

# Regulatory Analysis Form

(Completed by Promulgating Agency)

INDEPENDENT REGULATORY  
REVIEW COMMISSION

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

(1) Agency: Pennsylvania Liquor Control Board

(2) Agency Number: 54

Identification Number: 85

IRRC Number: 3117

(3) PA Code Cite: 40 Pa. Code §§ 3.62, 3.63, 3.64, 5.103, 11.111

(4) Short Title: Limited Wineries

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

Primary Contact: Rodrigo J. Diaz (717) 783-9454  
Pennsylvania Liquor Control Board  
401 Northwest Office Building  
Harrisburg, Pennsylvania 17124  
FAX: (717) 787-8820  
Email: [ra-lblegal@pa.gov](mailto:ra-lblegal@pa.gov)

Secondary Contact: Justin E. Blake (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)

In recent years, the Legislature has amended the Liquor Code to expand the business opportunities for holders of limited winery licenses. During this same period of time, the Board has amended its regulations to reflect some but not all of these changes. The proposed regulatory change will make the Board's regulations consistent with the Liquor Code as it is currently written. These changes include an expansion of the hours limited wineries may be open and an expansion of the products they can sell, which while currently authorized, are inaccurately expressed in the existing regulations.

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

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,

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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. Rather, the proposed regulatory changes will allow the regulations to accurately reflect the state of the law for limited wineries.

(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.

In recent years, the Legislature has amended the Liquor Code to expand the business opportunities for holders of limited winery licenses. During this same period of time, the Board has amended its regulations to reflect some but not all of these changes. The proposed regulatory change will make the Board's regulations consistent with the Liquor Code as it is currently written.

The proposed regulatory change amends the Board's regulations to reflect the fact that sections 505.2(a)(1) and 505.2(a)(2) of the Liquor Code authorize limited wineries to produce and sell alcoholic cider in addition to wine, section 505.2(a)(1) of the Liquor Code authorizes limited wineries to produce wine and alcoholic cider from any agricultural commodity, not just fruit, and section 505.2(a)(6.2) of the Liquor Code allows for on-premises consumption of wine and alcoholic cider. It also amends the Board's regulations to reflect the fact that section 505.2(a)(6.1) of the Liquor Code authorizes limited wineries to sell food for on and off premises consumption. Further, it amends the Board's regulations to reflect the current hours of operation for limited wineries, which were authorized by section 505.2(a)(6.3) of the Liquor Code.

In addition, the manner in which payment for wine and alcoholic cider may be made has been updated to be consistent with the language found in the Liquor Code and the Board's regulations. The list of items that limited wineries may sell has been updated to reflect the statutory changes found in sections 505.2(a)(6.1) and 505.2(a)(6.2) of the Liquor Code. The rules regarding sampling have been updated to reflect the fact that limited wineries can sell and/or give alcohol for on-premises consumption. Finally, a Liquor Code reference and a regulatory reference have been updated.

As of June 3, 2015, there were approximately 266 active limited winery licenses in effect in Pennsylvania. All license holders will benefit from having the Board's regulations accurately reflect the law.

(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.

Federal regulations do not address this matter, since the proposed changes are designed to accurately reflect existing law, not change it.

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

A comparison of the proposed changes with the laws of other states would not be appropriate since the

proposed changes are designed to accurately reflect existing law, not change it. The proposed changes will have no effect on 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.

The Board is unaware of any other regulations, issued by the Board or by another state agency, which would be affected by the promulgation of the proposed regulation.

(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.)

No input was received or solicited since the proposed changes are designed to accurately reflect existing law, not change it.

(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?

As of June 3, 2015, there were approximately 266 active limited winery licenses in effect in Pennsylvania. 31 CFR 121.201, which is referenced by Act 76 of 2012, defines all farms, including grape vineyards, as small businesses if they have annual receipts of \$750,000 or less. It further defines wineries as small businesses if they employ less than 500 employees. Under the latter standard, all entities licensed as limited wineries would be considered small businesses. All license holders will benefit from having the Board's regulations accurately reflect existing law.

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

As of June 3, 2015, there were approximately 266 active limited winery licenses in effect in Pennsylvania. All of these licensees are already required to comply with the proposed regulations since the proposed changes are designed to accurately reflect existing law, not change it. Further, the changes reflect an expansion of the rights given to limited wineries, not a restriction of those rights.

