

# PROPOSED RULEMAKING

## LIQUOR CONTROL BOARD

[40 PA. CODE CHS. 3, 5, 7, 13 AND 15]

### License Applications; Duties and Rights of Licensees; Transfer, Extension, Surrender and Exchange of Licenses; Promotion; Special Rules of Administrative Practice and Procedure Regarding Matters Before the Office of Administrative Law Judge

The Liquor Control Board (Board) under the authority of section 207(i) of the Pennsylvania Liquor Code (47 P. S. 2-207(i)) proposes to amend §§ 3.52, 5.91, 7.7, 13.102 and 15.42.

#### *Purpose*

In accordance with Executive Order 1996-1, the Board has reviewed its regulations and determined that certain ambiguities need to be eliminated, responsible consumption of alcoholic beverages should be promoted and unnecessary paperwork that slows down the citation adjudication process should be eliminated.

#### *Summary of Amendments*

*Chapter 3, § 3.52 (relating to connection with other business).* A provision was added whereby licensees would be prohibited from conducting another business on the licensed premises without Board approval.

*Chapter 5, § 5.91 (relating to required report).* Clubs would be required to file a change of manager or steward on a yearly basis and notification of change of officers every other year at renewal of license.

*Chapter 7, § 7.7 (relating to approval of a transfer of license).* A provision was added that places responsibility on the new licensee for violations occurring between the time a license is transferred and actual settlement occurs.

*Chapter 13, § 13.102 (relating to discount pricing practices).* The offering of an indefinite or unlimited amount of alcoholic beverages with a meal package would be deleted as an exception to prohibited discount pricing practices. The time frame for arranging catered events would be shortened to 24 hours from 48 hours to comply with section 491(6) of the Liquor Code (47 P. S. § 4-491(6)).

*Chapter 15, § 15.42 (relating to waiver of hearing or appeal).* The requirement that clubs and corporations execute a resolution with the waiver of hearing before an administrative law judge would be deleted.

#### *Affected Parties*

The proposed regulatory changes would affect licensees of the Board.

#### *Paperwork Requirements*

This proposed rulemaking will not increase paperwork for the Board or licensees affected by the proposed amendments.

#### *Fiscal Impact*

This proposed amendments will have no fiscal impact on the regulated community, the Commonwealth or local governments.

#### *Effective Date/Sunset Date*

The proposed amendments will become effective upon final publication in the *Pennsylvania Bulletin*. No sunset date has been assigned.

#### *Public Comment/Contact Person*

Written comments, suggestions or objections will be accepted for 30 days after publication of the proposed amendments in the *Pennsylvania Bulletin*. Comments should be addressed to Jerry Danyluk, Regulatory Coordinator, Liquor Control Board, Room 401, Northwest Office Building, Harrisburg, PA 17124-0001.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Board submitted a copy of the proposed rulemaking on October 3, 1997, to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Liquor Control and the Senate Committee on Law and Justice. In addition to submitting the proposed amendments, the Board has provided IRRC and the Committees with a copy of a detailed regulatory analysis form prepared by the Board. A copy of this material is available to the public upon request.

If IRRC has objections to any portion of the proposed amendments, it will notify the Board within 10 days of the close of the Committees' comment period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review by the Board, the Governor and the General Assembly prior to final publication of the regulations.

JOHN E. JONES, III,  
*Chairperson*

**Fiscal Note:** 54-51. No fiscal impact; (8) recommends adoption.

#### **Annex A**

#### **TITLE 40. LIQUOR**

#### **PART I. LIQUOR CONTROL BOARD**

#### **CHAPTER 3. LICENSE APPLICATIONS**

#### **Subchapter F. PREMISES**

#### **§ 3.52. Connection with other business.**

\* \* \* \* \*

**(c) A licensee may not conduct another business on the licensed premises without Board approval.**

#### **CHAPTER 5. DUTIES AND RIGHTS OF LICENSEES**

#### **Subchapter G. CHANGE OF OFFICERS OF CORPORATIONS AND CLUBS**

#### **§ 5.91. Required report.**

(a) A corporation, [ **club**, ] association or other Board licensed entity, **except a club**, having officers, or directors, or stockholders, shall report a change in officers, or directors or stockholders within 15 days. A change in stockholders involving less than 10% of outstanding voting stock need not be reported, except when the change involves a majority or controlling interest. Control is defined as the power or authority to manage, direct, govern, administer or oversee the operation of the licensed business.

\* \* \* \* \*

(c) Club change of officers shall be reported with the renewal of club license on forms furnished by the Board upon request. Change of club manager or steward shall be reported with the renewal of club license and at license validation on forms furnished by the Board upon request.

[ (c) ] (d) Change of officer forms for [ the ] club licensees shall be accompanied by a fee of \$40. When a background investigation is conducted to obtain or verify information regarding a club change of officer, an additional fee of \$60, for a total fee of \$100, will be assessed. Change of officer forms for changes of corporate officers other than clubs shall be accompanied by a fee of \$200 when the change of officer does not constitute a change in majority/controlling interest. If the change of corporate officer does constitute a change in majority/controlling interest, fees will be assessed in accordance with section 614-A of The Administrative Code of 1929 (71 P. S. § 240.14A).

**CHAPTER 7. TRANSFER, EXTENSION, SURRENDER AND EXCHANGE OF LICENSES**

**Subchapter A. TRANSFER OF LICENSES**

**§ 7.7. Approval of a transfer of license.**

\* \* \* \* \*

(c) Immediately upon approval of a transfer of license, the authority of the original licensee to continue the operation of the licensed business and to sell liquor or malt or brewed beverages shall cease, and responsibility for operation of the licensed business and the sale of liquor or malt or brewed beverages in conformity with the Liquor Code and this title rests with the transferee regardless of whether or not actual conveyance of the assets of the business to transferee has taken place.

**CHAPTER 13. PROMOTION**

**Subchapter C. SOLICITATION FOR THE PURCHASE OF ALCOHOLIC BEVERAGES**

**§ 13.102. Discount pricing practices.**

\* \* \* \* \*

(b) *Exceptions.* Nothing in subsection (a) prohibits:

(1) [ The offering of alcoholic beverages with a meal package.

(2) ] The sale or serving, or both, of an unlimited or indefinite amount of liquor, wine or malt or brewed beverages for a fixed price for catered events which have been arranged at least [ 48 ] 24 hours in advance.

[ (3) ] (2) \*\*\*

**CHAPTER 15. SPECIAL RULES OF ADMINISTRATIVE PRACTICE AND PROCEDURE REGARDING MATTERS BEFORE THE OFFICE OF ADMINISTRATIVE LAW JUDGE**

**Subchapter D. FORMAL PROCEEDINGS**

**§ 15.42. Waiver of hearing or appeal.**

(a) The licensee may waive a hearing on the citation and the right to appeal from the adjudication. The waiver shall advise the licensee of the potential penalty for all counts. [ A club or corporation licensee shall include with a waiver a resolution authorizing specific officers empowered to execute the waiver. ]

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[Pa.B. Doc. No. 97-1663. Filed for public inspection October 17, 1997, 9:00 a.m.]

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