

Regulatory Analysis Form

(Completed by Promulgating Agency)

INDEPENDENT REGULATORY
REVIEW COMMISSION

2013 MAR 25 PM 4: 28

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(All Comments submitted on this regulation will appear on IRRC's website)

(1) Agency:
Pennsylvania Liquor Control Board

(2) Agency Number: 54
Identification Number: 72

IRRC Number: 2974

(3) PA Code Cite: 40 Pa. Code, Chapter 5

(4) Short Title: Prize Limits for Events, Tournaments and Contests

(5) Agency Contacts (List Telephone Number and Email Address):

Primary Contact: Alan Kennedy-Shaffer (717) 783-9454
Pennsylvania Liquor Control Board
401 Northwest Office Building
Harrisburg, Pennsylvania 17124
FAX: (717) 787-8820
Email: ra-lblegal@state.pa.us

Secondary Contact: Rodrigo Diaz, Executive Deputy Chief Counsel (717) 783-9454
(Same Contact Information)

(6) Type of Rulemaking (check applicable box):

- Proposed Regulation
 Final Regulation
 Final Omitted Regulation

- Emergency Certification Regulation;
 Certification by the Governor
 Certification by the Attorney General

(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

The proposed rulemaking will amend section 5.32(e)(7) of the Board's Regulations by increasing the prize limits for qualifying self-sponsored events, tournaments and contests that occur on retail licensed premises to approximate the increased prize limits, pursuant to Act 2 of 2012, afforded to club licensees which also hold a small games of chance license. Accordingly, the maximum value of prizes awarded for any given event, tournament or contest would be increased from \$500 to \$1,000, and the maximum value of prizes awarded in a given week would be increased from \$5,000 to \$25,000.

(8) State the statutory authority for the regulation. Include specific statutory citation.

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

(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

The regulation is not mandated by any federal or state law, court order or federal regulation.

(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

Pursuant to the Board's Regulations, hotel, restaurant, club, privately-owned public golf course, privately-owned private golf course, municipal golf course, brewery pub and eating place retail dispenser licensees (collectively referred to as "retail licensees") may not conduct events, tournaments and contests, nor award nor permit the award of any trophies, prizes or premiums on the licensed premises. Section 5.30 defines an "event, tournament, or contest" as "[a] competitive endeavor involving skill, speed, strength or endurance. The term includes a competitive endeavor involving physical attributes of contestants." [40 Pa. Code § 5.30].

There are exceptions to the prohibitions, one of which allows retail licensees to have a self-sponsored event, tournament or contest and to award prizes in conjunction with an event, tournament or contest. However, a retail licensee may not award more than five hundred dollars (\$500.00) worth of prizes for any given event, tournament or contest, nor more than five thousand dollars (\$5,000.00) worth of prizes per week. [40 Pa. Code 5.32(e)(7)].

The Board's Regulations also create an exception for those events conducted under the authority of the Local Option Small Games of Chance ("SGOC") Act [10 P.S. §§ 311-327] and the Bingo Law [10 P.S. §§ 301-308.1]. [40 Pa. Code 5.32(d)(4)]. Events conducted under the SGOC Act and the Bingo Law are subject to the prize limits found in those Acts, not the aforementioned limits set forth in section 5.32(e)(7).

Section 5.32(e)(7) of the Board's Regulations, which sets forth the prize limits for self-sponsored events, tournaments and contests conducted by retail licensees, was promulgated by the Board in 1996. Between 1988, when the current SGOC prize limits were set, and 1996, the Board's Regulations did not permit retail licensees to have any financial interest in an event, tournament or contest. In 1996, the Board decided to amend section 5.32 to remove the financial interest prohibition and to extend the then-existing SGOC prize limitations, applicable only to licensed clubs holding a SGOC license, to all retail licensees, thereby creating a more level playing field between private clubs which could acquire SGOC licenses and retail licensees which could not acquire such licenses.

