

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)

054-64

IRRC Number: 2657

(3) Short Title

The regulatory amendments withdraw regulations concerning the "Points System," the enabling legislation for which has expired. Other changes permit the Pennsylvania Liquor Control Board to conduct tasting events in its stores. Finally, obsolete and repetitive regulations are updated and consolidated.

(4) PA Code Cite

40 Pa. Code

(5) Agency Contacts & Telephone Numbers

Primary Contact: James F. Maher (717) 783-9454

Secondary Contact: Faith S. Diehl (717) 783-9454

(6) Type of Rulemaking (check one)

Proposed Rulemaking

Final Order Adopting Regulation

Final Order, Proposed Rulemaking Omitted

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

No

Yes: By the Attorney General

Yes: By the Governor

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

- The proposed rulemaking withdraws regulations concerning the "Points System."
- It consolidates two separate regulations about the appointment of managers for licensed establishments.
- It corrects a regulation relating to license transfers upon death of a licensee.
- It amends regulations on the safekeeping of licenses to parallel recent changes in the Liquor Code.
- It permits the Pennsylvania Liquor Control Board to conduct tasting events in its stores.

Regulatory Analysis Form

(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)].

(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 "Points System" was applicable to licensees in first-class cities pursuant to 47 P.S. § 4-479. This statute expired on June 30, 2007 pursuant to 47 P. S. § 4-483. Otherwise, the regulatory changes are not mandated by any federal or state law or court order or federal regulation.

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

- The Board continues to look for ways to improve its service to the consumer. One of these ways is to offer tastings of wines and spirits at its stores. By allowing the Board itself to conduct tasting events, it will be able to showcase more diverse and special value products than might otherwise be the case.
- Obsolete, outdated and repetitive regulations work against the public interest in voluntary compliance by licensees. Several "housekeeping" changes proposed will help the regulated industry to understand the Board's regulations.

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

No public health, safety, or environmental 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 wine and spirits consumer will benefit from being able to learn about and taste a wider variety of products. Enforcement of the Liquor Code and the Board's Regulations will be improved by keeping regulations clear, consistent and up-to-date.

(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.)

No one is expected to be adversely affected by these proposed regulations.

Regulatory Analysis Form

(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.)

Compliance by licensees will be affected only minimally by these proposed regulatory changes.

(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.

No public input has been received in development and drafting of these regulations.

(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.

The regulated community is not expected to incur new costs or experience new savings.

(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 are not expected to incur new costs or realize new savings.

(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.

State government is not expected to incur new costs or realize new savings.

(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	N/A	N/A	N/A	N/A	N/A
Regulated Community						
Local Government						
State Government						
Total Savings						
COSTS:	N/A	N/A	N/A	N/A	N/A	N/A
Regulated Community						
Local Government						
State Government						
Total Costs						
REVENUE LOSSES:	N/A	N/A	N/A	N/A	N/A	N/A
Regulated Community						
Local Government						
State Government						
Total Revenue Losses						

Regulatory Analysis Form

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

The proposed regulations do not have a significant financial component.

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

Not Applicable.

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

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

The proposed regulations do not have a significant financial component.

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

No nonregulatory alternatives were considered

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

No alternative regulatory schemes were considered.

(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.

None of the provisions contained in these regulations 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?

The Pennsylvania system of liquor regulation is unique. Meaningful comparison to other states is not possible. These regulatory changes will not place Pennsylvania at a competitive disadvantage with other states.

Regulatory Analysis Form

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

No effect on the existing regulations of the Board is anticipated. Minor changes will be made in proposed regulations published in 37 Pa.Bulletin 3418, July 21, 2007. These regulations should not affect the regulations of other 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 have been scheduled.

(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.

No paperwork requirements will be significantly affected.

(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 have been developed to meet the needs of minorities, the elderly, small businesses and farmers.

(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.

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

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Copy below is hereby approved as to form and legality. Attorney General

BY _____
(DEPUTY ATTORNEY GENERAL)

DATE OF APPROVAL

Check if applicable Copy not approved. Objections attached.

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- 064

DATE OF ADOPTION: February 29, 2008

BY: PJ Stapleton

TITLE: Chairman
(Executive Officer, Chairman or Secretary)

2657

INDEPENDENT REGULATORY
REVIEW COMMISSION

Copy below is hereby approved as to form and legality. Executive or Independent Agencies:

BY: YSDickel

February 29, 2008
DATE OF APPROVAL

(Chief Counsel, Independent Agency)

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

TITLE 40—LIQUOR

CHAPTER 3. LICENSE APPLICATIONS

The following Subchapter and sections were withdrawn:

Subchapter L. [POINT SYSTEM FOR CERTAIN LICENSEES] Reserved.