(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.

The proposed regulatory changes will allow the regulations to accurately reflect the state of the law for limited wineries. Therefore, there will be no financial, economic and social impact on anyone beyond the benefit of having the Board's regulations accurately reflect existing law.

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

The proposed regulatory changes will allow the regulations to accurately reflect the state of the law for

limited wineries. Therefore, there will be no cost or adverse effects to offset the benefit of having the Board's regulations accurately reflect existing law.

(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.

The proposed regulatory changes will allow the regulations to accurately reflect the state of the law for limited wineries. Therefore, there will be no costs to the regulated community associated with compliance.

(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 proposed regulatory changes will allow the regulations to accurately reflect the state of the law for limited wineries. Therefore, there will be no costs to local governments associated with compliance.

(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 proposed regulatory changes will allow the regulations to accurately reflect the state of the law for limited wineries. Therefore, there will be no costs to state government associated with compliance.

(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.

|                             | <b>Current<br/>FY<br/>Year</b> | <b>FY +1<br/>Year</b> | <b>FY +2<br/>Year</b> | <b>FY +3<br/>Year</b> | <b>FY +4<br/>Year</b> | <b>FY +5<br/>Year</b> |
|-----------------------------|--------------------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| <b>SAVINGS:</b>             |                                |                       |                       |                       |                       |                       |
| <b>Regulated Community</b>  | \$0                            | \$0                   | \$0                   | \$0                   | \$0                   | \$0                   |
| <b>Local Government</b>     | \$0                            | \$0                   | \$0                   | \$0                   | \$0                   | \$0                   |
| <b>State Government</b>     | \$0                            | \$0                   | \$0                   | \$0                   | \$0                   | \$0                   |
| <b>Total Savings</b>        | \$0                            | \$0                   | \$0                   | \$0                   | \$0                   | \$0                   |
| <b>COSTS:</b>               |                                |                       |                       |                       |                       |                       |
| <b>Regulated Community</b>  | \$0                            | \$0                   | \$0                   | \$0                   | \$0                   | \$0                   |
| <b>Local Government</b>     | \$0                            | \$0                   | \$0                   | \$0                   | \$0                   | \$0                   |
| <b>State Government</b>     | \$0                            | \$0                   | \$0                   | \$0                   | \$0                   | \$0                   |
| <b>Total Costs</b>          | \$0                            | \$0                   | \$0                   | \$0                   | \$0                   | \$0                   |
| <b>REVENUE LOSSES:</b>      |                                |                       |                       |                       |                       |                       |
| <b>Regulated Community</b>  | \$0                            | \$0                   | \$0                   | \$0                   | \$0                   | \$0                   |
| <b>Local Government</b>     | \$0                            | \$0                   | \$0                   | \$0                   | \$0                   | \$0                   |
| <b>State Government</b>     | \$0                            | \$0                   | \$0                   | \$0                   | \$0                   | \$0                   |
| <b>Total Revenue Losses</b> | \$0                            | \$0                   | \$0                   | \$0                   | \$0                   | \$0                   |

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

| <b>Program</b> | <b>FY -3<br/>2011-2012</b> | <b>FY -2<br/>2012-2013</b> | <b>FY -1<br/>2013-2014</b> | <b>Current FY<br/>2014-2015</b> |
|----------------|----------------------------|----------------------------|----------------------------|---------------------------------|
| 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.

31 CFR 121.201, which is referenced by Act 76 of 2012, defines all farms, including grape vineyards, as small businesses if they have annual receipts of \$750,000 or less. It further defines wineries as small businesses if they employ less than 500 employees. Under the latter standard, all entities licensed as limited wineries would be considered small businesses. As of June 3, 2015, there were approximately 266 active limited winery licenses in effect 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.

None.

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

The only impact on small business would be that the Board's regulations will accurately reflect the existing status of the law.

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

The purpose of the proposed regulation is to accurately reflect the current status of the law. The only way to achieve this is through the proposed regulations.

(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 the amendment of the current regulations.

(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 the amendment of the current regulations.

(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 used for the basis of the proposed regulation.

