

CHAPTER 5. DUTIES AND RIGHTS OF LICENSEES

Subchap.	Sec.
A. CASH DEPOSITS ON RETURNABLE ORIGINAL CONTAINERS OF MALT OR BREWED BEVERAGES	5.1
B. EMPLOYEES OF LICENSEES	5.11
C. AMUSEMENT AND ENTERTAINMENT	5.30
D. MAINTENANCE OF THE LICENSED PREMISES	5.41
E. [Reserved].....	5.61
F. CLUBS	5.71
G. CHANGE OF OFFICERS OF CORPORATIONS AND CLUBS	5.91
H. RECORDS AND REPORTS—BREWERIES, BONDED WAREHOUSES, AND LICENSED DISTILLERIES OF HISTORICAL SIGNIFICANCE	5.101
I. RESPONSIBLE ALCOHOL MANAGEMENT PROGRAM	5.201
J. MINORS ON LICENSED PREMISES	5.321
K. LIMITED WINERIES	5.401

Authority

The provisions of this Chapter 5 added under sections 102, 207(i), 492(12), 493(9), (13) and (14), 505.2 and 512 of the Liquor Code (47 P. S. §§ 1-102, 2-207(i), 4-492(12), 4-493(9), (13) and (14), 5-505.2 and 5-512), unless otherwise noted.

Subchapter A. CASH DEPOSITS ON RETURNABLE ORIGINAL CONTAINERS OF MALT OR BREWED BEVERAGES

Sec.	
5.1.	Original container.
5.2.	Minimum cash deposits.
5.3.	Refund of deposits.
5.4.	Other sizes.

Source

The provisions of this Subchapter A adopted June 26, 1952, amended January 20, 1978, effective February 1, 1978, 8 Pa.B. 201, unless otherwise noted.

§ 5.1. Original container.

(a) *Definition.* Original container means bottles, casks, kegs, barrels or other suitable containers containing malt or brewed beverages that have been securely capped, sealed or corked by the manufacturer of malt or brewed beverages at the place of manufacture with the name and address of the manufacturer of the malt or brewed beverages contained thereon and permanently affixed thereto and includes the reusable original container as to which title was retained by the manufacturer, licensee or vendor who bottled, sold or resold malt or brewed beverages in one or more of the following:

- (1) In the container.
- (2) In the container and which the manufacturer, licensee or vendor or a direct or indirect associate, agent, representative, employe, agency, distributor,

affiliate or subsidiary of the manufacturer, licensee or vendor will repurchase or agree to repurchase from a vendee or person who has acquired title to the reusable container.

(b) *Deposits required.* A licensee authorized to sell, purchase and resell malt or brewed beverages shall, under section 493(2) of the Liquor Code (47 P. S. § 493(2)), require payment of, pay and collect the minimum cash deposits on the original returnable containers as prescribed in this subchapter or as required of and paid by the licensees. Whenever a returnable original container for which a licensee has received a deposit is not returned, the manufacturing licensee, importing distributor or distributor, as the case may be, may not be entitled to an amount in excess of the deposit monies paid on the returnable original containers.

Source

The provisions of this § 5.1 adopted June 26, 1952; amended January 20, 1978, effective February 1, 1978, 8 Pa.B. 201.

§ 5.2. Minimum cash deposits.

(a) Subject to the limitations imposed by the Liquor Code on sales by licensees, minimum cash deposits are imposed on original returnable containers as follows:

<i>Size</i>	<i>Deposit</i>
All barrels regardless of size	\$ 10.00
8 oz. or less per bottle	\$ 00.03
16 oz. or more than 8 oz. per bottle	\$ 00.05
32 oz. or more than 16 oz. per bottle	\$ 00.10

(b) Whenever the bottled malt or brewed beverages are sold by the case, the minimum cash deposits on the cases, including the minimum cash deposit on the bottles therein, shall be as follows:

<i>Size</i>	<i>Deposit</i>
8 oz. or less in a case containing 24 bottles to the case	\$ 1.00
16 oz. or more than 8 oz. in a case containing 24 bottles to the case	\$ 1.50
32 oz. or less in a case containing 12 bottles to the case	\$ 1.50

Source

The provisions of this § 5.2 adopted June 26, 1952; amended January 20, 1978, effective February 1, 1978, 8 Pa.B. 201.

§ 5.3. Refund of deposits.

(a) A licensee receiving deposits as provided for in this subchapter shall make refund of the deposits in cash or, at the option of the purchaser, as a credit on a purchase made, upon return of empty original containers.

(b) Manufacturing licensees may only accept empty original containers from licensees or persons to whom the containers were sold and delivered and which are the property of the manufacturer.

(c) Importing distributors and distributors may only accept empty original containers from licensees or persons to whom the containers were sold and delivered by the licensees.

(d) Manufacturing licensees shall accept empty original containers, the property of the manufacturer, from a person who paid a deposit, on a sale and delivery, to an importing distributor or a distributor who has permanently or temporarily ceased doing business as an importing distributor or a distributor. The manufacturing licensee shall make refunds of the deposits received by the importing distributor or distributor. The manufacturing licensee shall make refunds of the deposits received by the importing distributor or distributor to the person returning the original containers.

(e) Successors and transferees to and of importing distributors and distributors shall accept empty original containers from licensees or persons to whom the containers were sold and delivered by predecessor or transferor licensees and shall make refunds of deposits received by the predecessor or transferor licensees to the licensee or person returning the original containers.

Source

The provisions of this § 5.3 adopted June 26, 1952; amended January 20, 1978, effective February 1, 1978, 8 Pa.B. 201.

§ 5.4. Other sizes.

If any other size original container is developed for use and has been approved by the Board, the minimum cash deposit on the container will be determined by the Board prior to marketing.

Source

The provisions of this § 5.4 adopted June 26, 1952; amended January 20, 1978, effective February 1, 1978, 8 Pa.B. 201.

Subchapter B. EMPLOYEES OF LICENSEES**EMPLOYMENT OF MINORS**

- Sec.
5.11. General requirement.
5.12. Employment of minors by retail licensees.
5.13. Employment of minors 18 to 21 years of age by licensees other than retail.
5.14. Employment of minors 17 years of age as 18 years of age.
5.15. [Reserved].
5.16. [Reserved].
5.17. Distributor or importing distributor licensees; appointment of manager.
5.18. Licensees not exempt from penalties.

EMPLOYMENT OF OTHERS

- 5.21. Prohibited employment.
5.22. Employment of licensees.
5.23. Appointment of managers.

Source

The provisions of this Subchapter B adopted June 26, 1952, amended through March 17, 1972, 2 Pa.B. 457, unless otherwise noted.

EMPLOYMENT OF MINORS**§ 5.11. General requirement.**

Under section 207(i) of the Liquor Code (47 P. S. § 2-207(i)), the Board provides for the appointment of managers in the operation of licensed premises, subject to §§ 5.16—5.18 (relating to appointment of managers; distributor or importing distributor licensees; appointment of manager; and licensees not exempt from penalties).

Source

The provisions of this § 5.11 adopted June 26, 1952; amended through March 17, 1972, 2 Pa.B. 457; amended January 31, 1975, effective February 1, 1975, 5 Pa.B. 193. Immediately preceding text appears at serial pages (4138) to (4139).

§ 5.12. Employment of minors by retail licensees.

Reference is directed to section 493(13) of the Liquor Code (47 P. S. § 4-493(13)), which details the requirements for the employment of minors by retail licensees.

Source

The provisions of this § 5.12 adopted June 26, 1952; amended through March 17, 1972, 2 Pa.B. 457; amended July 8, 1977, effective July 9, 1977, 7 Pa.B. 1889. Immediately preceding text appears at serial page (19145).

Cross References

This section cited in 40 Pa. Code § 5.21 (relating to prohibited employment).

§ 5.13. Employment of minors 18 to 21 years of age by licensees other than retail.

Reference is directed to section 493(27) of the Liquor Code (47 P. S. § 4-493(27)), which details the employment of minors by certain licensees other than retail.

Source

The provisions of this § 5.13 adopted June 26, 1952; amended through March 17, 1972, 2 Pa.B. 457; amended July 8, 1977, effective July 9, 1977, 7 Pa.B. 1889. Immediately preceding text appears at serial page (19145).

Cross References

This section cited in 40 Pa. Code § 5.21 (relating to prohibited employment).

§ 5.14. Employment of minors 17 years of age as 18 years of age.

Under the Child Labor Law (43 P. S. § 41), a minor who is 17 years of age who is a high school graduate or who is declared to have attained his academic potential by the chief administrator of the school district within which he resides shall be deemed to be a minor of 18 years of age for the purposes of this subchapter. It shall be the duty of the employer to have in his possession on the licensed premises, and to produce on demand, a certified copy of a diploma or certificate of graduation of the 17-year-old minor, or a letter on the official stationery of the school district and over the signature of the chief administrator of the school district in which the minor resides, declaring that the 17 year old minor has attained his academic potential.

Source

The provisions of this § 5.14 adopted June 26, 1952; amended through March 17, 1972, 2 Pa.B. 457.

Cross References

This section cited in 40 Pa. Code § 5.21 (relating to prohibited employment).

§ 5.15. [Reserved].**Source**

The provisions of this § 5.15 adopted June 26, 1952; amended through March 17, 1972, 2 Pa.B. 457; reserved August 29, 1997, effective August 30, 1997, 27 Pa.B. 4432. Immediately preceding text appears at serial page (205138).

§ 5.16. [Reserved].**Source**

The provisions of this § 5.16 adopted January 31, 1975, effective February 1, 1975, 5 Pa.B. 193; amended June 18, 1982, effective July 1, 1982, 12 Pa.B. 1860; amended March 12, 1993, effective March 13, 1993, 23 Pa.B. 1145; amended August 29, 1997, effective August 30, 1997, 27 Pa.B. 4432; amended January 19, 2001, effective January 20, 2001, 31 Pa.B. 430; reserved May 16, 2008, effective May 17, 2008, 38 Pa.B. 2250. Immediately preceding text appears at serial pages (307788) and (308167).

Notes of Decisions*Full Time*

A designated manager and licensee who returned to his full-time job with a school district, violated this section which requires the designated manager of a Board-Licensed establishment devote full time to the licensed premises and that he cannot have any other employment while managing the licensed premises without the approval of the Board. *Liquor Control Board v. Mignogna*, 548 A.2d 689 (Pa. Cmwlth. 1988).

Cross References

This section cited in 37 Pa. Code § 23.1 (relating to definitions); 40 Pa. Code § 5.11 (relating to general requirement); and 40 Pa. Code § 5.23 (relating to appointment of managers).

§ 5.17. Distributor or importing distributor licensees; appointment of manager.

In accordance with section 492(12) of the Liquor Code (47 P. S. § 4-492(12)), no individual holding a distributor or importing distributor license is permitted to be employed or engaged in another business on or off the licensed premises without Board approval. If the license is issued in the name of a partnership, one of the partners shall be designated as manager and the Board may permit the other partner to have outside employment. However, the partnership shall first secure written permission from the Board before any of its members may be employed in an occupation or enterprise other than the licensed business.

Source

The provisions of this § 5.17 adopted January 31, 1975, effective February 1, 1975, 5 Pa.B. 193.

Cross References

This section cited in 37 Pa. Code § 23.1 (relating to definitions); 40 Pa. Code § 5.11 (relating to general requirement).

§ 5.18. Licensees not exempt from penalties.

Appointment of a manager may not exempt the licensee from the penalties provided by law and Board regulations for violations committed in the licensed establishment or in the course of the licensed business.

Source

The provisions of this § 5.18 adopted January 31, 1975, effective February 1, 1975, 5 Pa.B. 193.

Cross References

This section cited in 40 Pa. Code § 5.11 (relating to general requirement).

EMPLOYMENT OF OTHERS**§ 5.21. Prohibited employment.**

A retail licensee may not employ in his licensed establishment a person who is precluded by section 493(14) of the Liquor Code (47 P. S. § 4-493(14)) from frequenting the establishment, except minors employed in accordance with §§ 5.12—5.14 (relating to employment of minors by retail licensees; employment of minors 18 to 21 years of age by licensees other than retail; and employment of minors 17 years of age as 18 years of age).

Source

The provisions of this § 5.21 adopted June 26, 1952; amended through March 17, 1972, 2 Pa.B. 457; amended November 12, 2004, effective November 13, 2004, 34 Pa.B. 6139. Immediately preceding text appears at serial page (274490).

Notes of Decisions*Employment of Criminal*

It was reasonable to infer that a licensee who left her son in charge of a liquor establishment while she was not present was in violation of the Liquor Code because she was aware of his prior criminal convictions and permitting the control of a liquor establishment by a known criminal supports the revocation of the licensee's permit to serve alcoholic beverages. *Liquor Control Board v. Peacock Hotel, Inc.*, 550 A.2d 258 (Pa. Cmwlth. 1988).

§ 5.22. Employment of licensees.

(a) A license to manufacture, transport or sell liquor, malt or brewed beverages and alcohol, is a personal privilege to be exercised only by the individual to whom the license is issued. The operation of a licensed business generally requires the full-time attention of the licensee.

(b) An individual holding a Distributor or Importing Distributor License may not be employed in other work, or, as provided in section 492(12) of the Liquor Code (47 P. S. § 4-492(12)), engage in another business, on or off the licensed premises, without Board approval. If the license is issued in the name of a partnership, the Board may permit the partners, except one, to have outside employ-

ment. The partnership shall first secure written permission from the Board before its members may be employed in an occupation or enterprise other than the licensed business.

Source

The provisions of this § 5.22 adopted June 26, 1952; amended through March 17, 1972, 2 Pa.B. 457; amended August 29, 1997, effective August 30, 1997, 27 Pa.B. 4432. Immediately preceding text appears at serial page (205140).

§ 5.23. Appointment of managers.

(a) The operation of a licensed business requires a manager. A licensee shall appoint an individual as manager for each licensed establishment. The manager shall devote full time and attention to the licensed business.

(b) An individual licensee holding multiple licenses may designate himself as manager of only one licensed establishment. If a license is held by more than one individual, the manager may be one of the individuals or another person the licensee may designate.

(c) The manager appointed by a licensee shall be a reputable person. The licensee shall notify the Board in writing of the name and home address of the manager and the date and place of birth. If there is a change of manager, the licensee shall give the Board written notice within 15 days of the change together with full information for the new individual who is appointed as manager. Each notice of the appointment of a manager or notice of a change of manager shall be accompanied by the appropriate fee.

(d) When a background investigation is conducted to obtain or verify information regarding an individual appointed as manager, a total fee of \$135 will be assessed. An individual may not act in the capacity of manager after the licensee has been notified that the individual has been disapproved by the Board. The designated manager shall devote full time to the licensed business and may not be employed or engaged in another business unless prior written approval is obtained from the Board. If the designated manager is currently a Board-approved officer, member, partner or shareholder of that licensee, a fee of \$60 will be assessed.

(e) Appointment or approval, or both, by the Board of a manager will not exempt the licensee from the penalties provided by law and this title for violations committed in the licensed establishment or in the course of the operation of the licensed business.

(f) The Board may rescind the approval of an appointment of a manager at any time for any cause which it deems sufficient.

(g) In the event of the illness or extended vacation of a licensee, the Board may approve the appointment of a manager for a period not to exceed 30 days. In case of emergency, the approval may be extended upon written request of the licensee.

(h) The licensee, without Board approval, may designate one of its employees as the person in charge of the business for a period of time not to exceed 15 calendar days, when the manager is absent from the licensed premises.

(i) A club manager or steward may engage in employment outside his duties as manager or steward except as provided in section 4-493(11) of the Liquor Code (47 P. S. § 4-493(11)).

(j) If approved by the Board, management contracts may permit the manager for the licensed premises to be employed by the management company; however, the licensee shall have unfettered discretion in all aspects of management of the licensed business, including the employment of the manager and sales of food, alcoholic and nonalcoholic beverages. The licensee's discretion includes control of the manager's hiring, firing, discipline, salary and duties. The manager is an agent of the licensee.

Authority

The provisions of this § 5.23 amended under section 207(i) of the Liquor Code (47 P.S. § 2-207(i)).

