

# PROPOSED RULEMAKING

## LIQUOR CONTROL BOARD

[ 40 PA. CODE CHS. 3, 5, 9 AND 11 ]

### Distilleries

The Liquor Control Board (board), under the authority of sections 207(i) and 505.4 of the Liquor Code (47 P.S. §§ 2-207(i) and 5-505.4), proposes to add §§ 5.501—5.509, to amend §§ 9.12, 9.33 and 11.34, and to reserve §§ 3.72, 3.73, 5.104, 11.211, 11.212, 11.221 and 11.222, to read as set forth in Annex A.

#### Summary

This proposed rulemaking gathers regulations pertaining to distilleries, limited distilleries and distilleries of historical significance (DHS) from Chapters 3, 5, 9 and 11, and places them in a new subchapter in Chapter 5. It will be more convenient for the regulated community to have their industry-specific regulations in one location. This proposed rulemaking amends the regulations to be consistent with the Liquor Code, which has been amended several times since 2011. The proposed changes are intended to provide clarity to the regulated community and allow for easier navigation of the applicable regulations.

This proposed rulemaking is modeled after the board's regulations for limited wineries. See 52 Pa.B. 4090 (July 23, 2022). However, that regulation focused only on limited wineries and did not include winery licensees, and this proposed rulemaking is applicable to not only limited distilleries but also distilleries and DHS.

When a draft version of this proposed rulemaking was shared with industry members, the board was asked why this proposed rulemaking applies to all three types of distillery licensees, since the board's regulations for limited wineries are not applicable to wineries. Industry members suggested that this proposed rulemaking should likewise be restricted to only limited distilleries, but the board respectfully declines to adopt this suggestion as explained herein.

Wineries were not included in the limited winery regulations because wineries cannot sell directly to the public. Sections 102 and 501 of the Liquor Code (47 P.S. §§ 1-102 and 5-501) provide that wineries may only sell to other board-licensed wineries. There was no reason to include wineries in the board's limited winery regulations because the regulations address activities that wineries cannot engage in.

However, all three types of distilleries—limited distilleries, distilleries and DHS—are statutorily authorized under section 505.4 of the Liquor Code (47 P.S. § 5-505.4) to sell product to the board, to the board's licensees and to the public.

Therefore, it is appropriate to regulate them collectively, with exceptions where necessary because of distinctions made in the Liquor Code.

Industry members also questioned the inclusion of DHS licensees. The Liquor Code describes DHS as follows:

The board may issue a distillery of historical significance license to any distillery which was established prior to January 1, 1875. The holder of the license may manufacture and sell liquor produced on the licensed premises to the board, to entities licensed by the board and to the public under such conditions

and regulations as the board may enforce. Production at the distillery of historical significance shall be limited to an amount not to exceed twenty thousand (20,000) gallons per year. The distillery does not need to establish continuous operation since January 1, 1875, in order to qualify for a license under this section.

47 P.S. § 5-505.4(a). Currently there are no DHS licensees, which is why industry members questioned the inclusion of the DHS in this proposed rulemaking.

The board believes it is appropriate to include the DHS license because the board cannot state with absolute certainty that there won't be a DHS license holder in the future. Moreover, the General Assembly may amend the definition of a DHS in a manner that generates more DHS licensees—for example, change the date of establishment from January 1, 1875, to January 1, 1955.

Of the ten existing regulations addressed in this proposed rulemaking, half are dedicated exclusively to DHS licenses (§§ 3.72, 3.73, 5.104, 11.211 and 11.212). Rather than ignore the DHS regulations and add regulations exclusively for distilleries and limited distilleries, the board proposes to delete DHS regulations and incorporate the topics addressed by those regulations into a new subchapter.

It is cumbersome to continually reiterate each type of distillery license, particularly given that this proposed rulemaking aims to regulate these licensees as a group to the greatest extent possible. To improve readability, the capitalized "Distilleries" will be used to refer collectively to distillery, limited distillery and DHS licensees.

As explained in the following chart, the regulatory text in each of the following sections is proposed to be deleted and those sections are reserved as noted while the subject matter is proposed to be relocated as follows:

<i>Existing section:</i>	<i>Subject matter relocated to:</i>
3.72	5.503
3.73	5.505
5.104	5.509
11.211	5.503, 5.505, 5.509
11.212	5.503, 5.505, 5.507
11.221	5.506
11.222	5.503, 5.505, 5.507

This proposed rulemaking creates Subchapter L (relating to distilleries of historical significance, limited distilleries and distilleries), which applies to all Distilleries licensed under section 505.4 of the Liquor Code. This proposed rulemaking proposes to create § 5.501 (relating to definitions), defining terms particular to this subchapter that are not already defined by the Liquor Code.

