

Regulatory Analysis Form

(Completed by Promulgating Agency)

INDEPENDENT REGULATORY
REVIEW COMMISSION

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

2015 AUG 20 PM 2: 23

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IRRC

(1) Agency: Pennsylvania Liquor Control Board

(2) Agency Number: 54

Identification Number: 79

IRRC Number: 3093

(3) PA Code Cite: 40 Pa. Code §§ 5.211, 5.232, and 5.233

(4) Short Title: RAMP Server/Seller Programs

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

Primary Contact: Norina K. Blynn (717) 783-9454
Pennsylvania Liquor Control Board
401 Northwest Office Building
Harrisburg, Pennsylvania 17124
FAX: (717) 787-8820
Email: ra-lblegal@pa.gov

Secondary Contact: Rodrigo J. Diaz (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)

Section 471.1 of the Liquor Code [47 P.S. § 4-471.1] authorizes the Liquor Control Board ("Board") to establish a training program for licensees. This training program is known as the Responsible Alcohol Management Program ("RAMP"), and is administered by the Board's Bureau of Alcohol Education ("BAE"). A portion of that training and the seller/server training is currently administered exclusively through a curriculum created by BAE. The final form regulatory change would allow third parties to create their own curriculums and to submit them to BAE for approval.

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

In addition to section 471.1 of the Liquor Code [47 P.S. § 4-471.1], which authorizes the Board to establish a training program for licensees, the Board has the authority to make regulations pursuant to section 207(i) of the Liquor Code [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.

No, this regulation is not mandated by any federal or state law or court order, or federal regulation. There are no relevant state or federal court decisions pertaining to this regulatory change.

(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.

Since 2001, the Board has offered RAMP training and certification to licensees authorized to sell alcohol to the public. The public, in general, and perhaps more immediately, the neighbors of licensed establishments, have benefitted from the practical and legal training that the BAE provides through these regulations to licensees and their employees.

RAMP training consists of five (5) parts: 1) new employee orientation, 2) training for alcohol service personnel (also known as “server/seller” training), 3) manager/owner training, 4) displaying responsible alcohol service signage, and 5) certification. The Board is required to conduct the manager/owner training [47 P.S. § 4-471.1(b)], but may elect, under section 471.1 of the Liquor Code, to use certified instructors to teach the server/seller component of RAMP. [47 P.S. § 4-471.1(a)]. The Board is authorized to certify and decertify server/seller instructors. [47 P.S. § 4-471.1(b)]. Section 471.1(a) provides that “[t]raining for alcohol service personnel shall be as set forth by the Board, but at minimum it shall consist of training to prevent service of alcohol to minors and to visibly intoxicated persons.” [47 P.S. § 4-471.1(a)].

There are approximately 14,000 active licenses in Pennsylvania that authorize the sale and service of alcohol for on-premises consumption, known collectively as retail licensees. There are approximately 1,200 active licenses for distributors and importing distributors of malt or brewed beverages such as beer, constituting wholesale licensees. Each of these licensees may benefit from RAMP training.

Although completion of RAMP training is usually voluntary, recent legislation – specifically Acts 11 and 113 of 2011 – has made RAMP training and certification mandatory for certain employees of licensees. As a result, there has been an increase in the number of persons who have become RAMP certified:

Year	2009	2010	2011	2012	2013	2014
# of Individuals RAMP Certified	23,999	24,022	26,563	30,157	31,946	43,220
Percentage increase from prior year:		.10%	9.57%	11.92%	5.60%	35.29%

There are currently 32 instructors certified by the BAE who provide RAMP server/seller training. There are also 7 approved RAMP server/seller online training courses which use BAE materials.

The final form regulatory change would allow third parties to create their own curriculums and to submit them to BAE for approval. The expected benefits include more opportunities for server/seller training which is needed to meet the growing demand for such training.