§ 3.121. [Statutory authority and applicability] Reserved.

§ 3.122. [Points assessment] Reserved.

CHAPTER 5. DUTIES AND RIGHTS OF LICENSEES

The following section was withdrawn:

§ 5.16. [Appointment of managers] Reserved.

The following section was amended:

§ 5.23. Appointment of managers.

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

SUBCHAPTER C. SURRENDER OF LICENSES

The following sections were amended:

§7.5. Transfers on death.

§ 7.31. Surrender of licenses in certain cases.

§ 7.32. Surrender of licenses for cancellation or transfer.

CHAPTER 13. PROMOTION

SUBCHAPTER D. TASTING EVENTS
GENERAL PROVISIONS

The following sections were amended:

§ 13.221. General requirements.

§ 13.227. Participation by Board employees.

Title 40 -- Liquor

The Pennsylvania Liquor Control Board (Board), under the authority of Section 207(i) of the Pennsylvania Liquor Code [47 P.S. §2-207(i)], amends 40 Pa. Code, Chapters 3, 5, 7 and 13.

Purpose:

In accordance with Executive Order 1996-1, the Board has reviewed its regulations and determined that these revisions to Title 40 Pa. Code are necessary in order to conform to changes in the Liquor Code, update obsolete regulations and implement new procedures to improve service to the public.

Summary of Amendments:

The regulatory amendments withdraw regulations concerning the "Points System," the enabling legislation for which has expired. Other changes permit the Pennsylvania Liquor Control Board to conduct tasting events in its stores. Finally, obsolete and repetitive regulations are updated and consolidated.

- The rulemaking withdraws regulations concerning the "Points System."
- It consolidates two separate regulations about the appointment of managers for licensed establishments.
- It corrects a regulation relating to license transfers upon death of a licensee.
- It amends regulations on the safekeeping of licenses to parallel recent changes in the Liquor Code.
- It permits the Pennsylvania Liquor Control Board to conduct tasting events in its stores.

Affected Parties:

The proposed regulations will affect licensees and customers of the Board's wine and spirits stores.

Paperwork Requirements:

The proposed regulatory amendments will not significantly increase paperwork for the agency or the regulated community.

Fiscal Impact:

No fiscal impact is expected.

Effective Date:

This regulation will become effective upon its publication in final form in the *Pennsylvania Bulletin*.

Contact Person:

Requests for information should be addressed to James F. Maher, Assistant Counsel, Office of Chief Counsel, Pennsylvania Liquor Control Board, Room 401, Northwest Office Building, Harrisburg, PA 17124-0001.

Regulatory Review:

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on December 6, 2007, the Pennsylvania Liquor Control Board ("Board") submitted a copy of the notice of proposed rulemaking, published at 37 Pa.B. 6932, to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House Committee on December 6, 2007 and Senate Committee on December 6, 2007 for review and comment.

Under section 5(c) of the Regulatory Review Act, the Board is required to provide IRRC and the Committees with copies of the comments received during the public comment period, as well as other documents when requested. No comments from IRRC, the Committees or the public were received.

Under section 5.1(j.2) of the Regulatory Review Act, on (blank), these final-form regulations were (deemed) approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on (blank) and approved the final-form regulations.

P. J. Stapleton III
Chairman

ANNEX A
TITLE 40. LIQUOR
CHAPTER 3. LICENSE APPLICATIONS

Subchapter L. [POINT SYSTEM FOR CERTAIN LICENSEES] Reserved.

§ 3.121. [Statutory authority and applicability] Reserved.

[Section 479 of the Liquor Code (47 P. S. § 4-479) establishes a numerical system for assessment of points against the record of a license for licensees in cities of the first class. Every liquor and malt beverage license that has been cited for a violation under section 471 of the Liquor Code (47 P. S. § 4-471) shall have points assessed to the license record as of the date of final adjudication.]

§ 3.122. [Points assessment] Reserved.

[(a) The violations described in this section shall be known as 'nonenhanced violations.' If a licensee or the licensee's agent is adjudicated to have violated two or more nonenhanced violations arising from the same core of operative facts, points shall be assessed only for the violation for which the greatest number of points may be assessed.]

