

JOHN A. LAWRENCE
STATE REPRESENTATIVE
13TH LEGISLATIVE DISTRICT



HOUSE OF REPRESENTATIVES
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

RECEIVED
Apr 05 2021
HARRISBURG OFFICE
P.O. BOX 2013
HARRISBURG, PA 17103
Independent Regulatory
Review Commission
(717) 260-6117

JENNERVILLE OFFICE:
1 COMMERCE BLVD., SUITE 200
WEST GROVE, PA 19390
(610) 869-1602

Independent Regulatory Review Commission
George Bedwick, Chairman
333 Market Street, 14th Floor
Harrisburg, PA 17101

April 5, 2021

Re: Proposed Regulation IRRC #3224

Dear Chairman Bedwick –

I trust all is well.

The Independent Regulatory Review Commission is scheduled to meet on April 15, 2021 to consider several regulations. Among those slated for action is regulation #54-93 (IRRC #3224,) regarding the Pennsylvania Liquor Control Board (LCB) proposal concerning recycling liquor bottles.

I previously outlined my concerns regarding this proposed rulemaking in a letter to the IRRC dated March 22, 2019. I continue to have concerns about the proposed rulemaking. I will not restate all of the points outlined in my previous letter, but a copy is included for your reference. The LCB downplayed or ignored many of my concerns and suggestions.

The Regulatory Analysis Form (RAF) submitted to your agency by the LCB is deficient. As outlined below, the LCB failed to adequately address several questions in the RAF. The IRRC should reject the proposed regulation and ask the LCB to reconsider the reasonable alternative proposal outlined in my previous correspondence.

**FAILURE OF THE LCB TO PROPERLY COMPLETE THE REGULATORY ANALYSIS FORM
SUBMITTED BY THE LCB AND RECEIVED BY THE IRRC ON FEBRUARY 25, 2021**

The LCB must complete a RAF for the proposed rulemaking. Unfortunately, the LCB's submission is incomplete and misleading.

REVIEW OF QUESTION 17

Question 17 appears on page 4 of the LCB's RAF submission. The question requires the LCB to identify both the "financial, economic, and social impact of the regulation...[and] the benefits expected as a result of the regulation."

The LCB's answer addresses the second clause (the expected benefits,) but fails to consider the "financial, economic, and social impact of the regulation" on licensees.

As outlined in my previous letter, a licensee who is currently recycling may decide to cease recycling due to the proposed regulation. This is a clear social impact ignored by the LCB in their response to question 17.

In addition, a licensee who is dutifully recycling liquor bottles may nonetheless be fined by LCE for failure to comply with the proposed "proof in writing" requirements. Something as small as a year-old missing receipt could result in a fine. This is a clear financial impact ignored by the LCB in their response to question 17.

REVIEW OF QUESTION 18

Question 18 appears on page 4 of the LCB's submission. The LCB is to "explain how the benefits of the regulation outweigh any cost of adverse effects."

The LCB states that "under the Liquor Code, participation in a recycling program is voluntary." While technically correct, the clear insinuation is that all licensees have discretion over whether or not to recycle. This is not the case. Many, if not most, licensees in the Commonwealth are required to participate in a recycling program, albeit by other statutes and regulations.

More importantly, the LCB fails to address how the benefits purport to outweigh any cost or adverse effects. The costs of recordkeeping to comply with this new regulation are not mentioned, other than the nebulous and unproven assertion that such costs are minimal. The cost of paying a fine, even if the licensee is dutifully recycling, is not considered. The societal cost that comes with discouraging licensees from recycling is not mentioned. In fact, the LCB failed to mention any potential cost or adverse effect at all.

REVIEW OF QUESTION 19

Question 19 appears on pages 4 and 5 of the LCB's submission. The LCB is to provide a specific estimate of the costs and/or savings to liquor licensees resulting from this proposal.

The LCB fails to provide any specifics. At a minimum, the LCB should provide a specific estimate of the fine a licensee would pay if the licensee is found to be out of compliance with the regulation.

REVIEW OF QUESTION 24(d)

Question 24(d) appears on pages 7 and 8 of the LCB's submission. The question asks the LCB to describe "less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation."

The LCB fails to acknowledge any less intrusive or less costly method, despite the fact that I offered such a method. At a minimum, the LCB should have acknowledged this in their response to question 24(d).