While the BAE will continue to provide a standard curriculum for the training of alcohol service personnel, the BAE will also review curriculum developed by another entity in order to certify such curriculum if it is equivalent to or exceeds the standard curriculum. If it is not, notice of any deficiencies will be provided in writing to the third party within ninety days of receipt by the BAE. If the curriculum is equivalent to or exceeds the BAE-created RAMP curriculum, the other entity will be able to offer that training in Pennsylvania and such training will be considered the same as RAMP training.

In addition to providing more training opportunities for those that need to obtain RAMP server/seller training, this rulemaking will affect any entity that wishes to offer RAMP-equivalent server/seller training. As long as the proposed curriculum is equivalent to or exceeds RAMP's standard curriculum, RAMP will allow that entity to use that curriculum while providing server/seller training.

(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.

There are no federal standards pertaining to RAMP training.

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

Responsible alcohol management programs are not required or regulated in every state, although they are present in most states. Each state approaches alcohol management training differently. Because alcohol management programs are focused on improving the ability of licensees to provide alcohol in a safe and responsible manner, RAMP regulations do not impact Pennsylvania's ability to compete with other states.

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

No.

(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.)

This regulatory change was requested by Senator McIlhinney, who was approached by Training for Intervention Procedures (TIPS), one of the largest alcohol service training providers.

(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?

Under federal law (relating to small business size standards) “small” businesses in the Full Service Restaurant and Drinking Places (Alcoholic Beverages) industries are those with annual receipts of seven and a half million dollars (\$7,500,000) or less. [13 C.F.R. § 121.201]. Wineries, distilleries and breweries are considered small businesses if they employ less than 500 (wineries, breweries) or 750 (distilleries) employees. Hotels are considered small businesses if they have annual receipts of thirty-two and a half million dollars (\$32,500,000) or less. Thus, the majority of businesses licensed by the Board would likely be considered small businesses.

This rulemaking will affect any entity that wishes to offer RAMP-equivalent server/seller training. As long as the proposed curriculum is equivalent to or exceeds RAMP’s standard curriculum, RAMP will allow that entity to use that curriculum while providing server/seller training. This may indirectly affect anyone who wishes to or needs to take server/seller training, as there will likely be more options for such training. It also may negatively impact the certified trainers who are currently offering RAMP training, as there will be more competition to provide training to the licensed community.

(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.

It is unclear how many persons, groups or entities would be impacted by this regulation. Some of the entities that may be interested include TIPS – Training for Intervention Procedures, ServSafe, and Learn2Serve.

(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.

RAMP training generally has a positive social impact on individuals, small businesses, businesses and communities since it provides techniques for the responsible consumption of alcohol and alcohol management. Therefore, more opportunities for RAMP training may be expected to increase this positive social impact. The financial and economic impact of the regulation can be significant for licensees that are required to obtain RAMP training, since RAMP training may be a requirement for keeping a liquor license and RAMP training can result in reduced fines for certain violations of the Liquor Code. [47 P.S. § 4-471]. For other entities, the financial and economic impact of the regulation is negligible.

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

Increasing the number of programs that may be offered as the equivalent of RAMP server/seller training will place an extra burden on the BAE. It will be required to evaluate the submitted programs and compare them to RAMP. Once the program is approved, the BAE will be responsible for evaluating the instructors who provide the training; this could mean a significant increase in the number of instructors the BAE must evaluate and certify.

These additional responsibilities can be addressed with an increase in staffing that can provide tighter oversight. An Alcohol Education Specialist is a Civil Service position at Pay Grade 6, for which the annual salary range is from \$39,257 to \$59,658. However, it is unlikely additional personnel will be needed. In addition, the benefit to the licensed community – through increased training opportunities, resulting in more properly trained alcohol server/sellers – outweighs the cost of additional personnel.

(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.

An entity that wishes to submit its curriculum for certification by the BAE will be required to submit a fee of \$250.00. This fee is intended to offset the time investment necessary to review and certify curriculum developed by a third party. It is unknown how much it would cost such a party to create its own curriculum but doing so is voluntary.

