

Regulatory Analysis Form		This space for use by IRRC
(1) Agency Pennsylvania Liquor Control Board		IRRC Number: 2515
(2) I.D. Number (Governor's Office Use) #54-60		
(3) Short Title Responsible Alcohol Management Program (RAMP)		
(4) PA Code Cite 40 Pa. Code	(5) Agency Contacts & Telephone Numbers Primary Contact: James F. Maher (717) 783-9454 Secondary Contact: Faith S. Diehl (717) 783-9454	
(6) Type of Rulemaking (check one) <input type="checkbox"/> Proposed Rulemaking <input type="checkbox"/> Final Order Adopting Regulation <input checked="" type="checkbox"/> Final Order, Proposed Rulemaking Omitted	(7) Is a 120-Day Emergency Certification Attached? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes: By the Attorney General <input type="checkbox"/> Yes: By the Governor	
(8) Briefly explain the regulation in clear and nontechnical language. This regulation implements section 471.1 of the Liquor Code. It explains how training providers are approved to train retail licensees to manage their alcohol service more responsibly. It also defines qualifications for certifying and decertifying instructors. It explains the training of managers and owners and how managers must train their staff in order for a licensee to be "RAMP-Certified." The effect of RAMP certification is explained, as are requirements for signs to be posted in licensed premises.		
(9) State the statutory authority for the regulation and any relevant state or federal court decisions. Pennsylvania Liquor Code, section 207(i) [47 P.S. § 2-207(i)].		

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(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

47 P.S. § 4-471.1 requires these regulations but set no deadline for action.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

Section 471.1 of the Liquor Code establishes incentives for licensees to get responsible alcohol management training and train their servers. This training will reduce the risks of service of alcohol to minors and visibly intoxicated patrons, for example.

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

No environmental risks are associated with nonregulation. Licensees, managers and beverage alcohol servers who are educated in responsible alcohol management with regard to dealing with underage drinking and visibly intoxicated patrons as well as knowledge of the laws of the Commonwealth pertaining to these issues could help reduce the risks associated with underage drinking, intoxication and drunken driving.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

The public will benefit from responsible licensee practices that reduce the incidences of service to minors and visibly intoxicated patrons, both of which are linked to impaired driving, property damage and violence. Licensees will also benefit if they take advantage of the program by potentially receiving a mitigation of sanctions by the Administrative Law Judge in the case of an employee who serves a minor or visibly intoxicated person. The benefit for licensees is that this training has the potential of reducing fines for such violations from a range of \$1000-\$5000 to \$50-\$1000.

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(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

There will be no adverse effects as a result of this regulation.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

This is a voluntary program for licensees and their employees. Licenses may be required to attend responsible alcohol management classes conducted by the Board's Bureau of Alcohol Education as a result of adjudication by an Administrative Law Judge. Instructors and training providers must comply. The approximate number cannot be determined at this time.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

During the development of this regulation, members of the licensee community were consulted including the Pennsylvania Licensed Beverage Association (Tavern Association) and the Restaurant Association. The Training on Intervention for Servers of Alcohol (TIPS) national program office was consulted regarding suggested regulation for providers of the training. Finally, University of Minnesota Alcohol Epidemiology Department and the Responsible Hospitality Institute, the Texas Alcohol Beverage Commission, the Oregon Liquor Control Board, a national licensee and a public health organization, were consulted on the substance of the regulations and the total program.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

Because the program is voluntary, the regulated community (Pennsylvania retail licensees) would not incur any costs or savings unless they choose to take advantage of the program. If they participate, the server/seller training would typically cost the retail licensee \$25-\$40 per employee, based on a review of training fees across the country. Cost for Manager/Owner training is being borne by the PLCB, therefore, the cost is measured in time spent in training, which is approximately six hours. Savings to the regulated community could be the reduction in administrative sanctions by an Administrative Law Judge in terms of reduced fines, i.e., from \$1000-\$5000 to \$50-\$1000. In cases where an Administrative Law Judge requires a licensee to take responsible alcohol management training as part of an adjudication in a citation proceeding, the owner/manager training cost would be borne by the PLCB, and the licensee would bear all other costs of compliance.

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(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

The regulation will not have a cost or savings benefit to local governments.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

The regulation furthers the objectives of the statute promulgated by the General Assembly. The annual cost associated with implementation of the statute and these regulations was estimated to be \$500,000.

