

# PROPOSED RULEMAKING

## LICQUOR CONTROL BOARD

[40 PA. CODE CHS. 3, 5, 7, 9, 11 AND 13]

### Licensees and Vendors

The Liquor Control Board (Board), under the authority of section 207(i) of the Liquor Code (47 P. S. § 2-207(i)) proposes to amend §§ 3.31, 3.33, 3.63, 3.73, 5.16, 5.31, 7.1, 7.5, 7.6, 7.22, 7.23, 7.41, 9.12, 9.91, 11.1, 11.2, 11.3, 11.91, 11.92, 11.201, 11.203, 11.204, 11.205, 13.43, 13.71, 13.72, 13.73, 13.74, 13.75, 13.77, 13.78, 13.79, 13.81, 13.86, 13.87, 13.102 and to add §§ 7.8 and 7.9.

#### *Purpose*

In accordance with Executive Order 1996-1, the Board has reviewed its regulations and determined that the following revisions are necessary to eliminate agent registration, clarify club managers' right to outside employment, eliminate a regulation that contradicts the Liquor Code, eliminate references to surety bonds, standardize the size of floor plans and site plans submitted by applicants for a new license, extension of license, or transfer of location of an existing license, correct erroneous cites, eliminate a regulation implementing a statute struck down by a Federal court, permit the sale of grain alcohol for nonpotable use upon filing an application with the Board, eliminate inaccurate references to cost limits on interior displays in retail establishments and permit an open bar with a meal package for registered guests of hotels on December 31, 1999.

#### *Summary of Amendments*

Chapter 3, §§ 3.31, 3.33, 3.63, 3.73, Chapter 11, §§ 11.91, 11.92, and Chapter 13, §§ 13.71, 13.72, 13.73, 13.74, 13.75, 13.77, 13.78, 13.79, 13.81, 13.86, 13.87 eliminate the registration requirement for promotional/sales agents.

Chapter 5, § 5.16 clarifies the Board's position that club managers or stewards are not precluded from holding employment outside their duties as club managers or stewards. Section 5.31(d)(1) is being deleted because it repeats that which is already contained in section 493(10) of the Liquor Code, and (d)(2) is being deleted because it contradicts section 493(10) of the Liquor Code (47 P. S. § 4-493(10)).

Chapter 7, §§ 7.1, 7.5, 7.6, 7.22, 7.41, Chapter 9, § 9.12, and Chapter 13, § 13.71 eliminate references to surety bonds in accordance with Act 155 of 1998. Section 7.8 is being added to Chapter 7 requiring that floor plans of proposed licensed areas be submitted on paper in 8 1/2 by 11-inch format. Section 7.9 is being added to facilitate a determination as to the location of licensed areas in a site plan on paper in an 8 1/2 by 11-inch format. The site plan would aid in determining proximity to restrictive institutions such as churches and schools, as well as proximity to other licensed establishments. Chapter 9, § 9.91 corrects erroneous cites to the Malt Beverage Tax Law. Chapter 11, §§ 11.1, 11.201, 11.203, 11.204, 11.205 eliminate the implementation of the manner in which wholesale prices of malt or brewed beverages would be changed in compliance with a Federal court ruling that found a portion of the Liquor Code violates the Sherman Antitrust Act (15 U.S.C.A. §§ 1-7). Chapter 11, § 11.2 is being deleted since it merely references § 11.4 and § 11.3 provides for the sale of grain alcohol to individuals or entities who, by application to the Board, swear or affirm

that such alcohol will be for nonpotable use. Chapter 13, § 13.43 eliminates inaccurate references to cost limits on interior displays. Chapter 13, § 102 permits hotels to serve an unlimited or indefinite amount of alcoholic beverages as part of a meal package on December 31, 1999, to registered overnight guests of their hotels.

