

February 25, 2016

Chris Bozakis
VIA E-MAIL

RE: Happy Hour

Dear Mr./Ms. Bozakis:

ISSUE: This is in response to your e-mail of February 6, 2016, wherein you inquire as to the total hours per week and the maximum hours that you may run a happy hour as well as any additional pertinent information.

For the purpose of this response, it is assumed that you hold a retail liquor license.

OPINION: 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); 4-442(g); 40 Pa. Code § 13.102]. No other discount pricing practices are permitted.

With regard to happy hour pricing, a retail licensee is permitted to discount any and all alcoholic beverages for a period of time not to exceed four consecutive or non-consecutive hours, and not to exceed fourteen hours per week. [47 P.S. §§ 1-102, 4-406(g); 4-442(g); 40 Pa. Code § 13.102(a)]. The hours may be fixed, subject to the above noted limitations, in any manner a licensee desires, thus allowing the licensee to adjust the length of the daily happy hours in accordance with slow/busy days. The hours need not be consecutive and may be divided as the licensee chooses. 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 days prior to each happy hour. [47 P.S. § 4-406(g)].

With regard to daily drink specials, a retail licensee is permitted to offer one 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.”

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)].

Should you have any other questions and/or issues related to the Liquor Code or the Board’s Regulations, please feel free to once 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,

RODRIGO J. DIAZ
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. 16-043