CHAPTER 9. TRANSPORTATION, IMPORTATION, DISPOSITION AND STORAGE

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Authority

The provisions of this Chapter 9 issued under sections 207(i) and 410 of the Liquor Code (47 P. S. §§ 2-207(i) and 4-410), unless otherwise noted.

Source

The provisions of this Chapter 9 adopted June 26, 1952; amended through August 29, 1966, unless otherwise noted.

Subchapter A. TRANSPORTATION OF LIQUOR, MALT OR BREWED BEVERAGES OR ALCOHOL

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Cross References

This subchapter cited in 40 Pa. Code § 11.111 (relating to sale by limited winery licensees); and 40 Pa. Code § 11.222 (relating to additional conditions).

GENERAL PROVISIONS

§ 9.1. Definitions.

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

General parcel consignment—The commercial transportation of packages or parcels of not more than 50 pounds per parcel where each package is a separate and distinct shipment.

Liquor parcel—A package containing not more than the number of units of liquor in a standard case packaging configuration as approved by the Board.

Transporter-for-Hire License, Class A—A license authorizing the holder to engage in the commercial transportation of liquor, malt or brewed beverages or alcohol to or from points located in this Commonwealth.

Transporter-for-Hire License, Class B—A license authorizing the holder to engage in the commercial transportation of malt or brewed beverages only, to or from points located in this Commonwealth.

Transporter-for-Hire License, Class C—A fleet license authorizing the holder to engage in the commercial transportation of liquor parcels within this Commonwealth.

Vehicles—Trucks, buses, cars, wagons, scooters, motorcycles, aircraft, watercraft or other means of transportation.

Authority

The provisions of this § 9.1 issued under sections 207(i) and 505.2(2) and (3) of the Liquor Code (47 P. S. §§ 2-207(i) and 5-505.2(2) and (3)).

Source

The provisions of this § 9.1 adopted June 26, 1952; amended through August 29, 1966; amended March 11, 1983, effective March 12, 1983, 13 Pa.B. 984. Immediately preceding text appears at serial page (4167).

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VEHICLES

§ 9.11. Transportation for hire.

(a) Except as exempted in subsection (b), a person who transports liquor, malt or brewed beverages or alcohol for hire within this commonwealth shall obtain a Transporter-for-Hire License, Class A, a Transporter-for-Hire License, Class B or a Transporter-for-Hire License, Class C, from the Board.

(b) Liquor, malt or brewed beverages or alcohol, may be transported for hire without a Transporter-for-Hire License under the following conditions:

(1) If the alcohol in question is ''denatured,'' as specified in the Liquor Code.

(2) If transportation is accomplished by scheduled common air carriers of mail and passengers; or by common carriers by railroad, subject to regulation by the Pennsylvania Public Utility Commission; or by transporters-for-hire who transport liquor, malt or brewed beverages or alcohol, under contract with, and as agents of, common carriers by railroad, under railroad tariffs, railroad bills of lading, railroad regulations and railroad responsibility and direction, provided the main transportation of the liquor, malt or brewed beverages or alcohol, is by rail and the agents perform only a collection and delivery service as part of the rail transportation, and further provided that certified copies of the contracts of the agents are filed with the Board.

(3) If the liquor, malt or brewed beverages, or alcohol in question are for the personal use of, and not for resale by, the transporter.

(4) If transportation is by licensees of the Board whose licenses or permits authorize the transportation of liquor, malt or brewed beverages or alcohol in the regular operation of their licensed business.

(5) If transportation is by persons who transport liquor, malt or brewed beverages or alcohol, through this Commonwealth commercially and not for delivery therein:

(i) The operator of the vehicle shall have in his possession at all times while in this Commonwealth, an invoice and a bill of lading or waybill (showing the brand name, size and number of containers of liquor, malt or brewed beverages or alcohol so transported), which shall be produced for inspection upon the request of an authorized police or enforcement officer of this Commonwealth.

(ii) The cargo must remain intact and upon the same vehicle or conveyance while in this Commonwealth, unless prevented by an accident or other similarly uncontrollable circumstance.

Authority

The provisions of this § 9.11 issued under sections 207(i) and 505.2(2) and (3) of the Liquor Code (47 P. S. §§ 2-207(i) and 5-505.2(2) and (3)).

Source

The provisions of this § 9.11 adopted June 26, 1952; amended through August 29, 1966; amended March 11, 1983, effective March 12, 1983, 13 Pa.B. 984; amended August 29, 1997, effective August 30, 1997, 27 Pa.B. 4432; amended November 12, 2004, effective November 13, 2004, 34 Pa.B. 6139. Immediately preceding text appears at serial pages (274507) to (274508).

§ 9.12. Applications for Transporter-for-Hire Licenses.

(a) *Transporter-for-Hire License, Class A*. An application for a Transporter-for-Hire License, Class A, shall be filed on forms furnished by the Board and shall be accompanied by application and license fees in accordance with section 614-A of The Administrative Code of 1929 (71 P. S. § 240.14A). The license will be issued for the calendar year and the license fee will be prorated quarterly, in accordance with section 508 of the Liquor Code (47 P. S. § 5-508).

(b) *Transporter-for-Hire License, Class B*. An application for a Transporter-for-Hire License, Class B, shall be accompanied by application and license fees in accordance with section 614-A of The Administrative Code of 1929. The licenses will be issued for the calendar year.

(c) *Transporter-for-Hire License, Class C*. An application for Transporter-for-Hire License, Class C, shall be accompanied by application and license fees in accordance with section 614-A of The Administrative Code of 1929. The license will be issued for the calendar year. To secure this license, the applicant shall demonstrate that he maintains a fleet of vehicles primarily engaged in general parcel consignment, servicing all points within this Commonwealth and shall demonstrate that he can transport liquor from points in this Commonwealth to Board facilities, from Pennsylvania licensed limited winery locations to limited winery customers and from distilleries of historical significance to distillery customers.

Authority

The provisions of this § 9.12 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)).

Source

The provisions of this § 9.12 adopted June 26, 1952; amended through August 29, 1966; amended March 11, 1983, effective March 12, 1983, 12 Pa.B. 984; amended November 23, 1984, effective November 24, 1984, 14 Pa.B. 4284; amended March 12, 1993, effective March 13, 1993, 23 Pa.B. 1145; amended January 19, 2001, effective January 20, 2001, 31 Pa.B. 430. Immediately preceding text appears at serial page (234100).

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§ 9.13. Records and reports.

(a) *Records*. A holder of a transporter-for-hire license shall maintain and keep, 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 transactions conducted under the authority of the license under section 512 of the Liquor Code (47 P. S. § 5.512). Records shall be subject to inspection by authorized representatives of the Board and the Pennsylvania State Police, Bureau of Liquor Control Enforcement, under sections 211 and 513 of the Liquor Code (47 P. S. §§ 2-211 and 5-513). 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.

(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 § 9.13 adopted June 26, 1952; amended through August 29, 1966; amended July 8, 1977, effective July 9, 1977, 7 Pa.B. 1890; amended March 11, 1983, effective March 12, 1983, 13 Pa.B. 984; amended June 22, 1990, effective June 23, 1990, 20 Pa.B. 3492; amended August 29, 1997, effective August 30, 1997, 27 Pa.B. 4432. Immediately preceding text appears at serial page (229057).

VEHICLES

§ 9.21. Identification of cargo.

While transporting alcoholic beverages, all Transporter-for-Hire Licensees shall maintain in each vehicle documentation indicating the name and address of the consignee and the name and address of the consignor for alcoholic beverages being transported. The documentation shall be available for inspection by the Board at all times.

Authority

The provisions of this § 9.21 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)).

Source

The provisions of this § 9.21 adopted June 26, 1952; amended through August 29, 1966; amended March 11, 1983, effective March 12, 1983, 13 Pa.B. 984. Immediately preceding text appears at serial pages (72715) to (72716).

§ 9.22. Identification of vehicles.

Licensees of the Board whose licenses authorize the transportation of liquor, malt or brewed beverages, or alcohol in the regular operation of their licensed business shall display on each side of each vehicle used in the operation of the business their name, address including the street name and number as shown on the license and the license number as shown on the license in letters no smaller than 4 inches in height. The license identification number shall be preceded by the letters ''P. L. C. B.''