#### *Affected Parties*

These proposed amendments would affect vendors' agents by eliminating the need for agent registration and the issuance of identification cards. Persons or entities desiring to purchase grain alcohol for purposes other than human consumption could do so. Applicants for a new license, extension of license or the transfer of location of an existing license would be required to submit floor plans and site plans in a standard size depicting the proposed licensed areas. Retail licensees would be permitted to display point-of-sale advertising material to a value determined by the Board under the Liquor Code and without a regulatory amendment. The requirement for serial or model numbers on these displays is not adhered to and will be deleted. Hotel licensees would be permitted to offer an open bar with a meal package on New Year's Eve, 1999, to their registered overnight guests. The remaining changes to the regulations serve to clarify, correct and bring the regulations into compliance with the Liquor Code and a Federal Court ruling.

#### *Paperwork Requirements*

The proposed amendments will not increase paperwork for the Board or the regulated community. Eliminating the registration of sales agents and issuance of identification cards with photographs will eliminate paperwork for the Board as well as the sales agents. Licensees must presently submit plans when applying for a new license, extension of license or a change in the location of an existing license. No additional paperwork will be required as a result of standardizing the size of these plans. Site plans are not presently required but are usually submitted when a structure is not fully constructed to determine the location of the licensed areas as they relate to proximity issues.

#### *Fiscal Impact*

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

#### *Effective Date/Sunset Date*

These proposed amendments will become effective upon publication as final-form regulations 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 513, 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 September 17, 1999, 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' review 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:** 54-55. No fiscal impact; (8) recommends adoption.

#### Annex A

### TITLE 40. LIQUOR

#### PART I. LIQUOR CONTROL BOARD

#### CHAPTER 3. LICENSE APPLICATIONS

#### Subchapter D. PHOTOGRAPHS AND CRIMINAL HISTORY RECORD INFORMATION CHECKS

#### PHOTOGRAPHS

#### § 3.31. Personal photographs.

(a) A photograph shall be furnished to the Board's representative by the following:

\* \* \* \* \*

[ (3) Applicants for registration as promotional/sales agents. (Two photographs are required.) ]

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#### § 3.33. [ Renewal of photographs ] (Reserved).

[ Personal photographs of registered agents shall be renewed every year. New photographs, as required in § 3.31 (relating to personal photographs), shall be filed with each application for renewal of the registration of agents. ]

#### Subchapter G. LIMITED WINERY LICENSES

#### § 3.63. Agents

[ (a) *Registration.* It is unlawful for a ] A limited winery licensee [ to ] may employ individuals to solicit orders, off the licensed premises, for wine produced by it or to promote the sale of the wines off the premises[, unless each individual has been registered with the Board in accordance with this subsection. Every application for registration shall be made upon forms provided by the Board and shall set forth the name and address of the limited winery licensee and the name and home address of the agent and additional information required. The form shall be filed by both the limited winery licensee and the agent employed. Two photographs of the agent, exactly 1 1/2-inch square in size, taken within 30 days, shall also be submitted. Every application shall be accompanied by \$65 for each agent to be registered. A retail licensee or his agents, servants or employes may not be registered as an agent under the terms of this section. The Board may refuse to register an agent.

(b) *Identification cards.* Upon approval of the Board of an application for registration of an agent by a licensee, there will be issued to the authorized agent an identification card containing the name and address of the licensee and the name and address and physical description of the agent. There will be affixed to the identification card a photograph of the agent. An identification card is not valid until signed by the agent and countersigned by a representative of the Board.

(c) *Privileges.* ] Agents [ properly registered by a limited winery licensee and holding identification cards ] may advertise and promote the sale of merchandise by "missionary work" of only brands sold by the limited winery licensee by whom the agents are registered and may solicit orders from licensees and make deliveries in properly registered vehicles.

