

PROPOSED RULEMAKING

LIQUOR CONTROL BOARD

[40 PA. CODE CHS. 9 AND 11]

Distributors Accepting Credit Cards from Licensees

The Liquor Control Board (Board), under the authority of sections 207(i) and 493(2) of the Liquor Code (47 P.S. §§ 2-207(i) and 4-493(2)), proposes to amend § 9.95 (relating to sales) and add § 11.152 (relating to sales by importing distributors and distributors).

Summary

The Board proposes to amend its regulations pertaining to the types of payment importing distributors and distributors are allowed to accept from other Board licensees. Section 493(2) of the Liquor Code prohibits importing distributors and distributors from accepting cash from anyone possessing a license as payment for malt or brewed beverages. Section 493(2) of the Liquor Code further provides that money orders and cashier's checks are permissible in these situations, as well as "any other type of payment authorized by the board. . . ." In exercise of this authority, the Board is proposing to authorize an additional form of payment.

The proposed rulemaking expressly permits importing distributors and distributors to accept credit cards as payment from other licensees of the Board. It will thus allow distributors to use credit cards as payment for malt or brewed beverages when purchasing from importing distributors, as well as allowing importing distributors and distributors to accept credit cards as payment from retail licensees. The credit cards shall be issued by institutions other than licensees to avoid one licensee extending credit to another licensee.

Credit cards are widely used by both businesses and consumers, and importing distributors and distributors are already permitted to accept credit cards as payment from nonlicensee purchasers. By authorizing importing distributors and distributors to accept credit cards from licensees, the Board aims to make transactions between importing distributors and distributors, as well as other licensees, easier and more reliable. Since in credit card transactions the payee instantly receives the funds, while the payor creates a debt obligation to the third-party card issuer, the transaction is instantly complete. This ensures prompt payment and reduces the likelihood of disputes between licensees compared to transactions involving business checks, which can later "bounce" or be denied for processing by the financial institution due to insufficient funds.

Affected Parties

The affected parties include importing distributor and distributor licensees as well as licensees that purchase malt or brewed beverages from importing distributors and distributors.

Paperwork Requirements

This proposed rulemaking will not require additional paperwork to be filed. It will, however, require importing distributors and distributors to maintain as business records all written agreements with credit card issuers.

Fiscal Impact

There is no anticipated fiscal impact of the proposed rulemaking since the acceptance of credit cards as a form of payment is voluntary.

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, Chief Counsel, or Justin Blake, 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 public comments.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on March 8, 2016, 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 in section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b) 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: 54-89. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 40. LIQUOR

PART I. LIQUOR CONTROL BOARD

CHAPTER 9. TRANSPORTATION, IMPORTATION, DISPOSITION AND STORAGE

Subchapter E. IMPORTATION AND DISTRIBUTION OF MALT OR BREWED BEVERAGES

GENERAL PROVISIONS

§ 9.95. Sales.

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(c) Distributors and importing distributors may accept from purchasers debit card payments which provide for instant electronic transfer of funds from payor to payee. Debit card transactions which provide for instant elec-

tronic funds transfer shall be considered a cash equivalent which complies with the Liquor Code.

(d) Distributors and importing distributors may accept credit cards as payment from licensees as set forth in § 11.152 (relating to sales by importing distributors and distributors).

CHAPTER 11. PURCHASES AND SALES

Subchapter G. CREDIT CARDS

(Editor's Note: The following section is new and printed in regular type to enhance readability.)

§ 11.152. Sales by importing distributors and distributors.

Importing distributors and distributors may accept credit cards as payment from other licensees of the Board for any purchases, including malt or brewed beverages. For purposes of this section, the term "credit cards" refers only to credit cards issued by companies other than licensees which guarantee payment of the credit, provided the importing distributor or distributor has entered into a written agreement to honor the credit cards of the particular company and the agreement is retained in the records of the importing distributor or distributor.

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