Authority

The provisions of this § 9.22 issued under sections 207(i) and 505.2(2) and (3) of the Liquor Code (47 P. S. §§ 2-207(i) and 5-505.2(2) and (3)).

Source

The provisions of this § 9.22 adopted June 26, 1952; amended through August 29, 1966; amended March 11, 1983, effective January 1, 1984, 13 Pa.B. 984; amended November 12, 2004, effective November 13, 2004, 34 Pa.B. 6139. Immediately preceding text appears at serial page (247420).

Cross References

This section cited in 40 Pa. Code § 9.28 (relating to use of vehicles).

§ 9.23. [Reserved].

Source

The provisions of this § 9.23 adopted June 26, 1952; amended through August 29, 1966; amended June 18, 1982, effective July 1, 1982, 12 Pa.B. 1860; amended March 11, 1983, effective March 12, 1983, 13 Pa.B. 984; amended August 29, 1997, effective August 30, 1997, 27 Pa.B. 4432; reserved November 12, 2004, effective November 13, 2004, 34 Pa.B. 6139. Immediately preceding text appears at serial pages (247240) and (293235).

§ 9.24. [Reserved].

Source

The provisions of this § 9.24 adopted June 26, 1952; amended through August 29, 1966; amended March 11, 1983, effective January 1, 1984, 13 Pa.B. 984; amended March 12, 1993, effective March 13, 1993, 23 Pa.B. 1145; amended August 29, 1997, effective August 30, 1997, 27 Pa.B. 4432; reserved November 12, 2004, effective November 13, 2004, 34 Pa.B. 6139. Immediately existing text appears at serial page (293235).

§ 9.25. [Reserved].

Source

The provisions of this § 9.25 adopted June 26, 1952; amended through August 29, 1966; reserved March 11, 1983, effective March 12, 1983, 13 Pa.B. 984. Immediately preceding text appears at serial pages (72717) to (72718).

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§ 9.26. [Reserved].

Source

The provisions of this § 9.26 adopted June 26, 1952; amended through August 29, 1966; amended March 11, 1983, effective January 1, 1984, 13 Pa.B. 984; amended March 12, 1993, effective March 13, 1993, 23 Pa.B. 1145; amended November 8, 2002, effective November 9, 2002, 32 Pa.B. 5512; reserved November 12, 2004, effective November 13, 2004, 34 Pa.B. 6139. Immediately preceding text appears at serial pages (293235) to (293236).

§ 9.27. [Reserved].

Source

The provisions of this § 9.27 adopted June 26, 1952; amended through August 29, 1966; amended June 18, 1982, effective July 1, 1982, 12 Pa.B. 1860; amended March 11, 1983, effective March 12, 1983, 13 Pa.B. 984; amended March 12, 1993, effective March 13, 1993, 23 Pa.B. 1145; reserved August 29, 1997, effective August 30, 1997, 27 Pa.B. 4432. Immediately preceding text appears at serial page (229060).

§ 9.28. Use of vehicles.

(a) A licensee engaged in the purchase or sale of liquor, malt or brewed beverages, or alcohol may not use or permit to be used vehicles other than the ones identified for use in operation of its licensed business for the transportation of liquor, malt or brewed beverages, or alcohol. Subject to the limitations of their respective licenses, transporter-for-hire licensees may transport liquor, malt or brewed beverages or alcohol in vehicles owned or leased by the transporter-for-hire licensees and operated by drivers employed by the transporter-for-hire licensees or operated by drivers employed by unlicensed transporters who are under contract with the transporter-for-hire licensees.

(b) Persons who have contracted with and are performing transportation services of alcoholic beverages for the transporter-for-hire licensees are considered agents of the transporters-for-hire for purposes of section 471 of the Liquor Code (47 P. S. § 4-471).

(c) A licensee may not sell, lease or permit the use by another of a vehicle identified for use in operation of its licensed business without first obscuring or defacing the identification displayed on the vehicle.

Authority

The provisions of this § 9.28 issued under sections 207(i) and 505.2(2) and (3) of the Liquor Code (47 P. S. §§ 2-207(i) and 5-505.2(2) and (3)).

Source

The provisions of this § 9.28 adopted March 11, 1983, effective March 12, 1983, 13 Pa.B. 984; amended August 29, 1997, effective August 30, 1997, 27 Pa.B. 4432; amended November 8, 2002, effective November 9, 2002, 32 Pa.B. 5512; amended November 12, 2004, effective November 13, 2004, 34 Pa.B. 6139. Immediately preceding text appears at serial pages (293236) to (293237).

§ 9.29. [Reserved].

Source

The provisions of this § 9.29 adopted March 11, 1983, effective March 12, 1983, 13 Pa.B. 984; amended August 29, 1997, effective August 30, 1997, 27 Pa.B. 4432; reserved November 12, 2004, effective November 13, 2004, 34 Pa.B. 6139. Immediately preceding text appears at serial page (293237).

§ 9.30. [Reserved].

Source

The provisions of this § 9.30 adopted March 11, 1983, effective March 12, 1983, 13 Pa.B. 984; amended March 12, 1993, effective March 13, 1993, 23 Pa.B. 1145; amended August 29, 1997, effective August 30, 1997, 27 Pa.B. 4432; reserved November 12, 2004, effective November 13, 2004, 34 Pa.B. 6139. Immediately preceding text appears at serial pages (293237) to (293238).

Subchapter B. IMPORTATION OF LIQUOR

Sec.
9.31. Purpose.
9.32. Bottling, fortification, blending and the like.
9.33. Importation by distilleries.
9.34. Records to be maintained by importers.
9.35. [Reserved].
9.36. Right of the Board to inspection.

§ 9.31. Purpose.

This subchapter is supplemental to the provisions of section 410 of the Liquor Code (47 P. S. § 4-410), and is intended to expedite the more efficient administration thereof.

Source

The provisions of this § 9.31 adopted June 26, 1952; amended through August 29, 1966.

§ 9.32. Bottling, fortification, blending and the like.

Except as otherwise provided in this subchapter, liquor imported into or purchased within this Commonwealth, and sold by the holder of an Importer

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License, shall be in the original container in which it was received by the importer, and as capped, corked and labeled by the manufacturer. The liquors, imported or purchased within this Commonwealth, may not be reduced, repackaged, fortified, blended, rectified or compounded by the importer unless he also holds a Manufacturer License. The holder of an Importer License may have liquor imported or purchased by him in this Commonwealth in bulk, bottled for him by the holder of a Manufacturer License. The bulk liquor shall be bottled straight or reduced in proof only, and may not be fortified, blended, rectified or compounded.

Source

The provisions of this § 9.32 adopted June 26, 1952; amended through August 29, 1966.

§ 9.33. Importation by distilleries.

(a) A distillery holding a Manufacturer License may not import liquor from outside this Commonwealth nor purchase liquor from a resident manufacturer unless the distiller also holds an Importer License. When both licenses are held, liquor may be imported or purchased from a Commonwealth manufacturer, in bulk, to be used in the manufacture, rectification, blending and reduction in proof for straight bottling. Liquors which have been rebottled, as well as rectified and manufactured products, may be sold to the Board, exported to other states, or sold to the holder of an Importer License within this Commonwealth. The importation or purchase of liquor shall be for the sole use and benefit of the holder of the Manufacturer License, and the liquor so imported or purchased may not be resold in its original state.

(b) Commonwealth manufacturers holding Importer Licenses may purchase liquor in bulk from other manufacturers in this Commonwealth in accordance with the procedure in subsection (c).

(c) Bulk sales will be permitted only in quantities of 50 gallons or more for each sale. Manufacturers desiring to purchase liquor in bulk shall place their orders with the Purchasing Division of the Board. An order shall include the following:

(1) The name and address of the manufacturer.

(2) The name and address of the person or firm to which the order is directed.

(3) A description of the liquor desired.

(4) The manner in which the liquor is to be packed, including the size and number of containers.

(5) The manner in which the liquor is to be shipped, including the name of the carrier. If the carrier is a trucking company, it shall hold a valid transporter-for-hire license issued by the Board.

(d) Every order shall be accompanied by a remittance in the amount of $5.

(e) Upon approval by the Board of an order from a manufacturer, the order will be forwarded to the person or firm to which directed and the vendor will be notified to make shipment to the Board at the destination given in the order. The Board will also furnish the purchaser with a notice of release in duplicate, both copies of which shall be signed by the purchaser and surrendered to the carrier upon delivery of the liquor. The carrier shall then sign the original in the space provided and forward it to the Board, retaining the other copy for his file.