REVIEW OF QUESTION 26

Question 26 appears on page 8 of the LCB's submission. The question states:

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

The LCB replied:

The Board considered the suggestion of Representative John Lawrence, who suggested that putting a sign in the window would constitute sufficient proof of participation in a recycling program. The Board declined to accept this suggestion. The Board also considered the comments submitted by the Pennsylvania Restaurant and Lodging Association. However, those comments did not offer workable alternatives and primarily focused on eliminating the statutory requirements, which is something the Board cannot do.

The LCB's response to question 26 is undeniably deficient on three points. First, the question clearly requires the LCB to include "a statement that the least burdensome acceptable alternative has been selected." The LCB failed to include this statement.

Second, as I detailed in great length in my letter dated March 22, 2019, my proposed alternative is undoubtedly "less burdensome" – both for licensees and LCB enforcement officers. The LCB failed to outline any reason to reject the proposed "less burdensome" alternative.

Third, I never suggested a licensee should put "a sign in the window." I suggested that a placard could be displayed inside the licensed premise next to the licensee's liquor license. A license is an important document, and public display is required both for liquor licensees and many other

professional licensees in the Commonwealth. Setting a similar standard to establish proof of licensure and proof of recycling is a reasonable, common sense solution.

The LCB failed to include a statement that the least burdensome acceptable alternative had been selected, In addition, the LCB failed to select a less burdensome acceptable alternative presented to them. The LCB also misrepresented my suggested alternative. While the last point might be an oversight, the first two omissions are more serious to the legitimacy of the LCB's response to question 26.

RESPONSE TO CERTAIN CLAIMS BY THE LIQUOR CONTROL BOARD

In a letter to me dated November 6, 2019, the LCB laid out their best arguments against my less burdensome alternate proposal outlined in my letter dated March 22, 2019. As a point of reference, my proposal obviated the need for recordkeeping, instead ensuring compliance with a simple placard posted next to a licensee's liquor license. A side benefit of my proposal is that it lessens the risks associated with the LCB's proposal, including the risk that licensees would stop recycling.

The LCB makes a baseless claim that my suggestion is hampered by, of all things, the Cambridge Dictionary. Quoting the definition of "proof" from the dictionary, the LCB attempts to discredit my suggestion that "proof in writing" could be achieved by a displaying a placard.

I do not mean to diminish the bright minds at one of Great Britain's leading educational institutions. However, the Cambridge Dictionary is not referenced in the Liquor Code, or anywhere else in the laws and regulations of this Commonwealth. Respectfully, it makes no difference what the Cambridge Dictionary says, it matters what the IRRC, LCB, and participating stakeholders establish through the rulemaking process in accordance with the Liquor Code.

Common terms including "alcohol," "case," "club," "container," "distillery," "distributor," "golf course," "growler," "hotel," "liquor," "mead," "whiskey," "wine," "winery," and "zoo" are all defined in the Cambridge Dictionary. But in the context of Pennsylvania liquor laws, it doesn't make the slightest difference what the Cambridge Dictionary says these words mean – the governing authority is the definition of these terms according to Pennsylvania law.

The Liquor Code states that "proof of participation shall be provided **in a manner as prescribed by the Pennsylvania Liquor Control Board.**" The Board may prescribe any manner it reasonably chooses. Perhaps the LCB could draft a new proposal referencing the Cambridge Dictionary for the IRRC's consideration. But the proposal in front of the IRRC today makes no mention of Cambridge or any other university's dictionary.

The LCB's assertion that displaying a placard is somehow insufficient to provide "proof" that a liquor licensee is recycling is truly puzzling. As previously noted, liquor licensees must display their liquor license in a conspicuous and public location within the licensed premise. The obvious reason for such a requirement is to provide proof that the establishment is properly licensed.

I might add that the LCB's proposal does not ensure licensees are actually recycling any more or less than my proposal.

CONCLUSION

While the Board's authority to order this new rulemaking cannot be questioned, it is undeniable that the Board's proposal is more burdensome and more difficult to enforce than my proposed alternative. The easier-to-enforce and easier-to-comply-with proposed alternative will have the same (or better) results as the more complex proposal put forward by the Board.

In addition, the LCB's Regulatory Analysis Form fails to properly address several key components of the proposed rulemaking. One of the most important considerations, a less burdensome alternative, was glossed-over or simply ignored. To be clear, the Board can reject my proposal. However, RAF questions 24(d) and 26 require less burdensome alternatives to be addressed. As noted above, the LCB's submission is deficient in this regard. It seems to me that the LCB cannot summarily dismiss my (less burdensome) alternative simply because they don't like it.

