

May 25, 2011

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Donald L. Hines  
Assistant F&B Director  
Maxwell's Restaurant  
DoubleTree by Hilton Hotel Pittsburgh – Meadow Lands  
340 Racetrack Road, Washington, PA 15301

**Re: Daily Drink Special and Happy Hour**

Dear Mr. Hines:

ISSUE: This office is in receipt of your e-mail dated April 9, 2011, wherein you state that you recently had Responsible Alcohol Management Program (“RAMP”) training at your facility. During the training, the instructor mentioned that your daily drink specials and happy hour were in violation of the Liquor Code. You request clarification on the legality of your daily drink specials and happy hour. Specifically, you ask if Budweiser drafts can be offered as a daily drink special and included in a happy hour on the same day. You also ask if the daily drink special must be offered from the time the bar opens each day until midnight.

Your daily drink specials are as follows:

- (1) Monday - From 5:00 p.m. to 10:00 p.m., Budweiser drafts are two dollars (\$2.00), instead of two dollars and fifty cents (\$2.50);
- (2) Tuesday – From 5:00 p.m. to 9:00 p.m., Miller Lite bottles are two dollars and fifty cents (\$2.50), instead of four dollars (\$4.00);
- (3) Wednesday – From 5:00 p.m. to 10:00 p.m., the featured wine is five dollars (\$5.00) per glass, instead of seven dollars (\$7.00); and
- (4) Thursday – From 5:00 p.m. to 8:00 p.m., the featured contemporary cocktail is five dollars (\$5.00), a discount that varies depending on the cocktail.

For happy hour, you offer domestic drafts for two dollars (\$2.00), instead of two dollars and fifty cents (\$2.50). Happy hour is Monday through Friday, from 5:00 p.m. to 7:00 p.m.

Records of the Pennsylvania Liquor Control Board indicate that Washington Motel Enterprises, Inc. holds Hotel Liquor License No. H-5299 (LID 32142) for use by it at premises located at 340 Racetrack Road, Washington, Pennsylvania.

OPINION: In each business day, retail licensees may have a daily drink special and a happy hour. Regarding daily drink specials, a licensee is permitted to offer one (1) specific type of alcoholic beverage at a discounted price all day, or for a portion of the day if it chooses. [40 Pa. Code § 13.102(b)(2)]. A specific type of alcoholic beverage means either a specific registered brand of malt or brewed beverages, a type of wine, a type of distilled spirits or a mixed drink. [Id.]. The following are examples of permissible daily beer specials: a specific brand of beer such as “Blue Hound Pilsner” or “Brendan’s Cream Stout” or “Oil City Light,” but not “all draft” or “all bottled” beer or “all Blue Hound products.” Daily wine specials could be “Chardonnay” or “Merlot,” but not “all white wine” or “all red wine” or “all Kendall’s wines.” Permissible spirits specials would be “Rum and Cola” or “all brandy drinks,” but not “all well drinks” or “all Jackson’s products.” [See Board Advisory Notice No. 16 Amended].

With regard to happy hour pricing, a licensee is permitted to discount any and all alcoholic beverages for a period of time not to exceed two (2) consecutive hours. [40 Pa. Code § 13.102(a)]. During this happy hour, the price of alcoholic beverages may not change. Further, in accordance with section 13.102 of the Board’s Regulations, no discount pricing practice may occur between 12:00 a.m. (midnight) and the legal closing hour, i.e., 2:00 a.m. for restaurant, hotel, and eating place licensees. [40 Pa. Code § 13.102(a)].

To answer your specific questions, Budweiser drafts can be offered, concurrently, as a daily drink special and during happy hour, as long as the price does not change during the happy hour. Daily drink specials can be offered for a portion of the day, as long as they end by midnight. Your daily drink specials on Tuesday, Wednesday and Thursday also appear to comply with the Liquor Code and the Board’s Regulations, as long as the featured wine or featured cocktail meet the requirements mentioned earlier.

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Should you have any further questions or concerns regarding this matter, please do not hesitate to 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.

Very truly yours,

FAITH S. DIEHL  
CHIEF COUNSEL

cc: Pennsylvania State Police,  
Bureau of Liquor Control Enforcement  
Jerry W. Waters, Director of Office of Regulatory Affairs  
Jane Melchior, Director, Bureau of Licensing  
Tisha Albert, Assistant Director, Bureau of Licensing  
Leslie Coombe, Director, Bureau of Alcohol Education  
Lori Rizzo, Chief, RAMP Division, Bureau of Alcohol Education

LCB Advisory Opinion No. 11-201