In the rulemaking process, the Board had intended to tie the prize limits afforded under section 5.32(e)(7) with the prize limits afforded under the SGOC Act. This intent was made evident in the proposed regulation, published in the January 6, 1996 edition of the *Pennsylvania Bulletin*, in which the Board did not include specific individual or weekly prize limits, but rather incorporated the SGOC prize

limitations by reference, to wit:

The total value of the prizes for a given event, tournament or contest may not exceed the limits as established by the Local Option Small Games of Chance Act (10 P.S. §§ 311-327).

[26 Pa. Bull. 31 (January 6, 1996)].

In addressing concerns raised by the Independent Regulatory Review Commission (“IRRC”) related to clarity, the Board modified the regulation to include the specific monetary prize limitations set forth in the current regulation. [26 Pa. Bull. 2209 (May 11, 1996)]. The current prize limitations for events, tournaments and contests by all retail licensees were established based upon the principal prize limits for clubs conducting small games of chance under the authority of their SGOC licenses.

Act 2 of 2012, which significantly amended the SGOC Act, was signed into law by the Governor on February 2, 2012. Among other changes involving small games of chance, Act 2 renumbered and amended section 302 of the SGOC Act to increase the maximum prize for a single game of chance from five hundred dollars (\$500.00) to one thousand dollars (\$1,000.00), and increased the maximum weekly prize limit for games of chance from five thousand dollars (\$5,000.00) to twenty-five thousand dollars (\$25,000.00). Thus, the correlation that had existed since 1996 has now been severed by Act 2 of 2012, which has created a significant disparity in the amounts of prizes that may be awarded by private clubs which may acquire an SGOC license and other retail licensees which cannot acquire such licenses.

The proposed amendment to section 5.32(e)(7) of the Board’s Regulations would increase the prize limits for self-sponsored events, tournaments and contests that occur on retail licensed premises to approximate the increased prize limits afforded to club licensees which also hold an SGOC license. Accordingly, the maximum value of prizes that may be awarded for any given event, tournament or contest would be increased from five hundred dollars (\$500.00) to one thousand dollars (\$1,000.00), and the maximum value of prizes awarded in a given week would be increased from five thousand dollars (\$5,000.00) to twenty-five thousand dollars (\$25,000.00). The proposed rulemaking would re-establish the historical parity, and “level the playing field,” for all retail licensees relative to conducting events, tournaments and contests.

Finally, a sentence has been added to section 5.32(e)(7) to clarify that events, tournaments and contests conducted under the authority of the SGOC Act or the Bingo Law are subject to the prize limits set forth in those Acts, rather than the prize limits set forth in section 5.32(e)(7). This is consistent with how this agency has been interpreting the regulation.

Those affected by the proposed rulemaking include holders of restaurant, hotel, club, privately-owned public golf courses, privately-owned private golf courses, municipal golf courses, brewery pubs and eating place retail dispenser licenses issued by the Board which conduct self-sponsored events, tournaments and contests at their licensed premises. An increase in the current prize limits may be viewed as a boon to many retail licensees desiring to increase attendance and participation at various events, tournaments and contests (e.g., games, costume contests, etc.) with the prospect of higher prizes which may be awarded to participants at the licensed premises.

(11) 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 regulations.

The amended regulation is not known to be more stringent than federal regulations.

(12) How does this regulation compare with those of the other states? How will this affect Pennsylvania's ability to compete with other states?

Events, tournaments and contests that occur on retail licensed premises are regulated by neighboring states in accordance with their unique and individual systems of alcoholic beverage control. Because of this, the regulatory change should not put Pennsylvania at a competitive disadvantage.

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

The regulation will not affect any other existing or proposed regulations of the Liquor Control Board or any other state agency.

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. ("Small business" is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

The Board has preliminarily reached out to two (2) industry groups, the Pennsylvania Tavern Association and the Pennsylvania Restaurant Association, both of which have indicated that they are generally supportive of the proposed rulemaking.

Further, the Board has reached out to the Pennsylvania State Police, Bureau of Liquor Control Enforcement ("Bureau"), which enforces the Liquor Code and the Board's Regulations. The Bureau has indicated that the regulatory change is within the discretion of the Board.