#### Subchapter H. LICENSED DISTILLERIES OF HISTORICAL SIGNIFICANCE

#### § 3.73. Agents.

[ (a) *Registration.* It is unlawful for a licensed distillery of historical significance to employ individuals to solicit orders for liquor produced by it or to promote the sale of the liquors unless each individual has been registered with the Board in accordance with this subsection. Application for registration shall be made upon forms provided by the Board and shall set forth the name and address of the licensed distillery of historical significance and the name and home address of the agent and additional information required. The form shall be filed by both the licensed distillery of historical significance and the agent employed. Two photographs of the agent, exactly 1 1/2-inch square in size, taken within 30 days, shall also be submitted. Every application shall be accompanied by \$65 for each agent to be registered. A retail licensee or his agents, servants or employes may not be registered as an agent under the terms of this subsection. The Board may refuse to register an agent.

(b) *Identification cards.* Upon approval of the Board of an application for registration of an agent by a licensee, there will be issued to the authorized agent an identification card containing the name and address of the licensee and the name and address and physical description of the agent. There will be affixed to the identification card a photograph of the agent. An identification card is not valid until signed by the agent and countersigned by a representative of the Board.

(c) *Privileges.* ] Agents [ properly registered by a licensed distillery of historical significance and holding identification cards ] may advertise and promote the sale of merchandise of brands sold by the licensed distillery of historical significance by whom the agents are [ registered ] employed.

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

#### Subchapter B. EMPLOYEES OF LICENSEES

#### EMPLOYMENT OF MINORS

#### § 5.16. Appointment of managers.

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(d) A club manager or steward may be engaged in employment outside his duties as manager or stew-

ard except as provided in section 493(11) of the Liquor Code (47 P. S. § 4-493(11)).

Subchapter C. AMUSEMENT AND ENTERTAINMENT

§ 5.31. Amusement permit.

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[ (d) Hours for amusement.

(1) A licensee holding an amusement permit may permit dancing, theatricals, floor shows and motion pictures in the licensed establishment only during the hours when the sale of liquor or malt or brewed beverages is permitted.

(2) Paragraph (1) does not apply to a licensee or licensed establishment located in a municipality which has, by ordinance, resolution or other appropriate action in accordance with law, fixed the hours for the amusement in licensed establishments. The hours so fixed are controlling when certified copies of the ordinance, resolution or other appropriate action in accordance with law, are filed by the municipality with the Board. ]

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

Subchapter A. TRANSFER OF LICENSES

§ 7.1. Filing of applications for transfer.

Licenses issued by the Board, under Article IV of the Liquor Code (47 P. S. §§ 4-401—4-498), may be transferred in accordance with this subchapter. Applications for transfer of licenses may be filed at any time, but when filed within 30 days of the expiration date of the license term, the transfer [ shall apply ] applies to the renewal license only, except in the case of death. Applications for transfer shall be made on the regular transfer form, which shall be accompanied by the application for license [ , proper bond ] and remittance of proper fees in accordance with the applicable provisions of section 614-A of The Administrative Code of 1929 (71 P. S. § 240.14A).

§ 7.5. Transfers on death of the licensee.

On the death of the licensee, the license may be transferred immediately to the surviving spouse or to the administrator or executor of the estate of the licensee, upon presentation of the transfer form, application, bond transfer or filing fee, and short form certificate from the registrar of wills. If it is desired to transfer the license to a person designated by and acting for the administrator or executor, the transfer form application [ and the bond ] and fee [ or both ], with written evidence of the designation, shall be submitted by the administrator or executor. The Board will be notified in writing within 30 days of the death of a licensee.

§ 7.6. Transfer of partnership licenses.

If one or more partners voluntarily retire, an application for correction of license shall be executed and filed by all the partners, including the retiring partner. In the case of death of a partner, the application for correction of license shall be executed and filed by the surviving partners, and by the administrator or executor of the estate of the deceased partner, if any, and be accompanied by a short form certificate from the Registrar of Wills. If there is no administrator or executor, the application for correction of license shall be executed and filed by the surviving partners together with documentary evidence of the death of the deceased partner. These requirements

also apply if the license is held jointly by husband and wife. [ Applications for correction of license shall be accompanied by an approved bond rider executed by the applicant and the surety company on the current license bond. ] Applications for correction of a license under this section shall be accompanied by the proper fee in accordance with the applicable provisions of section 614-A of The Administrative Code of 1929 (71 P. S. § 240.14A).

