

**CHAPTER 7. TRANSFER, EXTENSION, SURRENDER,
EXCHANGE AND SUSPENSION OF LICENSES**

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Authority

The provisions of this Chapter 7 issued under section 207(i) of the Liquor Code (47 P. S. § 2-207(i)), unless otherwise noted.

Subchapter A. TRANSFER OF LICENSES

Sec.	
7.1.	Filing of applications for transfer.
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§ 7.1. Filing of applications for transfer.

Licenses issued by the Board, under Article IV of the Liquor Code (47 P. S. §§ 4-401—4-498), may be transferred in accordance with this subchapter. Applications for transfer of licenses may be filed at any time, but when filed within 30 days of the expiration date of the license term, the transfer applies to the renewal license only, except in the case of death. Applications for transfer shall be made on the regular transfer form, which shall be accompanied by the application for license and remittance of proper fees in accordance with the applicable provisions of section 614-A of The Administrative Code of 1929 (71 P. S. § 240.14A).

Source

The provisions of this § 7.1 adopted June 26, 1952; amended through October 30, 1968; 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. Immediately preceding text appears at serial page (234085).

§ 7.2. Transfers of ownership.

When an application is filed for transfer of a license from one person to another, a bill of sale of the business or fixtures shall be executed by the licensee and shall be exhibited to the Board or its representative. The purchase price of the business, either in the form of cash or legal obligation as security for the purchase price, shall be placed in escrow with an attorney or financial institution, to

be paid to the original licensee upon the approval of the transfer by the Board. The actual transfer of ownership of the business may not pass until approval of the transfer of license has been given. The transferee shall exhibit a deed or lease for the premises, bill of sale or other written proof of its right to occupy the proposed premises, as the case may be. The license may not change hands until the license transfer has been approved by the Board and the original licensee may continue the operation of the business and may sell liquor or malt or brewed beverages until formal approval of the transfer is given. If the original licensee does not continue operation of the business under the license, no liquor or malt or brewed beverages may be sold and the license shall be surrendered to the Board until the transfer is approved.

Authority

The provisions of this § 7.2 amended under section 207(i) of the Liquor Code (47 P.S. § 2-207(i)).

Source

The provisions of this § 7.2 adopted June 26, 1952; amended through October 30, 1968; amended March 5, 2010, effective March 6, 2010, 40 Pa.B. 1149; amended November 13, 2015, effective November 14, 2015, 45 Pa.B. 6595. Immediately preceding text appears at serial pages (348111) to (348112).

§ 7.3. Transfers of location.

(a) *Retail liquor or retail dispenser licenses.* If a retail liquor or retail dispenser licensee moves his place of business from one address to another, the new establishment must be ready for operation before the license transfer will be approved. Liquor or malt or brewed beverages may not be sold or served at the new establishment until formal approval of the transfer is given by the Board.

(b) *Other transferable licenses.* When other licenses transferable under the law are involved, and the licensee desires to move his place of business from one address to another, proper application for transfer of license shall be made, and approval of the Board obtained, before the business is operated at the new address.

(c) *Effect of failure to achieve full compliance.* If a request for the transfer of a license has received prior approval by the Board, and thereafter, a licensee is unable to achieve full compliance based on the plans submitted under prior approval, a hearing may be held.

(1) The hearing will take evidence to determine whether full compliance with the licensee's plans was impossible for reasons outside the licensee's control.

(2) If it was, an application for transfer to another location will be considered by the Board.

(d) If a prior approval for transfer was originally granted for transfer to a different municipality, the 5-year moratorium on a transfer from the municipality to which the transfer was effected is measured from the date the license becomes operational. See section 461(a) of the Liquor Code (47 P.S. § 4-461(a)).

Source

The provisions of this § 7.3 adopted June 26, 1952; amended through October 30, 1968; amended August 29, 1997, effective August 30, 1997, 27 Pa.B. 4432; amended November 12, 2004, effective November 13, 2004, 34 Pa.B. 6139. Immediately preceding text appears at serial page (274496).

§ 7.4. Transfers of ownership and location.

When a transfer involves a change of both location and ownership, the new establishment, if retail liquor or retail dispenser, shall be ready for operation before the license transfer will be approved. The new applicant shall satisfy the Board that he is the owner, lessee or otherwise has the right to occupy and use the premises, the fixtures and equipment therein. Liquor or malt or brewed beverages may not be sold by the applicant until the transfer of the license has been approved. The transferor, provided his fixtures and equipment are not involved in the transfer, may continue to operate at his original place of business until notified that the transfer of the license to the applicant has been approved, at which time the license and Wholesale Purchase Permit Card, if any, shall be surrendered by the transferor to the Board.