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

This regulatory change is not expected to have any adverse fiscal impact on the regulated community. Since it is discretionary for a retail licensee to take advantage of the increased prize limits, no additional costs are associated with compliance of the proposed rulemaking. In fact, this regulatory change is expected to have a positive fiscal impact for certain retail licensees who may be able to increase the “draw” to their establishments by offering prizes of higher monetary value at various events, tournaments and contests. However, the potential positive fiscal impact upon those retail licensees which choose to take advantage of the proposed change cannot be quantified.

(16) List the persons, groups or entities, including small businesses, that will be required to comply with the regulation. Approximate the number that will be required to comply.

No persons, groups, or entities will be required to comply with the regulation. Retail licensees are not required to offer events, tournaments, or contests, nor are they required to award prizes up to the regulatory maximums. The regulation merely gives retail licensees the option of increasing the value of prizes offered through self-sponsored events, tournaments, or contests, should they choose to do so.

(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

This regulatory change is not expected to have any adverse fiscal impact on such individuals, businesses and organizations. Since it is discretionary for a retail licensee to take advantage of the increased prize limits, no additional costs are associated with compliance of the proposed rulemaking. In fact, this regulatory change is expected to have a positive fiscal impact for certain retail licensees who may be able to increase the “draw” to their establishments by offering prizes of higher monetary value at various events, tournaments and contests. However, the potential positive fiscal impact upon those retail licensees which choose to take advantage of the proposed change cannot be quantified.

(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.

This regulatory change is not expected to have any adverse fiscal impact on the regulated community. Since it is discretionary for a retail licensee to take advantage of the increased prize limits, no additional costs are associated with compliance of the proposed rulemaking. In fact, this regulatory change is expected to have a positive fiscal impact for certain retail licensees who may be able to increase the “draw” to their establishments by offering prizes of higher monetary value at various events, tournaments and contests. However, the potential positive fiscal impact upon those retail licensees which choose to take advantage of the proposed change cannot be quantified.

This regulatory change is not expected to have any adverse fiscal impact on state and local governments.

(19) 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. Explain how the dollar estimates were derived.

This regulatory change is not expected to have any adverse fiscal impact on the regulated community. Since it is discretionary for a retail licensee to take advantage of the increased prize limits, no additional costs are associated with compliance of the proposed rulemaking. In fact, this regulatory change is expected to have a positive fiscal impact for certain retail licensees who may be able to increase the “draw” to their establishments by offering prizes of higher monetary value at various events, tournaments and contests. However, the potential positive fiscal impact upon those retail licensees which choose to take advantage of the proposed change cannot be quantified.

(20) Provide a specific estimate of the costs and/or savings to the **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

The regulation is not expected to result in any costs or savings for local governments.

(21) Provide a specific estimate of the costs and/or savings to the **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

The regulation is not expected to result in any costs or savings for state government.

(22) For each of the groups and entities identified in items (19)-(21) above, submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

Because the regulated community is not required to take any action as a result of this regulatory change, it is not expected to affect legal, accounting or consulting procedures and should not require any additional reporting, recordkeeping or other paperwork. Similarly, the regulation is not expected to require any additional measures by state or local governments in order to implement the regulation.

(23) 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:	\$	\$	\$	\$	\$	\$
Regulated Community	Positive, but unable to quantify	Positive, but unable to quantify	Positive, but unable to quantify	Positive, but unable to quantify	Positive, but unable to quantify	Positive, but unable to quantify
Local Government	0	0	0	0	0	0
State Government	0	0	0	0	0	0
Total Savings	0	0	0	0	0	0
COSTS:						
Regulated Community	0	0	0	0	0	0
Local Government	0	0	0	0	0	0
State Government	0	0	0	0	0	0
Total Costs	0	0	0	0	0	0
REVENUE LOSSES:						
Regulated Community	0	0	0	0	0	0

Local Government	0	0	0	0	0	0
State Government	0	0	0	0	0	0
Total Revenue Losses	0	0	0	0	0	0

(23a) Provide the past three year expenditure history for programs affected by the regulation.