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(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government						
State Government	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000
Total Savings						
COSTS:	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000
Regulated Community						
Local Government						
State Government						
Total Costs						
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses						

(20a) Explain how the cost estimates listed above were derived.

The regulations are being promulgated to fulfill a statutory requirement. The regulations establish a new responsible alcohol management program for voluntary participation by retail licensees and compulsory participation in cases where an Administrative Law Judge makes participation in the program a part of his/her adjudication. The program has been operating since 2002, and the estimated costs have been validated at \$500,000 from the state stores fund. Actual costs will be determined by the extent of the participation by licensees. Greater participation could increase costs beyond \$500,000 and less participation would reduce costs below \$500,000. The \$500 license fee for providers and \$100 license fee for instructors will have little or no impact on the cost of the program. At the present time there are three providers and a great number of provider applicants is not anticipated. The Board's Bureau of Alcohol Education estimates between five and ten providers will eventually be licensed. The fee structure falls in line with models in other states and is meant to encourage only serious participants.

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(20b) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
RAMP	N/A	\$500,000	\$500,000	\$500,000

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

Training the holders of liquor licenses, like training the holders of driver's licenses, is an up-front cost that is recovered by improved performance. The benefits are impossible to quantify precisely. Creating incentives to become RAMP-certified makes the cost-burden voluntary except where RAMP training is required by an adjudication of an Administrative Law Judge.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

Non-regulatory alternatives were not considered since these regulations are mandated by section 471.1 of the Liquor Code.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

No alternative regulatory schemes were considered.

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(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

Federal regulations do not address responsible alcohol management.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

This regulation is similar to several other states that provide an incentive to complete a responsible alcohol management program, including Oregon, Alabama, and Florida. Some states such as Maryland, Washington and Alaska require mandatory training. The regulation would not put Pennsylvania at a competitive disadvantage.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

The regulation will not affect existing or proposed regulations of the Liquor Control Board but it will enhance the current training offered by the Board to its licensees.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

No public hearings or informational meetings will be scheduled.

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(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

The Liquor Control Board will be required to keep records of persons trained in manager/owner and server/seller training for the purpose of certifying licensees as being in compliance with the responsible alcohol management program. The Board will also keep records of providers and instructors certified for the program. Participating retail licensees will be required to keep records of new employee training and server/seller training. There is also an application requirement for those licensees desiring to be certified as being in compliance with the responsible alcohol management program.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

No special provisions have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, the elderly, small businesses, and farmers.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

The regulation will become effective upon its publication in the *Pennsylvania Bulletin*.

(31) Provide the schedule for continual review of the regulation.

Review of the regulations is ongoing and any changes to the regulation will be through the rulemaking process.

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

#2515

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved
as to form and legality. Attorney General

BY _____
(DEPUTY ATTORNEY GENERAL)

DATE OF APPROVAL

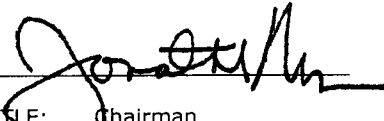
Check if applicable
Copy not approved. Objections
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Copy below is hereby certified to
be a true and correct copy of a
document issued, prescribed or
promulgated by:

Pennsylvania Liquor Control Board
(AGENCY)

DOCUMENT/FISCAL NOTE
NO. 054- 60

DATE OF ADOPTION: January 3, 2006

BY: 

TITLE: Chairman
(Executive Officer, Chairman or
Secretary)

Copy below is hereby approved
as to form and legality. Executive
or Independent Agencies:

BY: JSDiehl

December 28, 2005
DATE OF APPROVAL

xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx
(Chief Counsel, Independent
Agency)
(Strike inapplicable title)

Check if applicable. No
Attorney General approval or
objection within 30 days after
submission.

TITLE 40—LIQUOR

CHAPTER 5. DUTIES AND RIGHTS OF LICENSEES

The following Subchapters and sections (underlined) were added:

SUBCHAPTER I. RESPONSIBLE ALCOHOL MANAGEMENT PROGRAM

- § 5.201 Purpose
- § 5.205 Definitions
- § 5.210 Providers
- § 5.215 Course of Study for Alcohol Service Personnel
- § 5.220 Provider Certification
- § 5.225 Instructors
- § 5.230 Minimum Standards of Training
- § 5.235 Manager/Owner Training
- § 5.237. New Employee Orientation
- § 5.240 Records
- § 5.245 Prohibited Conduct
- § 5.250 Signs
- §5.255 Premises Certification

RULEMAKING

LIQUOR CONTROL BOARD

40 PA. CODE CHAPTER 5

Responsible Alcohol Management Program

The Liquor Control Board (Board), under the authority of section 207(i) of the Liquor Code (47 P.S. § 2-207(i)), amends Chapter 5.

