

PROPOSED RULEMAKING

LICQUOR CONTROL BOARD

[40 PA. CODE CH. 5]

Responsible Alcohol Management Program

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 Chapter 5 (relating to duties and rights of licensees).

Summary

The Commonwealth expects holders of retail liquor and beer licenses to meet demanding standards of operation. Failure to do so may result in fines and other penalties that can culminate in the loss of the license. Training licensees and their employees to serve alcohol responsibly is seen to be one of the best ways to prevent these problems.

Section 471.1 of the Liquor Code (47 P.S. § 4-471.1) authorizes the Board to establish a training program for licensees. This training program is known as the Responsible Alcohol Management Program (RAMP) and is administered by the Board's Bureau of Alcohol Education (BAE). Although completion of RAMP training is usually voluntary, the act of June 28, 2011 (P.L. 55, No. 11) (Act 11) and the act of December 22, 2011 (P.L. 530, No. 113) (Act 113) made RAMP training and certification mandatory for certain licensees. As a result, there has been an increase in the number of persons who are interested in taking some or all of the RAMP training.

Since 2001, the Board has offered RAMP training and certification to licensees authorized to sell alcohol to the

public. The public and, perhaps more immediately, the neighbors of licensed establishments have benefitted from the practical and legal training that the BAE provides through these regulations to licensees and their employees.

RAMP training consists of five parts: 1) new employee orientation; 2) training for alcohol service personnel (also known as server/seller training); 3) manager/owner training; 4) displaying responsible alcohol service signage; and 5) certification. The Board is required under section 471.1 of the Liquor Code to conduct the manager/owner training, but may elect under section 471.1(a) of the Liquor Code to use certified instructors to teach the server/seller component of RAMP. The Board is authorized under section 471.1(b) of the Liquor Code to certify and decertify server/seller instructors. Section 471.1(a) of the Liquor Code provides that "[t]raining for alcohol service personnel shall be as set forth by the board, but at minimum it shall consist of training to prevent service of alcohol to minors and to visibly intoxicated persons."

There are approximately 15,000 active licenses in this Commonwealth that authorize the sale and service of alcohol for on-premises consumption, known collectively as retail licensees. There are approximately 1,200 licensed distributors and importing distributors of malt or brewed beverages, such as beer, constituting wholesale licensees. Each of these licensees may benefit from RAMP training.

Although completion of RAMP training is usually voluntary, Acts 11 and 113 have made RAMP training and certification mandatory for certain employees of licensees. As a result, there has been an increase in the number of persons who have become RAMP certified.

Year	2009	2010	2011	2012	2013
Number of Individuals RAMP Certified	23,999	24,022	26,563	30,157	31,946
Percentage increase from prior year		0.10%	9.57%	11.92%	5.60%

There are currently 32 instructors certified by the BAE who provide RAMP server/seller training. There are also seven approved RAMP server/seller online training courses which use BAE materials.

This proposed rulemaking would allow third parties to create their own curriculums and to submit them to the BAE for approval. The expected benefits include more opportunities for server/seller training which is needed to meet the growing demand for training.

Increasing the number of programs that may be offered as the equivalent of RAMP server/seller training will place an extra burden on the BAE. It will be required to evaluate the submitted programs and compare them to RAMP. Once the program is approved, the BAE will be responsible for evaluating the instructors who provide the training; this could mean a significant increase in the number of instructors the BAE must evaluate and certify. In addition, having a variety of programs could result in inconsistencies in the training experience.

These additional responsibilities can be addressed with an increase in staffing that can provide tighter oversight. An alcohol education specialist is a civil service position

at pay grade 6, for which the annual salary range is from \$39,257 to \$59,658. However, it is unlikely additional personnel will be needed. In addition, the benefit to the licensed community through increased training opportunities, resulting in more properly trained alcohol server/sellers, outweighs the cost of additional personnel.

