

Regulatory Analysis Form

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INDEPENDENT REGULATORY
REVIEW COMMISSION

(1) Agency

Pennsylvania Liquor Control Board

(2) I.D. Number (Governor's Office Use)

054-55

Bush

IRRC Number: #2066

(3) Short Title

Corrections and Revisions

(4) PA Code Cite

40 Pa. Code

(5) Agency Contacts & Telephone Numbers

Primary Contact: Jerry Danyluk (717) 705-2119

Secondary Contact: Danielle Peyakovich (717) 705-6040

(6) Type of Rulemaking (check one)

Proposed Rulemaking X
Final Order Adopting Regulation
Final Order, Proposed Rulemaking Omitted

(7) Is a 120-Day Emergency Certification Attached?

No X
Yes: By the Attorney General
Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

- This regulation eliminates the registration of and issuance of identification cards to vendors' agents.
- The Board's policy of permitting club managers/stewards outside employment is codified.
- The regulation permitting municipalities to set the hours of amusement is being deleted to conform with the Liquor Code. That portion of this regulation that states the hours of amusement as stated in the statute is redundant and is being deleted.
- Floor plans submitted with licensing applications for transfer of location, extension of premises, or new license will be required, on paper, in an 8 1/2 by 11-inch format.
- A site plan on 8 1/2 by 11-inch paper will be required with an application for licensing a structure prior to completion of construction.
- The surety bond requirement eliminated by Act 155 of 1998 is being deleted from the regulations.
- An erroneous cite to the Malt Beverage Tax Law is being corrected.
- The 120-day rule for discounting beer prices is being deleted in response to a federal court case.
- Upon application, the sale of grain alcohol for non-potable use would be permitted.
- Inaccurate references to cost limits on interior displays would be eliminated. Serial or model numbers would not be required on these displays.
- Hotels would be permitted to offer an open bar with a meal package to their overnight guests on New Year's Eve, 1999.

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

Pennsylvania Liquor Code, section 207(i) [47 P.S. § 2-207(i)].

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(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

The regulation is not mandated by any federal or state law, court order or federal regulation, however Act 155 of 1998 eliminated surety bonds as a requirement for licensees. Additionally, as a result of a federal court case, Beer & Pop Warehouse v. Jones, Civil Action No. 1:97-CV-0753 (M.D. Pa. Jan.14,1999), those portions of the Liquor Code dealing with wholesale price reductions on malt or brewed beverages by manufacturers, importing distributors and distributors could no longer be enforced. Therefore, the regulation dealing with the manner of changing wholesale prices of malt or brewed beverages no longer bears any relevance and is being deleted.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

The regulation will eliminate unnecessary licensing procedures for promotional/sales agents. It will clarify Board policy permitting outside employment for club managers. By deleting the paragraph in the regulations that permits municipalities to set the hours of amusement in retail establishments, the regulation will be in compliance with section 493(10) of the Liquor Code. [47 P.S.§4-493(10)]. A standard size for required floor plans will enable them to be scanned or faxed. A site plan that depicts licensed areas in relation to property lines or land marks will enable the agency to determine proximity issues relative to churches, schools or other licensed establishments. Obsolete references to surety bonds will be eliminated. The regulation will correct an erroneous statutory reference, eliminate an unenforceable and irrelevant regulation regarding wholesale beer pricing and establish a method whereby, upon application, an individual or an entity could purchase grain alcohol for reasons other than human consumption. Inaccurate value limits on interior point-of-sale displays for retail licensees would be eliminated. Serial or model numbers on these displays are no longer necessary and would not be required. Hotel licensees would be permitted to offer an open bar with a meal package to registered overnight guests of their hotels on December 31, 1999.

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

No public health, safety, environmental or general welfare risks are associated with nonregulation.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

The regulation will benefit the approximately 330 promotional/sales agents licensed in Pennsylvania. The regulation will clarify the outside employment issue for club managers or stewards. A standard size for floor plans and a site plan that defines the location of a licensed area under construction will benefit the agency in processing plans and complying with the statutory requirements dealing with proximity issues. Correction of an erroneous reference, eliminating the references to surety bonds which are no longer required by statute, as well as bringing the regulations into compliance with the Liquor Code and a federal court case will benefit everyone referencing the Liquor Control Board Regulations. Establishing a method for the purchase of grain alcohol for non-potable use will benefit persons and entities desiring to use this product for tasks such as cleaning and sterilization. Hotel licensees will be able to compete for business during the millenium celebration with their out-of-state counterparts while limiting the meal package with an open bar to overnight guests of their hotels.

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(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

This regulation will have no adverse affects. Any additional risk associated with an unlimited or indefinite amount of alcohol beverages served by hotels with meal packages on December 31, 1999, should be ameliorated by the offering only being made to registered overnight guests of the hotel on one date and the liability, both civil and criminal, imposed by the Liquor Code for sales to visibly intoxicated persons [47 P.S. §4-493.1].

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

Applicants and licensees already have to submit floor plans and site plans when requested. The change requires a standardization of size. It is not possible to quantify the number of applicants who will be submitting floor plans or site plans.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

The open bar with a New Year's Eve package was initiated by the Pennsylvania Travel Council who claimed that the lack of this type of promotion put Pennsylvania hotels at a disadvantage with out-of-state hotels. The Pennsylvania Restaurant Association and the Licensed Beverage Association were also contacted for their input.

Since the Board's ban on the retail sale of grain alcohol for beverage purposes as a result of increased sales of this product in college areas, input from those utilizing grain alcohol for legitimate purposes other than human consumption has been recognized and is presently being addressed administratively, and now through the regulatory process.

The elimination registration and identification cards for vendors' agents came about as a result of discussions with vendors representing the Pennsylvania Wine & Spirits Association.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

These changes do not represent any significant costs to the regulated community. The savings to vendors will be approximately \$21,450 in registration fees and whatever additional costs were borne for complying with the photograph and application requirements. Floor plans in a standard size should not impose any significant costs since inexpensive technology exists for shrinking or enlarging plans. Site plans do not represent additional costs as they are routinely submitted (for buildings prior to or under construction) but often do not contain the necessary information to establish the location of the areas to be licensed in relation to the property upon which the structure will be constructed.

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(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

Local governments will not be affected by this regulation.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

The regulation will not impose costs upon state government. The registration fees of vendors' agents did not cover the costs associated with the processing of the applications and issuance of identification costs; therefore, some savings will be realized.