§ 7.8. Floor plans.

Applicants for new licenses or for transfer of location of existing licenses shall submit floor plans with the application depicting all areas to be licensed. Floor plans are required for existing structures, as well as for structures proposed for construction and are to depict room dimensions. Floor plans shall be reproduced on paper and are not to exceed 8 1/2 by 11 inches. A separate floor plan is required for each floor used in conjunction with the licensed business.

§ 7.9. Site plans.

Applicants for new licenses or for transfer of location of existing licenses shall submit site plans when the structure the applicant intends to occupy has not been constructed at the time the application is filed with the Board. Site plans shall be reproduced on paper in an 8 1/2 by 11-inch format and shall depict the location of the proposed licensed premises in relation to identifiable property lines or easily identifiable landmarks with measurements to the property lines or landmarks.

Subchapter B. EXTENSION OF LICENSES

§ 7.22. Application.

(a) To obtain Board approval, an application for extension of license describing the additional premises shall be filed with the Board [ , to which shall be attached a bond rider covering the premises, properly executed by the surety who executed the bond filed with the application for the current license ].

\* \* \* \* \*

§ 7.23. Approval.

The additional premises for which it is desired to extend a license shall be completely equipped for the carrying on of the type of business permitted under the license, but no sales of liquor or malt or brewed beverages, storage or similar activity may take place in the additional premises until approval has been given by the Board. Where the extension of premises involves physical alterations or new construction, the Board may grant prior approval for the extension, as similarly provided in section 403(a) of the Liquor Code (47 P. S. § 4-403(a)). The application for extension of license [ should ] shall be accompanied by a written request for consideration, together with floor plans [ in duplicate ] as set forth in § 7.8 (relating to floor plans) clearly showing the [ restaurant, hotel or club ] premises as it will be after the alterations or construction are completed. If the additional premises the applicant intends to license has not been constructed at the time the application is filed with the Board, a site plan shall be submitted as set forth in § 7.9 (relating to site plans). Approval may be in the form of a new license, giving the additional address or a letter authorizing the use of additional premises. In the case of distributors and

importing distributors of malt or brewed beverages, no sales of malt or brewed beverages may be made in a warehouse except that in which the office or principal place of business of the licensee is maintained.

**Subchapter D. EXCHANGE OF LICENSES**

**DISTRIBUTOR AND IMPORTING DISTRIBUTOR LICENSES**

**§ 7.41. Applications [ and bonds ].**

An application for the exchange of Distributor or Importing Distributor Licenses shall be filed on a form furnished by the Board and will be considered by the Board only at the times indicated in § 7.42 (relating to effective dates). **[ The application shall be accompanied by a bond executed on the standard form furnished by the Board, in the penal sum required for the type of license sought. ]**

**CHAPTER 9. TRANSPORTATION, IMPORTATION, DISPOSITION AND STORAGE**

**Subchapter A. TRANSPORTATION OF LIQUOR, MALT OR BREWED BEVERAGES OR ALCOHOL LICENSES**

**§ 9.12. Applications for Transporter-for-Hire Licenses.**

(a) *Transporter-for-Hire License, Class A.* An application for a Transporter-for-Hire License, Class A, shall be filed on forms furnished by the Board and shall be accompanied by application and license fees in accordance with section 614-A of The Administrative Code of 1929 (71 P. S. § 240.14A) **[ and an approved corporate surety bond in the penal amount as established in section 506 of the Liquor Code (47 P. S. § 5-506) ]**. The license will be issued for the calendar year and the license fee will be prorated quarterly, in accordance with section 508 of the Liquor Code (47 P. S. § 5-508).

