

# RULES AND REGULATIONS

## Title 40—LIQUOR

### LIQUOR 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)), amends 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). A portion of that training and the seller/server training is currently administered exclusively through a curriculum created by the BAE. This final-form rulemaking allows third parties to create their own curriculums and to submit them to the BAE for approval.

Since 2001, the Board has offered RAMP training and certification to licensees authorized to sell alcohol to the public. The general public and, perhaps more immedi-

ately, 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(b) 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 14,000 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 active licenses for 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, the act of June 28, 2011 (P. L. 55, No. 11) and the act of December 22, 2011 (P. L. 530, No. 113) 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	2014
Number of individuals RAMP certified	23,999	24,022	26,563	30,157	31,946	43,220
Percentage increase from prior year		0.10%	9.57%	11.92%	5.60%	35.29%

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 final-form rulemaking allows 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.

While the BAE will continue to provide a standard curriculum for the training of alcohol service personnel, the BAE will also review curriculum developed by another entity to certify curriculum if it is equivalent to or exceeds the standard curriculum. If it is not, notice of deficiencies will be provided in writing to the third party within 90 days of receipt by the BAE. If the curriculum is equivalent to or exceeds the BAE-created RAMP curriculum, the other entity will be able to offer that training in this Commonwealth and the training will be considered the same as RAMP training.

In addition to providing more training opportunities for those that need to obtain RAMP server/seller training,

this final-form rulemaking will affect an entity that wishes to offer RAMP-equivalent server/seller training. As long as the proposed curriculum is equivalent to or exceeds RAMP's standard curriculum, RAMP will allow that entity to use that curriculum while providing server/seller 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 final-form rulemaking will affect an entity that wishes to offer RAMP-equivalent server/seller training. As long as the proposed curriculum is equivalent to or exceeds RAMP's standard curriculum, RAMP will allow that entity to use that curriculum while providing 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. It also may negatively impact the certified trainers who are currently offering RAMP training, as there will be more competition to provide training to the licensed community.

#### *Paperwork Requirements*

This final-form 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 final-form rulemaking will 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 of the Liquor Code (47 P. S. § 4-471), 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.

An entity that wishes to submit its curriculum for certification by the BAE will be required to submit a fee of \$250. This fee is intended to offset the time investment necessary to review and certify curriculum developed by a third party. It is unknown how much it would cost a third party to create its own curriculum but doing so is voluntary.

In addition, instructors of server/seller training must be certified on an annual basis. Certification is \$250 per instructor under § 5.231(4) (relating to instructor certification).

This final-form rulemaking is not expected to result in costs or savings to local governments.

#### *Effective Date*

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

#### *Public Comments*

Comments should be addressed 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.

#### *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 the notice of proposed rulemaking, published at 45 Pa.B. 1850 (April 11, 2015), to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House Liquor Control Committee and the Senate Committee on Law and Justice 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. The Board received comments from IRRC, the response to which is set forth in a separate document. In preparing the final-form rulemaking, the Board considered all comments from IRRC, the House and Senate Committees and the public.

The Board received comments in favor of the rulemaking from the following: Training for Intervention ProcedureS (TIPS); Bill Marencic, Robin Roscoe, Mark Fine, Anthony S. Blackwell, Sr., Lisa J. Baer, Jean E. Davis, Dan Clougherty and Barbara Clougherty, TIPS trainers; John Koury, Avalon Resource Group, a TIPS trainer; Senator John Rafferty; Senator Jim Brewster; Senator Wayne Fontana; Representative Chris Ross; Representative Paul Costa; and Representative Mike Regan. The Board also received comments opposed to the rulemaking from the following: Amy Christie, Executive Director, Pennsylvania Licensed Beverage & Tavern Association; Danette Small-Shultz, Vice President of Subs, Inc., a restaurant liquor licensee; and Senator Richard Alloway, II.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on October 7, 2015, 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 October 8, 2015, 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.

(3) The revisions that were made to this final-form rulemaking do not enlarge the purpose of the proposed rulemaking published at 45 Pa.B. 1850.

#### *Order*

The Board, acting under the authorizing statute, orders that:

(a) The regulations of the Board, 40 Pa. Code Chapter 5, are amended by amending §§ 5.211, 5.232 and 5.233 to

read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(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*.