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

(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

- (a) An identification and estimate of the number of small businesses subject to the regulation.
- (b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.
- (c) A statement of probable effect on impacted small businesses.
- (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

The regulatory change is not expected to have any adverse impact on small businesses. In fact, the benefit for the regulated community requires a modification to the current regulation

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

No special provisions have been developed to meet the particular needs of affected groups or persons

including, but not limited to, minorities, the elderly, small businesses, and farmers.

(26) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

Non-regulatory alternatives were not considered because the benefit for the regulated community requires a modification to the current regulation.

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

- a) The establishment of less stringent compliance or reporting requirements for small businesses;
- b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- c) The consolidation or simplification of compliance or reporting requirements for small businesses;
- d) The establishment of performing standards for small businesses to replace design or operational standards required in the regulation; and
- e) The exemption of small businesses from all or any part of the requirements contained in the regulation.

No special regulatory methods to minimize any adverse impact on small businesses were not considered because the benefit for the regulated community requires a modification to the current regulation, and also because the regulatory change is not expected to have any adverse impact on small businesses.

(28) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

The Board has not relied on data to justify this regulation.

(29) Include a schedule for review of the regulation including:

- | | |
|---|---------------------|
| A. The date by which the agency must receive public comments: | <u>October 2012</u> |
| B. The date or dates on which public meetings or hearings will be held: | <u>None</u> |
| C. The expected date of promulgation of the proposed regulation as a final-form regulation: | <u>April 2013</u> |
| D. The expected effective date of the final-form regulation: | <u>April 2013</u> |
| E. The date by which compliance with the final-form regulation will be required: | <u>April 2013</u> |
| F. The date by which required permits, licenses or other approvals must be obtained: | <u>N/A</u> |

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.

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

CDL-1

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

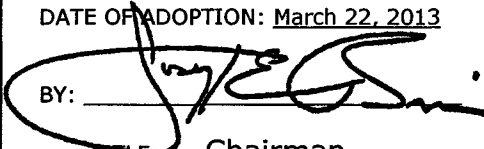
Check if applicable
Copy not approved. Objections
attached.

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. 054-72

DATE OF ADOPTION: March 22, 2013

BY: 

TITLE: Chairman
(Executive Officer, Chairman or
Secretary)

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

BY: YSDuhf

March 22, 2013
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 5. DUTIES AND RIGHTS OF LICENSEES
SUBCHAPTER C. AMUSEMENT AND ENTERTAINMENT

The following Section is proposed to be amended:

5.32. Restrictions/exceptions.

PROPOSED RULEMAKING
LIQUOR CONTROL BOARD
40 PA. CODE CHAPTER 5

Prize Limits for Events, Tournaments and Contests

The Liquor Control Board ("Board"), under the authority of section 207(i) of the Liquor Code (47 P.S. § 2-207(i)), amends Chapter 5.

Summary

Pursuant to the Board's Regulations, hotel, restaurant, club, privately-owned public golf course, privately-owned private golf course, municipal golf course, brewery pub and eating place retail dispenser licensees (collectively referred to as "retail licensees") may not conduct events, tournaments and contests, nor award nor permit the award of any trophies, prizes or premiums on the licensed premises. Section 5.30 defines an "event, tournament, or contest" as "[a] competitive endeavor involving skill, speed, strength or endurance. The term includes a competitive endeavor involving physical attributes of contestants." [40 Pa. Code § 5.30].

There are exceptions to the prohibitions, one of which allows retail licensees to have a self-sponsored event, tournament or contest and to award prizes in conjunction with an event, tournament or contest. However, a retail licensee may not award more than five hundred dollars (\$500.00) worth of prizes for any given event, tournament or contest, nor more than five thousand dollars (\$5,000.00) worth of prizes per week. [40 Pa. Code 5.32(e)(7)].