Source

The provisions of this § 5.23 adopted June 26, 1952; amended through March 17, 1972, 2 Pa.B. 457; amended June 18, 1982, effective July 1, 1982, 12 Pa.B. 1860; amended August 29, 1997, effective August 30, 1997, 27 Pa.B. 4432; amended November 12, 2004, effective November 13, 2004, 34 Pa.B. 6139; amended May 16, 2008, effective May 17, 2008, 38 Pa.B. 2250; amended March 5, 2010, effective March 6, 2010, 40 Pa.B. 1149. Immediately preceding text appears at serial pages (337274) and (334007).

Notes of Decisions

It is not an abuse of the discretion of the Board to deny an application to appoint a new manager, when the proposed new manager had been arrested nine times for misdemeanors in a six-year period and had been convicted twice. *In re Irene's Cafe, Inc.*, 404 A.2d 707 (Pa. Cmwlth. 1979).

Manager

Where "friends" were given the authority and the responsibility to oversee and direct operations at the licensed premises, they were acting as its "managers." *In re Moeroe Corp.*, 64 Pa. D. & C.2d 499 (1974).

Cross References

This section cited in 37 Pa. Code § 23.1 (relating to definitions); 40 Pa. Code § 3.35 (relating to persons from whom criminal history record information checks are required); and 40 Pa. Code § 5.408 (relating to additional Board-approved locations).

Subchapter C. AMUSEMENT AND ENTERTAINMENT

- Sec.
5.30. Definitions.
5.31. Amusement permit.
5.32. Restrictions/exceptions.
5.33. [Reserved].
5.34. [Reserved].
5.35. [Reserved].
5.36. Municipal noise ordinances.

§ 5.30. Definitions.

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

Audio/video playback device—A device which emits a musical recording, or in the case of a video jukebox, emits a musical recording accompanied by recorded video images on a screen that does not exceed 24 inches by 30 inches.

Event/tournament/contest—A competitive endeavor involving skill, speed, strength or endurance. The term includes a competitive endeavor involving physical attributes of contestants.

Game—A device, such as a pinball, shuffleboard, bowling or video machine which provides the player with amusement and no other form of award excepting free plays.

Instrumental music—Music generated by instruments played by musicians without vocal accompaniment.

Sweepstakes—A chance promotion in which tickets or game pieces are distributed and the winner or winners are selected in a random drawing.

Source

The provisions of this § 5.30 adopted May 8, 1992, effective May 9, 1992, 22 Pa.B. 2450; amended November 12, 2004, effective November 13, 2004, 34 Pa.B. 6139. Immediately preceding text appears at serial page (274492).

§ 5.31. Amusement permit.**(a) Requirements.**

- (1) Under section 493(10) of the Liquor Code (47 P. S. § 4-493(10)), the Board may issue an amusement permit authorizing dancing, theatricals, floor shows and motion picture exhibitions in licensed premises, or in another place

operated in connection therewith, to the holder of a retail liquor or retail dispenser license, except clubs, upon proper application and payment of the required fee.

(2) An application for an amusement permit may be filed with the Board at any time during the license period. Amusement permits expire with the license. Amusement permits may be extended at license validation unless the permit is revoked or subject to suspension.

(3) An amusement permit may be denied to a licensee against whom revocation or criminal proceedings are pending or to a licensee who, in the Board's opinion, has failed to conduct the licensed premises in accordance with the laws of the Commonwealth. A licensee denied an amusement permit may appeal the decision of the Board by requesting a hearing before the Board within 20 days of notice of denial.

(4) An amusement permit may not be assigned. When the retail liquor or retail dispenser license of the licensee is transferred by the Board from one person to another, or from one place to another, the amusement permit held by the licensee may be transferred in like manner upon the payment of a filing fee of \$10.

(5) An amusement permit is not required for television devices, audio/video playback devices, radio, instrumental music, games or events/tournaments/contests.

(b) *Suspension or revocation of an amusement permit.*

(1) The Office of Administrative Law Judge, upon sufficient cause shown that a licensee holding an amusement permit, or a partner, officer, director, servant, agent or employe of the licensee, has permitted in the licensed premises a violation of the Liquor Code or this title, or upon other sufficient cause shown, may, upon due notice and proper hearing being given to the licensee, suspend or revoke the permit.

(2) The Office of Administrative Law Judge, upon sufficient cause shown that a licensee holding an amusement permit, or a partner, officer, director, servant, agent or employe of the licensee, is guilty of, or pleads guilty to a violation of the laws of the Commonwealth before a court may after hearing suspend or revoke the amusement permit of the licensee upon the receipt of a transcript of the record in that proceeding.

(3) The action of the Office of Administrative Law Judge in suspending or revoking an amusement permit is final. A new amusement permit will not be approved until the expiration of 1 year from the date of revocation.

(c) *Revocation/suspension of a permit.* If the liquor or malt or brewed beverage license is revoked or suspended, for whatever reason, the amusement permit of the licensee will be similarly automatically revoked or suspended. There will be no refund made nor credit given for the unused portion of the fee paid for the permit, upon suspension or revocation.

Source

The provisions of this § 5.31 adopted June 26, 1952; amended May 8, 1992, effective May 9, 1992, 22 Pa.B. 2450; amended March 12, 1993, effective March 13, 1993, 23 Pa.B. 1145; amended August 29, 1997, effective August 30, 1997, 27 Pa.B. 4432; amended January 19, 2001, effective January 20, 2001, 31 Pa.B. 430. Immediately preceding text appears at serial pages (261740) and (234077) to (234078).

Notes of Decisions*Appeals*

The authority of the Liquor Control Board to refuse renewal of an amusement permit was inherently provided by 47 P. S. § 4-470. Therefore, an appeal from the denial of an amusement permit was an appeal pursuant to the Liquor Code and section 933 of the Judicial Code mandated that jurisdiction laid with the court of common pleas. *Teazers, Inc. v. Liquor Control Board*, 661 A.2d 455 (Pa. Cmwlth. 1995).

§ 5.32. Restrictions/exceptions.

(a) (Reserved).

(b) (Reserved).

(c) A licensee may not directly or indirectly employ a minor person under 18 years of age as an entertainer in the licensed establishment, or in a room or place connected therewith, nor may a licensee permit in the establishment, room or place, a minor person under 18 years of age to act as an entertainer.

(d) A hotel, restaurant, club, privately-owned public golf course, privately-owned private golf course, municipal golf course, brew pub or malt beverage eating place licensee may not hold or permit to be held, on the licensed premises an event, tournament or contest; nor advertise, offer, award or permit the award on the licensed premises of trophies, prizes or premiums, for any purpose except as follows:

(1) A hotel, restaurant, club or malt beverage eating place licensee may permit to be held within the licensed premises an event sanctioned by the State Athletic Commission under 5 Pa.C.S. Part I, Subparts A and B (relating to general provisions; and boxing) or under 5 Pa.C.S. Part I, Subpart C (relating to the Wrestling Act). Only malt or brewed beverages, as generally permitted by the class of license involved, may be sold, served or delivered on that portion of the licensed premises where the event is held, and not sooner than 1 hour before, and not later than 1 hour after the event. Service of malt or brewed beverages at these events will be conducted only with the prior written approval of the State Athletic Commission filed with the Board. Drinks shall be dispensed in that portion of the licensed premises where the event is conducted only in paper or plastic cups.

(2) A hotel, restaurant, club or malt beverage eating place licensee may hold or permit to be held within the licensed premises or in a bowling alley immediately adjacent thereto as provided in sections 406(a)(1) and 442(b) of the Liquor Code (47 P. S. §§ 4-406(a)(1) and 4-442(b)), a bowling tournament or bowling contest. Liquor and malt or brewed beverages, as generally permitted by the class of license involved, may be served, sold or delivered at the bowling tournament or bowling contest by the licensee.

(3) A hotel, restaurant, club, privately-owned public golf course, privately-owned private golf course, municipal golf course, brew pub or malt beverage eating place licensee may permit the conduct of events on the licensed premises by groups constituting a league. Liquor and malt or brewed beverages, as generally permitted by the class of license involved, may be sold, served or delivered at the events on the licensed premises.

(4) Hotel, restaurant, club, privately-owned public golf course, privately-owned private golf course, municipal golf course, brew pub or malt beverage eating place licensees may permit the conduct of tournaments and contests on the licensed premises for the benefit of, and officially sponsored by, bona fide charitable organizations.

(i) A charitable organization for the purposes of this section is defined as one qualified, approved by and registered with the Department of State and operated under 49 Pa. Code Part I, Subpart B (relating to charitable organizations).

(ii) Charitable organization functions shall be operated in accordance with the Solicitation of Funds For Charitable Purposes Act (10 P. S. § § 162.1—162.24) and, if applicable, the Local Option Small Games of Chance Act (10 P. S. § § 311—327), and the Bingo Law (10 P. S. §§ 301—308.1).

(5) Hotel, restaurant, club, privately-owned public golf course, privately-owned private golf course, municipal golf course, brew pub and malt beverage eating place licensees may conduct self-sponsored tournaments, events or contests on their own licensed premises so long as the activities are in conformance with the applicable provisions of this subchapter.

(e) For an activity conducted under this subchapter, the following apply:

(1) There may not be lewd, immoral or improper conduct by the licensee, its servants, agents, employees, patrons or event, contest or tournament participants.

(2) There may not be unlawful gambling directly or indirectly associated with an activity on the licensed premises. A licensee will be held strictly liable for unlawful gambling on the licensed premises.

(3) There may not be an event, contest or tournament which involves the consumption of alcoholic beverages by an event, tournament or contest participant.

(4) The price of a ticket or evidence of admission to an event, tournament or contest may not include a charge or assessment for alcoholic beverages or entitle the holder thereof to receive an alcoholic beverage anywhere on the licensed premises except for alcoholic beverages included in a meal package offering as provided for in Chapter 13 (relating to promotion).

(5) A licensee or sponsoring charity may advertise an event, tournament or contest.

(6) Hotel, restaurant, club, privately-owned public golf course, privately-owned private golf course, municipal golf course, brew pub and malt beverage eating place licensees, as well as governing bodies of professional golf, skiing, tennis, bowling, pocket billiards and nonlicensee sponsors as provided in subsection (e) may award prizes to contestants or participants of events, tournaments or contests.

(7) The total value of all prizes for any given event, tournament or contest may not exceed \$1,000. The total value of all prizes awarded in any 7-day period may not exceed \$25,000. An event, tournament or contest conducted under the authority of the Local Option Small Games of Chance Act (10 P. S. §§ 328.101—328.707) or the Bingo Law (10 P. S. §§ 301—308.1) is subject to the prize limits in these acts.

(8) Golf, skiing, tennis, pocket billiards or bowling events, tournaments, contests and events sanctioned by the State Athletic Commission are exempted from the prize value restrictions in this section.

(9) Licensees shall maintain on the licensed premises for 2 years, from the date of the event, an itemized list of all prizes for each event, tournament, contest indicating each prize, its value and the name and address of the recipient.

(f) The restrictions in this section apply not only to the licensee, but to partners, officers, directors, servants, agents and employees of a licensee.

(g) Municipalities may petition the Board for exemption from the Board's regulations regarding the enforcement of subsection (a) for all licensees within an identifiable area in accordance with section 493.1(b) of the Liquor Code (47 P. S. § 4-493.1(b)).

(h) A manufacturer, manufacturer's representative or licensee may sponsor sweepstakes promotions. Permissible sweepstakes shall provide that the following conditions apply:

- (i) No purchase is necessary to enter.
- (ii) Entrants shall be 21 years of age or older.
- (iii) Retail licensed premises may only be involved as pick-up or drop-off points for entry forms and not for the conducting of drawings or the awarding of prizes.
- (iv) Alcoholic beverages may not be part of the prize.

Authority

The provisions of this § 5.32 amended under section 207(i) of the Liquor Code (47 P. S. § 2-207(i)).

Source

The provisions of this § 5.32 adopted June 26, 1952; amended April 2, 1976, effective April 3, 1976, 6 Pa.B. 832; amended November 1, 1985, effective November 2, 1985, 15 Pa.B. 3935; amended May 8, 1992, effective May 9, 1992, 22 Pa.B. 2450; amended May 10, 1996, effective May 11, 1996, 26 Pa.B. 2209; amended November 12, 2004, effective November 13, 2004, 34 Pa.B. 6139; amended July 12, 2013, effective July 13, 2013, 43 Pa.B. 3946; amended December 6, 2013, effective December 7, 2013, 43 Pa.B. 7082. Immediately preceding text appears at serial pages (307794), (367735) to (367736) and (337275) to (337276).

Notes of Decisions*Appeals*

The authority of the Liquor Control Board to refuse renewal of an amusement permit is inherently provided by 47 P. S. § 4-470. Therefore, an appeal from the denial of an amusement permit was an appeal pursuant to the Liquor Code and section 933 of the Judicial Code mandated that jurisdiction laid with the court of common pleas. *Teazers, Inc. v. Liquor Control Board*, 661 A.2d 455 (Pa. Cmwlth. 1995).

In light of amendments to Liquor Code, the scope of review in enforcement proceedings involving suspensions and fines when liquor licensee was cited for permitting male stripper to come into contact with and/or associate with patrons continued to be de novo which was the same as in appeals from refusals to grant licenses. *State Police v. Cantina Gloria's Lounge, Inc.*, 639 A.2d 14 (Pa. 1994).

Construction with Constitution/Property Rights

Tournament operator failed to state cause of action where complaint challenged constitutionality of prohibition of tournaments in establishments licensed by Liquor Control Board. Operator did not own liquor license; thus loss of opportunity for business income tied to a liquor license was not compensable absent property taken for public use. *Horan v. Commonwealth*, 526 A.2d 458 (Pa. Cmwlth. 1987).

Evidence

The Liquor Control Board need not prove actual knowledge by the licensee that an employe or agent was violating this section and the circumstantial evidence was that licensee organized the dancer's activity who were found to be licensee agents. *Hospitality Investments of Society Hill, Inc. v. Commonwealth*, 551 A.2d 341 (Pa. Cmwlth. 1988).

Evidence/Sufficient

Graphic testimony by an enforcement officer that the officer observed a scantily-clad "go-go" dancer perform in the bar area of a restaurant, where the dancer conversed with various patrons and, after placing her leg onto the bar, allowed said patrons to place money into her "G-string" was sufficient to support the conclusion that the licensee had violated subsection (d). *In re Alray Corp.*, 456 A.2d 1167 (Pa. Cmwlth. 1983).

Evidence/Insufficient

A Liquor Control Board fine for operating a licensed premise in a noisy and disorderly fashion must be based on a showing of noisy and disorderly operation on a routine basis and was not supported by evidence of a single incident of noisy operation coupled with testimony by a liquor control agent describing noisy operation on a second occasion but not indicating whether the noise could be heard outside of the premises in violation of subsection (a). *Matter of Banks*, 429 A.2d 1279 (Pa. Cmwlth. 1981).

Gambling Devices Prohibited

Advertising discount coupons which, in addition to product discounts, contained a rub-off section offering the chance to win cash prizes were a subterfuge for gambling, and therefore, coupons constituted "gambling devices" prohibited in licensed establishments pursuant to Liquor Control Board regulations. *Lindey v. Pennsylvania State Police*, 916 A.2d 703, 706 (Pa. Cmwlth. 2006).

Prohibited Activities

The Liquor Control Board regulation prohibiting use of loudspeaker whereby sound of entertainment could be heard outside premises, subsection (a), was reasonable and consistent with legislative intent of Liquor Code. *Appeal of Two-O-Two Tavern, Inc., Friendly Saloon*, 492 A.2d 502 (Pa. Cmwlth. 1985).

Even though the licensee took affirmative action in the nature of signs and announcements to prohibit dancers from contacting patrons, it nevertheless violated this section, since the licensee was responsible for the acts of its servants and agents. *In re New Look Lounge, Inc.*, 459 A.2d 68 (Pa. Cmwlth. 1983).

The restriction purported to limit the sound of music to the inside of licensed premises thus protecting neighbors, street pedestrians, and others from being subject to unwanted sounds or "noise pollution"; the regulation was reasonable and, thus, a valid exercise of the police power. *Smart, Inc. v. Liquor Control Board*, 70 Pa. D. & C.2d 535 (1974).

Regulation Unconstitutional

Operator of club that features semi-nude dancing challenged a Pennsylvania Liquor Code statute and regulation that prohibit “lewd” entertainment at any establishment holding a liquor license; statute and regulation were facially invalid because they are substantially overbroad, in violation of First Amendment protection of expression in that the prohibition applied not only to adult entertainment venues offering nude or topless dancing for which government interest was applicable, but to artistic, theatrical and other nonadult entertainment venues for which such government interest was not applicable. 47 P. S. § 4-493(10) and 40 Pa. Code § 5.32(b) held unconstitutional. *Conchatta Inc. v Miller*, 458 F.3d 258, 266 (3rd Cir. 2006).

