

December 24, 2018

Joey Straw
Harper's Tavern
VIA E-MAIL

RE: License Surcharge

Dear Ms. Straw:

ISSUE: This office is in receipt of your e-mail dated November 5, 2018, wherein you ask how the "fee for Act 39" applies to your restaurant. You indicate that you have no slot machines or lottery tickets and want to know if you can be exempt from this fee.

Records of the Pennsylvania Liquor Control Board ("PLCB") indicate that Harper's Tavern, Inc. holds Restaurant Liquor License No. R-12652 (LID 53275) for the premises located at 10486 Jonestown Road, Annville, Pennsylvania.

OPINION: It is assumed that the "fee" you are referring to is the \$700.00 surcharge that was added to the Liquor Code in Act 39 of 2016. The surcharge was added to section 470 of the Liquor Code, which now states, in pertinent part:

- (a) All applications for validation or renewal of licenses under the provisions of this article shall be filed with tax clearance from the Department of Revenue and the Department of Labor and Industry and requisite license and filing fees, and shall include an application surcharge of seven hundred dollars (\$700.00).

47 P.S. § 4-470(a).

As a result of this amendment by the General Assembly, the \$700.00 surcharge will be assessed at every validation and renewal, unless and until the General Assembly amends the law to state otherwise. There are no exemptions offered from this fee. The presence or absence of slot machines and lottery tickets does not impact the imposition of this fee.

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
Tisha Albert, Director of Office of Regulatory Affairs
B.L. Peifer, Director, Bureau of Licensing

LCB Advisory Opinion No. 18-457