This proposed rulemaking also proposes to create § 5.502 (relating to tasting samples) based on the privileges available to distilleries and limited distilleries found in section 505.4 of the Liquor Code. The purpose of proposed § 5.502 in this proposed rulemaking is to extend to DHS licensees the ability to offer samples. Section 505.4(a) of the Liquor Code, which establishes the board's authority to issue a DHS license, provides that "The holder of the license may manufacture and sell liquor produced on the licensed premises to the board, to entities licensed by the board and to the public *under*

such conditions and regulations as the board may enforce.” (emphasis added). This proposed rulemaking clarifies that only limited distilleries may offer samples at additional board-approved locations, liquor and food expositions, and farmers markets. The Liquor Code does not extend these privileges to distilleries and therefore the board does not believe it is appropriate to extend these privileges to DHS licensees.

This proposed rulemaking proposes to create § 5.503 (relating to sales generally). This section clarifies the days and hours that a Distillery may sell its product, and what types of payment the Distillery may accept from licensees or unlicensed individuals.

This proposed rulemaking includes § 5.504 (relating to sales for on-premises consumption), which updates the types of liquor or malt or brewed beverages a limited distillery or distillery may sell for consumption on the premises. The act of June 8, 2016 (P.L. 273, No. 39) amended section 505.4(b)(1) of the Liquor Code to allow limited distilleries and distillery licensees to sell alcoholic ciders, fermented fruit beverages, mead, wines and wine coolers, produced by a licensed limited winery, liquor produced by a licensed distillery or limited distillery and malt or brewed beverages produced by a licensed brewery. This proposed rulemaking does not extend these privileges to DHS licensees, as the board believes these privileges are more appropriately given through legislation.

In addition, this proposed rulemaking clarifies that any limited distillery or distillery selling malt or brewed beverages through a malt or brewed beverage dispensing system will be required to comply with §§ 5.51–5.54 of the board’s regulations. Limited distilleries or distilleries will be held to the same standard of beer line cleaning as other retail dispensers who sell beer by draft. Similarly, a limited distillery or distillery that chooses to sell wine or wine coolers through a wine dispensing system must comply with § 11.103 (relating to dispensing system sanitation) of the board’s regulations.

Proposed § 5.505 (relating to sales for off-premises consumption) pertains to sales for off-premises consumption. This section also proposes to incorporate the regulatory language regarding agents, which is currently located in § 3.73 (relating to agents). These provisions are consistent with the Liquor Code and are included in the regulations to provide DHS licensees with the same privileges as limited distilleries and distilleries. The General Assembly has extended additional privileges to limited distilleries, such as being permitted to sell at additional board-approved locations, at a liquor and food exposition, and at farmers markets. This proposed rulemaking does not extend these privileges to DHS licensees, as the board believes these privileges are more appropriately given through legislation.

Proposed § 5.506 (relating to sales of other items) is substantially similar to existing regulation § 11.221 (relating to sale by licensed limited distilleries and distilleries). Proposed § 5.506 clarifies what sales of other items are permitted and extends that privilege to DHS licensees.

Proposed § 5.507 (relating to delivery of products) includes information contained in existing regulation 11.222 (relating to additional conditions) but has been expanded to include responsibilities pertaining to delivery. The Distillery is required to retain a signed copy of the sales receipt. The copy shall be signed by the recipient who must be 21 years of age or older.

Proposed § 5.508 (relating to licensed premises and additional board-approved locations) provides a signpost to other regulations that pertain to licensed locations that Distilleries might not otherwise be aware of. Subsection (b) provides guidance to limited distilleries with regard to additional board-approved locations.

Proposed § 5.509 (relating to records and receipts) is an expansion of § 5.104 (relating to licensed distilleries of historical significance), which is proposed to be deleted. The term “invoices” is proposed to be replaced with “receipts” because it is a more accurate term to describe the paperwork that accompanies a purchase of a product. Invoices are commonly understood to be issued prior to payment; receipts are issued after payment. A Distillery cannot sell products prior to receiving payment; therefore, there should never be a situation where a product is shipped with an invoice for the recipient to pay after the product is received. A Distillery can only ship products for which payment has already been received. That being the case, the proper terminology for the document that accompanies the product is “receipt,” not “invoice.”

In addition to the newly proposed sections in Chapter 5, Subchapter L, three regulations have been amended to make the board’s regulations consistent with the provisions of the Liquor Code:

- Section 9.12(c) (relating to applications for transporter-for-hire licenses) is proposed to be amended. This proposed amendment allows Transporter-For-Hire Licensees, Class C, to transport liquor from all Distilleries, not just DHS licensees, to all Distillery customers. This proposed amendment is appropriate since all Distilleries are authorized to sell to the board, licensees of the board and the public.

