

January 29, 2015

Lindsey Fairall

**RE: Questions for Private club**

Dear Ms. Fairall:

ISSUE: This is in response to your e-mail sent on January 13, 2015, wherein you ask several questions concerning the operation of your private club. You ask whether the club is permitted to send coupons via e-mail to its members, offering either a two-dollar (\$2.00) discount off of a draft beer, or a drink coupon with a set value amount.

You next ask if the reporting department of games charity starts in 2015 or 2016. During a follow-up telephone conversation, you clarified that your inquiry concerns the reporting requirements of the Small Games of Chance Act ("SGOC"). [10 P.S. §§ 311-327].

Finally, you inquire about the rules and regulations for hosting a ladies' night at your club, and whether such an event is legal.

Records of the Pennsylvania Liquor Control Board ("Board") indicate that Joseph V Galati Sons of Italy Lodge # 2857 holds Catering Club Liquor License No. CC-232 (LID 66732) for the premises located at 4701 Fritchey Street, Harrisburg, Pennsylvania.

OPINION: Regarding your first question, section 493(24)(i) of the Liquor Code generally prohibits licensees from offering anything of value to induce directly the purchase of alcoholic beverages. [47 P.S. § 4-493(24)(i)]. While that section allows for the use of coupons under certain circumstances, it does not allow a club licensee to issue or honor discount coupons for alcohol. Thus, offering your members a coupon discounting the price of any alcoholic beverage would not be permitted. However, pursuant to section 13.53 of the Board's Regulations [40 Pa. Code § 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.]. This is permissible whether the patron presents a coupon or not, so it would be permissible for you to send your members coupons for a free drink, so long as you comply with the above restrictions.

Concerning your second question, please be advised that the Board does not regulate the SGOC [10 P.S. §§ 311-327] and as such, the interpretation of this law falls outside of the scope of the Board's authority. Therefore, it is recommended that you contact your County Treasurer's Office and/or the Department of Revenue, Miscellaneous Tax Division, at (717) 787-8275 with any questions about small games of chance, including questions about reporting requirements or online forms. The Department of Revenue also has a website set up to assist club licensees with the reporting requirements of the SGOC. This website can be found at <https://www.doreservices.state.pa.us/sgoc/FAQ.aspx>.

Finally, as to your inquiry concerning the legality of a "Ladies Night," the Pennsylvania Human Relations Act ("PHRA") prohibits discrimination on the basis of gender or sex. [43 P.S. § 951, *et seq.*]. It is unlawful to offer only one (1) sex a benefit or to deny admission based on sex. A promotion in which females receive a benefit that is not also offered to men is not permissible: both men and women must receive the same benefit. Therefore, you may entitle an event "Ladies Night," but both men and women must be able to receive the same specials or benefits. This office is not authorized to opine as to whether any specific conduct definitively would or would not violate the PHRA. The Pennsylvania Human Relations Commission ("PHRC") would have authority in these circumstances. You may wish to contact the PHRC for more information regarding the PHRA at [www.phrc.state.pa.us](http://www.phrc.state.pa.us) or at 717-787-4410.

Although you may simply call an event "Ladies' Night" without running afoul the PHRA, there may nonetheless be concerns about advertising such an event. Section 498(b) of the Liquor Code prohibits any false, deceptive or misleading statements in price advertisements, disparaging statements of the products of a competitor, or statements referring to monetary comparisons between brands. The prices that are advertised or displayed on the licensed premises shall be those that are in effect at the time of the advertisement or display. [47 P.S. § 4-498(b)(1)-(3), (c)]. You must ensure that any advertising or promotion of a "Ladies' Night" must

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not deceptively suggest that there are promotions or specials when there are, in fact, none.

Please do not hesitate to contact this office if you have any additional questions.

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

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