§ 5.33. [Reserved].**Source**

The provisions of this § 5.33 adopted June 26, 1952; amended May 8, 1992, effective May 9, 1992, 22 Pa.B. 2450. Immediately preceding text appears at serial page (149713).

§ 5.34. [Reserved].**Source**

The provisions of this § 5.34 adopted June 26, 1952; amended May 8, 1992, effective May 9, 1992, 22 Pa.B. 2450. Immediately preceding text appears at serial page (149713).

§ 5.35. [Reserved].**Source**

The provisions of this § 5.35 adopted June 26, 1952; amended May 8, 1992, effective May 9, 1992, 22 Pa.B. 2450. Immediately preceding text appears at serial pages (149713) to (149714).

§ 5.36. Municipal noise ordinances.

(a) A municipality that desires exemption from section 493(34) of the Liquor Code (47 P. S. § 4-493(34)), shall, under section 493.1(b) of the Liquor Code (47 P. S. § 4-493.1(b)), file a petition with the Board, requesting approval. With its petition, the municipality shall file the following:

- (1) A copy of the municipality’s noise ordinance currently in effect.
- (2) The municipality’s resolution that:
 - (i) Confirms the municipality’s support of the petition to substitute the municipal noise ordinance for section 493(34) of the Liquor Code.
 - (ii) Cites the municipal noise ordinance.
 - (iii) States the municipality’s intention to enforce the ordinance in place of section 493(34) of the Liquor Code.
- (3) A complete written description of the boundary lines for the proposed exempted noise area.
- (4) One copy of a geographical map, the minimum size of which is 36” x 36”, including the designated boundary lines of the proposed exempted noise area within the municipality.
- (5) Three copies of the geographical map required by paragraph (4), the size of which will be 8 1/2” x 11 1/2”.
- (6) Identification of a proposed location, within the proposed exempted noise area, to be used by the Board to hold the required public hearing within the proposed exempted area.
- (7) Identification of a local print publication of general circulation that would satisfy 65 Pa.C.S. Chapter 7 (relating to Sunshine Act) notice requirement for announcement of the required public hearing.

(b) A date for a public hearing shall be set and public notice given in advance of the hearing: The hearing must comply with all notice, recording and public participation requirements of 65 Pa.C.S. Chapter 7.

(c) Within 60 days after receipt of the petition, the Board will disapprove the petition for an exemption in its entirety or may approve an area more limited for which the petition will be granted if the Board finds that granting the petition will have an adverse effect on the welfare, health, peace and morals of the residents living in the vicinity of the identified area; otherwise the Board will approve the petition.

(d) The Board may place additional conditions on the petition's approval such as limiting the duration of the approval and any other condition the Board deems appropriate.

(e) There shall be a right to appeal to the court of common pleas in the same manner provided by this act for appeals from refusals to grant licenses.

(f) A municipality may rescind any existing exemption from section 493(34) of the Liquor Code by notifying the Board of its intention to do so in writing, 15 days prior to the rescission date. The notice must be accompanied by an ordinance or resolution authorizing the rescission.

(g) A rescission of an existing exemption which does not rescind the entire exempted area shall be treated as a new petition for exemption with the Board and shall follow the procedures in this section.

Authority

The provisions of this § 5.36 amended under section 207(i) of the Liquor Code (47 P.S. § 2-207(i)).

Source

The provisions of this § 5.36 adopted November 12, 2004, effective November 13, 2004, 34 Pa.B. 6139; amended October 4, 2013, effective October 5, 2013, 43 Pa.B. 5817. Immediately preceding text appears at serial pages (337276) and (348105).

Subchapter D. MAINTENANCE OF THE LICENSED PREMISES

- Sec.
5.41. Compliance with sanitation requirements.
5.42. Lighting.
5.43. Proof of recycling.

CLEANING OF MALT OR BREWED BEVERAGE SYSTEMS

- 5.50. Definition.
5.51. Cleaning of malt or brewed beverage dispensing systems.
5.52. Certificate or record required.
5.53. Pressure maintenance.
5.54. Responsibility for condition of equipment.

§ 5.41. Compliance with sanitation requirements.

(a) A restaurant, hotel or club catering liquor license or retail dispenser eating place or hotel malt beverage license authorized under the Liquor Code will not be issued, renewed or transferred by the Liquor Control Board for any premises unless the application for the license, renewal or transfer avers that the proper

municipal or State authorities have found that the premises to be licensed, or for which an application is filed for a new license or the renewal or transfer of a license, meet all the sanitary requirements for a public eating place in the municipality where the place to be licensed is operated, as provided by statute, ordinance or regulation and that documentary evidence thereof is, and shall at all times be, displayed on the licensed premises.

(b) Subsection (a) applies to all applications for prior approval under section 403 of the Liquor Code (47 P. S. § 4-403) by filing an affidavit stating the averment after completion of construction or alteration of the premises.

Source

The provisions of this § 5.41 adopted June 26, 1952; amended through July 28, 1972, effective July 29, 1972, 2 Pa.B. 1441; amended May 27, 1977, effective May 28, 1977, 7 Pa.B. 1428. Immediately preceding text appears at serial pages (11808) to (11809).

§ 5.42. Lighting.

Hotel, restaurant and club liquor licensees, and retail malt beverage dispensers, shall at all times during the hours when the sale of liquor or malt or brewed beverages is permitted, maintain throughout the licensed premises illumination sufficient to insure clear visibility of the premises and to permit patrons to read a menu or newsprint with ease. Tables and booths available for the accommodation of the public shall be so situated as to permit clear visibility of occurrences at the tables or in the booths.

Source

The provisions of this § 5.42 adopted June 26, 1952; amended through July 28, 1972, effective July 29, 1972, 2 Pa.B. 1441.

§ 5.43. Proof of recycling.

(a) Under section 491(5) of the Liquor Code (47 P.S. § 4-491(5)), restaurant, hotel and club liquor licensees are required to break any package in which liquors were contained (“liquor packages”), except those decanter packages that the Board determines to be decorative, within 24 hours after the contents of the package have been removed, unless the licensee participates in either a municipal recycling program or a voluntary recycling program.

(b) If a licensee participates in a recycling program, the licensee must deface, prior to recycling, the labels of all packages that are not broken. The labels must be defaced with a permanent marker or some other, similar, permanent defacement that will discourage the theft of the bottles for unlawful re-use.

(c) The licensee shall provide proof in writing of participation in such a program upon demand of the Bureau of Liquor Control Enforcement of the Pennsylvania State Police. This subsection establishes what constitutes “proof in writing.”

(1) The licensee must be able to provide written proof that the municipal or voluntary recycling program accepts the kind of liquor packages (such as glass) that the licensee recycles. This written proof may be a pamphlet or printed pages from the recycling program’s web site or something similar.

(2) If the licensee pays for a municipal or private entity to pick up its recycling, the licensee must retain a copy of the receipts, bills or invoices paid by the licensee to the municipal or private entity as “proof in writing.”

(3) If the licensee voluntarily participates in a recycling program by taking recyclable liquor packages to a drop off location, the licensee must maintain, for each calendar year, a statement containing the following information:

- (i) Name and address of the licensee.
- (ii) Type of liquor packages recycled.
- (iii) Details on each delivery of recycled liquor packages, including the date of delivery, time of delivery, who delivered the recycled liquor packages, what was delivered and the approximate weight or quantity of recycled liquor packages.
- (iv) A verification by the licensee's representative that the information provided is true and complete to the best of the representative's knowledge and belief and that the licensee's representative understands that the statements made are subject to the penalties set forth in 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities). This statement should be followed by the signature of the licensee's representative and the date the signature was made.

(4) In addition to the statement required by subsection (c)(3), a licensee who takes recyclable liquor packages to a drop off location must also keep a copy of at least two of the following records from the municipality with oversight of the drop off location:

- (i) The name, location and hours of operation of the recycling facility where the licensee disposes recyclable liquor packages.
- (ii) A copy of the recycling registration or documentation required by a municipality.
- (iii) A municipal waste newsletter or circular.
- (iv) An e-mail, letter or memorandum from its municipality that explains what may be recycled and where recyclable liquor packages may be dropped off.
- (v) Municipal recycling maps of drop-off locations for recyclable material.
- (vi) A municipal recycling collection schedule or calendar.
- (vii) Other printed or online materials provided by a municipality regarding municipal waste management.

(d) These records shall be maintained as part of the licensee's operating records required to be kept for 2 years in accordance with section 493(12) of the Liquor Code (47 P.S. § 4-493(12)).

Authority

The provisions of this § 5.43 added under section 207(i) of the Liquor Code (47 P.S. § 2-207(i)).

Source

The provisions of this § 5.43 adopted May 21, 2021, effective May 22, 2021, 51 Pa.B. 2927.

CLEANING OF MALT OR BREWED BEVERAGE SYSTEMS**§ 5.50. Definition.**

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

Malt or brewed beverage dispensing system—A keg or other container of malt or brewed beverages together with all components used to serve those beverages on draft.

Authority

The provisions of this § 5.50 adopted under section 207(i) of the Liquor Code (47 P.S. § 2-207(i)).

Source

The provisions of this § 5.50 adopted March 5, 2010, effective March 6, 2010, 40 Pa.B. 1149.

Cross References

This section cited in 40 Pa. Code § 5.404 (relating to sales for on-premises consumption).

§ 5.51. Cleaning of malt or brewed beverage dispensing systems.

(a) Any licensee, including but not limited to a retail licensee, a brewery, a limited winery, a limited distillery or a distillery, that uses a malt or brewed beverage dispensing system in its licensed premises shall clean the system at its sole expense. One licensee may not clean a malt or brewed beverage dispensing system for another licensee.

(b) The method of cleaning must leave the entire malt or brewed beverage dispensing system in a clean and sanitary condition. The cleaning method used must include cleaning the entire system with a chemical cleaning solution or other cleaning method approved by the Board. The following alternative cleaning methods have Board approval:

- (1) Live steam.
- (2) Hot water and soda solution, followed by thorough rinsing with hot water.

(c) The frequency of cleaning for the malt or brewed beverage dispensing system shall be as follows:

- (1) Once every 14 days for the faucets.
- (2) Once every 14 days for the dispensing lines, valves, joints, couplers, hose fittings, washers, o-rings, empty beer detectors (known as “FOBS”) and draft foam control units, except if the licensee has an operating ultrasonic, electromagnetic or other system that retards the growth of yeast and bacteria in the dispensing lines. If such a system is installed and operating, the licensee shall follow the cleaning frequency and cleaning method guidelines of the system’s manufacturer.
- (3) The Board may approve different cleaning frequencies.

Authority

The provisions of this § 5.51 amended under section 207(i) of the Liquor Code (47 P.S. § 2-207(i)).

Source

The provisions of this § 5.51 adopted June 26, 1952; amended through July 28, 1972, effective July 29, 1972, 2 Pa.B. 1441; amended March 5, 2010, effective March 6, 2010, 40 Pa.B. 1149; amended July 30, 2021, effective July 31, 2021, 51 Pa.B. 4228. Immediately preceding text appears at serial pages (348107) to (348108).

Cross References

This section cited in 40 Pa. Code § 5.52 (relating to certificate or record required); and 40 Pa. Code § 5.404 (relating to sales for on-premises consumption).

§ 5.52. Certificate or record required.

(a) The malt or brewed beverage dispensing system may be cleaned for the licensee by a person, other than another licensee, thoroughly equipped to do so by a method enumerated in § 5.51 (relating to cleaning of malt or brewed beverage dispensing systems). The licensee shall obtain from the cleaner a certificate showing the date cleaned, the name of the person by whom cleaned and the method utilized. The certificate shall be kept on file at the licensed premises at all times for inspection by the Board.

(b) The malt or brewed beverage dispensing system may be cleaned by the licensee. The licensee shall maintain and keep a record of the date of each cleaning and the method utilized. This record shall also be kept on file at all times for inspection by the Board.

Authority

The provisions of this § 5.52 amended under section 207(i) of the Liquor Code (47 P.S. § 2-207(i)).

Source

The provisions of this § 5.52 adopted June 26, 1952; amended through July 28, 1972, effective July 29, 1972, 2 Pa.B. 1441; amended March 5, 2010, effective March 6, 2010, 40 Pa.B. 1149. Immediately preceding text appears at serial page (307801).

Cross References

This section cited in 40 Pa. Code § 5.404 (relating to sales for on-premises consumption).

§ 5.53. Pressure maintenance.

If a compressed gas or other pressurizing system is used in the malt or brewed beverage dispensing system, it shall be designed to preserve the normal flavor of the malt or brewed beverage and not introduce contaminants such as dust, water or oil, into the system.

Authority

The provisions of this § 5.53 amended under section 207(i) of the Liquor Code (47 P.S. § 2-207(i)).

Source

The provisions of this § 5.53 adopted June 26, 1952; amended through July 28, 1972, effective July 29, 1972, 2 Pa.B. 1441; amended March 5, 2010, effective March 6, 2010, 40 Pa.B. 1149. Immediately preceding text appears at serial pages (307801) to (307802).

Cross References

This section cited in 40 Pa. Code § 5.404 (relating to sales for on-premises consumption).

§ 5.54. Responsibility for condition of equipment.

The licensee has the sole responsibility of maintaining equipment used in dispensing malt or brewed beverages on draft in a clean and sanitary condition. The mere fact that records of licensees indicate that the malt or brewed beverage dispensing system has been cleaned is no defense to enforcement action under the law and the provisions of this subchapter if the malt or brewed beverage dispensing system is at any time found to be in an unsanitary condition.

Authority

The provisions of this § 5.54 amended under section 207(i) of the Liquor Code (47 P.S. § 2-207(i)).

Source

The provisions of this § 5.54 adopted June 26, 1952; amended through July 28, 1972, effective July 29, 1972, 2 Pa.B. 1441; amended March 5, 2010, effective March 6, 2010, 40 Pa.B. 1149. Immediately preceding text appears at serial page (307802).

Cross References

This section cited in 40 Pa. Code § 5.404 (relating to sales for on-premises consumption).

Subchapter E. [Reserved]**§ 5.61. [Reserved].****Source**

The provisions of this § 5.61 adopted June 26, 1952; amended through June 15, 1984, effective June 16, 1984, 14 Pa.B. 2061; reserved November 12, 2004, effective November 13, 2004, 34 Pa.B. 6139. Immediately preceding text appears at serial page (261741).

Subchapter F. CLUBS**RECORDS REQUIRED**

- | | |
|-------|----------------------------------|
| Sec. | |
| 5.71. | Maintenance of records. |
| 5.72. | Membership record. |
| 5.73. | Financial records. |
| 5.74. | Minute book. |
| 5.75. | Other documents and instruments. |

OTHER REQUIREMENTS

- 5.81. Constitution and bylaws.
- 5.82. Food concession.

- 5.83. Catering.
- 5.84. Entrance and inside doorways.
- 5.85. Inspection of clubhouse or club quarters.
- 5.86. Permitted exchange of club and catering club licenses.

Source

The provisions of this subchapter F adopted June 26, 1952, unless otherwise noted.

RECORDS REQUIRED

§ 5.71. Maintenance of records.

(a) Under section 102 of the Liquor Code (47 P. S. § 1-102), every club holding either a liquor or a retail dispenser license shall maintain records prescribed in this subchapter.

(b) Club records shall be maintained in the English language.

§ 5.72. Membership record.

A complete membership record shall be maintained, showing the date of application of the proposed member, the date of admission after election, the date initiation fees and dues are paid and the amounts. The record shall also show the name of the sponsor and other remarks desirable. This record shall be either on a ruled form or, preferably, a card index, which shall carry at the top the name of the member, the address of the member and the serial number of the membership card issued. Dues shall be accumulated and posted to the proper column in the income records. A separate sheet or card shall be prepared for each member, and when members are dropped or resign, their cards shall be removed from the active file and placed in the inactive file for 2 years.

Source

The provisions of this § 5.72 adopted June 26, 1952; amended July 8, 1977, effective July 9, 1977, 7 Pa.B. 1890. Immediately preceding text appears at serial page (4150).