Put another way, the LCB cannot dismiss my (less burdensome) alternative without cause. When given the opportunity to present a cause in the RAF, the LCB failed to do so.

With this in mind, the IRRC should reject the proposed rulemaking, with a referral back to the LCB asking for proper consideration of the lower-cost, less burdensome alternative presented in my letter dated March 22, 2019.

Thank you for the opportunity to comment on this matter, and please do not hesitate to contact me with any questions or concerns.

Kind Regards –



John Lawrence
State Representative
Commonwealth of Pennsylvania

JOHN A. LAWRENCE
STATE REPRESENTATIVE
13TH LEGISLATIVE DISTRICT

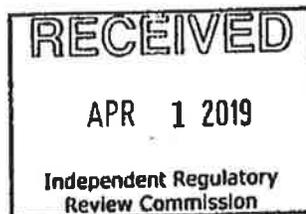


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HARRISBURG OFFICE:
P.O. BOX 202013
HARRISBURG, PA 17120
(717) 260-6117

JENNERVILLE OFFICE:
1 COMMERCE BLVD., SUITE 200
WEST GROVE, PA 19390
(610) 869 1602

Independent Regulatory Review Commission
George D. Bedwick, Chairman
333 Market St, 14th Floor
Harrisburg, PA 17101



March 22, 2019

Re: Proposed Regulation IRRC #3224, Establishing what constitutes "proof in writing" relating to participation in a recycling program.

Dear Chairman Bedwick –

I trust all is well.

The Pennsylvania Liquor Control Board (LCB) recently proposed new rulemaking concerning written proof of participation in a recycling program as required under Act 77 of 1994. I have concerns about the proposed rulemaking. This comment outlines those concerns and proposes an easy-to-enforce alternative proposal that meets the legislative intent of Act 77, without placing an undue burden on liquor licensees.

AUTHORIZING STATUTE FOR THE PROPOSED RULEMAKING

Prior to delving into the proposed rulemaking, it is useful to review the authorizing statute. Section 491 of the Liquor Code deals with "Unlawful Acts Relative to Liquor, Alcohol, and Liquor Licenses." Fifteen subsections address a variety of specific situations contemplated by the legislature. Of interest, section 491(5) deals with the Failure to Properly Dispose of Empty Liquor Containers.

Prior to Act 77 of 1994, the liquor code required licensees to break empty liquor bottles unless the bottles were decorative in nature. Section 491(5) does not give any reason for the requirement to break empty liquor bottles, which would seem to leave the legislative intent for this requirement a mystery and perhaps open for broad interpretation. However, the reason (and legislative intent) for this requirement becomes clear upon reading section 491(10), which details the reason the legislature was so concerned about empty liquor bottles. Section 491(10) specifically prohibits:

"any licensee or any employe [sic] or agent of a licensee or of the board, to fortify, adulterate or contaminate any liquor, except as permitted by the regulations of the board, or to refill wholly or in part, with any liquid or substance whatsoever, any liquor bottle or other liquor container.
(emphasis added)

Clearly lawmakers were concerned that unscrupulous bartenders would refill empty liquor bottles. In addition to the obvious sanitary issues with refilling non-sterilized glass or plastic bottles, it is likely the aforementioned unscrupulous bartender would refill the empty container with an inferior product. Of course, this would allow the licensee to pass-off the cheap booze as a higher-grade, and higher-priced, drink to the unsuspecting and perhaps slightly intoxicated consumer.

Act 77 of 1994 implemented several changes to the Liquor Code, one of many omnibus bills to revise the code over the years. Of interest, the bill that became Act 77 was amended in the Senate Law and Justice Committee and reported to the full Senate, then referred back to committee, back to the Senate floor, back to committee, and back to the Senate floor, with amendments made during each visit to the Law and Justice Committee. The language amending section 491(5), and of interest to IRRC #3224, was inserted on the second of the three re-referrals. As enacted, Act 77 amended the law as follows:

(5) Failure to Properly Dispose of Empty Liquor Containers.

