

- (2) Date of premises certification.
- (3) Records of its new employee orientation program.
- (4) Responsible alcohol service signs it posted, where and when the signs were posted, revised and reposted.
- (b) These records shall be maintained as part of the licensee's operating records required to be kept for 2 years in accordance with section 493(12) of the Liquor Code (47 P. S. § 4-493(12)).

PROHIBITED CONDUCT

§ 5.251. Prohibited conduct.

(a) The Board may decertify instructors for violating any of the provisions of this subchapter or engaging in the following conduct:

- (1) Discrimination or harassment based on age, race, sex, disability, national origin or religion.
- (2) An act that is in violation of the Liquor Code or this title.
- (3) An act resulting in a misdemeanor or felony conviction.
- (4) An act resulting in admittance into an Accelerated Rehabilitative Disposition (ARD) program if the underlying activity is related to alcoholic beverages, narcotics or controlled substances.
- (5) Being under the influence of alcoholic beverages, narcotics or controlled substances during training presentations, examinations or breaks.
- (6) Knowingly permitting students to be under the influence of alcoholic beverages, narcotics or controlled substances during training presentations, examinations or breaks.
- (7) Cheating or condoning cheating by students.
- (8) Knowingly providing false information on reports submitted to the Board.
- (9) Having an unacceptable evaluation regarding the presentation of the course of study from class observations conducted by the BAE. An unacceptable evaluation will result from conduct including, but not limited to, the following:
 - (i) Failing to satisfactorily carry out the instructor's responsibilities in § 5.232 (relating to instructor responsibilities).
 - (ii) Failing to meet the minimum standards of training in § 5.211 (relating to course of study for alcohol service personnel).
 - (iii) Failing to provide students with current and accurate information.
 - (iv) Failing to provide accurate records of attendance and course completion to the BAE.
 - (v) Failing to conduct at least 2 1/2 hours of instructional time in each training.
 - (vi) Exceeding the ratio of students per instructor.

- (3) Sales of food and nonalcoholic beverages at the licensed premises during the preceding 12-month licensing year are at least 50% of the combined gross sales of both food and alcoholic beverages.

[Next page is 7-1.]

(f) If the Board finds that a licensee has not met the requirements under section 471.1 of the Liquor Code or this subchapter and the licensee's compliance with section 471.1 of the Liquor Code or this subchapter was required by the Office of Administrative Law Judge, by statute, by regulation or by a conditional licensing agreement, the Board will refuse the application for certification or decertify the licensee and refer the matter to the Pennsylvania State Police, Bureau of Liquor Control Enforcement.

(g) The Board will send a Notice of Decertification to the licensee by certified United States mail. Appeal of the Board's decision to decertify a licensee shall be as set forth in 2 Pa.C.S. § 702 (relating to appeals).

(h) A licensee may apply for recertification at any time after the date of decertification.

(i) The Office of Administrative Law Judge will take official notice of the Board's records with regard to the licensee's certification.

Subchapter J. MINORS ON LICENSED PREMISES

Sec.

5.321. Service in establishments primarily serving food.

Authority

The provisions of this Subchapter J issued under section 207(i) of the Liquor Code (47 P. S. § 2-207(i)), unless otherwise noted.

Source

The provisions of this Subchapter J adopted January 5, 2007, effective January 6, 2007, 37 Pa.B. 16, unless otherwise noted. (Renumbered July 30, 2010, effective July 31, 2010 at 40 Pa.B. 4254. Immediately preceding text appears at serial pages (325005) to (325006).)

§ 5.321. Service in establishments primarily serving food.

(a) Section 493(14) of the Liquor Code (47 P. S. § 4-493(14)) creates several exceptions to the general prohibition of minors being present in licensed premises. One of these exceptions, known as the "Pizza Hut" exception, permits a minor to be present in a restaurant, hotel or retail dispenser (but not a club) licensed premises that has gross sales of food and nonalcoholic beverages equal to at least 50% of its combined gross sales of both food and alcoholic beverages.

(b) Licensees qualifying for this exception will not be cited for unlawfully allowing minors to frequent the licensed premises.

(c) To qualify for this exception, a licensee will assure that:

- (1) Minors are not permitted to sit at the bar counter of the premises.
- (2) Alcoholic beverages are not served to any adult at the table or booth where the minor is seated, unless the minor is also there with a parent, legal guardian or proper supervisor.