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(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$ N/A	\$	\$	\$	\$	\$
Regulated Community						
Local Government						
State Government						
Total Savings						
COSTS:	N/A					
Regulated Community						
Local Government						
State Government						
Total Costs						
REVENUE LOSSES:	N/A					
Regulated Community						
Local Government						
State Government						
Total Revenue Losses						

(20a) Explain how the cost estimates listed above were derived.

This caption is not applicable to this regulation.

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(20b) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
	N/A			

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

No adverse effects are associated with this regulation.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

Nonregulatory alternatives were not considered.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

Alternative regulatory schemes were not considered.

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(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

No provisions associated with these regulatory amendments are more stringent than federal standards.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

This regulation will not put Pennsylvania at a competitive disadvantage with other states. It may eliminate illegal out-of-state retail purchases of grain alcohol. According to the Pennsylvania Travel Council, re-instituting the meal package provision for hotels on New Year's Eve 1999 will make them competitive with out-of-state hotels.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

The regulation will not affect existing or proposed regulations of the promulgating agency or other state agencies.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

No public hearings or informational meetings will be scheduled regarding this regulation.

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(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

The regulation will lessen paperwork by eliminating vendor agent registration and the issuance of identification cards.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

No special provisions were warranted.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

The regulation will become effective upon its publication, in final form, in the Pennsylvania Bulletin.

(31) Provide the schedule for continual review of the regulation.

Review of the regulations is ongoing and any changes to the regulation will be through the rulemaking process.

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Copy below is hereby approved
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[Signature]
BY: _____
(DEPUTY ATTORNEY GENERAL)

SEP 14 1999

DATE OF APPROVAL

Check if applicable
Copy not approved. Objections
attached.

#2066

Copy below is hereby certified to
be a true and correct copy of a
document issued, prescribed or
promulgated by:

Pennsylvania Liquor Control Board
(AGENCY)

DOCUMENT/FISCAL NOTE
NO. 054-55

DATE OF ADOPTION: 9-1-99

BY: *[Signature]*

TITLE: Chairman
(Executive Officer, Chairman or
Secretary)

Copy below is hereby approved
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or Independent Agencies:

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8-31-99

DATE OF APPROVAL

XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
(Chief Counsel, Independent
Agency)
(Strike inapplicable title)

Check if applicable. No
Attorney General approval or
objection within 30 days after
submission.

NOTICE OF PROPOSED RULEMAKING
PENNSYLVANIA LIQUOR CONTROL BOARD
TITLE 40 PA CODE - PENNSYLVANIA LIQUOR CONTROL BOARD REGULATIONS

CHAPTER 3. LICENSE APPLICATIONS

Subchapter D. PHOTOGRAPHS AND CRIMINAL HISTORY RECORD INFORMATION CHECKS

Sec. 3.31. Personal photographs.

Sec. 3.33. Renewal of photographs.

Subchapter G. LIMITED WINERY LICENSES

Sec. 3.63. Agents.

Subchapter H. LICENSED DISTILLERIES OF HISTORICAL SIGNIFICANCE

Sec. 3.73. Agents.

CHAPTER 5. DUTIES AND RIGHTS OF LICENSEES

Subchapter B. EMPLOYEES OF LICENSEES

Sec. 5.16. Appointment of managers.

Subchapter C. AMUSEMENT AND ENTERTAINMENT

Sec. 5.31. Amusement permit.

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

Subchapter A. TRANSFER OF LICENSES

- Sec. 7.1. Filing of applications for transfer.
- Sec. 7.5. Transfers on death of the Licensee.
- Sec. 7.6. Transfer of partnership licenses.

To be added to Regulations

Sec. 7.8. Floor plans.

Sec. 7.9. Site plans.

Subchapter B. EXTENSION OF LICENSES

Sec. 7.22. Application.

Sec. 7.23. Approval.

Subchapter D. EXCHANGE OF LICENSES

Sec. 7.41. Applications and bonds.

CHAPTER 9. TRANSPORTATION, IMPORTATION, DISPOSITION AND STORAGE

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

Sec. 9.12. Applications for Transporter-for-Hire Licenses.

Subchapter E. IMPORTATION AND DISTRIBUTION OF MALT OR BREWED BEVERAGES

Sec. 9.91. Importation.

CHAPTER 11. PURCHASES AND SALES

Subchapter A. GENERAL PROVISIONS

Sec. 11.1. Definitions.

Sec. 11.2. Who may purchase.

Sec. 11.3. Sales at retail.

Subchapter C. WINES

Sec. 11.91. Employment of agents.

Sec. 11.92. Identification cards.

Subchapter L. MANNER OF CHANGING PRICES OF MALT OR BREWED BEVERAGES

Sec. 11.201. Generally.

Sec. 11.203. Hearing procedures.

Sec. 11.204. Refusal to grant price increase.

Sec. 11.205. Noncompliance.

CHAPTER 13. PROMOTION

Subchapter A. ADVERTISING

Sec. 13.43. Interior display.

Subchapter B. PROMOTION OF SALE OF LIQUOR BY VENDORS

Sec. 13.71. Definitions.

Sec. 13.72. Registration of agents.

Sec. 13.73. Privileges of vendors' agents.

Sec. 13.74. Identification cards.

Sec. 13.75. Refusal and cancellation of registrations.

Sec. 13.77. Agents' order books.

Sec. 13.78. Special orders: requirements and conditions.

Sec. 13.79. Special orders: restrictions.

Sec. 13.81. Samples of liquor.

Sec. 13.86. Agency provisions.

Sec. 13.87. Records.

Subchapter C. SOLICITATION FOR THE PURCHASE OF ALCOHOLIC BEVERAGES

Sec. 13.102. Discount pricing practices.

TITLE 40 – LIQUOR

The Pennsylvania Liquor Control Board, under the authority of Section 207(i) of the Pennsylvania Liquor Code [47 P.S. §2-207(i)], proposes to amend 40 Pa. Code, Chapter 3, §§3.31, 3.33, 3.63, 3.73, Chapter 5, §§5.16, 5.31, Chapter 7, §§7.1, 7.5, 7.6, 7.22, 7.23, 7.41, Chapter 9, §§9.12, 9.91, Chapter 11, §§11.1, 11.2, 11.3, 11.91, 11.92, 11.201, 11.203, 11.204, 11.205 and Chapter 13, §§13.43, 13.71, 13.72, 13.73, 13.74, 13.75, 13.77, 13.78, 13.79, 13.81, 13.86, 13.87, 13.102 and add §7.8 and 7.9 to Chapter 7.

