



September 16, 2020

Bill Kammerer  
**VIA E-MAIL**

**RE: Post-Shift Staff Drink**

Dear Mr. Kammerer:

ISSUE: This office is in receipt of your e-mail dated February 21, 2020, wherein you ask whether a restaurant can discount a post-shift staff drink.

Records of the Pennsylvania Liquor Control Board (“PLCB”) indicate that Kevin’s Restaurant holds Restaurant Liquor License No. R-13663 (LID 92637) for the premises located at 247 Wyoming Avenue, Kingston, Pennsylvania.

OPINION: Initially, because you are involved in a highly regulated industry, it is recommended that you consult private counsel experienced in Pennsylvania liquor law. Further, note that it is the Pennsylvania State Police, Bureau of Liquor Control Enforcement (“BLCE”), and not the PLCB, that is authorized to enforce the Liquor Code and the PLCB’s Regulations.

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). A specific type of alcoholic beverage means either a specific registered brand of malt or brewed beverages, a type of wine, a type of distilled spirits, or a mixed drink. Id.

The following are examples of permissible daily beer specials: a specific brand of beer such as “Blue Hound Pilsner” or “Brendan’s Cream Stout” or “Oil City Light,” but not “all draft” or “all bottled” beer or “all Blue Hound products.” Daily wine specials could be “Chardonnay” or “Merlot,” but not “all white wine” or “all red wine” or “all Kendall’s wines.” Permissible spirits specials would be “Rum and Cola” or “all brandy drinks” or “all well brandy drinks,” but not “all well drinks” or “all Jackson’s products.” *See* Board Advisory Notice No. 16 (Amended).

A retail licensee is permitted to offer “happy hour,” where licensees may discount any and all alcoholic beverages for a period of time not to exceed four consecutive or nonconsecutive hours per day, and not to exceed fourteen hours per week. 47 P.S. §§ 1-102, 4-406(g); 40 Pa. Code § 13.102(a). The hours may be fixed, subject to the above noted limitations, in any manner a licensee desires; 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).

Further, please note that no discount pricing may occur between midnight and the legal closing hour, i.e., 2:00 a.m., for most retail licensees. 40 Pa. Code § 13.102(a).

With that being said, if the shift in question ends after midnight, then the answer is no, you cannot discount a staff drink. For post-shift discounts offered at any other time, the above guidelines must be followed to avoid citation by the BLCE.

As an aside, section 13.53 of the Board’s regulations allows representatives of manufacturers and licensees to give or purchase an alcoholic beverage for consumers in retail licensed premises provided the giving of the alcoholic beverage is not contingent upon the purchase of any other alcoholic beverage and is limited to one standard-sized alcoholic beverage per patron in any offering. A standard-sized alcoholic beverage is 12 fluid ounces of a malt or brewed beverage, 4 fluid ounces of wine (including fortified wine) and 1 1/2 fluid ounces of liquor. 40 Pa. Code § 13.53. Unlike discounts (which end at midnight), a free drink may be offered until the establishment can no longer legally sell alcohol.

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. 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**

Bill Kammerer  
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BY THE LEGISLATURE OR THE PENNSYLVANIA LIQUOR CONTROL  
BOARD.

Sincerely,

A handwritten signature in cursive script that reads "Rodrigo J. Diaz".

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. 20-213