(vii) Failing to properly administer the standardized test prepared by the BAE.

(b) The Board will send a Notice of Decertification to an instructor by certified United States mail. An appeal of the Board's decision to decertify an instructor shall be as set forth in 2 Pa.C.S. § 702 (relating to appeals).

(c) The Board will not consider an instructor's application for recertification until 1 year after the date of decertification.

SIGNS

§ 5.261. Signs.

(a) Signs for posting in the licensed premises will be provided by the Board. A licensee may use its own signs provided that they are equivalent in size and content to the Board's signs.

(b) The following signs must be posted, notifying patrons about:

(1) Acceptable forms of identification as described in section 495(a) of the Liquor Code (47 P. S. § 4-495(a)).

(2) The licensee's duty to refuse service to minors and visibly intoxicated persons under section 493(1) of the Liquor Code (47 P. S. § 4-493(1)).

(c) The design of the signs must be so that they are legible from a distance of 10 feet. Signs must be located where patrons will easily see them.

(d) The licensee is responsible for the posting and maintenance of signs.

CERTIFICATION

§ 5.271. Premises certification.

(a) A licensee may request that the Board certify that it complies with section 471.1 of the Liquor Code (47 P. S. § 4-471.1). The request may be made by personal contact, telephone or written communication to the BAE. Written communication includes first class United States mail, other delivery or express service, transmission by facsimile or by e-mail.

(b) Certification or recertification will be issued by the Board after investigation and approval of the licensed premises.

(c) There is no fee for certification or recertification.

(d) If the Board finds that a licensee has met the requirements under section 471.1 of the Liquor Code, the licensee will be issued a certificate of compliance valid for 2 years.

(e) If the Board finds that a licensee has not met the requirements under section 471.1 of the Liquor Code or this subchapter, and the licensee's compliance with section 471.1 of the Liquor Code or this subchapter was not mandated by the Office of Administrative Law Judge, by statute, by regulation or by a conditional licensing agreement, the Board will refuse certification or decertify the licensee.

- (3) Manager/owner training.
- (4) Display of responsible alcohol service signage.
- (b) Under section 471.1(f) of the Liquor Code, licensees are to obtain certification upon the completion of a certified alcohol service personnel program or the Board's owner/manager training program. Certification will be valid for 2 years.
- (c) Licensees and their managers and employees may enter the Responsible Alcohol Management Program voluntarily, may commit to participation as part of a conditional licensing agreement entered into with the Board or may be required to participate by order of one of the Board's administrative law judges. This subchapter also establishes standards for the Board to certify compliance with this program.

§ 5.202. Definitions.

When used in this subchapter, the following words and terms have the following meanings, unless the context clearly indicates otherwise:

BAE—Bureau of Alcohol Education—The office in the Board that is responsible for administering the Responsible Alcohol Management Program.

Certify—To approve and confirm the approval in writing.

Instructor—An individual who is certified by the Board to instruct students, including licensees, owners, managers, servers, sellers and members of the public, in responsible server practices.

Licensee—An individual, person or entity that holds a license issued by the Board.

Manager/owner training—Training conducted by the Board or its employees for individuals who manage or own licensed premises.

New employee—An individual who has not been employed at the licensed premises seeking certification in any capacity during the preceding year.

Responsible server practices—Procedures and practices used by alcohol service personnel to prevent the furnishing or selling of alcoholic beverages to minors and visibly intoxicated persons.

COURSE OF STUDY

§ 5.211. Course of study for alcohol service personnel.

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

Cross References

This section cited in 40 Pa. Code § 5.251 (relating to prohibited conduct).

Cross References

This section cited in 40 Pa. Code § 5.232 (relating to instructor responsibilities).

TRAINING/ORIENTATION

§ 5.241. Manager/owner training.

- (a) Manager/owner training will be conducted by the BAE.
- (b) Training must include instruction on proper service of alcohol, developing an alcohol service policy and establishing house rules and policies aimed at preventing sales of alcoholic beverages to minors or visibly intoxicated persons. Instruction shall also be provided on identification checks and signs of visible intoxication. Instruction shall be provided on techniques to assure that employees are complying with house rules and policies, including the orientation of new and current employees and the documentation of incidents occurring in the workplace.
- (c) For 2 years, the Board will maintain records establishing the names of individuals who have successfully undergone manager/owner training.

§ 5.242. New employee orientation.

