

# Regulatory Analysis Form

(Completed by Promulgating Agency)

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

**INDEPENDENT REGULATORY  
REVIEW COMMISSION**

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(1) Agency  
Pennsylvania Liquor Control Board ("PLCB")

(2) Agency Number: 54  
Identification Number: 97

IRRC Number: 3175

(3) PA Code Cite: 40 Pa. Code, Chapter 7

(4) Short Title: Intermunicipal Transfer of Retail Licenses

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

Primary Contact: Meredith Millard, Assistant Counsel (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: Rodrigo Diaz, Chief Counsel  
Jason M. Worley, Deputy Chief Counsel  
(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)

This final-omitted rulemaking makes certain changes to the PLCB's Regulations concerning intermunicipal transfers of retail liquor and eating place retail dispenser licenses in order to be consistent with statutory amendments made by Act 155 of 2006. Specifically, sections 7.61(b)(4) and 7.62 of the PLCB's Regulations are being deleted, and section 7.61(a)-(b) is being amended, to coincide with the language currently found in section 461(b.3) of the Liquor Code, 47 P.S. § 4-461(b.3). A minor change is also being made to section 7.61(a)(2) to account for the fact that the PLCB no longer uses paper application forms.

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

The authority for this final-omitted rulemaking is found in 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.

This final-omitted rulemaking is not mandated by any federal or state law, court order or federal regulation. However, the final-omitted rulemaking is necessary to bring the PLCB's Regulations up to date with section 461(b.3) of the Liquor Code, 47 P.S. § 4-461(b.3), as amended by Act 155 of 2006.

(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.

This final-omitted rulemaking is necessary to bring the PLCB's Regulations up to date with section 461(b.3) of the Liquor Code, 47 P.S. § 4-461(b.3), as amended by Act 155 of 2006.

Act 155 of 2006 amended section 461(b.3) of the Liquor Code in several respects. Specifically, in the first sentence, it substituted "equal or exceed" for "exceed." It also rewrote the fourth and fifth sentences, which previously contained the following language: "The municipality must approve the request unless it finds that doing so would adversely affect the welfare, health, peace and morals of the municipality or its residents. A decision by the governing body of the municipality to deny the request may be appealed to the court of common pleas in the county in which the municipality is located." The fourth and fifth sentences now provide: "The municipality may approve the request. A decision by the governing body of the municipality to deny the request may not be appealed."

Through this final-omitted rulemaking, section 7.61(a)-(b) of the PLCB's Regulations is being amended to substitute "equal or exceed" for the current references to "exceed."

Section 7.61(b)(4) of the PLCB's Regulations is being deleted. That section currently provides as follows: "The receiving municipality shall approve the request unless it finds that doing so would adversely affect the welfare, health, peace and morals of the municipality or its residents." This is no longer the case.

Section 7.62 of the PLCB's Regulations is also being deleted. That section currently provides as follows: "If the receiving municipality refuses to grant approval for the intermunicipal transfer of the license, an applicant may appeal the decision to the court of common pleas in the county in which the proposed licensed premises is located. The appeal is from the decision of the municipality."

(Note: While section 461(b.3) of the Liquor Code now includes language that states "[a] decision by the governing body of the municipality to deny the request may not be appealed," the issue of whether there is a basis for appeal outside of the Liquor Code is currently being litigated in the courts. As such, this new language is not being added to the PLCB's Regulations at this time.)

Finally, section 7.61(a)(2) is being amended to account for the fact that the PLCB no longer uses paper application forms.

These changes are intended to provide guidance and clarity to the regulated community and future applicants regarding the criteria and process for applying for intermunicipal transfers of retail liquor and

eating place retail dispenser licenses.

The approximate number of people who will benefit from this final-omitted rulemaking is dependent upon how many applications for intermunicipal transfers are filed with the PLCB. The PLCB received approximately 97 applications for intermunicipal transfers of retail liquor and eating place retail dispenser licenses in calendar year 2016. It is anticipated that the PLCB will receive a similar number of requests this year and in future years.

(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.

This final-omitted rulemaking 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?

The retail sale of liquor is regulated by neighboring states in accordance with their unique and individual systems of alcoholic beverage control. Because of this, the regulatory change does not play a role in 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.

