



September 16, 2020

Jamie Szpylman  
Category Business Manager - Beer, Wine, and Snacks  
Tops Market, LLC  
1760 Wehrle Drive  
Amherst, NY 14221  
**VIA E-MAIL**

**RE: Price Change Notice**

Dear Mr. Szpylman:

ISSUE: This office is in receipt of your e-mail dated February 20, 2020, wherein you ask whether Pennsylvania has any laws regarding providing notice of price changes on beer/wine or whether the time of notification of price change is “up to the customer to establish.”

In a follow-up phone conversation on March 3, 2020, you explained that you are a retailer located in the State of New York. You indicated a company policy that requires thirty days’ notice from wholesalers if there is to be a change in price of beer or wine. You explained that some of your Pennsylvania suppliers told you that this policy could not be enforced with them, because Pennsylvania law only requires fourteen days’ notice with beer or wine price changes. Basically, you are asking whether any laws exist in Pennsylvania that would be inconsistent with your company policy.

Records of the Pennsylvania Liquor Control Board (“PLCB”) indicate that Tops Markets holds Restaurant Liquor License No. R-3048 (LID 83245) for the premises located at 800 Water Street, Meadville, Pennsylvania, and Restaurant Liquor License No. R-17736 (LID 73289) for the premises located at 74 Market Street, Warren, Pennsylvania, and that Tops PT, LLC holds Restaurant Liquor License No. R-433 (LID 65235) for the premises located at 712 West 38<sup>th</sup> Street, Erie, Pennsylvania.

OPINION: In past years, the Pennsylvania has attempted to regulate the price of malt and brewed beverages. However, in Beer and Pop Warehouse v. Jones, 41 F.

Supp. 2d 552, (M.D. Pa. 1999), a federal judge decided this practice was unconstitutional. This decision led to Advisory Notice No. 11, dated March 30, 1999, which can be found on the PLCB's public website, [www.lcb.pa.gov](http://www.lcb.pa.gov), under "Legal" and "Advisory Notices." This Advisory Notice states in part that "prices of malt beverages can be reduced and then raised at any time." The same analysis would apply to the price of wine.

Should you have any additional questions, please feel free to once again contact this office. Please accept our apology for the delayed response, which was caused by the public health emergency.

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. 20-212