TIM HOLDEN,  
*Chairperson*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 45 Pa.B. 6374 (October 24, 2015).)*

**Fiscal Note:** Fiscal Note 54-79 remains valid for the final adoption of the subject regulations.

**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 or exceeds the BAE's standard curriculum. A request for review of curriculum must be accompanied by a nonrefundable \$250 application fee.

(1) In the event that the training provider's curriculum is not equivalent to or does not exceed the BAE's standard curriculum, the BAE will advise the training provider in writing within 90 days of receiving the curriculum and fee 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. Curriculum resubmitted under this subsection does not require the payment of an additional fee.

(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.

(2) Schedule training sessions in locations throughout this Commonwealth.

(3) Conduct at least two training sessions per quarter and train at least 225 students per year. Instructors may

request a waiver of the minimum requirements in this paragraph by sending a letter or e-mail to the BAE. The BAE will waive the requirements for minimum training activity for instructors due to temporary, nonrecurrent exigencies, such as instructor illness or family emergency, bad weather or other circumstances beyond the instructor's control.

(4) Provide accurate records of attendance and course completion, as required under § 5.233(c) (relating to minimum standards of training), to the BAE within 7 calendar days following each training session through the BAE's web site. Original attendance sheets shall be submitted to the BAE by first class United States mail, other delivery or express service, transmission by facsimile or by e-mail.

(5) Attend instructor meetings twice per year as scheduled by the BAE.

(6) Attend manager/owner training at least once per year.

**§ 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.

\* \* \* \* \*

[Pa.B. Doc. No. 15-2004. Filed for public inspection November 13, 2015, 9:00 a.m.]

**LIQUOR CONTROL BOARD**  
**[ 40 PA. CODE CH. 7 ]**  
**Right to Occupy**

The Liquor Control Board (Board), under the authority of section 207(i) of the Liquor Code (47 P. S. § 2-207(i)), amends §§ 7.2 and 7.4 (relating to transfers of ownership; and transfers of ownership and location).

*Summary*

The Board's regulations require an applicant to establish its right to occupy the proposed licensed premises. While this is typically done through a lease or deed, some entities have acquired the right to occupy a premises through a contract between it and the owner of the premises. Sections 7.2 and 7.4 are amended to reflect the fact that the right to occupy may be obtained through a means other than a lease or deed.

The principal beneficiaries will be those entities involved in the ownership and operation of hotels. Management companies typically operate a chain of hotels under a common name on behalf of different real estate holders. However, they typically occupy the premises under a management agreement with the real estate owner rather than with a deed or lease. Since §§ 7.2 and 7.4 contemplate that the licensee will have a lease or deed to the premises, the real estate owner typically applies for the license in its name and list the actual operator of the hotel as a management company.

Allowing the management agreement to be the basis for the hotel operator's proof that it has the right to occupy the premises will allow the management company to apply for the liquor license in its own name and would be more consistent with the parties' desired business relationship.

*Affected Parties*

Affected parties include future applicants for a liquor license whose right to occupy the proposed licensed premises is based on something other than a deed or lease.

*Paperwork Requirements*

The final-form rulemaking will not require additional paperwork to be filed.

*Fiscal Impact*

This final-form rulemaking may result in a hotel operator applying for a liquor license in its own name, rather than being listed as the management company for a different applicant. In those circumstances, there would not be a need to have a management company and the license would save itself the \$350 fee that is required when a licensee uses a management company.

*Effective Date*

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

*Public Comments*

Comments should be addressed 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.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on May 5, 2015, the Board submitted a copy of the notice of proposed rulemaking, published at 45 Pa.B. 2614 (May 30, 2015), to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House Liquor Control Committee and Senate Committee on Law and Justice for review and comment.

Under section 5(c) of the Regulatory Review Act, the Board is required to provide IRRC and the House and Senate Committees with copies of the comments received during the public comment period, as well as other documents when requested. The Board received comments from IRRC, the response to which is set forth in a separate document.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on October 7, 2015, 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 October 8, 2015, 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 the authorizing statute, orders that:

(a) The regulations of the Board, 40 Pa. Code Chapter 7, are amended by amending §§ 7.2 and 7.4 to read as set forth at 45 Pa.B. 2614.

(b) The Board shall certify this order and 45 Pa.B. 2614 and deposit them with the Legislative Reference Bureau as required by law.