- Section 9.33 (relating to importation by distilleries) is proposed to be updated in multiple subsections to bring the entire section into conformity with the Liquor Code. The proposed amendments remove the requirement that a Distillery may not purchase liquor from another Commonwealth manufacturer unless the purchasing Distillery holds an importer license; this is no longer required by the Liquor Code. This section was further updated with regard to bulk sales, vendor permits and paperwork requirements.

- Section 11.34 (relating to prohibited purchases and sales). The proposed amendment deletes subsection (c), which provides: “Distillers may not sell alcohol to anyone in this Commonwealth, except to alcohol permittees in accordance with this subchapter, or to the Board.” With the passage of the act of December 22, 2011 (P.L. 530, No. 113), which created limited distilleries and distilleries, this language is no longer consistent with the Liquor Code.

#### *Affected Parties*

The affected parties include all present and future holders of a limited distillery license, a distillery license or a DHS license. As of November 29, 2023, there are 8 active distillery licensees, 215 active limited distillery licensees and 0 active DHS licensees that could be affected by this proposed rulemaking.

#### *Paperwork Requirements*

This proposed rulemaking would require minimal paperwork to be kept.

#### *Fiscal Impact*

The proposed regulatory changes are intended to make the board’s regulations consistent with the Liquor Code. It is anticipated that there will be minimal fiscal impact.

*Effective Date*

This proposed rulemaking will become effective 6 months after publication of the final-form rulemaking in the *Pennsylvania Bulletin*.

*Public Comments*

Interested persons are invited to submit written comments about this proposed rulemaking to Jason M. Worley, Acting Chief Counsel, or Norina Foster, 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*. When commenting, individuals should indicate if they wish to be apprised of future developments regarding this proposed rulemaking, and include a name, address and e-mail address. 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 January 23, 2024, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to IRRC and to the chairperson of the Law and Justice Committee of the Senate and the chairperson of the Liquor Control Committee of the House of Representatives. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey 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.

TIM HOLDEN,  
*Chairperson*

**Fiscal Note:** 54-92. No fiscal impact; recommends adoption.

**Annex A****TITLE 40. LIQUOR****PART I. LIQUOR CONTROL BOARD****CHAPTER 3. LICENSE APPLICATIONS****Subchapter H. [ LICENSED DISTILLERIES OF HISTORICAL SIGNIFICANCE ] [Reserved]****§ 3.72. [ Creation ] [Reserved].**

[ Under section 505.3 of the Liquor Code (47 P.S. § 5-505.3), distilleries of historical significance established more than 100 years prior to January 1, 1975, which hold a license under section 505 of the Liquor Code (47 P.S. § 5-505) may sell liquor produced on the licensed premises subject to §§ 3.73, 5.104, 11.211 and 11.212 (relating to agents; licensed distilleries of historical significance; sale by licensed distilleries of historical significance; and additional conditions). ]

**§ 3.73. [ Agents ] [Reserved].**

[ Agents may advertise and promote the sale of merchandise of brands sold by the licensed distillery of historical significance by whom the agents are employed. ]

**CHAPTER 5. DUTIES AND RIGHTS OF LICENSEES****Subchapter H. RECORDS AND REPORTS—BREWERIES AND BONDED WAREHOUSES[ , AND LICENSED DISTILLERIES OF HISTORICAL SIGNIFICANCE ]****§ 5.104. [ Licensed distilleries of historical significance ] [Reserved].**

[ (a) *Records.* A distillery of historical significance which holds a license obtained under section 505 of the Liquor Code (47 P.S. § 5-505) shall maintain and keep on the licensed premises daily permanent records which shall conform to the requirements of section 512 of the Liquor Code (47 P.S. § 5-512).

(b) *Sales invoice.* In addition to the records prescribed in subsection (a), except as otherwise provided in this part, a sales invoice shall be prepared at the licensed premises for each sale. The sales invoices shall be prepared in accordance with the following:

(1) The sales invoice shall be imprinted or affixed with the name and address of the distillery of historical significance.

(2) The sales invoice shall show the name and address of the recipient of the merchandise, date of sale, number of units, size and type of package, brand name, selling price of the liquor and the net cost to the customer. The name and address of private individuals will not be required on sales invoices covering quantities of 4 wine gallons or less; in lieu of preparing sales invoices for the sales, the transactions may be entered individually on a counter sheet maintained in columnar form showing the information required on sales invoices, other than name and address of the purchaser. The counter sheet shall be totaled daily and the totals entered into the sales register noted in section 512 of the Liquor Code (47 P.S. § 5-512).