Purpose:

In accordance with Executive Order 1996-1, the agency has reviewed its regulations and determined that the following revisions to Title 40 Pa. Code are necessary in order to eliminate agent registration, clarify club managers' right to outside employment, eliminate a regulation that contradicts the Liquor Code, eliminate references to surety bonds, standardize the size of floor plans and site plans submitted by applicants for a new license, extension of license, or transfer of location of an existing license, correct erroneous cites, eliminate a regulation implementing a statute struck down by a federal court, permit the sale of grain alcohol for non-potable use upon filing an application with the Liquor Control Board, eliminate inaccurate references to cost limits on interior displays in retail establishments, and permit an open bar with a meal package for registered guests of hotels on December 31, 1999.

Summary of Amendments:

Chapter 3, §§3.31, 3.33, 3.63, 3.73, Chapter 11, §§11.91, 11.92, and Chapter 13, §§13.71, 13.72, 13.73, 13.74, 13.75, 13.77, 13.78, 13.79, 13.81, 13.86, 13.87 eliminate the registration requirement for promotional/sales agents.

Chapter 5, §5.16 clarifies the Board's position that club managers or stewards are not precluded from holding employment outside their duties as club managers or stewards. Section 5.31(d)(1) is being deleted because it repeats that which is already contained in Section 493(10) of the Liquor Code, and (d)(2) is being deleted because it contradicts Section 493(10) of the Liquor Code [47 P.S. §4-493(10)].

Chapter 7, §§7.1, 7.5, 7.6, 7.22, 7.41, Chapter 9, §9.12, and Chapter 13, §13.71 eliminate references to surety bonds in accordance with Act 155 of 1998. Section 7.8 is being added to Chapter 7 requiring that floor plans of proposed licensed areas be submitted on paper in 8 1/2 by 11-inch format. Section 7.9 is being added in order to facilitate a determination as to the location of licensed areas in a site plan on paper in an 8 1/2 by 11-inch format. The site plan would aid in determining proximity to restrictive institutions such as churches and schools, as well as proximity to other licensed establishments. Chapter 9, §9.91 corrects erroneous cites to the Malt Beverage Tax Law. Chapter 11, §§11.1, 11.201, 11.203, 11.204, 11.205 eliminate the implementation of the manner in which wholesale prices of malt or brewed beverages would be changed in compliance with a federal court ruling that found a portion of the Liquor Code violates the Sherman Anti-trust Act. Chapter 11, §11.2 is being deleted since it merely references §11.4 and 11.3 provides for the sale of grain alcohol to individuals or

entities who, by application to the Liquor Control Board, swear or affirm that such alcohol will be for non-potable use. Chapter 13, §13.43 eliminates inaccurate references to cost limits on interior displays. Chapter 13, §102 permits hotels to serve an unlimited or indefinite amount of alcoholic beverages as part of a meal package on December 31, 1999, to registered overnight guests of their hotels.

Affected Parties:

These regulatory amendments would affect vendors' agents by eliminating the need for agent registration and the issuance of identification cards. Persons or entities desiring to purchase grain alcohol for purposes other than human consumption could do so. Applicants for a new license, extension of license, or the transfer of location of an existing license would be required to submit floor plans and site plans in a standard size depicting the proposed licensed areas. Retail licensees would be permitted to display point-of-sale advertising material to a value determined by the board pursuant to the Liquor Code and without a regulatory amendment. The requirement for serial or model numbers on these displays is not adhered to and will be deleted. Hotel licensees would be permitted to offer an open bar with a meal package on New Year's Eve, 1999, to their registered overnight guests. The remaining changes to the regulations serve to clarify, correct and bring the regulations into compliance with the Liquor Code and a federal court ruling.

Paperwork Requirements:

The proposed regulatory amendments will not increase paperwork for the agency or the regulated community. Eliminating the registration of sales agents and issuance of identification cards with photographs will eliminate paperwork for the agency as well as the sales agents. Licensees must presently submit plans when applying for a new license, extension of license or a change in the location of an existing license. No additional paperwork will be required as a result of standardizing the size of these plans. Site plans are not presently required but are usually submitted when a structure is not fully constructed in order to determine the location of the licensed areas as they relate to proximity issues.

Fiscal Impact:

The proposed amendments to the regulations will have no adverse fiscal impact on the regulated community, the Commonwealth or local governments.

Effective Date/Sunset Date:

This regulation will become effective upon its publication in final form in the Pennsylvania Bulletin. No sunset date has been assigned.

Public Comment/Contact Person:

Written comments, suggestions or objections will be accepted for 30 days after publication of the proposed regulation in the Pennsylvania Bulletin. Comments should be addressed to Mr. Jerry Danyluk, Regulatory Coordinator, Pennsylvania Liquor Control Board, Room 513, Northwest Office Building, Harrisburg, PA 17124-0001.

Regulatory Review:

Under Section 5(a) of the Regulatory Review Act, [71 P.S. §745-5(a)], the agency submitted a copy of the proposed rulemaking on September 17, 1999 to the Independent Regulatory Review Commission (IRRC) and to the chairpersons of the House Committee on Liquor Control and the Senate Committee on Law and Justice. In addition to submitting the proposed regulation, the Agency has provided IRRC and the Committees with a copy of a detailed regulatory analysis form prepared by the Agency. A copy of this material is available to the public upon request.

If the IRRC has any objections to any portion of the proposed regulation, it will notify the Agency within 30 days of the close of the public comment period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review by the Agency, the Governor and the General Assembly prior to final publication of the regulations.

John E. Jones III
Chairperson

ANNEX A

CHAPTER 3. LICENSE APPLICATIONS Subchapter D. PHOTOGRAPHS AND CRIMINAL HISTORY RECORD INFORMATION CHECKS

PHOTOGRAPHS

Sec. 3.31. Personal photographs.

(a) A photograph shall be furnished to the Board's representative by the following:

(1) Individuals; members of partnerships; and principal officers of a corporation applying for Retail Liquor Licenses, Retail Dispenser Malt Beverage Licenses, Distributor Licenses and Importing Distributor Licenses, except Public Service and Club Licenses.

