

October 12, 2016

EFS Enterprises LLC, trading as
Fast Freddy's Sub Shop
401 East Norwegian Street
Pottsville PA 17901-3695

Re: Waiver of Delivery Fees

Dear Sir/Madam:

ISSUE: This office received a request for an advisory opinion, made on behalf of Fast Freddy's Sub Shop ("Fast Freddy's"), by Michael P. Vigoda, III, of the Pennsylvania Liquor Control Board ("PLCB") Office of Legislative Affairs. Mr. Vigoda advises that Fast Freddy's holds a Restaurant Liquor License as well as a Transporter-for-Hire Class B license. The question posed to this office is whether Fast Freddy's can waive the delivery fee it charges for the delivery of food if the person also purchases malt or brewed beverages ("beer") to be delivered as well.

Records of the PLCB indicate that EFS Enterprises LLC, trading as Fast Freddy's Sub Shop, holds Restaurant Liquor License No. R-1964 (LID 69918) for the premises at 401 East Norwegian Street in Pottsville, Pennsylvania.

OPINION: Section 493(24)(i) of the Liquor Code prohibits any licensee of the Pennsylvania Liquor Control Board ("PLCB") to offer or give or solicit or receive anything of value as a premium or present to induce directly the purchase of liquor or malt or brewed beverages, or for any licensee to offer or give to trade or consumer buyers any prize, premium, gift or other inducement to purchase liquor or malt or brewed beverages, except advertising novelties of nominal value (i.e., with a wholesale value of \$15.00 each or less). 47 P.S. § 4-493(24)(i).

Accordingly, a promotion in which delivery fees are waived when a beer purchase is made in conjunction with a food purchase would be a direct inducement for a consumer to purchase beer. Therefore, such an offer is not permissible under the Liquor Code.

Should you have any other questions and/or issues related to the Liquor Code or the PLCB's Regulations, please feel free 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,

A handwritten signature in cursive script, reading "Rodrigo J. Diaz".

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
Michael P. Vigoda, III, Office of Legislative Affairs

LCB Advisory Opinion No. 16-405