(3) The sales invoice shall show the Commonwealth sales tax, where applicable, as a separate entry.

(4) The sales invoice shall indicate liquor transported via transporter-for-hire, Class C carriers. The distillery shall request the signature of a recipient, 21 years of age or older, from the transporter making the deliveries and a return acknowledgement of delivery to the recipient. Copies of acknowledgements of delivery shall be maintained on the licensed premises for a period of 2 years.

(5) The sales invoice covering the sale of liquor may not include the sale of other commodities.

(6) When a sale requires the preparation of an invoice, one copy shall be given to the recipient of the merchandise and a copy retained on the licensed premises for a period of 2 years.

(c) *Monthly reports.* A licensed distillery of historical significance shall file monthly reports on forms provided by the Board covering all opera-

tions of their licensed business during the preceding month. The reports shall be signed and sworn to by the licensee or his authorized agent and shall be filed with the Board on or before the 15th day of the month immediately succeeding the month for which the reports are prepared. A copy of each report shall be retained on the licensed premises for a period of at least 2 years from the date of filing. ]

(Editor's Note: Subchapter L containing §§ 5.501—5.509 is proposed to be added and is printed in regular type to enhance readability.)

Subchapter L. DISTILLERIES OF HISTORICAL SIGNIFICANCE, LIMITED DISTILLERIES AND DISTILLERIES

Sec.	
5.501.	Definitions.
5.502.	Tasting samples.
5.503.	Sales generally.
5.504.	Sales for on-premises consumption.
5.505.	Sales for off-premises consumption.
5.506.	Sales of other items.
5.507.	Delivery of products.
5.508.	Licensed premises and additional board-approved locations.
5.509.	Records and receipts.

§ 5.501. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

*Distilled liquor*—A potable distillate from grains, wine, fruits, vegetables or molasses.

*Distillery*—When capitalized, means all manufacturers licensed under section 5-505.4 of the Liquor Code (47 P.S. § 5-505.4), including distilleries of historical significance, limited distilleries and distilleries. Distilleries shall manufacture a minimum of 100 gallons of distilled liquor or distillery products per calendar year.

*Distillery products*—Potable alcoholic products containing distilled liquor that have been produced by a Distillery.

*Original container*—Bottles, barrels or casks, or other suitable containers that have been securely capped or sealed by the Distillery at the place of manufacture, with the name and address of the Distillery affixed to the bottle, barrel or cask, or other container.

*Produce*—To distill, blend, rectify, redistill or reduce the proof of distilled liquor.

*Tasting sample*—An individual portion of a distillery product, in an open container, offered to allow a consumer to sample the flavor of the distillery product.

§ 5.502. Tasting samples.

(a) A Distillery may provide tasting samples of distillery products it has produced in accordance with section 505.4 of the Liquor Code (47 P.S. § 5-505.4) and § 13.211 (relating to tasting events). To the extent possible, section 505.4 of the Liquor Code and § 13.211 shall be construed together. When there is a conflict between the two sections, including with regard to locations where tasting samples may be provided, the volume of each tasting sample that may be provided and whether a fee may be charged for a tasting sample, the provisions of section 505.4 of the Liquor Code shall prevail.

(b) Only limited distilleries may offer tasting samples at additional board-approved locations, liquor and food expositions, and farmers markets.

§ 5.503. Sales generally.

(a) A Distillery may sell distillery products between the hours of 9 a.m. and 12 a.m., Monday—Saturday and Sunday between the hours of 9 a.m. and 11 p.m.

(b) A Distillery may accept any of the following methods of payment from licensees and unlicensed individuals:

- (1) Checks drawn on their account.
- (2) Cash.
- (3) Money orders.
- (4) Cashier checks.
- (5) Debit cards.
- (6) Electronic funds transfers.

(7) Credit cards issued by banking or financial institutions subject to Federal or State regulations.

§ 5.504. Sales for on-premises consumption.

(a) A Distillery may sell for consumption on the licensed premises distillery products it has produced in accordance with the Liquor Code and this part. Sales of distillery products for on-premises consumption may be made by the glass, bottle or any other open or closed container. A limited distillery may also sell, for on-premises consumption at its additional board-approved locations, distillery products it has produced.

(b) A limited distillery or distillery may sell, for on-premises consumption, alcoholic ciders, fermented fruit beverages, mead, wines and wine coolers, produced by a licensed limited winery, distilled liquor produced by a licensed distillery or limited distillery and malt or brewed beverages produced by a licensed brewery, in accordance with section 505.4(b)(1) and (c)(1) of the Liquor Code (47 P.S. § 5-505.4(b)(1) and (c)(1)).