Affected Parties

This proposed rulemaking will affect an entity that wishes to offer RAMP-equivalent server/seller training. As long as the proposed curriculum is equivalent to RAMP's standard curriculum, RAMP will allow that entity to provide server/seller training. This may indirectly affect anyone who wishes to or needs to take server/seller training, as there will likely be more options for this training.

Paperwork Requirements

This proposed rulemaking may increase paperwork for the BAE, since the BAE will need to evaluate proposed curriculums to determine if they are equivalent to the standard curriculum. The proposed rulemaking would not increase paperwork for anyone else in the regulated

community except for those entities that wish to provide server/seller training but are advised that their curriculum is deficient and changes must be made.

Fiscal Impact

The Board has offered RAMP training and certification since 2001. Because RAMP is mandated by section 471.1 of the Liquor Code, its costs cannot be avoided. The current annual cost of RAMP to the Board is approximately \$500,000. In the unlikely event that further staffing is needed by the BAE, increased staffing costs will be funded fully from liquor sales. Like all of the Board's operating costs, RAMP is fully funded from the proceeds of selling liquor, which are deposited into the State Stores Fund. The Board's operations and programs are not funded from a General Fund appropriation.

Under section 471.1 of the Liquor Code, licensees that have become RAMP-certified may be assessed reduced fines should they be found to have provided alcohol to a minor or visibly intoxicated person. Some licensees, because of the citations they have received and because their licensure is in jeopardy, are required to obtain and maintain RAMP certification. Training offered by other programs may happen to be more convenient for some licensees because more classes will be available. If there are more programs to choose from, the convenience for the licensee will increase, thus reducing the potential fiscal impact for the licensee.

This proposed rulemaking is not expected to result in costs or savings to local governments.

Effective Date

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

Public Comments

Interested persons are invited to submit written comments about the proposed rulemaking to Rodrigo Diaz, Executive Deputy Chief Counsel, or Norina Blynn, Assistant Counsel, Office of Chief Counsel, Liquor Control Board, Room 401, Northwest Office Building, Harrisburg, PA 17124-0001 within 30 days after publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Public comments will be posted on the Independent Regulatory Review Commission's (IRRC) web site. Personal information will be redacted from the public comments received.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on March 11, 2015, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to IRRC and to the Chairpersons of the House Liquor Control Committee and Senate Committee on Law and Justice. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory

Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor of comments, recommendations or objections raised.

TIM HOLDEN,
Chairperson

Fiscal Note: 54-79. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 40. LIQUOR

**PART I. LIQUOR CONTROL BOARD
CHAPTER 5. DUTIES AND RIGHTS OF
LICENSEES**

**Subchapter I. RESPONSIBLE ALCOHOL
MANAGEMENT PROGRAM
COURSE OF STUDY**

§ 5.211. Course of study for alcohol service personnel.

(a) A standard curriculum for the course of study will be provided by the BAE.

(b) The BAE is authorized to review curriculum submitted by another training provider and to certify the curriculum if it is equivalent to the BAE's standard curriculum.

(1) In the event that the training provider's curriculum is not equivalent to the BAE's standard curriculum, the BAE will advise the training provider as to subjects where the training provider's curriculum is deficient.

(2) The training provider has the opportunity to correct and resubmit its curriculum no more than two times.

(3) If the training provider's curriculum is still deficient after the second and final resubmission, the BAE will not accept submissions or resubmissions from the training provider for 1 year from the date that the BAE sent notification to the training provider that the second resubmission was deficient.

INSTRUCTORS

§ 5.232. Instructor responsibilities.

Instructors have the responsibility to do the following:

(1) Using the standard curriculum provided by the BAE **or a curriculum certified by the BAE**, provide students with information regarding the current status of the law on issues regarding the sale or service of alcoholic beverages by licensees.

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§ 5.233. Minimum standards of training.

(a) Instructors shall conduct training sessions conforming to **either** the BAE's standard curriculum **or a curriculum certified by the BAE**.

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