Notes of Decisions

Cleaning expense payments and recipients thereof constitute expenditures under this section which requires licensees to maintain a record showing all expenditures. *Slovak American Citizens Club of Oakview v. Liquor Control Board*, 549 A.2d 251 (Pa. Cmwlth. 1988).

§ 5.73. Financial records.

(a) *Income record.* A cashbook currently showing income in detail shall be maintained and posted. It shall be separated into dues, income from malt or brewed beverages and liquor, income from food and a miscellaneous column. This cashbook shall be totaled each month and used when the bank account is reconciled by the treasurer. The total entries under "dues" should balance with the dues recorded in the membership records. The record shall be maintained in columnar form.

(b) *Expenditures record.* An expense ledger or record showing expenditures, separated by payments for malt or brewed beverages, liquor, food, detailed payroll, entertainment, rent, heat, light, water, equipment and other expenditures, shall be maintained. The record shall be in columnar form with the proper headings at the top, and balanced each month with the bank account and the records of the treasurer. Every expenditure must be supported by delivery tickets, invoices, receipted bills, cancelled checks, petty cash vouchers or other sustaining data or memoranda.

(c) *Bank account.* A bank or cash account shall be maintained which shows income and expenditures as a control account on the income and expenditures records. The account shall be balanced each month by the treasurer with proper record made in the minutes of the recording secretary.

(d) *Electronic or automated recordkeeping.* Electronic or automated recordkeeping, or both, maintained and based upon generally accepted accounting principles, are permitted in lieu of hard copy financial records required by subsections (a)—(c). This type of recordkeeping system utilized by the licensee shall have the capability to provide for the reconciling of required data. Entries shall be verifiable by supporting original documents.

Source

The provisions of this § 5.73 adopted June 26, 1952; amended June 22, 1990, effective June 23, 1990, 20 Pa.B. 3491. Immediately preceding text appears at serial pages (136500) and (48218).

Notes of Decisions

Income Record

Entering all income as a lump sum rather than breaking it down as to source, together with other acts of inadequate bookkeeping, is sufficient to find a violation of this section. *In re Michael J. O'Connor 4th Ward Republican Club*, 389 A.2d 222 (Pa. Cmwlth. 1978).

§ 5.74. Minute book.

A minute book shall be maintained and posted currently by the recording secretary, and shall contain all of the following:

- (1) The minutes of all regular and special meetings.
- (2) The names and dates of applicants for membership and the dates the members were admitted and whether ballots were taken.
- (3) The financial reports of the treasurer.
- (4) Parties, banquets, socials and the like given to members free of charge, and the costs involved.
- (5) Elections and appointments of officers and committees, and the term for which they are elected, and customary entries in a record of this nature.

Source

The provisions of this § 5.74 adopted June 26, 1952.

Notes of Decisions*Production of Documents*

Failure to record elections in the minute book is a violation of this section. *In re Michael J. O'Connor 4th Ward Republican Club*, 389 A.2d 222 (Pa. Cmwlth. 1978).

§ 5.75. Other documents and instruments.

Club licensees shall maintain on the licensed premises at all times, subject to inspection by the Board, all of the following:

- (1) A photostatic or certified copy of the charter, if incorporated.
- (2) A copy of the constitution.
- (3) A copy of the bylaws.
- (4) Invoices and receipted bills covering purchases made by officers of the club for the benefit of the club.
- (5) All prescribed books of record and membership lists.

Source

The provisions of this § 5.75 adopted June 26, 1952.

Notes of Decisions*Production of Documents*

The inability to produce a copy of the charter on two separate occasions is a violation of this regulation. *In re Michael J. O'Connor 4th Ward Republican Club*, 389 A.2d 222 (Pa. Cmwlth. 1978).

OTHER REQUIREMENTS**§ 5.81. Constitution and bylaws.**

A club licensee shall adhere to the provisions of its constitution and bylaws.

Source

The provisions of this § 5.81 adopted June 26, 1952.

§ 5.82. Food concession.

(a) If a club does not sell food it may permit a food concession to be operated by a person who is not an officer or employe of the club, and the concessionaire may not hire a person who is an officer or employe of the club or who is a licensee or an employe of another licensee.

(b) The concessionaire shall buy, prepare, sell and collect for the food, and receive the profits, and pay his own employes. Neither the concessionaire nor his employes are permitted to handle or dispense liquor or malt or brewed beverages; and club employes are not permitted to serve or collect for food. Separate checks for food and liquor or malt or brewed beverages shall be presented to each member served.

(c) Records covering operations of the concession shall be maintained for a period of 2 years on the licensed premises. The records shall show the cost of food, supported by invoices; receipts from sale of food supported by cash register tape or guest checks; rental paid for the privilege and equipment used; the name and address, social security number and salary paid to each employee; and other expenditures.

Source

The provisions of this § 5.82 adopted June 26, 1952.

§ 5.83. Catering.

(a) Catering, for the purpose of this section, means the furnishing of liquor or malt or brewed beverages, or both, to be served with food prepared on the premises or brought onto the premises already prepared, for the accommodation of groups of nonmembers who are using the facilities of the club by prior arrangement, made at least 24 hours in advance of the time for private meetings or functions, such as dances, card parties, banquets and the like; and which is paid for by the nonmembers.

(b) A record shall be maintained showing the date and time catering arrangements were made, the name of the person or organization making the arrangements and the approximate number of persons to be accommodated.

Source

The provisions of this § 5.83 adopted June 26, 1952.

Notes of Decisions

Furnishing of Alcoholic Beverages

A club with a catering license may serve alcoholic beverages to nonmembers only by prior arrangement and if a record is maintained showing the date and time catering arrangements were made. *Liquor Control Board v. American Legion Home Association*, 474 A.2d 68 (Pa. Cmwlth. 1984).

§ 5.84. Entrance and inside doorways.

A licensed club may not maintain or permit barricades to be maintained in the entrance or inside doorways in a clubhouse or club quarters.

Source

The provisions of this § 5.84 adopted June 26, 1952.

§ 5.85. Inspection of clubhouse or club quarters.

Authorized representatives of the Board shall, upon presentation of their credentials, be admitted immediately to the clubhouse or club quarters and permitted without hindrance or delay to inspect completely the premises at any time during which the club is open for the transaction of business.

Source

The provisions of this § 5.85 adopted June 26, 1952.

§ 5.86. Permitted exchange of club and catering club licenses.

(a) Upon application under Chapter 3 (relating to license applications), and subject to the authority granted by section 472.3(a) of the Liquor Code (47 P. S. § 4-472.3(a), the Board may issue to a club, a club liquor license in exchange for a club malt beverage retail dispenser license in any municipality which has approved the granting of liquor licenses. The fee for issuance of a license under this subsection shall be equal to the application filing fee plus the license fee for a hotel or restaurant liquor license in the municipality in which the licensed premises is located, as set forth in section 614-A of The Administrative Code of 1929 (71 P. S. § 240.14).

(b) Upon application under Chapter 3, and upon approval of the Board, a club holding a club liquor license may surrender its license, and receive a catering club liquor license in its place.

(c) Upon application under Chapter 3, and upon approval of the Board, a club holding a catering club liquor license may surrender its license and receive a club liquor license in its place.

(d) The fee for filing an application for exchange of club licenses shall be applied consistent with section 614-A of The Administrative Code of 1929 (71 P. S. § 240.14).

(1) an application for the exchange of a club license for a catering club license may only be filed for a full license year. It shall be accompanied by a renewal filing fee, and a license fee equal to that required for a restaurant license in the municipality of its location under section 614-A of The Administrative Code of 1929.

(2) An application for the exchange of a catering club license for a club license may only be filed for a full license year. It must be accompanied by a renewal filing fee and a license fee for a club as required under section 614-A of The Administrative Code of 1929.

(e) Exchange of licenses may only occur within a municipality that has approved the granting of such licenses.

Source

The provisions of this § 5.86 adopted November 12, 2004, effective November 13, 2004, 34 Pa.B. 6139.

**Subchapter G. CHANGE OF OFFICERS OF
CORPORATIONS AND CLUBS**

Sec.
5.91. Required report.

Cross References

This subchapter cited in 40 Pa. Code § 17.11 (relating to license application protests).

§ 5.91. Required report.

(a) A corporation, association or other Board licensed entity, except a club, having officers, or directors, or stockholders, shall report a change in officers, or directors or stockholders within 15 days. A change in stockholders involving less than 10% of outstanding voting stock need not be reported, except when the change involves a majority or controlling interest. Control is defined as the power or authority to manage, direct, govern, administer or oversee the operation of the licensed business.

(b) The changes shall be reported on forms which will be furnished upon request by the Board. For a change in stockholders, an affidavit describing, in detail, the source of funds used to purchase the stock shall accompany the form. If funds to purchase the stock are derived from a written financing agreement, the financing agreement shall also accompany the form.

(c) Club change of officers shall be reported with the renewal of club license on forms furnished by the Board upon request. Change of club manager or steward shall be reported with the renewal of club license and at license validation on forms furnished by the Board upon request.

(d) Change of officer forms for club licensees shall be accompanied by a fee of \$40. When a background investigation is conducted to obtain or verify information regarding a club change of officer, an additional fee of \$60, for a total fee of \$100, will be assessed. Change of officer forms for changes of corporate officers other than clubs shall be accompanied by a fee of \$200 when the change of officer does not constitute a change in majority/controlling interest. If the change of corporate officer does constitute a change in majority/controlling interest, fees will be assessed in accordance with section 614-A of The Administrative Code of 1929 (71 P. S. § 240.14A).

Authority

The provisions of this § 5.91 issued under section 207(i) of the Liquor Code (47 P. S. § 2-207(i)).

Source

The provisions of this § 5.91 adopted June 26, 1952; amended June 18, 1982, effective July 1, 1982, 12 Pa.B. 1860; amended March 21, 1986, effective May 21, 1986, 16 Pa.B. 954; amended March 12, 1993, effective March 13, 1993, 23 Pa.B. 1145; amended March 20, 1998, effective March 21, 1998, 28 Pa.B. 1418. Immediately preceding text appears at serial pages (205155) to (205156).

Cross References

This section cited in 40 Pa. Code § 3.35 (relating to persons from whom criminal history record information checks are required); and 40 Pa. Code § 11.6 (relating to signature on cards).

**Subchapter H. RECORDS AND REPORTS—BREWERIES, BONDED
WAREHOUSES, AND LICENSED DISTILLERIES OF
HISTORICAL SIGNIFICANCE**

- Sec.
5.101. Breweries.
5.102. Bonded warehouses.
5.103. [Reserved].
5.104. Licensed distilleries of historical significance.

§ 5.101. Breweries.

(a) *Records.* A licensed manufacturer of malt or brewed beverages 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 of the transactions conducted under the authority of the license, subject to inspection, under sections 211, 493(12) and (21) of the Liquor Code (47 P. S. §§ 2-211, 4-493(12) and (21)), by authorized representatives of the Board and the State Police, Bureau of Liquor Control Enforcement. A recordkeeping system utilized by the licensee shall have the capability to provide for the reconciling of required data. Entries shall be verifiable by supporting documentation—original documents. Records shall be clearly identifiable to the licensed operation and include the following:

- (1) The purchase and receipt of raw materials used in the manufacture of malt or brewed beverages, with the name and address of the persons from whom purchased.
- (2) The quantity of raw materials used in the manufacture of malt or brewed beverages, with the quantity of the beverages produced.
- (3) The amount of finished malt or brewed beverages withdrawn, showing the number and size of containers.
- (4) The amount of Federal tax paid on malt or brewed beverages withdrawn for bottling, including the quantity and size of the cases bottled.
- (5) The quantity of tax-paid or nontax-paid malt or brewed beverages used for consumption on the premises.
- (6) The quantity and size of containers removed from the licensed premises, either for personal consumption or other purposes, with the names and addresses of persons for whom removal is made.
- (7) Sales invoices showing the name, address, quantity and size of containers, cost of malt or brewed beverages, deposits collected on returnable containers, refunds paid or credited, and net amount of the invoice.
- (8) A sales register showing the total quantity by size of container, the cost of malt or brewed beverages, deposits collected on all returnable containers, refunds paid or credited, and net amount of cash for the business of each day.
- (9) A cash book, showing all cash received.
- (10) A disbursement record, showing amount of all cash disbursements, with the names of the persons to whom paid. Such disbursements shall be supported by invoices or memoranda.

(11) A record of all expenses incurred by salesmen, including cost of travel, lodging, subsistence and promotional expenses. All promotional expenses must be broken down to show the place and amount expended.

(b) *Federal and State Government reports and forms.* Copies of reports or forms required by Federal or State governmental agencies related to the licensed operations shall be maintained for a period of 2 years unless required to be maintained for a longer period by the Federal or State agencies. The reports or forms shall also be open to inspection by authorized representatives of the Board and the State Police, Bureau of Liquor Control Enforcement, and shall constitute a satisfactory record if they contain the information required in subsection (a).

Source

The provisions of this § 5.101 adopted April 1, 1962, amended through August 29, 1966; amended June 22, 1990, effective June 23, 1990, 20 Pa.B. 3492. Immediately preceding text appears at serial pages (110160), (72699) and (81455).

Cross References

This section cited in 40 Pa. Code § 3.91 (relating to alternating brewers' license).

§ 5.102. Bonded warehouses.

(a) *Records.* A holder of a Bonded Warehouse License shall maintain and keep on the licensed premises, in hard copy or electronic media consistent with generally accepted accounting procedures, for a period of 2 years, complete and accurate daily records of transactions conducted under the authority of the license, subject to inspection, under sections 211, 512 and 513 of the Liquor Code (47 P. S. §§ 2-211, 5-512 and 5-513), by authorized representatives of the Board and the State Police, Bureau of Liquor Control Enforcement. A recordkeeping system utilized by the licensee shall have the capability to provide for the reconciling of required data. Entries shall be verifiable by supporting documentation—original documents. Records shall be clearly identifiable to the licensed operation and shall include the following:

(1) *Receipts.* The name of the producer and location of the distillery where produced, name and address of bonded warehouse from which transferred; name and address of the owner for whom stored, type (whether alcohol, whiskey and the like), type and number of containers, quantity in proof gallons (tax gallons), and warehouse certificates issued, shall be included.

(2) *Shipments.* The name and address of person to whom shipped, type (whether alcohol, whiskey and the like), type and number of containers, quantity in proof gallons (tax gallons), name and address of person from whose inventory the alcohol or liquors were withdrawn, and warehouse certificate numbers cancelled, must be included. Withdrawals In Bond shall show the original proof gallons (tax gallons), tax paid withdrawals shall show the regauged proof gallons (tax gallons) and losses in regauging.

(3) *Transfer of ownership of warehouse certificates.* Where alcohol or liquors are not removed from the bonded warehouse, a transfer of ownership of warehouse certificates shall be recorded, showing the name of person from

whom transferred, the name and address of the person to whom transferred, the type of alcohol or liquor, type and number of containers and proof gallons (tax gallons), the warehouse certificate cancelled and the warehouse certificate issued to the new owner.

(b) *Federal and State Government reports and forms.* Copies of reports or forms required by Federal or State governmental agencies related to the licensed operation shall be maintained for a period of 2 years unless required to be maintained for a longer period by the Federal or State agencies. The reports or forms shall also be open to inspection by authorized representatives of the Board and the State Police, Bureau of Liquor Control Enforcement, and shall constitute a satisfactory record if they contain the information required in subsection (a).

Source

The provisions of this § 5.102 adopted June 26, 1952; amended June 22, 1990, effective June 23, 1990, 20 Pa.B. 3492. Immediately preceding text appears at serial pages (81455) to (81456).

Cross References

This section cited in 40 Pa. Code § 9.123 (relating to records and reports).

§ 5.103. [Reserved].

Authority

The provisions of this § 5.103 issued under sections 207(i) and 505.2(2) and (3) of the Liquor Code (47 P.S. §§ 2-207(i) and 505.2(2) and (3)); amended under section 207(i) of the Liquor Code (47 P.S. § 2-207(i)).

Source

The provisions of this § 5.103 adopted March 11, 1969; amended September 13, 1974, effective September 14, 1974, 4 Pa.B. 1948; amended September 29, 1978, effective September 30, 1978, 8 Pa.B. 2689; amended March 11, 1983, effective March 12, 1983, 13 Pa.B. 984; amended December 22, 1995, effective December 23, 1995, 25 Pa. B. 5957; amended November 18, 2011, effective November 19, 2011, 41 Pa.B. 6218; deleted July 22, 2022, effective July 23, 2022, 52 Pa.B. 4090. Immediately preceding text appears at serial pages (359619) to (359620).

