

August 31, 2016

Curtis Shulman  
Director of Operations  
Hotel State College & Co.  
**VIA E-MAIL**

**RE: Drink Prices**

Dear Mr. Shulman:

ISSUE: This is in response to your e-mail of July 5, 2016, wherein you inquire if it is legal for you to offer a digital coupon for an alcoholic drink on an application (“app”) that acts as a hub for your business. The app itself can be downloaded for free and is available to the public. The special drink price would only be available to those who downloaded the coupon and you opine that the price would not be discounted overall. Using the same concept, you inquire if it is legal to offer the drink price special via notification to those in and around the club that are logged on to free WiFi.

Records of the Pennsylvania Liquor Control Board (“PLCB”) indicate that Hotel State College & Company, Inc., holds Hotel Liquor License No. H- 4727 (LID 7323) for use by it at 100 West College Avenue, State College, 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 only those with a digital coupon or WiFi notification as part of a happy hour promotion, since by doing so, the price of 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 holders of a digital coupon or of a WiFi notification.

Lastly, it is the opinion of this office that offering a coupon redeemable for a discount on alcoholic beverages would violate section 493(24)(i) of the Liquor Code, which prohibits giving something of value to induce the purchase of alcoholic beverages. 47 P.S. § 4-493(24)(i). The coupon exception to this section is limited to manufacturers or their agents and are to be used for purchases made at state stores or from distributors or importing distributors. Id.

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