(f) The Board will not be liable to a vendor for the purchase price of liquor purchased in bulk or for transportation charges or claims, in connection therewith.

Source

The provisions of this § 9.33 adopted June 26, 1952; amended through August 29, 1966; amended July 8, 1977, effective July 9, 1977, 7 Pa.B. 1890; amended March 12, 1993, effective March 13, 1993, 23 Pa.B. 1145. Immediately preceding text appears at serial pages (149741) to (149742) and (149771).

§ 9.34. Records to be maintained by importers.

(a) The holder of an Importer License shall maintain and keep on the licensed premises, for a period of 2 years, complete and accurate daily records in hard copy or electronic media consistent with generally accepted accounting procedures, of transactions conducted under the authority of the license under section 493(12) of the Liquor Code (47 P. S. § 4-493(12)). These records shall be open to inspection by authorized representatives of the Board and the State Police, Bureau of Liquor Control Enforcement, under sections 211 and 493(21) of the Liquor Code (47 P. S. §§ 2-211 and 4-493(21)). 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 shall include the date of purchase, the name and address of the person from whom purchased and the kind and quantity of liquor purchased. The holder shall further specify whether the liquor was purchased in bulk and bottled in this Commonwealth, the name and address of the manufacturer therein that bottled the bulk liquor, the kind and quantity thereof so purchased and bottled, the date of sale, the name and address of the person to whom sold and the kind, quantity and price of the liquor sold.

(b) Records shall also be maintained for all liquor withdrawn from stock. The records shall show the date of withdrawal, quantity withdrawn, and the purpose for which used.

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(c) Copies of reports and 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 subsections (a) and (b).

Source

The provisions of this § 9.34 adopted June 26, 1952; amended through August 29, 1966; amended June 22, 1990, effective June 23, 1990, 20 Pa.B. 3492. Immediately preceding text appears at serial page (31203).

§ 9.35. [Reserved].

Source

The provisions of this § 9.35 adopted June 26, 1952; amended through August 29, 1966; reserved June 22, 1990, effective June 23, 1990, 20 Pa.B. 3492. Immediately preceding text appears at serial page (31203).

§ 9.36. Right of the Board to inspection.

(a) The Board may inspect purchases made under this subchapter.

(b) The Board may also inspect records covering transactions under this subchapter.

Source

The provisions of this § 9.36 adopted June 26, 1952; amended through August 29, 1966.

Subchapter C. IMPORTATION OF LIQUOR ON BEHALF OF RESIDENTS IN CERTAIN CASES

TYPES OF IMPORTATIONS

Sec.
9.41. Gift liquor.
9.42. Liquor dividends.
9.43. Liquor alloted to stockholders of distillery under purchase privilege plan.
9.44. Heirs and legatees.
9.45. Liquor purchased prior to January 1, 1934.
9.46. New residents of the Commonwealth.
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APPLICATION, SERVICE CHARGE, CONSENT AND RELEASE OF LIQUOR

9.51. Application.
9.52. Service charge.
9.53. Consent certificate.
9.54. Release of liquor.
9.55. Liquor to be shipped in care of the Board.

IMPORTATION UNDER PURCHASE PRIVILEGE PLAN

9.61. Procedure.
9.62. Markup and taxes.
9.63. Delivery and general sale.
9.64. Nonliability of the Board.

MISCELLANEOUS PROVISIONS

9.71. Distillery Bonded Warehouse Certificates.
9.72. Additional limitations on importation.
9.73. Commonwealth distillers and importers.

TYPES OF IMPORTATIONS

§ 9.41. Gift liquor.

Liquor given to persons residing in this Commonwealth by nonresidents may, in the discretion of the Board, be imported into this Commonwealth, in the manner provided in this subchapter.

Source

The provisions of this § 9.41 adopted June 26, 1952; amended through August 29, 1966.

§ 9.42. Liquor dividends.

A liquor dividend to stockholders of a distillery located outside of this Commonwealth may, in the discretion of the Board be imported into this Commonwealth for stockholders who are residents of this Commonwealth in the manner provided in this subchapter.

Source

The provisions of this § 9.42 adopted June 26, 1952; amended through August 29, 1966.

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§ 9.43. Liquor alloted to stockholders of distillery under purchase privilege plan.

Liquor alloted to stockholders of a distillery located outside the Commonwealth under a purchase privilege plan, may, in the discretion of the Board, if the liquor is not stocked in State Liquor Stores, be imported into this Commonwealth for resident stockholders, in the manner provided in this subchapter.

Source

The provisions of this § 9.43 adopted June 26, 1952; amended through August 29, 1966.

§ 9.44. Heirs and legatees.

Liquor owned and possessed outside this Commonwealth by a resident or a nonresident decedent passing to a resident by will or intestacy may, in the discretion of the Board, be imported into this Commonwealth for the beneficiary in the manner provided in this subchapter.

Source

The provisions of this § 9.44 adopted June 26, 1952; amended through August 29, 1966.

§ 9.45. Liquor purchased prior to January 1, 1934.

Liquor purchased outside this Commonwealth prior to January 1, 1934 by residents for purposes other than resale may, in the discretion of the Board, be imported into this Commonwealth for such residents in the manner provided in this subchapter.

Source

The provisions of this § 9.45 adopted June 26, 1952; amended through August 29, 1966.

§ 9.46. New residents of the Commonwealth.

Upon the establishment of residence in this Commonwealth, liquor owned and possessed by the persons in their foreign residence for personal use may, in the discretion of the Board, be imported into this Commonwealth for the residents in the manner provided in this subchapter.

Source

The provisions of this § 9.46 adopted June 26, 1952; amended through August 29, 1966.

§ 9.47. Confiscated liquor for hospitals.

Hospitals desirous of obtaining confiscated liquor offered by Federal authorities or granted to them by the courts of the Commonwealth shall make written application to the Board for permission to import the liquor if located outside of this Commonwealth. Written application shall include the number and size of bottles, the brand of liquor, the address of the Federal supply service office and the Federal transfer number.

Source

The provisions of this § 9.47 adopted June 26, 1952; amended through August 29, 1966; amended July 8, 1977, effective July 9, 1977, 7 Pa.B. 1890. Immediately preceding text appears at serial page (4177).

Cross References

This section cited in 40 Pa. Code § 9.51 (relating to application); and 40 Pa. Code § 9.52 (relating to service charge).

APPLICATION, SERVICE CHARGE, CONSENT AND RELEASE OF LIQUOR

§ 9.51. Application.

(a) A resident of this Commonwealth desiring to obtain liquor outside this Commonwealth shall file an application with the Board, except as otherwise provided in § 9.47 or §§ 9.61—9.64 (relating to confiscated liquor for hospitals; and importation under purchase privilege plan). The application shall include all of the following:

(1) The name and address of the applicant.

(2) The name and address of persons or firm from whom the liquor is to be received.

(3) Whether the liquor is a gift, dividend, bequest or purchase. A description of the liquor, including the brand name and size and number of bottles.

(4) The name and address of the transporter. Where the transporter is a trucking company, the transporter shall hold a valid Transporter-for-Hire License.

(b) The Board may request additional information it deems necessary.

(c) An application involving more than 1 quart of liquor or 1 gallon of wine shall be verified by oath or affirmation of the applicant. Every application shall, in the case of a gift, dividend or bequest, specifically state that the liquor was not obtained by the applicant by purchase or for a consideration of any kind and that the donee is at least 21 years of age. In the case of a purchase, the affidavit shall also set forth the date of purchase and that the liquor is not for resale.

Source

The provisions of this § 9.51 adopted June 26, 1952; amended through August 29, 1966.

§ 9.52. Service charge.

(a) An applicant, except a hospital applying under § 9.47 (relating to confiscated liquor for hospitals), shall, at the time of filing the application, pay to the Board a service charge at the rate of 25¢ per gallon or fraction thereof.

(b) Service charges authorized under this section shall be paid in cash, money order, certified or cashier's check, and will be paid by the Board into the State Stores Fund.

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Source

The provisions of this § 9.52 adopted June 26, 1952; amended through August 29, 1966.

§ 9.53. Consent certificate.

