

August 21, 2014

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Crystal Hartz  
Wilsbach Distributors, Inc.  
905 Katie Court  
Harrisburg, PA 17109  
[artz@wilsbach.com](mailto:artz@wilsbach.com)

**RE: “Yuengs n Wings” Promotion**

Dear Ms. Hartz:

ISSUE: This correspondence is in response to your e-mail and letter sent August 6, 2014, wherein you ask whether it is permissible for a retail licensee to run a “Yuengs n Wings” promotion whereby it sells a pitcher of Yuengling draft beer with a select number of wings for a bundled price of ten dollars (\$10.00). You explain that this would be an everyday, all day feature.

The Pennsylvania Liquor Control Board’s (“Board”) records indicate that Wilsbach Distributors, Inc. holds Importing Distributor License No. ID-178 for use at the premises located at 905 Katie Court, Harrisburg, Pennsylvania, 17109.

OPINION: Please be advised that the answer to your question depends upon whether the pitcher of Yuengling draft beer and/or chicken wings that comprise the promotion would be offered at a discount from their regular prices when bundled together.

If the retail licensee were to offer the chicken wings at a discount from their regular price when bundled together with the pitcher of Yuengling draft beer, then this would violate section 493(24)(i) of the Liquor Code [47 P.S. § 4-493(24)(i)], which prohibits giving something of value to induce the purchase of alcoholic beverages, and, therefore, would not be permissible. In other words, if, for example, the regular price of a pitcher of Yuengling draft beer is five dollars (\$5.00) but the regular price of chicken wings is six dollars (\$6.00) or seven dollars (\$7.00), then it would not be permissible for the retail licensee to run a promotion that effectively offers the chicken wings for five dollars (\$5.00) as part of the bundled ten dollar (\$10.00)

package because this would be considered an unlawful inducement to purchase alcohol.

However, if the retail licensee were to offer the pitcher of Yuengling draft beer at a discount from its regular price while maintaining the regular price of the chicken wings within the bundled price, then the promotion would be permissible as long as it conforms with the discount pricing practices discussed below.

Section 406(g) of the Liquor Code and section 13.102(a) of the Board's Regulations authorize retail licensees to offer happy hour discount pricing. That is, retail licensees are permitted to discount *any and all* alcoholic beverages for a period of time not to exceed four (4) consecutive or non-consecutive hours per day, and not to exceed fourteen (14) hours per week. [47 P.S. 4-406(g)]. During such happy hours, 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. Notice of all happy hours must be visibly posted on the licensed premises seven (7) days prior to each happy hour. [Id.].

In addition, section 13.102(b)(2) of the Board's Regulations authorizes retail licensees to offer daily drink special discount pricing. [40 Pa. Code § 13.102(b)(2)]. With regard to daily drink specials, retail licensees are 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. [Id.]. 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.]. 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." Daily wine drink 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." [Board Advisory Notice No. 16].

No discount pricing practice (daily drink special or happy hour) may occur between 12:00 a.m. and the legal closing hour. [47 P.S. § 4-406(g); 40 Pa. Code § 13.102].

Thus, if, for example, the regular price of a pitcher of Yuengling draft beer is six dollars (\$6.00) or seven dollars (\$7.00) and the regular price of chicken wings is five dollars (\$5.00), then a promotion that effectively offers the pitcher of Yuengling draft beer for five dollars (\$5.00) as part of the bundled ten dollar (\$10.00) package would need to be conducted as a happy hour special or a daily drink special in order to be lawful. Furthermore, if, as you stated, the intent is to make the promotion an

everyday, all day feature, then it would need to be conducted as the retail licensee's daily drink special due to the time limitations applicable to happy hour specials.

Finally, if neither the pitcher of Yuengling draft beer nor the chicken wings are being offered at a discount from their regular prices when bundled together, then it would be permissible for the retail licensee to run the promotion at any time, for as long as the retail licensee chooses. In other words, if, for example, the regular price of a pitcher of Yuengling draft beer is five dollars (\$5.00) and the regular price of chicken wings is five dollars (\$5.00), or if the regular price of a pitcher of Yuengling draft beer is four dollars (\$4.00) and the regular price of chicken wings is six dollars (\$6.00), then it would be permissible for the retail licensee to run the promotion offering both items bundled together for ten dollars (\$10.00) whenever it chooses.

Should you have any additional questions regarding this matter, the Liquor Code, or the Board's Regulations, please do not hesitate to again 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

LCB Advisory Opinion No. 14-484