Authority

The provisions of this § 7.4 amended under section 207(i) of the Liquor Code (47 P.S. § 2-207(i)).

Source

The provisions of this § 7.4 amended August 29, 1997, effective August 30, 1997, 27 Pa.B. 4432; amended November 13, 2015, effective November 14, 2015, 45 Pa.B. 6595. Immediately preceding text appears at serial page (334013).

§ 7.5. Transfers on death of the licensee.

On the death of the licensee, the license may be transferred immediately to the surviving spouse or to the decedent's estate upon presentation of the transfer form, application, filing fee, and short form certificate from the registrar of wills. If it is desired to transfer the license to a person designated by and acting for the administrator or executor, the transfer application and fee, with written evidence of the designation, shall be submitted by the administrator or executor. The Board shall be notified in writing within 30 days of the death of a licensee.

Authority

The provisions of this § 7.5 amended under section 207(i) of the Liquor Code (47 P.S. § 2-207(i)).

Source

The provisions of this § 7.5 adopted June 26, 1952; amended through October 30, 1968; amended August 29, 1997, effective August 30, 1997, 27 Pa.B. 4432; amended January 19, 2001, effective January 20, 2001, 31 Pa.B. 430; amended May 16, 2008, effective May 17, 2008, 38 Pa.B. 2250. Immediately preceding text appears at serial page (307815).

§ 7.6. Transfer of partnership licenses.

If one or more partners voluntarily retire, an application for correction of license shall be executed and filed by all the partners, including the retiring partner. In the case of death of a partner, the application for correction of license shall be executed and filed by the surviving partners, and by the administrator or executor of the estate of the deceased partner, if any, and be accompanied by a short form certificate from the registrar of wills. If there is no administrator or executor, the application for correction of license shall be executed and filed by

the surviving partners together with documentary evidence of the death of the deceased partner. These requirements also apply if the license is held jointly by husband and wife. Applications for correction of a license under this section shall be accompanied by the proper fee in accordance with the applicable provisions of section 614-A of The Administrative Code of 1929 (71 P. S. § 240.14A).

Source

The provisions of this § 7.6 adopted June 26, 1952; amended through October 30, 1968; 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 January 19, 2001, effective January 20, 2001, 31 Pa.B. 430. Immediately preceding text appears at serial page (234087).

§ 7.7. Approval of a transfer of license.

(a) Immediately upon the approval of a transfer of license, the Board will authorize the transferee to engage in lawful activity permitted by the license for a period of 30 days. The authorization will be in writing.

(b) During the interim, the original license and Wholesale Purchase Permit Cards shall be returned to the Board.

Source

The provisions of this § 7.7 adopted June 26, 1952; amended through October 30, 1968; amended August 22, 1986, effective October 1, 1986, 16 Pa.B. 1601; amended January 5, 1990, effective January 6, 1990, 20 Pa.B. 19; amended August 29, 1997, effective August 30, 1997, 27 Pa.B. 4432. Immediately preceding text appears at serial pages (228607) to (228608).

§ 7.8. Floor plans.

Applicants for new licenses or for transfer of location of existing licenses shall submit floor plans with the application depicting all areas to be licensed. Floor plans are required for existing structures, as well as for structures proposed for construction and are to depict room dimensions. Floor plans shall be reproduced on paper and are not to exceed 8 1/2 by 11 inches. A separate floor plan is required for each floor used in conjunction with the licensed business.

Source

The provisions of this § 7.8 adopted January 19, 2001, effective January 20, 2001, 31 Pa.B. 430.

Cross References

This section cited in 40 Pa. Code § 7.23 (relating to approval).

§ 7.9. Site plans.

Applicants for new licenses or for transfer of location of existing licenses shall submit site plans when the structure the applicant intends to occupy has not been constructed at the time the application is filed with the Board. Site plans shall be reproduced on paper in an 8 1/2 by 11-inch format and shall depict the location of the proposed licensed premises in relation to identifiable property lines or eas-

ily identifiable landmarks or reference points with measurements to the property lines, landmarks or reference points.

Source

The provisions of this § 7.9 adopted January 19, 2001, effective January 20, 2001, 31 Pa.B. 430.