§ 5.104. Licensed distilleries of historical significance.

(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 operations 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.

Source

The provisions of this § 5.104 adopted February 20, 1976, effective February 21, 1976, 6 Pa.B. 365; amended November 23, 1984, effective November 24, 1984, 14 Pa.B. 4284. Immediately preceding text appears at serial pages (81457) to (81458).

Cross References

This section cited in 40 Pa. Code § 3.72 (relating to creation); 40 Pa. Code § 11.211 (relating to sale by licensed distilleries of historical significance); 40 Pa. Code § 11.212 (relating to additional conditions); and 40 Pa. Code § 11.222 (relating to additional conditions).

Subchapter I. RESPONSIBLE ALCOHOL MANAGEMENT PROGRAM

GENERAL

- | | |
|--------|---|
| Sec. | |
| 5.201. | Purpose. |
| 5.202. | Definitions. |
| 5.203. | Mandatory training for managers. |
| 5.204. | Mandatory training for alcohol service personnel. |
| 5.205. | RAMP certification prerequisites. |
| 5.206. | RAMP certification. |
| 5.207. | Records. |

CURRICULUM FOR SERVER/SELLER TRAINING

- 5.211. Curriculum for server/seller training.
- 5.212. Standard curriculum.
- 5.213. Alternative curriculum.

**ONLINE TRAINING PROVIDERS AND PROGRAMS FOR
SERVER/SELLER TRAINING**

- 5.221. Online training provider application.
- 5.222. Online training program approval process.
- 5.223. Minimum standards of the online training program.
- 5.224. Online training provider responsibilities.
- 5.225. Renewal of authorization.
- 5.226. Training vouchers.
- 5.227. Deauthorization of online training providers.

CLASSROOM INSTRUCTORS OF SERVER/SELLER TRAINING

- Sec.
- 5.231. Classroom instructor application.
- 5.232. Classroom instructor approval process.
- 5.233. Minimum standards of classroom training.
- 5.234. Classroom instructor responsibilities.
- 5.235. Renewal of authorization.
- 5.236. Deauthorization of classroom instructors.
- 5.241. [Reserved].
- 5.242. [Reserved].
- 5.243. [Reserved].

ADDITIONAL PROHIBITED CONDUCT

- 5.251. Additional prohibited conduct.
- 5.261. [Reserved].
- 5.271. [Reserved].

Authority

The provisions of this Subchapter I issued under section 207(i) of the Liquor Code (47 P.S. § 2-207(i)), unless otherwise noted.

Source

The provisions of this Subchapter I adopted June 25, 2010, effective June 26, 2010, 40 Pa.B. 3494, unless otherwise noted.

GENERAL**§ 5.201. Purpose.**

This subchapter implements the provisions authorized under section 471.1 of the Liquor Code (47 P.S. § 4-471.1).

Authority

The provisions of this § 5.201 amended under sections 207(i) and 471.1 of the Liquor Code (47 P.S. §§ 2-207(i) and 4-471.1).

Source

The provisions of this § 5.201 amended August 27, 2021, effective August 28, 2021, 51 Pa.B. 5374. Immediately preceding text appears at serial pages (371326) and (379379).

§ 5.202. Definitions.

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

Alcohol service personnel—Any employee of a licensee such as a bartender, waiter or, in the case of a distributor or importing distributor, a salesperson whose primary responsibility includes the resale, furnishing or serving of liquor or malt or brewed beverages. It shall also mean any employee, such as a door-person, whose primary responsibility is to ascertain the age of individuals who are attempting to enter the licensed premises.

Alternative curriculum—Curriculum for server/seller training that was developed by an entity other than the Bureau of Alcohol Education.

BAE—Bureau of Alcohol Education—The office in the PLCB that is responsible for administering the Responsible Alcohol Management Program (RAMP).

Classroom instructor—An individual who is authorized by the PLCB to instruct students on server/seller training in a classroom setting where the instructor and the students are physically present.

Designated employee—An employee of a licensee whose primary job for the licensee is employee training or providing human resource services.

Licensee—An individual, person or entity that holds a license issued by the PLCB.

Material change—A change that affects or impacts the substance of the curriculum or changes the order of the curriculum. A material change may include the addition of unapproved information or the deletion of approved information.

New employee—An individual who has not been employed at the licensed premises in any capacity during the preceding year.

Online training provider—An individual or entity who is authorized by the PLCB to provide instruction to students on server/seller training by means of the Internet.

Owner/manager training—Training conducted by the PLCB or its employees for individuals who manage or own licensed premises.

PLCB—Pennsylvania Liquor Control Board.

RAMP—Responsible Alcohol Management Program—A certification program regarding the responsible sale and service of alcohol.

Responsible server practices—Procedures and practices used by alcohol service personnel to prevent the furnishing or selling of alcoholic beverages to minors and visibly intoxicated persons.

Server/seller training—Training conducted by the PLCB, a classroom instructor, or an online training provider for alcohol service personnel.

Standard curriculum—Curriculum for server/seller training that is produced and provided by the Bureau of Alcohol Education.

Student—An individual who has enrolled in a RAMP class or online training.

Training voucher—A code or password that grants permission or access to an online training program that may be purchased from an online training provider.

Authority

The provisions of this § 5.202 amended under sections 207(i) and 471.1 of the Liquor Code (47 P.S. §§ 2-207(i) and 4-471.1).

Source

The provisions of this § 5.202 amended August 27, 2021, effective August 28, 2021, 51 Pa.B. 5374. Immediately preceding text appears at serial page (379379).

§ 5.203. Mandatory training for managers.

(a) Any manager who is required, under section 471.1(g) of the Liquor Code (47 P.S. § 4-471.1(g)), to complete owner/manager training within 180 days of approval of appointment by the PLCB will be deemed to have met that training requirement if the appointed manager successfully completed the training within the 2 years prior to being appointed manager.

(b) Licensees must ensure that the manager has successfully completed owner/manager training within the past 2 years.

(c) The first time an individual enrolls in owner/manager training, he or she shall enroll and attend the owner/manager training in a classroom setting. The individual may take subsequent owner/manager training in a classroom setting or by means of online training, as preferred.

(d) Owner/manager training expires after 2 years. An owner/manager must renew owner/manager training every 2 years.

Authority

The provisions of this § 5.203 added under sections 207(i) and 471.1 of the Liquor Code (47 P.S. §§ 2-207(i) and 4-471.1).

Source

The provisions of this § 5.203 added August 27, 2021, effective August 28, 2021, 51 Pa.B. 5374.

§ 5.204. Mandatory training for alcohol service personnel.

(a) Any alcohol service personnel who is required, under section 471.1(h) of the Liquor Code (47 P.S. § 4-471(h)), to complete server/seller training within 6 months of being hired by a licensee will be deemed to have met that training requirement if the training was successfully completed within the 2 years prior to being hired by the licensee.

(b) Licensees must ensure that each member of their alcohol service personnel has successfully completed server/seller training within the past 2 years.

(c) If a licensee obtains an off-premises catering permit for use at a catered function, all alcohol service personnel must have successfully completed server/seller training within 2 years prior to the date of the catered function.

(d) Server/seller training expires after 2 years. Alcohol service personnel must renew server/seller training every 2 years.

Authority

The provisions of this § 5.204 added under sections 207(i) and 471.1 of the Liquor Code (47 P.S. §§ 2-207(i) and 4-471.1).

Source

The provisions of this § 5.204 added August 27, 2021, effective August 28, 2021, 51 Pa.B. 5374.

§ 5.205. RAMP certification prerequisites.

(a) Licensees may seek RAMP certification voluntarily, may commit to obtaining certification as part of a conditional licensing agreement entered into with the PLCB, or may be required to obtain certification by a provision in the Liquor Code or as a result of an adjudicated citation.

(b) Licensees applying for RAMP certification under section 471.1 of the Liquor Code (47 P.S. § 4-471.1) must complete the following prerequisites:

(1) *Owner/manager training.*

(i) At least one owner or the PLCB-approved manager must complete the owner/manager training.

(ii) The first time an individual enrolls in owner/manager training, the individual shall enroll and attend the owner/manager training in a classroom setting. The individual may take subsequent owner/manager training in a classroom setting or by means of online training, as preferred.

(iii) Training will include instruction on proper service of alcohol, developing an alcohol service policy and establishing house rules and policies aimed at preventing sales of alcoholic beverages to minors or visibly intoxicated persons. Instruction will also be provided on identification checks and signs of visible intoxication. Instruction will be provided on techniques to ensure that alcohol service personnel are complying with house rules and

policies, including the orientation of new and current employees and the documentation of incidents occurring in the workplace.

(iv) Owner/manager training will be conducted by the PLCB. The PLCB will maintain records establishing the names of individuals who have successfully undergone owner/manager training.

(2) *Server/seller training.*

(i) At least 50% of the licensee's alcohol service personnel must successfully complete server/seller training at the time of filing the application for certification of compliance. This percentage must be maintained or RAMP certification may be rescinded.

(ii) Successful completion of server/seller training is a score of 80% or better on the PLCB's final examination.

(iii) Training will include instruction on detecting signs of impairment and intoxication, identifying underage individuals, and detecting false identifications, including those that are altered, counterfeit or borrowed. Instruction will focus on the practical application of the skills necessary to properly check identification, prevent intoxication and refuse service.

(3) *New employee orientation.*

(i) When preparing to apply for RAMP certification for the first time, the licensee's owner, manager or designated employee must review an orientation checklist with all alcohol service personnel. The orientation checklist, provided by the PLCB, addresses the liquor laws regarding service to minors, service to visibly intoxicated patrons, acceptable forms of identification, carding practices and house policies.

(ii) New employees must receive orientation within 30 days of being hired by the licensee. When new employees are hired, the licensee is responsible for ensuring that the owner, manager or designated employee conducts new employee orientation within 30 days of the employee's hire.

(iii) Once completed, orientation checklists should be kept by the licensee throughout the person's employment and for 2 years after separation from employment.

(4) *Display of responsible alcohol service signage.*

(i) Licensees must post signs in the licensed premises. The signs will be provided by the PLCB, although a licensee may use its own signs as long as they are equivalent in size and content to the PLCB's signs.

(ii) The following signs must be posted, notifying patrons about:

(A) Acceptable forms of identification as described in section 495(a) of the Liquor Code (47 P.S. § 4-495(a)).

(B) The licensee's duty to refuse service to minors and visibly intoxicated persons under section 493(1) of the Liquor Code (47 P.S. § 4-493(1)).

(iii) The design of the signs must be so that they are legible from a distance of at least 10 feet. Signs must be located where patrons will easily see them.

(iv) The licensee is responsible for the posting and maintenance of signs.

Authority

The provisions of this § 5.205 added under sections 207(i) and 471.1 of the Liquor Code (47 P.S. §§ 2-207(i) and 4-471.1).

Source

The provisions of this § 5.205 added August 27, 2021, effective August 28, 2021, 51 Pa.B. 5374.

Cross References

This section cited in 40 Pa. Code § 5.206 (relating to RAMP certification); and 40 Pa. Code § 5.207 (relating to records).

§ 5.206. RAMP certification.

(a) After a licensee has completed the prerequisites of RAMP certification as set forth in § 5.205 (relating to RAMP certification prerequisites), the licensee may file an application with the PLCB for RAMP certification. There is no fee for applying for certification or recertification.

(1) If the PLCB finds that the licensee has satisfied the prerequisites, the PLCB will approve the application for certification of the licensee.

(2) RAMP certification is valid for 2 years. The PLCB will issue a notice of certification to the licensee that will advise the licensee of the date that the certification will expire.

(3) The licensee must continually satisfy the certification requirements during that period or certification may be rescinded.

(b) If the PLCB finds that the licensee has not satisfied the prerequisites, the PLCB will deny the application for certification of the licensee.

(1) If the licensee was required to obtain RAMP certification as a result of an adjudicated citation or by the terms of a conditional licensing agreement, but failed to do so, the PLCB will refer the matter to the Pennsylvania State Police, Bureau of Liquor Control Enforcement.

(c) The PLCB's certification of a licensee's status as being RAMP compliant shall create a rebuttable presumption that the licensee is RAMP compliant. This is a matter of which official notice may be taken within the context of any proceeding before the Office of Administrative Law Judge or the PLCB.

Authority

The provisions of this § 5.206 added under sections 207(i) and 471.1 of the Liquor Code (47 P.S. §§ 2-207(i) and 4-471.1).

Source

The provisions of this § 5.206 added August 27, 2021, effective August 28, 2021, 51 Pa.B. 5374.

§ 5.207. Records.

(a) A licensee that has obtained RAMP certification shall keep the following records:

(1) A current list of all members of the licensee's alcohol service personnel, including the name of the employee, date of hire, date of training (owner/manager and server/seller) and date of new employee orientation.

(2) Date of licensee's certification.

(3) New employee orientation checklist(s), as explained in § 5.205(b)(3) (relating to RAMP certification prerequisites).

(4) Responsible alcohol service signs it posted, where and when the signs were posted, revised and reposted.

(b) These records shall be maintained as part of the licensee's operating records required to be kept for 2 years in accordance with section 493(12) of the Liquor Code (47 P.S. § 4-493(12)).

Authority

The provisions of this § 5.207 added under sections 207(i) and 471.1 of the Liquor Code (47 P.S. §§ 2-207(i) and 4-471.1).

Source

The provisions of this § 5.207 added August 27, 2021, effective August 28, 2021, 51 Pa.B. 5374.

CURRICULUM FOR SERVER/SELLER TRAINING**§ 5.211. Curriculum for server/seller training.**

Any individual or entity that wants to offer server/seller training must use the standard curriculum provided by the Bureau of Alcohol Education or an alternative curriculum that has been approved for use by the PLCB.

Authority

The provisions of this § 5.211 amended under sections 207(i) and 471.1 of the Liquor Code (47 P.S. §§ 2-207(i) and 4-471.1).

Source

The provisions of this § 5.211 amended November 13, 2015, effective November 14, 2015, 45 Pa.B. 6593; amended August 27, 2021, effective August 28, 2021, 51 Pa.B. 5374. Immediately preceding text appears at serial pages (379379) to (379380).

§ 5.212. Standard curriculum.

(a) The PLCB makes available, on the BAE's page on the PLCB's web site, an electronic link to the PLCB's standard curriculum and a manual to be used by students. If an individual or entity requests the PLCB to provide this information

in hard copy by means of mail, the PLCB will assess a flat fee, pursuant to an established fee schedule, for printing and mailing the information. The fee schedule will be published on the BAE's page on the PLCB's web site.

(b) The standard curriculum includes instruction on detecting signs of impairment and intoxication, identifying underage individuals and detecting false identifications, including those that are altered, counterfeit or borrowed. Instruction will focus on the practical application of the skills necessary to properly check identification, prevent intoxication and refuse service.

Authority

The provisions of this § 5.212 added under sections 207(i) and 471.1 of the Liquor Code (47 P.S. §§ 2-207(i) and 4-471.1).

Source

The provisions of this § 5.212 added August 27, 2021, effective August 28, 2021, 51 Pa.B. 5374.

§ 5.213. Alternative curriculum.

(a) The PLCB makes available, on the BAE's page on the PLCB's web site, an electronic link to guidelines for submitting an alternative curriculum to be approved by the PLCB, along with an electronic link to the most current version of the PLCB's Web Trainee Transfer Service requirements. If an individual or entity requests the PLCB to provide this information in hard copy through mail, the PLCB will assess a flat fee, under an established fee schedule, for printing and mailing the information. The fee schedule will be published on the BAE's page on the PLCB's web site.

(b) The PLCB is authorized to approve the use of an alternative curriculum and student manual developed by another person or entity for use by an online training provider or a classroom instructor. An application for approval of the alternative curriculum and student manual must be accompanied by a nonrefundable \$250 application fee. The PLCB may approve the use of the alternative curriculum and student manual if they are equivalent to or exceed the PLCB's standard curriculum.

(c)(1) In the event that the alternative curriculum and student manual are not equivalent to or do not exceed the PLCB's standard curriculum and student manual, the PLCB will advise the applicant in writing as to the deficiencies within 90 days of receiving the alternative curriculum, student manual and fee.