Upon receipt of the application and the proper service charge, and upon being satisfied of the truth of the statements in the application, the Board may, in its discretion, grant and issue to the applicant a consent certificate permitting the importation of the liquor designated therein and entitling the applicant to obtain the liquor from the transporter or the authority in custody thereof, in the manner provided in this subchapter.

Source

The provisions of this § 9.53 adopted June 26, 1952; amended through August 29, 1966.

§ 9.54. Release of liquor.

(a) Upon the arrival in this Commonwealth of the liquor for the holder of a properly acquired consent certificate, the Board will furnish him with a notice of release in duplicate, both copies of which shall be signed by the holder of the certificate and surrendered to the carrier for delivery of the liquor. The carrier shall then sign the original in the space provided and forward it to the Board. Before the notice of release will be furnished, the holder of the consent certificate shall present to the Board a certificate from the Department of Revenue evidencing the payment of the requisite Spirituous and Vinous Liquor Tax upon the liquor and proof satisfactory to the Board of the payment of transportation and other charges, if any, against the shipment.

(b) The Board will furnish official seals, which will be affixed to each bottle by an employe of the Board.

Source

The provisions of this § 9.54 adopted June 26, 1952; amended through August 29, 1966.

§ 9.55. Liquor to be shipped in care of the Board.

Shipments of liquor authorized under this subchapter shall be consigned to the holder of the consent certificate in care of the Board. Shipments consigned otherwise will be considered in the constructive possession of the Board until released by the Board to the holder of the consent certificate.

Source

The provisions of this § 9.55 adopted June 26, 1952; amended through August 29, 1966.

IMPORTATION UNDER PURCHASE PRIVILEGE PLAN

§ 9.61. Procedure.

(a) Resident stockholders, except the holders of Hotel, Restaurant and Club Liquor Licenses (who are prohibited from being stockholders), desiring to acquire liquor under a purchase privilege plan shall fill out, sign and file with the Board, a Special Liquor Order form provided by the Board for the liquor, designating the State Liquor Store at which delivery is to be made, and shall also file a true and correct copy of the completed order form required under the purchase privilege plan, to be transmitted by the stockholder to the distillery or its trustee, containing the number of cases of liquor to be purchased and the cost to the stockholder. The form will be furnished (by the Board) upon request.

(b) Upon receipt of the special liquor order and the copy of the order to the distillery or its trustee, the Board, if it accepts the special liquor order, will so notify the stockholder, and if, under the purchase privilege plan, the Board cannot make the actual purchase of the liquor, permission will be given to the stockholder to do so and to authorize delivery of the liquor to the Board at the State Liquor Store designated in the order, provided all transportation charges are prepaid by the shipper.

Source

The provisions of this § 9.61 adopted June 26, 1952; amended through August 29, 1966.

Cross References

This section cited in 40 Pa. Code § 9.51 (relating to application) and 40 Pa. Code § 9.62 (relating to markup and taxes).

§ 9.62. Markup and taxes.

Special liquor orders filed under § 9.61 (relating to procedure) will be subject to a markup by the Board and also an applicable emergency State tax, but where the liquor is purchased by a stockholder under a purchase privilege plan, the cost price will be the basis for the markup. In addition to the markup and emergency tax, the stockholder will be required to pay taxes (except the Pennsylvania Spirituous and Vinous Liquor Tax), expenses and charges, if any, due upon delivery of the liquor to the Board, and the cost seals to be attached to each bottle of liquor at the rate of 25¢ per case.

Source

The provisions of this § 9.62 adopted June 26, 1952; amended through August 29, 1966.

Cross References

This section cited in 40 Pa. Code § 9.51 (relating to application).

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§ 9.63. Delivery and general sale.

(a) On delivery of the liquor to the Board, the stockholder will be notified and requested to pay taxes, charges and expenses, if any, due on the liquor or its shipment.

(b) Unless the stockholder makes full payment as required in subsection (a) and accepts delivery of the liquor within 5 days after notice of its arrival, the Board may, in its discretion, place the liquor in stock for general sale through its stores upon payment to the stockholder of the actual cost price under the purchase privilege plan.

Source

The provisions of this § 9.63 adopted June 26, 1952; amended through August 29, 1966.

Cross References

This section cited in 40 Pa. Code § 9.51 (relating to application).

§ 9.64. Nonliability of the Board.

The Board will not be liable for nondelivery of the liquor by the distillery or its trustee, loss of or damage to the liquor in transit through breakage, pilferage, or other cause; the stockholder shall assume the risk until the actual delivery of the liquor to the stockholder.

Source

The provisions of this § 9.64 adopted June 26, 1952; amended through August 29, 1966.

Cross References

This section cited in 40 Pa. Code § 9.51 (relating to application).

MISCELLANEOUS PROVISIONS

§ 9.71. Distillery Bonded Warehouse Certificates.

Distillery Bonded Warehouse Certificates, evidencing the ownership of liquor, are excepted from this subchapter, as the sale, purchase and possession of the certificates is subject to the provisions of Article VII of the Liquor Code (47 P. S. §§ 7-701—7-751).

Source

The provisions of this § 9.71 adopted June 26, 1952; amended through August 29, 1966.

§ 9.72. Additional limitations on importation.

(a) Only liquor in properly labeled bottles, and upon which Federal liquor taxes have been paid, may be imported under this subchapter.

(b) The liquor shall be for personal use only and may not be sold in this Commonwealth, except by the Board.

Source

The provisions of this § 9.72 adopted June 26, 1952; amended through August 29, 1966.

§ 9.73. Commonwealth distillers and importers.

This subchapter does not apply to or affect in any way the rights and privileges of distillers and importers licensed by the Board under the provisions of the Liquor Code.

Source

The provisions of this § 9.73 adopted June 26, 1952; amended through August 29, 1966.

Subchapter D. IMPORTATION OF LIQUOR PURCHASED IN A FOREIGN COUNTRY

Sec.
9.81. Scope.
9.82. Proof required.
9.83. Imports in excess of 1 gallon per person.

§ 9.81. Scope.

This subchapter is to be applied in conjunction with the Liquor Code and sets forth the nature and kind of proof required thereunder.

Source

The provisions of this § 9.81 adopted June 26, 1952; amended through August 29, 1966.

§ 9.82. Proof required.

A person who possesses or transports in this Commonwealth liquor not in excess of 1 gallon, claimed by the person to have been purchased by him in a foreign country shall, upon request by the Board, submit the following documentary evidence:

(1) The stub or receipt for passage on the railroad, bus, steamship, airplane, hotel receipt or other satisfactory evidence to prove the foreign travel.

(2) A receipt evidencing the purchase of the liquor by the person while in the foreign country.

(3) An affidavit by the person that he was allowed to bring the liquor into the United States duty free.

Source

The provisions of this § 9.82 adopted June 26, 1952; amended through August 29, 1966.

§ 9.83. Imports in excess of 1 gallon per person.

If the quantity of liquor imported is in excess of 1 gallon, the excess will be subject to markup by the Board and State taxes, calculated in the usual manner.

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Source

The provisions of this § 9.83 adopted June 26, 1952; amended through August 29, 1966.

Subchapter E. IMPORTATION AND DISTRIBUTION OF MALT OR BREWED BEVERAGES

GENERAL PROVISIONS

Sec.
9.91. Importation.
9.92. Transport vehicle restrictions.
9.93. Nature of other business to be considered.
9.94. [Reserved].
9.95. Sales.
9.96. Distribution rights.
9.97. Allowances.

RECORDS AND REPORTS

9.101. Records to be maintained.
9.102. Purchase register.
9.103. Sales register.
9.104. Perpetual inventory record.
9.105. Cash receipts and disbursements book.
9.106. Sales invoices.
9.107. Federal and State government reports and forms.
9.108. Brand registration.

GENERAL PROVISIONS

§ 9.91. Importation.

(a) A person may not import malt or brewed beverages into this Commonwealth for delivery or use therein, unless the person holds a valid Importing Distributor License, issued by the Board under the Liquor Code, or unless the person is otherwise exempted by the provisions of this section.

(b) This section does not prohibit the importation of malt or brewed beverages by either of the following:

(1) A resident of this Commonwealth, for personal use only and not for sale, provided that the malt or brewed beverages are in original containers and that the tax thereon has been paid, or provisions for the payment have been made under the Malt Beverage Tax Law (72 P. S. §§ 9001—9016).