(2) Current managers/stewards and proposed managers/stewards.

[(3) Applicants for registration as promotional/sales agents. (Two photographs are required.)]

* * * *

Sec. 3.33. [Renewal of photographs] Reserved.

[Personal photographs of registered agents shall be renewed every year. New photographs, as required in Sec. 3.31 (relating to personal photographs), shall be filed with each application for renewal of the registration of agents.]

Subchapter G. LIMITED WINERY LICENSES

Sec. 3.63. Agents

[(a) *Registration.* It is unlawful for a] A limited winery licensee may [to] employ individuals to solicit orders, off the licensed premises, for wine produced by it or to promote the sale of the wines off the premises[, unless each individual has been registered with the Board in accordance with this subsection]. [Every application for registration shall be made upon forms provided by the Board and shall set forth the name and address of the limited winery licensee and the name and home address of the agent and additional information required. The form shall be filed by both the limited winery licensee and the agent employed. Two photographs of the agent, exactly 1 1/2-inch square in size, taken within 30 days, shall also be submitted. Every application shall be accompanied by \$65 for each agent to be registered. A retail licensee or his agents, servants or employees may not be registered as an agent under the terms of this section. The Board may refuse to register an agent.]

[(b) *Identification cards.* Upon approval of the Board of an application for registration of an agent by a licensee, there will be issued to the authorized agent an identification card containing the name and address of the licensee and the name and address and physical description of the agent. There will be affixed to the identification

card a photograph of the agent. An identification card is not valid until signed by the agent and countersigned by a representative of the Board.]

[(c) *Privileges.*] Agents [properly registered by a limited winery licensee and holding identification cards] may advertise and promote the sale of merchandise by "missionary work" of only brands sold by the limited winery licensee by whom the agents are registered and may solicit orders from licensees and make deliveries in properly registered vehicles.

Subchapter H. LICENSED DISTILLERIES OF HISTORICAL SIGNIFICANCE

Sec. 3.73. Agents.

[(a) *Registration.* It is unlawful for a licensed distillery of historical significance to employ individuals to solicit orders for liquor produced by it or to promote the sale of the liquors unless each individual has been registered with the Board in accordance with this subsection. Application for registration shall be made upon forms provided by the Board and shall set forth the name and address of the licensed distillery of historical significance and the name and home address of the agent and additional information required. The form shall be filed by both the licensed distillery of historical significance and the agent employed. Two photographs of the agent, exactly 1 1/2-inch square in size, taken within 30 days, shall also be submitted. Every application shall be accompanied by \$65 for each agent to be registered. A retail licensee or his agents, servants or employees may not be registered as an agent under the terms of this subsection. The Board may refuse to register an agent.]

[(b) *Identification cards.* Upon approval of the Board of an application for registration of an agent by a licensee, there will be issued to the authorized agent an identification card containing the name and address of the licensee and the name and address and physical description of the agent. There will be affixed to the identification card a photograph of the agent. An identification card is not valid until signed by the agent and countersigned by a representative of the Board.]

[(c) *Privileges.*] Agents [properly registered by a licensed distillery of historical significance and holding identification cards] may advertise and promote the sale of merchandise of brands sold by the licensed distillery of historical significance by whom the agents are [registered] employed.

CHAPTER 5. DUTIES AND RIGHTS OF LICENSEES

Subchapter B. EMPLOYES OF LICENSEES

Sec. 5.16. Appointment of managers.

* * * *

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

Subchapter C. AMUSEMENT AND ENTERTAINMENT

Sec. 5.31. Amusement permit.

* * * *

[(d) *Hours for amusement.*

(1) A licensee holding an amusement permit may permit dancing, theatricals, floor shows and motion pictures in the licensed establishment only during the hours when the sale of liquor or malt or brewed beverages is permitted.

(2) Paragraph (1) does not apply to a licensee or licensed establishment located in a municipality which has, by ordinance, resolution or other appropriate action in accordance with law, fixed the hours for the amusement in licensed establishments. The hours so fixed are controlling when certified copies of the ordinance, resolution or other appropriate action in accordance with law, are filed by the municipality with the Board.]

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

Subchapter A. TRANSFER OF LICENSES

Sec. 7.1. Filing of applications for transfer.

Licenses issued by the Board, under Article IV of the Liquor Code (47 P. S. Secs. 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 shall apply 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[, proper bond] and remittance of proper fees in accordance with the applicable provisions of section 614-A of The Administrative Code of 1929 (71 P. S. Sec. 240.14A).

Sec. 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 administrator or executor of the estate of the licensee, upon presentation of the transfer form, application, bond transfer or 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 form application [and the bond] and fee [or both], with written evidence of the designation, shall be submitted by the administrator or executor. The Board will be notified in writing within 30 days of the death of a licensee.

Sec. 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 license shall be accompanied by an approved bond rider executed by the applicant and the surety company on the current license bond.] 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. Sec. 240.14A).

Sec. 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 ½ by 11 inches. A separate floor plan is required for each floor used in conjunction with the licensed business.

Sec. 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 ½ by 11-inch format and shall depict the location of the proposed licensed premises in relation to identifiable property lines or easily identifiable landmarks with measurements to the property lines or landmarks.

Subchapter B. EXTENSION OF LICENSES

Sec. 7.22. Application

(a) To obtain Board approval, an application for extension of license describing the additional premises shall be filed with the Board[, to which shall be attached a bond rider covering the premises, properly executed by the surety who executed the bond filed with the application for the current license].

* * * *

Sec. 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. Sec. 4-403(a)). The application for extension of license [should] **shall** be accompanied by a written request for consideration, together with floor plans [in duplicate] **as set forth in section 7.8 of this chapter**, clearly showing the [restaurant, hotel or club] **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 section 7.9 of this chapter.** 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.

Subchapter D. EXCHANGE OF LICENSES

DISTRIBUTOR AND IMPORTING DISTRIBUTOR LICENSES

Sec. 7.41. Applications [and bonds].

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 section 7.42 (relating to effective dates). [The application shall be accompanied by a bond executed on the standard form furnished by the Board, in the penal sum required for the type of license sought.]

CHAPTER 9. TRANSPORTATION, IMPORTATION, DISPOSITION AND STORAGE

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

LICENSES

Sec. 9.12. Applications for Transporter-for-Hire Licenses.