This final-omitted rulemaking will not affect any other existing or proposed regulations of the PLCB 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 PLCB was copied on a letter directed to the Independent Regulatory Review Commission ("IRRC") by the Malt Beverage Distributors Association ("MBDA"), in which MBDA asked IRRC to take certain steps to bring the PLCB's Regulations up to date with section 461(b.3) of the Liquor Code, 47 P.S. § 4-461(b.3), as amended by Act 155 of 2006. The PLCB did not solicit or receive any additional input from the regulated community in the development and drafting of the regulatory change.

(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?

Federal regulation (relating to small business size standards) provides the following measurements for determining whether a business may be considered a "small" business: a drinking place (alcoholic beverages) with annual receipts of less than \$7.5 million; a full-service restaurant with annual receipts of less than \$7.5 million; and a limited service restaurant with annual receipts of less than \$11 million. (13 C.F.R. § 121.201). Although some of the PLCB's licensees probably do not fall within the definition of small business, the majority of businesses licensed by the PLCB would likely be considered small

businesses.

Pursuing an intermunicipal transfer of a retail liquor or eating place retail dispenser license is completely voluntary. As such, only those applicants who wish to avail themselves of the process would be affected by the regulation. By way of example, the PLCB received approximately 97 applications for intermunicipal transfers of retail liquor or eating place retail dispenser licenses in calendar year 2016. It is anticipated that the PLCB will receive a similar number of requests this year and in future years. This final-omitted rulemaking provides guidance and clarity to the regulated community and future applicants regarding the criteria and process for applying for these intermunicipal transfers.

(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.

As indicated above, pursuing an intermunicipal transfer of a retail liquor or eating place retail dispenser license is completely voluntary. As such, only those applicants who wish to avail themselves of the process would be affected by the regulation. By way of example, the PLCB received approximately 97 applications for intermunicipal transfers of retail liquor or eating place retail dispenser licenses in calendar year 2016. It is anticipated that the PLCB will receive a similar number of requests this year and in future years.

(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 final-omitted rulemaking is not expected to have any financial, economic, or social impact on individuals, small businesses, businesses, labor communities, or other public and private organizations, since it is intended to simply make the PLCB's Regulations consistent with section 461(b.3) of the Liquor Code, 47 P.S. § 4-461(b.3), as amended by Act 155 of 2006. The expected benefit of this final-omitted rulemaking is to provide guidance and clarity to the regulated community as otherwise explained herein.

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

This final-omitted rulemaking provides guidance to applicants for intermunicipal transfers of retail liquor or eating place retail dispenser licenses and does not impose any additional costs upon the applicants. No adverse effects are expected to result from this final-omitted rulemaking, since it is intended to simply make the PLCB's Regulations consistent with section 461(b.3) of the Liquor Code, 47 P.S. § 4-461(b.3), as amended by Act 155 of 2006.

(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 PLCB does not anticipate any costs and/or savings to the regulated community since this final-omitted rulemaking is intended to simply make the PLCB's Regulations consistent with section 461(b.3) of the Liquor Code, 47 P.S. § 4-461(b.3), as amended by Act 155 of 2006. No legal, accounting or consulting procedures are required by this final-omitted rulemaking.

(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.

This final-omitted rulemaking is not expected to result in costs or savings to local governments, since it is intended to simply make the PLCB's Regulations consistent with section 461(b.3) of the Liquor Code, 47 P.S. § 4-461(b.3), as amended by Act 155 of 2006.

(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.

This final-omitted rulemaking is not expected to result in costs or savings to state government, since it is intended to simply make the PLCB's Regulations consistent with section 461(b.3) of the Liquor Code, 47 P.S. § 4-461(b.3), as amended by Act 155 of 2006.

(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.

This final-omitted rulemaking is not expected to involve any additional legal, accounting, consulting, reporting, recordkeeping or other paperwork requirements on the part of the regulated community, local governments, or state government, since it is intended to simply make the PLCB's Regulations consistent with section 461(b.3) of the Liquor Code, 47 P.S. § 4-461(b.3), as amended by Act 155 of 2006.

(22a) Are forms required for implementation of the regulation?

No new forms are required for implementation of this final-omitted rulemaking, since it is intended to simply make the PLCB's Regulations consistent with section 461(b.3) of the Liquor Code, 47 P.S. § 4-461(b.3), as amended by Act 155 of 2006.