Cross References

This section cited in 40 Pa. Code § 7.23 (relating to approval).

§ 7.10. Conversion of suspension to fine.

(a) When a license application for transfer is pending and the transferor has an outstanding license suspension imposed by the Office of Administrative Law Judge that has not yet been served and cannot be served because the premises is not in operation, the transferee shall either serve the suspension upon the approval of the transfer, or request that the suspension be converted to a fine to be paid by the transferee upon the approval of the transfer.

(b) If the transferee prefers to pay a fine instead of serving a suspension, it shall make a request to the Office of Chief Counsel that a fine be set by the Board.

(c) For purposes of making a determination as to the amount of the fine, the transferee's request to the Office of Chief Counsel shall include the following:

(1) A letter requesting that a fine be set instead of the suspension.

(2) A statement that the transferor cannot serve the suspension because the premises is not in operation.

(3) The transferor's Federal tax return for its last year of operation, showing the licensed business's profit or loss.

(4) The number of days the transferor was open in its last year of operation.

(5) A copy of the administrative law judge's adjudication and order that resulted in the suspension. This document is obtainable from the Office of Administrative Law Judge.

(d) The fine will be calculated by application of the following formula: Gross earnings of the transferor divided by 365 (or the number of days in operation in the transferor's last year of operation) multiplied by 0.50. The resulting figure is the amount of the fine per day of suspension, subject to the following exceptions:

(1) If the suspension was issued for a citation for which the minimum fine, if a fine had been imposed, is \$50, a minimum fine of \$1,000 per day will be set.

(2) If the suspension was issued for a citation for which the minimum fine, if a fine had been imposed, is \$1,000, a minimum fine of \$3,000 per day will be set.

(e) The Board may set a fine in the absence of one or more of the documents described in subsection (c)(1)—(5). The Office of Chief Counsel may request additional financial documents.

(f) The Board will act on the request by accepting the request and setting the amount of the fine, or rejecting the request, or making a counteroffer and informing the transferee of its decision in writing.

(g) If the transferee rejects the Board's decision, the original suspension will remain in effect, to be served by the transferee if the transfer is approved.

(h) If after the Board approves a conversion to a fine, the transfer application is denied, the Board's decision regarding the suspension conversion to a fine is rendered a nullity and the unserved suspension remains in effect for the transferor.

Authority

The provisions of this § 7.10 amended under section 207(i) of the Liquor Code (47 P.S. § 2-207(i)).

Source

The provisions of this § 7.10 adopted November 12, 2004, effective November 13, 2004, 34 Pa.B. 6139; amended August 14, 2015, effective August 15, 2015, 45 Pa.B. 4761. Immediately preceding text appears at serial pages (307817) to (307818).

Cross References

This section cited in 40 Pa. Code § 15.62 (relating to suspensions and revocations).

Subchapter B. EXTENSION OF LICENSES

- Sec.
 7.21. Inclusion of additional premises.
 7.22. Application.
 7.23. Approval.
 7.24. Refusal.
 7.25. Temporary extension of licensed premises.

Cross References

This subchapter cited in 40 Pa. Code § 3.13 (relating to retail liquor and retail malt and brewed beverage licenses, importing distributor and distributor licenses).

§ 7.21. Inclusion of additional premises.

(a) A licensee may not conduct a business permitted by his license on another premise or a portion of the same premise other than that for which the license was issued without the approval of the Board for the inclusion of the additional premises in the license.

(b) The Board may approve an extension of the licensed premises to include the following:

- (1) The abutting and adjacent sidewalk.
- (2) The immediate, abutting, adjacent and contiguous vacant land.

(c) A licensee requesting extension to include subsection (b)(1) or (2) shall obtain and file with his application for extension of premises written approval issued by the proper authorities of the municipality in which the license is issued, approving the operation of the licensed business on the sidewalk area.

(d) With reference to the extension of premises provided for in subsection (b)(1), a licensee to whom the approval is given by the Board, his servants, agents or employees, may not:

- (1) Serve nor permit the service to a patron not seated at a table.
- (2) Provide less than two tables for the service.
- (3) Have a bar, service bar or a facility from or by which alcoholic beverages or food may be stored, served, sold or dispensed, or in or on which glasses, similar containers, cutlery or mixes of any type or kind may be stored or used in the sale, service or dispensing of alcoholic beverages or food.