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

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

FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU

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*Amy W. Elliott*

Pennsylvania Liquor Control Board  
(AGENCY)

BY: *Y. Diehl*  
Chief Counsel

BY: \_\_\_\_\_  
(DEPUTY ATTORNEY GENERAL)

DOCUMENT/FISCAL NOTE NO. 54-85

AUG 14 2015  
DATE OF APPROVAL

DATE OF ADOPTION: June 10, 2015

June 10, 2015  
DATE OF APPROVAL

Check if applicable  
Copy not approved. Objections  
attached.

BY: *Tina Holder*

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

TITLE: Chairman  
(Executive Officer, Chairman or Secretary)

TITLE 40—LIQUOR  
PART I. LIQUOR CONTROL BOARD  
CHAPTER 3. LICENSE APPLICATIONS  
SUBCHAPTER G. LIMITED WINERY LICENSES

*The following sections are proposed to be amended:*

- 3.62 Creation
- 3.63 Agents
- 3.64 Additional Board-approved locations

CHAPTER 5. DUTIES AND RIGHTS OF LICENSEES  
SUBCHAPTER H. RECORDS AND REPORTS—BREWERIES, BONDED WAREHOUSES LIMITED  
WINERIES AND LICENSED DISTILLERIES OF HISTORICAL SIGNIFICANCE

*The following section is proposed to be amended:*

- 5.103 Limited wineries

CHAPTER 11. PURCHASES AND SALES  
SUBCHAPTER C. WINES

*The following section is proposed to be amended:*

- 11.111. Sale by limited winery licensees



## **PROPOSED RULEMAKING**

### **LIQUOR CONTROL BOARD**

#### **40 PA. CODE CHAPTERS 3, 5 AND 11**

##### **Limited Wineries**

The Liquor Control Board ("Board"), under the authority of section 207(i) of the Liquor Code (47 P.S. § 2-207(i)), proposes to amend Chapters 3, 5, and 11.

##### *Summary*

In recent years, the Legislature has amended the Liquor Code to expand the business opportunities for holders of limited winery licenses. During this same period of time, the Board has amended its regulations to reflect some but not all of these changes. The proposed regulatory change will make the Board's regulations consistent with the Liquor Code as it is currently written.

The proposed regulatory change amends the Board's regulations to reflect the fact that sections 505.2(a)(1) and 505.2(a)(2) of the Liquor Code authorize limited wineries to produce and sell alcoholic cider in addition to wine, section 505.2(a)(1) of the Liquor Code authorizes limited wineries to produce wine and alcoholic cider from any agricultural commodity, not just fruit, and section 505.2(a)(6.2) of the Liquor Code allows for on-premises consumption of wine and alcoholic cider. It also amends the Board's regulations to reflect the fact that section 505.2(a)(6.1) of the Liquor Code authorizes limited wineries to sell food for on and off premises consumption. Further, it amends the Board's regulations to reflect the current hours of operation for limited wineries, which were authorized by section 505.2(a)(6.3) of the Liquor Code.

In addition, the manner in which payment for wine and alcoholic cider may be made has been updated to be consistent with the language found in the Liquor Code and the Board's regulations. The list of items that limited wineries may sell has been updated to reflect the statutory changes found in sections 505.2(a)(6.1) and 505.2(a)(6.2) of the Liquor Code. The rules regarding sampling have been updated to reflect the fact that limited wineries can sell and/or give alcohol for on-premises consumption. Finally, a Liquor Code reference and a regulatory reference have been updated.

##### *Affected Parties*

The affected parties include all present and future holders of a limited winery license.

##### *Paperwork Requirements*

The proposed regulation would not require any additional paperwork to be filed.

##### *Fiscal Impact*

The proposed regulatory changes are intended to make the Board's regulations consistent with the Liquor Code. Therefore, no fiscal impact is anticipated.

*Effective Date*

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

*Public Comments*

Interested persons are invited to submit written comments about the proposed rulemaking to Rodrigo Diaz, Executive Deputy Chief Counsel, or Justin Blake, Assistant Counsel, Office of Chief Counsel, Pennsylvania Liquor Control Board, Room 401, Northwest Office Building, Harrisburg, PA 17124-0001, within thirty (30) days after publication of the proposed regulation in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Please note that all public comments will be posted on the Independent Regulatory Review Commission's website. No personal information will be redacted from the public comments received.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on \_\_\_\_\_, 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 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed regulations within thirty (30) days of the close of the public comment period. The comments, recommendations or objections shall specify the regulatory review criteria that have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the regulation, by the agency, the General Assembly and the Governor of comments, recommendations or objections raised.