In addition, instructors of server/seller training must be certified on an annual basis. Certification costs \$250.00 per instructor. [40 Pa. Code § 5.231(4)].

(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 Board has offered RAMP training and certification since 2001. Because the program is mandated by section 471.1 of the Liquor Code [47 P.S. § 4-471.1], its costs cannot be avoided. The current annual cost of this program to the Board is approximately five hundred thousand dollars (\$500,000.00). In the unlikely event that further staffing is needed by the BAE, such increased staffing costs will be funded fully from liquor sales. Like all of the Board's operating costs, RAMP is fully funded from the proceeds of selling liquor, which are deposited into the State Stores Fund; the Board's operations and programs are not funded from a General Fund appropriation.

(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, local governments, and the state government are 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.

(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	\$0	\$0	\$0	\$0	\$0	\$0
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 2011-2012	FY -2 2012-2013	FY -1 2013-2014	FY-0 2014-2015
RAMP	\$435,031.67	\$1,069,594.83*	\$597,150.80	\$467,859.57

* The increase in costs for FY 2012-2013 resulted from fees for an electronic learning management system. The annual fees will vary during the remainder of the five year contract, which expires in 2017.

(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.

It is unknown what small businesses or how many small businesses would be subject to the regulation. The decision to use a third party curriculum when providing RAMP

server/seller training classes is voluntary; therefore, any small business that did not wish to be subject to the regulation could simply choose to not use a third party curriculum when providing server/seller training classes in Pennsylvania.

- (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.

The reporting, recordkeeping and other administrative costs would be voluntarily incurred by any entity wishing to use a third party curriculum when offering server/seller training classes in Pennsylvania. The professional skills necessary for any reporting would fall within the realm of basic office skills. If the program is deemed to be deficient or not sufficiently tailored to meet the BAE's standards, the entity would have to make those changes as directed by the BAE.

- (c) A statement of probable effect on impacted small businesses.

The only anticipated probable effect the regulatory change would have on small businesses is that it is likely to make RAMP server/seller training more convenient for licensees, many of whom are small businesses. The benefit to licensees is more fully explained in the answer to Question 10.

- (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

There is no less intrusive or less costly alternative method of achieving the purpose of the final form 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.

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

(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.

No data was relied upon for the promulgation of this regulatory amendment.

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

- | | |
|---|---|
| A. The date by which the agency must receive public comments: | <u> N/A </u> |
| B. The date or dates on which public meetings or hearings will be held: | <u> September 2015 </u> |
| C. The expected date of promulgation of the proposed regulation as a final-form regulation: | <u> November 2015 </u> |
| D. The expected effective date of the final-form regulation: | <u> November 2015 </u> |
| E. The date by which compliance with the final-form regulation will be required: | <u> November 2015 </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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IRRC

2015 AUG 20 PM 2: 23

DO NOT WRITE IN THIS SPACE

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. 054-79

DATE OF ADOPTION: Aug. 19, 2015

BY: *[Signature]*

TITLE: Chairman
(Executive Officer, Chairman or
Secretary)

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

BY: *[Signature]*
Chief Counsel

Aug. 19, 2015
DATE OF APPROVAL

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 I. RESPONSIBLE ALCOHOL MANAGEMENT PROGRAM

The following sections are proposed to be amended:

5.211. Course of study for alcohol service personnel.

5.232. Instructor responsibilities.

5.233. Minimum standards of training.

RESPONSES OF THE PENNSYLVANIA LIQUOR CONTROL BOARD

TO

Comments about PLCB Regulation #54-79 (IRRC #3093)

Responsible Alcohol Management Program

1. Fiscal impact; Implementation procedures.

This proposed rulemaking will allow third parties to create their own Responsible Alcohol Management Program (RAMP) curriculum and to submit it to the Board's Bureau of Alcohol Education (BAE) for approval. In order for this Commission to determine if the proposal is in the public interest, we ask the Board to provide information on how RAMP is and will be administered. Specifically we ask:

- Does the Board charge a fee for RAMP training it conducts or provides? If so, what are those fees?
- How many Board employees currently conduct RAMP training? Will their employment be impacted by this proposal?
- What costs will the Board incur for reviewing and approving third-party curriculum?
- Will the Board charge a fee to review and approve third-party curriculum? If a fee will not be charged, what is the reason for this?
- What do third party providers of RAMP training typically charge for the training?

