

# RULES AND REGULATIONS

## Title 40—LIQUOR

### LIQUOR CONTROL BOARD

[ 40 PA. CODE CH. 15 ]

#### Office of Administrative Law Judge; Payment of Fees and Fines

The Liquor Control Board (Board), under the authority of section 207(i) of the Liquor Code (47 P. S. § 2-207(i)), amends §§ 15.24 and 15.61 (relating to fees; and fines) to read as set forth in Annex A.

##### *Purpose*

The Board has reviewed its regulations and determined that this final-form rulemaking is necessary to provide the public and licensees of the Board with additional payment methods when they pay administrative fees and fines that are assessed by the Office of Administrative Law Judge (OALJ).

The OALJ is established under the authority of section 212 of the Liquor Code (47 P. S. § 2-212) as an autonomous office within the Board for the adjudication of citations issued to licensees. The State Police, Bureau of Liquor Control Enforcement (BLCE) issues citations to licensees for alleged violations of the Liquor Code and the Board's regulations. If it sustains the citation, the OALJ may impose a fine which the licensee shall pay. The OALJ may also suspend or revoke licenses issued by the Board.

Formerly under § 15.61, licensees were required to pay fines by treasurer's check, cashier's check or certified check. Formerly under § 15.24, filing fees for pleadings or motions related to citation proceedings and requests for copies of OALJ documents were only to be paid by money order or check.

It is a common experience now that the OALJ makes repeated attempts to contact a licensee when fines are not paid. The OALJ may suspend a license when a fine remains unpaid. Imposing a suspension requires additional resources of the OALJ, which crafts and mails the suspension order, and of the BLCE, which investigates whether the licensee has suspended its licensed operations. In those instances in which the licensee pays the fine as a result of the suspension, additional action by the OALJ is required to lift the suspension so that the licensee is again authorized to operate. Ultimately, the OALJ may revoke the license for continued nonpayment, necessitating the issuance of another order and the use of further resources.

The Board believes that if there are more convenient methods for licensees to pay fines, payments will be made more quickly, eliminating the need for additional administrative actions. Thus, the Board amends § 15.61 to implement changes that will allow licensees to pay fines not only by treasurer's check, cashier's check or certified check, but also by a check drawn on the business or trust account of an attorney licensed in this Commonwealth, money order, credit card, debit card, electronic funds transfer or other method approved by order of the OALJ. Parallel amendments are adopted for § 15.24 regarding the payment of fees for filing documents and obtaining copies of OALJ documents.

This final-form rulemaking will make it more convenient for licensees of the Board to pay required fees or

fines as they proceed through the enforcement process. On average, about 2,500 citations are adjudicated annually. This will roughly approximate the number of licensees each year which may benefit from having a wider selection of options for the payment of fees or fines.

Moreover, affording licensees greater convenience to pay fines may result in more timely payments, reducing the instances of license suspensions and revocations for failure to pay fines, resulting in OALJ administrative cost savings associated with handling these matters.

##### *Summary of Amendments*

This final-form rulemaking amends §§ 15.24 and 15.61 to expand the options for payment of fees and fines. Formerly, fines were paid by treasurer's check, cashier's check or certified check. Formerly, fees were paid by money order or check. Under this final-form rulemaking, fees and fines are payable by credit card, debit card, money order, cashier's check, certified check, attorney check, treasurer's check and electronic funds transfer. Further, a provision is being added to each section allowing the OALJ to issue an order which would permit other means of payment in a particular matter. This additional flexibility will permit other payment methods to be used in the future.

##### *Response to Comments*

The Independent Regulatory Review Commission (IRRC) commented that § 15.61 lists the acceptable forms of payment of fines by licensees to the OALJ within the Board. This section permits a licensee to pay a fine with a "treasurer's check." IRRC requested that the Board explain why a treasurer's check was not also included in § 15.24(b), which establishes the appropriate payment methods for filing fees.

In response to IRRC, the Board added "treasurer's check" to § 15.24(b) to permit a licensee to pay filing fees with a treasurer's check just as a licensee may pay a fine with a treasurer's check. The Board is not aware of justification for a treasurer's check distinction.

##### *Affected Parties*

The final-form rulemaking will benefit an individual who wants to file a document with, or obtain copies of documents from, the OALJ by expanding the number of payment options. Members of the regulated community will enjoy the convenience of expanded options for payment of fines, which may result in cost savings. The final-form rulemaking is also expected to improve the administrative efficiency of the OALJ since more timely payments of fines by licensees will reduce the labor and resources necessary to follow-up on delinquencies, issue suspension orders and take additional administrative actions. The final-form rulemaking will, therefore, cost nothing, result in greater convenience for the public and members of the regulated community and should improve the administrative efficiency of the OALJ.

##### *Paperwork Requirements*

The final-form rulemaking will not significantly increase paperwork for the Board or the regulated community.