(c) A limited distillery or distillery that chooses to sell malt or brewed beverages through a malt or brewed beverage dispensing system, as defined in § 5.50 (relating to definitions), must comply with §§ 5.51—5.54 (relating to cleaning of malt or brewed beverage systems).

(d) A limited distillery or distillery that chooses to sell wine or wine coolers through a wine dispensing system must comply with § 11.103 (relating to dispensing system sanitation).

§ 5.505. Sales for off-premises consumption.

(a) *Products*. A Distillery may sell for consumption off the licensed premises only distillery products it has produced in accordance with the Liquor Code and this part.

(b) *Orders*. A Distillery may accept orders for the purchase of its distillery products in person or by mail, telephone or the Internet. A Distillery shall make deliveries of its distillery products in accordance with § 5.507 (relating to delivery of products).

(c) *Agents*. A Distillery may employ individuals, known as agents, to solicit orders for its distillery products or promote the sale of its distillery products. The following apply:

(1) An agent may only advertise and promote the sale of distillery products produced by the Distillery that has employed the agent. The agent may solicit orders and make deliveries on behalf of the Distillery in accordance with § 5.507.

(2) An agent may sell, as that word is defined by section 102 of the Liquor Code (47 P.S. § 1-102), distillery

products only at locations where the Liquor Code authorizes the Distillery to sell distillery products.

(d) *Liquor and food exposition.* Under section 505.4(b)(8) of the Liquor Code (47 P.S. § 5-505.4(b)(8)), a limited distillery may obtain a permit to participate in liquor and food expositions off the licensed premises. The following apply:

(1) Only the limited distillery, including its agents, may sell its distillery products at a liquor and food exposition.

(2) Sales of the limited distillery's distillery products must occur on a location within the exposition that is covered by the limited distillery's liquor and food exposition permit.

(e) *Farmers markets.* Under section 505.4(b)(9) of the Liquor Code (47 P.S. § 5-505.4(b)(9)), a limited distillery may obtain a permit to participate in more than one farmers market at any given time and an unlimited number throughout the year. The following apply:

(1) Only the limited distillery, including its agents, may sell its distillery products at a farmers market.

(2) Sales of the limited distillery's distillery products must occur on a location within the farmers market that is covered by the limited distillery's farmers market permit.

#### § 5.506. Sales of other items.

(a) In addition to the sale of food, a Distillery is permitted to offer for sale on the licensed premises any of the following items:

- (1) Liquor accessories as follows:
  - (i) Cork removers and other bottle openers.
  - (ii) Glasses, shot glasses, decanters and flasks.
  - (iii) Pourers and bottle stoppers.
  - (iv) Cocktail mixers, shakers and other cocktail preparation accessories.
  - (v) Cocktail forks, toothpicks, stirrers, napkins and gift bags.
- (2) Publications dealing with liquor.
- (3) Promotional items advertising the Distillery, such as tee shirts, glassware, caps, and the like.

(b) A limited distillery is also permitted to offer the items listed in subsection (a) for sale at additional board-approved locations, at a liquor and food exposition where the limited distillery has a permit or at a farmers market where the limited distillery has a permit.

(c) If a Distillery wants to sell an item that is not listed in subsection (a), the Distillery shall request, in writing, board approval to sell that item. The board will advise the Distillery, in writing, whether approval to sell the item is granted, with or without conditions, or denied.

#### § 5.507. Delivery of products.

(a) The only distillery products a Distillery is authorized to deliver are those it has produced. A Distillery may not deliver any liquor or malt or brewed beverages, as those terms are defined in section 102 of the Liquor Code (47 P.S. § 1-102), that were manufactured by another entity. The following apply:

(1) A Distillery shall ensure that distillery products sold and delivered to points within this Commonwealth are sealed in original containers and labeled as required by applicable law.

(2) A Distillery may deliver food or other non-alcoholic items that have already been purchased by the customer. A Distillery may not offer distillery products for sale from the delivery vehicle.

(3) A Distillery shall include, with the delivery of any distillery products, a sales receipt in accordance with § 5.509(b) (relating to records and receipts).

(b) A Distillery may utilize its own vehicles to deliver its distillery products. A Distillery's vehicles must be identified in accordance with § 9.22 (relating to identification of vehicles).

(c) A Distillery may utilize a transporter-for-hire license to deliver its distillery products. Distillery products must be delivered by a Transporter-for-Hire Class A or Class C, but not Class B, in accordance with §§ 9.1 and 9.11 (relating to definitions; and transportation for hire).

