

June 24, 1998

Robert F. Renaldo
Recording Secretary
MARTOCCI-CAPOBIANCO POST NO. 750
AMERICAN LEGION HOME ASSOCIATION
P.O. Box 426
Roseto, PA 18013

RE: HAPPY HOUR

Dear Mr. Renaldo:

ISSUE: This office is in receipt of your June 3, 1998 request for clarification of the recent memo from the Board which discussed the elimination of the meal package exception to Board Regulation 13.102. The Home Association of your American Legion, which holds a club liquor license, would like to establish a Sunday afternoon Happy Hour. No free food or meal would be given during that time period. You simply want to offer drinks at a slightly reduced price for a two-hour period. You want to know whether it would be legal for you to have the Happy Hour as proposed. You state that you were confused about the regulation change and you want to operate legally.

OPINION: Section 13.102 of the Board's Regulations [40 Pa. Code §13.102], a copy of which is enclosed, provides that retail licensees (and clubs) may discount the price of alcoholic beverages for a consecutive period of time not to exceed two hours in a business day, but may not engage in discount pricing practices between 12:00 midnight and the legal closing hour. Section 13.102(b)(3) permits the additional offering for sale of one specific type of alcoholic beverage or drink per day or a portion thereof at a reduced price, if the offering does not violate subsection (a) which prohibits two-for-one specials, an increased volume without a corresponding increase in price, "all you can drink" specials and price changes within the two-hour Happy Hour period.

The memo you received from the Board referred specifically to the deletion of subsection (b)(1) of Regulation 13.102. Section 13.102(b)(1) of the Board's Regulations provided an exception to the above-mentioned discount pricing prohibitions in which the offering of an unlimited amount of alcoholic beverages with a meal package was permitted. However, effective March 21, 1998, that exception was eliminated. Therefore, retail licensees may not offer an unlimited amount of alcoholic beverages with a meal package any longer. The above-mentioned discounts may be conducted however.

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I hope this letter was of some assistance to you. Please do not hesitate to contact this office if you have any further inquiries.

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

cc: Pennsylvania State Police-
Bureau of Liquor Control Enforcement

Refer to: (717) 783-9454
FAX: (717) 787-8820

LCB Advisory Opinion No. 98-215