(a) Licensees applying for certification of compliance under section 471.1 of the Liquor Code (47 P. S. § 4-471.1) shall conduct new employee orientation within 30 days of the employee's hire, in accordance with a checklist of responsible server practices provided by the BAE including:

- (1) Penalties for furnishing or selling alcohol to minors.
 - (2) Acceptable forms of identification as defined in section 495(a) of the Liquor Code (47 P. S. § 4-495(a)).
 - (3) Practices for checking identification to prevent the service of alcohol to minors, which is prohibited under section 493(1) of the Liquor Code (47 P. S. § 4-493(1)).
 - (4) Penalties for furnishing or selling alcohol to visibly intoxicated persons.
 - (5) Practices for refusing service of alcohol to visibly intoxicated persons.
 - (6) Procedures for handling situations where criminal activity, such as drug activity, assaults or fights, loitering and prostitution, is occurring in or about the premises.
- (b) The licensee is responsible for ensuring that the owner or manager conducts the new employee orientation.

§ 5.243. Records.

- (a) The licensee shall keep the following records:
- (1) Certification status of its employees, managers and owners, consisting of the name of the employee, manager or owner, date of hire, date of training and the name of the trainer.

BAE within 7 calendar days following each training session through the BAE's web site. Original attendance sheets shall be submitted to the BAE by first class United States mail, other delivery or express service, transmission by facsimile or by e-mail.

- (5) Attend instructor meetings twice per year as scheduled by the BAE.
- (6) Attend manager/owner training at least once per year.

Cross References

This section cited in 40 Pa. Code § 5.251 (relating to prohibited conduct).

§ 5.233. Minimum standards of training.

(a) Instructors shall conduct training sessions conforming to the BAE's standard curriculum.

- (1) Each training session must consist of at least 2 1/2 hours of instructional time.
- (2) The ratio of students per instructor may not exceed 40 to 1.
- (b) Instructors shall notify the BAE of the following:

- (1) At least 7 calendar days in advance of scheduling any training session. Instructors shall provide notification to the BAE through the BAE's web site.
- (2) Immediately of any training session cancellation. Instructors shall provide notification to the BAE by first class United States mail, other delivery or express service, transmission by facsimile or by e-mail.
- (3) Immediately of any changes to the training schedule. Instructors shall provide notification to the BAE by first class United States mail, other delivery or express service, transmission by facsimile or by e-mail.

(c) Instructors shall obtain the student information indicated in paragraphs (1)–(3) at the beginning of the training session. An instructor shall send a completed attendance sheet to the BAE within 7 days of the end of the training session, including the following information from each student:

- (1) Name.
- (2) Home address.
- (3) Home telephone number.
- (4) Student identification number issued by the BAE.
- (5) Pass/fail score on the test.
- (6) Licensed establishment name, address and licensee identification.
- (7) Time and location of training.

(d) At the conclusion of the training, the instructor shall administer a standardized test prepared by the BAE, insuring that students complete the examination as a closed book exam, without access to references to aid in the completion of the examination.

(e) The instructor shall grade examinations and notify students of their grades. A test score of 80% or better is required to pass. A student who does not pass may, at the first opportunity, schedule training and take the test again.

INSTRUCTORS

§ 5.231. Instructor certification.

The BAE will have a procedure, as set forth in this section, to confirm a person's competency to begin and continue working as an instructor. Part of this procedure will include observation of an instructor's training sessions by representatives of the BAE at least twice per year.

(1) A person desiring certification as an instructor shall submit an application on forms issued by the Board and pay a \$250 nonrefundable application fee.

(2) The minimum qualifications of an instructor include the following:

- (i) Possessing a high school diploma or GED.
 - (ii) Possessing a minimum of 2 years of experience, full-time, in the field of education, law, law enforcement, substance abuse prevention, hospitality or alcohol service training.
 - (iii) Being 21 years of age or older.
 - (iv) Having no arrests that are related to alcohol, narcotics or other controlled substances in the previous 10 years.
 - (v) Attending manager/owner training once in the year preceding the date the application for instructor certification is filed.
- (3) If a person who has submitted a completed application meets the minimum requirements for certification, the Board will issue to the instructor a Notice of Certification. The period of certification shall be 1 year from the date of issuance of the Notice of Certification.

(4) Renewal of certification shall be submitted to the BAE at least 30 days prior to the expiration of the instructor's current certification. The same forms, provided by the BAE, shall be used for renewals as for initial certification. A \$250 fee must accompany an application for renewal.