For any restaurant, hotel or club licensee, his servants, agents or employes, [sic] to fail to break any package in which liquors were contained, except those decanter packages that the board determines to be decorative, within twenty-four hours after the original contents were removed therefrom, unless the licensee participates in either a municipal recycling program, in accordance with the act of July 28, 1988 (P.L.556, No.101), known as the "Municipal Waste Planning, Recycling and Waste Reduction Act," or a voluntary recycling program. The licensee shall provide proof in writing of the participation in a recycling program upon the demand of the Bureau of Liquor Control Enforcement of the Pennsylvania State Police. The proof of participation shall be provided in a manner as prescribed by the Pennsylvania Liquor Control Board [emphasis on language added by Act 77.]

This amendment provides a wealth of interesting information and clear legislative intent. First, the General Assembly is still concerned about the potential misuse of empty liquor bottles. If this concern had subsided, Act 77 of 1994 presented a golden opportunity for the General Assembly to do away with the provision to break empty liquor bottles, but it did not. In fact, the bottle-breaking requirement remains "unless" the licensee is recycling the bottles. For good measure, the General Assembly proscribed that the "licensee shall provide proof in writing" "upon...demand" concerning

participation in a recycling program. Finally, the General Assembly gave the LCB broad latitude to determine what exactly would constitute a licensee's "proof of participation" in a recycling program.

The proposed regulation before the IRRC seeks to put some parameters around what exactly should be required to provide "proof of participation." While the proposed regulation is well-intentioned, I believe it should be rejected by the IRRC. I have proposed an alternate rulemaking for consideration.

PROPOSED RULEMAKING BY THE LCB

The LCB rulemaking proposes the addition of section 5.43 to the newly renamed "Maintenance of the Licensed Premises" subchapter. Subsection (a) is merely a reference to the underlying section of the liquor code, and does not contain any new guidance. Subsection (b) requires a licensee to deface the label of a liquor package (bottle) prior to recycling with a permanent marker to (hopefully) prevent someone from refilling the bottle.

Subsection (c) has the most substance in the proposed rulemaking. This section requires a licensee intending to recycle liquor bottles to complete several new administrative tasks. A licensee must possess written proof that their county recycles the type of material the licensee proposes to recycle. A licensee who participates in curbside recycling must retain copies of a receipt or invoice from the trash hauler that picks up their recycling. A licensee that voluntarily transports used liquor bottles to a drop-off location must track "what was delivered to the drop off location and when" on a "simple form" developed by the LCB, in addition to keeping a written copy of two out of seven different proposed recycling documents. All documents must be retained for two years.

There are several flaws with the proposed rulemaking, both for licensees voluntarily participating in a recycling program, and licensees residing in an area with curb-side recycling.

IMPACT OF THE LCB PROPOSAL ON LICENSEES PARTICIPATING IN A VOLUNTARY RECYCLING PROGRAM

Suppose a licensee currently recycles glass liquor bottles on a voluntary basis. The proposed rulemaking may actually result in licensees halting their existing recycling program, and instead disposing of empty liquor bottles in the trash. If the proposed rulemaking is finalized, the licensee may determine that keeping track of two years worth of "simple forms" denoting "what was delivered to the drop off location and when" is simply not worth the hassle, or the potential fine if the LCB determines the recordkeeping is inadequate. For this licensee, the simpler and less risky solution is to simply break the bottles and throw them in the trash.

Common sense and legislative intent both commend the societal good that comes from recycling. Indeed, since the underlying statute was enacted, recycling has only increased in popularity. While

certainly challenges have developed in recent years, particularly with the ebbing demand for recyclable waste from emerging markets like China, recycling remains both the law of the state and popular with its citizens.

It could not be the legislative intent of the General Assembly to discourage licensees from recycling – an outcome that is clearly unreasonable on its face. Section 1922 of the Statutory Construction Act states:

In ascertaining the intention of the General Assembly in the enactment of a statute, the following presumption... may be used: (1) That the General Assembly does not intend a result that is absurd, impossible of execution, or unreasonable. (emphasis added)

A counterargument might be made that the General Assembly viewed the threat posed by the potential misuse of empty liquor bottles to be significant, and that the legislative intent of section 491(5) is, in fact, that it would be preferable to see licensees destroy glass or plastic liquor bottles and send them to the landfill if they can not or will not comply with the “proof of participation” written recycling standard established by the LCB. Such an argument might encourage a robust threshold for any proposed “proof of participation,” perhaps with the recordkeeping envisioned by the proposed LCB rulemaking.