Response:

- The Board does not charge a fee for the RAMP training it conducts or provides.
- The Board only provides RAMP Owner/Manager training; it does not provide RAMP server/seller training. Therefore, this regulation will not impact those employees.
- The only costs incurred by the Board will be the time required for reviewing and approving third-party curriculum.

- The Board will charge a fee of \$250.00 to review and approve third-party curriculum. The fee is related to the time it will take the Board's staff to review the curriculum, compare the curriculum against the RAMP curriculum, and advise of any changes that must be made. Corrected curriculum that are resubmitted for approval shall not require any additional fees.
- It is the Board's understanding that third party providers typically charge each attendee \$10.00 to \$25.00 for the training session.

2. Need for the regulation.

Senator Richard Alloway submitted a comment noting the unique nature of the Commonwealth's Liquor Code and questioning the need for the regulation. He believes that this proposal could create confusion amongst the regulated community caused by more than one standard curriculum. Representatives Chris Ross and Paul Costa submitted a comment expressing their support for the rulemaking. They believe that the proposal will enhance the training of alcohol service personnel in the Commonwealth. In the Regulatory Analysis Form (RAF) submitted with this proposal, the Board explains that the expected benefits of the rulemaking, "include more opportunities for server/seller training which is needed to meet the growing demand for such training." In light of the issue raised by legislators, we ask the Board to explain why the potential benefits of the rulemaking outweigh the potential confusion it could create.

Response:

The providers of other server/seller programs are already in the marketplace and confusion already exists among licensees as to which programs have been approved and which have not. By inviting those third parties that already provide training at a national level to submit their programs for our review and approval, it is hoped that more licensees will get the appropriate training. That is the intended benefit of this regulatory change.

3. Section 5.211. Course of study for alcohol service personnel. – Implementation procedures; Clarity.

Under Subsection (b), if it is found that the curriculum submitted by a training provider is not equivalent to the BAE's standard curriculum, the BAE "will

advise” the training provider why the curriculum is deficient. As noted by commentators, including Senator Rafferty, Senator Brewster and Representative Regan, it is unclear how long the BAE will take to review the curriculum after it is submitted and how the BAE will inform the training provider of the deficiencies. We note that the provision also fails to specify how the BAE will notify a training provider if the curriculum is equivalent and acceptable. We recommend that the rulemaking be amended to specify the timeframe within which the BAE will review curriculum submitted by a training provider and the manner in which it will communicate its findings to the provider.

The commentators also ask the Board to clarify the curriculum submitted for approval not only must be equivalent to the BAE’s standard curriculum, but can also exceed it. Other commentators are concerned that the curriculum of third-party training providers could lack specificity as it relates to Pennsylvania laws, regulations and requirements. We have several questions relating to these comments. Would a curriculum that exceeds the BAE’s standard curriculum be approved? Additionally, does the existing standard curriculum include training on Pennsylvania liquor laws, regulations and requirements, and would a third party be required to include this content in its curriculum?

Response:

In accordance with IRRC’s recommendation, the rulemaking has been amended to specify that the BAE will review the curriculum within 90 days of receipt, and that its findings shall be communicated to the provider by e-mail or letter.

A curriculum that exceeds the BAE’s standard curriculum would be approved, as long as all of the elements of the BAE’s standard curriculum are incorporated.

The existing standard curriculum includes training on Pennsylvania liquor laws, regulations and requirements.

A third party would be required to include all BAE content into its curriculum for it to obtain BAE approval. Additional information may also be provided so long as such information is not inconsistent with BAE’s content.