(b) Where a range of points is given, the administrative law judge shall assess any whole number of points for the violation within that range.

(c) The following violations will be assessed three to five points:

(1) Supplied false information on applications or notices (47 P. S. §§ 4-403, 4-436 and 4-471).

(2) Verification of an application by an unauthorized person (47 P. S. § 4-403).

(3) Offered, conferred or agreed to confer upon an enforcement officer of the Bureau of Liquor Control Enforcement or offered to pay or paid a commission, profit or remuneration to a member, or employee of the Board or other employee of the Commonwealth (47 P. S. §§ 4-471 and 4-491(14)).

(4) Cashed, received, handled or negotiated payroll and other checks (47 P. S. § 4-493(15)).

(5) Sales by a club of malt or brewed beverages for consumption off-premises (47 P. S. §§ 4-407 and 4-442(a)).

(6) Failure by a club to properly admit members; failed to conduct business through officers regularly elected; failed to hold regular meetings; failed to operate for the mutual benefit of the entire membership; or club officers and trustees not elected in accordance with the charter and bylaws (47 P. S. § 1-102).

(7) Sales by a club of liquor or malt or brewed beverages to nonmembers or as part of a catered event without providing the required service of food (47 P. S. §§ 4-401(b), 4-406(a)(1) and 4-442(a); 40 Pa. Code § 5.83(a) (relating to catering)).

(8) Held an event, contest or tournament on the licensed premises which involved the consumption of alcoholic beverages (40 Pa. Code § 5.32(e)(3) (relating to restrictions/exceptions)).

(9) Permitted malt or brewed beverages to be consumed on the licensed premises of a distributor or importing distributor, except as part of a lawful tasting (47 P. S. § 4-441(b)).

(10) Distributor or importing distributor licensee acquisition or maintenance of an interest in property used by another licensee (47 P. S. §§ 4-411 and 4-443).

(11) Sales by distributor or importing distributor in quantities of less than a case of 24 containers, each container holding 7 fluid ounces or more, or a case of 12 containers, each holding 24 fluid ounces or more (47 P. S. § 4-441(b)).

(12) Purchase of malt or brewed beverages by a distributor or an importing distributor after license expiration or failure to renew or validate the license (47 P. S. § 1-102).

(13) Failed to be a bona fide restaurant providing sufficient food items, eating utensils, dishes and seating in a location with a total area of 400 square feet available to the public in one or more rooms (47 P. S. §§ 1-102 and 4-491(6)).

(14) Failed to be a bona fide eating place providing sufficient food items, eating utensils, dishes, and seating in a location with a total area of 300 square feet available to the public in one or more rooms (47 P. S. §§ 1-102, 4-442(b)).

(15) Failed to maintain a permanent partition at least 4 feet high between the licensed eating place and other business (40 Pa. Code § 3.54 (relating to separation between licensed premises and other business)).

(16) Permitted entertainment outside of lawful service hours or on Sunday before 11 a.m. or after 2 a.m. on the following Monday (47 P. S. § 4-493(10)).

(17) Permitted entertainment to occur without an amusement permit (47 P. S. § 4-493(10)).

(18) Permitted entertainment while the license or amusement permit was suspended by order of an administrative law judge (47 P. S. § 4-493(10)).

(19) Furnished false information concerning sale of food and beverages when applying for a Sunday sales permit; or concealing the pecuniary interest of others; or concealing the source of funds when applying for a license (47 P. S. §§ 4-403(h), 4-404, 4-406(a)(3), 4-432(a) and (f), 4-436(j), 4-468(a) and 4-471; 40 Pa. Code § 11.172 (relating to application for Sunday sales permit)).

(20) Possessed or operated gambling devices or paraphernalia or permitted gambling or lotteries, poolselling or bookmaking on the licensed premises (47 P. S. § 4-471).

(21) Failed to operate as a bona fide hotel (47 P. S. §§ 1-102 and 4- 461(c)).

(22) Interfered with a liquor control enforcement officer, police officer or board employee in the administration of the law or other governmental function (47 P. S. § 4-471).

(23) Altered an expired liquor license to show it as current and valid (47 P. S. § 4-471(a)).

(24) Consumption of liquor or malt or brewed beverages by licensee or its agents while tending bar or otherwise serving liquor or malt or brewed beverages (47 P. S. § 4-493(28)).