Tim Holden  
Chairman

## ANNEX A

### TITLE 40. LIQUOR

#### PART I. LIQUOR CONTROL BOARD

#### CHAPTER 3. LICENSE APPLICATIONS

#### Subchapter G. LIMITED WINERY LICENSES

##### **§ 3.62. Creation.**

Under section 505.2 of the Liquor Code (47 P. S. § 5-505.2), holders of a [L]limited [W]inery [L]license may produce and sell wines and alcoholic ciders, subject to §§ 3.63, 5.103 and 11.111 (relating to agents; limited wineries; and sale by limited winery licensees).

##### **§ 3.63. Agents.**

A limited winery licensee may employ individuals to solicit orders, off the licensed premises, for wine and alcoholic cider produced by it or to promote the sale of wines and alcoholic ciders off the premises. Agents may advertise and promote the sale of merchandise by “missionary work” of only brands sold by the limited winery licensee by whom the agents are employed and may solicit orders from licensees and make deliveries in properly registered vehicles.

##### **§ 3.64. Additional Board-approved locations.**

(a) Additional locations, as authorized by section 505.2(a)(3) of the Liquor Code (47 P. S. § 5-505.2(a)(3)) may not be used by a limited winery licensee in the operation of a licensed business unless approved by the Board.

(1) An application for an additional location shall be made to the Board, accompanied by a \$220 fee. A renewal application shall be submitted annually and be accompanied by a \$75 fee.

(2) Applications for additional Board-approved locations may be submitted on a prior approval basis. If plans are approved, the necessary construction or alterations shall be completed within 6 months of the approval. Business may not be transacted until the premises has been reinspected and the Board has approved the completed construction or alterations.

(3) Portions of an additional Board-approved location premises shall be contiguous.

(4) Additional Board-approved locations of a limited winery license shall be under the control of a manager appointed in accordance with § [5.16] 5.23 (relating to appointment of managers).

(5) Additional Board-approved locations of a limited winery license shall be enclosed by soundly constructed walls, with controlled points of access and egress directly accessible to the general public from a public thoroughfare.

(6) Limited winery licensees shall provide Board officers conducting licensing investigations of additional locations with the following:

(i) Leases which contain percentage agreements.

(ii) Management agreements.

(iii) Employee agreements.

(iv) Commission agreements.

(b) Limited winery licensees shall notify the Board immediately upon discontinuing use of an additional location.

## CHAPTER 5. DUTIES AND RIGHTS OF LICENSEES

### Subchapter H. RECORDS AND REPORTS—BREWERIES, BONDED WAREHOUSES LIMITED WINERIES AND LICENSED DISTILLERIES OF HISTORICAL SIGNIFICANCE

#### § 5.103. Limited wineries.

(a) *Records.* A holder of a [L]limited [W]winery [L]license obtained under § 3.62 (relating to creation) shall maintain and keep on the licensed premises daily permanent records which shall conform to the requirements of section 512 of the Liquor Code (47 P. S. § 5-512). The records shall include complete details concerning the source of [fruits] agricultural commodities used in the production of wines and alcoholic ciders. Electronic media recordkeeping, maintained and based upon generally accepted accounting principles, shall be permitted in lieu of hard copy records. The recordkeeping system utilized by the licensee shall have the capability to provide for the reconciling of required data. Entries shall be verifiable by supporting original documents. The records shall include complete details concerning the source of [fruits] agricultural commodities used in the production of wines and alcoholic ciders.

(b) *Sales invoice.* In addition to the records prescribed in subsection (a), except as otherwise provided in this part, a sales invoice shall be prepared at the licensed premises for each sale. The sales invoice shall be prepared in accordance with the following:

(1) The sales invoice shall be imprinted or affixed with the name and address of the limited winery.