(d) A Distillery shall ensure that its distillery products are not delivered to minors or visibly intoxicated persons and that proper records and receipts are provided under § 5.509.

#### § 5.508. Licensed premises and additional board-approved locations.

(a) A Distillery's licensed premises and any additional board-approved locations of a limited distillery are subject to all of the following regulations:

- (1) Section 3.51 (relating to connection with residence).
- (2) Section 3.52 (relating to connection with other business).
- (3) Section 3.53 (relating to restriction on storage and sales where board has approved connection with other business).
- (4) Section 3.54 (relating to separation between licensed premises and other business).

(b) A limited distillery may not use additional board-approved locations, as authorized under section 505.4(b)(2) of the Liquor Code (47 P.S. § 5-505.4(b)(2)), in the operation of a licensed business unless the additional location is approved by the board.

(c) The following applications and fees apply to limited distilleries:

(1) A limited distillery seeking board approval of an additional location shall submit an application to the board, accompanied by payment of a \$220 fee. Board approval is valid for that calendar year.

(2) If a limited distillery wants to continue use of the additional board-approved location, it shall submit a renewal application on an annual basis, accompanied by payment of a \$75 fee.

(d) If an additional location requires physical alterations or new construction, the board may grant prior approval for the additional location, as similarly provided in section 403(a) of the Liquor Code (47 P.S. § 4-403(a)). Until the additional location has been re-inspected and the board has approved the completed alterations or construction and issued the limited distillery a license for the additional location, the limited distillery may not produce or sell at the location its distillery products or any alcoholic ciders, fermented fruit beverages, mead, wines and wine coolers, produced by a licensed limited winery, distilled liquor produced by a licensed distillery or limited distillery or malt or brewed beverages produced by a licensed brewery.

(e) Portions of an additional board-approved location must be contiguous.

(f) A limited distillery shall appoint a manager for each additional board-approved location in accordance with § 5.23 (relating to appointment of managers).

(g) Additional board-approved locations of a limited distillery license shall be enclosed by soundly constructed walls, with controlled points of access and egress directly accessible to the general public. The application shall be subject to the provisions of section 468(e)(2) of the Liquor Code (47 P.S. § 4-468(e)(2)).

(h) A limited distillery shall provide board officers who are conducting licensing investigations of additional locations with all of the following:

(1) Leases or other evidence of the right to occupy the premises.

(2) Management agreements.

(3) Employee agreements.

(4) Commission agreements.

(5) Any other agreement the board may deem necessary.

(i) The board may grant permission for two or more limited distilleries to share a single, additional board-approved location, in accordance with section 505.4(b)(2)(ii) of the Liquor Code. The board shall not grant permission for a limited distillery to share a single, additional board-approved location with a brewery, limited winery, distillery or distillery of historical significance.

(j) If a limited distillery discontinues use of an additional board-approved location, it shall notify the board within 15 days of this discontinuance.

#### § 5.509. Records and receipts.

(a) *Records.* A Distillery shall maintain and keep on the licensed premises in hard copy or electronic media consistent with generally accepted accounting procedures, for a period of at least 2 years, complete and accurate daily records that shall conform to the requirements of section 512 of the Liquor Code (47 P.S. § 5-512). The recordkeeping system utilized by a Distillery shall have the capability to provide for the reconciling of required data. Entries shall be verifiable by supporting original documents.

(b) *Receipts.* In addition to the records prescribed in subsection (a), a Distillery shall prepare a sales receipt at the licensed premises for each sale. The sales receipt shall include all of the following:

(1) The name and address of the Distillery.

(2) The name and address of the recipient of the distillery product if the distillery product is being delivered off the licensed premises to the recipient.

(3) The distillery product name, the date of sale, the size of the packages in milliliters, number of units sold, the price per unit of the distillery product, the Commonwealth sales tax and any other applicable taxes, and the total amount paid by the customer.

(4) Any items other than the distillery product that are sold by the Distillery shall be listed on the receipt separately from the products.

(c) *Delivery.* A distillery product that is delivered shall be accompanied by two copies of a sales receipt that includes the information identified in subsection (b)(1)—(4). The Distillery shall require the person who is deliver-

ing the distillery product to obtain the signature of the recipient, 21 years of age or older, on one copy of the sales receipt. The following apply:

(1) The person delivering the distillery product shall give an unsigned copy of the sales receipt to the recipient of the distillery product and shall give the signed copy of the sales receipt to the Distillery to be retained on the Distillery's licensed premises for 2 years.

