

# PROPOSED RULEMAKING

## LIQUOR CONTROL BOARD

[ 40 PA. CODE CH. 7 ]

### Posting Requirements for Extension

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 § 7.22 (relating to application).

#### Summary

The Board's regulations require that an applicant for an extension of a licensed premise post a notice that the application has been filed. Section 7.22 provides that the notice must be posted for 15 days. The 15-day posting period is consistent with the former language of section 403(g) of the Liquor Code (47 P. S. § 4-403(g)).

The act of December 9, 2002 (P. L. 1653, No. 212) amended section 403(g) of the Liquor Code by increasing the time period for the posting of a notice from 15 days to 30 days. Section 403(g) of the Liquor Code now requires a longer posting period than the regulation in § 7.22.

The disparity between section 403(g) of the Liquor Code and § 7.22 sometimes results in frustration and confusion for applicants. Some applicants believe that the notice can be taken down at the expiration of the 15-day period, and that the application can then be approved. However, because of the language in section 403(g) of the Liquor Code, that is not the case.

In addition, those parties who wish to file a protest (protestants) to the application have 30 days from the posting of the notice to do so under § 17.13 (relating to protests/intervention procedure). There can be confusion or misunderstanding on the part of protestants when a notice is removed (erroneously) after only 15 days.

The proposed amendment would resolve these misunderstandings by § 7.22 requiring that a notice of an application for extension of the licensed premises must be posted for at least 30 days.

#### Affected Parties

As of July 14, 2015, there are 15,112 active licensees that could be potentially affected by the proposed rulemaking, but only if they decide to expand their premises. Since the proposed rulemaking simply aligns the posting period with that which is required under section 403(g) of the Liquor Code, licensees will not be adversely affected.

#### Paperwork Requirements

This proposed rulemaking is not expected to affect legal, accounting or consulting procedures and should not require additional reporting, recordkeeping or other paperwork.

#### Fiscal Impact

This proposed rulemaking is not expected to have fiscal impact on the Commonwealth, the regulated community or 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 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 not 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 September 15, 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*

*(Editor's Note: The proposed rulemaking published at 45 Pa.B. 2479 (May 23, 2015) was withdrawn by the Board due to IRRC's refusal to accept it because of an outdated Regulatory Analysis Form. This proposed rulemaking replaces the former publication.)*

**Fiscal Note:** 54-83. No fiscal impact; (8) recommends adoption.

### Annex A

#### TITLE 40. LIQUOR

#### PART I. LIQUOR CONTROL BOARD

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

#### Subchapter B. EXTENSION OF LICENSES

#### § 7.22. Application.

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(c) An applicant for extension of premises shall post, for a period of at least [ 15 ] 30 days beginning with the day the application is filed with the Board, in a conspicuous place on the outside of the licensed premises, a notice of application in a form, and size and containing provisions the Board requires concerning the requested extension. Proof of the posting of the notice shall be filed with the Board.

[Pa.B. Doc. No. 15-1871. Filed for public inspection October 23, 2015, 9:00 a.m.]