(2) The sales invoice shall show the name and address of the recipient of the merchandise, date of sale, number of units, size and type of package, brand name, selling price of the wine and/or

alcoholic cider and the net cost to the customer. The name and address of private individuals is not required on sales invoices covering quantities of 16 liters or less; in lieu of preparing sales invoices for the sales, the transactions may be entered individually on a counter sheet maintained in columnar form showing the information required on sales invoices, other than name and address of the purchaser. The counter sheet shall be totaled daily and the totals entered into the sales register noted in section 512 of the Liquor Code (47 P. S. § 5-512).

(3) The sales invoice shall show the Commonwealth sales tax, where applicable, as a separate entry.

(4) The sales invoice may include other items permitted for sale by limited wineries if the sale of wines and/or alcoholic cider is listed separately from other permitted items sold by the licensee.

(5) An invoice shall be prepared for any amount of wine and/or alcoholic cider shipped to customers via Transporter-for-Hire, Class C carriers. The invoice shall be prepared only for persons 21 years of age or older, and limited winery licensees shall request the signature of a recipient, 21 years of age or older, from the transporter making the deliveries and a return acknowledgement of delivery to the recipient. Copies of acknowledgments of delivery shall be maintained on the licensed premises for 2 years.

(6) When a sale requires the preparation of an invoice, one copy shall be given to the recipient of the merchandise and a copy retained on the licensed premises for 2 years.

(c) *Reports.* A licensed limited winery shall file reports in the manner set forth by the Board covering operations of their licensed business during the preceding calendar year. The reports shall be signed and sworn to by the licensee or his authorized agent and shall be filed with the Board at the time of the renewal or validation of the license. A copy of each report shall be retained on the licensed premises for at least 2 years from the date of filing. Failure to file the reports will preclude the Board from renewing or validating the license in question. These reports are in addition to information or reports the licensed limited winery may be required to provide to the Department of Agriculture under 3 Pa.C.S. Chapter 45 (relating to Agricultural Commodities Marketing Act) and regulations promulgated thereunder, including 7 Pa. Code § 104.75 (relating to accounting and payment).

## CHAPTER 11. PURCHASES AND SALES

### Subchapter C. WINES

#### § 11.111. Sale by limited winery licensees.

(a) A limited winery licensee, licensed under § 3.62 (relating to creation), may sell wines and alcoholic ciders produced on the licensed premises in accordance with the Liquor Code and this part, under the conditions in this subsection.

(1) [There may be no sales for consumption on the licensed premises.] Sales may be made by the glass, bottle or any other open or closed container.

(2) Wine and alcoholic cider sold under a limited winery license may be shipped by transporter-for-hire or in a vehicle properly registered with the Board, as provided in Chapter 9, Subchapter A (relating to transportation of liquor, malt or brewed beverages or alcohol).

(3) [Wine sold and destined to points within this Commonwealth shall be in sealed original containers.] [Reserved.]

(4) [Sales may be made generally only between the hours of 9 a.m. and 9 p.m. Monday to Saturday, inclusive, and 10 a.m. to 6 p.m. on Sunday. During the period from the Thanksgiving Day holiday through New Year's Day, limited winery sales locations may remain open until 10 p.m. of sales day to conform with the closing times of neighboring mall or shopping district businesses. Additionally, a limited winery may request approval from the Board to extend sales hours in individual locations at other times during the year, or beyond the limits set in this section. The request shall be in writing, to the Board's Office of the Chief Counsel, and shall detail the exact locations where sales hours are proposed to be extended. The licensee shall also set forth the proposed hours and dates of extended operation, as well as the reason for, and justification of, the proposed extended sales hours.] A limited winery may sell wine and alcoholic ciders from 7:00 am until 2:00 am of the following morning, Mondays through Saturdays, and from 9:00 am until 2:00 am of the following morning on Sundays.

(5) While there may be no sales on credit, a limited winery may accept:

(i) From licensees and retail customers, checks drawn on their account, cash, money orders, cashier checks, debit cards and electronic funds transfers.

(ii) From retail customers, credit cards issued by banking or financial institutions subject to State or Federal regulations.