(22b) If forms are required for implementation of the regulation, **attach copies of the forms here**. If your agency uses electronic forms, provide links to each form or a detailed description of the information required to be reported. **Failure to attach forms, provide links, or provide a detailed description of the information to be reported will constitute a faulty delivery of the regulation.**

N/A.

(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
<b>SAVINGS:</b>	\$0	\$0	\$0	\$0	\$0	\$0

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
<b>COSTS:</b>	\$0	\$0	\$0	\$0	\$0	\$0
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
<b>REVENUE LOSSES:</b>	\$0	\$0	\$0	\$0	\$0	\$0
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
	\$0	\$0	\$0	\$0

(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.

Federal regulation (relating to small business size standards) provides the following measurements for determining whether a business may be considered to be a "small" business: a full-service restaurant with annual receipts of less than \$7.5 million; a drinking place (alcoholic beverages) with annual receipts of less than \$7.5 million; hotels with annual receipts of less than \$32.5 million; supermarkets or other grocery stores (except convenience) with annual receipts of less than \$32.5 million; and convenience stores with annual receipts of less than \$29.5 million. (13 C.F.R. § 121.201).

Although some of the PLCB's licensees probably do not fall within the definition of small business, the majority of businesses licensed by the PLCB would likely be considered small businesses. As indicated above, pursuing an intermunicipal transfer of a retail liquor or eating place retail dispenser license is completely voluntary. As such, only those applicants who wish to avail themselves of the process would be affected by the regulation. By way of example, the PLCB received approximately 97 applications for intermunicipal transfers of retail liquor or eating place retail dispenser licenses in calendar year 2016. It is anticipated that the PLCB will

receive a similar number of requests this year and in future years.

- (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 PLCB does not anticipate any reporting, recordkeeping, or other administrative costs required for compliance with this final-omitted rulemaking, since it is intended to simply make the PLCB's Regulations consistent with section 461(b.3) of the Liquor Code, 47 P.S. § 4-461(b.3), as amended by Act 155 of 2006.

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

The PLCB does not anticipate that the final-omitted rulemaking will have any measurable impact on small businesses, since it is intended to simply make the PLCB's Regulations consistent with section 461(b.3) of the Liquor Code, 47 P.S. § 4-461(b.3), as amended by Act 155 of 2006.

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

The final-omitted rulemaking is intended to simply make the PLCB's Regulations consistent with section 461(b.3) of the Liquor Code, 47 P.S. § 4-461(b.3), as amended by Act 155 of 2006. As such, no other alternatives are available.

- (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 such special provisions have been developed because the final-omitted rulemaking is intended to simply make the PLCB's Regulations consistent with section 461(b.3) of the Liquor Code, 47 P.S. § 4-461(b.3), as amended by Act 155 of 2006.

- (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.

No other alternative regulatory provisions have been considered, since the final-omitted rulemaking is intended to simply make the PLCB's Regulations consistent with section 461(b.3) of the Liquor Code, 47 P.S. § 4-461(b.3), as amended by Act 155 of 2006.

- (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;

With regard to this final-omitted rulemaking, there are no compliance or reporting requirements for small businesses. The final-omitted rulemaking is intended to simply make the PLCB's Regulations consistent with section 461(b.3) of the Liquor Code, 47 P.S. § 4-461(b.3), as

amended by Act 155 of 2006.

- b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;

With regard to this final-omitted rulemaking, there are no new schedules or deadlines for compliance or reporting requirements for small businesses. The final-omitted rulemaking is intended to simply make the PLCB's Regulations consistent with section 461(b.3) of the Liquor Code, 47 P.S. § 4-461(b.3), as amended by Act 155 of 2006.

- c) The consolidation or simplification of compliance or reporting requirements for small businesses;

With regard to this final-omitted rulemaking, there are no compliance or reporting requirements for small businesses. The final-omitted rulemaking is intended to simply make the PLCB's Regulations consistent with section 461(b.3) of the Liquor Code, 47 P.S. § 4-461(b.3), as amended by Act 155 of 2006.

- d) The establishment of performance standards for small businesses to replace design or operational standards required in the regulation; and

The final-omitted rulemaking does not establish any performing, design, or operational standards. The final-omitted rulemaking is intended to simply make the PLCB's Regulations consistent with section 461(b.3) of the Liquor Code, 47 P.S. § 4-461(b.3), as amended by Act 155 of 2006.

