

April 14, 2016

Kevin Lloyd  
Nittany Valley Distilling LLC  
198 Match Factory Place  
Bellefonte, PA 16823  
**VIA E-MAIL**

**RE: Limited Distillery Pricing**

Dear Mr. Lloyd:

ISSUE: Your inquiry to Board Member Mike Negra regarding pricing has been forwarded to this office for response. You are aware of the fact that, as a limited distillery, you cannot sell an item that is also sold by the PLCB, at a price that is lower than the PLCB price. Since, by statute, the PLCB sells to licensees at a wholesale price that is 10% less than the retail price, you inquired whether you could do likewise.

Records of the Pennsylvania Liquor Control Board (“Board”) indicate that Nittany Valley Distilling LLC, holds Limited Distillery License No. AL-23 (LID 69275), for the premises located at 198 Match Factory Place, Bellefonte, Pennsylvania. You are the Board-approved manager.

OPINION: Section 505.4 of the Liquor Code provides that a limited distillery may sell its product as follows:

The holder of the [limited distillery] license may manufacture and sell bottled liquors produced on the licensed premises to the board, to entities licensed by the board and to the public between the hours of nine o'clock antemeridian and eleven o'clock postmeridian so long as a specific code of distilled liquor which is listed for sale as a stock item by the board in State liquor stores may not be offered for sale at a licensed limited distillery location at a price which is lower than that charged by the board and under such conditions and regulations as the board may enforce.

[47 P.S. § 5-505.4(b)(1)].

Limited distilleries are not subject to the PLCB's regulations pertaining to discount pricing practices, nor are they subject to the Liquor Code's Happy Hour restrictions. Much like distributors and importing distributors, a limited distillery may establish more than one price for an item. Therefore, you may establish a pricing scheme under which, for example, an item is offered for sale at thirty dollars to non-licensees and twenty-seven dollars to licensees so long as those prices are not lower than the prices the respective buyers would pay if purchasing those items from the PLCB.

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  
Joseph Puhalla, Director of Product Selection

LCB Advisory Opinion No. 16-113