Summary

This regulation implements section 471.1 of the Liquor Code.

The following is a summary:

- It explains how training Providers are approved to train retail licensees to manage their alcohol service more responsibly.
- It defines qualifications for certifying and decertifying Instructors.
- It explains training of managers and owners and how managers must train their staff in order for a licensee to be “RAMP-Certified.”
- The effect of RAMP certification is explained, as are requirements for signs to be posted in licensed premises.

Affected Parties

The rulemaking will affect retail and wholesale licensees and applicants for certification as training Providers and Instructors.

Paperwork Requirements

The rulemaking will not significantly increase paperwork for the Board or the regulated community.

Fiscal Impact

RAMP training and certification has been in effect under section 471.1 of the Liquor Code since 2002. The annual cost to the Board of \$500,000 has remained at this amount for three years.

Effective Date

The rulemaking will become effective upon publication in the *Pennsylvania Bulletin*.

Regulatory Review

The regulations are submitted in final-omitted form. The regulations, substantially as presented in Annex A hereto, have been provided to all retail licensees, the distributors and importing distributors of malt or brewed beverages and the Providers and Instructors of RAMP training. Therefore, the requirements of section 204(2) of the Commonwealth Documents Law have been met in that all persons subject to this regulation have actual notice of it. (45 P.S. § 1204(2)).

Under section 745.5a of the Regulatory Review Act (71 P.S. § 745.5a), the Pennsylvania Liquor Control Board, on November 8, 2004, delivered a copy of this rulemaking to the Independent Regulatory Review Commission ("IRRC") the Attorney General and the chairpersons of the House and Senate standing committees for review and comment.

Because the impending conclusion of the legislative session did not permit time for a complete review, these regulations were withdrawn by the Board on November 12, 2004. On January 4, 2006, the Board delivered a copy of this rulemaking to the Independent Regulatory Review Commission ("IRRC") the Attorney General and the chairpersons of the House and Senate standing committees for review and comment.

Under section 745.5a(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on _____, these final-omitted regulations were (deemed) approved by the House and Senate committees. Under section 745.5a(e) of the Regulatory Review Act, the IRRC approved the final-omitted regulations at its public meeting on _____. [71 P.S. § 745.5a(e)].

Contact Person

Further information may be obtained from James F. Maher, Assistant Counsel, Office of Chief Counsel, Liquor Control Board, Room 401, Northwest Office Building, Harrisburg, PA 17124-0001. Telephone: (717) 783-9454.

JONATHAN H. NEWMAN,
Chairman

Fiscal Note:

Annex A

TITLE 40. LIQUOR

PART I. LIQUOR CONTROL BOARD

Chapter 5 – DUTIES AND RIGHTS OF LICENSEES

SUBCHAPTER I. Responsible Alcohol Management Program

§ 5.201. Purpose

These regulations implement the program authorized by section 47 P.S. § 4-471.1, Responsible Alcohol Management. This statute authorizes the Board to establish a four-part program including: new employee orientation, training for alcohol service personnel, manager/owner training and the display of responsible alcohol service signage.

§ 5.205. Definitions.

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

Certify – to approve and confirm the approval in writing.

Instructor – an individual who is a Provider or is an agent of a Provider and who is certified by the Board to instruct students in responsible alcohol management.

Manager/Owner Training – training conducted by the Board or its employees for individuals who manage or own licensed premises. As required by 47 P.S. § 4-471.1, this training will include instruction on how to monitor employees, proper service of alcohol, and how to develop an appropriate alcohol service policy.

New Employee – an individual who has not been employed at a licensed premises in any capacity during the preceding year.

Provider – a person certified by the Board engaging Instructors to train students in responsible alcohol management.

RAMP – the office in the Board’s Bureau of Alcohol Education that manages the responsible alcohol management program.

Responsible Server Practices – Procedures and practices used by alcohol service personnel to prevent the furnishing or selling of alcoholic beverages to minors and visibly intoxicated persons. These procedures and practices include recognizing

acceptable identification cards from persons requesting service of alcoholic beverages, recognizing indications of invalid identification, complying with the procedures set forth in Section 495 of the Liquor Code (47 P.S. § 4-495), and recognizing the signs of visible intoxication. These procedures and practices also include awareness of legal liability and server responsibilities in situations involving minors, visibly intoxicated patrons and other criminal activity on premises.

