

December 24, 2014

Cindy Dragwa
One Meredith Street
Carbondale, PA 18407-2835
agwas81906@aol.com

RE: Discount Wristband During Happy Hour

Dear Ms. Dragwa:

ISSUE: This is in response to your e-mail of November 20, 2014, wherein you ask whether or not customers could purchase a five dollar (\$5.00) wristband which would enable them to purchase draft beer refills for a penny each during a two (2) hour Happy Hour.

Pennsylvania Liquor Control Board (“Board”) records indicate that Valley Bowling Lanes (Champions Lounge) holds Restaurant Liquor License No. R-2842 (LID 10692), for the premises located at 1 Meredith Street, Carbondale, Pennsylvania.

OPINION: Section 493(24)(i) of the Pennsylvania Liquor Code generally prohibits licensees from offering anything of value to induce, directly or indirectly, the purchase of alcoholic beverages, or from offering or giving to trade or consumer buyers any prize, premium, gift or other inducement to purchase liquor or malt or brewed beverages, except advertising novelties of nominal value. [47 P.S. § 4-493(24)(i)]. “Novelty items bearing advertising matter, such as matches, disposable lighters, bottle or can openers, tee shirts, caps, corkscrews, pens and pamphlets, may be distributed with or without proof of purchase by any class of licensee to trade or consumer buyers”. [Board Advisory Notice No. 10 (6th Revision)]. Advertising novelty items are limited to a wholesale cost of fifteen dollars (\$15.00) each or less. [Id.]

The purchase of the wristband would allow the customer to buy malt and brewed beverages at a reduced price, thus it would be considered an unlawful inducement to purchase alcohol in violation of section 493(24)(i) . [47 P. S. 4-493(24)(i)].

That being said, the licensee could do this activity without using the wrist band by charging all patrons a five dollar (\$5.00) cover charge. Be advised that there is

nothing in the Liquor Code or the Board's Regulations that sets forth what a licensee may establish as its regular price for an alcoholic beverage. Therefore, the licensee could have a specific draft beer that would be priced at a reduced rate, as your regular price, this would not be prohibited. Otherwise, the one (1) penny beer would have to be part of a happy hour promotion.

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.

Should you have any further questions or concerns, 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**

Pennsylvania State Police, Bureau of Liquor Control Enforcement
Jerry W. Waters, Director of Office of Regulatory Affairs
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