§ 5.232. Instructor responsibilities.

Instructors have the responsibility to do the following:

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

(2) Schedule training sessions in locations throughout this Commonwealth.

(3) Conduct at least two training sessions per quarter and train at least 225 students per year. Instructors may request a waiver of the minimum requirements in this paragraph by sending a letter or e-mail to the BAE. The BAE will waive the requirements for minimum training activity for instructors due to temporary, nonrecurrent exigencies, such as instructor illness or family emergency, bad weather or other circumstances beyond the instructor's control.

(4) Provide accurate records of attendance and course completion, as required under § 5.233(c) (relating to minimum standards of training), to the

Cross References

This section cited in 40 Pa. Code § 9.123 (relating to records and reports).

§ 5.103. Limited wineries.

(a) *Records.* A holder of a Limited Winery 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 used in the production of wines. 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 used in the production of wines.

(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 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 is listed separately from other permitted items sold by the licensee.

(5) An invoice shall be prepared for any amount of wine 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.

INSTRUCTORS

- 5.231. Instructor certification.
- 5.232. Instructor responsibilities.
- 5.233. Minimum standards of training.

TRAINING/ORIENTATION

- 5.241. Manager/owner training.
- 5.242. New employee orientation.
- 5.243. Records.

PROHIBITED CONDUCT

- 5.251. Prohibited conduct.

SIGNS

- 5.261. Signs.

CERTIFICATION

- 5.271. Premises certification.

Authority

The provisions of this Subchapter I issued under section 207(i) of the Liquor Code (47 P. S. § 2-207(i)), unless otherwise noted.

Source

The provisions of this Subchapter I adopted June 25, 2010, effective June 26, 2010, 40 Pa.B. 3494, unless otherwise noted.

GENERAL**§ 5.201. Purpose.**

- (a) This subchapter implements the program authorized under section 471.1 of the Liquor Code (47 P. S. § 4-471.1), regarding responsible alcohol management. This provision authorizes the Board to establish a four-part program including:
- (1) New employee orientation.
 - (2) Training for alcohol service personnel.

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 shall indicate liquor transported via transporter-for-hire, Class C carriers. The distillery 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 acknowledgements of delivery shall be maintained on the licensed premises for a period of 2 years.

(5) The sales invoice covering the sale of liquor may not include the sale of other commodities.

(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 a period of 2 years.

(c) *Monthly reports.* A licensed distillery of historical significance shall file monthly reports on forms provided by the Board covering all operations of their licensed business during the preceding month. The reports shall be signed and sworn to by the licensee or his authorized agent and shall be filed with the Board on or before the 15th day of the month immediately succeeding the month for which the reports are prepared. A copy of each report shall be retained on the licensed premises for a period of at least 2 years from the date of filing.

Source

The provisions of this § 5.104 adopted February 20, 1976, effective February 21, 1976, 6 Pa.B. 365; amended November 23, 1984, effective November 24, 1984, 14 Pa.B. 4284. Immediately preceding text appears at serial pages (81457) to (81458).

Cross References

This section cited in 40 Pa. Code § 3.72 (relating to creation); 40 Pa. Code § 11.211 (relating to sale by licensed distilleries of historical significance); 40 Pa. Code § 11.212 (relating to additional conditions); and 40 Pa. Code § 11.222 (relating to additional conditions).

Subchapter I. RESPONSIBLE ALCOHOL MANAGEMENT PROGRAM

GENERAL

Sec.
5.201. Purpose.
5.202. Definitions.

COURSE OF STUDY

5.211. Course of study for alcohol service personnel.

(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).

Authority

The provisions of this § 5.103 issued under sections 207(i) and 505.2(2) and (3) of the Liquor Code (47 P. S. §§ 2-207(i) and 505.2(2) and (3)); amended under section 207(i) of the Liquor Code (47 P. S. § 2-207(i)).

Source

The provisions of this § 5.103 adopted March 11, 1969; amended September 13, 1974, effective September 14, 1974, 4 Pa.B. 1948; amended September 29, 1978, effective September 30, 1978, 8 Pa.B. 2689; amended March 11, 1983, effective March 12, 1983, 13 Pa.B. 984; amended December 22, 1995, effective December 23, 1995, 25 Pa. B. 5957; amended November 18, 2011, effective November 19, 2011, 41 Pa.B. 6218. Immediately preceding text appears at serial pages (205159) to (205160).