(25) Sold alcoholic beverages during a period of license or special permit suspension (47 P. S. §§ 4-406(a)(3), 4-491(1), 4-492(2) and (3) and 4-493(16)).

(26) Permitted another person to operate a business on the licensed premises (40 Pa. Code § 3.52(a) (relating to connection with other business)).

(27) Permitted another person or entity to own or operate, or both, the licensed premises (47 P. S. §§ 4-404 and 4-436(f)).

(28) Sold alcoholic beverages after the license is submitted for safekeeping (47 P. S. §§ 4-467, 4-491(1), 4-492(2), 4-492(3) and 4-493(16); 40 Pa. Code § 7.31 (relating to surrender of licenses in certain cases)).

(29) Sold alcoholic beverages after the license has expired (47 P. S. §§ 4-491(1), 4-492(2) and (3) and 4-493(16)).

(30) Sold beer products for takeout in excess of 192 fluid ounces in a single sale (except for distributor) (47 P. S. §§ 4-401(a), 4-407 and 4-442(a)).

(31) Sold untaxed cigarettes (47 P. S. § 4-471).

(d) For any violation of the Liquor Code or this title that has not been specified in section 479 of the Liquor Code (47 P. S. § 4-479) or this section, the administrative law judge shall assess one to three points.

(e) Points will be assessed to the license record by the Board and the Office of Administrative Law Judge, effective on the date of final adjudication. Final adjudication means when the administrative law judge has rendered a decision on the citation notwithstanding any appeals of that decision. If the

decision is reversed or modified on appeal, the assessment of points will be correspondingly adjusted.

(f) Points assigned to any license record shall be removed at the rate of three points for each 12 consecutive months of operation of the licensed premises in which the license has not been assessed points.]

CHAPTER 5. DUTIES AND RIGHTS OF LICENSEES

SUBCHAPTER B. EMPLOYES OF LICENSEES EMPLOYMENT OF OTHERS

§ 5.16. [Appointment of managers] Reserved.

[(a) The operation of a licensed business requires the full time and attention of a manager. A licensee holding one or more licenses shall appoint an individual as manager for each licensed establishment and the manager shall devote full time and attention to the licensed business. If the licensee is an individual, he may designate himself as manager of one licensed establishment, except in the case of distributors or importing distributors. If a license is held by more than one individual, the manager may be one of the

individuals or another person the licensee may designate, except in the case of distributors and importing distributors.

(b) The manager appointed by a licensee shall be a reputable person. The licensee shall notify the Board in writing of the name and home address of the manager and the date and place of birth. If there is a change of manager, the licensee shall give the Board written notice within 15 days of the change together with full information for the new individual who is appointed as manager. Each notice of the appointment of a manager or notice of a change of manager shall be accompanied by a fee of \$60.

(c) When a background investigation shall be conducted to obtain or verify information regarding an individual appointed as manager, an additional fee of \$75, for a total fee of \$135, will be assessed. An individual may not act in the capacity of manager after the licensee has been notified that the individual has been disapproved by the Board. The designated manager shall devote full time to the licensed business and may not be employed or engaged in another business unless prior written approval is obtained from the Board.

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

§ 5.23. Appointment of managers.

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

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

(c) The manager appointed by a licensee shall be a reputable person. The licensee shall notify the Board in writing of the name and home address of the manager and the date and place of birth. If there is a change of manager, the licensee shall give the Board written notice within 15 days of the change

together with full information for the new individual who is appointed as manager. Each notice of the appointment of a manager or notice of a change of manager shall be accompanied by the appropriate fee.

(d) When a background investigation is conducted to obtain or verify information regarding an individual appointed as manager, a total fee of \$135 will be assessed. An individual may not act in the capacity of manager after the licensee has been notified that the individual has been disapproved by the Board. The designated manager shall devote full time to the licensed business and may not be employed or engaged in another business unless prior written approval is obtained from the Board. If the designated manager is currently a Board approved officer, member, partner or shareholder of that licensee, a fee of \$60.00 will be assessed.

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

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

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

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

[(f)] The manager appointed by a licensee shall be a reputable person. The licensee shall submit an application for appointment of a manager to the Board. If the licensee is a club or catering club, notice of the change in manager shall be part of licensee's application for license validation or renewal. For other licensees, if there is a change of manager, the licensee shall give the Board written notice within 15 calendar days of the change

together with full information for the new individual who is appointed as manager. Each notice of the appointment of a manager or notice of a change of manager shall be accompanied by a fee of \$60.]