However, the fact that the General Assembly saw fit to establish, in statute, a full 24 hours for the destruction of an empty liquor bottle shows that the risk posed is not immediate, significant, or substantial. Legislative intent, common sense, and hundreds of years of practical experience dictate that the substance contained in the liquor bottle is more dangerous, and carries more risk, than the bottle itself. The legislature clearly viewed the societal good of recycling to outweigh the risks posed by empty liquor bottles. If this were not the case, then it is hard to see how the legislature would have granted the exception to the bottle-breaking rule for any reason. Certainly there are many other objects made of materials that are easily recycled, but carry a risk too great to allow for recycling (for example, medical waste.)

As a result, it stands to reason that the “proof in writing” as determined by the board should be accomplished in a manner that will not, in any way, *discourage* recycling. There are certainly methods the board could employ that would satisfy the legislature’s demand for written proof that impose less of a burden on licensees and encourage maximum participation in recycling initiatives.

IMPACT OF THE LCB PROPOSAL ON LICENSEES PARTICIPATING IN A MUNICIPAL RECYCLING PROGRAM

Another flaw to the proposed rulemaking concerns licensees who reside in an area with mandatory curbside recycling. To take a step back, let us assume that there are two types of licensees in areas

required to participate in a municipal recycling program: Those licensees who obey the law and regularly recycle, and those who do not.

The licensee who obeys the law and regularly recycles is going to do so whether the LCB adopts the proposed rulemaking or not. However, the proposed rulemaking with the requirement to track trash invoices and keep various data concerning recycling on hand will create additional paperwork and regulatory headaches for the licensee. A licensee may even be fined for not conforming to the letter of the proposed rulemaking. It would be certainly be preferable if the "proof in writing" required by the clear legislative intent of Act 77 of 1994 could be accomplished in a manner that would be easier for the licensee to implement, while achieving a similar result.

Let us now consider the licensee who chooses not to follow the law to participate in mandatory recycling where required. The proposed written proofs will change...nothing. A licensee could be in compliance with the new requirements under section 5.43, and still fail to recycle anything at all. Such a licensee could deface their bottles, keep a brochure on recycling somewhere on the premises, and keep their trash invoices. Upon inspection, licensees could produce the brochure and invoices to meet the "proof of participation" standard, but again, this has nothing to do with actually recycling anything.

It is reasonable that the board would promulgate the "proof in writing" and "proof of participation" requirement in a way that would assume all licensees in affected jurisdictions are following Act 101 and responsibly participating in a municipal recycling program. However, it could be argued that the board's proposed regulations will do absolutely nothing to change the reality on the ground concerning recycling for licensees located in a municipality subject to mandatory recycling. Licensees flouting Act 101 will continue to do so, and will be able to comply with the new regulations by keeping trash invoices on hand and a brochure on recycling. Law-abiding licensees will continue to follow the requirements of Act 101, but now will be required to keep track of two years worth of trash invoices and keep recycling brochures on hand.

CONCLUSION REGARDING LCB PROPOSED RULEMAKING

It is entirely reasonable to think that, under the board's proposed regulation, a licensee voluntarily recycling may cease to recycle simply to avoid the potential fines and regulatory actions associated with the proposed rulemaking. It is also entirely reasonable to think that a licensee subject to a mandatory recycling program that is faithfully recycling could nevertheless be cited and fined for a newly established Act 77 violation, and that a licensee who is not recycling might comply with the newly established Act 77 regulation upon inspection.

I suggest a better outcome could be achieved that still meets the clear legislative intent established in Act 77. The proposed alternative is much simpler and less burdensome for licensees than the

multiple requirements outlined in the proposed rulemaking, while removing several of the negative outcomes previously contemplated.

PROPOSED ALTERNATIVE

The General Assembly’s legislative intent for some sort of written statement concerning a licensee’s participation in a recycling program is obvious. The LCB clearly has the authority to develop this proposed rulemaking in any way the board determines. Again, as stated in section 491:

The proof of participation shall be provided in a manner as prescribed by the Pennsylvania Liquor Control Board.

The General Assembly has given complete discretion to the LCB on determining compliance with the proof-of-participation-in-writing requirement. However, the LCB proposed rulemaking, while certainly creating new rules and written requirements, does not meaningfully accomplish anything other than a great deal of new paperwork for licensees.

