders of Class "Y" licenses, but has restricted the ability to obtain an additional retail license, based on the reasoning found in Attorney General Opinion #06002 issued in 2006, that Class "Y" licensees may not obtain a retail license to sell product not produced at the farm winery. We conclude that the answer is "no."

As the Commission is aware, farm wineries were first authorized by the Nebraska Legislature in 1985. The statutory provision related to farm wineries, Neb. Rev. Stat. § 53-123.11 (Cum. Supp. 2016), provides that the holder of a farm winery license is entitled to do certain things, but as previously expressed in Opinion #06002, the list is not unlimited. The Liquor Control Act does not authorize the holder of a Class "Y" license to obtain a retail liquor license to sell product not produced at the winery. Amendments made to § 53-123.11 since that opinion was issued have not expanded the entitlements of a Class Y license holder to that degree, and our analysis has not changed.

As the Commission is also aware, craft breweries, once known as "brew pubs," were first authorized by the Legislature in 1988. The statutory provision related to craft breweries, Neb. Rev. Stat. § 53-123.14 (Cum. Supp. 2016), outlines the entitlements and limitations of the holder of a craft brewery license. That section provides, among other things, that the holder of a craft brewery license may, with the *appropriate retail license*, sell other alcoholic liquor products not produced by the craft brewery (emphasis supplied).

In both Attorney General Opinion #96017 and #06002, respectively, our office concluded that §§ 53-169 and 53-171 did not expand the rights of brewpub license holders and farm winery license holders beyond that expressly stated in their authorizing statutes.

In your letter, you have not requested an opinion on whether it was appropriate for the Commission to issue a Class "L" liquor license to the holder of a Class "Y," and this opinion assumes that it was appropriate to do so. For the reasons stated in Opinion #06002, an entity holding a Class "Y" license may not obtain a separate retail license to sell product not produced at the farm winery. The addition of a Class "L" to that entity does not change the analysis. Thus, the Commission is correct in not issuing a retail license to an entity holding both Class "Y" and "L" licenses.

Sincerely,



Milissa Johnson-Wiles
Assistant Attorney General

Approved:


Attorney General