(2) Railroad and pullman companies, in their dining, club and buffet cars, licensed in this Commonwealth.

(c) Sales of malt or brewed beverages intended to be transported for delivery or use in this Commonwealth shall be consummated outside this Commonwealth and shall be paid for in full prior to or at the time of delivery to the consignee in this Commonwealth, who shall pay transportation charges. The beverages shall also be tax paid in accordance with section 2003 of the Malt Beverage Tax Law (72 P. S. § 9003), and the transporter shall be considered the agent of the consignee.

Source

The provisions of this § 9.91 adopted June 26, 1952; amended through August 29, 1966; amended July 20, 1970, effective July 21, 1970, 1 Pa.B. 137; amended January 19, 2001, effective January 20, 2001, 31 Pa.B. 430. Immediately preceding text appears at serial pages (229073) to (229074).

§ 9.92. Transport vehicle restrictions.

(a) A licensee may not transport malt or brewed beverages and coal in the same vehicle at the same time.

(b) A licensee may not transport both malt or brewed beverages and a commodity that is hawked or peddled by the licensee in the same vehicle at the same time.

Source

The provisions of this § 9.92 adopted June 26, 1952; amended through August 29, 1966; amended July 20, 1970, effective July 21, 1970, 1 Pa.B. 137.

§ 9.93. Nature of other business to be considered.

(a) A distributor or importing distributor may not engage in a business which involves the peddling and hawking of a merchandise.

(b) Under section 492(12) of the Liquor Code (47 P. S. § 4-492(12)), the Board will in each case consider the nature of any other business engaged in by the distributor or importing distributor prior to the granting of its approval.

Source

The provisions of this § 9.93 adopted June 26, 1952; amended through August 29, 1966; amended July 20, 1970, effective July 21, 1970, 1 Pa.B. 137.

§ 9.94. [Reserved].

Source

The provisions of this § 9.94 adopted June 26, 1952; amended through August 29, 1966; amended July 20, 1970, effective July 21, 1970, 1 Pa.B. 137; deleted August 24, 1990, effective August 25, 1990, 20 Pa.B. 4487. Immediately preceding text appears at serial page (38679).

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§ 9.95. Sales.

(a) Sales of malt or brewed beverages may not be made at any time in a warehouse except those in which the principal office or place of business of the licensee is maintained. Delivery shall be made only from the licensed premises of the distributor or importing distributor.

(b) Sales of malt or brewed beverages by distributors or importing distributors shall be for cash, checks or drafts under section 493(2) of the Liquor Code (47 P. S. § 4-493(2)).

(c) Distributors and importing distributors may accept from purchasers debit card payments which provide for instant electronic transfer of funds from payor to payee. Debit card transactions which provide for instant electronic funds transfer shall be considered a cash equivalent which complies with the Liquor Code.

Source

The provisions of this § 9.95 adopted June 26, 1952; amended through August 29, 1966; amended July 20, 1970, effective July 21, 1970, 1 Pa.B. 137; amended December 28, 1990, effective December 29, 1990, 20 Pa.B. 6386. Immediately preceding text appears at serial page (149753).

§ 9.96. Distribution rights.

(a) *Agreements, franchises or statements of distribution rights.* Agreements, franchises or statements of distribution rights given by a manufacturer or by an importing distributor under section 441 of the Liquor Code (47 P. S. § 4-441) shall be in writing, and a correct copy thereof shall be permanently maintained on the licensed premises of each party to the agreement, franchise or statement. The agreement, franchise or statement of distribution rights shall be open to inspection by authorized representatives of the Board at all times.

(b) *Filing and posting.*

(1) An importing distributor and secondary importing distributor deriving rights of distribution by agreement with a manufacturer or importing distributor shall comply with the following:

(i) Post and keep posted at all times on the licensed premises of the importing distributor, in a conspicuous place near to the license issued to the importing distributor by the Board, a schedule designating the territorial areas of, limits of or rights vested in the importing distributor by a manufacturer or importing distributor. The importing distributor shall furnish to distributors and importing distributors in his territory to whom he intends to sell, a schedule in which the territorial areas of the selling distributor or importing distributor are set forth, and he shall obtain the signatures on a copy of the schedule of distributors or importing distributors to whom he intends to sell. These signed copies of schedules shall be kept on file in the selling distributor's office or importing distributor's office.

(ii) File with the Board's Office of Malt Beverage Compliance, a certified copy of each franchise or territorial agreement entered into with a manufacturer or importing distributor.

(iii) File with the Board's Office of Malt Beverage Compliance, a certified copy of each revised, altered or modified franchise or territorial agreement revising, altering or modifying previously existing agreements, within 10 days of execution thereof.

(iv) Repost on the licensed premises within 5 days of execution of the revised, altered or modified agreement the schedule required under paragraph (1) indicating changes in territorial areas, limits or rights as a result of revision, alteration or modification of a previously existing agreement; furnish to distributors or importing distributors in his territory to whom he intends to sell, a revised, altered or modified schedule indicating changes in territorial areas, limits or rights as a result of the revision, alteration or modification of a previously existing agreement; and obtain the signatures of the distributors or importing distributors on copies thereof.

(2) Distributors, when making purchases from importing distributors or secondary distributors, have the right to rely upon territorial areas, limits or rights posted on the premises of the importing and secondary distributors.

Source

The provisions of this § 9.96 adopted June 26, 1952; amended through August 29, 1966; amended July 20, 1970, effective July 21, 1970, 1 Pa.B. 137; amended November 17, 1978, effective November 18, 1978, 8 Pa.B. 3202; amended January 16, 1998, effective January 17, 1998, 28 Pa.B. 279. Immediately preceding text appears at serial pages (229075) to (229076).

§ 9.97. Allowances.

(a) *Leaker allowances.* Malt or brewed beverages contained in cooperage that becomes unfit for consumption due to a head leaker, bung leaker, stave leaker, loose pitch, bushing leaker or spoilage, shall be handled as follows:

(1) A tag shall be furnished by the manufacturer to the importing distributors and distributors showing information covering the type of leaker or spoilage, the name of the retailer or distributor and the license number of the licensee making the claim. The tag shall have a perforated portion, to be retained by the claimant, showing the reason for the return of the leaker, the claim number and the date of the claim. The top portion of the tag shall be fastened to the cooperage and returned to the manufacturer through the distributor from whom originally purchased.

(2) When the manufacturer has approved the claim, he shall issue a credit memorandum in triplicate. Three copies of the credit memorandum shall be signed by the retailer who retains the triplicate copy. The duplicate copy shall be retained by the distributor. The original credit memorandum and the stub of

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the tag shall be returned to the manufacturer for his file. Credit replacement may then be made in kind or in value.

(3) If credit is disallowed by the manufacturer, the retailer shall be so notified through the distributor, giving the reasons.

(4) The manufacturer shall attach to his monthly report, on Forms RCB-47, RCB-48 and RCB-49, a statement showing claims allowed, indicating names, addresses and dates involved in such allowances.

(5) Importing distributors shall be governed by the same procedure covering returns to foreign manufacturers.

(b) *Breakage allowance.* A manufacturer, distributor or importing distributor of malt or brewed beverages is not required to give breakage allowance. If an allowance is given, however, it shall be based upon a fixed percentage of gross sales to any one licensee customer of glass containers and contents, not to exceed .1% of gross sales of glass containers and contents to any one licensee customer.

Source

The provisions of this § 9.97 adopted June 26, 1952; amended through August 29, 1966; amended July 20, 1970, effective July 21, 1970, 1 Pa.B. 137.

RECORDS AND REPORTS

§ 9.101. Records to be maintained.

A distributor and importing distributor shall maintain and keep on the licensed premises, in hard copy or electronic media, complete and truthful records in columnar form or other compatible configuration consistent with generally accepted accounting procedures, covering in detail transactions in malt or brewed beverages and other items, particularly items described in §§ 9.102—9.107 for a period of at least 2 years under section 493(12) of the Liquor Code (47 P. S. § 4-493(12)). The records shall be open to inspection by authorized representatives of the Board and the State Police, Bureau of Liquor Control Enforcement, under sections 211 and 493(21) of the Liquor Code (47 P. S. §§ 2-211 and 4-493(21)). A record 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.

§ 9.102. Purchase register.