(2) Delivery shall be accomplished in accordance with § 5.507 (relating to delivery of products).

### CHAPTER 9. TRANSPORTATION, IMPORTATION, DISPOSITION AND STORAGE

#### Subchapter A. TRANSPORTATION OF LIQUOR, MALT OR BREWED BEVERAGES, OR ALCOHOL VEHICLES

##### § 9.12. Applications for [ **Transporter-for-Hire Licenses** ] **transporter-for-hire licenses.**

(a) *Transporter-for-Hire License, Class A.* An application for a Transporter-for-Hire License, Class A, shall be filed [ **on forms furnished by** ] **with** the [ **Board** ] **board** and shall be accompanied by application and license fees in accordance with section 614-A of The Administrative Code of 1929 (71 P.S. § 240.14A). The license will be issued for the calendar year and the license fee will be prorated quarterly, in accordance with section 508 of the Liquor Code (47 P.S. § 5-508).

(b) *Transporter-for-Hire License, Class B.* An application for a Transporter-for-Hire License, Class B, shall be accompanied by application and license fees in accordance with section 614-A of The Administrative Code of 1929. The licenses will be issued for the calendar year.

(c) *Transporter-for-Hire License, Class C.* An application for Transporter-for-Hire License, Class C, shall be accompanied by application and license fees in accordance with section 614-A of The Administrative Code of 1929. The license will be issued for the calendar year. To secure this license, the applicant shall demonstrate that he maintains a fleet of vehicles primarily engaged in general parcel consignment, servicing all points within this Commonwealth and shall demonstrate that he can transport liquor from points in this Commonwealth to [ **Board** ] **board** facilities, from Pennsylvania licensed [ **limited winery locations to limited winery customers and from distilleries of historical significance to distillery** ] **manufacturers to their** customers.

#### Subchapter B. IMPORTATION OF LIQUOR

##### § 9.33. Importation by distilleries.

(a) A distillery holding a Manufacturer License may not import liquor from outside this Commonwealth [ **nor purchase liquor from a resident manufacturer** ] unless the distiller also holds an Importer License. When both licenses are held, liquor may be imported [ **or purchased from a Commonwealth manufacturer** ], in bulk, to be used in the manufacture, rectification, blending and reduction in proof for straight bottling. Liquors which have been rebottled, as well as rectified and manufactured products, may be sold to the [ **Board** ] **board**, exported to other states, or sold to [ **the holder of an Importer License** ] **the public, other manufacturing licensees and retail licensees** within this Commonwealth. The importation [ **or purchase of liquor** ] shall be for the sole use and benefit of the holder of the

Manufacturer License, and the liquor so imported [ or purchased ] may not be resold in its original state.

(b) [ **Commonwealth manufacturers holding Importer Licenses may purchase liquor in bulk from other manufacturers in this Commonwealth in accordance with the procedure in subsection (c) [Reserved].** ]

(c) Bulk sales will be permitted only in quantities of 50 gallons or more for each sale. Manufacturers desiring to purchase liquor in bulk shall place their orders with the Purchasing Division of the [ Board ] **board**. An order shall include **all of** the following:

(1) The name and address of the [ **manufacturer purchaser** ].

(2) The name and address of the person or firm to which the order is directed.

(3) A description of the liquor desired.

(4) The manner in which the liquor is to be packed, including the size and number of containers.

(5) The manner in which the liquor is to be shipped, including the name of the carrier[ **. If the carrier is a trucking company, it ], which** shall hold a valid transporter-for-hire license issued by the [ Board ] **board**.

(d) Every order shall be accompanied by a remittance in the amount of \$5.

(e) Upon approval by the [ Board ] **board** of an order from a manufacturer, the order will be forwarded to the person or firm to which directed and the vendor will be notified to make shipment to the [ Board ] **board** at the destination given in the order. The [ Board ] **board** will also furnish the purchaser with a notice of release [ **in duplicate, both copies of** ] which shall be signed by the purchaser and surrendered to the carrier upon delivery of the liquor. The carrier shall then sign the original in the space provided [ **and forward it to the Board, retaining the other copy** ] **and retain it** for his file.

(f) The [ Board ] **board** will not be liable to a vendor for the purchase price of liquor purchased in bulk or for transportation charges or claims, in connection therewith.

## CHAPTER 11. PURCHASES, SALES AND RETURNS

### Subchapter A. GENERAL PROVISIONS

#### RIGHTS AND DUTIES OF PERMITTEES

##### § 11.34. Prohibited purchases and sales.

(a) A permittee or other person may not purchase alcohol for repackaging or resale in its original state, except as provided in subsection (b).