The Board's Regulations also create an exception for those events conducted under the authority of the Local Option Small Games of Chance ("SGOC") Act [10 P.S. §§ 311-327] and the Bingo Law [10 P.S. §§ 301-308.1]. [40 Pa. Code 5.32(d)(4)]. Events conducted under the SGOC Act and the Bingo Law are subject to the prize limits found in those Acts, not the aforementioned limits set forth in section 5.32(e)(7).

Section 5.32(e)(7) of the Board's Regulations, which sets forth the prize limits for self-sponsored events, tournaments and contests conducted by retail licensees, was promulgated by the Board in 1996. Between 1988, when the current SGOC prize limits were set, and 1996, the Board's Regulations did not permit retail licensees to have any financial interest in an event, tournament or contest. In 1996, the Board decided to amend section 5.32 to remove the financial interest prohibition and to extend the then-

existing SGOC prize limitations, applicable only to licensed clubs holding a SGOC license, to all retail licensees, thereby creating a more level playing field between private clubs which could acquire SGOC licenses and retail licensees which could not acquire such licenses.

In the rulemaking process, the Board had intended to tie the prize limits afforded under section 5.32(e)(7) with the prize limits afforded under the SGOC Act. This intent was made evident in the proposed regulation, published in the January 6, 1996 edition of the *Pennsylvania Bulletin*, in which the Board did not include specific individual or weekly prize limits, but rather incorporated the SGOC prize limitations by reference, to wit:

The total value of the prizes for a given event, tournament or contest may not exceed the limits as established by the Local Option Small Games of Chance Act (10 P.S. §§ 311-327).

[26 Pa. Bull. 31 (January 6, 1996)].

In addressing concerns raised by the Independent Regulatory Review Commission (“IRRC”) related to clarity, the Board modified the regulation to include the specific monetary prize limitations set forth in the current regulation. [26 Pa. Bull. 2209 (May 11, 1996)]. The current prize limitations for events, tournaments and contests by all retail licensees were established based upon the principal prize limits for clubs conducting small games of chance under the authority of their SGOC licenses.

Act 2 of 2012, which significantly amended the SGOC Act, was signed into law by the Governor on February 2, 2012. Among other changes involving small games of chance, Act 2 renumbered and amended section 302 of the SGOC Act to increase the maximum prize for a single game of chance from five hundred dollars (\$500.00) to one thousand dollars (\$1,000.00), and increased the maximum weekly prize limit for games of chance from five thousand dollars (\$5,000.00) to twenty-five thousand dollars (\$25,000.00). Thus, the correlation that had existed since 1996 has now been severed by Act 2 of 2012, which has created a significant disparity in the amounts of prizes that may be awarded by private clubs which may acquire an SGOC license and other retail licensees which cannot acquire such licenses.

The proposed amendment to section 5.32(e)(7) of the Board’s Regulations would increase the prize limits for self-sponsored events, tournaments and contests that occur on retail licensed premises to approximate the increased prize limits afforded to club licensees which also hold an SGOC license. Accordingly, the maximum value of prizes that may be awarded for any given event, tournament or contest would be increased from five hundred dollars (\$500.00) to one thousand dollars (\$1,000.00), and the maximum

value of prizes awarded in a given week would be increased from five thousand dollars (\$5,000.00) to twenty-five thousand dollars (\$25,000.00). The proposed rulemaking would re-establish the historical parity, and “level the playing field,” for all retail licensees relative to conducting events, tournaments and contests.

Finally, a sentence has been added to section 5.32(e)(7) to clarify that events, tournaments and contests conducted under the authority of the SGOC Act or the Bingo Law are subject to the prize limits set forth in those Acts, rather than the prize limits set forth in section 5.32(e)(7). This is consistent with how this agency has been interpreting the regulation.

Response to Comments:

On November 28, 2012, the Independent Regulatory Review Commission (“IRRC”) notified the Board and the legislative oversight committees that it had no objections, comments, or recommendations to offer on the proposed regulation.