(e) Extension applications filed under subsection (b) shall be accompanied by appropriate plans or surveys setting forth the metes and bounds, the names of abutting streets and a plotting of the principal licensed premises.

Notes of Decisions

Board decision that restaurant license did not permit sales through a drive-in window because such sales would constitute sale and delivery off the licensed premises was consistent with the regulation and underlying statutory scheme. *Liquor Control Board v. Burrel Food*, 508 A.2d 1308 (Pa. Cmwlth. 1986); appeal denied 520 A.2d 1386 (Pa. 1987).

The provisions of 47 P. S. § 4-404 are broad enough to include extensions of existing licenses, so that the Board's actions in denying an extension pursuant to the provisions of section 4-404 rather than pursuant to this section governing extensions must be upheld in the absence of an abuse of the Board's discretion. *Ulana, Ltd. v. Liquor Control Board*, 484 A.2d 859 (Pa. Cmwlth. 1984).

A hotel liquor license may be extended to include a second building approximately 900 feet away, across a covered bridge, when the second building would be used only for the entertainment of hotel guests, even though it would not contain any sleeping accommodations. *Liquor Control Board v. Swiftwater Inn, Inc.*, 405 A.2d 583 (Pa. Cmwlth. 1979).

40 Pa. Code § 7.21 is an amendment adopted only for the special purposes of Bicentennial activity and promotion and application by a country club for a license outside Philadelphia after the end of the Bicentennial promotion is properly refused. *Windber Country Club*, In re, 2 Pa. D. & C.3d 444 (1977).

A license transfer would require the surrender of the license with regard to the original location as a prerequisite to utilizing the same license at a new location, but an extension would merely require a redefinition of the licensed premises. *Latrobe Country Club v. Liquor Control Board*, 375 A.2d 1360 (Pa. Cmwlth. 1977) (dissenting opinion).

Where a public road separated the licensed premises from the premises for which the license extension was sought, the Board did not abuse its discretion by denying the extension. *Fabian v. Liquor Control Board*, 66 Pa. D. & C.2d 526 (Pa. Com. Pl. 1974).

Source

The provisions of this § 7.21 adopted June 26, 1952; amended through October 30, 1968; amended April 2, 1976, effective April 3, 1976, 6 Pa.B. 832; amended September 24, 1982, effective September 25, 1982, 12 Pa.B. 3404. Immediately preceding text appears at serial pages (72704) to (72705).

§ 7.22. Application.

(a) To obtain Board approval, an application for extension of license describing the additional premises shall be filed with the Board.

(b) A fee of \$220 shall accompany an application for extension of license, and a physical inspection of the premises will be made whenever deemed necessary by the Board.

(c) An applicant for extension of premises shall post, for a period of at least 30 days beginning with the day the application is filed with the Board, in a conspicuous place on the outside of the licensed premises, a notice of application in a form, and size and containing provisions the Board requires concerning the requested extension. Proof of the posting of the notice shall be filed with the Board.

Source

The provisions of this § 7.22 adopted June 26, 1952; amended through October 30, 1968; amended June 18, 1982, effective July 1, 1982, 12 Pa.B. 1860; amended September 24, 1982, effective September 25, 1982, 12 Pa.B. 3404; amended March 12, 1993, effective March 13, 1993, 23 Pa.B. 1145; amended January 19, 2001, effective January 20, 2001, 31 Pa.B. 430; amended May 20, 2016, effective May 21, 2016, 46 Pa.B. 2553. Immediately preceding text appears at serial pages (337277) to (337278).

§ 7.23. Approval.

The additional premises for which it is desired to extend a license shall be completely equipped for the carrying on of the type of business permitted under the license, but no sales of liquor or malt or brewed beverages, storage or similar activity may take place in the additional premises until approval has been given by the Board. Where the extension of premises involves physical alterations or new construction, the Board may grant prior approval for the extension, as similarly provided in section 403(a) of the Liquor Code (47 P. S. § 4-403(a)). The application for extension of license shall be accompanied by a written request for consideration, together with floor plans as set forth in § 7.8 (relating to floor plans) clearly showing the premises as it will be after the alterations or construction are completed. If the additional premises the applicant intends to license has not been constructed at the time the application is filed with the Board, a site plan shall be submitted as set forth in § 7.9 (relating to site plans). Approval may be in the form of a new license, giving the additional address or a letter authorizing the use of additional premises. In the case of distributors and importing distributors of malt or brewed beverages, no sales of malt or brewed beverages may be made in a warehouse except that in which the office or principal place of business of the licensee is maintained.

