

**THE DISTRICT OF COLUMBIA  
ALCOHOLIC BEVERAGE CONTROL BOARD**

**In the Matter of:**

Sam Fitz

Advisory Opinion

711 Kennedy Street, N.W.  
Washington, D.C. 20011

*Advisory Opinion*

Order No.: 2017-620

**BEFORE:**

Donovan Anderson, Chairperson  
Nick Alberti, Member  
Mike Silverstein, Member  
James Short, Member  
Jake Perry, Member  
Donald Isaac, Sr., Member

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**ADVISORY OPINION ON IMPORTING JUICE, FERMENTED BEVERAGES  
AND THE SOURCES OF AGRICULTURAL PRODUCTS FOR THE PURPOSE  
OF MANUFACTURING ALCOHOLIC BEVERAGES AT A WINE PUB**

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**INTRODUCTION**

On November 19, 2017, Sam Fitz (Petitioner), the owner of ANXO Cidery & Tasting Room, asked the Alcoholic Beverage Control Board to clarify whether a licensee holding wine pub permit issued under D.C. Official Code § 25-124 could (1) import juice for the purpose of manufacturing wine or cider, a type of wine, under the endorsement; (2) import fermented juice for the purpose of manufacturing cider or wine under the endorsement; and (3) how to interpret the fruit sourcing requirement provided by § 25-124(a).

**DISCUSSION**

Under § 25-124,

(a) A wine pub permit shall authorize the licensee to manufacture wine at one location from grapes or fruit transported from an area that produces wine to the licensed restaurant, tavern, multipurpose facility, hotel, or nightclub for on-premises

consumption and for sale to licensed wholesalers for the purpose of resale to other licensees.

D.C. Code § 25-124. Under D.C. Official Code § 25-101(56), wine is “an alcoholic beverage containing not more than 15% alcohol by volume obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing sugar whether or not other ingredients are added.” D.C. Code § 25-101(56).

In response to Mr. Fitz’s first question, Title 25 defines wine as a product created from grapes or fruit. The law does not indicate that wine must be produced from whole fruit, nor is there any intent to impose such a requirement. Likewise, Title 25 does not regulate the importation of non-alcoholic ingredients that are later used to produce alcohol. As such, nothing prevents any licensee authorized to manufacture wine from importing or using whole fruit or parts of any fruit, such as the juice.

In response to Mr. Fitz’s second question, the Board approves the use of alcoholic beverages, such as fermented juice, by wine pubs to create their products. Nevertheless, the Board advises the Petitioner to review the Advisory Opinion contained in Board Order No. 2017-619 for guidance on the minimum manufacturing steps necessary to deem the product manufactured by the license holder and complying with the terms of the wine pub permit.

In response to Mr. Fitz’s third question, the Board recognizes that § 25-724(a) creates a requirement that “grapes or fruit” used by the licensee to make wine be “transported from an area that produces wine.” § 25-724(a). In interpreting § 25-124(a), the Board seeks to avoid an interpretation that nullifies the language chosen by the Council of the District of Columbia, but, at the same time, avoids creating a standard that is difficult or impossible to comply with. In that vein, the Board will deem § 25-724(a) satisfied when the grapes or fruit used by the wine pub permit holder comes from a county or similar entity in a foreign country (e.g., regional district in Canada) that has a winery or distillery currently licensed to operate in the jurisdiction.

The Board further notes that there is no requirement that a wine pub permit holder make the same type of product produced by the out-of-state or foreign winery or distillery. This means that if only wine from grapes is made in the out-of-state county where the fruit is sourced, the D.C. licensed wine pub receiving the fruit from the area is free to make cider or another type of wine (e.g., honey wine, perry, etc.), and does not have to make wine from grapes.

## **ORDER**

Accordingly, the Board, on this 13th day of December 2017, hereby **ORDERS** that the above represents the **ADVISORY OPINION** of the Board pursuant to 23 DCMR § 1902.

District of Columbia  
Alcoholic Beverage Control Board

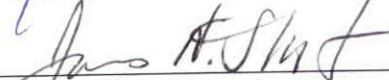
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Donovan Anderson, Chairperson



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Nick Alberti, Member



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Mike Silverstein, Member



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James Short, Member

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Jake Perry, Member



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Donald Isaac, Sr., Member

Pursuant to 23 DCMR § 1902.6, if the requestor disagrees with the Board's advisory opinion in any respect, he or she may, within twenty (20) calendar days after issuance of the opinion file a petition with the Board in writing to reconsider its opinion, setting forth in detail the reasons and legal argument which support the requestor's points of disagreement, or may request the Board to issue a declaratory order, pursuant to § 1903. Advisory opinions of the Board may not form the basis of an appeal to any court in the District of Columbia.