Affected Parties

Those affected by this proposed amendment include holders of restaurant, hotel, club, privately-owned public golf courses, privately-owned private golf courses, municipal golf courses, brewery pubs and eating place retail dispenser licenses issued by the Board which conduct self-sponsored events, tournaments and contests at their licensed premises. An increase in the current prize limits may be viewed as a boon to many retail licensees desiring to increase attendance and participation at various events, tournaments and contests (e.g., games, costume contests, etc.) with the prospect of higher prizes which may be awarded to participants at the licensed premises.

The Board has preliminarily reached out to two (2) industry groups, the Pennsylvania Tavern Association and the Pennsylvania Restaurant Association, both of which have indicated that they are generally supportive of the proposed rulemaking.

Paperwork Requirements

The Board does not anticipate that this regulatory change will affect the amount of paperwork or administrative costs of the regulated community.

Fiscal Impact

This regulatory change is not expected to have any adverse fiscal impact on the regulated community. Since it is discretionary for a retail licensee to take advantage of the increased prize limits, no additional costs are associated with compliance of the proposed rulemaking. In fact, this regulatory change is expected to have a positive fiscal impact for certain retail licensees who may be able to increase the “draw” to their establishments by offering prizes of higher monetary value at various events, tournaments and contests. However, the potential positive fiscal impact upon those retail licensees which choose to take advantage of the proposed change cannot be quantified.

This regulatory change is not expected to have any adverse fiscal impact on state and local governments.

Effective Date

These final-form regulations will become effective upon their publication in the *Pennsylvania Bulletin*.

Contact Person

Questions regarding these final-form regulations should be addressed to Alan Kennedy-Shaffer, Assistant Counsel, or Rodrigo Diaz, Executive Deputy Chief Counsel, Office of Chief Counsel, Pennsylvania Liquor Control Board, Room 401, Northwest Office Building, Harrisburg, PA 17124-0001, via telephone at (717) 783-9454, or via e-mail at ra-lblegal@pa.gov.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on September 13, 2012, the Board submitted a copy of the proposed rulemaking, published on September 29, 2012 at 42 Pa.B. 1504, and a copy of the Regulatory Analysis Form to IRRC and to the Chairpersons of the House Liquor Control Committee and the Senate Law and Justice Committee.

Under section 5(c) of the Regulatory Review Act, IRRC and the Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Board has considered all comments received from IRRC, the Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5.1(j.2)), the final-form rulemaking was deemed approved by the Committees on _____.
Under section 5.1(e) of the Regulatory Review Act (71 P.S. § 745.5.1(e)), IRRC met on _____ and approved the final-form rulemaking.

Joseph E. Brion
Chairman

ANNEX A

TITLE 40. LIQUOR

Part I. LIQUOR CONTROL BOARD

CHAPTER 5. DUTIES AND RIGHTS OF LICENSEES

Subchapter C. AMUSEMENT AND ENTERTAINMENT

§ 5.32. Restrictions/exceptions.

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

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

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

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

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

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

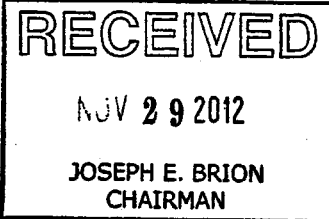
(6) Hotel, restaurant, club, privately-owned public golf course, privately-owned private golf course, municipal golf course, brew pub and malt beverage eating place licensees, as well as governing bodies of professional golf, skiing, tennis, bowling, pocket billiards and nonlicensee sponsors as provided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

(7) The total value of all prizes for any given event, tournament or contest may not exceed \$1,000 [\$500]. The total value of all prizes awarded in any 7-day period may not exceed \$25,000 [\$5,000]. An event, tournament or contest conducted under the authority of either the Local Option Small Games of Chance Act or the Bingo Law shall be subject to the prize limits set forth in those Acts.