(a) *Transporter-for-Hire License, Class A.* An application for a Transporter-for-Hire License, Class A, shall be filed on forms furnished by the Board and shall be accompanied by application and license fees in accordance with section 614-A of The Administrative Code of 1929 (71 P. S. Sec. 240.14A) [and an approved corporate surety bond in the penal amount as established in section 506 of the Liquor Code (47 P. S. Sec. 5-506)]. The license will be issued for the calendar year and the license fee will be prorated quarterly, in accordance with section 508 of the Liquor Code (47 P. S. Sec. 5-508).

(b) *Transporter-for-Hire License, Class B.* An application for a Transporter-for-Hire License, Class B, shall be accompanied by application and license fees in accordance with section 614-A of The Administrative Code of 1929[, and an approved corporate surety bond in the penal amount as established in section 492(8) of the Liquor Code (47 P.S. Sec. 4-492(8))]. The licenses will be issued for the calendar year.

(c) *Transporter-for-Hire License, Class C.* An application for Transporter-for-Hire License, Class C, shall be accompanied by application and license fees in accordance with section 614-A of The Administrative Code of 1929[, and an approved corporate surety bond in the penal amount as established in section 506 of the Liquor Code.] The license will be issued for the calendar year. To secure this license, the applicant shall demonstrate that he maintains a fleet of vehicles primarily engaged in general parcel consignment, servicing all points within this Commonwealth and shall demonstrate that he can transport liquor from points in this Commonwealth to Board facilities, from Pennsylvania licensed limited winery locations to limited winery customers and from distilleries of historical significance to distillery customers.

Subchapter E. IMPORTATION AND DISTRIBUTION OF MALT OR BREWED BEVERAGES

GENERAL PROVISIONS

Sec. 9.91. Importation.

* * * *

(b) This section does not prohibit the importation of malt or brewed beverages by either of the following:

(1) A resident of this Commonwealth, for personal use only and not for sale, provided that the malt or brewed beverages are in original containers and that the tax thereon has been paid, or provisions for the payment have been made under the [Pennsylvania] Malt Beverage Tax Law [(47 P. S. Secs. 103—120.3)] (72 P.S. Secs. 9001- 9016).

* * * *

(c) Sales of malt or brewed beverages intended to be transported for delivery or use in this Commonwealth shall be consummated outside this Commonwealth and shall be paid for in full prior to or at the time of delivery to the consignee in this Commonwealth, who shall pay transportation charges. The beverages shall also be tax paid in accordance with section [409] 9003 of the [Pennsylvania] Malt Beverage Tax Law [(47 P. S. Sec. 409)] (72 P.S. Sec. 9003), and the transporter shall be considered the agent of the consignee.

CHAPTER 11. PURCHASES AND SALES
Subchapter A. GENERAL PROVISIONS

RETAIL AND WHOLESALE PURCHASE—GENERAL

Sec. 11.1. Definitions.

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

[Market conditions or other good cause - Factors that affect the wholesale price of malt or brewed beverages, including, but not limited to, the following: the availability and cost of raw materials, labor, transportation, weather, natural disaster, or other extraordinary events affecting supply and demand.]

* * * *

Sec. 11.2. [Who may purchase.] Reserved.

[(a) A person legally qualified to purchase liquor at retail in this Commonwealth may purchase alcohol directly at State Liquor Stores, or by special order through the State Store system under § 11.4 (relating to sales at wholesale).]

[(b) Purchasers at wholesale shall comply with § 11.4.]

Sec. 11.3. Sales at retail.

(a) State Liquor Stores may stock ethyl alcohol, 190 proof, for retail sales subject to the following:

(1) An individual or entity desiring to purchase ethyl alcohol shall file an application on forms provided by the Board.

(2) The Board may approve the application of an individual or entity who swears or affirms that the alcohol will be purchased for non-potable use only.

* * * *

Subchapter C. WINES

AGENTS OF SACRAMENTAL WINE LICENSEES

Sec. 11.91. [Registration] Employment of agents.

[It is unlawful for a] A sacramental wine licensee [to] may employ individuals to solicit orders for sacramental wines or to promote the sale of the wines [unless the individual has been registered with the Board by the licensee. The application shall be made upon forms provided by the Board and shall include the name and address of the sacramental wine licensee, the name and home address of the agent and additional information required. The form shall be signed by both parties. Two photographs of the agent, each exactly 1 1/2 inch square in size, taken within 30 days, shall also be submitted. The application shall be accompanied by a remittance of \$65 for each agent to be registered. The Board may refuse to register an agent].

Sec. 11.92. [Identification cards.] Reserved.

[Upon approval by the Board of the application of the licensee for registration of agents, authorized agents will be issued identification cards containing the name and address of the licensee, and the name and address and physical description of the agent. There will be affixed to the identification card a photograph of the agent. An identification card is not valid until signed by the agent and countersigned by a representative of the Board.]

Subchapter L. [MANNER OF CHANGING PRICES OF MALT OR BREWED BEVERAGES] RESERVED

Sec. 11.201. [Generally] Reserved.

[(a) This subchapter implements the manner in which wholesale prices of malt or brewed beverages shall be changed by manufacturers, importing distributors and distributors, in accordance with the provisions of Act 196 of 1996 (Act 196), and for active supervision by the investigative unit specified in Act 196, to be known as Special Investigations, within which is Malt Beverage Compliance. Malt Beverage Compliance is responsible for all aspects of the implementation of Act 196 as specified in this subchapter as well as any other duties specified in this title and as the Board may from time to time prescribe.

(b) Manufacturers, importing distributors and distributors shall file their wholesale prices (commonly referred to in the malt beverage industry as "case one" prices) for all configurations sold, including volume discount price structures, with Malt Beverage Compliance between February 1 and April 1 of every calendar year. These wholesale prices shall be those in effect on April 1 of the calendar year in which the prices are reported to Malt Beverage Compliance.

(c) Manufacturers, importing distributors and distributors that do not sell for resale shall so indicate, in writing, to Malt Beverage Compliance by April 1 of each year.

(d) The reporting requirements specified in this subchapter are in addition to those contained in section 447 of the Liquor Code. (47 P.S. § 4-447). Price information reported to Malt Beverage Compliance is public information and will be available for inspection upon written request to: Malt Beverage Compliance, Northwest Office Building, Harrisburg, PA 17124-0001.]