Purchases of malt or brewed beverages shall be entered in a purchase register. The register shall show the date of the purchase, invoice number and source of the purchase, covering both cooperage and case goods. The cost of malt or brewed beverages shall be shown separately from any deposits paid on case goods and refund obtained for the return of empty containers. The net cost of invoices shall be shown and the register shall be totaled each day with the daily

unit totals carried to the purchase column in the perpetual inventory record. The daily totals shall be accumulated into a monthly total.

Source

The provisions of this § 9.102 adopted June 26, 1952; amended through August 29, 1966; amended July 20, 1970, effective July 21, 1970, 1 Pa.B. 137.

Notes of Decisions

Instruction

The Board need not give special instructions or orientation with respect to the maintenance of a purchase register, a sales register, and a perpetual inventory record on the licensed premises. *In re GTRT, Inc.*, 458 A.2d 667 (Pa. Cmwlth. 1983).

Purchase Register

In reimposing a fine on a licensee, the Court noted that maintenance of a purchase register, a sales register, and a perpetual inventory record on the licensed premises is required by §§ 9.102—9.104. *In re Lampl*, 458 A.2d 660 (Pa. Cmwlth. 1983).

Cross References

This section cited in 40 Pa. Code § 9.101 (relating to records to be maintained).

§ 9.103. Sales register.

Sales of malt or brewed beverages shall be entered in a sales register. The selling price of the beverages shall be shown separately from deposits charged on case goods and the credit allowed for the return of empty containers. The net selling price of invoices shall be shown and the register shall be totaled each day with the daily unit totals carried to the sales column in the perpetual inventory record. The daily totals shall be accumulated into a monthly total. The sales register shall be maintained by either of the following methods:

(1) The required information may be accumulated each day on a summary sheet with a daily posting to the sales register. The summary sheet shall act as a face sheet and be permanently fastened to each daily group of sales invoices. Sales invoices together with their attached face sheets shall be filed chronologically and be maintained for 2 years.

(2) Sales invoice may be posted to the sales register showing date, invoice number, value of the malt or brewed beverages, deposits collected and refunded, the net cost to the customer and the name and address of the recipient of the beverages.

Source

The provisions of this § 9.103 adopted June 26, 1952; amended through August 29, 1966; amended July 20, 1970, effective July 21, 1970, 1 Pa.B. 137.

Notes of Decisions

Instruction

The Board need not give special instructions or orientation with respect to the maintenance of a purchase register, a sales register, and a perpetual inventory record on the licensed premises, *In re GTRT, Inc.*, 458 A.2d 667 (Pa. Cmwlth. 1983).

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Sales Register

In reimposing a fine on a licensee, the Court noted that maintenance of a purchase register, a sales register, and a perpetual inventory record on the licensed premises is required by §§ 9.102—9.104. *In re Lampl*, 458 A.2d 660 (Pa. Cmwlth. 1983).

Cross References

This section cited in 40 Pa. Code § 9.101 (relating to records to be maintained).

§ 9.104. Perpetual inventory record.

(a) A perpetual inventory record shall be maintained for inventory control purposes of all stock of malt or brewed beverages. The record is the control of stock on hand and shall be used in compiling figures for the monthly report. The record shall:

(1) Be separated according to container size (such as full barrels or half-barrels, cases of pints, quarts, cans, splits, etc.).

(2) Show the number of units of each size on hand at the beginning of each business day.

(3) Show the total units purchased as shown on the purchase register and the total units sold as shown on the sales register for each business day.

(4) Show the closing inventory of each size and the reconciliation of the inventory with the physical inventory of stock on hand in the warehouse.

(b) The daily totals of the purchase and sales columns shall be totaled monthly.

Source

The provisions of this § 9.104 adopted June 26, 1952; amended through August 29, 1966; amended July 20, 1970, effective July 21, 1970, 1 Pa.B. 137.

Notes of Decisions

Perpetual Inventory Record

In reimposing a fine on a licensee, the Court noted that maintenance of a purchase register, a sales register and a perpetual inventory record on the licensed premises is required by 40 Pa. Code §§ 9.102—9.104. *In re GTRT, Inc.*, 458 A.2d 667 (Pa. Cmwlth. 1983).

In reimposing a fine on a licensee, the Court noted that maintenance of a purchase register, a sales register, and a perpetual inventory record on the licensed premises is required by 40 Pa. Code §§ 9.102—9.104. *In re Lampl*, 458 A.2d 660 (Pa. Cmwlth. 1983).

Cross References

This section cited in 40 Pa. Code § 9.101 (relative to records to be maintained).

§ 9.105. Cash receipts and disbursements book.

(a) A cash receipts and disbursements book shall show the details of monies received and expended in the operation of the licensed business each day.

(b) Receipts covering income from the sale of malt or brewed beverages, soft drinks, other merchandise, loans and other sources shall be entered in detail.

(c) Expenditures covering payments for malt or brewed beverages, soft drinks, other merchandise, salaries and wages, truck expenses, rent, heat, light,

taxes, insurance, license fees, advertising, sales expenses, repairs and maintenance of equipment and premises, interest, personal withdrawals and other expenses shall be entered in detail.

(d) The cash receipts and disbursements book shall be totaled and reconciled with bank account and cash on hand at the close of business each month.

Source

The provisions of this § 9.105 adopted June 26, 1952; amended through August 29, 1966; amended July 20, 1970, effective July 21, 1970, 1 Pa.B. 137.

Cross References

This section cited in 40 Pa. Code § 9.101 (relating to records to be maintained).

§ 9.106. Sales invoices.

(a) Except as otherwise provided in this section, sales invoices shall be prepared at the licensed premises for each sale prior to delivery.

(b) Sales invoices shall be imprinted or affixed with the name and address of the distributor or importing distributor and 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 malt or brewed beverages and the net cost to the customer. The deposits charged and refunded for containers, and Commonwealth sales tax, where applicable, shall be shown as separate entries.

(c) The name and address of private individuals is not required on sales invoices covering cash and carry sales made at the place of business of the licensee, when the individual sales are for quantities of three cases or less, each case containing bottles or cans of not more than a 32 fluid ounce capacity, or for quantities of three containers or less of 128, 144 or 288 fluid ounce capacity, or a combination of the cases or containers, in the quantities specified. In lieu of preparing sales invoices for the cash and carry sales, these 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. This counter sheet shall be totaled daily and the totals entered into the sales register.

(d) Sales invoices may be changed en route only to increase or decrease the customer's original order.

(e) The sale of other Board-approved commodities may be included on a sales invoice if the sale of malt beverages is listed separately from other merchandise sold by the licensee.

(f) One copy of each sales invoice shall be given to the recipient of the merchandise.

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Source

The provisions of this § 9.106 adopted June 26, 1952; amended through August 29, 1966; amended July 20, 1970, effective July 21, 1970, 1 Pa.B. 137; amended August 24, 1990, effective August 25, 1990, 20 Pa.B. 4487.

Cross References

This section cited in 40 Pa. Code § 9.101 (relating to records to be maintained).

§ 9.107. 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 and forms shall constitute a satisfactory record if they contain the information required by this subchapter.

Source

The provisions of this § 9.107 adopted June 26, 1952; amended through August 29, 1966; amended July 20, 1970, effective July 21, 1970, 1 Pa.B. 137; amended July 8, 1977, effective July 9, 1977, 7 Pa.B. 1890. Immediately preceding text appears at serial page (4189).

Cross References

This section cited in 40 Pa. Code § 9.101 (relating to records to be maintained).

§ 9.108. Brand registration.

(a) *Definitions.* For the purpose of malt or brewed beverage brand registration as required by section 445 of the Liquor Code (47 P. S. § 4-445), the following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:

Brand—Malt or brewed beverages, distinguished by a unique prescribed formula and sold under a distinct label. Differences in packaging such as different style, type or size of container are not considered different brands.

Franchisee—A person, corporation, partnership or association in which rights have been conferred by a domestic or nondomestic manufacturer of malt or brewed beverages to offer, sell or deliver products within this Commonwealth to licensed importing distributors.

Malt Beverage Compliance—The section of Special Investigations responsible for handling the various duties of brand registration for the Board.

(b) *Registration.* Each brand of malt or brewed beverages that a manufacturer or franchisee offers, sells or delivers within this Commonwealth shall be first registered with the Board by filing the proper forms with Malt Beverage Compliance. The registration shall be on forms as provided by the Board and shall be renewed annually. An initial application shall be accompanied by:

(1) A label or copy of a label for each brand registered and a Federal label approval containing a copy of the label.

