

March 31, 2015

Judd Goodman  
Brubar, Inc.  
[judd@federaltaphouse.com](mailto:judd@federaltaphouse.com)

**RE: Free Drink Promotion**

Dear Mr. Goodman:

ISSUE: This correspondence is in response to your e-mail of March 12, 2015, in which you ask whether it would be permissible for your licensed establishment to give away one (1) twelve (12)-ounce beer to all patrons who bring their ticket stub from a Harrisburg Senators game that they have attended and during which the home team scores six (6) or more runs. Alternatively, if it is not permissible for your licensed establishment to give away a free beer under these circumstances, you ask whether it would be permissible for a third party to purchase the beer from your establishment to give to the eligible patrons.

The Pennsylvania Liquor Control Board's ("Board") records indicate that Brubar, Inc. holds Restaurant Liquor License No. R-15865 (LID 48415) for use at the premises located at 228-234 North Second Street, Harrisburg, Pennsylvania.

OPINION: As you already appear to be aware, retail licensees of the Board are permitted to offer one (1) free standard-size alcoholic beverage per patron in any offering, as long as the giving of the alcoholic beverage is not contingent upon the purchase of any other alcoholic beverage. [40 Pa. Code § 13.53]. A standard-size alcoholic beverage is twelve (12) fluid ounces of a malt or brewed beverage, four (4) fluid ounces of wine (including fortified wine) and one and one-half (1½) fluid ounces of liquor. [40 Pa. Code § 13.53].

Moreover, there is no requirement that all patrons be offered a free alcoholic beverage. Accordingly, it would be permissible to limit the offering of a free alcoholic beverage, as described above, to patrons redeeming a ticket stub from a Harrisburg Senators game that they attended and during which the home team scores six (6) or more runs, provided that such patrons are twenty-one (21) years of age or older and not visibly intoxicated.

However, please be advised that section 493(24)(i) of the Liquor Code prohibits the offering of anything of value to induce the purchase of an alcoholic beverage. [47 P.S. § 4-493(24)(i)]. Therefore, you could not conversely offer patrons a free or discounted ticket to a Harrisburg Senators game with the purchase of an alcoholic beverage at your establishment.

Since it would be permissible for your establishment to give away a free beer to patrons under the circumstances that you described above, there is no need to address the alternative scenario that you presented in your e-mail.

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  
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. 15-130