4. Miscellaneous – Implementation procedures and timetables for compliance.

The dates noted in RAF Block No. 29, relating to a schedule for review of the regulation, should be updated.

Response:

The dates in RAF Block No. 29 have been updated.

Comments in favor of the regulatory change were received from the following:

- Training in Intervention ProcedureS (TIPS)
- Bill Marencic, Robin Roscoe, Mark Fine, Anthony S. Blackwell, Sr., Lisa J. Baer, Jean E. Davis, Dan Clougherty, and Barbara Clougherty, TIPS trainers
- John Koury, of the Avalon Resource Group, a TIPS trainer
- Senator John Rafferty
- Senator Jim Brewster
- Senator Wayne Fontana
- Representative Chris Ross and Representative Paul Costa
- Representative Mike Regan

Of the above, all but John Koury and Representatives Ross and Costa suggested amendments to the proposed regulation. Those amendments were substantially incorporated into the final-form regulation.

Comments opposed to the regulatory change were received from the following:

- Amy Christie, Executive Director of the Pennsylvania Licensed Beverage & Tavern Association
- Danette Small-Shultz, Vice President of Subs, Inc., a restaurant liquor licensee
- Senator Richard Alloway, II

The Board reviewed and considered these comments but chose not to withdraw the regulation.

PROPOSED RULEMAKING

LIQUOR CONTROL BOARD

40 PA. CODE CHAPTER 5

Responsible Alcohol Management Program

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

Pennsylvania expects holders of its retail liquor and beer licenses to meet demanding standards of operation. Failure to do so may result in fines and other penalties that can culminate in the loss of the license. Training licensees and their employees to serve alcohol responsibly is seen to be one of the best ways to prevent these problems.

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RAMP training consists of five (5) parts: 1) new employee orientation, 2) training for alcohol service personnel (also known as "server/seller" training), 3) manager/owner training, 4) displaying responsible alcohol service signage, and 5) certification. The Board is required to conduct the manager/owner training [47 P.S. § 4-471.1(b)], but may elect, under section 471.1 of the Liquor Code, to use certified instructors to teach the server/seller component of RAMP. [47 P.S. § 4-471.1(a)]. The Board is authorized to certify and decertify server/seller instructors. [47 P.S. § 4-471.1(b)]. Section 471.1(a) provides that "[t]raining for alcohol service personnel shall be as set forth by the Board, but at minimum it shall consist of training to prevent service of alcohol to minors and to visibly intoxicated persons." [47 P.S. § 4-471.1(a)].

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In addition to providing more training opportunities for those that need to obtain RAMP server/seller training, this rulemaking will affect any entity that wishes to offer RAMP-equivalent server/seller training. As long as the proposed curriculum is equivalent to or exceeds RAMP's standard curriculum, RAMP will allow that entity to use that curriculum while providing server/seller training.

Increasing the number of programs that may be offered as the equivalent of RAMP server/seller training will place an extra burden on the BAE. It will be required to evaluate the submitted programs and compare them to RAMP. Once the program is approved, the BAE will be responsible for evaluating the instructors who provide the training; this could mean a significant increase in the number of instructors the BAE must evaluate and certify. In addition, having a variety of programs could result in inconsistencies in the training experience.

These additional responsibilities can be addressed with an increase in staffing that can provide tighter oversight. An Alcohol Education Specialist is a Civil Service position at Pay Grade 6, for which the annual salary range is from \$39,257 to \$59,658. However, it is unlikely additional personnel will be needed. In addition, the benefit to the licensed community –

through increased training opportunities, resulting in more properly trained alcohol server/sellers – outweighs the cost of additional personnel.

Affected Parties

This rulemaking will affect any entity that wishes to offer RAMP-equivalent server/seller training. As long as the proposed curriculum is equivalent to or exceeds RAMP's standard curriculum, RAMP will allow that entity to use that curriculum while providing server/seller training. This may indirectly affect anyone who wishes to or needs to take server/seller training, as there will likely be more options for such training. It also may negatively impact the certified trainers who are currently offering RAMP training, as there will be more competition to provide training to the licensed community.