(b) *Transporter-for-Hire License, Class B.* An application for a Transporter-for-Hire License, Class B, shall be accompanied by application and license fees in accordance with section 614-A of The Administrative Code of 1929 **[ , and an approved corporate surety bond in the penal amount as established in section 492(8) of the Liquor Code (47 P. S. § 4-492(8)) ]**. The licenses will be issued for the calendar year.

(c) *Transporter-for-Hire License, Class C.* An application for Transporter-for-Hire License, Class C, shall be accompanied by application and license fees in accordance with section 614-A of The Administrative Code of 1929 **[ , and an approved corporate surety bond in the penal amount as established in section 506 of the Liquor Code ]**. The license will be issued for the calendar year. To secure this license, the applicant shall demonstrate that he maintains a fleet of vehicles primarily engaged in general parcel consignment, servicing all points within this Commonwealth and shall demonstrate that he can transport liquor from points in this Commonwealth to Board facilities, from Pennsylvania licensed limited winery locations to limited winery customers and from distilleries of historical significance to distillery customers.

**Subchapter E. IMPORTATION AND DISTRIBUTION OF MALT OR BREWED BEVERAGES**

**GENERAL PROVISIONS**

**§ 9.91. Importation.**

\* \* \* \* \*

(b) This section does not prohibit the importation of malt or brewed beverages by either of the following:

(1) A resident of this Commonwealth, for personal use only and not for sale, provided that the malt or brewed beverages are in original containers and that the tax thereon has been paid, or provisions for the payment have been made under the **[ Pennsylvania ]** Malt Beverage Tax Law **[ (47 P. S. §§ 103—120.3) ]** **(72 P. S. §§ 9001—9016)**.

\* \* \* \* \*

(c) Sales of malt or brewed beverages intended to be transported for delivery or use in this Commonwealth shall be consummated outside this Commonwealth and shall be paid for in full prior to or at the time of delivery to the consignee in this Commonwealth, who shall pay transportation charges. The beverages shall also be tax paid in accordance with section **[ 409 ] 9003** of the **[ Pennsylvania ]** Malt Beverage Tax Law **[ (47 P. S. § 409) (Repealed) ]** **(72 P. S. § 9003)**, and the transporter shall be considered the agent of the consignee.

**CHAPTER 11. PURCHASES AND SALES**

**Subchapter A. GENERAL PROVISIONS**

**RETAIL AND WHOLESALE PURCHASE—GENERAL**

**§ 11.1. Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

**[ Market conditions or other good cause—Factors that affect the wholesale price of malt or brewed beverages, including, but not limited to, the following: the availability and cost of raw materials, labor, transportation, weather, natural disaster, or other extraordinary events affecting supply and demand. ]**

\* \* \* \* \*

**§ 11.2. [ Who may purchase ] (Reserved).**

**[ (a) A person legally qualified to purchase liquor at retail in this Commonwealth may purchase alcohol directly at State Liquor Stores, or by special order through the State Store system under § 11.4 (relating to sales at wholesale).**

**(b) Purchasers at wholesale shall comply with § 11.4. ]**

**§ 11.3. Sales at retail.**

(a) State Liquor Stores may stock ethyl alcohol, 190 proof, for retail sales **subject to the following:**

**(1) An individual or entity desiring to purchase ethyl alcohol shall file an application on forms provided by the Board.**

(2) The Board may approve the application of an individual or entity who swears or affirms that the alcohol will be purchased for nonpotable use only.

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Subchapter C. WINES

AGENTS OF SACRAMENTAL WINE LICENSEES

§ 11.91. [ Registration ] Employment of agents.

[ It is unlawful for a ] A sacramental wine licensee [ to ] may employ individuals to solicit orders for sacramental wines or to promote the sale of the wines [ unless the individual has been registered with the Board by the licensee. The application shall be made upon forms provided by the Board and shall include the name and address of the sacramental wine licensee, the name and home address of the agent and additional information required. The form shall be signed by both parties. Two photographs of the agent, each exactly 1 1/2 inch square in size, taken within 30 days, shall also be submitted. The application shall be accompanied by a remittance of \$65 for each agent to be registered. The Board may refuse to register an agent ]

§ 11.92. [ Identification cards ] (Reserved).