(2) A copy of a territorial franchise agreement between the manufacturer and each Pennsylvania importing distributor.

(3) If the brand registrant is an out-of-State importer/wholesaler the following:

(i) A copy of the agreement designating the United States importer/wholesaler as the authority to market in this Commonwealth.

(ii) A copy of the territorial/franchise agreements between the importer/wholesaler and each Pennsylvania importing distributor. The agreement shall contain the written consent and approval of the out-of-State domestic or nondomestic manufacturer to the appointment of the Pennsylvania importing distributor and the rights conferred thereunder.

(4) If the brand registrant is a licensed Pennsylvania importing distributor holding an agreement as franchisee with a nondomestic manufacturer, a copy of the agreement with the nondomestic manufacturer.

(c) *Notification of changes.* Changes in brand ownership, franchise agreements, territorial agreements or the desire to offer, sell or deliver additional brands of malt or brewed beverages, shall be reported to the Board within 30 days.

Source

The provisions of this § 9.108 adopted September 9, 1988, effective September 10, 1988, 18 Pa.B. 4095; amended January 16, 1998, effective January 17, 1998, 28 Pa.B. 279. Immediately preceding text appears at serial pages (229081) to (229082).

Subchapter F. DISPOSITION OF LIQUOR AND MALT OR BREWED BEVERAGES UNDER CERTAIN CONDITIONS

Sec.

9.111. Alcoholic beverages held by estates; legal process; licensees who have discontinued business.
9.112. Information to be furnished.
9.113. Repurchase of liquor by the Board.
9.114. Licensees who have sold their licensed business.
9.115. Sales prohibited.

§ 9.111. Alcoholic beverages held by estates; legal process; licensees who have discontinued business.

(a) *Liquor.*

(1) Liquor purchased from a State Liquor Store and forming part of the estate of a decedent or bankrupt or liquor so purchased and in the custody of the law under legal process, may not be sold except to the Board as provided in this subchapter.

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(2) Liquor purchased from a State Liquor Store by a licensee of the Board and in the possession of the licensee at the time he discontinues business, by transfer of his license or otherwise, may be sold by the licensee or may be repurchased from him by the Board, but only under this subchapter.

(b) *Malt or brewed beverages.* Malt or brewed beverages shall be disposed of in accordance with the following:

(1) Malt or brewed beverages purchased from a licensed distributor or importing distributor or brewery, forming part of the estate of a decedent or

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bankrupt, or in the custody of the law under legal process, may be sold only to the licensed distributor, importing distributor or brewery from whom originally purchased. Except and only in the event the Commonwealth or an agency thereof, obtains the custody, possession, right of possession, or the title to the malt or brewed beverages under legal process or under judicial sale, the Commonwealth or the agency may sell such malt or brewed beverages to any distributor of any class or to the manufacturing brewery who or which is licensed and authorized to buy and sell malt or brewed beverages, and such brand or brands of malt or brewed beverages.

(2) Malt or brewed beverages in the possession of a licensee at the time he discontinues business by transfer of his license or otherwise, may be sold only to the transferee of the license or to the distributor, importing distributor or brewery from whom originally purchased.

Source

The provisions of this § 9.111 adopted June 26, 1952; amended through August 29, 1966; amended May 27, 1977, effective May 28, 1977, 7 Pa.B. 1429. Immediately preceding text appears at serial page (4190).

§ 9.112. Information to be furnished.

Persons other than the purchasers and licensees who have discontinued business, who possess and desire to sell liquor purchased from State Liquor Stores, shall file with the Board a sworn statement containing the following as applicable:

(1) *Executors and administrators.*

(i) Name and address of the decedent, and date of death.

(ii) Name and address of the executor or administrator, who shall file with the statement a short form certificate from the Registrar of Wills.

(iii) Description of the liquor, including brand name, size and number of containers of each brand.

(2) *Receivers and trustees in bankruptcy.*

(i) Name and address of bankrupt, and date of bankruptcy.

(ii) Name and address of receiver or trustee, who shall file with the statement a certified copy of his appointment or election, and a certified copy of the order of court authorizing or directing the sale of liquor.

(iii) Description of the liquor, including brand name, size and number of containers of each brand.

(3) *Officers of the law.*

(i) Name and address of debtor, and nature of debt.

(ii) Name and address of sheriff, constable or other officer of the law, who shall file with the statement written evidence of his authority to act, together with the name of court, and number and term or name of magistrate.

(iii) Description of the liquor, including brand name, size and number of containers of each brand.

(4) *Licensees who have discontinued business without transfer of license.*

(i) Name and address of licensee.

(ii) Written statement under oath that the licensee has discontinued his licensed business and the date thereof.

(iii) Description of the Liquor, including brand name, size and number of containers of each brand.

(5) *Licensees who have sold their licensed business together with the liquor license.* Reference should be made to § 9.114 (relating to licensees who have sold their licensed business).

Source

The provisions of this § 9.112 adopted June 26, 1952; amended through August 29, 1966.

§ 9.113. Repurchase of liquor by the Board.

(a) Upon receipt of the information required and verification thereof, the Board may, in its discretion, arrange to repurchase at the price paid by the licensee or the then available price to licensees, whichever is lower, less 12.5% handling charges, all such liquor purchased from State Liquor Stores.

(b) The repurchases will be confined to saleable liquor in the original containers, unopened and with revenue stamps attached, as when originally sold by the State Liquor Stores.

Source

The provisions of this § 9.113 adopted June 26, 1952; amended through August 29, 1966; amended July 8, 1977, effective July 9, 1977, 7 Pa.B. 1890. Immediately preceding text appears at serial page (4191).

§ 9.114. Licensees who have sold their licensed business.

When a licensee sells his licensed business, and transfer of the license is approved, the Board may, in its discretion, repurchase the liquor in his possession at the time of the transfer of the license; or the licensee may, if he so desires, sell the liquor to the transferee of his license, provided the licensee, at the time the application for transfer of his license is filed, notifies the Board in writing of his intention to include the liquor, or a designated quantity thereof, in the sale of his licensed business, and provided further the licensee furnishes a sworn statement containing a description of the liquor, including brand name, size, and number of containers of each brand so sold to the transferee, when the transfer of the license is approved.

Source

The provisions of this § 9.114 adopted June 26, 1952; amended through August 29, 1966.

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Cross References

This section cited in 40 Pa. Code § 9.112 (relating to information to be furnished).

§ 9.115. Sales prohibited.

Sales of other than State Store liquor, or of State Store liquor contrary to the provisions of this subchapter, are prohibited, except where made by licensees in accordance with the provisions of the Liquor Code.

Source

The provisions of this § 9.115 adopted June 26, 1952; amended through August 29, 1966.

Subchapter G. STORAGE BY A BONDED WAREHOUSE LICENSEE

Sec.
9.121. Where storage permitted.
9.122. Where approval required.
9.123. Records and reports.

§ 9.121. Where storage permitted.

The holder of a Bonded Warehouse License may receive and store ''in bond'' any of the following:

(1) Liquor or alcohol legally manufactured in this Commonwealth.

(2) Liquor legally imported into this Commonwealth by a licensed importer.

(3) Alcohol legally imported into this Commonwealth by the holder of an AB Permit.

Source

The provisions of this § 9.121 adopted June 26, 1952; amended through August 29, 1966.

§ 9.122. Where approval required.

(a) Where liquor or alcohol is to be received for deposit ''in bond'' from a distillery not on the same or contiguous premises, or from another Internal Revenue Bonded Warehouse, approval of the transfer shall be obtained from the Board, on forms furnished by the Board.

(b) Where liquor and alcohol is to be received for deposit ''in bond'' from a distillery on the same or contiguous premises, no approval from the Board is necessary.

Source

The provisions of this § 9.122 adopted June 26, 1952; amended through August 29, 1966.

§ 9.123. Records and reports.

Records and reports shall be maintained as prescribed in § 5.102 (relating to bonded warehouses).

Source

The provisions of this § 9.123 adopted June 26, 1952; amended through August 29, 1966.

