

Comments of the Independent Regulatory Review Commission



Pennsylvania Liquor Control Board Regulation #54-80 (IRRC #3082)

Breweries

January 7, 2015

We submit for your consideration the following comments on the proposed rulemaking published in the November 8, 2014 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)) directs the Pennsylvania Liquor Control Board (Board) to respond to all comments received from us or any other source.

Section 3.93. Breweries. - Whether the regulation is consistent with the intent of the General Assembly; Possible conflict with or duplication of statutes or existing regulations; Need for the regulation; Reasonableness of the requirements.

Subsection (c) sets forth the conditions that the holder of a brewery license must meet if it plans to allow on-premises consumption of alcohol. The Brewers of Pennsylvania submitted comments noting that Subsections (c)(2) and (d) contain language that is not consistent with Pennsylvania law, Board regulations and Board advisory opinions. The language at issue in both sections reads as follows: “malt or brewed beverages produced on the licensed premises by brewery.” (Emphasis added.) We agree that this language is not consistent with Section 446(a)(1) of the Liquor Code. 47 P.S. § 4-446(a)(1). That section of the Code states, in part, that holders of a brewery license may, “sell malt or brewed beverages produced and owned by the brewery.” (Emphasis added.) We ask the Board to amend the final-form rulemaking to be consistent with the Liquor Code and the intention of the General Assembly.

In addition, we ask the Board to explain the need and rationale for the conditions set forth in Subsection (c). Without this information, we are unable to determine if the requirements being imposed are reasonable and in the public interest.