[ Upon approval by the Board of the application of the licensee for registration of agents, authorized agents will be issued identification cards containing the name and address of the licensee, and the name and address and physical description of the agent. There will be affixed to the identification card a photograph of the agent. An identification card is not valid until signed by the agent and countersigned by a representative of the Board. ]

Subchapter L. [ MANNER OF CHANGING PRICES OF MALT OR BREWED BEVERAGES ] RESERVED

(Editor's Note: As part of the proposal, the Board is proposing to delete the existing text of §§ 11.201 and 11.203—11.205, which appears at 40 Pa. Code pages 11-39—11-42, serial pages (239327)—(239330).)

§ 11.201. (Reserved).

§§ 11.203—11.205. (Reserved).

CHAPTER 13. PROMOTION

Subchapter A. ADVERTISING

ADVERTISING OF BRAND NAMES

§ 13.43. Interior display.

(a) A licensee may not install or permit to be installed electrically operated signs or devices, lithographs, framed pictures, cardboard displays, statuettes, plaques, placards, streamers or similar items advertising brand names and intended for interior display on the licensed premises until [ he ] the licensee has submitted detailed information to the Board on forms provided by the Board, and obtained Board approval. [ A single piece of advertising may not exceed a cost of \$70, and the signs shall carry a serial or model number permanently affixed to the display for identification purposes. ] A photograph or sketch of the display sign shall accompany the application form.

(b) When the approved sign, as described in subsection (a), is of maximum value no background material may be used in conjunction with the installation. [ When the

approved display piece is of less than the maximum value, the combined cost of the piece of advertising and background or decoration may not exceed \$70. ]

(c) [ Under the Liquor Code, the total cost of the point-of-sale advertising matter relating to any one brand may not exceed the sum of \$140.

(d) ] Signs or displays intended for use interchangeable in a window, doorway or in the interior shall meet the requirements for both maximum area, as provided in § 13.42 (relating to window and doorway display), and maximum value.

Subchapter B. PROMOTION OF SALE OF LIQUOR BY VENDORS

§ 13.71. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

Agent—An individual employed [ and registered ] by a licensed vendor, to promote the sale of liquor through State Liquor Stores. A person who is a licensee or the holder of a Malt or Brewed Beverage License, or an officer, director, agent or employe of either a licensee or such a licensee, or who is not at least 21 years of age, [ a citizen of the United States ] and of good character, is not eligible to be [ registered as ] an agent of a vendor under this subchapter.

\* \* \* \* \*

Vendor's permit—A permit issued to a nonresident vendor under section 208(j) of the Liquor Code (47 P. S. 2-208(j)) [ , entitling the vendor to register agents in accordance with this subchapter ]. An application for the permit shall be filed with the Board accompanied by proper fees in accordance with section 614-A of The Administrative Code of 1929 (71 P. S. § 240.14A) [ , and an approved corporate surety bond in the penal sum of \$2,000 ]. A permit will be issued for the calendar year only.

§ 13.72. [ Registration of agents ] (Reserved).

[ (a) Requirement. A vendor may not employ, or an individual may not act as, an agent, salesman or solicitor to promote the sale of the products of the vendor in this Commonwealth, unless the persons are registered with the Board and issued identification cards in accordance with this subchapter.

(b) Applications.

(1) A vendor who desires to employ agents to promote the sale of liquor through State Liquor Stores or on special order shall be the holder of a valid Manufacturer or Importer Liquor License or a vendor's permit. The licensed vendor is eligible to register agents in accordance with this section. The licensed vendor shall make application for the registration of agents on the form provided by the Board.

(2) The application shall include the full address of the place where complete records of Commonwealth operations of the vendor are maintained. Resident manufacturers or importers shall maintain records within this Commonwealth. When the holder of a vendor's permit maintains records outside of this Commonwealth, the application shall

include an agreement that the records are open to inspection and audit by representatives of the Board during normal business hours, and that the transportation and traveling expenses of the representatives will be paid by the vendor.