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

TIM HOLDEN,  
*Chairperson*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 45 Pa.B. 6374 (October 24, 2015).)*

**Fiscal Note:** Fiscal Note 54-84 remains valid for the final adoption of the subject regulations.

[Pa.B. Doc. No. 15-2005. Filed for public inspection November 13, 2015, 9:00 a.m.]

## Title 52—PUBLIC UTILITIES

### PHILADELPHIA PARKING AUTHORITY

#### [ 52 PA. CODE CHS. 1017 AND 1021 ]

#### Image Retention and Use

The Philadelphia Parking Authority (Authority), on June 25, 2015, adopted a final rulemaking order to clarify retention and use procedures related to images captured by a taxicab safety camera system.

*Philadelphia Taxicab and Limousine Regulations Image Retention and Use; Doc. No. 126-10*

#### Final Rulemaking Order

*By the Authority:*

The Authority is the sole regulator of all taxicab and limousine service in Philadelphia.<sup>1</sup> In furtherance of those regulatory functions, the Authority issued a proposed regulation at this docket number on August 27, 2014. The initial public comment period for this rulemaking proceeding concluded on December 15, 2014, without receipt of comments. The Independent Regulatory Review Commission (IRRC) submitted its comments on January 14, 2015. The Authority has completed its review of the comments and now issues the final-form regulation.

#### *Purpose of the Final-Form Regulation*

All taxicabs in Philadelphia will be equipped with safety cameras. Those cameras will capture images related to taxicab service to deter crimes against drivers, assist in the investigation of alleged crimes and regulatory violations and bad behavior in general. In most cases, images recorded by these safety cameras will be stored locally and overwritten on a scheduled basis. The local images will be secure within a hard drive or "black box" in the taxicab. A black box is accessible only by the Authority's Taxicab and Limousine Division Enforcement Department.

While the current regulation requires certain images from a taxicab's safety camera to be transmitted to both the Authority and the taxicab's dispatcher to assist in law enforcement response times and investigations, the Authority has approved a proposed regulation (Docket No. 126-12), which will eliminate that transmission requirement. The Authority has also granted the taxicab indus-

<sup>1</sup> The act of July 16, 2004, (P. L. 758, No. 94), 53 Pa.C.S. §§ 5701 et seq., as amended, (the "act")

try a waiver from compliance with that transmission requirement, pending final approval of regulation 126-12.

The proposed regulation establishes requirements related to the limited retention of safety camera images when physically accessed by the Enforcement Department. The regulation also clarifies the scenarios in which the Authority will access a safety camera's stored images.

#### B. *The regulation*

We propose amending the proposed regulatory language to provide guidance and limitations upon the use and retention of images captured by safety camera systems and to prohibit the inappropriate activation of the taxicab distress button, as follows:

##### *Discussion*

The Authority has reviewed IRRC's comment to the proposed regulation and has modified the proposed regulation in response and otherwise, as follows. There were no public comments.

##### § 1017.78. *Use of Captured images.*

Section 1017.78 of the final-form regulation has been amended to delete all references to dispatchers, which constituted a significant portion of the regulation. The final-form regulation does not provide for a scenario in which the dispatcher will have access to or ever come into possession of any image recorded by a safety camera.

*Subsection (b).* This subsection has been amended to add reference to subsection (e), which also provides for the release of captured images.

*Subsection (c).* This subsection has been amended to identify the proposed language as paragraph (1) and to add new language under paragraph (2). Because the final-form regulation no longer provides for a system that transmits safety camera images from the taxicab to anyone, the only way to view images will be through physical access to the black box, which requires an encrypted access key. The restriction in the proposed regulation limiting access to the black box to the Authority's Enforcement Department has not changed.

Paragraph (2) establishes limitations upon access to images retained on a taxicab's black box. Access will be limited to scenarios involving a court order, a request from a law enforcement agency or an active administrative investigation when written authorization to access the black box has been provided by the Manager of the Enforcement Department or Trial Counsel. This limitation upon the Authority's access to images on the black box will create a record of instances where such access is necessary and clearly prohibits random review of stored images by anyone, including the Authority.

*Subsection (e).* IRRC questioned when images released to law enforcement will be deleted by the Authority. Preliminarily, the proposed regulation provided that every image recovered by the Authority must be deleted 31 days from the date first obtained, unless an enumerated reason necessitated retention existed. That language has been retained in the final-form regulation.

