



ADVISORY NOTICE NO. 27 (In Effect Until September 30, 2020)

TEMPORARY MEASURES REGARDING FEES, RENEWALS, VALIDATIONS AND SAFEKEEPING DURING THE COVID-19 EMERGENCY DECLARATION AND ACT 29 IMPLEMENTATION

July 27, 2020

TO: All License Holders

On March 6, 2020, Governor Wolf declared a disaster emergency as a result of the COVID-19 health epidemic as authorized by the Emergency Management Services Code, 35 Pa. C.S. §7301¹. Under the original series of declarations, retail licensees could not sell food or alcohol for on-premises consumption. Since then, licensees have been able to engage in many but not all of the activities that they engaged in prior to the emergency declarations. Section 7308 of that same statute authorizes commonwealth agencies to waive certain statutory enactments so long as doing so does not violate a constitutional requirement.

As a result of the COVID-19 emergency, the Board, beginning in March, took certain steps to help the licensed community. These steps included waiving the safekeeping requirements for licensees who were no longer able to offer on-premises consumption of food on their premises, waiving certain late fees associated with the filing of applications and implementing an expedited procedure to process applications for temporary extensions of licensed areas to include outside service areas. The Pennsylvania legislature has also attempted to help the licensed community by passing Act 29 of 2020, which eliminated the \$700 yearly surcharge for certain licensees.

The purpose of this temporary Advisory Notice is to provide guidance on these issues while the COVID-19 emergency declaration remains in effect.

\$700 Surcharge Exception for Certain Licensees

Section 470 of the Liquor Code requires all Article IV licenses to pay a \$700.00 surcharge on an annual basis. This surcharge accompanies the license validation or renewal that must also be filed on an annual basis. Act 29 of 2020 amended the Liquor Code so that a restaurant, club or catering club license held by (1) a volunteer fire company, (2) incorporated unit of a national veterans organization, (3) an affiliated organization of an incorporated unit of a national veterans organization, or (4) an affiliated organization of a national veterans association, are not subject to the \$700.00 surcharge. This section goes into effect on August 4, 2020.

¹ The Pennsylvania Supreme Court ruled July 1, 2020, that the state of emergency remains in effect.

The surcharge exception will be implemented beginning with licenses expiring on August 31, 2020. Any licensee whose license expires on August 31, 2020, but has already filed its renewal application will have the surcharge refunded. In addition, anyone who files a renewal or validation after August 4, 2020, and is entitled to the surcharge exception will be eligible for it, regardless of when the license or validation was due.

License Renewals, Validation and Accompanying Fees

In March 2020, the Board decided to extend operating authority to those licensees whose licenses were expiring even if the licensee had not formally filed a renewal or validation application. The Board has decided to continue this policy until at least September 30, 2020, at which time further assessment will be made.

A licensee whose license is subject to validation or renewal prior to October 1, 2020, may continue to operate without filing a renewal or validation application until September 30, 2020 unless extended beyond that date. If a licensee nonetheless chooses to file a renewal or validation application, it will be processed and must be accompanied by the appropriate fees.

To be clear, it is the Board's intent to defer the need to file renewal and validation applications (and the accompanying fees), not to waive the renewal requirement altogether, since it would be unfair to those licensees who have been filing renewal and validation applications along with the appropriate fees. ***Starting October 1, 2020, unless extended beyond that date, licensees will be expected to file the renewals and validations and pay the accompanying fees necessary to bring their licenses current.***

Placing Licenses in Safekeeping

In March 2020, the Board indicated to licensees that they no longer needed to put their license in safekeeping as otherwise required under section 474 and section 474.1 of the Liquor Code even if, as a result of the COVID-19 emergency, they were no longer operating. The Board has decided to continue this policy until at least September 30, 2020. Licensees are free to place their licenses in safekeeping if they so desire; there is no cost associated with doing so.

Licenses Already in Safekeeping

For those licenses already in safekeeping, other than clubs and catering clubs, there is a yearly fee required to extend the safekeeping period beyond two years. The two-year clock begins when the license is placed in safekeeping. For those licenses placed in safekeeping prior to or during the COVID-19 emergency declaration, the Board will not consider the time when the COVID-19 emergency declaration is in effect in calculating how long a license has been in safekeeping. In other words, if the COVID-19 emergency declaration ultimately lasts 10 months, then those 10 months will not be considered when calculating how long the license has been in safekeeping.

For example, if a non-club license was placed in safekeeping in April 17, 2019, and the COVID-19 emergency declaration – which began on March 6, 2020 – lasts 10 months, then the two-year safekeeping period will be deemed to have expired on February 16, 2022, not April 16, 2021. A licensee would not have to apply to extend the license and pay the extra fee associated with the extension until February 17, 2022.

Club and catering club licenses in safekeeping are automatically revoked after two years have elapsed. Again, for those licenses placed in safekeeping prior to or during the COVID-19 emergency declaration, the Board will not consider the time when the COVID-19 emergency declaration is in effect in calculating how long a license has been in safekeeping. For example, if a club license was placed in safekeeping in April 17, 2019, and the COVID-19 emergency declaration – which began on March 6, 2020 – lasts 10 months, then the two-year safekeeping period will be deemed to have expired on February 16, 2022, not April 16, 2021. The club licensee would not have to remove the license from safekeeping until February 16, 2022.

Late Fees

Section 470 of the Liquor Code requires a late fee of \$100 for every renewal or validation application that is not submitted at least 60 days prior to the expiration of the existing license. The late fee increases to \$250 if the renewal or validation application is not submitted by the time the current license expires.

The Board had previously announced to licensees that it would no longer be charging late fees. The Board will continue this policy until September 30, 2020, at which time further assessment will be made.

Further Review

The Board will re-evaluate this Advisory Notice, consulting available guidance developed by the Governor's Office and the Pennsylvania Department of Health, no later than September 30, 2020.

Any issues not covered by this Advisory Notice may be resolved by writing to the Office of Chief Counsel, ra-lblegal@pa.gov.

**BY ORDER OF:
PENNSYLVANIA LIQUOR CONTROL BOARD**



JOHN K. STARK
Secretary to the Board