##### *Fiscal Impact*

The regulated community is not expected to incur new costs as a result of the final-form rulemaking. It is possible that members of the regulated community might

realize savings as a result of utilizing more convenient methods of payment of administrative fees and fines. However, it is difficult to quantify the exact amount of savings as licensees retain the ability to choose from various methods of no-cost or low cost payment options.

The costs or revenues of local governments will not be affected by this final-form rulemaking.

The Commonwealth is not expected to incur new costs as a result of this final-form rulemaking. The Board already possesses the technology to accommodate these new methods of payment due to its acceptance of payments for many of its online licensing transactions. It is also expected that the Commonwealth will benefit from an increase in revenues due to the payment of fines on a more timely basis.

In 2010, for example, the OALJ released about 2,535 adjudications and 409 supplemental orders after adjudication. Thus, in 2010, the OALJ issued around 2,944 adjudicative actions. Of the 409 supplemental orders after adjudication (supplementals), about 75% were issued as a result of nonpayment of fines by licensees. Therefore, 307 actions by Administrative Law Judges, over 10% of all adjudicative actions, were the direct result of fines not being paid. It is difficult to quantify how the final-form rulemaking will reduce the number of supplementals issued as a result of the nonpayment of fines.

It should be noted, however, that postage costs alone for the issuance of supplementals exceeded \$1,800. Additional costs of supplementals include the labor costs of OALJ staff charged with processing supplementals, the cost of paper and the BLCE's labor costs associated with inspecting licensees' premises to ensure compliance with an OALJ suspension order.

*Effective Date*

This final-form rulemaking will become effective upon publication in the *Pennsylvania Bulletin*.

*Contact Person*

Questions regarding this final-form rulemaking should be addressed to Alan Kennedy-Shaffer, Assistant Counsel, or Rodrigo Diaz, Executive Deputy Chief Counsel, Office of Chief Counsel, Liquor Control Board, Room 401, Northwest Office Building, Harrisburg, PA 17124-0001, (717) 783-9454, ra-lblegal@pa.gov.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on March 9, 2012, the Board submitted a copy of the notice of proposed rulemaking, published at 42 Pa.B. 1504 (March 24, 2012), to IRRC and the Chairpersons of the House Liquor Control Committee and the Senate Law and Justice Committee for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the House and Senate Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Board has considered all comments from IRRC, the House and Senate Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on November 30, 2012, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on December 13, 2012, and approved the final-form rulemaking.

*Findings*

The Board finds that:

(1) Public notice of intention to adopt the administrative amendments adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) The amendments to the Board's regulations in the manner provided in this order are necessary and appropriate for the administration of the Liquor Code.

*Order*

The Board, acting under authorizing statute, orders that:

(a) The regulations of the Board, 40 Pa. Code Chapter 15, are amended by amending §§ 15.24 and 15.61 to read as set forth in Annex A.

(b) The Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(c) This order shall become effective upon publication in the *Pennsylvania Bulletin*.

JOSEPH E. BRION,  
*Chairperson*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 42 Pa.B. 7877 (December 29, 2012).)*

**Fiscal Note:** Fiscal Note 54-70 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 40. LIQUOR**

**PART I. LIQUOR CONTROL BOARD**

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

**Subchapter B. PROCEEDINGS BEFORE THE OALJ**

**§ 15.24. Fees.**

(a) *Filing fees.* Except for citations, prehearing memoranda or motions for continuance, a pleading or motion requires a filing fee by the moving party and will be received but not deemed to be filed until the filing fee has been paid.

(b) *Mode of payment of fees.* Fees shall be paid by a check drawn on the business or trust account of an attorney licensed in this Commonwealth, treasurer's check, cashier's check, certified check, money order, credit card, debit card, electronic funds transfer or other method approved by order of the OALJ. Payments must be made payable to "Commonwealth of Pennsylvania."

(c) *Schedule of fees.* The fees for services rendered by the ALJ are as follows:

<i>Description</i>	<i>Fee (in dollars)</i>
Filing fees for pleadings other than citations, prehearing memoranda or motions for continuance, requesting special relief, action or consideration	\$25
Providing copies of papers and records (specially requested) per page	\$ 1
Providing certification of papers, testimony or records	\$ 5

(d) *Supersession.* Subsection (a) supersedes 1 Pa. Code § 33.22 (relating to mode of payment of fees).

**Subchapter E. PENALTIES****§ 15.61. Fines.**

Fines shall be paid by a check drawn on the business or trust account of an attorney licensed in this Commonwealth, treasurer's check, cashier's check, certified check, money order, credit card, debit card, electronic funds transfer or other method approved by order of the OALJ. Payments must be made payable to the "Commonwealth of Pennsylvania" with a notation of the citation number. If mailed, remittances shall be addressed to: Office of Administrative Law Judge, Pennsylvania Liquor Control Board, Brandywine Plaza, 2221 Paxton Church Road, Harrisburg, Pennsylvania 17110-9661.

[Pa.B. Doc. No. 13-5. Filed for public inspection January 4, 2013, 9:00 a.m.]

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