

QUESTIONS PERTAINING TO FREE ALCOHOLIC DRINKS

Please be advised that it is the Pennsylvania State Police, Bureau of Liquor Control Enforcement (BLCE), and not the Pennsylvania Liquor Control Board (PLCB), which enforces the liquor laws in Pennsylvania. Further, information provided below is not binding on the BLCE and is offered for information and guidance only.

1) **May a retail licensee provide free drinks to patrons?**

Yes. Retail licensees of the PLCB are permitted, during the course of a business day, to give to or purchase for consumers one standard-size alcoholic beverage in retail licensed premises, provided the giving of the alcoholic beverage is not contingent upon the purchase of any other alcoholic beverages and is limited to one standard-sized alcoholic beverage per patron in any such offering. 40 Pa. Code § 13.53.

A standard-size alcoholic beverage is twelve fluid ounces of a malt or brewed beverage, four fluid ounces of wine (including fortified wine) and one and one-half fluid ounces of liquor. 40 Pa. Code § 13.53.

While licensees may provide one “free” drink per customer per day under these circumstances, licensees are still prohibited from providing or allowing the provision of alcoholic beverages to persons younger than twenty-one or who are visibly intoxicated. 47 P.S. § 4-493(1).

2) **May a hotel (or other retail establishment) that does not have a liquor license provide free alcohol to its patrons?**

Individuals or entities that do not hold liquor licenses issued by the PLCB may give away free alcoholic beverages to persons who are not visibly intoxicated and are at least twenty-one years of age. 47 P.S. § 4-493(1). If, however, there is a donation, admission fee, room rental or a required purchase of any item or service in order to get the “free” alcohol, such donation, fee or required purchase may be considered payment for the alcohol, i.e., an unlawful sale of alcohol, in violation of section 491(1) of the Liquor Code, 47 P.S. § 4-491(1).

Therefore, if the fees charged to hotel guests include an undisclosed fee for the “free” alcohol, such would not be permissible. The alcohol must truly be free. Should a person appear at your hotel and request the service of free alcohol without paying the fee or renting a room, this person would have to be served alcohol, assuming he or she is at least twenty-one years of age and is not visibly intoxicated.

Act 39 of 2016 (“Act 39”) amended the Liquor Code to allow an unlicensed bed and breakfast homestead or inn to provide one bottle of a licensed limited winery’s wine to its paying guests at check-in, as long as the guest is staying overnight. Act 39 defined a “bed and breakfast homestead or inn” as a private residence that contains ten or fewer bedrooms used for providing overnight accommodations to the public, and where breakfast is the only meal served and is included in the charge for the room. 47 P.S. § 4-491(1).

Anyone under twenty-one years of age is considered to be a minor in Pennsylvania, for purposes of the Liquor Code. Minors are not permitted to possess or consume alcoholic beverages. 47 P.S. § 4-493(1); 18 Pa. C.S. § 6308(a). Therefore, although it is not permissible for an unlicensed establishment to have any person under the age of twenty-one serve alcohol, it is permissible for licensed retail establishments to employ a person that is at least eighteen years of age as a bartender or to serve or dispense alcohol. 47 P.S. § 4-493(13).

The sale of alcoholic beverages without a license is a violation of section 491(1) of the Liquor Code. 47 P.S. § 4-491(1). Violation of the Liquor Code may be prosecuted as a misdemeanor, upon the conviction of which a fine may be imposed for not less than \$100.00 and no more than \$500.00 for a first offense. In lieu of a fine, imprisonment may be imposed for not less than one month nor more than three months. 47 P.S. § 4-494. In addition, section 601 of the Liquor Code, 47 P.S. § 6-601, provides that “[n]o property rights shall exist in any liquor . . . illegally manufactured or possessed . . . and the same shall be deemed contraband and proceedings for its forfeiture to the Commonwealth may be instituted”

Please note that those entities not licensed by the PLCB remain subject to any local ordinance(s), as well as the Pennsylvania Crimes Code, the interpretation of which are outside the jurisdiction of the PLCB. In general, however, section 7327 of the Crimes Code prohibits the storage of alcohol for the purposes of consumption between the hours of 2:00 a.m. and 8:00 a.m. on business premises owned, operated or controlled by any person who is not licensed under the Liquor Code, or the consumption of alcohol on unlicensed premises between the hours of 2:00 a.m. and 8:00 a.m. if an entry fee, cover charge, or membership fee is required to access the premises. 18 Pa. C.S. § 7327. You should contact your local municipal government or your county district attorney for any further restrictions and/or penalties which may apply.