(6) Visitors [on the licensed premises] at the winery or at one of the additional Board-approved locations may be provided, with or without charge, [with] samples of wine and/or alcoholic cider produced by the limited winery[ for tasting and with crackers, nuts, cheese, bread sticks and bread cubes to be used in conjunction with tastings]. Samples may also be provided, with or without charge, at locations licensed under a farmer's market permit or under the special permit available for participation in alcoholic cider, wine and food expositions. Samples may not be provided at a limited winery's storage facilities since only the licensee and its employees may be present at those locations.

(7) Limited winery licensees engaged in the retail and wholesale sales of wine and/or alcoholic cider are responsible to conform to the Liquor Code and this title.

(8) In addition to the sale of wines and alcoholic ciders, the following items are permitted to be offered for sale on the licensed premises:

(i) [Pennsylvania-grown fruits and the following products produced from the fruits:] Food for on premises and off premises consumption.

- (A) [Juices] Non-alcoholic beverages
- (B) Juice concentrates.
- (C) [Jellies, jams and preserves.] [Reserved.]
- (ii) [Pennsylvania-grown mushrooms.] [Reserved.]
- (iii) Home winemaking equipment and supplies.
- (iv) Wine and alcoholic cider serving and storage accessories as follows:
  - (A) Cork removers.
  - (B) Wine and alcoholic cider glasses and decanters.
  - (C) Wine and alcoholic cider racks.
  - (D) Serving baskets and buckets.
  - (E) Bottle stoppers.
- (v) Publications dealing with wine and winemaking and alcoholic cider and cider making.
- (vi) [Cheese, crackers, breads, nuts and preserved meats for consumption off the premises] Wine- or liquor-scented candles acquired or produced by the limited winery.
- (vii) Gift packages consisting of any combination of the items listed in subparagraphs (i)—(vi).
- (viii) Promotional items advertising the limited winery such as tee shirts, glassware, caps and the like.
- (9) Sales on the licensed premises of merchandise not listed in paragraph (8) [is] are subject to Board approval. The approval shall be requested by letter addressed to the Board. A limited winery licensee will be advised of approved items through an appropriate means of dissemination.
- (10) Mail, internet or telephone orders may be accepted. Delivery of products shall be accomplished through the use of vehicles properly registered by the limited winery licensees or through properly licensed transporters. It is the responsibility of the limited winery licensee to insure that wine and alcoholic cider [is] are not delivered to minors and that proper invoices are maintained under § 5.103 (relating to limited wineries).
- (b) The employment of an agent by a limited winery is governed by § 3.63 (relating to agents).
- (c) Records, sales invoices and reports shall be kept as prescribed in § 5.103.

(d) The use of additional Board-approved locations by limited winery licensees is governed by § 3.64 (relating to additional Board-approved locations).



**Commonwealth of Pennsylvania**  
**Pennsylvania Liquor Control Board**  
September 2, 2015

**SUBJECT: Proposed Regulation Package 54-85**  
**Limited Wineries**

**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 proposed amendments to chapters 3, 5 and 11 of its regulations. Enclosed please find a copy of the regulatory analysis form, signed CDL-1 face sheet, preamble and Annex A (regulatory text).

These amendments are being delivered today to the legislative oversight committees and to the Legislative Reference Bureau. They have been approved by the Office of Attorney General as to form and legality.

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

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:** 54-85  
**SUBJECT:** Limited Wineries  
**AGENCY:** Liquor Control Board

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**TYPE OF REGULATION**

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

**FILING OF REGULATION**

| <u>DATE</u> | <u>SIGNATURE</u>        | <u>DESIGNATION</u>                           |
|-------------|-------------------------|--|
| 9/2/15      | <u>N. Thompson</u> (1)  | SENATE LAW & JUSTICE COMMITTEE<br>(Majority) |
| 11/2/15     | <u>[Signature]</u> (2)  | SENATE LAW & JUSTICE COMMITTEE<br>(Minority) |
| 9/2/15      | <u>[Signature]</u> (3)  | HOUSE LIQUOR CONTROL COMMITTEE<br>(Majority) |
| 9/2/15      | <u>Kira Zickler</u> (4) | HOUSE LIQUOR CONTROL COMMITTEE<br>(Minority) |
| 9/2/15      | <u>K. Cooper</u> (5)    | INDEPENDENT REGULATORY REVIEW COMMISSION     |
| 9/2/15      | <u>Couina Inant</u> (6) | LEGISLATIVE REFERENCE BUREAU                 |