

July 5, 2016

Carl Michael
Down River Golf Course
VIA E-MAIL

RE: Discounted Drinks for Members

Dear Mr. Michael:

ISSUE: This is in response to your e-mail of April 17, 2016, wherein you state that you are in the process of updating the point-of-sale (“POS”) system at the golf course. The new system is set up to provide more benefits and discounts for members. You inquire if you can have reduced priced alcoholic drinks for members, citing an example of a beer price of \$2.00 for members and \$2.50 for non-members. You are not certain if this intended practice falls under the permissible discounting of alcohol practices.

Records of the Pennsylvania Liquor Control Board (“PLCB”) indicate that Down River Golf & Country Club, Inc., holds Restaurant Liquor License No. R-19821 (LID 20553) for use by it at RD 2, Everett, Pennsylvania.

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. 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). During a happy hour, the price of alcoholic beverages may not change. 40 Pa. Code § 13.102(a)(4). Accordingly, it would not be permissible to offer a discount on alcoholic beverages for members only as part of a happy hour promotion, since by doing so, the price of the drinks would fluctuate.

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). 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). During the drink special promotion, the prices may not change. 40 Pa. Code § 13.102(b)(2). Accordingly, it would not be permissible to offer a reduced price to members.

Should you have any other questions and/or issues related to the Liquor Code or the PLCB'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.

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. 16-236