§ 5.210. Providers

The Board may certify a person as a Provider if the person:

- (a) Files an application on forms provided by the Board;
- (b) Pays a \$500 non-refundable application fee;
- (c) Submits a course of study outline meeting the Board's requirements as set forth in § 5.215,
- (d) Sends a copy of the teaching materials planned for use along with the application, and
- (e) Uses only Board-certified Instructors as teachers.

§ 5.215. Course of Study for Alcohol Service Personnel.

The course of study offered by a Provider will, at a minimum:

- Explain that alcohol is a drug and its effect on the human body and behavior, especially driving ability;
- Specify factors leading to alcohol intoxication, as well as the effects of alcohol in combination with drugs (legal and illegal);
- Examine cases, statutes and court decisions pertaining to liquor liability, driving under the influence, minors unlawfully frequenting licensed premises, furnishing alcoholic beverages to minors and visibly-intoxicated persons and the penalties associated with violations of statutes and regulations;
- Teach servers how to effectively intervene and recognize customers showing signs of visible intoxication or becoming disruptive;
- Show options for determining validity of age identification documents;
- Demonstrate proper incident documentation;
- Provide recommended policies for licensed establishments to promote safe and responsible consumption of alcoholic beverages;

§ 5.220. Provider Certification.

(a) Upon the Board being satisfied that the applicant meets the minimum requirements for certification, it shall issue to the Provider a Notice of Certification. The Provider then may hold itself out as a Board-Certified Responsible Alcohol Management Instruction Provider. The period of certification shall be two years from the date of issuance of the notice of certification.

(b) Renewal of certification shall be by application submitted to the Board not less than thirty days prior to the expiration of the Provider's current certification. The same forms, provided by the Board, shall be used for renewals as for initial certification. The same fee will be submitted with the renewal application as is submitted for the original certification.

(c) Decertification: a Provider may be decertified by the Board for violating any of the provisions of this subchapter or engaging in prohibited conduct as defined in section 5.245.

(d) The Board will send a Notice of Decertification to the Provider by certified U.S. mail. Appeal of the Board's decision to decertify a Provider shall be as set forth in § 702 of the Administrative Law and Procedure (2 Pa. C.S.A. § 702).

(e) A Provider shall report changes in ownership or management of the Provider, the employment status of Instructors and changes in the course of study to RAMP, not later than 30 days after the change.

Section 5.225 Instructors.

(a) A person desiring certification as an Instructor shall submit an application on forms issued by the Board and shall pay a \$100 non-refundable application fee.

(b) The minimum qualifications of an Instructor include:

(1) Possessing a high school diploma or GED;

(2) Possessing a minimum of two years of experience, full-time, in the field of education, law, law enforcement, substance abuse prevention, hospitality or alcohol service training;

(3) Being twenty-one (21) years of age or older;

(4) Having no alcohol-related arrests in the previous ten years.

(c) Instructors shall provide training throughout the Commonwealth and shall schedule training in a timely manner.

(d) Instructors shall attend Instructor meetings twice a year as scheduled by RAMP;

(e) Instructors shall provide all necessary training materials at each training;

(f) Instructors should provide training regularly and consistently. A certified Instructor should be able to show to RAMP that he or she has trained a substantial number of persons in almost every month. The Instructor periodically should attend manager/owner training. Insufficient training activity may be a reason to deny recertification of an Instructor.

(g) Instructor presentations may be observed and evaluated by the Board.

(h) Certification. Upon the Board being satisfied that the applicant meets the minimum requirements for certification, it shall issue to the Instructor a Notice of Certification. The period of certification shall be two years from the date of issuance of the Notice of Certification.

(i) Renewal of certification shall be by application submitted to the Board with a non-refundable application fee of \$100 not less than 30 days prior to the expiration of the Instructor's current certification

(j) Decertification. An Instructor may be decertified by the Board for violating any of the provisions of this subchapter, engaging in prohibited conduct as defined in § 5.245, failing to maintain minimum qualifications or being terminated by a Provider.

(k) The Board will send a Notice of Decertification to the Instructor and to the Provider utilizing the Instructor by certified U.S. mail. Appeal of the Board's decision to decertify an Instructor shall be as set forth in § 702 of the Administrative Law and Procedure (2 Pa. C.S.A. § 702).

§ 5.230 Minimum Standards of Training.

