

April 27, 2016

James O'Leary
VIA E-MAIL

RE: Happy Hour Question

Dear Mr. O'Leary:

ISSUE: This office is in receipt of your e-mail of April 12, 2016, wherein you state your establishment currently has a "happy hour" on Mondays through Fridays, from 4:00 p.m. to 6:00 p.m. You ask what steps are necessary to extend your happy hour by an hour or two for a few nights on your patio/outside area.

Records of the Pennsylvania Liquor Control Board ("PLCB") indicate that Besito Suburban Square LLC holds Restaurant Liquor License No. R-19454 (LID 71829) for use by it at the premises located at 105 Coulter Avenue, Ardmore, Pennsylvania. Records of the PLCB also indicate that the licensed premises include two outside serving areas.

OPINION: In accordance with the Liquor Code and the PLCB's Regulations, retail licensees are permitted to offer both a daily drink special and a happy hour each business day. 47 P.S. § 4-406(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); 40 Pa. Code § 13.102(a). The hours may be fixed, subject to the above noted limitations, in any manner a licensee desires; 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). Provided that your happy hour is conducted within the above outlined parameters, it would be permissible.

Please be further advised that some drink items may be suitable for a daily drink special. 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. 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." See Board Advisory Notice No. 16 (Amended).

Finally, 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 additional questions, do not hesitate to 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.

Sincerely,



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- 144