Source

The provisions of this § 7.23 adopted June 26, 1952; amended through October 30, 1968; amended September 24, 1982, effective September 25, 1982, 12 Pa.B. 3404; amended January 19, 2001, effective January 20, 2001, 31 Pa.B. 430. Immediately preceding text appears at serial page (234090).

Notes of Decisions

A hotel liquor license may be extended to include a second building approximately 900 feet away, across a covered bridge, since the second building would be used only for the entertainment of hotel guests, even though it would not contain any sleeping accommodations. *Liquor Control Board v. Swiftwater Inn, Inc.*, 405 A.2d 583 (Pa. Cmwlth. 1979)

Where a public road separated the licensed premises from the premises for which the license extension was sought, the Board did not abuse its discretion by denying the extension. *Fabian v. Liquor Control Board*, 66 Pa. D. & C.2d 526 (1974).

§ 7.24. Refusal.

The Board may, in its discretion, refuse to extend a license issued. In all these cases the filing fee will be retained by the Board.

Source

The provisions of this § 7.24 adopted June 26, 1952; amended through October 30, 1968.

Notes of Decisions*Abuse of Discretion*

Where the licensee met all of the requirements for license extension, it is an abuse of discretion for the Board to deny the extension in the absence of any legitimate reasons. *MAG Enterprises, Inc. v. Liquor Control Board*, 806 A.2d 521 (Pa. Cmwlth. 2002).

Where a public road separated the licensed premises from the premises for which the license extension was sought, the Board did not abuse its discretion by denying the extension. *Fabian v. Liquor Control Board*, 66 Pa. D. & C.2d 526 (1974).

§ 7.25. Temporary extension of licensed premises.

(a) The Board has discretion to approve a temporary extension of a licensed premises upon filing of an application accompanied by appropriate plans or surveys setting forth the metes and bounds, the names of abutting streets and a plotting of the proximity of the principal licensed premises.

(b) The application must describe the entire scope of business to be conducted at the temporarily extended licensed premises and include the specific dates and hours business will be conducted.

(c) A nonrefundable fee of \$220 must accompany an application for temporary extension of licensed premises.

(d) The additional premises for which it is desired to temporarily extend a license shall be completely equipped for the carrying on of the type of business permitted under the license, but sales or storage of liquor or malt or brewed beverages may not take place in the temporarily extended premises until approval has been given by the Board.

(e) Approval may be in the form of a new license, giving the additional address/location or a letter authorizing the use of the additional temporary premises extension. Board approval or letter of authorization shall be maintained on the temporarily extended licensed premises.

Source

The provisions of this § 7.25 adopted November 12, 2004, effective November 13, 2004, 34 Pa.B. 6139.

Subchapter C. SURRENDER OF LICENSES

Sec.

- 7.31. Surrender of licenses in certain cases.
7.32. Surrender of licenses for cancellation or transfer.
7.33. Sheriff's sale of a liquor license.

§ 7.31. Surrender of licenses in certain cases.

(a) A licensee whose licensed establishment is not in operation for 15-consecutive days shall return his license and, if a liquor licensee, his Wholesale Purchase Permit Cards, to the Board not later than the expiration of the 15-day period. The return of the license and card will not invalidate the license, which will be held in safekeeping for the benefit of the licensee and be available for his use when operations are resumed at the licensed premises, or for transfer.

(b) If the license is returned because the licensee no longer has a lease for the licensed premises, or removes therefrom, or is dispossessed by legal process, the license will be invalidated as to the premises for which issued but will not be invalidated generally nor cancelled, and will be held in safekeeping for the benefit of the licensee for transfer only.

(c) If the license and Wholesale Liquor Purchase Permit Cards are not surrendered and returned voluntarily by the licensee, authorized representatives of the Board will lift and return the license and card to the Board.

(d) A license surrendered to the Board, or a renewal thereof in possession of the Board, will not be held for the benefit of the licensee for a period exceeding 3 years from the date of surrender, or with regard to club licenses, for a period exceeding 2 years from the date of surrender, except as set forth in this section. Unless an application for transfer or request for reissue of the license from safekeeping is pending, failure of the licensee to reactivate the license and resume operation of the licensed business or to effect a transfer of the license within the 3-year or 2-year period shall result in revocation of the license. The Board will extend the period for an additional year if, at the end of the 3-year period, the licensed premises are unavailable due to fire, flood or other similar natural disaster. The safekeeping period for licenses other than club licenses may also be extended by the Board for successive 1 year periods upon a licensee's written request and payment of the fee, as provided in section 474.1 of the Liquor Code (47 P. S. § 4-474.1), unless the license or licensee no longer meets the requirements of the Liquor Code or this title.