Paperwork Requirements

This rulemaking may increase paperwork for the BAE, since the BAE will need to evaluate proposed curriculums in order to determine if they are equivalent to the standard curriculum. The rulemaking would not increase paperwork for anyone else in the regulated community except for those entities that wish to provide server/seller training but are advised that their curriculum is deficient and changes must be made.

Fiscal Impact

The Board has offered RAMP training and certification since 2001. Because the program is mandated by section 471.1 of the Liquor Code [47 P.S. § 4-471.1], its costs cannot be avoided. The current annual cost of this program to the Board is approximately five hundred thousand dollars (\$500,000.00). In the unlikely event that further staffing is needed by the BAE, such increased staffing costs will be funded fully from liquor sales. Like all of the Board's operating costs, RAMP is fully funded from the proceeds of selling liquor, which are deposited into the State Stores Fund; the Board's operations and programs are not funded from a General Fund appropriation.

Under section 471 of the Liquor Code, licensees that have become RAMP-certified may be assessed reduced fines should they be found to have provided alcohol to a minor or visibly intoxicated person. Some licensees, because of the citations they have received and because their licensure is in jeopardy, are required to obtain and maintain RAMP certification. Training offered by other programs may happen to be more convenient for some licensees because more classes will be available. If there are more programs to choose from, the convenience for the licensee will increase, thus reducing the potential fiscal impact for the licensee.

An entity that wishes to submit its curriculum for certification by the BAE will be required to submit a fee of \$250.00. This fee is intended to offset the time investment necessary to review and certify curriculum developed by a third party. It is unknown how much it would cost such a party to create its own curriculum but doing so is voluntary.

In addition, instructors of server/seller training must be certified on an annual basis. Certification costs \$250.00 per instructor. [40 Pa. Code § 5.231(4)].

These regulations are not expected to result in costs or savings to local governments.

Effective Date

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

Public Comments

Comments should be addressed to Rodrigo Diaz, Executive Deputy Chief Counsel, or Norina Blynn, 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 March 11, 2015, the Board submitted a copy of these proposed amendments to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Liquor Control Committee and Senate Committee on Law and Justice. A copy of this material is available to the public upon request.

Under section 5a(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. The Board received comments from IRRC, the response to which is set forth in a separate document.

The Board received comments in favor of the regulatory change from the following: Training for Intervention ProcedureS (TIPS); Bill Marencic, Robin Roscoe, Mark Fine, Anthony S. Blackwell, Sr., Lisa J. Baer, Jean E. Davis, Dan Clougherty, and Barbara Clougherty, TIPS trainers; John Koury, of the Avalon Resource Group, a TIPS trainer; Senator John Rafferty, Senator Jim Brewster, Senator Wayne Fontana, Representative Chris Ross, Representative Paul Costa, and Representative Mike Regan. The Board also received comments opposed to the regulatory change from the following: Amy Christie, Executive Director of the Pennsylvania Licensed Beverage & Tavern Association; Danette Small-Shultz, Vice President of Subs, Inc., a restaurant liquor licensee; and Senator Richard Alloway, II.

Under section 5a(j.2) of the Regulatory Review Act, on _____, these final form regulations were deemed approved by the House and Senate Committees. Under section 5a(e) of the Regulatory Review Act, IRRC met on _____, and approved these final form regulations.

Tim Holden
Chairman

Annex A

TITLE 40. LIQUOR

PART I. LIQUOR CONTROL BOARD

CHAPTER 5. DUTIES AND RIGHTS OF LICENSEES

Subchapter I. RESPONSIBLE ALCOHOL MANAGEMENT PROGRAM

COURSE OF STUDY

§ 5.211. Course of study for alcohol service personnel.

(a) A standard curriculum for the course of study will be provided by the BAE.