Cross References

This section cited in 40 Pa. Code § 3.62 (relating to creation); and 40 Pa. Code § 11.111 (relating to sale by limited winery licensees).

§ 5.104. Licensed distilleries of historical significance.

(a) *Records.* A distillery of historical significance which holds a license obtained under section 505 of the Liquor Code (47 P. S. § 5-505) 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).

(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 invoices shall be prepared in accordance with the following:

- (1) The sales invoice shall be imprinted or affixed with the name and address of the distillery of historical significance.
- (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 liquor and the net cost to the customer. The name and address of private individuals will not be required on sales invoices covering quantities of 4 wine gallons 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

whom transferred, the name and address of the person to whom transferred, the type of alcohol or liquor, type and number of containers and proof gallons (tax gallons), the warehouse certificate cancelled and the warehouse certificate issued to the new owner.

(b) *Federal and State Government reports and forms.* Copies of reports or forms required by Federal or State governmental agencies related to the licensed operation shall be maintained for a period of 2 years unless required to be maintained for a longer period by the Federal or State agencies. The reports or forms shall also be open to inspection by authorized representatives of the Board and the State Police, Bureau of Liquor Control Enforcement, and shall constitute a satisfactory record if they contain the information required in subsection (a).

Source

The provisions of this § 5.102 adopted June 26, 1952; amended June 22, 1990, effective June 23, 1990, 20 Pa.B. 3492. Immediately preceding text appears at serial pages (81455) to (81456).

(1) A record of all expenses incurred by salesmen, including cost of travel, lodging, subsistence and promotional expenses. All promotional expenses must be broken down to show the place and amount expended.

(b) *Federal and State Government reports and forms.* Copies of reports or forms required by Federal or State governmental agencies related to the licensed operations shall be maintained for a period of 2 years unless required to be maintained for a longer period by the Federal or State agencies. The reports or forms shall also be open to inspection by authorized representatives of the Board and the State Police, Bureau of Liquor Control Enforcement, and shall constitute a satisfactory record if they contain the information required in subsection (a).

Source

The provisions of this § 5.101 adopted April 1, 1962, amended through August 29, 1966; amended June 22, 1990, effective June 23, 1990, 20 Pa.B. 3492. Immediately preceding text appears at serial pages (110160), (72699) and (81455).

Cross References

This section cited in 40 Pa. Code § 3.91 (relating to alternating brewers' license).

§ 5.102. Bonded warehouses.

(a) *Records.* A holder of a Bonded Warehouse License shall maintain and keep on the licensed premises, in hard copy or electronic media consistent with generally accepted accounting procedures, for a period of 2 years, complete and accurate daily records of transactions conducted under the authority of the license, subject to inspection, under sections 211, 512 and 513 of the Liquor Code (47 P.S. §§ 2-211, 5-512 and 5-513), by authorized representatives of the Board and the State Police, Bureau of Liquor Control Enforcement. A recordkeeping system utilized by the licensee shall have the capability to provide for the recoupling of required data. Entries shall be verifiable by supporting documentation—original documents. Records shall be clearly identifiable to the licensed operation and shall include the following:

(1) *Receipts.* The name of the producer and location of the distillery where produced, name and address of bonded warehouse from which transferred; name and address of the owner for whom stored, type (whether alcohol, whiskey and the like), type and number of containers, quantity in proof gallons (tax gallons), and warehouse certificates issued, shall be included.

(2) *Shipments.* The name and address of person to whom shipped, type (whether alcohol, whiskey and the like), type and number of containers, quantity in proof gallons (tax gallons), name and address of person from whose inventory the alcohol or liquors were withdrawn, and warehouse certificate numbers cancelled, must be included. Withdrawals In Bond shall show the original proof gallons (tax gallons), tax paid withdrawals shall show the regauged proof gallons (tax gallons) and losses in regauging.

(3) *Transfer of ownership of warehouse certificates.* Where alcohol or liquors are not removed from the bonded warehouse, a transfer of ownership of warehouse certificates shall be recorded, showing the name of person from

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

Sec.

- 5.101. Breweries.
- 5.102. Bonded warehouses.
- 5.103. Limited wineries.
- 5.104. Licensed distilleries of historical significance.

§ 5.101. Breweries.