Sec. 11.203. [Hearing procedures] Reserved.

(a) When a wholesale price is increased within 120 days of a price reduction due to market conditions or any good cause, sales may be made at the new price and Malt Beverage Compliance shall be notified in writing within 48 hours after the change in price. A hearing will be scheduled as soon as possible before a Board Hearing Examiner to determine if the wholesaler can show by admissible evidence that market conditions or other good cause justifies the price increase.

(b) Malt Beverage Compliance will:

(1) Upon receipt of a notice of price increase, conduct a prehearing investigation by visiting the premises of the applicant, completing a price increase report and obtaining any other relevant documentation.

(2) Notify the applicant for price increase of its right to waive the hearing and provide a copy of the waiver of hearing form to the applicant.

(3) Complete its report promptly and submit the report to the Board, upon receipt of a signed waiver of hearing.

(4) Notify the applicant of the time and place of the scheduled hearing if the hearing is not waived.

(5) Immediately send written notice to the applicant by certified mail (return receipt requested) following the Board meeting announcing the decision.

(c) Hearings held before an examiner of the Board shall be conducted under 1 Pa. Code Part II (relating to the Rules of Administrative Practice and Procedure). After accepting evidence, the examiner shall submit a report and recommendation within 7 working days to the Board for its determination. The decisions by the Board relating to price changes are final. Appeals shall be filed with the Commonwealth Court pursuant to 42 Pa.C.S. §763 (relating to direct appeals from government agencies) within 30 days of the Board's decision.

(d) A person who can demonstrate a direct interest in an application to raise a wholesale price under this section may file a request to intervene in these proceedings. The request shall include the name, address, telephone number and a statement of the direct interest and reasons for intervention of the person filing. The request shall be received by Malt Beverage Compliance at least 48 hours before the hearing to be considered. Notice of hearing will be provided in writing to persons meeting the filing requirements.

(e) The hearing examiner has the discretion to receive evidence from anyone filing a timely request to intervene. A recommendation on the party status of those requesting intervention will be included in the examiner's report for the Board's consideration.

(f) Upon waiver of hearing, the applicant and anyone requesting intervention shall submit an affidavit of testimony regarding the price change to Malt Beverage Compliance. The affidavits and investigative report will be submitted by Malt Beverage Compliance to the Board for a decision at its next public meeting.]

Sec. 11.204. [Refusal to grant price increase] Reserved.

[If the Board refuses to grant the price increase requested, the manufacturer, importing distributor or distributor shall without regard to its right of appeal:

(1) Immediately revert to the price charged before the increase denied by the Board.

(2) Refund, to all wholesale customers, the total difference between the increased price charged for the product purchased and the price which was in effect prior to the increase.

(3) Provide a written statement to Malt Beverage Compliance within 30 days of the Board's decision with an accounting of the refunds made to its customers.]

Sec. 11.205. [Noncompliance] Reserved.

[A manufacturer, importing distributor or distributor who is not in compliance with the reporting requirements of section 447 of the Liquor Code (47 P.S. §4-447) or this subchapter may be granted up to 48 hours by Malt Beverage Compliance to take the necessary steps to come into compliance including, but not limited to, rescinding price changes on its wholesale prices or submitting the proper information, or both. Subsequent noncompliance by the same wholesaler may result in referral to the Pennsylvania State Police, Bureau of Liquor Control Enforcement for citation proceedings to show cause why the license or privilege to transact business within this Commonwealth should not be suspended or revoked or a fine imposed.]

CHAPTER 13. PROMOTION

Subchapter A. ADVERTISING

ADVERTISING OF BRAND NAMES

Sec. 13.43. Interior display.

(a) A licensee may not install or permit to be installed electrically operated signs or devices, lithographs, framed pictures, cardboard displays, statuettes, plaques, placards, streamers or similar items advertising brand names and intended for interior display on the licensed premises until he has submitted detailed information to the Board on forms provided by the Board, and obtained Board approval. [A single piece of advertising may not exceed a cost of \$70, and the signs shall carry a serial or model number permanently affixed to the display for identification purposes.] A photograph or sketch of the display sign shall accompany the application form.

(b) When the approved sign, as described in subsection (a), is of maximum value no background material may be used in conjunction with the installation. [When the approved display piece is of less than the maximum value, the combined cost of the piece of advertising and background or decoration may not exceed \$70.]

[(c) Under the Liquor Code, the total cost of the point-of-sale advertising matter relating to any one brand may not exceed the sum of \$140.]

[(d)] (c) Signs or displays intended for use interchangeable in a window, doorway or in the interior shall meet the requirements for both maximum area, as provided in § 13.42 (relating to window and doorway display) and maximum value.

Subchapter B. PROMOTION OF SALE OF LIQUOR BY VENDORS

Sec. 13.71. Definitions.

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

Agent — An individual employed [and registered] by a licensed vendor, to promote the sale of liquor through State Liquor Stores. A person who is a licensee or the holder of a Malt or Brewed Beverage License, or an officer, director, agent or employe of either a licensee or such a licensee, or who is not at least 21 years of age, [a citizen of the United States] and of good character, is not eligible to be [registered as] an agent of a vendor under this subchapter.

Licensed vendor — A licensee holding a Manufacturer or Importer License, or a vendor's permit, and selling liquors to the Board.

* * * *

Vendor's permit — A permit issued to a nonresident vendor under section 208(j) of the Liquor Code (47 P.S. § 2-208(j)), entitling the vendor to register agents in accordance with this subchapter]. An application for the permit shall be filed with the Board accompanied by proper fees in accordance with section 614-A of The Administrative Code of 1929 (71 P.S. § 240.14A) [, and an approved corporate surety bond in the penal sum of \$2,000]. A permit will be issued for the calendar year only.

Sec. 13.72. [Registration of agents.] Reserved.

(a) *Requirement.* A vendor may not employ, or an individual may not act as, an agent, salesman or solicitor to promote the sale of the products of the vendor in this Commonwealth, unless the persons are registered with the Board and issued identification cards in accordance with this subchapter.

(b) *Applications.*

(1) A vendor who desires to employ agents to promote the sale of liquor through State Liquor Stores or on special order shall be the holder of a valid Manufacturer or Importer Liquor License or a vendor's permit. The licensed vendor is eligible to register agents in accordance with this section. The licensed vendor shall make application for the registration of agents on the form provided by the Board.