(b) The prohibition does not apply to sales or transfers of alcohol between affiliates or subsidiaries holding Manufacturer Licenses and alcohol permits as required in this subchapter where the alcohol is used by the licensees solely for the blending and rectification of liquor.

(c) [ **Distillers may not sell alcohol to anyone in this Commonwealth, except to alcohol permittees in accordance with this subchapter, or to the Board** ] [ **Reserved** ].

### Subchapter M. [ LICENSED DISTILLERIES OF HISTORICAL SIGNIFICANCE ] [RESERVED]

##### § 11.211. [ Sale by licensed distilleries of historical significance ] [Reserved].

[ (a) A licensed distillery of historical significance may sell on the licensed premises liquor produced on the premises in accordance with the Liquor Code and this title.

(b) The employment of agents by licensed distilleries of historical significance is governed by § 3.73 (relating to agents).

(c) Records, sales, invoices and reports shall be kept, as prescribed in § 5.104 (relating to licensed distilleries of historical significance). ]

##### § 11.212. [ Additional conditions ] [Reserved].

[ In addition to the requirements set forth in § 11.211 (relating to sale by licensed distilleries of historical significance), the sale of liquor shall conform to all of the following:

(1) Liquor produced by a licensed distillery of historical significance may be shipped by common carrier or transporter-for-hire, as provided in Chapter 9 Subchapter A (relating to transportation of liquor, malt or brewed beverages or alcohol).

(2) There shall be no sales for consumption of liquor on the licensed premises.

(3) Liquor sold shall be in sealed containers of not less than 6 ounces nor more than 1 gallon.

(4) A licensed distillery of historical significance may accept checks drawn by the purchaser on his account, and from retail customers, credit cards issued by banking or financial institutions, subject to State or Federal regulations.

(5) Sales may be made only between the hours of 9 a.m. and 9 p.m. Monday to Saturday inclusive and 10 a.m. to 6 p.m. on Sunday.

(6) Mail or telephone orders may be accepted. Delivery of products shall be accomplished through the use of vehicles properly registered by the distillery of historical significance or through properly licensed transporters. It shall be the responsibility of the distillery licensee to insure that liquor is not delivered to minors and that proper invoices are maintained in accordance with § 5.104 (relating to licensed distilleries of historical significance). ]

### Subchapter N. [ LICENSED LIMITED DISTILLERIES AND DISTILLERIES ] [RESERVED]

##### § 11.221. [ Sale by licensed limited distilleries and distilleries ] [Reserved].

[ (a) A licensed limited distillery or distillery may sell on the licensed premises liquor produced on the premises in accordance with the Liquor Code and this title.

(b) In addition to the sale of liquor, the following items are permitted to be offered for sale on the licensed premises:

(1) Liquor accessories as follows:

(i) Cork removers and other bottle openers.

(ii) Glasses, shot glasses, decanters and flasks.

- (iii) Pourers and bottle stoppers.
  - (iv) Cocktail mixers, shakers and other cocktail preparation accessories.
  - (v) Cocktail forks, toothpicks, stirrers, napkins and gift bags.
- (2) Publications dealing with liquor.
  - (3) Promotional items advertising the limited distillery or distillery such as tee shirts, glassware, caps, and the like.
  - (c) Sales on the licensed premises of merchandise not listed in subsection (b) are subject to Board approval. The approval shall be requested by letter addressed to the Board. A limited distillery or distillery licensee will be advised of approved items through an appropriate means of dissemination. ]

§ 11.222. [ Additional conditions ] [Reserved].

[ In addition to the requirements in § 11.221 (relating to sale by licensed limited distilleries and distilleries), the sale of liquor shall conform to the following:

- (1) Liquor produced by a licensed limited distillery or distillery may be shipped by transporter-for-

hire as provided in Chapter 9, Subchapter A (relating to transportation of liquor, malt or brewed beverages or alcohol).

(2) A licensed limited distillery or distillery may accept checks drawn by the purchaser on his account and from retail customers, credit cards issued by banking or financial institutions, subject to State or Federal regulations.

(3) A licensed limited distillery or distillery may accept orders for the purchase of liquor produced on the licensed premises by mail, Internet or telephone. Delivery of products shall be accomplished through the use of vehicles properly registered by the limited distillery or distillery, as provided in section 491(12) of the Liquor Code (47 P.S. § 4-491(12)), or through a properly licensed transporter-for-hire, as provided in Chapter 9, Subchapter A. It is the responsibility of the limited distillery or distillery licensee to ensure that liquor is not delivered to minors and that proper records and invoices are maintained as set forth in § 5.104 (relating to licensed distilleries of historical significance). ]

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