- e) The exemption of small businesses from all or any part of the requirements contained in the regulation.

There are no requirements contained in the final-omitted regulation that would pertain to a small business unless it applies for an intermunicipal transfer of a retail liquor or eating place retail dispenser license. There are no exemptions for small businesses under this chapter. The final-omitted rulemaking is intended to simply make the PLCB's Regulations consistent with section 461(b.3) of the Liquor Code, 47 P.S. § 4-461(b.3), as amended by Act 155 of 2006.

(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 PLCB has not relied on data to justify this final-omitted rulemaking. The final-omitted rulemaking is intended to simply make the PLCB's Regulations consistent with section 461(b.3) of the Liquor Code, 47 P.S. § 4-461(b.3), as amended by Act 155 of 2006.

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



- |                                                                                               |                         |
|-----------------------------------------------------------------------------------------------|-------------------------|
| A. The length of the public comment period:                                                   | <u>N/A</u>              |
| B. The date or dates on which any public meetings or hearings will be held:                   | <u>August 24, 2017</u>  |
| C. The expected date of delivery of the final-form regulation:                                | <u>June 29, 2017</u>    |
| D. The expected effective date of the final-form regulation:                                  | <u>upon publication</u> |
| E. The expected date by which compliance with the final-form regulation will be required:     | <u>upon publication</u> |
| F. The expected 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.

The final-omitted rulemaking is intended to simply make the PLCB's Regulations consistent with section 461(b.3) of the Liquor Code, 47 P.S. § 4-461(b.3), as amended by Act 155 of 2006. The PLCB will continue to review this regulation, as well as others, in the future to determine whether additional changes are required.

FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU  
(Pursuant to Commonwealth Documents Law)

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<p>Copy below is hereby approved as to form and legality.</p> <p>Attorney General:</p> <p>BY: _____ (DEPUTY ATTORNEY GENERAL)</p> <p>_____ DATE OF APPROVAL</p> <p><input type="checkbox"/> Check if applicable Copy not approved. Objections attached.</p>	<p>Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:</p> <p><u>Pennsylvania Liquor Control Board</u> (AGENCY)</p> <p>DOCUMENT/FISCAL NOTE NO. 54-97</p> <p>DATE OF ADOPTION: <u>June 28, 2017</u></p> <p>BY: <u>Tina Holders</u></p> <p>TITLE: <u>Chairman</u> (Executive Officer, Chairman or Secretary)</p>	<p>Copy below is hereby approved as to form and legality. Executive or Independent Agencies:</p> <p>BY: <u>[Signature]</u> Chief Counsel</p> <p><u>June 28, 2017</u> DATE OF APPROVAL</p> <p><input type="checkbox"/> Check if applicable. No Attorney General approval or objection within 30 days after submission.</p>
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TITLE 40—LIQUOR

PART I. LIQUOR CONTROL BOARD

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

Subchapter F. INTERMUNICIPAL TRANSFER OF RETAIL LICENSES

## **FINAL-OMITTED RULEMAKING**

### **LIQUOR CONTROL BOARD**

#### **40 PA. CODE CHAPTER 7**

#### **INTERMUNICIPAL TRANSFER OF RETAIL LICENSES**

The Liquor Control Board (“PLCB” or “Board”), under the authority of section 207(i) of the Liquor Code (47 P.S. § 2-207(i)), amends Chapter 7.

#### *Summary*

This final-omitted rulemaking makes certain changes to the PLCB’s Regulations concerning intermunicipal transfers of retail liquor and eating place retail dispenser licenses in order to be consistent with statutory amendments made by Act 155 of 2006. Specifically, sections 7.61(b)(4) and 7.62 of the PLCB’s Regulations are being deleted, and section 7.61(a)-(b) is being amended, to coincide with the language currently found in section 461(b.3) of the Liquor Code, 47 P.S. § 4-461(b.3). A minor change is also being made to section 7.61(a)(2) to account for the fact that the PLCB no longer uses paper application forms.

#### *Affected Parties*

The affected parties include all future applicants for intermunicipal transfers of retail liquor and eating place retail dispenser licenses, as well as the receiving municipalities.