(3) With the application of each vendor, there shall be a Statement of Agent for each agent for whom registration is sought on the form provided by the Board. Accompanying the Statement of Agent there shall be two unmounted photographs of each agent, 1 1/2 inch square, taken within 30 days of the date of filing.

(c) *Filing fee.* In registering a new agent, a vendor shall pay a filing fee of \$65. If the application for registration is denied, the filing fee will be retained by the Board. Registrations expire on December 31 of the year in which they become effective.

(d) *Renewal of registration.* The registration of agent may be renewed for 1 calendar year upon the filing by the licensed vendor of an application for renewal and the payment of the filing fee of \$65. A Statement of Agent for each agent to be registered shall also accompany the application, as shall new photographs of each agent, 1 1/2 inch square, taken within 30 days of the filing of the application. Necessary application materials shall be filed with the Board by December 1 of each year. ]

§ 13.73. Privileges of [registered] vendors' agents.

(a) Agents [properly registered, as provided in § 13.72 (relating to registration of agents), and holding identification cards, as described in § 13.74 (relating to identification cards), ] may advertise and promote the sale of stock merchandise by "missionary work" of only those brands sold to the Board by the vendor by whom the agents are registered. [Such] This work may include the use of the "Agents Order" form approved by the Board.

\* \* \* \* \*

(c) Agents may solicit from licensees or other persons, orders for those brands of liquor which have been listed with the Special Liquor Purchase Division by the vendors by whom [said] the agents are registered. All special orders obtained by [registered] vendors' agents shall be filed with one of the State Liquor Stores as required in this subchapter.

§ 13.74. [Identification cards] (Reserved).

[ (a) No vendor may personally solicit orders or promote the sale of his products unless he has submitted photographs of himself and has been issued an identification card, as required for registered agents in subsection (b). No application, bond or fee is required for the card.

(b) Upon approval by the Board of the application of a licensed vendor for the registration of agents, there will be issued to such authorized agents identification cards containing the name and address of the licensed vendor and the name and physical description of the agent. There will be affixed to the card a photograph of the agent, and such card will be countersigned by a representative of the Board. If mailed, the identification card will be mailed to the licensed vendor for delivery to the

agent. The agent shall return the identification card to the licensed vendor upon request.

(c) Where the employment of an agent is terminated, the vendor shall immediately notify the Board on the form provided for cancellation and the identification card issued to the agent shall be surrendered to the Board. ]

§ 13.75. [Refusal and cancellation of registrations] (Reserved).

[The Board may refuse any application for the registration of an agent. A licensed vendor may request the cancellation of the registration of any of his agents by returning the identification card and order books—or notice of transfer of books—issued to the agent, together with a written request of such cancellation. Forms will be furnished upon request by the Bureau of Licensing, Pennsylvania Liquor Control Board, Harrisburg, Pennsylvania 17124. The Board may cancel the registration so requested. ]

§ 13.77. Agents' order books.

(a) [Upon approval of the application of the licensed vendor for registration and the issuance of identification cards to registered agents, the ] The Board, upon request, will issue order books to vendors for themselves and their [registered] agents, in which each special order for liquors shall be entered. Each order shall be prepared in quadruplicate and bear the signature and address of the person from whom it is obtained, and the signature of the agent. In the case of a licensee, the order shall include the license number. The original order shall be forwarded to a State Liquor Store not later than the business day after [such] the order is obtained. One copy of the order shall be furnished by the licensed vendor or his [registered] agent to the person from whom the order is obtained and one copy shall be retained by the vendor for his records; and the other copy shall remain in the order book. The Board reserves the right to examine the records of any licensed vendor or his agents.

\* \* \* \* \*

§ 13.78. Special orders: requirements and conditions.