(2) The application shall include the full address of the place where complete records of Commonwealth operations of the vendor are maintained. Resident manufacturers or importers shall maintain

records within this Commonwealth. When the holder of a vendor's permit maintains records outside of this Commonwealth, the application shall include an agreement that the records are open to inspection and audit by representatives of the Board during normal business hours, and that the transportation and traveling expenses of the representatives will be paid by the vendor.

(3) With the application of each vendor, there shall be a Statement of Agent for each agent for whom registration is sought on the form provided by the Board. Accompanying the Statement of Agent there shall be two unmounted photographs of each agent, 1 1/2 inch square, taken within 30 days of the date of filing.

(c) *Filing fee.* In registering a new agent, a vendor shall pay a filing fee of \$65. If the application for registration is denied, the filing fee will be retained by the Board. Registrations expire on December 31 of the year in which they become effective.

(d) *Renewal of registration.* The registration of agent may be renewed for 1 calendar year upon the filing by the licensed vendor of an application for renewal and the payment of the filing fee of \$65. A Statement of Agent for each agent to be registered shall also accompany the application, as shall new photographs of each agent, 1 1/2 inch square, taken within 30 days of the filing of the application. Necessary application materials shall be filed with the Board by December 1 of each year.]

Sec. 13.73. Privileges of [registered] vendors' agents.

(a) Agents [properly registered, as provided in § 13.72 (relating to registration of agents), and holding identification cards, as described in § 13.74 (relating to identification cards),] may advertise and promote the sale of stock merchandise by "missionary work" of only those brands sold to the Board by the vendor by whom the agents are registered. Such work may include the use of the "Agents Order" form approved by the Board.

(b) Agents may solicit orders from retail purchasers for stock merchandise or gift certificates for such merchandise.

(c) Agents may solicit from licensees or other persons, orders for those brands of liquor which have been listed with the Special Liquor Purchase Division by the vendors by whom said agents are registered. All special orders obtained by [registered] vendors' agents shall be filed with one of the State Liquor Stores as required in this subchapter.

Sec. 13.74. [Identification cards.] Reserved.

[(a) No vendor may personally solicit orders or promote the sale of his products unless he has submitted photographs of himself and has been issued an identification card, as required for registered agents in subsection (b). No application, bond or fee is required for the card.

(b) Upon approval by the Board of the application of a licensed vendor for the registration of agents, there will be issued to such authorized agents identification cards containing the name and address of the licensed vendor and the name and physical description of the agent. There will be affixed to the card a photograph of the agent, and such card will be countersigned by a representative of the Board. If mailed, the identification card will be mailed to the licensed vendor for delivery to the agent. The agent shall return the identification card to the licensed vendor upon request.

(c) Where the employment of an agent is terminated, the vendor shall immediately notify the Board on the form provided for cancellation and the identification card issued to the agent shall be surrendered to the Board.]

Sec. 13.75. [Refusal and cancellation of registrations.] Reserved.

[The Board may refuse any application for the registration of an agent. A licensed vendor may request the cancellation of the registration of any of his agents by returning the identification card and order books—or notice of transfer of books—issued to the agent, together with a written request of such cancellation. Forms will be furnished upon request by the Bureau of Licensing, Pennsylvania Liquor Control Board, Harrisburg, Pennsylvania 17124. The Board may cancel the registration so requested.]

Sec. 13.77. Agents' order books.

(a) [Upon approval of the application of the licensed vendor for registration and the issuance of identification cards to registered agents,] [t]The Board, upon request, will issue order books to vendors for themselves and their [registered] agents, in which each special order for liquors shall be entered. Each order shall be prepared in quadruplicate and bear the signature and address of the person from whom it is obtained, and the signature of the agent. In the case of a licensee, the order shall include the license number. The original order shall be forwarded to a State Liquor Store not later than the business day after such order is obtained. One copy of the order shall be furnished by the licensed vendor or his [registered] agent to the person from whom the order is obtained and one copy shall be retained by the vendor for his records; and the other copy shall remain in the order book. The Board reserves the right to examine the records of any licensed vendor or his agents.

* * * *

Sec. 13.78. Special orders: requirements and conditions.

(a) All orders obtained in accordance with this subchapter and presented by licensed vendors or their [registered] agents to State Liquor Stores for licensees shall be filed at the established wholesale case prices prescribed by the Board for sales to licensees. Such wholesale prices apply only where the retail value of the order equals or exceeds the minimum retail value established by the Board.

(b) All orders presented at State Liquor Stores by [registered] agents on behalf of persons other than licensees shall be at the established retail special liquor order prices. No order may be taken for less than case quantities.

(c) A licensed vendor or his [registered] agents may not obtain an order from either a licensee or other person unless there is obtained at the same time a sum not less than the amount required by the Board for deposit on special order sales under the Liquor Code. State Liquor Stores may, at the time of receiving the order or releasing the liquor to the purchaser, accept the checks of licensees in payment.

(d) A licensed vendor or his [registered] agent shall not extend credit to a licensee or any other person.

Sec. 13.79. Special orders: restrictions.

(a) Licensed vendors and their [registered] agents shall place special orders for liquor at State Liquor Stores on the prescribed order book forms signed by the licensee or his duly authorized agent, or in the case of a retail sale, by the customer.

* * * *

(d) Special orders placed by a licensed vendor or his [registered] agent for a retail customer may be released by the State Liquor Store for delivery to such customer.

Sec. 13.81. Samples of liquor.

(a) Each [registered] agent of a licensed vendor may not use more than one case of each brand of liquor sold by such vendor as samples during any calendar month. Such samples shall be purchased only through the Board, at a sum equal to the cost price to the Board plus 25% and any required taxes. The purchase of samples at retail in any State Store is prohibited. A separate order for samples shall be placed for each [registered] agent, and the name of such agent shall appear on the order. The vendor (or his authorized supervisor) may be permitted to purchase and distribute to his [registered] agents the prescribed allotment for all such agents under his supervision. The vendor shall, upon request, file with the Board a statement giving the name of his authorized supervisor, together with the territories and names of all [registered] agents under his supervision.

