

Summary of Acts 42 and 44 of 2017
As They Relate to the PLCB

On October 30, 2017, Governor Wolf signed House Bill Nos. 271 and 674 into law, now known as Act 42 of 2017 (Act 42) and Act 44 of 2017 (Act 44), respectively.

Act 42 made numerous changes to the Commonwealth's gaming laws, among other things. A few of the changes impact the PLCB and/or the Liquor Code as well. The information within this document in parenthesis refers to the particular section(s) of the Pennsylvania Race Horse Development and Gaming Act (Gaming Act) where the change(s) can be found.

Act 44 made numerous changes to the Fiscal Code. However, some of those changes impact the PLCB and/or the Liquor Code as well. The changes relating to the PLCB and/or Liquor Code went into effect immediately, although most are not fully implemented. The information within this document in brackets refers to the particular section(s) of the Fiscal Code where the change(s) can be found.

Some of the licensing changes will not apply to every type of license; be sure to check all the categories that may apply to your license.

If you have any questions about what these changes mean, or about other provisions of the Liquor Code, you may contact the PLCB's Office of Chief Counsel at 717-783-9454 or ra-blegal@pa.gov.

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License Suspension for Deficiency

Act 44 establishes a process for immediate suspensions of the licensing privilege under certain conditions. If the PLCB finds, through an inspection by a PLCB employee, that a licensee does not meet a requirement under the Liquor Code or PLCB Regulations which makes the licensee eligible for the license, the PLCB may immediately suspend the operating privileges of the licensee. Examples of violations that could trigger an immediate suspension are instances where the licensee no longer meets its seating, square footage, food, health license, or room requirements. Tips about deficiencies may come to the PLCB from employees of the Bureau of Liquor Control Enforcement (BLCE), county departments of public health or licenses and inspections, or from similar state/local entities. The PLCB must give written notice to the licensee of the exact deficiency and the suspension will remain in effect until the licensee can establish to the PLCB's satisfaction that the deficiency has been corrected.

This suspension is administrative in nature and is in addition to any other penalty provided by law. Section 464 of the Liquor Code (hearings/appeals) and the law relating to appeals from government agencies in 42 Pa. C.S. § 933(a)(1)(v) are not applicable to these administrative suspensions. If the PLCB refuses to lift the suspension, the suspended licensee can request a hearing before the Commonwealth Court (pursuant to 42 Pa. C.S. § 761(a)(4)) solely on the issue of whether the licensee's operating privileges should be reinstated. The hearing must be held within ten days of the filing of the request.

Other violations of the Liquor Code and PLCB Regulations, such as sales to minors, after hours sales, etc., will continue to be addressed via the citation process found in section 471 of the Liquor Code and/or the nonrenewal process found in section 470(a.1) of the Liquor Code. The Act also requires the BLCE to establish an inspection schedule which provides for the inspection of restaurant and eating place licensees for compliance and the issuance of citations for violations discovered during the inspections. [Section 1799.6-E].

Additional information regarding Act 44 license suspension is available at www.lcb.pa.gov/licenseecompliance.

Pennsylvania Malt and Brewed Beverage Industry Promotion Board

Act 44 makes two changes that impact the Pennsylvania Malt and Brewed Beverage Industry Promotion Board (Board), which was established by Act 39 of 2016. Act 44 provides that if there is unawarded grant money leftover in any fiscal year under section 446.1 of the Liquor Code, it shall be made available in the subsequent year(s). [Section 1799.1-E].

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Also, Act 44 makes it clear that members of the Board can obtain reimbursement from the Department of Agriculture for their reasonable and necessary expenses in connection with the performance of their duties on behalf of the Board. [Section 1718-E].

Sales by Distilleries and Limited Distilleries

Act 44 establishes a yearly limit for certain sales by distilleries and limited distilleries. A distillery or limited distillery may continue to sell the liquor it produces to the PLCB and to non-licensees without limitation. Such entities may also continue to sell the liquor they produce directly to other PLCB licensees or permit holders, but are now subject to an aggregate (calendar) yearly cap of 50,000 gallons to such entities. If a person holds more than one distillery or limited distillery license, either directly or through a wholly owned subsidiary, the sales to all Board licensees from all distillery locations will be combined when determining if the cap has been reached. For example, if someone owns two distilleries, one that produces 15,000 gallons and one that produces 25,000 gallons, the total amount of 40,000 gallons would be counted towards the 50,000 gallons cap. If a licensee or permittee wants to purchase a certain liquor and its producer has reached its cap for the year, the licensee or permittee may still purchase it from the PLCB, assuming the producer makes it available to the PLCB. [Section 1799.5-E].

Slot Machines

Act 42 establishes a new Category 4 slot machine license. Ten licenses will be auctioned and the holders of these licenses will be able to apply for a new restaurant liquor license or an eating place retail dispenser license, pursuant to section 1521(c) of the Gaming Act. This change is effective immediately. (Section 1305.1).

For detailed information regarding Category 4 slot machine licenses, please see the Gaming Act, 4 Pa. C.S. § 1101 *et seq.* and Act 42.

Sports Wagering

Act 42 permits the holder of a slot machine license that is also authorized to conduct sports wagering to provide free liquor and malt or brewed beverages to patrons actively engaged in sports wagering. (Section 13C26).

Act 42 defines “sports wagering” as the business of accepting wagers on sporting events, on the individual performance statistics of athletes in a sporting event, or combination of sporting events by any system or method of wagering, including over the internet through websites and mobile applications. The term includes, but is not limited to, exchange wagering, parlays, over-under, Moneyline, pools, and straight bets. The term does not include pari-mutuel betting, Pennsylvania

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lottery games, bingo, small games of chance, slot machine, keno, fantasy contests, and iLottery. (Section 13C01).

These changes will go into effect on December 29, 2017. For detailed information regarding sports wagering certificates, please see the Gaming Act, 4 Pa. C.S. § 1101 *et seq.*, and Act 42.

Tavern Gaming

Act 44 permits the PLCB to reduce the license fee for a tavern gaming license under the Local Option Small Games of Chance Act to \$500. This change has no practical impact since the PLCB lowered the license fee, with the approval of the Governor, to \$500 some time ago. The application fee of \$1,000 and the gaming application fee of \$1,000 remain unchanged. [Section 1799.1-E].

Additional Changes Impacting Board Operations

Fund Transfers

Act 44 requires that \$300,000,000 be transferred from “special funds and restricted accounts” to the General Fund in the 2017-2018 fiscal year. While the State Stores Fund is not specifically mentioned, it falls into this category. The Budget Secretary will provide to the Treasurer a list of the amounts to be transferred at a later date. [Section 1726-G].

The Act also requires that \$2,500,000 be transferred from the State Stores Fund to the Department of Drug and Alcohol Programs in the 2017-2018 fiscal year. This is identical to the amount transferred in the prior fiscal year. [Section 1733-A.1].