

April 13, 1998

Ralph and Alice Parrish
PATRICK'S TAVERN, LTD.
341 East Lincoln Avenue
McDonald, PA 15057

Dear Mr. & Mrs. Parrish:

ISSUE: This is in response to your letter of March 13, 1998, which was forwarded to our office from the Pennsylvania State Police, Bureau of Liquor Control Enforcement. You are the holders of restaurant liquor license R-5852 and ask several questions regarding happy hours and discount pricing. Specifically, you want to know 1) if you may have more than one happy hour in a day, for example, one from 5:00 p.m. to 6:00 p.m. and another from 10:00 p.m. to 11:00 p.m.; 2) if you may have one happy hour and later that evening, run a drink special using discount cards; and 3) if you may run a promotion where the patron orders an alcoholic beverage, is given a card with various discounts hidden under tabs, and in the presence of the bartender or waitperson, opens one tab to reveal the price he or she then pays for the drink. The prices range from 10 cents off, 25 cents off to half and full price.

OPINION: Your questions will be answered in the same order as written above. The rules on happy hours and other discount pricing practices are found in section 13.102 of the Board's regulations [40 Pa. Code §13.102], a copy of which is enclosed for your information.

You may not have more than one happy hour in a day, as illustrated by your example. Section 13.102(a) allows retail licensees such as yourself to discount the price of alcoholic beverages for a consecutive period of time not to exceed two hours in one business day, but not between midnight and your legal closing hour. Thus, you cannot split your two hours; they must be consecutive.

In addition to the two-hour happy hour per day, section 13.102(b)(3) allows you to offer for sale one specific type of alcoholic beverage or drink per day (or a portion of a day) at a reduced price. So while you would be prohibited from using the discount cards, you could have one happy hour of up to two hours and in addition, a particular drink special the same day provided both are concluded before midnight.

The promotion involving the discount card would not be allowed. Section 13.102(a)(4) prohibits the discounting of alcoholic beverages except as provided in section 13.102. Since this section does not permit varying discounts, the cards offering various amounts off a patron's alcoholic beverage are impermissible. It would be permissible to have a happy hour with drinks at a certain price or a certain amount off all drinks during that period; however, the discount or price during happy hour cannot vary.

RALPH AND ALICE PARRISH

April 13, 1998

Page Two

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.

Very truly yours,

FAITH S. DIEHL

Chief Counsel

Enclosure

c.c. Pennsylvania State Police
Bureau of Liquor Control Enforcement

Refer to: (717) 783-9454

FAX: (717) 787-8820

LCB Advisory Opinion No. 98-093