(b) The BAE is authorized to review curriculum submitted by another training provider and to certify the curriculum if it is equivalent to OR EXCEEDS the BAE's standard curriculum. A REQUEST FOR REVIEW OF CURRICULUM SHALL BE ACCOMPANIED BY A NON-REFUNDABLE \$250.00 APPLICATION FEE.

(1) In the event that the training provider's curriculum is not equivalent to OR DOES NOT EXCEED the BAE's standard curriculum, the BAE will advise the training provider IN WRITING WITHIN 90 DAYS OF RECEIVING THE CURRICULUM AND FEE as to subjects where the training provider's curriculum is deficient.

(2) The training provider has the opportunity to correct and resubmit its curriculum no more than two times. CURRICULUM RESUBMITTED UNDER THIS SUBSECTION SHALL NOT REQUIRE THE PAYMENT OF AN ADDITIONAL FEE.

(3) If the training provider's curriculum is still deficient after the second and final resubmission, the BAE will not accept submissions or resubmissions from the training provider for 1 year from the date that the BAE sent notification to the training provider that the second resubmission was deficient.

INSTRUCTORS

§ 5.232. Instructor responsibilities.

Instructors have the responsibility to do the following:

(1) Using the standard curriculum provided by the BAE or a curriculum certified by the BAE, provide students with information regarding the current status of the law on issues regarding the sale or service of alcoholic beverages by licensees.

* * * * *

§ 5.233. Minimum standards of training.

(a) Instructors shall conduct training sessions conforming to **either** the BAE's standard curriculum **or a curriculum certified by the BAE.**

* * * * *

Commonwealth of Pennsylvania
Pennsylvania Liquor Control Board
August 20, 2015

SUBJECT: Final Form Regulation Package 54-79
Responsible Alcohol Management Program

TO: DAVID SUMNER, EXECUTIVE DIRECTOR
INDEPENDENT REGULATORY REVIEW COMMISSION

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

By Hand Delivery

The Pennsylvania Liquor Control Board ("PLCB") is submitting final form amendments to chapter 5 of its regulations. Enclosed please find a copy of the signed CDL-1 face sheet, preamble and Annex A (regulatory text), and the regulatory analysis form.

The proposed version of these regulations was provided to the legislative oversight committees, the Independent Regulatory Review Commission and to the Legislative Reference Bureau on March 11, 2015. The Board received comments from IRRC, the response to which is set forth in a separate document, also enclosed. This response document also lists everyone who submitted a comment regarding the proposed regulation.

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

Enclosures

cc with enclosures:

Honorable Charles McIlhinney, Majority Chairman, Senate Law and Justice Committee
Honorable James Brewster, Minority Chairman, Senate Law and Justice Committee
Honorable Chris Ross, Majority Chairman, House Liquor Control Committee
Honorable Paul Costa, Minority Chairman, House Liquor Control Committee
Gail Reinard, Executive Director, Senate Law and Justice Committee
Victor Wills, Executive Director, Senate Law and Justice Committee
Shauna Boscaccy, Executive Director, House Liquor Control Committee
Lynn Benka-Davies, Executive Director, House Liquor Control Committee

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

I.D. NUMBER: 54-79
SUBJECT: Responsible Alcohol Management Program
AGENCY: Liquor Control Board






2015 AUG 20 PM 2: 23

RECEIVED
IRRC

TYPE OF REGULATION

- _____ Proposed Regulation
- X 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>
8/20/15	 (1)	SENATE LAW & JUSTICE COMMITTEE (Majority)
8/20/15	 (2)	SENATE LAW & JUSTICE COMMITTEE (Minority)
8-20-15	 (3)	HOUSE LIQUOR CONTROL COMMITTEE (Majority)
8/20/15	 (4)	HOUSE LIQUOR CONTROL COMMITTEE (Minority)
8/20/15	 (5)	INDEPENDENT REGULATORY REVIEW COMMISSION