The final-form regulation includes new paragraphs numbered (3) and (4). These paragraphs provide that images excluded from deletion pursuant to the preceding language in this subsection will be deleted within 1 year of the final disposition of the related administrative or criminal proceeding. This language addresses the fact that these matters may remain active in the courts or before other tribunals long after the 31 day deletion period, but also creates a definitive end date for retention.

Paragraph (4) provides that images connected to a successful criminal prosecution or finding of administrative liability may be retained for up to 5 years or longer if good cause is found by a presiding officer in the Adjudication Department after notice to the relevant party. The presiding officer's decision is subject to appeal as provided in 52 Pa. Code §§ 1005.184 and 1005.211 (relating to authority of presiding officer; and exceptions to recommended decisions).

Images subject to this heightened retention duration will not be evidence to a potential bad act, but evidence used to prove that a bad act actually did occur. The images will have already been publicly displayed in a court of law or in an administrative hearing in open courtrooms, released to private defense attorneys and subject to media publication. For these reasons, we find that privacy concerns related to these images will nearly always be unwarranted, although the Authority will continually be bound to hold these images in a confidential manner as provided in subsection (b).

*Subsection (g).* Subsection (g) has been added to delineate images captured during system certification from those related to an investigation or otherwise active safety camera system. As provided in Section 1017.71(b), before a taxicab may enter operation with a new safety camera system it must be inspected by the Authority. In order to make certain that the camera system works, the Enforcement Department will cause events intended to triggering the safety camera's recording sequence then check the black box to make sure it works.

This testing is completed at Authority facilities. The images captured will show an empty taxicab, but will be saved to evidence that the system worked properly upon introduction to service.

##### *Affected Parties*

The regulation will affect taxicab owners, drivers and those who travel in taxicabs.

##### *Fiscal Impact*

The final-form regulation will have no fiscal impact or increase any paperwork obligation as to any party, the Commonwealth, any political subdivisions, private sector person or the general public.

##### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on October 29, 2014, the Authority submitted a copy of the notice of proposed rulemaking, published at 44 Pa.B. 7176 (November 15, 2014), to IRRC and the Chairpersons of the House Urban Affairs Committee and the Senate Consumer Protection and Professional Licensure 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 Department 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 September 16, 2015, 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 September 17, 2015, and approved the final-form rulemaking.

##### *Effective Date and Conclusion*

The final-form rulemaking will become effective upon publication in the *Pennsylvania Bulletin*. Accordingly,

under sections 13 and 17 of the Act (53 Pa.C.S. §§ 5722 and 5742); section 5505(d)(17), (23) and (24) of the Parking Authorities Act (act of June 19, 2001 (P. L. 287, No. 22)) (53 Pa.C.S. §§ 5505(d)(17), (23) and (24)); 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 promulgated thereunder at 1 Pa. Code §§ 7.1, 7.2 and 7.5; section 204(b) of the Commonwealth Attorneys Act (71 P. S. § 732.204(b)); section 745.5 of the Regulatory Review Act (71 P. S. § 745.5); and section 612 of The Administrative Code of 1929 (71 P. S. § 232), and the regulations promulgated at 4 Pa. Code §§ 7.231—7.234, the Authority adopts of the final regulations set forth in Annex A;

Therefore,

*It Is Ordered That:*

1. The regulations of the Authority, 52 Pa. Code Chapters 1017 and 1021, are amended by adding § 1017.78 and by amending § 1021.12 to read as set forth in Annex A.

2. The Executive Director shall cause this order and Annex A to be submitted to the Office of Attorney General for approval as to legality.

3. The Executive Director shall cause this order and Annex A to be submitted for review by the designated standing committees of both Houses of the General Assembly, and for formal review by the Independent Regulatory Review Commission.

4. The Executive Director shall cause this order and Annex A to be submitted for review by the Governor's Budget Office for review of fiscal impact.

5. The Executive Director shall cause this order and Annex A to be deposited with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

6. The Executive Director shall serve copies of this order and Annex A upon each of the commentators and take all other actions necessary to successfully complete the promulgation of this regulation.