(a) Instructors shall conduct training sessions conforming to the Provider's course of study and using the Provider's training materials.

(1) Each training session shall consist of at least 2½ hours of instructional time.

(2) The ratio of students per Instructor shall not exceed 40 to one.

(b) Instructors shall notify RAMP at least ten days in advance of any training session, shall notify RAMP immediately of any training session cancellation and shall notify RAMP as soon as possible of any changes to the training schedule.

(c) Instructors shall collect and confirm student information at the beginning of the training session. Within five days of the end of the training session, a completed attendance sheet will be sent to RAMP, including the following information from each student:

(1) Name;

(2) Home address;

(3) Home telephone number;

(4) Student identification number issued by RAMP;

(5) Pass/Fail score on the test;

(6) Licensed establishment name, address and LID;

(7) Time and location of training

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

(e) The Instructor shall grade the examinations and advise students whether or not they have passed. A test score of eighty percent (80%) or better is required to pass.

§ 5.235. Manager/Owner Training

The Board shall conduct manager/owner training in accordance with 47 P.S. § 4-471.1(a) and (c).

§ 5.237. New Employee Orientation.

(a) Licensees shall conduct new employee orientation within 60 days of the employee's hire, in accordance with a checklist of responsible server practices including the prevention of service to minors and visibly intoxicated persons, and other teaching materials supplied by the Board.

(b) It is the sole responsibility of the licensee to assure that the owner, manager, or designated trainer conducts the new employee orientation.

§ 5.240 Records.

The licensee shall keep records of the certification status of its employees, managers and owners, consisting of the name of the employee, manager or owner, date of certification, date of hire, date of training and the name of trainer. The licensee will keep the same kind of records of its new employee orientation program. It will keep records of what responsible alcohol service signs it posted, where and when the signs were posted, revised and reposted. These records will be maintained as part of the licensee's operating records required to be kept for a period of two years in accordance with Liquor Code section 493(12). (47 P.S. § 4-493(12)).

§ 5.245 Prohibited Conduct.

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

- (1) Discrimination or harassment based on age, race, sex, disability, national origin, or religion;
- (2) An act that is in violation of the Liquor Code or these regulations;
- (3) An act resulting in a misdemeanor or felony conviction;
- (4) An act resulting in admittance into a accelerated rehabilitative disposition (“ARD”) program if the underlying activity is related to alcoholic beverages, narcotics or controlled substances;
- (5) Being under the influence of alcoholic beverages, narcotics, or controlled substances during training presentations, examinations or breaks;
- (6) Knowingly permitting students to be under the influence of alcoholic beverages, narcotics, or controlled substances during training presentations, examinations or breaks;
- (7) Cheating or condoning cheating by students;
- (8) Knowingly providing false information on reports submitted to the Board;
- (9) Three or more unsatisfactory evaluations from class observations conducted by RAMP.

(b) The Board will not consider a Provider’s or Instructor’s application for re-certification until one year after the date of decertification.

§ 5.250. Signs

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

(b) At least the following signs must be posted, notifying patrons about:

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

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

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

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

§ 5.255. Premises Certification.

(a) A licensee may request that the Board certify that it complies with section 471.1 of the Liquor Code (47 P.S. § 4-471.1). The Board shall certify the compliance of the licensed premises if the conditions of 47 P.S. § 4-471.1 are met.

(1) Certification and recertification of the licensed premises is initiated by a request from the licensee. The request may be made by personal contact, telephone or written communication to RAMP. There is no fee for certification

or recertification. Certification or recertification shall be issued by the Board after investigation and approval of the licensed premises.

(2) If the Board finds that a licensee has met the requirements of section 471.1, the licensee shall be issued a certificate of compliance valid for two years.

(3) A request for recertification of compliance shall be made at least 60 days prior to the expiration of the licensee's current certification.

(b) If the Board finds that a licensee has not met the requirements of section 471.1 or this subchapter, and the licensee's compliance with section 471.1 or this subchapter was not mandated by the Office of Administrative Law Judge, then the Board shall refuse certification or decertify the licensee.

(c) If the Board finds that a licensee has not met the requirements of section 471.1 or this subchapter and the licensee's compliance with section 471.1 or this subchapter was required by the Office of Administrative Law Judge, then the Board shall refuse the application for certification or de-certify the licensee and refer the matter to the Pennsylvania State Police, Bureau of Liquor Control

Enforcement:

(d) The Board will send a Notice of Decertification to the licensee by certified U.S. mail. Appeal of the Board's decision to decertify a licensee shall be as set forth in § 702 of the Administrative Law and Procedure (2 Pa. C.S.A. § 702).