#### *Paperwork Requirements*

The PLCB 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 fiscal impact, since it is intended to simply make the PLCB’s Regulations consistent with section 461(b.3) of the Liquor Code, 47 P.S. § 4-461(b.3), as amended by Act 155 of 2006.

### *Effective Date*

This regulatory change will become effective upon publication in final form in the Pennsylvania Bulletin.

### *Public Comments*

Since this rulemaking is being submitted on a final-omitted basis, there will be no formal opportunity for public comments. However, public comments on this rulemaking are certainly welcome.

Public comments may be directed to Rodrigo Diaz, Chief Counsel, Jason M. Worley, Deputy Chief Counsel, or Meredith Millard, Assistant Counsel, Office of Chief Counsel, Pennsylvania Liquor Control Board, Room 401, Northwest Office Building, Harrisburg, PA 17124-0001.

### *Regulatory Review*

Under section 5a(c) of the Regulatory Review Act, (71 P.S. § 745.5a(c)), the Board submitted a copy of these final-omitted regulations and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC), the Chairpersons of the House and Senate Committees, and the Office of Attorney General on \_\_\_\_\_, 2017. A copy of this material is available to the public upon request.

Under section 5a(j.2) of the Regulatory Review Act, on \_\_\_\_\_, 2017, these final-omitted regulations were (deemed) approved by the House and Senate Committees. Under section 5a(e) of the Regulatory Review Act, IRRC met on \_\_\_\_\_, 2017, and approved the final-omitted regulations.

Tim Holden  
Chairman

ANNEX A

TITLE 40. LIQUOR

Part I. LIQUOR CONTROL BOARD

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

SUBCHAPTER F. INTERMUNICIPAL TRANSFER OF RETAIL  
LICENSES

Sec.

7.61. Criteria for intermunicipal transfer of retail licenses.

7.62. [ Refusal of an intermunicipal transfer by receiving municipality. ]  
(Reserved).

7.63. Municipal standing before the Board.

7.64. Appeal of Board decision.

7.65. Subsequent transfers.

§ 7.61. Criteria for intermunicipal transfer of retail licenses.

(a) Restaurant, eating place retail dispenser and club licenses may be transferred from one municipality to another municipality within the same county, without approval from the receiving municipality, if both of the following apply:

(1) The number of existing licenses in the receiving municipality does not equal or exceed one license per 3,000 inhabitants as determined at the date of filing of the application.

(2) The applicant submits the appropriate license application [ forms ] and associated fees to the Bureau of Licensing.

(b) If the number of existing licenses in the receiving municipality equals or exceeds one license per 3,000 inhabitants or if the population of the receiving municipality is less than 3,000 inhabitants and the receiving municipality has an existing license:

(1) The applicant shall request approval from the receiving municipality for the intermunicipal transfer of the license.

(2) Upon request for approval of an intermunicipal transfer of a license by the applicant, at least one public hearing shall be held by the receiving municipality for the purpose of receiving comments and recommendations of interested individuals residing within the municipality concerning the applicant's intent to transfer the license into the municipality.

(3) The receiving municipality shall, within 45 days of a request for approval, render a decision by ordinance or resolution to approve or disapprove the applicant's request for an intermunicipal transfer.

**[ (4) The receiving municipality shall approve the request unless it finds that doing so would adversely affect the welfare, health, peace and morals of the municipality or its residents. ]**

**[ (5) ] (4)** The applicant shall submit to the Board, along with its application for transfer, a copy of the receiving municipality's approval of the intermunicipal transfer of the license in the form of an ordinance or resolution which includes the applicant's name and exact address.

**§ 7.62. [Refusal of an intermunicipal transfer by receiving municipality.]**  
**(Reserved).**

**[ If the receiving municipality refuses to grant approval for the intermunicipal transfer of the license, an applicant may appeal the decision to the court of common pleas in the county in which the proposed licensed premises is located. The appeal is from the decision of the municipality. ]**

**§ 7.63. Municipal standing before the Board.**

(a) The receiving municipality may file a protest against the approval of an intermunicipal transfer of a license into its municipality and such municipality shall have standing in a hearing to present testimony in support of or against the transfer of a license.

(b) If the Board receives a protest from the receiving municipality, the Board may refuse an application for an intermunicipal transfer of a license.