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

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

SILVAN B. LUTKEWITTE, III, CHAIRMAN
GEORGE D. BEDWICK, VICE CHAIRMAN
JOHN F. MIZNER, ESQ.
LAWRENCE J. TABAS, ESQ.
DENNIS A. WATSON, ESQ.
DAVID SUMNER, EXECUTIVE DIRECTOR
LESLIE A. LEWIS JOHNSON, CHIEF COUNSEL



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INDEPENDENT REGULATORY REVIEW COMMISSION
333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

November 28, 2012

Joseph E. Brion, Chairman
Pennsylvania Liquor Control Board
502 Northwest Office Building
Harrisburg, PA 17124

Re: Regulation #54-72 (IRRC #2974)
Pennsylvania Liquor Control Board
Prize Limits for Events, Tournaments and Contests

Dear Chairman Brion:

The Independent Regulatory Review Commission has reviewed your proposed regulation. We have no objections, comments, or recommendations to offer on this regulation. If you deliver the final-form regulation without revisions, and the committees do not take any action, it will be deemed approved.

Very truly yours,

David Sumner
Executive Director
sfh
Enclosure

cc: Honorable Richard L. Alloway, II, Majority Chairman, Senate Law and Justice Committee
Honorable Jim Ferlo, Minority Chairman, Senate Law and Justice Committee
Honorable John Taylor, Majority Chairman, House Liquor Control Committee
Honorable Dante Santoni, Jr., Minority Chairman, House Liquor Control Committee
Robert A. Mulle, Esq., Office of Attorney General
Shawn E. Smith, Esq., Office of General Counsel

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OFFICE OF CHIEF COUNSEL

Commonwealth of Pennsylvania
Pennsylvania Liquor Control Board
March 22, 2013

SUBJECT: Final-Form Regulation Package 54-72
(Title 40, Pennsylvania Code, Section 5.32)

TO: DAVID SUMNER, EXECUTIVE DIRECTOR
INDEPENDENT REGULATORY REVIEW COMMISSION

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

By Hand Delivery

Submitted herewith is a copy of final-form amendments to section 5.32 of the regulations of the Pennsylvania Liquor Control Board for your review and consideration. Also enclosed are copies of the newly revised regulatory analysis form, signed CDL-1 face sheet, preamble and Annex A (regulatory text).

The proposed version of these regulations was provided to the legislative oversight committees and to the Independent Regulatory Review Commission ("IRRC") on September 13, 2012. IRRC had no comments, per its notice of November 28, 2012.

Any questions and comments about this regulatory submission can be directed to Alan Kennedy-Shaffer, Assistant Counsel, or Rodrigo Diaz, Executive Deputy Chief Counsel, at (717) 783-9454.

cc with enclosures:

Honorable Charles McIlhinney, Chairman, Senate Law and Justice Committee
Honorable Jim Ferlo, Minority Chairman, Senate Law and Justice Committee
Honorable John Taylor, Chairman, House Liquor Control Committee
Honorable Paul Costa, Minority Chairman, House Liquor Control Committee
Ms. Gail Reinard, Executive Director, Senate Law and Justice Committee
Mr. Stephen Bruder, Executive Director, Senate Law and Justice Committee
Ms. Marcia Lampman, Executive Director, House Liquor Control Committee
Ms. Lynn Benka-Davies, Executive Director, House Liquor Control Committee

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

I.D. NUMBER: 54-72
SUBJECT: Prize Limits for Events, Tournaments and Contests
AGENCY: Pennsylvania Liquor Control Board

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

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**RECEIVED
IRRC**

FILING OF REGULATION

<u>DATE</u>	<u>SIGNATURE</u>	<u>DESIGNATION</u>
3/25	<u>[Signature]</u> (1)	HOUSE LIQUOR CONTROL COMMITTEE (Majority)
3/26	<u>[Signature]</u> (2)	(Minority)
3/25	<u>[Signature]</u> (3)	SENATE LAW & JUSTICE COMMITTEE (Majority)
3/25	<u>[Signature]</u> (4)	(Minority)
3/25/13	<u>[Signature]</u> (5)	INDEPENDENT REGULATORY REVIEW COMMISSION
_____	_____ (6)	ATTORNEY GENERAL
_____	_____ (7)	LEGISLATIVE REFERENCE BUREAU