(e) To have a license reissued from safekeeping:

- (1) An application for return of license shall be filed by the licensee.
- (2) A fee of \$50 shall accompany the application for return of license.
- (3) When a background investigation is conducted to obtain or verify information regarding a reissuance of license from safekeeping, an additional fee of \$100, for a total fee of \$150, will be assessed.

Authority

The provisions of this § 7.31 amended under section 207(i) of the Liquor Code (47 P. S. § 2-207(i)).

Source

The provisions of this § 7.31 adopted June 26, 1952; amended through October 30, 1968; amended July 8, 1977, effective July 9, 1977, 7 Pa.B. 1890; 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 November 12, 2004, effective November 13, 2004, 34 Pa.B. 6139; amended May 16, 2008, effective May 17, 2008, 38 Pa.B. 2250. Immediately preceding text appears at serial pages (307822) and (312243).

Notes of Decisions*Display*

If you do not have a license to display, you have neither the privileges nor restrictions as a licensee who is operating under a liquor license. If you have neither the restrictions nor privileges, you cannot be charged with a violation of the Liquor Code. *State Police v. D'Angio, Inc., t/a/d/b/a Sammy's Hide-A-Way*, 666 A.2d 1114 (Pa. Cmwlth. 1995); appeal denied 676 A.2d 1200 (Pa. 1996).

License

Licensee whose licensed establishment was not in operation for 15-consecutive days because of remodeling was obligated to return his liquor license to the LCB for safekeeping not later than the expiration of the 15 day period and placement of a license in safekeeping does not prevent expiration. *Liquor Control Board v. Wayside Bar, Inc.*, 547 A.2d 1309 (Pa. Cmwlth. 1988).

Different rules for license reinstatement applicable to club and nonclub licenses which required club licenses to be revoked after the expiration of a 2-year safekeeping period, but which allowed nonclub licenses to be held in safekeeping indefinitely, were rationally based given the many real distinctions between club and nonclub licenses and not special legislation or violative of equal protection. *Liquor Control Board v. SPA Athletic Club*, 485 A.2d 732 (Pa. 1984).

The distinction between club licenses and other liquor licenses as apparent from 47 P. S. § 4-474 and 40 Pa. Code § 7.31 constitutes a violation of the constitutional prohibition against special class legislation in that a "relevant" distinction between the classes does not exist. In re *George Pepperman Post No. 36 Serviceman's Club, Inc.*, 73 Pa.D. & C.2d 524, 530 (1976).

Safekeeping

Once a liquor license is in safekeeping, operations under the license have ceased. By providing that the license "will be held in safekeeping for the benefit of the licensee and be available for his use when operations are resumed at the licensed premises, or for transfer," shows that under this regulation, a license is not subject to being cited under the Liquor Code. By stating that the license is only available for use when operations are resumed, that language conversely indicates that when the license is held in safekeeping, the operations for which a liquor license is issued have, for intents and purposes, ceased. Because it only is available for use and not in use, operator is not subject to being charged with any violation of the Liquor Code. *State Police v. D'Angio, Inc., t/a/d/b/a Sammy's Hide-A-Way*, 666 A.2d 1114 (Pa. Cmwlth. 1995).

§ 7.32. Surrender of licenses for cancellation or transfer.

(a) An individual, partnership, association or corporation may not hold more than one retail license of the same type to cover the same establishment.

(b) A retail licensee will not be granted a new retail license to cover an establishment for which he already holds a retail license of a different type. When an application for a new retail license of a different type is approved, the license then in effect in the name of the applicant for that establishment shall be surrendered to the Board for safekeeping.

(c) Except as provided by section 461(f) of the Liquor Code (47 P. S. § 4-461(f)), when an application for transfer of a retail license of a different type to premises already licensed is approved, the license then in effect in the name of the applicant for that establishment shall be surrendered to the Board before the issuance of the transferred license in the name of the applicant. In this case, the license surrendered to the Board, or a renewal thereof in possession of the Board,

will be held available for the benefit of the licensee solely for transfer for up to 3 years from the date of surrender. When a transfer is not effected within the 3-year period, the license will automatically be cancelled with no refund of the license fee, or a portion thereof, unless the safekeeping period has been extended as set forth in section 474.1 of the Liquor Code (47 P. S. § 4-474.1). A transfer application pending at the expiration of the 3-year period may be processed to conclusion.