[(g) When a background investigation is conducted to obtain or verify information regarding an individual appointed as manager, an additional fee of \$75 for a total fee of \$135 will be assessed. An individual may not act in the capacity of manager after the licensee has been notified that the Board has disapproved the individual. The designated manager shall devote full time to the licensed business and may not be employed or engaged in another business unless prior approval is obtained from the Board.]

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

[(i)] (j) If approved by the Board, management contracts may permit the manager for the licensed premises to be employed by the management company; however, licensee shall have unfettered discretion in all aspects of management of the licensed business, including the employment of the

manager and sales of food, alcoholic and nonalcoholic beverages. Licensee's discretion includes control of the manager's hiring, firing, discipline, salary and duties. The manager is an agent of the licensee.¹

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

Subchapter A. TRANSFER OF LICENSES

§ 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 [administrator or executor of the estate of the licensee,] 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 will be notified in writing within 30 days of the death of a licensee.

¹ This subsection is presented as it has been presented in proposed regulations published in 37 Pa.Bulletin 3418, July 21, 2007.

SUBCHAPTER C. SURRENDER OF LICENSES

§ 7.31. Surrender of licenses in certain cases.

* * *

(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, [except as provided in section 474 of the Liquor Code (47 P. S. § 4-474)] 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 one year periods upon a licensee's written request and payment of the fee, as

provided by in section 474.1, unless the license or licensee no longer meets the requirements of the Liquor Code or the Board's Regulations.

§ 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. Where 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 [cancellation prior to issuance of the new license] 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 [2] 3 years from the date of surrender. When a transfer is not effected within the [2] 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. A transfer application pending at the expiration of the [2] 3-year period may be processed to conclusion.

CHAPTER 13. PROMOTION

Subchapter D. TASTING EVENTS

§ 13.221. General requirements.

* * *

(d) The Board may conduct its own in-store tasting event with or without the participation of a sponsor.

IN-STORE TASTING EVENTS

§ 13.227. Participation by Board employees.

(a) Board employees may [not] pour, dispense or serve tastings to the public.

[Board employees may not encourage consumer participation in the event.]

* * *

Commonwealth of Pennsylvania
Pennsylvania Liquor Control Board

March 3, 2008

SUBJECT: Final- Regulations 54-64 (Amendments to Title 40, Pennsylvania Code)

TO: KIM KAUFMAN, EXECUTIVE DIRECTOR
INDEPENDENT REGULATORY REVIEW COMMISSION

FROM: FAITH S. DIEHL *YSDull*
CHIEF COUNSEL
PENNSYLVANIA LIQUOR CONTROL BOARD

By Hand Delivery

Refer to: 3-9454

Submitted herewith are amendments to the regulations of the Pennsylvania Liquor Control Board. Also enclosed are the signed CDL-1, preamble and regulatory analysis form. The signed transmittal sheet also is enclosed.

The proposed version of these regulations was provided to the Committees and the Independent Regulatory Review Commission ("IRRC") on December 6, 2007. There were no comments from the public or from IRRC to these proposals.

Questions and comments should be directed to James F. Maher at (717) 783-9454.

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

I.D. NUMBER: 54-64

SUBJECT: Points System Withdrawal, In-Store Tastings and Other Updates

AGENCY: Liquor Control Board

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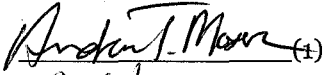
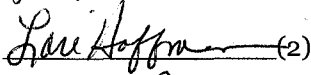
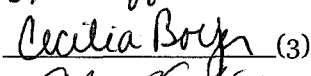
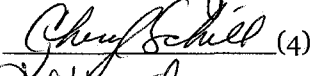

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INDEPENDENT REGULATORY
REVIEW COMMISSION

TYPE OF REGULATION

- 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>
3-3-08	 (1)	HOUSE COMMITTEE ON LIQUOR CONTROL (<i>Democrat</i>) (<i>Republican</i>)
3-3-08	 (2)	
3-3-08	 (3)	SENATE COMMITTEE ON LAW & JUSTICE (<i>Republican</i>) (<i>Democrat</i>)
3-3-08	 (4)	
3-3-08	 (5)	INDEPENDENT REGULATORY REVIEW COMMISSION
_____	_____ (6)	ATTORNEY GENERAL
_____	_____ (7)	LEGISLATIVE REFERENCE BUREAU