As an alternative, I propose the “proof in writing” and “proof of participation” requirement could be satisfied by simply requiring a licensee who participates in a recycling program to display a clearly posted placard (sign) in the licensed premises, perhaps next to the establishment’s liquor license, that states:

“This establishment participates in a municipal recycling program”

Or

“This establishment participates in a voluntary recycling program”

	LCB Proposed Section 491(5)	Proposed Alternative
IRRC #3224		
Satisfies legislative requirement for written proof?	Yes	Yes
Ensures licensee is actually recycling?	No	No
May result in licensees suspending existing recycling efforts?	Yes	No
Adds burdensome recordkeeping requirement for licensees?	Yes	No

The proposed alternative meets the requirements established by the clear legislative intent of the General Assembly, and will result in a better outcome than the proposed rulemaking put forth by the LCB. The proposed alternative has at least two distinct benefits – its simplicity will ensure licensees participating in a voluntary recycling program will continue to do so, and it requires significantly less recordkeeping for all licensees.

The proposed alternative also benefits from simplicity in enforcement for both the board and the licensee. The board's proposed rulemaking is subject to endless confusion and interpretation – Does that printout from the County's website clearly state the County recycles the type of plastic used for this liquor bottle? Does the licensee have every trash invoice for the past two years, or is one missing? One can imagine other such situations. However, compliance with the proposed alternative is simple for both the licensee and the board – the prescribed placard is either displayed next to the licensee's liquor license, or it isn't. There is no room for debate, confusion, or interpretation. And certainly, a clearly outlined and enforced standard is of great benefit to licensees, the board, and the citizens of the Commonwealth.

CONCLUSION

While the board's authority to order this new rulemaking cannot be questioned, it is undeniable that the board's proposed "proof in writing" and "proof of participation" requirements are more burdensome and more difficult to enforce than the proposed alternative. The easier-to-enforce and easier-to-comply-with proposed alternative will have the same (or better) end-result as the more complex proposal put forward by the board.

With this in mind, the IRRC should refer the proposed rulemaking back to the LCB with a recommendation to review and implement the proposed alternative.

Thank you for the opportunity to comment on this matter, and please do not hesitate to contact me with any questions or concerns.

Kind Regards,



John Lawrence
State Representative
Commonwealth of Pennsylvania



3224



November 6, 2019

The Honorable John A. Lawrence
House of Representatives
Commonwealth of Pennsylvania
P.O. Box 202013
Harrisburg, PA 17120

Re: Proposed Rulemaking – Proof of Recycling

Dear Representative Lawrence:

This is in response to your letter of March 22, 2019, in which you comment on the Pennsylvania Liquor Control Board's ("PLCB") proposed regulation regarding proof of participation in a recycling program. As you correctly observe, the proposed regulation stems from section 491(5) of the Liquor Code, which makes it unlawful:

For any restaurant, hotel or club licensee, his servants, agents or employes, **to fail to break any package in which liquors were contained**, except those decanter packages that the board determines to be decorative, within twenty-four hours after the original contents were removed therefrom, unless the licensee participates in either a municipal recycling program, in accordance with the act of July 28, 1988 (P.L. 556, No. 101), known as the "Municipal Waste Planning, Recycling and Waste Reduction Act," or a voluntary recycling program. The licensee shall provide **proof in writing** of the participation in a recycling program upon the demand of the Bureau of Liquor Control Enforcement of the Pennsylvania State Police. **The proof of participation shall be provided in a manner as prescribed by the Pennsylvania Liquor Control Board.**

47 P.S. § 4-491(5)(emphasis added).

By way of background, please note that the proposed regulation was developed after a licensee in a rural location, who was concerned about being cited and fined under

section 491(5) of the Liquor Code, asked the PLCB for guidance as to what he could provide to the Bureau of Liquor Control Enforcement that would constitute the "proof in writing" required. Licensees currently have no guidance about what "proof in writing" is. The intent of the proposed rulemaking was to help licensees *avoid* being cited by giving them guidance about what is satisfactory "proof in writing" of their participation in a voluntary recycling program.

Your letter makes it clear that your intent is to minimize the administrative burden on licensees. That is the PLCB's intent as well, while still implementing the plain intent of the statute. The plain words of the statute require written proof at being involved in a recycling program, not simply actual participation in a program. This requirement is beyond what the Liquor Code typically requires from licensees. For example, while the Liquor Code prohibits the sale of alcohol to a visibly intoxicated person, it does not further require licensees to have written proof of compliance with this mandate.

In your letter, you suggest that a licensee is able to satisfy the "proof in writing" requirement by displaying a placard that states "This establishment participates in a municipal recycling program," or "This establishment participates in a voluntary recycling program."

