

May 28, 2014

Telephone: (717) 783-9454
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Steven Blose

e: Discount Pricing

Dear Mr. Blose:

ISSUE: Your e-mail of May 14, 2014 requests information regarding permissible discount pricing promotions of a “domestic beer bottle” special. Your intention is to have the special on a Saturday night when you do not offer a happy hour that day. Additionally, you seek any applicable parameters and time duration.

Pennsylvania Liquor Control Board (“Board”) records indicate that Country Palace LLC holds Restaurant Liquor License No. R-18486 (LID 62326) for the premises located at 139 Fairview Road, Dayton, Pennsylvania.

OPINION: A licensee is free to choose the price it wishes to charge as the regular price of alcoholic beverages. However, in each business day, retail licensees may have only two (2) discount promotions: a daily drink special and a happy hour. [40 Pa. Code § 13.102]. With respect to daily drink specials, a retail 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 a specific registered brand of malt or brewed beverage, a type of wine, a type of distilled spirits or a mixed drink. [Id.]. As a daily drink special, a specific brand of beer such as “Blue Hound Pilsner” or “Brendan’s Cream Stout” or “Oil City Light” may be discounted, but not “all draft” or “all bottled” beer or “all Blue Hound products.” [See Board Advisory Notice No. 16 (Amended)].

Pursuant to Act 11 of 2011, a retail licensee is now permitted to hold happy hours and discount any and all alcoholic beverages for up to four (4) hours per day and up to fourteen (14) hours per week. [47 P.S. § 4-406(g)]. During this happy hour, the price of alcoholic beverages may not change. The hours need not be consecutive and may be divided, subject to the above noted limitation, in any

manner a licensee desires. However, please note that no discount pricing practice (daily drink special or happy hour) may occur between 12:00 a.m. midnight and the legal closing hour. [40 Pa. Code § 13.102]. Lastly, please be advised that a notice of all happy hours must be posted on the licensed premises seven (7) days prior to each happy hour. [Id.].

The promotion that you have proposed in your e-mail does not comply with the allowable discount pricing practices. It does not qualify as a daily drink special because only one (1) type of drink may be offered as a daily drink special.

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. 14-238