7. The regulations embodied in Annex A shall become effective upon publication in the *Pennsylvania Bulletin*.

8. The contact person for this rulemaking is Dennis G. Weldon, Jr., General Counsel, (215) 683-9630.

VINCENT J. FENERTY, Jr.,  
Executive Director

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 45 Pa.B. 6023 (October 3, 2015).)*

**Fiscal Note:** Fiscal Note 126-10 remains valid for the final adoption of the subject regulations.

#### Annex A

### TITLE 52. PUBLIC UTILITIES

#### PART II. PHILADELPHIA PARKING AUTHORITY

##### Subpart B. TAXICABS

#### CHAPTER 1017. VEHICLE AND EQUIPMENT REQUIREMENTS

##### Subchapter G. SAFETY CAMERAS

#### § 1017.78. Use of captured images.

(a) *Purpose.* The purpose of a safety camera system is to discourage bad acts in taxicabs in furtherance of protecting the health and safety of taxicab drivers and the public.

(b) *Prohibitions.* Images from a safety cameras system shall be maintained in the strictest of confidentiality and may not be duplicated, released or disclosed except as provided in subsections (e) and (f).

(c) *Local storage device.*

(1) Data storage devices secured in a taxicab as provided in § 1017.74(g) (relating to safety camera requirements) must be configured to overwrite recorded images at intervals not to exceed 60 days. Only the Enforcement Department may access images stored on the data storage devices.

(2) The Authority will access images on the data storage devices secured in a taxicab only in the following circumstances:

(i) Upon direction of a court of law.

(ii) Upon direction of a law enforcement agency.

(iii) In furtherance of an existing administrative investigation when authorized in writing by the manager of enforcement or trial counsel.

(d) *Maintenance of captured images.* Images from a safety camera system in the possession of the Authority will be maintained and secured by the Enforcement Department in password protected files.

(e) *Deletion of captured images.*

(1) The Enforcement Department will delete safety camera system images on the 31st day after receipt, unless one or more of the following applies:

(i) The image contains evidence of criminal activity.

(ii) The image contains evidence related to a regulatory investigation or complaint.

(iii) A law enforcement agency has requested, in writing, that the image be retained.

(2) The Enforcement Department will maintain a log of the images excluded from deletion as provided in paragraph (1), including reference to matters necessitating retention and the date each image is ultimately deleted.

(3) Except as provided in paragraph (4), the images excluded from deletion as provided in paragraph (1) will be deleted within 1 year of the final disposition of the related administrative or criminal proceeding.

(4) Images retained by the Authority for use as evidence in a proceeding that results in a criminal conviction or finding of administrative liability will be deleted within 5 years of the final disposition of the related proceeding. The Enforcement Department may petition a presiding officer in the Adjudication Department for authorization to extend this retention period, for an identified period, upon good cause shown and notice to the person convicted or found liable in an administrative proceeding.

(f) *Release of captured images.* The Authority will release safety camera system images to a law enforcement agency upon written request.

(g) *System testing.* This section may not be interpreted to preclude the recovery and storage of images by the Authority as provided in § 1017.71(b) (relating to taxicab safety cameras).

#### CHAPTER 1021. TAXICAB DRIVERS

#### § 1021.12. Additional requirements.

(a) Each taxicab driver shall know the rights and limitations of any taxicab used to provide taxicab service, including the geographical limitation of partial-rights taxicabs, if applicable.

(b) A taxicab driver may not provide taxicab service beyond the 14th consecutive hour after coming on duty. Time spent on any break from taxicab service does not extend the 14-hour period. A taxicab driver may operate for another 14-hour period only after 8 consecutive hours off duty.

(c) A taxicab driver may not provide taxicab service with an expired taxicab driver's certificate.

(d) A taxicab driver may not provide taxicab service without a valid driver's license.

(e) Whenever a taxicab is occupied by a fare-paying passenger or by members of a party of fare-paying passengers who have engaged the taxicab on an exclusive

basis, the taxicab driver may not permit another person to occupy or ride in the taxicab.

(f) No requirement of this subpart, or any Authority regulation, may be interpreted to disrupt or interfere with interstate commerce exclusively regulated by or preempted by the government of the United States.

(g) A taxicab driver may not activate the distress button required under § 1017.24(d)(8) (relating to meter activation and display) except when the driver is in need of emergency assistance by law enforcement or other emergency responders.

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