(2) The applicant will have 60 days from the date of the notification to complete the required changes to the alternative curriculum and resubmit it for evaluation. If the alternative curriculum and student manual still do not meet or exceed the PLCB's standard curriculum and student manual, the PLCB will again advise the applicant in writing as to the deficiencies. The applicant will then have 30 days from the date of the second notification to complete the required changes to the online training program and provide access to the

PLCB for a final evaluation of the alternative curriculum. The resubmission under this subsection does not require the payment of an additional fee.

(i) If the alternative curriculum still includes deficiencies after the third submission to the PLCB, the PLCB will send a notice to the applicant by United States mail that the alternative curriculum will not be approved and that the application is closed. No refund will be given to the applicant.

(ii) The PLCB will not accept, for a minimum of 1 year from the date of the notice advising the applicant that the application was closed, another application for alternative curriculum approval from the applicant. Applications will only be accepted during a period of open enrollment, which shall be posted on the BAE's page on the PLCB's web site.

(3) If the applicant has rectified the deficiencies in the alternative curriculum and student manual and they are approved by the PLCB, the applicant shall submit a clean, final copy of the approved alternative curriculum and the student manual.

Authority

The provisions of this § 5.213 added under sections 207(i) and 471.1 of the Liquor Code (47 P.S. §§ 2-207(i) and 4-471.1).

Source

The provisions of this § 5.213 added August 27, 2021, effective August 28, 2021, 51 Pa.B. 5374.

Cross References

This section cited in 40 Pa. Code § 5.223 (relating to minimum standards of the online training program); 40 Pa. Code § 5.224 (relating to online training provider responsibilities); and 40 Pa. Code § 5.234 (relating to classroom instructor responsibilities).

ONLINE TRAINING PROVIDERS AND PROGRAMS FOR SERVER/SELLER TRAINING

§ 5.221. Online training provider application.

(a) A person who wants to become an authorized online training provider of server/seller training shall submit an application for authorization issued by the PLCB and pay a nonrefundable application fee of \$850, as well as a separate fee for a criminal record check.

(1) The PLCB will only accept applications during scheduled open enrollment periods, which shall be posted on the BAE's page on the PLCB's web site. The PLCB reserves the discretion to limit the number and frequency of open enrollment periods based on operational restrictions.

(b) The minimum qualifications of an online training provider are the same as the minimum qualifications of a classroom instructor, as set forth in § 5.231(b) (relating to classroom instructor application), except that online training providers are not required to attend owner/manager training.

(c) The applicant shall submit, for approval, a proposed online training program that must be approved by the PLCB before the PLCB will issue a notice of authorization to the online training provider.

Authority

The provisions of this § 5.221 added under sections 207(i) and 471.1 of the Liquor Code (47 P.S. §§ 2-207(i) and 4-471.1).

Source

The provisions of this § 5.221 added August 27, 2021, effective August 28, 2021, 51 Pa.B. 5374.

Cross References

This section cited in 40 Pa. Code § 5.222 (relating to online training program approval process); 40 Pa. Code § 5.225 (relating to renewal of authorization); and 40 Pa. Code § 5.227 (relating to deauthorization of online training providers).

§ 5.222. Online training program approval process.

(a) The online training program must be based on the PLCB's standard curriculum or an alternative curriculum that has been approved by the PLCB.

(1) Within 120 days of receiving the standard curriculum or approval to use an alternative curriculum, the applicant shall provide the PLCB with access to the proposed online training web site, including necessary login information for the purpose of viewing content and testing the web site.

(2) If the applicant requires more than 120 days to provide the PLCB with access to the proposed online training web site, the applicant may request an extension in writing, by letter or by e-mail. The PLCB may grant a 30-day extension for temporary, nonrecurring exigencies, such as instructor illness or family emergency, bad weather or other circumstances beyond the instructor's control.

(3) If the applicant does not provide the PLCB access to the proposed online training web site by the deadline provided by the PLCB, the application will be denied and no refund will be given to the applicant.

(b) Upon receipt of the applicant's proposed online training program, the PLCB will review and test the proposed online training program. While the online training program is under review by the PLCB, the applicant may not advertise the availability of the online training program or provide public access to the online training program.

(c) The PLCB will determine whether an applicant's online training program meets the minimum standards set forth in § 5.223 (relating to minimum standards of the online training program).

(d) After the initial evaluation, the PLCB will, if necessary, notify the applicant of any required changes that need to be made to the online training program. The applicant will have 60 days from the date of the notification to complete the

required changes to the online training program and provide access to the PLCB for a second evaluation of the online training program.

(e) After the second evaluation, the PLCB will, if necessary, again notify the applicant of any required changes that need to be made to the online training program. The applicant will have 30 days from the date of the notification to complete the required changes to the online training program and provide access to the PLCB for a final evaluation of the online training program.

(1) If the online training program still requires changes after the third submission to the PLCB, the PLCB will send a notice to the applicant by United States mail that the online training program will not be approved and that the application is closed. No refund will be given to the applicant.

(2) The PLCB will not accept, for a minimum of 1 year from the date of the notice advising the applicant that the application was closed, another application for online training program approval from the applicant. Applications will only be accepted during a period of open enrollment, which shall be posted on the BAE's page on the PLCB's web site. See § 5.221(a) (relating to online training provider application).

(f) If the applicant meets the minimum requirements and the PLCB has approved that person's proposed online training program, the PLCB will issue to the online training provider a notice of authorization.

(g) The period of authorization shall be 1 year from the date of issuance of the notice of authorization. The renewal of authorization is addressed in § 5.225 (relating to renewal of authorization).

Authority

The provisions of this § 5.222 added under sections 207(i) and 471.1 of the Liquor Code (47 P.S. §§ 2-207(i) and 4-471.1).

Source

The provisions of this § 5.222 added August 27, 2021, effective August 28, 2021, 51 Pa.B. 5374.

§ 5.223. Minimum standards of the online training program.

(a) *Program features.*

(1) The program content for the online training program must be either the standard curriculum or an approved alternative curriculum. Material changes to the curriculum may not be made without the approval of the PLCB.

(2) The online training program must cover topics required by the PLCB. The topics must be grouped into training modules. For some topics, the online training program must include mandatory language. The required topics, the mandatory language and the PLCB's final examination will be made available to the applicant by the PLCB.

(3) The online training program must include knowledge checks at the end of each training module. Knowledge checks ensure that a student is properly

reviewing and understanding the program content. The online training program must require a student to correctly answer questions based on course content. These questions should be designed to evaluate the student's comprehension of each training module before students are permitted to advance to the next training module.

(4) The online training program must use the PLCB's final examination.

(5) The online training program must consist of at least 1 1/2 hours of instructional time.

(6) The online training program must contain any disclaimers required by the PLCB, which the PLCB will provide to the applicant.

(b) *Program availability.*

(1) Every online training provider shall make its online training program available to the general public.

(2) An online training provider shall require a student to register for the online training program by using specific personal identifiers provided by the PLCB.

(i) The online training program must provide the opportunity for a student to confirm and edit the information submitted in the registration process before proceeding.

(ii) The registration process must require the student to provide an e-mail address.

(iii) As soon as the student has completed the registration process, the online training program must send the student an e-mail confirming the student's registration with that online training program. The e-mail must include a hyperlink to the online training program.

(3) If the online training provider offers training vouchers for licensees to purchase for the future use of the licensee's employees, the online training provider's web site must meet the requirements set forth in § 5.226 (relating to training vouchers).

(c) *Program functionality.*

(1) All text on each page or screen of the online training program must be narrated.

(2) Each page or screen of the online training program must be numbered.

(3) Each page or screen of the online training program must be timed so that a student may not advance to the next page or screen without having sufficient opportunity to review the contents of the current page or screen.

(4) Knowledge checks must be incorporated throughout the training.

(5) The online training program must require the student to answer security questions during registration that will be used, at random intervals, to validate student identity and participation throughout the course.

(6) The online training program must allow a student to pause and review previous pages or screens at any time.

(7) The online training program must allow a student to save progress in the program content, log out and resume the online training program at a later time. Once the student has begun the final examination however, logging out of the training program must not be permitted, as explained in subsection (d)(1)(i).

(d) *Final Examination.*

(1) At the conclusion of the online training program, the student shall be required to complete the PLCB's final examination.

(i) The student shall have one attempt at the final examination. The student shall not be permitted to log out of the final examination and resume the final examination at a later time.

(ii) Questions in the PLCB's final examination must be randomized by the online training provider.

(iii) The student shall not be able to print the final examination.

(2) The online training program must immediately score the final examination and immediately notify the student of that score. A score of 80% or better is required to pass the final examination.

(i) The online training program must be able to allow a student who receives a passing score on the final examination to print a certificate of completion provided by the PLCB.

(ii) A student who does not receive a passing score on the final examination may re-register for an online training program. However, the student may not retake the final examination without taking the online training program again.

(3) The online training program must provide each student with access to a manual.

(i) If the online training program is using the PLCB's standard curriculum, then the student shall be provided with the manual for that curriculum.

(ii) If the online training program is based on an alternative curriculum that has been approved by the PLCB, then the student shall be provided with the manual for that curriculum.

(iii) Manuals may not be printed until the conclusion of the final examination.

(iv) Manuals may not be provided to anyone not participating in an approved online training program.

(e) *Security and technology.*

(1) The online training program must comply with the most current version of the PLCB's Web Trainee Transfer Service requirements, as referenced in § 5.213(a) (relating to alternative curriculum).

(2) The online training program must encrypt, at all times, any personally identifiable information protected by law, including but not limited to a student's social security number or date of birth. The online training provider shall

not sell or use this information for any purpose other than for identification by the online training provider and verification by the PLCB.

(3) The online training program must comply with any and all applicable Federal and State laws and regulations related to information security.

Authority

The provisions of this § 5.223 added under sections 207(i) and 471.1 of the Liquor Code (47 P.S. §§ 2-207(i) and 4-471.1).

Source

The provisions of this § 5.223 added August 27, 2021, effective August 28, 2021, 51 Pa.B. 5374.

Cross References

This section cited in 40 Pa. Code § 5.222 (relating to online training program approval process); and 40 Pa. Code § 5.227 (relating to deauthorization of online training providers).

§ 5.224. Online training provider responsibilities.

Online training providers have the responsibility to do the following:

(1) Using the standard curriculum provided by the PLCB, or an alternative curriculum approved by the PLCB, provide students, by means of an online training program, with information regarding the current status of the law on issues regarding the sale or service of alcoholic beverages by licensees.

(2) Provide the PLCB with unlimited vouchers or pass codes that will allow the PLCB to access the online training program free of charge for review purposes.

(3) Train at least 225 students per year. Online training providers may request a waiver of the minimum requirements in this paragraph by sending a letter or e-mail to the PLCB. The PLCB will waive the requirements for minimum training activity for online training providers due to temporary, nonrecurring exigencies, such as online training provider illness or family emergency, bad weather or other circumstances beyond the online training provider's control.

(4) Provide accurate records of a student's completion of online training to the PLCB immediately following the online training by electronically transmitting the necessary electronic data regarding the student.

(i) Records must be sent in real-time or in frequent batch submissions not more than 15 minutes after completion of the final examination.

(ii) The online training provider shall monitor submissions daily and resolve, within 24 hours, any error message received from the PLCB indicating that the submission was not processed. If the error message cannot be resolved within 24 hours, the online training provider shall immediately notify the PLCB.

(iii) The online training provider shall maintain all records of online training sessions for a minimum of 2 years.

- (5) Attend instructor meetings as scheduled by the PLCB.
- (6) Refer all questions relating to course content to the PLCB.
- (7) Provide technical support to students by means of telephone, internet chat exchange or e-mail. Technical support must be timely and accurate. Any technical support inquiry from a student must be resolved within 2 business days.
- (8) Acknowledge or respond to e-mails, telephone calls or any other contacts placed by the PLCB, licensees or trainees, or both, within 48 hours.
- (9) Submit all forms of correspondence used for marketing purposes to the PLCB for approval prior to dissemination. An online training provider shall not use any forms of correspondence for marketing purposes that have not been approved by the PLCB.
- (10) With regard to changes to program content:
 - (i) Make required changes to written program content by the date provided by the PLCB.
 - (ii) Block public access to the program content until the required changes have been made and approved by the PLCB.
 - (iii) Refrain from making material changes to online training program content without being required to do so by the PLCB or without receiving approval from the PLCB to make the material changes.
 - (A) If the online training provider wants to make a material change to the online training program, the online training program must be submitted for review and approval, under the procedure set forth in § 5.213 (relating to alternative curriculum), along with a nonrefundable fee of \$250 as required by that section, unless the changes were required by the PLCB.
- (11) With regard to security and technology:
 - (i) Provide the PLCB with notice of any system enhancements or modifications, including upgrades and new versions and releases.
 - (ii) Report, in accordance with the Breach of Personal Information Notification Act (73 P.S. §§ 2301—2329), any breach of system security or unauthorized release of personally identifiable information.
 - (iii) Report to the PLCB, within 24 hours, any system failure that prevents compliance with any of the requirements of this regulation.
 - (iv) Ensure the correction of a system failure within 7 calendar days.
- (12) Notify the PLCB within 7 days of a change in the online training provider's telephone number, e-mail address or physical address and provide the PLCB with the new telephone number, e-mail address or physical address.

Authority

The provisions of this § 5.224 added under sections 207(i) and 471.1 of the Liquor Code (47 P.S. §§ 2-207(i) and 4-471.1).

Source

The provisions of this § 5.224 added August 27, 2021, effective August 28, 2021, 51 Pa.B. 5374.

Cross References

This section cited in 40 Pa. Code § 5.227 (relating to deauthorization of online training providers).

§ 5.225. Renewal of authorization.

(a) At least 30 days prior to the expiration of the online training provider's authorization, the online training provider shall submit an application for renewal of authorization, which will be provided by the PLCB.

(1) If the online training provider does not want to make material changes to the online training program from the last time it was approved by the PLCB, the online training provider shall certify that no material changes were made to the online training program after it was last approved by the PLCB. In addition, the online training provider shall submit a \$600 fee with the online training provider's application for renewal of authorization, as well as a separate fee for a criminal record check.

(2) If the online training provider wants to make material changes to the online training program, then a \$850 fee must accompany the online training provider's application for renewal of authorization, as well as a separate fee for a criminal record check. The online training provider shall use the online training program approved by the PLCB until the notice of authorization has been renewed. The online training provider shall submit hard copy screen shots of the online training program that incorporates the material changes. The online training provider shall submit no more than two screen shots per one side of an 8 1/2 by 11 inch piece of paper. The screen shots may be in color or black and white.

(b) *Untimely applications for authorization renewal.*

(1) The PLCB may accept an application for renewal of authorization that is filed less than 30 days before the expiration of the current authorization, but not after expiration, if the applicant includes an additional filing fee of \$100.

(2) The PLCB will not accept an application for renewal of authorization that is filed after the expiration of the current authorization.

(3) As of the date of the expiration of an online training provider's authorization, the following will no longer be valid:

(i) Training that is completed by a student after the date of expiration.

(ii) Any training vouchers issued by an online training provider that have not been redeemed and training completed.

(4) As of the date of the expiration of the online training provider's authorization, the online training provider is prohibited from allowing public access to its online server/seller training for server/sellers in this Commonwealth.

(5) The PLCB will not accept, for a minimum of 1 year from the date of expiration, an application from an online training provider whose authorization

has expired. Under these circumstances, a new application must be filed, not an application for renewal. Applications will only be accepted during a period of open enrollment, which shall be posted on the BAE's page on the PLCB's web site. See § 5.221(a) (relating to online training provider application).

Authority

The provisions of this § 5.225 added under sections 207(i) and 471.1 of the Liquor Code (47 P.S. §§ 2-207(i) and 4-471.1).

Source

The provisions of this § 5.225 added August 27, 2021, effective August 28, 2021, 51 Pa.B. 5374.

Cross References

This section cited in 40 Pa. Code § 5.222 (relating to online training program approval process).

§ 5.226. Training vouchers.

(a) The online training provider may sell training vouchers for future use by a licensee's employees. A licensee may purchase training vouchers in bulk for future use by its employees.

(b) Training vouchers are valid for as long as the online training provider is authorized to provide server/seller training.

Authority

The provisions of this § 5.226 added under sections 207(i) and 471.1 of the Liquor Code (47 P.S. §§ 2-207(i) and 4-471.1).