* * * *

(d) Each licensed vendor shall keep a permanent stock ledger record of all the samples purchased by him, the names of the agents to whom samples were issued, and the quantity and brand. Each authorized supervisor of a vendor shall keep in his office in this Commonwealth a permanent stock ledger record of all samples purchased and distributed by him to his [registered] agents as provided in this section. A requisition shall be prepared for each package removed from sample stock, bearing the signature of the agent receiving such merchandise.

Sec. 13.86. Agency provisions.

Licensed vendors and their [registered] agents shall, except as otherwise restricted in this title, be considered the agents of the persons from whom they obtain special liquor orders. Neither the Commonwealth nor the Board will be responsible for the proper disposition of any monies collected from a licensee or other person by a licensed vendor or his agents, and under no circumstances will the Commonwealth or the Board be responsible for any actions of a licensed vendor or his agents.

Sec. 13.87. Records.

(a) Every licensed vendor shall maintain and keep complete records of all operations in this Commonwealth for a period of 2 years, which shall be open to inspection by authorized representatives of the Board during normal business hours. Such records shall include salaries or commissions of all [registered] agents

and other employes working in this Commonwealth, expenses of such employes supported by detailed vouchers, all promotional and advertising expenditures, special order sales, and stock merchandise requests.

(b) All agents of vendors operating in this Commonwealth[, whether licensed or not,] shall maintain complete records covering their operations in this Commonwealth, which records shall also be open to inspection by authorized representatives of the Board during normal business hours.

SUBCHAPTER C. SOLICITATION FOR THE PURCHASE OF ALCOHOLIC BEVERAGES

Sec. 13.102. Discount pricing practices.

* * * *

(b) Exceptions. Nothing in subsection (a) prohibits:

(1) The sale or serving, or both, of an unlimited or indefinite amount of liquor, wine, or malt or brewed beverages for a fixed price for catered events which have been arranged at least 24 hours in advance.

(2) The offering for sale of one specific type of alcoholic beverage or drink per day or a portion thereof at a reduced price, if the offering does not violate subsection (a).

(3) The sale, serving, or offering of an unlimited or indefinite amount of alcoholic beverages as part of a meal package after seven o'clock antemeridian on December 31, 1999 until two o'clock antemeridian on the following day by a hotel licensee to registered overnight guests of the hotel.

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA LIQUOR CONTROL BOARD
HARRISBURG, PENNSYLVANIA 17124-0001

JOHN D.W. REILEY
BOARD SECRETARY

September 17, 1999

(717) 787-5867

Honorable Robert E. Nyce
Executive Director
Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg PA 17126

Dear Mr. Nyce:

Enclosed for review by the Independent Regulatory Review Commission, pursuant to the Regulatory Review Act, are amendments to Liquor Control Board Regulations that are being entered into proposed rulemaking (I.D. No. 54-55).

The amendments to Title 40 Pa. Code seek to accomplish the following:

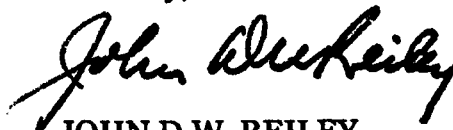
- Eliminate registration and issuance of identification cards for vendors' agents;
- Codify the Board's policy permitting club managers/stewards outside employment;
- Delete paragraphs [40 Pa. Code §5.31(d)(1) and (2)] from the regulations because (d)(1) unnecessarily repeats language already in the Liquor Code and (d)(2) contradicts a newly enacted portion of the Liquor Code [47 P.S. §4-493(10)];
- Eliminate references to surety bond requirements as a result of Act 155 of 1998 which eliminated surety bonds as a requirement for licensees;

Honorable Robert E. Nyce
September 17, 1999
Page Two

- Require floor plans reproduced on paper in an 8½ by 11-inch format for applicants for new licenses and transfer of location of existing licenses;
- Require site plans on paper in 8½ by 11-inch format depicting the location of the licensed premises from applicants whose premises are under construction at the time of application (including extensions of premises);
- Correct erroneous cites to the Malt Beverage Tax Law;
- Permit individuals or entities to file an application with the Board to purchase grain alcohol for non-potable use;
- In response to a federal court case, eliminate the "120-day rule" which required that any reduction in the wholesale price of malt or brewed beverages stay in effect for 120 days;
- Inaccurate references to cost limits on interior displays would be eliminated. Serial or model numbers would not be required on these displays.
- Permit hotels to offer an open bar as part of a meal package to their overnight guests on December 31, 1999.

As always, the Pennsylvania Liquor Control Board will provide any assistance required in the review of these amendments.

Sincerely,



JOHN D.W. REILEY
Secretary to the Board

Enclosures

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT
TO THE
REGULATORY REVIEW ACT**

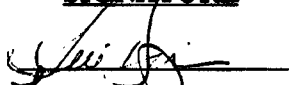
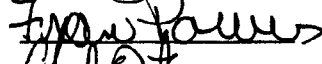
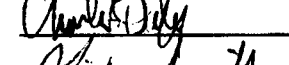
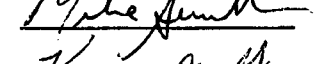
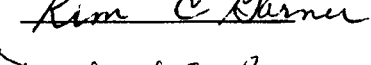
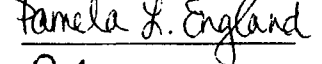
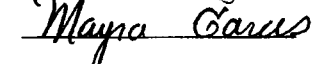
RECEIVED
1999 SEP 17 PM 3: 57
INDEPENDENT REGULATORY
REVIEW COMMISSION

I.D. NUMBER: 054-55
SUBJECT: Corrections and Revisions
AGENCY: Pennsylvania Liquor Control Board

TYPE OF REGULATION

X Proposed Regulation
___ Final Regulation
___ Final Regulation with Notice of Proposed Rulemaking Omitted
___ 120-day Emergency Certification of the Attorney General
___ 120-day Emergency Certification of the Governor

FILING OF REGULATION

<u>DATE</u>	<u>SIGNATURE</u>	<u>DESIGNATION</u>
9-17-99		HOUSE COMMITTEE ON LIQUOR CONTROL (<i>Majority</i>) (<i>Minority</i>)
9-17-99		
9-17-99		SENATE COMMITTEE ON LAW & JUSTICE (<i>Majority</i>) (<i>Minority</i>)
9/16/99		
9/17/99		INDEPENDENT REGULATORY REVIEW COMMISSION
9-1-99		ATTORNEY GENERAL
9/17/99		LEGISLATIVE REFERENCE BUREAU