(a) *Records.* A licensed manufacturer of malt or brewed beverages shall maintain and keep on the licensed premises, in hard copy or electronic media consistent with generally accepted accounting procedures, for a period of at least 2 years, complete and accurate daily records of the transactions conducted under the authority of the license, subject to inspection, under sections 211, 493(12) and (21) of the Liquor Code (47 P. S. §§ 2-211, 4-493(12) and (21)), by authorized representatives of the Board and the State Police, Bureau of Liquor Control Enforcement. A recordkeeping system utilized by the licensee shall have the capability to provide for the reconciling of required data. Entries shall be verifiable by supporting documentation—original documents. Records shall be clearly identifiable to the licensed operation and include the following:

- (1) The purchase and receipt of raw materials used in the manufacture of malt or brewed beverages, with the name and address of the persons from whom purchased.
- (2) The quantity of raw materials used in the manufacture of malt or brewed beverages, with the quantity of the beverages produced.
- (3) The amount of finished malt or brewed beverages withdrawn, showing the number and size of containers.
- (4) The amount of Federal tax paid on malt or brewed beverages withdrawn for bottling, including the quantity and size of the cases bottled.
- (5) The quantity of tax-paid or nontax-paid malt or brewed beverages used for consumption on the premises.
- (6) The quantity and size of containers removed from the licensed premises, either for personal consumption or other purposes, with the names and addresses of persons for whom removal is made.
- (7) Sales invoices showing the name, address, quantity and size of containers, cost of malt or brewed beverages, deposits collected on returnable containers, refunds paid or credited, and net amount of the invoice.
- (8) A sales register showing the total quantity by size of container, the cost of malt or brewed beverages, deposits collected on all returnable containers, refunds paid or credited, and net amount of cash for the business of each day.
- (9) A cash book, showing all cash received.
- (10) A disbursement record, showing amount of all cash disbursements, with the names of the persons to whom paid. Such disbursements shall be supported by invoices or memoranda.

Source

The provisions of this § 5.85 adopted June 26, 1952.

§ 5.86. Permitted exchange of club and catering club licenses.

(a) Upon application under Chapter 3 (relating to license applications), and subject to the authority granted by section 472.3(a) of the Liquor Code (47 P. S. § 4-472.3(a)), the Board may issue to a club, a club liquor license in exchange for a club malt beverage retail dispenser license in any municipality which has approved the granting of liquor licenses. The fee for issuance of a license under this subsection shall be equal to the application filing fee plus the license fee for a hotel or restaurant liquor license in the municipality in which the licensed premises is located, as set forth in section 614-A of The Administrative Code of 1929 (71 P. S. § 240.14).

(b) Upon application under Chapter 3, and upon approval of the Board, a club holding a club liquor license may surrender its license, and receive a catering club liquor license in its place.

(c) Upon application under Chapter 3, and upon approval of the Board, a club holding a catering club liquor license may surrender its license and receive a club liquor license in its place.

(d) The fee for filing an application for exchange of club licenses shall be applied consistent with section 614-A of The Administrative Code of 1929 (71 P. S. § 240.14).

(1) An application for the exchange of a club license for a catering club license may only be filed for a full license year. It shall be accompanied by a renewal filing fee, and a license fee equal to that required for a restaurant license in the municipality of its location under section 614-A of The Administrative Code of 1929.

(2) An application for the exchange of a catering club license for a club license may only be filed for a full license year. It must be accompanied by a renewal filing fee and a license fee for a club as required under section 614-A of The Administrative Code of 1929.

(e) Exchange of licenses may only occur within a municipality that has approved the granting of such licenses.

Source

The provisions of this § 5.86 adopted November 12, 2004, effective November 13, 2004, 34 Pa.B. 6139.

**Subchapter G. CHANGE OF OFFICERS OF
CORPORATIONS AND CLUBS**

Sec.
5.91.

Required report.

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(307807) No. 362 Jan. 05

(c) Records covering operations of the concession shall be maintained for a period of 2 years on the licensed premises. The records shall show the cost of food, supported by invoices; receipts from sale of food supported by cash register tape or guest checks; rental paid for the privilege and equipment used; the name and address, social security number and salary paid to each employee; and other expenditures.

Source

The provisions of this § 5.82 adopted June 26, 1952.

§ 5.83. Catering.