Source

The provisions of this § 5.226 added August 27, 2021, effective August 28, 2021, 51 Pa.B. 5374.

Cross References

This section cited in 40 Pa. Code § 5.223 (relating to minimum standards of the online training program).

§ 5.227. Deauthorization of online training providers.

(a) The PLCB will send a notice of violation to an online training provider by certified United States mail if the online training provider is:

(1) Failing to meet the minimum standards of the online training program set forth in § 5.223 (relating to minimum standards of the online training program).

(2) Failing to meet the responsibilities set forth in § 5.224 (relating to online training provider responsibilities).

(3) Engaging in prohibited conduct set forth in § 5.251 (relating to additional prohibited conduct).

(b) The notice of violation will give the online training provider a deadline by which the violation must be remedied. The amount of time given to remedy

the violation will vary depending upon the complexity of the circumstances and may be up to 60 days. The notice of violation may advise the online training provider that its authorization is temporarily suspended, pending resolution of the violation.

(1) If the online training provider receives a notice that its authorization is temporarily suspended, the online training provider must immediately prohibit all students from accessing the online training program until the violation that prompted the suspension has been resolved.

(c) If the violation is not remedied by the deadline, or if the PLCB has grounds to issue a second notice of violation within the same authorization year as the first notice of violation, the PLCB will send a notice of deauthorization to an online training provider by certified United States mail. An appeal of the PLCB's decision to deauthorize shall be in accordance with 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

(1) If the online training provider receives a notice that it has been deauthorized, the online training provider shall immediately:

- (i) Render the online training program inaccessible by new students;
- (ii) Contact, by e-mail, all students who have started the course but not finished it and advise them to finish it within 14 days after the date of deauthorization;
- (iii) Contact, by e-mail or by telephone, the purchasers of all unredeemed vouchers and advise them that the online training program is no longer authorized; and
- (iv) Remit refunds to all purchasers of vouchers that have not been redeemed. The online training provider shall refund the amount for these vouchers at the same bulk rate that the purchaser paid.

(d) The PLCB will not accept, for a minimum of 1 year from the notice of deauthorization, an application from an online training provider that has been issued a notice of deauthorization. Under these circumstances, a new application must be filed, not an application for renewal. Applications will only be accepted during a period of open enrollment. See § 5.221(a) (relating to online training provider application).

Authority

The provisions of this § 5.227 added under sections 207(i) and 471.1 of the Liquor Code (47 P.S. §§ 2-207(i) and 4-471.1).

Source

The provisions of this § 5.227 added August 27, 2021, effective August 28, 2021, 51 Pa.B. 5374.

CLASSROOM INSTRUCTORS OF SERVER/SELLER TRAINING**§ 5.231. Classroom instructor application.**

(a) A person desiring authorization to be a classroom instructor shall submit an application issued by the PLCB and pay a \$500 nonrefundable application fee, as well as a fee for a criminal record check.

(1) The PLCB will only accept applications during scheduled open enrollment periods. The PLCB reserves the discretion to limit the number and frequency of open enrollment periods based on operational restrictions.

(b) The minimum qualifications of a classroom instructor include the following:

(1) Possessing a high school diploma or GED.

(2) Within the previous 5 years, having a minimum of 2 years of experience, full-time, as a trainer or in giving presentations in the field of education, law, law enforcement, substance abuse prevention, hospitality related to hotel/restaurant management or alcohol service training or other equivalent combination of experience and training.

(3) Being 21 years of age or older.

(4) Having no convictions that are related to alcohol, narcotics or other controlled substances and having no felony convictions in the previous 10 years.

(5) Attending owner/manager training once in the year preceding the date the application for instructor authorization is filed. Classroom instructors shall attend the owner/manager training in a classroom setting.

Authority

The provisions of this § 5.231 amended under sections 207(i) and 471.1 of the Liquor Code (47 P.S. §§ 2-207(i) and 4-471.1).

Source

The provisions of this § 5.231 amended August 27, 2021, effective August 28, 2021, 51 Pa.B. 5374. Immediately preceding text appears at serial pages (379380) to (379381).

Cross References

This section cited in 40 Pa. Code § 5.221 (relating to online training provider application); 40 Pa. Code § 5.235 (relating to renewal of authorization); and 40 Pa. Code § 5.236 (relating to deauthorization of classroom instructors).

§ 5.232. Classroom instructor approval process.

(a) Applicants shall attend a 2-day mandatory training session in Harrisburg before the PLCB will issue a notice of authorization. An applicant who does not attend and complete the 2-day training session will be disqualified from consideration as a classroom instructor.

(b) The PLCB shall issue a notice of authorization to those applicants who have successfully completed the training session. The period of authorization shall be 1 year from the date of issuance of the notice of authorization. The classroom instructor is required to successfully complete a probationary period.

(1) Within the first 3 months of probation, the PLCB will evaluate the classroom instructor at least once. There are five possible evaluation ratings: Outstanding, Commendable, Satisfactory, Needs Improvement or Unsatisfactory.

(i) The classroom instructor must receive an “Outstanding,” “Commendable” or “Satisfactory” rating to successfully complete the probationary period.

(ii) If the classroom instructor receives a “Needs Improvement” rating, the classroom instructor will be re-evaluated by the PLCB at any time within the next 3 months. Upon re-evaluation, the classroom instructor must receive an “Outstanding,” “Commendable” or “Satisfactory” rating to successfully complete the probationary period. If the classroom instructor does not, the PLCB will terminate the classroom instructor’s notice of authorization.

(iii) If the classroom instructor receives an “Unsatisfactory” rating, the PLCB will terminate the classroom instructor’s notice of authorization.

(iv) “Termination” will be treated the same as deauthorization for purposes of § 5.236 (relating to deauthorization of classroom instructors).

Authority

The provisions of this § 5.232 amended under section 207(i) and 471.1 of the Liquor Code (47 P.S. § 2-207(i) and 4-471.1).

Source

The provisions of this § 5.232 amended November 13, 2015, effective November 14, 2015, 45 Pa.B. 6593; amended August 27, 2021, effective August 28, 2021, 51 Pa.B. 5374. Immediately preceding text appears at serial page (379381).

Cross References

This section cited in 40 Pa. Code § 5.251 (relating to prohibited conduct).

§ 5.233. Minimum standards of classroom training.

(a) A classroom instructor shall conduct training sessions conforming to either the PLCB’s standard curriculum or an alternative curriculum approved by the PLCB.

(1) Each training session must consist of at least 2 1/2 hours of uninterrupted instructional time, not including time spent reviewing information with students or administering the final examination. Each training session must be taught in one session from start to finish.

(2) The ratio of students per classroom instructor may not exceed 40 to 1.

(b) A classroom instructor shall notify the PLCB of the following:

- (1) At least 7 calendar days in advance of scheduling any training session. A classroom instructor shall provide notification to the BAE through the BAE's page on the PLCB's web site.
- (2) Immediately of any training session cancellation. A classroom instructor shall provide notification to the PLCB by telephone or by e-mail.
- (3) Immediately of any changes to the training schedule. A classroom instructor shall provide notification to the PLCB by telephone or by e-mail.
- (c) A classroom instructor shall obtain the student information indicated in paragraphs (1)—(4) at the beginning of the training session. A classroom instructor shall send a completed attendance sheet to the PLCB within 7 days of the end of the training session, including the following information from each student:
 - (1) Name.
 - (2) Home address and e-mail address.
 - (3) Telephone number.
 - (4) Student identification number issued by the PLCB.
 - (5) Licensed establishment name, address and licensee identification.
 - (6) Time, date and location of training.
 - (7) Pass/fail score on the test.
- (d) At the conclusion of the training, the classroom instructor shall administer a final examination prepared by the PLCB, ensuring that students complete the final examination individually, as a closed book examination, without access to references or assistance from others to aid in the completion of the final examination.
- (e) Within 7 days, the classroom instructor shall grade the final examinations and notify students of their grades. A score of 80% or better is required to pass. The classroom instructor shall provide a standard participant wallet card to each student who passes the final examination. These wallet cards are provided to the classroom instructor by the PLCB. A student who does not pass the final examination may, at the first opportunity, schedule training and take the final examination again. However, the student may not retake the final examination without receiving the training again.

Authority

The provisions of this § 5.233 amended under section 207(i) and 471.1 of the Liquor Code (47 P.S. § 2-207(i) and 4-471.1).

Source

The provisions of this § 5.233 amended November 13, 2015, effective November 14, 2015, 45 Pa.B. 6593; amended August 27, 2021, effective August 28, 2021, 51 Pa.B. 5374. Immediately preceding text appears at serial pages (379381) to (379382).

Cross References

This section cited in 40 Pa. Code § 5.234 (relating to classroom instructor responsibilities); and 40 Pa. Code § 5.236 (relating to deauthorization of classroom instructors).

§ 5.234. Classroom instructor responsibilities.

Classroom instructors have the responsibility to do the following:

(1) While on probationary status, the classroom instructor shall adhere to all of the PLCB's Regulations and Probationary Status Instructor policies that will be provided by the PLCB.

(2) Using the standard curriculum provided by the PLCB, or an alternative curriculum approved by the PLCB, provide students with information regarding the current status of the law on issues regarding the sale or service of alcoholic beverages by licensees. Classroom instructors shall provide each student with a student manual that corresponds to the standard curriculum or an alternative curriculum approved by the PLCB.

(i) A classroom instructor shall refrain from making any material changes to the standard curriculum without being required to do so by the PLCB.

(ii) A classroom instructor shall refrain from making any material changes to an alternative curriculum without first receiving approval from the PLCB to make the proposed modifications or changes.

(iii) If the classroom instructor wants to make material changes to either the standard curriculum or an approved alternative curriculum, the classroom instructor must submit the curriculum, including the material changes, to the BAE for review and approval, in accordance with the provisions of § 5.213(b) (relating to alternative curriculum), unless the changes were required by the PLCB.

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

(4) Conduct at least two training sessions per quarter and train at least 225 students per year. Classroom instructors may request a waiver of the minimum requirements in this paragraph by sending a letter or e-mail to the PLCB. The PLCB will waive the requirements for minimum training activity for instructors due to temporary, nonrecurring exigencies, such as instructor illness or family emergency, bad weather or other circumstances beyond the instructor's control.

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

(6) Attend instructor meetings as scheduled by the PLCB.

(7) Attend in-class owner/manager training at least once per year.

(8) Acknowledge or respond to e-mails, telephone calls or any other contacts placed by the PLCB, licensees and/or trainees within 48 hours.

(9) Submit all forms of correspondence used for marketing purposes to the PLCB for approval prior to dissemination. A classroom instructor shall not use any forms of correspondence for marketing purposes that have not been approved by the PLCB.

(10) Notify the PLCB within 7 days of a change in the classroom instructor's telephone number, e-mail address or physical address and provide the PLCB with the new telephone number, e-mail address or physical address.

Authority

The provisions of this § 5.234 added under sections 207(i) and 471.1 of the Liquor Code (47 P.S. §§ 2-207(i) and 4-471.1).

Source

The provisions of this § 5.234 added August 27, 2021, effective August 28, 2021, 51 Pa.B. 5374.

Cross References

This section cited in 40 Pa. Code § 5.236 (relating to deauthorization of classroom instructors).

§ 5.235. Renewal of authorization.

(a) At least 30 days prior to the expiration of the classroom instructor's authorization, the classroom instructor shall submit an application for renewal of authorization, which will be provided by the PLCB. A \$300 fee must accompany the classroom instructor's application for renewal of authorization, as well as a separate fee for a criminal record check.

(b) If the classroom instructor is using an alternative curriculum, the classroom instructor shall submit a copy of the most recently PLCB-approved curriculum with the application for renewal of authorization. If the classroom instructor is using the standard curriculum, the classroom instructor need not submit a copy of the standard curriculum with the application for renewal of authorization.

(1) If the classroom instructor does not want to make material changes to the alternative curriculum from the last time it was approved by the PLCB, no additional fee is required.

(2) If the classroom instructor wants to make material changes to the alternative curriculum, then an additional \$250 fee, for a total of \$550, must accompany the classroom instructor's application for renewal of authorization. The classroom instructor shall use the alternative curriculum approved by the PLCB until the notice of authorization has been renewed.

(c) *Untimely applications for authorization renewal.*

(1) The PLCB may accept an application for authorization renewal that is filed less than 30 days before the expiration of the current authorization, but not after expiration, if the applicant includes an additional filing fee of \$100.

(2) The PLCB will not accept an application for renewal of authorization that is filed after the expiration of the current authorization.

(3) The PLCB will not accept, for a minimum of 1 year from the date of expiration, an application from a classroom instructor whose authorization has expired. Under these circumstances, a new application must be filed, not an application for renewal. Applications will only be accepted during a period of open enrollment. See § 5.231(a) (relating to classroom instructor application).

Authority

The provisions of this § 5.235 added under sections 207(i) and 471.1 of the Liquor Code (47 P.S. §§ 2-207(i) and 4-471.1).

Source

The provisions of this § 5.235 added August 27, 2021, effective August 28, 2021, 51 Pa.B. 5374.

§ 5.236. Deauthorization of classroom instructors.

(a) The PLCB will send a notice of violation to a classroom instructor by certified United States mail if the classroom instructor is:

(1) Failing to meet the minimum standards of classroom training set forth in § 5.233 (relating to minimum standards of classroom training).

(2) Failing to meet the responsibilities set forth in § 5.234 (relating to classroom instructor responsibilities).

(3) Engaging in prohibited conduct set forth in § 5.251 (relating to additional prohibited conduct).

(b) The notice of violation will give the classroom instructor a deadline if the violation can be remedied. The amount of time given to remedy the violation will vary depending upon the complexity of the circumstances.

(c) If the violation is not remedied by the deadline, or if the PLCB has grounds to issue a second notice of violation within the same authorization year as the first notice of violation, the PLCB will send a notice of deauthorization to the classroom instructor by certified United States mail. An appeal of the PLCB's decision to deauthorize shall be in accordance with 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

(d) The PLCB will not accept, for a minimum of 1 year from the notice of deauthorization, an application from a classroom instructor that has been issued a notice of deauthorization. Under these circumstances, a new application must be filed, not an application for renewal. Applications will only be accepted during a period of open enrollment. See § 5.231(a) (relating to classroom instructor application).

Authority

The provisions of this § 5.236 added under sections 207(i) and 471.1 of the Liquor Code (47 P.S. §§ 2-207(i) and 4-471.1).

Source

The provisions of this § 5.236 added August 27, 2021, effective August 28, 2021, 51 Pa.B. 5374.

Cross References

This section cited in 40 Pa. Code § 5.232 (relating to classroom instructor approval process).

§ 5.241. [Reserved].**Authority**

The provisions of this § 5.241 deleted under sections 207(i) and 471.1 of the Liquor Code (47 P.S. §§ 2-207(i) and 4-471.1).

Source

The provisions of this § 5.241 deleted August 27, 2021, effective August 28, 2021, 51 Pa.B. 5374. Immediately preceding text appears at serial pages (379382) to (379383).

§ 5.242. [Reserved].**Authority**

The provisions of this § 5.242 deleted under sections 207(i) and 471.1 of the Liquor Code (47 P.S. §§ 2-207(i) and 4-471.1).

Source

The provisions of this § 5.242 deleted August 27, 2021, effective August 28, 2021, 51 Pa.B. 5374. Immediately preceding text appears at serial page (379383).

§ 5.243. [Reserved].**Authority**

The provisions of this § 5.243 deleted under sections 207(i) and 471.1 of the Liquor Code (47 P.S. §§ 2-207(i) and 4-471.1).

Source

The provisions of this § 5.243 deleted August 27, 2021, effective August 28, 2021, 51 Pa.B. 5374. Immediately preceding text appears at serial pages (379383) and (350843).

ADDITIONAL PROHIBITED CONDUCT**§ 5.251. Additional prohibited conduct.**

The PLCB may deauthorize classroom instructors or online training providers for violating any of the provisions of this subchapter or engaging in the following conduct:

- (1) Discrimination or harassment based on age, race, sex, disability, national origin or religion, or any other protected class under the Pennsylvania Human Relations Act (43 P.S. §§ 951—963).
- (2) An act that is in violation of the Liquor Code or this title.
- (3) An act resulting in a misdemeanor or felony conviction.

(4) An act resulting in admittance into an Accelerated Rehabilitative Disposition (ARD) program if the underlying activity is related to alcoholic beverages, narcotics or controlled substances.

