

RULES AND REGULATIONS

Title 40—LIQUOR

LIQUOR CONTROL BOARD

[40 PA. CODE CH. 7]

Intermunicipal Transfer of Retail Licenses

The Liquor Control Board (Board), under the authority of section 207(i) of the Liquor Code (47 P.S. § 2-207(i)), amends § 7.61 (relating to criteria for intermunicipal transfer of retail licenses) and rescinds § 7.62 to read as set forth in Annex A.

Summary

This final-omitted rulemaking makes certain changes to the Board's regulations concerning intermunicipal transfers of retail liquor and eating place retail dispenser licenses to be consistent with statutory amendments made by the act of November 29, 2006 (P.L. 1421, No. 155). Specifically, former § 7.61(b)(4) is deleted, § 7.62 is rescinded and § 7.61(a) and (b) is amended to coincide with section 461(b.3) of the Liquor Code (47 P.S. § 4-461(b.3)). A minor change is also being made to § 7.61(a)(2) to account for the fact that the Board no longer uses paper application forms.

Affected Parties

The affected parties include future applicants for intermunicipal transfers of retail liquor and eating place retail dispenser licenses, as well as the receiving municipalities.

Paperwork Requirements

The Board does not anticipate that this final-omitted rulemaking will affect the amount of paperwork or administrative costs of the regulated community.

Fiscal Impact

This final-omitted rulemaking is not expected to have fiscal impact, since it is intended to simply make the Board's regulations consistent with section 461(b.3) of the Liquor Code.

Effective Date

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

Public Comments

There is not a formal opportunity for public comments regarding this final-omitted rulemaking. However, public comments on this final-omitted rulemaking may be directed to Rodrigo Diaz, Chief Counsel, Jason M. Worley, Deputy Chief Counsel, or Meredith Millard, Assistant Counsel, Office of Chief Counsel, Liquor Control Board, Room 401, Northwest Office Building, Harrisburg, PA 17124-0001.

Regulatory Review

Under section 5.1(c) of the Regulatory Review Act (71 P.S. § 745.5a(c)), on June 29, 2017, the Board submitted a copy of the final-omitted rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Liquor Control Committee and Senate Committee on Law and Justice. On the same date, the regulations were submitted to the Office of Attorney General for review and approval under the Commonwealth Attorneys Act (71 P.S. §§ 732-101—732-506).

Under section 5.1(j.2) of the Regulatory Review Act, on August 23, 2017, the final-omitted rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on August 24, 2017, and approved the final-omitted 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 rescinding § 7.62 and amending § 7.61 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*.

TIM HOLDEN,
Chairperson

(Editor's Note: See 47 Pa.B. 5761 (September 9, 2017) for IRRC's approval order.)

Fiscal Note: 54-97. 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 F. INTERMUNICIPAL TRANSFER OF RETAIL LICENSES

§ 7.61. Criteria for intermunicipal transfer of retail licenses.

(a) Restaurant, eating place retail dispenser and club licenses may be transferred from one municipality to another municipality within the same county, without approval from the receiving municipality, if both of the following apply:

(1) The number of existing licenses in the receiving municipality does not equal or exceed 1 license per 3,000 inhabitants as determined at the date of filing of the application.

(2) The applicant submits the appropriate license application and associated fees to the Bureau of Licensing.

(b) If the number of existing licenses in the receiving municipality equals or exceeds 1 license per 3,000 inhab-

itants or if the population of the receiving municipality is less than 3,000 inhabitants and the receiving municipality has an existing license:

(1) The applicant shall request approval from the receiving municipality for the intermunicipal transfer of the license.

(2) Upon request for approval of an intermunicipal transfer of a license by the applicant, at least one public hearing shall be held by the receiving municipality for the purpose of receiving comments and recommendations of interested individuals residing within the municipality concerning the applicant's intent to transfer the license into the municipality.

(3) The receiving municipality shall, within 45 days of a request for approval, render a decision by ordinance or resolution to approve or disapprove the applicant's request for an intermunicipal transfer.

(4) The applicant shall submit to the Board, along with its application for transfer, a copy of the receiving municipality's approval of the intermunicipal transfer of the license in the form of an ordinance or resolution which includes the applicant's name and exact address.

§ 7.62. (Reserved).

[Pa.B. Doc. No. 17-1474. Filed for public inspection September 8, 2017, 9:00 a.m.]