Authority

The provisions of this § 7.32 amended under section 207(i) of the Liquor Code (47 P. S. § 2-207(i)).

Source

The provisions of this § 7.32 adopted June 26, 1952; amended through October 30, 1968; amended August 29, 1997, effective August 30, 1997, 27 Pa.B. 4432; amended May 16, 2008, effective May 17, 2008, 38 Pa.B. 2250. Immediately preceding text appears at serial pages (312243) to (312244).

§ 7.33. Sheriff's sale of a liquor license.

When a license is subject to a writ of execution the following apply:

(1) Any writ of execution must identify the liquor license by type and number, and may be filed in any county where jurisdiction would be appropriate. The Board may not be listed as garnishee. Notification to the Board upon the filing of a writ of execution is not required.

(2) Sheriff's seizure of the original license is not required. Licenses seized must be sent to the Bureau of Licensing for safekeeping within 15 days of seizure. If the debtor satisfies the judgment prior to sale, the sheriff may return the original license to the named licensee.

(3) Licenses may not be transferred without Board approval. Purchase at a sheriff's sale is not a transfer of the license but instead, only grants to purchaser the right to apply for the transfer of the license. Prospective purchases of a license are subject to the following conditions:

(i) Any sale of a license is subject to approval by the Board. Renewal and transfer applications may be obtained from the Bureau of Licensing.

(ii) The Board's Bureau of Licensing will be provided with the purchaser's current address immediately upon purchase.

(iii) A license validation or renewal application must be filed 60 days prior to the expiration date of the license. See section 470 of the Liquor Code (47 P. S. § 4-470). If filed later than that date, or within 2 years after the expiration, a late filing fee will be assessed for the renewal application.

(iv) It shall be the purchaser's responsibility to review all letters from the Board and to take all necessary steps to validate, renew or transfer the license in a timely manner.

(v) Licenses not renewed within 2 years after expiration will cease to exist and will not be reactivated.

(vi) Transfer, validation or renewal of the license will not be approved without tax clearance certificates from the Departments of Revenue and Labor and Industry for both the previous license holder and the purchaser. See section 477 of the Liquor Code (47 P. S. § 4-477).

(vii) Any pending citations issued against the license shall be satisfied prior to transfer.

(4) The purchaser shall obtain the seal of the sheriff or the prothonotary on Board transfer or renewal applications in lieu of the signature of the previous license holder. The sheriff's bill of sale and writ of execution shall accompany the transfer or renewal application when filed.

Source

The provisions of this § 7.33 adopted November 12, 2004, effective November 13, 2004, 34 Pa.B. 6139.

Subchapter D. EXCHANGE OF LICENSES

DISTRIBUTOR AND IMPORTING DISTRIBUTOR LICENSES

Sec.	
7.41.	Applications and bonds.
7.42.	Effective dates.
7.43.	Fees.

DISTRIBUTOR AND IMPORTING DISTRIBUTOR LICENSES

§ 7.41. Applications.

An application for the exchange of Distributor or Importing Distributor Licenses shall be filed on a form furnished by the Board and will be considered by the Board only at the times indicated in § 7.42 (relating to effective dates).

Source

The provisions of this § 7.41 adopted June 26, 1952; amended through October 30, 1968; amended July 21, 1995, effective July 22, 1995, 25 Pa.B. 2885; amended January 19, 2001, effective January 20, 2001, 31 Pa.B. 430. Immediately preceding text appears at serial page (234093).

§ 7.42. Effective dates.

Distributor and Importing Distributor Licenses issued in exchange will become effective either at the beginning of each license period or at 6-month intervals, depending upon the date the application is filed. An application for exchange of license shall be filed with the Board at least 30 days prior to the effective date of the license period or, thereafter, 30 days prior to each 6-month interval to be considered and processed.

Source

The provisions of this § 7.42 adopted June 26, 1952; amended through October 30, 1968; amended July 21, 1995, effective July 22, 1995, 25 Pa.B. 2885. Immediately preceding text appears at serial page (179108).

Cross References

This section cited in 40 Pa. Code § 7.41 (relating to applications).

§ 7.43. Fees.