(a) Catering, for the purpose of this section, means the furnishing of liquor or malt or brewed beverages, or both, to be served with food prepared on the premises or brought onto the premises already prepared, for the accommodation of groups of nonmembers who are using the facilities of the club by prior arrangement, made at least 24 hours in advance of the time for private meetings or functions, such as dances, card parties, banquets and the like; and which is paid for by the nonmembers.

(b) A record shall be maintained showing the date and time catering arrangements were made, the name of the person or organization making the arrangements and the approximate number of persons to be accommodated.

Source

The provisions of this § 5.83 adopted June 26, 1952.

Notes of Decisions*Furnishing of Alcoholic Beverages*

A club with a catering license may serve alcoholic beverages to nonmembers only by prior arrangement and if a record is maintained showing the date and time catering arrangements were made. *Liquor Control Board v. American Legion Home Association*, 474 A.2d 68 (Pa. Cmwlth. 1984).

§ 5.84. Entrance and inside doorways.

A licensed club may not maintain or permit barricades to be maintained in the entrance or inside doorways in a clubhouse or club quarters.

Source

The provisions of this § 5.84 adopted June 26, 1952.

§ 5.85. Inspection of clubhouse or club quarters.

Authorized representatives of the Board shall, upon presentation of their credentials, be admitted immediately to the clubhouse or club quarters and permitted without hindrance or delay to inspect completely the premises at any time during which the club is open for the transaction of business.

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Notes of Decisions*Production of Documents*

Failure to record elections in the minute book is a violation of this section. *In re Michael J. O'Connor 4th Ward Republican Club*, 389 A.2d 222 (Pa. Cmwlth. 1978).

§ 5.75. Other documents and instruments.

Club licensees shall maintain on the licensed premises at all times, subject to inspection by the Board, all of the following:

- (1) A photostatic or certified copy of the charter, if incorporated.
- (2) A copy of the constitution.
- (3) A copy of the bylaws.
- (4) Invoices and receipted bills covering purchases made by officers of the club for the benefit of the club.
- (5) All prescribed books of record and membership lists.

Source

The provisions of this § 5.75 adopted June 26, 1952.

Notes of Decisions*Production of Documents*

The inability to produce a copy of the charter on two separate occasions is a violation of this regulation. *In re Michael J. O'Connor 4th Ward Republican Club*, 389 A.2d 222 (Pa. Cmwlth. 1978).

OTHER REQUIREMENTS**§ 5.81. Constitution and bylaws.**

A club licensee shall adhere to the provisions of its constitution and bylaws.

Source

The provisions of this § 5.81 adopted June 26, 1952.

§ 5.82. Food concession.

(a) If a club does not sell food it may permit a food concession to be operated by a person who is not an officer or employe of the club, and the concessionaire may not hire a person who is an officer or employe of the club or who is a licensee or an employe of another licensee.

(b) The concessionaire shall buy, prepare, sell and collect for the food, and receive the profits, and pay his own employes. Neither the concessionaire nor his employes are permitted to handle or dispense liquor or malt or brewed beverages; and club employes are not permitted to serve or collect for food. Separate checks for food and liquor or malt or brewed beverages shall be presented to each member served.

Cross References

This subchapter cited in 40 Pa. Code § 17.11 (relating to license application protests).

§ 5.91. Required report.

(a) A corporation, association or other Board licensed entity, except a club, having officers, or directors, or stockholders, shall report a change in officers, or directors or stockholders within 15 days. A change in stockholders involving less than 10% of outstanding voting stock need not be reported, except when the change involves a majority or controlling interest. Control is defined as the power or authority to manage, direct, govern, administer or oversee the operation of the licensed business.

(b) The changes shall be reported on forms which will be furnished upon request by the Board. For a change in stockholders, an affidavit describing, in detail, the source of funds used to purchase the stock shall accompany the form. If funds to purchase the stock are derived from a written financing agreement, the financing agreement shall also accompany the form.

(c) Club change of officers shall be reported with the renewal of club license on forms furnished by the Board upon request. Change of club manager or steward shall be reported with the renewal of club license and at license validation on forms furnished by the Board upon request.

(d) Change of officer forms for club licensees shall be accompanied by a fee of \$40. When a background investigation is conducted to obtain or verify information regarding a club change of officer, an additional fee of \$60, for a total fee of \$100, will be assessed. Change of officer forms for changes of corporate officers other than clubs shall be accompanied by a fee of \$200 when the change of officer does not constitute a change in majority/controlling interest. If the change of corporate officer does constitute a change in majority/controlling interest, fees will be assessed in accordance with section 614-A of The Administrative Code of 1929 (71 P. S. § 240.14A).

