

November 21, 2016

Dawn Bauccho  
Texas Roadhouse  
**VIA E-MAIL**

**RE: All Day, Every Day Happy Hour**

Dear Ms. Bauccho:

ISSUE: This office is in receipt of your e-mail dated October 4, 2016, wherein you ask if your restaurants are permitted to offer Happy Hour all day, every day and offer ½ off appetizers at the bar only.

Records of the Pennsylvania Liquor Control Board (“PLCB”) indicate that Texas Roadhouse is listed as the trade name on sixteen active restaurant liquor licenses and two active hotel liquor licenses.

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. It is unclear from your e-mail whether or not your “all day, every day happy hour” includes discounts on alcohol or if it is limited to the sale of half- priced appetizers in the bar area only.

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. §4-406(g). The hours may be fixed, subject to the above noted limitations, in any manner a licensee desires. The hours need not be consecutive and may be divided as the licensee chooses. 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).

If the happy hour you propose is for the sale of appetizers at half price in the bar area only, there are no restrictions in the Liquor Code or the Board Regulations applicable

to the sale of food. However, please note that section 4-493(24)(i) of the Liquor Code prohibits a licensee from offering or giving anything of value as a prize, premium, or present, to induce the purchase of alcoholic beverages. 47 P.S. § 4-493(24)(i). Therefore, the sale of appetizers only for an unlimited period of time, is permissible under the Liquor Code as long as the purchase of the appetizers is not intended to induce patrons to purchase alcoholic beverages.

Should you have any other questions and/or issues related to the Liquor Code or the Board'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  
Tisha Albert, Director of Office of Regulatory Affairs  
Jeffrey Lawrence, Assistant Director, Bureau of Licensing

LCB Advisory Opinion No. 16-458