

November 20, 2014

Michael Warner  
Carrabba's Italian Grill, LLC

**E: Drink Specials**

Dear Mr. Warner:

ISSUE: This correspondence is in response to your e-mail of November 5, 2014, in which you inquire as to the legality of several drink specials you would like to offer at your licensed establishment. According to your e-mail, the proposed promotions are as follows:

Drink Specials (4:00 p.m. to 10:00 p.m.):

- Monday – \$5.00 Carrabbarita (a type of a margarita)
- Tuesday – \$4.00 Peroni Draft Beer
- Wednesday – \$5.00 Sangria
- Thursday – \$6.00 Featured Cocktail

Happy Hour

- Monday through Friday 4:00 p.m. to 6:00 p.m.
- \$3.00 Domestic Drafts
- \$4.00 Import Drafts
- \$4.00 Glass of house wine
- \$5.00 Carrabbaritas

Records of the Pennsylvania Liquor Control Board (“Board”) indicate that Carrabba’s Italian Grill, LLC, holds Restaurant Liquor License No. R-18130 (LID 61086) for use by it at premises located at Gateway Square Shopping Center, 5250 Carlisle Pike, Mechanicsburg, Pennsylvania, and that you are the Board-approved manager.

OPINION: In accordance with the Liquor Code and the Board’s Regulations, retail licensees are permitted to offer both a daily drink special and a happy hour in each business day. [47 P.S. § 4-406(g); 40 Pa. Code § 13.102]. No other discount pricing practices are permitted.

With regard 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 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)].

As for happy hour pricing, a retail licensee is permitted to discount any and all alcoholic beverages for a period of time not to exceed four (4) consecutive or non-consecutive hours, and not to exceed fourteen (14) hours per week. [47 P.S. §§ 1-102, 4-406(g); 40 Pa. Code § 13.102(a)]. The hours may be fixed, subject to the above noted limitations, in any manner a licensee desires; however, during a happy hour, the price of alcoholic beverages may not change. [40 Pa. Code § 13.102(a)(4)]. Notice of all happy hours must be posted on the licensed premises seven (7) days prior to each happy hour. [47 P.S. § 4-406(g)].

Further, please note that no discount pricing may occur between 12:00 a.m. (midnight) and the legal closing hour, i.e. 2:00 a.m., for most retail licensees. [40 Pa. Code § 13.102(a)].

Based on the information you provided, it appears that the proposed drink specials are in conformance with the above requirements. Therefore, it would be permissible to offer the proposed happy hour and daily drink specials in your licensed establishment.

**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.**

Michael Warner  
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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. 14-595