(5) Being under the influence of alcoholic beverages, narcotics or controlled substances during training presentations, breaks, or the final examination.

(6) Knowingly permitting students to be under the influence of alcoholic beverages, narcotics or controlled substances during training presentations, breaks, or the final examination.

(7) Cheating or condoning cheating by students.

(8) Knowingly providing false information on reports submitted to the PLCB.

Authority

The provisions of this § 5.251 amended under sections 207(i) and 471.1 of the Liquor Code (47 P.S. §§ 2-207(i) and 4-471.1).

Source

The provisions of this § 5.251 amended August 27, 2021, effective August 28, 2021, 51 Pa.B. 5374. Immediately preceding text appears at serial pages (350843) to (350844).

Cross References

This section cited in 40 Pa. Code § 5.227 (relating to deauthorization of online training providers); and 40 Pa. Code § 5.236 (relating to deauthorization of classroom instructors).

§ 5.261. [Reserved].

Authority

The provisions of this § 5.261 deleted under sections 207(i) and 471.1 of the Liquor Code (47 P.S. §§ 2-207(i) and 4-471.1).

Source

The provisions of this § 5.261 deleted August 27, 2021, effective August 28, 2021, 51 Pa.B. 5374. Immediately preceding text appears at serial page (350844).

§ 5.271. [Reserved].

Authority

The provisions of this § 5.271 deleted under sections 207(i) and 471.1 of the Liquor Code (47 P.S. §§ 2-207(i) and 4-471.1).

Source

The provisions of this § 5.271 deleted August 27, 2021, effective August 28, 2021, 51 Pa.B. 5374. Immediately preceding text appears at serial pages (350844) to (350845).

Subchapter J. MINORS ON LICENSED PREMISES

Sec.
5.321. Service in establishments primarily serving food.

Authority

The provisions of this Subchapter J issued under section 207(i) of the Liquor Code (47 P.S. § 2-207(i)), unless otherwise noted.

Source

The provisions of this Subchapter J adopted January 5, 2007, effective January 6, 2007, 37 Pa.B. 16, unless otherwise noted. (Renumbered July 30, 2010, effective July 31, 2010 at 40 Pa.B. 4254. Immediately preceding text appears at serial pages (325005) to (325006).)

§ 5.321. Service in establishments primarily serving food.

(a) Section 493(14) of the Liquor Code (47 P. S. § 4-493(14)) creates several exceptions to the general prohibition of minors being present in licensed premises. One of these exceptions, known as the “Pizza Hut” exception, permits a minor to be present in a restaurant, hotel or retail dispenser (but not a club) licensed premises that has gross sales of food and nonalcoholic beverages equal to at least 50% of its combined gross sales of both food and alcoholic beverages.

(b) Licensees qualifying for this exception will not be cited for unlawfully allowing minors to frequent the licensed premises.

(c) To qualify for this exception, a licensee will assure that:

(1) Minors are not permitted to sit at the bar counter of the premises.

(2) Alcoholic beverages are not served to any adult at the table or booth where the minor is seated, unless the minor is also there with a parent, legal guardian or proper supervisor.

(3) Sales of food and nonalcoholic beverages at the licensed premises during the preceding 12-month licensing year are at least 50% of the combined gross sales of both food and alcoholic beverages.

Subchapter K. LIMITED WINERIES

Sec.
5.401. Definitions.
5.402. Tasting samples.
5.403. Sales generally.
5.404. Sales for on-premises consumption.
5.405. Sales for off-premises consumption.
5.406. Sales of other items.
5.407. Delivery of products.
5.408. Additional Board-approved locations.
5.409. Records, receipts and reports.

Authority

The provisions of this Subchapter K added under section 207(i) of the Liquor Code (47 P.S. § 2-207(i)), unless otherwise noted.

Source

The provisions of this Subchapter K added July 22, 2022, effective July 23, 2022, 52 Pa.B. 4090, unless otherwise noted.

§ 5.401. Definitions.

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

Limited winery—A winery that produces at least 200 gallons per year but not more than 200,000 gallons per year of winery products for each full calendar year that the limited winery holds an active limited winery license from the Commonwealth.

Original container—Bottles, casks, kegs, cans, boxes or other suitable containers that have been securely capped, sealed or corked by the limited winery at the place of manufacture, with the name and address of the limited winery affixed to the bottle, cask, keg or other container.

Produce—To manufacture winery products from agricultural commodities, including preparation for fermentation, fermentation, blending, preserving, filtering and packaging the winery products.

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

Wine cooler—A beverage made from combining wine with a non-alcoholic beverage, such as fruit juice or a carbonated beverage, resulting in a beverage with lower alcohol by volume than the original wine. The term does not include a malt or brewed beverage.

Winery products—Alcoholic products including alcoholic cider, fermented fruit beverages, mead, wine and wine coolers that have been produced by the limited winery.

§ 5.402. Tasting samples.

(a) A limited winery may provide tasting samples of winery products in accordance with section 505.2(a) of the Liquor Code (47 P.S. § 5-505.2(a)) and § 13.211 (relating to tasting events). To the extent possible, section 505.2 of the Liquor Code and § 13.211 shall be construed together. When there is a conflict between these 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 505.2 of the Liquor Code shall prevail.

(b) Tasting samples may not be provided at a limited winery's storage facilities since only the limited winery and its employees may be present at those locations, in accordance with section 505.2(a)(6.4) of the Liquor Code.

§ 5.403. Sales generally.

(a) A limited winery may sell winery products during the time periods or circumstances set forth in section 505.2(a)(6.3) of the Liquor Code (47 P.S. § 5-505.2(a)(6.3)).

(b) A limited winery may accept all of the following methods of payment:

(1) From licensees: checks drawn on their account, cash, money orders, cashier checks, debit cards and electronic funds transfers.

(2) From unlicensed individuals: all of the methods of payment listed in paragraph (1) and credit cards issued by banking or financial institutions subject to Federal or State regulations.

(c) A limited winery that manufactures alcoholic cider, fermented fruit beverages and mead, which are defined as "malt or brewed beverages" in section 102 of the Liquor Code (47 P.S. § 1-102), must register these brands with the Board as required under section 445 of the Liquor Code (47 P.S. § 4-445). The following apply:

(1) A limited winery may self-distribute alcoholic cider, fermented fruit beverages and mead to importing distributors, distributors or any other licensee that is authorized under the Liquor Code to sell, possess or store malt or brewed beverages.

(2) A limited winery may choose to grant territorial distribution rights and name a distributor or an importing distributor as the primary or original supplier of the product in accordance with section 431(b) of the Liquor Code (47 P.S. § 4-431(b)).

(d) A limited winery may not sell wine or wine coolers to importing distributors, distributors, retail dispensers or any other licensee that is not authorized under the Liquor Code to sell, possess or store any alcoholic beverages other than malt or brewed beverages.

§ 5.404. Sales for on-premises consumption.

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

(b) A limited winery may sell, only for on-premises consumption, malt or brewed beverages and liquor produced by Pennsylvania-licensed manufacturers, under section 505.2(a)(6.1) of the Liquor Code (47 P.S. § 5-505.2(a)(6.1)).

(c) A limited winery that chooses to sell malt or brewed beverages through a malt or brewed beverage dispensing system, defined in § 5.50 (relating to definition), must comply with §§ 5.51—5.54.

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

§ 5.405. Sales for off-premises consumption.

(a) A limited winery may sell winery products for off-premises consumption as permitted under section 505.2(a) of the Liquor Code (47 P.S. § 5-505.2(a)).

(b) A limited winery may accept orders for the purchase of its winery products in person or through mail, telephone or the Internet. A limited winery shall make deliveries of winery products in accordance with § 5.407 (relating to delivery of products).

(c) A limited winery may employ individuals, known as agents, to solicit orders for winery products or promote the sale of winery products. The following apply:

(1) Agents may only advertise and promote the sale of winery products produced by the limited winery that has employed the agent. Agents may solicit orders from licensees and make deliveries on behalf of the limited winery in accordance with § 5.407.

(2) Agents may only sell, as that word is defined under section 102 of the Liquor Code (47 P.S. § 1-102), the limited winery's products on the limited winery's licensed premises, additional Board-approved location or a location that is covered by the limited winery's wine exposition permit or farmer's market permit.

(d) Under section 505.2(a)(4) of the Liquor Code, a limited winery may obtain a permit to participate in alcoholic cider, fermented fruit beverages, mead, wine and food expositions off the licensed premises. The following apply:

(1) Only the limited winery, including its employees and agents, may sell its winery products at a wine and food exposition.

(2) Sales of the limited winery's products must occur on a location within the exposition that is covered by the limited winery's wine exposition permit.

(e) Under section 505.2(a)(4.1) of the Liquor Code, a limited winery may obtain a permit to participate in one or more farmers' markets at any given time and an unlimited number throughout the year. The following apply:

(1) Only the limited winery, including its employees and agent, may sell its winery products at a farmers market.

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

§ 5.406. Sales of other items.

(a) In addition to the sale of food, wine-scented or liquor-scented candles, and any other item authorized under section 505.2(a) of the Liquor Code (47 P.S.

§ 5-505.2(a)), the following items are permitted to be offered for sale on the licensed premises and at additional Board-approved locations:

- (1) Home winemaking, cider making, fermented fruit beverage making or mead making equipment, or both, and supplies.
- (2) Serving and storage accessories as follows: cork removers, wine glasses and decanters, wine racks, serving baskets and buckets and bottle stoppers.
- (3) Publications dealing with wine and winemaking, alcoholic cider and cider making, fermented fruit beverages and fermented fruit beverage making, and mead and mead making.
- (4) Promotional items advertising the limited winery including tee shirts, glassware, caps and the like.

(b) If a limited winery wants to sell on the licensed premises or additional Board-approved location an item that is not listed in subsection (a), the limited winery shall request, in writing, Board approval to sell that item. The Board will advise the limited winery, in writing, whether approval to sell the item is granted, with or without conditions, or denied.

§ 5.407. Delivery of products.

(a) The only winery products a limited winery is authorized to deliver are those it has produced. A limited winery 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 limited winery shall ensure that winery products sold and delivered to points within this Commonwealth are sealed in original containers and labeled as required by applicable law.
- (2) A limited winery may deliver food or other non-alcoholic items that have already been purchased by the customer. A limited winery may not offer for sale items from the delivery vehicle.
- (3) A limited winery shall include with the delivery of any winery products a sales receipt in accordance with § 5.409(b) (relating to records, receipts and reports).

(b) A limited winery may utilize its own vehicle to deliver its winery products. The following apply:

- (1) A limited winery's vehicle must be identified in accordance with § 9.22 (relating to identification of vehicles).
- (2) A limited winery may utilize the same vehicle to deliver alcoholic cider, fermented fruit beverages or mead as well as wine or wine coolers.

(c) A limited winery may utilize a transporter-for-hire licensee to deliver its winery products. The following apply:

- (1) Alcoholic cider, fermented fruit beverages and mead may be delivered by a transporter-for-hire Class A, B or C, in accordance with §§ 9.1 and 9.11 (relating to definitions; and transportation-for-hire).

(2) Wine or wine coolers must be delivered by a transporter-for-hire Class A or Class C, but may not be delivered by a Transporter-for-Hire Class B, in accordance with §§ 9.1 and 9.11.

(d) Prior to delivering wine or wine coolers to an unlicensed individual in this Commonwealth, a limited winery shall obtain a direct wine shipping license under section 488 of the Liquor Code (47 P.S. § 4-488). The following apply:

(1) A direct wine shipping license is required whether the delivery of wine or wine coolers is accomplished by the limited winery or by a transporter-for-hire.

(2) A direct wine shipping license is not required for the lawful delivery of wine or wine coolers to another licensee, or for the lawful delivery of alcoholic cider, fermented fruit beverages or mead.

(e) It is the limited winery's responsibility to ensure that its winery products are not delivered to minors or visibly intoxicated persons and that proper receipts are provided under § 5.409.

Cross References

This section cited in 40 Pa. Code § 5.405 (relating to sales for off-premises consumption); and 40 Pa. Code § 5.409 (relating to records, receipts and reports).

§ 5.408. Additional Board-approved locations.

(a) A limited winery may not use additional locations, as authorized under section 505.2(a)(3) of the Liquor Code (47 P.S. § 5-505.2(a)(3)), in the operation of a licensed business unless the additional location is approved by the Board.

(b) Applications and fees are as follows:

(1) A limited winery 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 winery 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.

(c) If the 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)). The limited winery may not produce or sell any winery products at the location until the additional location has been re-inspected and the Board has approved the completed alterations or construction and issued the limited winery a license for the additional location.

(d) Portions of an additional Board-approved location must be contiguous.

(e) The licensed premises and any additional Board-approved locations of a limited winery are subject to the following regulations:

(1) § 3.51 (relating to connection with residence);

(2) § 3.52 (relating to connection with other business);

- (3) § 3.53 (relating to restriction on storage and sales where Board has approved connection with other business); and
- (4) § 3.54 (relating to separation between licensed premises and other business).
- (f) The limited winery 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 winery 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 winery 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) Other agreements the Board may deem necessary.
- (i) The Board may grant permission for two or more limited wineries to share a single, additional Board-approved location, in accordance with section 505.2(a)(3) of the Liquor Code.
- (j) The Board shall not grant permission for a limited winery and another manufacturer, such as a brewery, limited distillery or distillery, to share a single, additional Board-approved location.
- (k) If a limited winery licensee holds, under identical ownership, a manufacturing license other than a limited winery license, such as a brewery, limited distillery or distillery license, each licensee may have an additional Board-approved location at the same property, but each licensee shall have its own separate designated area at the property.
- (l) If a limited winery discontinues use of an additional Board-approved location, it shall notify the Board within 15 days of the discontinuance.

§ 5.409. Records, receipts and reports.

- (a) A limited winery shall maintain and keep on the licensed premises daily permanent records that shall conform to the requirements of section 512 of the Liquor Code (47 P.S. § 5-512). The following apply:
 - (1) The records shall include complete details concerning the source of any agricultural commodity, as that term is defined in section 505.2(c) of the Liquor Code (47 P.S. § 5-505.2(c)), used in the production of limited winery products.
 - (2) Electronic media recordkeeping, maintained and based upon generally accepted accounting principles, may be kept instead of hard copy records.

(3) The recordkeeping system utilized by the limited winery shall have the capability to provide for the reconciling of required data.

(4) Entries shall be verifiable by supporting original documents.

(b) In addition to the records prescribed in subsection (a), the limited winery shall prepare a sales receipt at the licensed premises for each sale to a private individual when the purchase is for greater than 16 liters in a single transaction. The sales receipt shall include all of the following:

(1) The name and address of the limited winery.

(2) The name and address of the recipient of the winery products if the winery products are being delivered off the licensed premises to the recipient.

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

(4) Items other than winery products that are sold by the limited winery, which shall be listed on the receipt separately from the winery products.

(c) Winery products that are delivered shall be accompanied by two copies of a sales receipt that includes the information identified in subsection (b)(1)—(4). The limited winery shall require the person who is delivering the winery products to obtain the signature of the recipient, 21 years of age or older, on one copy of the sales receipt.

(1) The person delivering the winery products shall give an unsigned copy of the sales receipt to the recipient of the winery products and the limited winery licensee, or a transporter-for-hire acting on behalf of a limited winery licensee, shall retain the signed copy of the sales receipt on the licensed premises for 2 years.

(2) Delivery shall be accomplished in accordance with § 5.407 (relating to delivery of products).

(d) A limited winery shall file reports, in the manner set forth by the Board, covering operations of their licensed business during the preceding calendar year. The following apply:

(1) The reports shall be signed and sworn to by the limited winery or his authorized agent and shall be filed with the Board at the time of the renewal or validation of the license. The following apply:

(i) A copy of each report shall be retained on the licensed premises for at least 2 years from the date of filing.

(ii) Failure to file the reports will preclude the Board from renewing or validating the license in question.

(2) These reports are in addition to information or reports the limited winery may be required to provide to the Department of Agriculture under 3 Pa.C.S. Chapter 45 (relating to Agricultural Commodities Marketing Act) and regulations promulgated thereunder, including 7 Pa. Code § 104.75 (relating to

accounting and payment), as well as any reports required under section 488.1 of the Liquor Code (47 P.S. § 4-488.1).

Cross References

This section cited in 40 Pa. Code § 5.407 (relating to delivery of products).

[Next page is 7-1.]