"Proof" is defined in the Cambridge Dictionary as "facts or documents that can be used to show that something is true."¹ Respectfully, the mere display of a sign does not prove any activity other than that a sign was displayed.

Every effort was made to make the records easy to obtain, regardless of where in the Commonwealth the licensee is located or what type of recycling scenario is involved. It is the PLCB's belief that the proposed regulation is not burdensome or difficult to enforce.

To further illustrate how simple the paperwork requirements are, enclosed you will find three pages from the internet regarding the Bedford County recycling program. These three pages, along with the form that was set forth in the proposed regulation, are all that a Bedford County licensee would need to retain to satisfy the proposed rulemaking. Each page is marked with the proposed rulemaking section that it satisfies.

¹ <https://dictionary.cambridge.org/us/dictionary/english/proof>

The Honorable John A. Lawrence
November 6, 2019
Page 3

Thank you for your comments regarding the proposed rulemaking. If you have any further comments, please contact Norina Foster, Esquire, in this office directly within the next two weeks. Otherwise, we will continue the regulatory process.

Sincerely,



RODRIGO J. DIAZ
CHIEF COUNSEL

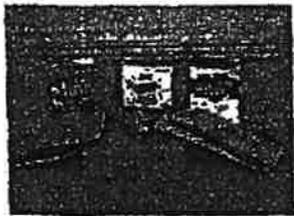
Enclosures

cc: Independent Regulatory Review Commission

Bedford, Fulton, & Huntingdon Counties Recycling Program Regulations

Materials, Preparation, and Rules

Paperboard & Cardboard



Recycle These Items:

- ? Cardboard boxes
- ? Pizza boxes
- ? Food boxes (i.e. cereal & jello boxes)
- ? Paper towel & toilet paper rolls
- ? Paperboard packaging (i.e. tissue & shoe boxes)

Prepare:

1. Remove all packaging (styrofoam, peanuts, bubble wrap, etc.).
2. Flatten ALL boxes.

UNACCEPTABLE:

- x Plastic bags
- x Food-soiled cardboard
- x Wax-coated cardboard (i.e. milk cartons)

Paper Products



Recycle These Items:

- ? Office paper (any color)
- ? Shredded paper (strip cut only)
- ? Newspaper & Inserts
- ? Magazines & catalogs
- ? Junk mail & envelopes
- ? Paper bags

Prepare:

1. Remove non-paper objects from paper items.

UNACCEPTABLE:

- x Plastic bags

~ Photos courtesy of Penn Waste ~

Containers

Recycle These Items:

- ? Aluminum beverage cans
- ? Steel food and beverage cans
- ? Aerosol cans
- ? Plastic bottles with necks smaller than their bases
- ? Clear, green, & brown glass food and beverage containers



