

June 20, 2016

Dustin S. Erickson
General Manager
Doc G's Brewing Company
208 West Long Avenue
DuBois, PA 15801
VIA E-MAIL

RE: Food and Alcohol for a Fixed Price

Dear Mr. Erickson:

ISSUE: This correspondence is in response to your e-mail dated May 17, 2016, wherein you provide a scenario of pairing food with an alcoholic beverage for a fixed price. Further, you state that the cost of food and the alcoholic beverages are absorbed by the establishment, and therefore you do not view the proposed scenario as a "daily drink special" or "happy hour."

Records of the Pennsylvania Liquor Control Board ("PLCB") indicate that Scottycat, LLC t/a Doc G's Brewing Company, holds Brewery Pub License No. GP-598 (LID 71735) and Manufacturer Malt Beverage License No. G-598 (LID 71734) for the premises located at 208 West Long Avenue, DuBois, Pennsylvania.

OPINION: It is permissible for licensees to offer a promotion in which patrons are entitled to an entrée and an alcoholic beverage for a fixed price so long as neither the alcoholic beverage nor the entrée are offered at a discounted price. The PLCB's discount pricing regulations prohibit pricing schemes such as an unlimited or indefinite amount of alcohol for a fixed price. 40 Pa. Code § 13.102. Licensees cannot offer drinks for a fixed price as part of a package if other portions of the package are discounted, as this would be considered an unlawful inducement to purchase alcoholic beverages. However, it would be permissible to discount alcoholic beverages that are part of an offer or promotion as long as the discounting rules regarding happy hours and daily drink specials are followed, and the non-alcoholic components (e.g., food) are not discounted. 47 P.S. § 4-493(24); Board Advisory Notice No. 16. Also, please be advised that a brewery ("G") license is treated similarly to a malt and brewed beverage retail dispenser ("E") license under the PLCB's Regulations and must adhere to the discounting rules.

In reference to the fact scenario you have provided, your “purchase [entrée] with [alcoholic beverage] for [fixed price]” scenario is not permissible if you anticipate offering both the alcoholic beverage and the entrée at a discounted price (e.g., two for the price of one). However, if you anticipate offering the entrée at regular price and the alcoholic beverage at a discounted price, and follow the happy hour discounting rules, or you offer the entrée and the alcoholic beverage at a fixed price that would reflect the price of each item had they been purchased “a la carte,” then the proposed offer would be permissible.

Please do not hesitate to contact this office should you have 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.

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

PLCB Advisory Opinion No. 16-229