Authority

The provisions of this § 5.91 issued under section 207(i) of the Liquor Code (47 P. S. § 2-207(i)).

Source

The provisions of this § 5.91 adopted June 26, 1952; amended June 18, 1982, effective July 1, 1982, 12 Pa.B. 1860; amended March 21, 1986, effective May 21, 1986, 16 Pa.B. 954; amended March 12, 1993, effective March 13, 1993, 23 Pa.B. 1145; amended March 20, 1998, effective March 21, 1998, 28 Pa.B. 1418. Immediately preceding text appears at serial pages (205155) to (205156).

Cross References

This section cited in 40 Pa. Code § 3.35 (relating to persons from whom criminal history record information checks are required); and 40 Pa. Code § 11.6 (relating to signature on cards).

§ 5.54. Responsibility for condition of equipment.

The licensee has the sole responsibility of maintaining equipment used in dispensing malt or brewed beverages on draft in a clean and sanitary condition. The mere fact that records of licensees indicate that the malt or brewed beverage dispensing system has been cleaned is no defense to enforcement action under the law and the provisions of this subchapter if the malt or brewed beverage dispensing system is at any time found to be in an unsanitary condition.

Authority

The provisions of this § 5.54 amended under section 207(i) of the Liquor Code (47 P. S. § 2-207(i)).

Source

The provisions of this § 5.54 adopted June 26, 1952; amended through July 28, 1972, effective July 29, 1972, 2 Pa.B. 1441; amended March 5, 2010, effective March 6, 2010, 40 Pa.B. 1149. Immediately preceding text appears at serial page (307802).

Subchapter E. [Reserved].**§ 5.61. [Reserved].****Source**

The provisions of this § 5.61 adopted June 26, 1952; amended through June 15, 1984, effective June 16, 1984, 14 Pa.B. 2061; reserved November 12, 2004, effective November 13, 2004, 34 Pa.B. 6139. Immediately preceding text appears at serial page (261741).

Subchapter F. CLUBS**RECORDS REQUIRED**

- Sec.
5.71. Maintenance of records.
5.72. Membership record.
5.73. Financial records.
5.74. Minute book.
5.75. Other documents and instruments.

OTHER REQUIREMENTS

- 5.81. Constitution and bylaws.
5.82. Food concession.

(b) *Expenditures record.* An expense ledger or record showing expenditures, separated by payments for malt or brewed beverages, liquor, food, detailed pay-roll, entertainment, rent, heat, light, water, equipment and other expenditures, shall be maintained. The record shall be in columnar form with the proper headings at the top, and balanced each month with the bank account and the records of the treasurer. Every expenditure must be supported by delivery tickets, invoices, receipted bills, cancelled checks, petty cash vouchers or other sustaining data or memoranda.

(c) *Bank account.* A bank or cash account shall be maintained which shows income and expenditures as a control account on the income and expenditures records. The account shall be balanced each month by the treasurer with proper record made in the minutes of the recording secretary.

(d) *Electronic or automated recordkeeping.* Electronic or automated recordkeeping, or both, maintained and based upon generally accepted accounting principles, are permitted in lieu of hard copy financial records required by subsections (a)—(c). This type of 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.

Source

The provisions of this § 5.73 adopted June 26, 1952; amended June 22, 1990, effective June 23, 1990, 20 Pa.B. 3491. Immediately preceding text appears at serial pages (136500) and (48218).

Notes of Decisions*Income Record*

Entering all income as a lump sum rather than breaking it down as to source, together with other acts of inadequate bookkeeping, is sufficient to find a violation of this section. *In re Michael J. O'Connor 4th Ward Republican Club*, 389 A.2d 222 (Pa. Cmwlth. 1978).

§ 5.74. Minute book.

A minute book shall be maintained and posted currently by the recording secretary, and shall contain all of the following:

- (1) The minutes of all regular and special meetings.
- (2) The names and dates of applicants for membership and the dates the members were admitted and whether ballots were taken.
- (3) The financial reports of the treasurer.
- (4) Parties, banquets, socials and the like given to members free of charge, and the costs involved.
- (5) Elections and appointments of officers and committees, and the term for which they are elected, and customary entries in a record of this nature.

Source

The provisions of this § 5.74 adopted June 26, 1952.