(c) A protest must be filed within the time allowed by § 17.13 (relating to protests/intervention procedure).

**§ 7.64. Appeal of Board decision.**

(a) The receiving municipality may file an appeal of the Board decision granting the license, within 20 days of the date of the Board's decision, to the court of common pleas in the county in which the proposed licensed premises is located.

(b) The applicant may file an appeal of the Board's decision denying the license, within 20 days of the date of the Board's decision, to the court of common pleas in the county in which the proposed licensed premises is located.

**§ 7.65. Subsequent transfers.**

Licenses transferred from one municipality to another may not be transferred out of the receiving municipality for 5 years from the date of operation in the receiving municipality.



Commonwealth of Pennsylvania  
Pennsylvania Liquor Control Board  
June 29, 2017

**SUBJECT: Final-Omitted Regulation Package 54-97  
Intermunicipal Transfer of Retail Licenses**

**TO: DAVID SUMNER, EXECUTIVE DIRECTOR  
INDEPENDENT REGULATORY REVIEW COMMISSION**

**FROM: RODRIGO J. DIAZ**   
CHIEF COUNSEL  
PENNSYLVANIA LIQUOR CONTROL BOARD

**By Hand Delivery**

Pursuant to the Regulatory Review Act, 71 P.S. § 745.5a, please find enclosed a copy of a final-omitted regulation package concerning proposed amendments to chapter 7 of the Pennsylvania Liquor Control Board's ("PLCB") Regulations.

The proposed regulatory changes are needed to bring the PLCB's Regulations concerning intermunicipal transfers of retail liquor and eating place retail dispenser licenses up to date with section 461(b.3) of the Liquor Code, 47 P.S. § 4-461(b.3), as amended by Act 155 of 2006. The changes involve the deletion and amendment of certain provisions found in the PLCB's Regulations that previously mirrored language found in section 461(b.3) of the Liquor Code, but which were not modified when that section was amended by Act 155 of 2006.

In accordance with the Regulatory Review Act, 71 P.S. § 745.5a, and the Commonwealth Attorneys Act, 71 P.S. § 732-204(b), this regulation package is also being delivered simultaneously today to the Senate Law & Justice Committee, the House Liquor Control Committee, and the Office of Attorney General.

If approved, the regulatory amendments will become effective upon publication by the Legislative Reference Bureau in the *Pennsylvania Bulletin*.

Should you have any questions or comments about this regulatory submission, please feel free to contact my office by mail at Pennsylvania Liquor Control Board,



June 29, 2017

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Office of Chief Counsel, Room 401, Northwest Office Building, Harrisburg, PA 17124, or by telephone at (717) 783-9454. If I am not available, you can discuss this matter with Jason Worley, Deputy Chief Counsel, or Meredith Millard, Assistant Counsel.

cc with enclosures:

Honorable Charles McIlhinney, Majority Chairman, Senate Law and Justice Committee

Honorable James Brewster, Minority Chairman, Senate Law and Justice Committee

Honorable C. Adam Harris, Majority Chairman, House Liquor Control Committee

Honorable Paul Costa, Minority Chairman, House Liquor Control Committee

Gail Reinard, Executive Director, Senate Law and Justice Committee

Stephen Bruder, 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:** 54-97  
**SUBJECT:** Intermunicipal Transfer of Retail Licenses  
**AGENCY:** Pennsylvania Liquor Control Board

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**TYPE OF REGULATION**

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

**FILING OF REGULATION**

<u>DATE</u>	<u>SIGNATURE</u>	<u>DESIGNATION</u>
6/29	<u>Keith Davis</u> (1)	SENATE LAW & JUSTICE COMMITTEE (Majority)
6/29	<u>Ronnie Gaddis</u> (2)	SENATE LAW & JUSTICE COMMITTEE (Minority)
6/29/17	<u>Devin Ceph</u> (3)	HOUSE LIQUOR CONTROL COMMITTEE (Majority)
6/29/17	<u>Kira Zickler</u> (4)	HOUSE LIQUOR CONTROL COMMITTEE (Minority)
6-29-17	<u>Debra Brown</u> (5)	LEGISLATIVE REFERENCE BUREAU
6-29-17	<u>J Cooper</u> (6)	INDEPENDENT REGULATORY REVIEW COMMISSION