

March 22, 1999

Lana M. Weller
Assistant General Manager
Days Inn Conference Center
50 Sheraton Road
I-80 & Route 54
Danville, PA 17821

RE: New Year's Eve Party - Meal Package

Dear Ms. Weller:

ISSUE: This is a response to your letter dated February 24, 1999 in which you question whether the Days Inn Conference Center may offer ten complimentary drinks per person to be included with a New Year's Eve party meal package.

OPINION: Section 13.102 of the Board's regulations [40 Pa. Code §13.102], a copy of which is enclosed, provides that retail licensees may discount the price of alcoholic beverages for a consecutive period of time not to exceed two hours in a business day (i.e., a happy hour), but may not engage in discount pricing practices between 12 midnight and the legal closing hour. Section 13.102(b)(2) [40 Pa. Code §13.102(b)(2)] 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, selling an increased volume without a corresponding increase in price, "all you can drink" specials, and changing the price within the two-hour happy hour period). Additionally, section 493(24) of the Liquor Code [47 P.S. §4-493(24)] provides that a retail licensee may not offer, give, solicit or receive anything of value as a premium to induce directly the purchase of liquor or malt or brewed beverages. However, subsection 13.102(b)(1) [40 Pa. Code §13.102(b)(1)], as explained in Board Advisory Notice No. 16, permits a licensee to sell and serve an unlimited or indefinite amount of alcoholic beverages at a fixed price for a "catered event" arranged at least 24 hours in advance. A "catered event" is an event booked at least 24 hours in advance by a third party, who is not the licensee or a servant, agent, or employee of the licensee, for a specific number of people at a set date and time. Since the Days Inn Conference Center is not a third party, the proposed meal package is not a "catered event", and your conference center would not be permitted to offer the meal package as proposed.

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Please also be advised that Board Advisory Notice No. 10 (4th Revision) permits retail licensees to provide only one complimentary alcoholic beverage per patron in any such offering. For example, a single champagne toast for each patron would be permitted.

Your proposed New Year's Eve package could be modified to comply with the Liquor Code and Board's regulations by charging the sum of the regular prices for each of the items in the package. For example, if the package offered ten drinks regularly priced at \$4.00 each, a dinner for two, regularly priced at \$40.00, and a room regularly priced at \$125.00, then it would be permissible to offer the package for \$285.00. Additionally, nothing would prohibit charging a price higher than \$285.00. No item included with the package may be discounted because such discounting would constitute the giving of a thing of value to induce the sale of alcohol, in violation of Section 493(24) of the Liquor Code. [47 P.S. §4-493(24)].

A copy of Advisory Notice No. 16 and Advisory Notice No. 10 (4th Revision) are being provided for your information. Should you have any additional questions, please feel free to contact this office.

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

Enclosures

cc: Bureau of Liquor Control Enforcement,
 Pennsylvania State Police
 Robert P. Kaskiel

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

LCB Advisory Opinion No. 99-102