(a) When an application for the exchange of a Distributor License for an Importing Distributor License is filed for a full license year, it shall be accompanied by a license fee, and a renewal filing fee as required for a malt beverage Importing Distributor by section 614-A of The Administrative Code of 1929 (71 P. S. § 240.14), and the applicable vehicle emblem fee, if any.

(b) When an application for the exchange of a Distributor License for an Importing Distributor License is filed for the last 6 months of a license year, it shall be accompanied by a filing fee, and one-half the license fee required for a malt beverage Distributor License by section 614-A of The Administrative Code of 1929, and the applicable vehicle emblem fee, if any.

(c) When an application for the exchange of an Importing Distributor License for a Distributor License is filed for a full license year, it shall be accompanied by a license fee and a renewal filing fee as required for a malt beverage Distributor License by section 614-A of The Administrative Code of 1929, and the applicable vehicle emblem fee, if any.

(d) When an application for the exchange of an Importing Distributor License for a Distributor License is filed for the last 6 months of a license year, it shall be accompanied by a filing fee as required for a malt beverage Distributor License by section 614-A of The Administrative Code of 1929, and the applicable vehicle emblem fee, if any. In this type of exchange, a refund equal to one-half the difference between the Distributor and Importing Distributor License Fees required by section 614-A of The Administrative Code of 1929, will be granted to the licensee upon approval by the Board of the exchange and the claim for refund. The refund shall be requested by the licensee on standard forms furnished by the Board.

Source

The provisions of this § 7.43 adopted June 26, 1952; amended through October 30, 1968; 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 July 21, 1995, effective July 22, 1995, 25 Pa.B. 2885; amended August 29, 1997, effective August 30, 1997, 27 Pa.B. 4432. Immediately preceding text appears at serial page (228614).

Subchapter E. [Reserved]**§§ 7.51—7.54. [Reserved].****Source**

The provisions of these §§ 7.51—7.54 adopted September 22, 1965; reserved August 29, 1997, effective August 30, 1997, 27 Pa.B. 4432. Immediately preceding text appears at serial pages (228615) to (228616).

**Subchapter F. INTERMUNICIPAL TRANSFER OF
RETAIL LICENSES**

Sec.

- 7.61. Criteria for intermunicipal transfer of retail licenses.
- 7.62. [Reserved].
- 7.63. Municipal standing before the Board.
- 7.64. Appeal of Board decision.
- 7.65. Subsequent transfers.

Source

The provisions of this Subchapter F adopted November 12, 2004, effective November 13, 2004, 34 Pa.B. 6139, unless otherwise noted.

§ 7.61. Criteria for intermunicipal transfer of retail licenses.

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

- (1) The number of existing licenses in the receiving municipality does not equal or exceed 1 license per 3,000 inhabitants as determined at the date of filing of the application.
- (2) The applicant submits the appropriate license application and associated fees to the Bureau of Licensing.

(b) If the number of existing licenses in the receiving municipality equals or exceeds 1 license per 3,000 inhabitants or if the population of the receiving municipality is less than 3,000 inhabitants and the receiving municipality has an existing license:

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

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

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

Source

The provisions of this § 7.61 amended September 8, 2017, effective September 9, 2017, 47 Pa.B. 5600. Immediately preceding text appears at serial pages (307827) to (307828).

§ 7.62. (Reserved).

Source

The provisions of this § 7.62 reserved September 8, 2017, effective September 9, 2017, 47 Pa.B. 5600. Immediately preceding text appears at serial page (307828).

§ 7.63. Municipal standing before the Board.

(a) The receiving municipality may file a protest against the approval of an intermunicipal transfer of a license into its municipality and such municipality shall have standing in a hearing to present testimony in support of or against the transfer of a license.

(b) If the Board receives a protest from the receiving municipality, the Board may refuse an application for an intermunicipal transfer of a license.

(c) A protest must be filed within the time allowed by § 17.13 (relating to protests/intervention procedure).

§ 7.64. Appeal of Board decision.

(a) The receiving municipality may file an appeal of the Board decision granting the license, within 20 days of the date of the Board's decision, to the court of common pleas in the county in which the proposed licensed premises is located.

(b) The applicant may file an appeal of the Board's decision denying the license, within 20 days of the date of the Board's decision, to the court of common pleas in the county in which the proposed licensed premises is located.

§ 7.65. Subsequent transfers.

Licenses transferred from one municipality to another may not be transferred out of the receiving municipality for 5 years from the date of operation in the receiving municipality.

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