

John F. Hacker
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Gateway Professional Center
2045 Westgate Drive, Suite 404
Bethlehem, PA 18017
VIA E-MAIL: jhacker@mfdlaw.com

RE: Free Drink Voucher

Dear Mr. Hacker:

ISSUE: This office received your letter on October 7, 2013, wherein you stated that you represent Cigar Works, LLC, which holds a restaurant liquor license for premises located at 90 Mort Drive, Easton, Pennsylvania. You explain that your client wishes to undertake a promotion whereby the purchaser of cigars at the licensed premises, having a stated minimum purchase price, obtains a voucher for a free drink at the licensed premises. You ask for an opinion from this office as to whether such a promotion would be prohibited under the Liquor Code or the Pennsylvania Liquor Control Board's ("Board") Regulations.

Records maintained by the Board indicate that Cigar Works, LLC, t/a Leaf, holds Restaurant Liquor License No. R-16605 (LID 64867) for premises located at 90 Mort Drive, Easton, Pennsylvania.

OPINION: Pursuant to section 13.53 of the Board's Regulations [40 Pa. Code Section 13.53], a retail licensee is permitted to offer one (1) free standard-sized alcoholic beverage per patron in any offering, as long as the giving of the free drink is not contingent upon the purchase of any other alcoholic beverage. A standard-sized alcoholic beverage means twelve (12) fluid ounces of malt or brewed beverage, four (4) fluid ounces of wine (including fortified wine), and one and one half (1.5) fluid ounces of liquor. [*Id.*]. Therefore, if your promotion consists of undiscounted cigars and a free drink for each person, such would be permissible, so long as the drink is limited to one (1) such drink and consists of no more than twelve (12) fluid ounces of malt or brewed beverages, four (4) fluid ounces of wine, or one and a half (1.5) fluid ounces of liquor.

However, be advised that section 493(24)(i) of the Liquor Code prohibits the offering of anything of value to induce the purchase of an alcoholic beverage. [47 P.S. Section 4-493(24)(i)]. Therefore, you could not conversely offer a free cigar with the purchase of an alcoholic beverage.

Finally, please note that section 493(1) of the Liquor Code prohibits the service, furnishing or giving of any liquor or malt or brewed beverages to any person who is visibly intoxicated or to any minor and imposes strict liability on a licensee for violating this section. [47 P.S. Section 4-493(1)].

Should you have any additional questions, 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
Tisha Albert, Director, Bureau of Licensing
Jeffrey Lawrence, Assistant Director, Bureau of Licensing

LCB Advisory Opinion No. 13-492