(a) All orders obtained in accordance with this subchapter and presented by licensed vendors or their [registered] agents to State Liquor Stores for licensees shall be filed at the established wholesale case prices prescribed by the Board for sales to licensees. [Such] The wholesale prices apply only [where] when the retail value of the order equals or exceeds the minimum retail value established by the Board.

(b) All orders presented at State Liquor Stores by [registered] agents on behalf of persons other than licensees shall be at the established retail special liquor order prices. No order may be taken for less than case quantities.

(c) A licensed vendor or his [registered] agents may not obtain an order from either a licensee or other person unless there is obtained at the same time a sum not less than the amount required by the Board for deposit on special order sales under the Liquor Code. State Liquor Stores may, at the time of receiving the order or releasing the liquor to the purchaser, accept the checks of licensees in payment.

(d) A licensed vendor or his [registered] agent [shall] may not extend credit to a licensee or any other person.

§ 13.79. Special orders: restrictions.

(a) Licensed vendors and their [registered] agents shall place special orders for liquor at State Liquor Stores on the prescribed order book forms signed by the licensee or his [duly] authorized agent, or in the case of a retail sale, by the customer.

\* \* \* \* \*

(d) Special orders placed by a licensed vendor or his [registered] agent for a retail customer may be released by the State Liquor Store for delivery to [such] the customer.

§ 13.81. Samples of liquor.

(a) Each [registered] agent of a licensed vendor may not use more than one case of each brand of liquor sold by [such] the vendor as samples during any calendar month. [Such] The samples shall be purchased only through the Board, at a sum equal to the cost price to the Board plus 25% and any required taxes. The purchase of samples at retail in any State Store is prohibited. A separate order for samples shall be placed for each [registered] agent, and the name of [such] the agent shall appear on the order. The vendor (or his authorized supervisor) may be permitted to purchase and distribute to his [registered] agents the prescribed allotment for all [such] agents under his supervision. The vendor shall, upon request, file with the Board a statement giving the name of his authorized supervisor, together with the territories and names of all [registered] agents under his supervision.

\* \* \* \* \*

(d) Each licensed vendor shall keep a permanent stock ledger record of all the samples purchased by him, the names of the agents to whom samples were issued, and the quantity and brand. Each authorized supervisor of a vendor shall keep in his office in this Commonwealth a permanent stock ledger record of all samples purchased and distributed by him to his [registered] agents as provided in this section. A requisition shall be prepared for each package removed from sample stock, bearing the signature of the agent receiving [such] the merchandise.

§ 13.86. Agency provisions.

Licensed vendors and their [registered] agents shall, except as otherwise restricted in this title, be considered the agents of the persons from whom they obtain special liquor orders. Neither the Commonwealth nor the Board will be responsible for the proper disposition of any monies collected from a licensee or other person by a licensed vendor or his agents, and under no circumstances will the Commonwealth or the Board be responsible for any actions of a licensed vendor or his agents.

§ 13.87. Records.

(a) Every licensed vendor shall maintain and keep complete records of all operations in this Commonwealth for [a period of] 2 years, which shall be open to inspection by authorized representatives of the Board during normal business hours. [Such] These records shall include salaries or commissions of all [registered] agents and other employes working in this Commonwealth, expenses of [such] the employes supported by detailed vouchers, all promotional and advertising expenditures, special order sales[, ] and stock merchandise requests.

(b) All agents of vendors operating in this Commonwealth[, whether licensed or not,] shall maintain complete records covering their operations in this Commonwealth[, which]. The records shall also be open to inspection by authorized representatives of the Board during normal business hours.

Subchapter C. SOLICITATION FOR THE PURCHASE OF ALCOHOLIC BEVERAGES

§ 13.102. Discount pricing practices.

\* \* \* \* \*

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

\* \* \* \* \*

(3) The sale, serving or offering of an unlimited or indefinite amount of alcoholic beverages as part of a meal package after 7 a.m. on December 31, 1999, until 2 a.m. on the following day by a hotel licensee to registered overnight guests of the hotel.

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