Subchapter H. IMPORTATION OF WINE PURCHASED BY MEANS OF THE INTERNET

Sec.
9.131. Scope.
9.132. Definitions.
9.141. Requirements for licensure as a direct shipper.
9.142. Records to be maintained.
9.143. Sales of wines.
9.144. Products shipped.
9.145. Direct shipper's website.

Source

The provisions of this Subchapter H adopted November 12, 2004, effective November 13, 2004, 34 Pa.B. 6139, unless otherwise noted.

§ 9.131. Scope.

This subchapter is to be applied in conjunction with the Liquor Code and sets forth the nature and kind of proof required thereunder.

§ 9.132. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicated otherwise:

Consumer—A person, 21 years of age or older at the time that the order is placed, who resides in this Commonwealth and is ordering wine by means of the Internet from a direct shipper for personal consumption, not for resale.

Direct shipper—A person or legal entity outside this Commonwealth licensed in another state as a producer, supplier, importer, wholesaler, distributor or retailer of wine who obtains a license from the Board to accept orders placed for wine within this Commonwealth by means of the Internet and who ships or facilitates in any way the shipment of wine by a delivery agent or common carrier to a Wine and Spirits Store.

§ 9.141. Requirements for licensure as a direct shipper.

(a) The person or legal entity completes an application for a license and files it with the Board.

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(b) The direct shipper agrees to submit to the jurisdiction of the Board, any other Commonwealth agency, the Board of Claims and the courts of this Commonwealth for any dispute arising out of the direct shipper's conduct of business with the Board or consumers.

(c) The laws of the Commonwealth govern any dispute or issue arising from or involving any transaction or dealing between the direct shipper and the Commonwealth.

(d) The direct shipper agrees to indemnify the Board from any cause of action arising from its conduct of business in this Commonwealth.

(e) The direct shipper agrees to notify the Board if any of its licenses or permits, by which it is licensed in another state, are suspended, revoked, terminated or not renewed by the issuing authority.

(f) Failure by the direct shipper to remain licensed in another state could result in citation by the Pennsylvania State Police, Bureau of Liquor Control Enforcement or nonrenewal of the direct shipper license by the Board.

§ 9.142. Records to be maintained.

(a) The Commonwealth, through the Board or the Department of Revenue, has the right to audit, at reasonable times and at a site designated by the Commonwealth, the books, documents and records of the direct shipper. The direct shipper shall give full and free access to the Commonwealth or its authorized representative to the books, documents and records of the direct shipper to the extent that the books, documents or records relate to the sale by the direct shipper to consumers and to the collection of taxes and fees and the submission of same to the Commonwealth.

(b) The direct shipper agrees to maintain records, which will support the products, including brands, vintages, volumes and sizes sold to consumers and the collection and submission of taxes and fees regarding the products sold.

(c) The direct shipper shall maintain all books, documents and records described in this section for 3 years from the date of the sale.

§ 9.143. Sales of wines.

(a) The direct shipper shall possess a valid license issued by the Board.

(b) The direct shipper may sell to consumers only those classes, varieties and brands of wine not available for sale by the Board to consumers. Those items that may not be sold by direct shippers are listed on the Board's website and are subject to change. Direct shippers may not ship or sell by means of the Wine and Spirits Stores any other items, alcoholic or nonalcoholic, to consumers other than wine not listed on the Board's website.

(c) The direct shipper may only process orders received by means of the Internet.

(d) Consumers may not purchase, and a direct shipper may not sell, more than 9 liters of wine to a single consumer per month.

(e) The direct shipper shall provide the consumer with an Internet wine order which is a numbered receipt listing the following:

(1) The consumer's name, address, phone number and date of birth.

(2) The name, address, phone number and date of birth of any other person authorized to pick up the product at the Wine and Spirits Store.

(3) The selling price, total volume and a complete and accurate description of products purchased.

(4) Eighteen percent Emergency Tax.

(5) Six percent Sales Tax.

(6) One percent Philadelphia/Allegheny County only Sales Tax, if applicable.

(7) Fees collected.

(8) The address of the Wine and Spirits Store to which the product is being shipped.

(f) Two copies of the Internet wine order must be with the product package and a copy must also be forwarded to the Board electronically within 1 business day from the date of the placement of the order.

(g) The direct shipper shall collect the 18% Emergency Tax, the appropriate Pennsylvania Sales Tax, and the Board's handling fee, per order, of $4.50.

(h) The direct shipper shall remit to the Board by the 10th calendar day of the following month, the amount of taxes and fees collected from the prior month's sales. This remittance must be accompanied by a list detailing the numbered receipts being remitted.

(i) Failure to submit the appropriate fees and taxes will subject the direct shipper to citation by the Pennsylvania State Police, Bureau of Liquor Control Enforcement, which may result in civil penalties or criminal penalties, or both.

(j) The direct shipper agrees that the Commonwealth may set off the amount of any State tax liability or the other obligation of the direct shipper or its subsidiaries to the Commonwealth against any payments due the direct shipper under any contract with the Commonwealth.

(k) Annually, the direct shipper shall provide to the Board by the 15th day of the following January, a total of all sales of wine to consumers by the number of units and the dollar amount.

§ 9.144. Products shipped.

(a) Wine shipped to a consumer must be shipped to a Wine and Spirits Store.

(b) Shipments must be delivered to a Wine and Spirits Store by a transporter-for-hire licensed by the Board.

(c) Each package so shipped must be clearly identified as containing alcoholic beverages.

(d) Each package must clearly identify the direct shipper on the outside of the package and must have with the package a copy of the Internet wine order.

(e) Each order by a consumer must be packaged separately.

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(f) All packaging materials must be sufficient to protect the product from damage during normal handling.

(g) The direct shipper agrees that any missing product, incorrect product, or damage to product, including breakage, defaced labels, leakage or other defects, noted on the Internet wine order will be the responsibility of the direct shipper.

(h) The direct shipper agrees that any wine that is not picked up by the consumer within 30 days of receipt by the Wine and Spirits Store becomes the property of the Board.

(i) The direct shipper shall provide a ''call tag'' with each order shipped. A call tag is a delivering carrier's service allowing the recipient of a package to call the carrier to pick up unwanted merchandise and have the carrier return it to the shipper.

§ 9.145. Direct shipper's website.

(a) The direct shipper's website must contain language that the direct shipper is solely responsible for the fitness of the product and that the Board neither endorses the direct shipper nor its products.

(b) The direct shipper's website must explain fully the direct shipper's policy on the return of wine purchased by consumers.

(c) The direct shipper's website must inform consumers that it will not sell to anyone who is under 21 years of age on the date of order, and that, when the product is picked up, it will not be released to anyone who cannot demonstrate that he is 21 years of age or older, or to anyone who is not a resident of this Commonwealth, or to anyone who is under the influence of alcohol or other drugs.

(d) The direct shipper's website must contain the following language:

DISCLAIMER

Consumers must be 21 years of age or older on the date of order and residents of Pennsylvania. All wine purchased must be for personal consumption and not for resale. Consumers must select a Wine and Spirits Store for delivery of their order. The Consumer must pick up the product in person at the selected Wine and Spirits Store or designate at the time of order an individual(s) who will be permitted to pick up the order. Whoever picks up the order must be 21 and a Pennsylvania resident. When the order is picked up, the person must present photo identification and be prepared to sign an affidavit that he or she is 21 years of age or older, a Pennsylvania resident and that the wine is for personal use not for resale. The entire order must be picked up; no partial order pick-ups will be permitted.

The Pennsylvania Liquor Control Board endorses no Direct Shipper nor does it provide any warranties either express or implied, as to the fitness or

merchantability of any product purchased over the Internet or assumes any liability for the use or misuse of any product. The Pennsylvania Liquor Control Board will not accept any returns. All requests for the return of any product ordered over the Internet for any reason must be made directly to the Direct Shipper. For any product damaged after receipt at the Wine and Spirits Store, Consumer will be fully reimbursed for the entire cost of the order by the Board. Any order not picked up within 30 days of receipt at the Wine and Spirits Store becomes the property of the Pennsylvania Liquor Control Board.

(e) The direct shipper's website must require the consumer to indicate that the consumer has read the Board's disclaimer and agrees to its terms and conditions before the consumer may complete the consumer's order. The direct shipper shall maintain a copy of the consumer's acceptance of the disclaimer for 2 years.

(f) If the direct shipper wishes to be linked to the Board's website, it shall sign a linking agreement in the form provided by the Board.

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