

DISCOUNTING OF ALCOHOLIC BEVERAGES

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.

OVERVIEW

Most retail licensees are subject to discounting regulations with regard to alcoholic beverages. The discount pricing rules do not apply to situations where a licensee's discount price is the licensee's normal price. The discounting rules are summarized below.

HAPPY HOUR

- “Happy Hour” is defined as the period of time during which a licensee discounts alcoholic beverages. 47 P.S. § 1-102).
- Retail licensees are permitted to have happy hour pricing up to four hours per day and up to fourteen hours per week. 47 P.S. § 4-406(g).
 - The hours may be consecutive or non-consecutive. The maximum period of fourteen hours per week can be adjusted in any manner a licensee desires to take advantage of slow/busy days, as long as the maximum limits are not above noted limitation.
 - No happy hour discount pricing may occur between 12:00 a.m. midnight and closing. 47 P.S. § 4-406(g), 40 Pa. Code § 13.102.
 - A 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), 40 Pa. Code § 13.102.
 - Catered events and daily drink specials under section 13.102(b) of the PLCB's Regulations would not be counted against the four hour per day/fourteen hour per week limit. 47 P.S. § 4-406(g). Discounts offered by casino liquor licensees are not counted against the four hour per day/fourteen hour per week limit. 47 P.S. § 4-416(i).
- Mug club discounts are not counted against a licensee's maximum number of hours during which it may offer happy hour pricing. 47 P.S. §§ 4-406(g), 4-442(g).

DAILY DRINK SPECIALS

- A retail licensee may also offer one *specific* type of alcoholic beverage at a discounted price all day or for a portion of the day. 40 Pa. Code § 13.102(b)(2).
 - A specific type of alcoholic beverage means a specific registered brand of malt or brewed beverages, a type of wine, or a type of distilled spirit or a mixed drink. 40 Pa. Code § 13.102(b)(2).
 - Examples of daily drink specials are (See Board Advisory Notice No. 16):
 - A specific brand of beer such as “Blue Hound Pilsner” or “Brendan’s Cream Stout” or “Oil City Light” may be discounted, but not “all draft” or “all bottled” beer or “all Blue Hound products.”
 - A daily wine special could be “Chardonnay” or “Merlot,” but not “all white wine” or “all red wine” or “all Kendall’s wines.”
 - A spirits drink special could be “Rum and Cola” or “all brandy drinks,” but not “all well drinks” or “all Jackson’s products.”
- No discount pricing may occur between 12:00 a.m. midnight and the legal closing hour. 40 Pa. Code § 13.102(a). This constraint does not apply to casino liquor licensees. 47 P.S. § 4-416(i).

FREE DRINKS

- A retail licensee may offer a patron one free standard-size alcoholic beverage during the patron’s visit. 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).
 - One and a half fluid ounces of spirits. 40 Pa. Code § 13.53.
 - The giving of a free alcoholic beverage **must not** be contingent upon the purchase of any other alcoholic beverages. 40 Pa. Code § 13.53.
- A restaurant licensee that is also approved to hold a slot machine license or a conditional slot machine license pursuant to 4 Pa. C.S. Part II (relating to gaming) may give liquor and malt or brewed beverages free of charge to any person actively engaged in playing a slot machine. 47 P.S. § 4-493(24)(ii). A casino liquor licensee may, in addition to the above, provide free alcoholic beverages to any person at an invitation-only event on the premises. (Id.).
- Unlicensed establishments which provide free alcoholic beverages to patrons are not limited to one drink or to standard-size amounts specified above.

- If an unlicensed entity gives access to “free” alcoholic beverages, it may not be contingent upon a purchase requirement. By doing so, it could be considered a sale of alcoholic beverages and could result in the issuance of a citation by the BLCE. 47 P.S. § 1-102.
- Unlicensed establishments are also bound by the prohibition of sales to minors and visibly intoxicated patrons. 47 P.S. § 4-493(1).

OTHER DISCOUNT PRICING PRACTICES

- Section 13.102 of the PLCB’s Regulations prohibits retail licensees from engaging in the following practices, 40 Pa. Code § 13.102(a)(1)-(4):
 - selling or serving more than one drink at any one time to any one person for the price of one drink;
 - selling or serving an increased volume of one drink without a corresponding and proportionate increase in the price for the drink;
 - selling or serving an unlimited or indefinite amount of alcohol for a set price (Note that it is permissible for a retail licensee to offer an unlimited amount or indefinite amount of alcohol for catered events arranged at least twenty-four hours in advance). 40 Pa. Code § 13.102(b)(1); or
 - pricing of alcoholic beverages in a manner which permits the price to change within the happy hour period.