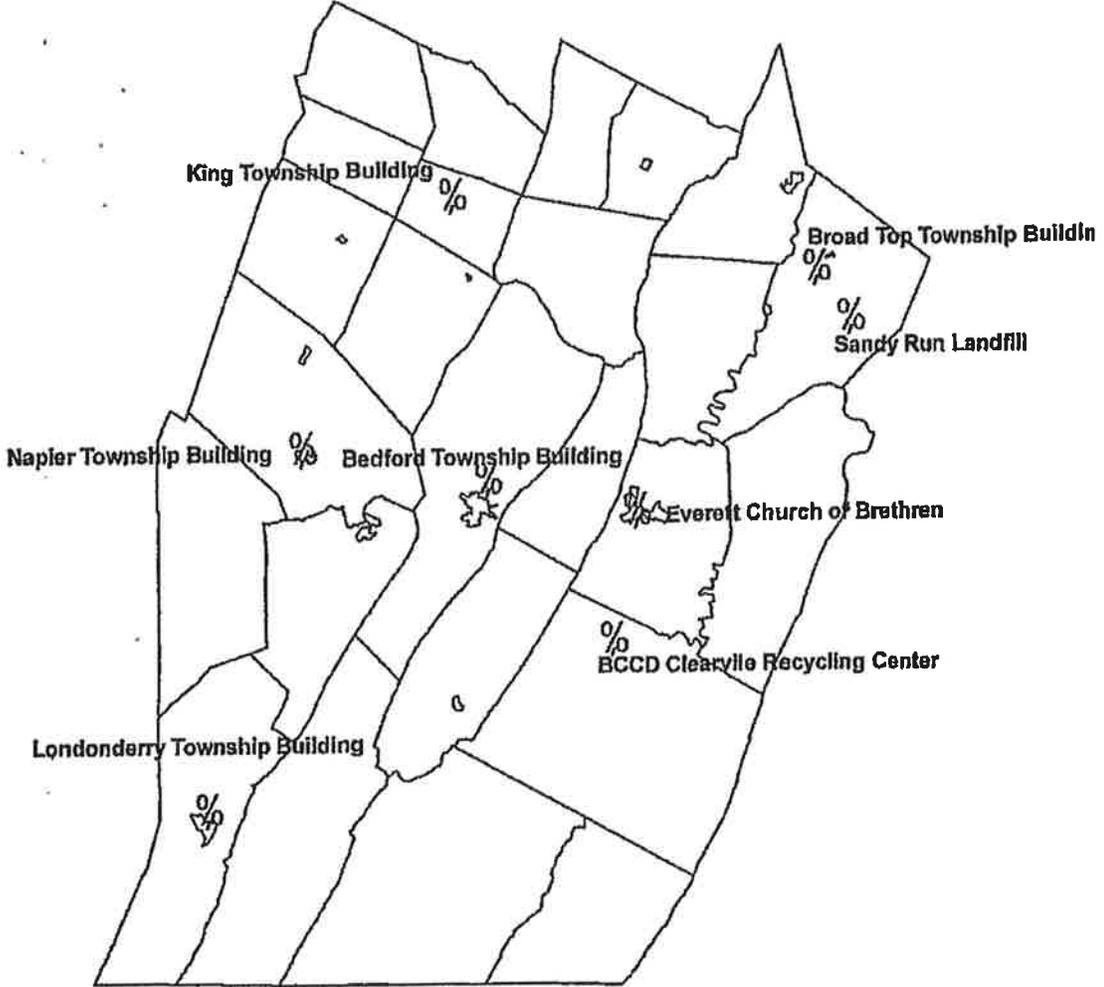
Prepare:

1. Remove and discard caps/lids in trash.
2. Rinse thoroughly.
3. It is okay to leave on labels and neck rings.

UNACCEPTABLE:

- x Aluminum foil
- x Scrap metal
- x Plastic tubs, cups, trays, & bags
- x Deli/take-out containers
- x Broken glass
- x Windows, mirrors, ceramics, & light bulbs
- x Drinking glasses

Bedford County Drop-Off Recycling Sites



Recycling Sites

- /○ BCCD Recycling Center
- /□ SWA Dropoff Bin Sites

Drop-Off and Coordinator Information

Bedford County

~ Contact ~
Regina Miller
(814) 623-8099

Bedford Township Supervisors Office
1037 Shed Road
Bedford, PA 15522

Broad Top Township Building
187 Municipal Road
Defiance, PA 16633

Everett Church of the Brethren
119 East Second Street
Upper Parking Lot
Everett, PA 15537

United Church/Schellsburg
1708 Market Street
Schellsburg, PA 15559

Sandy Run Landfill
995 Landfill Road
Hopewell, PA 15545

Londonderry Township Building (NEW)
4303 Hyndman Road
Hyndman, PA 15545

King Township Building (NEW)
South Imier Valley Road
Imier, PA 16655



Proposed section 5.43(c)(4)(G)

Huntingdon County

~ Contact ~
LouAnn Shontz
(814) 643-8192

Smithfield Township Municipal Building
Mt. Vernon Ave. & 13th Street
Huntingdon, PA 16652

Park's Garbage Service
Shirley Township (Rt. 522)
Mount Union, PA 17066

James Creek Post Office
Marklesburg Borough (Rt. 26 South)
James Creek, PA 16657

Jackson Miller
Elementary School
Jackson Township (Rt. 26
North)
Huntingdon, PA 16652

Porter Township Building
7551 Bridge Street
Alexandria, PA 16611

Querry's Sanitation
Service
16921 Hill Valley Road
Mount Union, PA 17066

Wood-Mizer
22638 Croghan Pike
Shade Gap, PA 17255



Fulton County

~ Contact ~
Greg Reineke
(717) 485-3547 Ext 120

Fulton County Courthouse
McConnellsburg, PA 17233

Forbes Road School
HCO, Box 220
Waterfall, PA 16689

Bethel Township
Municipal Building
289 Long Hollow Road
Warfordsburg, PA 17267



Bedford, Fulton, and Huntingdon Counties

Recycling Drop-Off Program