(e) A licensee may not apply for recertification until one year has passed from the date of decertification.

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



IN THE PUBLIC INTEREST

PENNSYLVANIA LIQUOR CONTROL BOARD

Harrisburg, Pennsylvania 17124-0001

January 3, 2006

Telephone: (717) 783-9454

FAX: (717) 787-8820

Kim Kaufman
 Executive Director
 Independent Regulatory Review Commission
 333 Market Street, 14th Floor
 Harrisburg, PA 17101

**RE: Responsible Alcohol Management Program
 (54-60; IRRC No. 2447)**

Dear Mr. Kaufman:

On January 21, 2005, Rich Sandusky, Senior Regulatory Analyst, transmitted by facsimile some concerns and recommendations relative to the above final-omitted rulemaking. This rulemaking had been withdrawn in November 2004, prior to the end of the Legislative Session.

The observations were helpful. The responses of the Pennsylvania Liquor Control Board ("Board") are summarized below:

Mr. Sandusky pointed out that the term "Responsible Server Practices" was not defined in the Regulations, and there appeared to be a need to harmonize that term with section 5.237(a).

The definitions section at section 5.205 has been amended by adding a definition of "Responsible Server Practices." As reflected in the attached amended "Annex A," the definition is as follows:

"Responsible Server Practices – Procedures and practices used by alcohol service personnel to prevent the furnishing or selling of alcoholic beverages to minors and visibly intoxicated persons. These procedures and practices include recognizing acceptable identification cards from persons

requesting service of alcoholic beverages, recognizing indications of invalid identification, complying with the procedures set forth in Section 495 of the Liquor Code (47 P.S. § 4-495), and recognizing the signs of visible intoxication. These procedures and practices also include awareness of legal liability and server responsibilities in situations involving minors, visibly intoxicated patrons and other criminal activity on premises.”

Section 5.237, entitled “New Employee Orientation” has been amended to make reference to responsible server practices.

Next, Mr. Sandusky sought confirmation that instructors must be employees of a provider. This was not the intent of the Board. Accordingly, sections 5.210(e) and 5.225(k) have been amended to create appropriate latitude for these relationships to include, but not be limited to, employment.

Mr. Sandusky recommended that the title to section 5.215 be amended to note that it applies to alcohol service personnel. The title has been amended to implement this recommendation.

Mr. Sandusky suggested that the title to section 5.220 be amended to note that it applies to providers. Accordingly, this title has been amended to read “Provider Certification.” Mr. Sandusky also recommended that this section be amended to clarify which forms are to be used and whether a fee is required. Section 5.220(b) has been amended to specify that a recertification application uses the same forms as initial certification and that the same fee is charged.

Mr. Sandusky questioned the need to have instructors train a minimum number of persons each year in order to avoid decertification under section 5.225(g), particularly if the Board’s goal is to maximize the availability of training. The goal of the Board is not simply to maximize the availability of training but also to ensure that training provided is accurate and beneficial to the recipient. Therefore, the requirements of this section were designed so that instructors and providers who operate outside the supervision of universities or culinary

schools could be monitored and observed by employees of the Board for purposes of quality control. This objective has now been expressed in terms of a goal. An Instructor's failure to achieve that goal may be a reason to deny recertification.

Mr. Sandusky asked for clarification as to how the student identification number referenced in section 5.230(c)(4) is obtained. He also asked if the Board is notified of a student's numerical score as suggested by section 5.230(e) or simply whether the student passed as suggested by section 5.230(c)(5).

The student identification number is issued to the student by the instructor or provider when the student begins RAMP training. It is made up of a composite of the student's date of birth and the final four digits of the student's social security number. The desired report for the student's test score is simply pass or fail.

Mr. Sandusky recommended that section 5.235, "Manager/Owner Training," that included a reference to Title 47 § 4-471.1(c) be amended to refer to both subsections (a) and (c) because of the reference to manager/owner training in both of those statutory subsections. This change has been made.

Mr. Sandusky recommended that the recordkeeping requirements of section 5.240 include reference to employee and owner/manager certifications similar to that in section 4-471.1(f) of the Liquor Code.

This recommendation has been implemented, and further, the inclusion of training records as part of a licensee's operating records has been clarified. Licensees must maintain operating records for a period of two (2) years pursuant to section 4-493(12) of the Liquor Code.

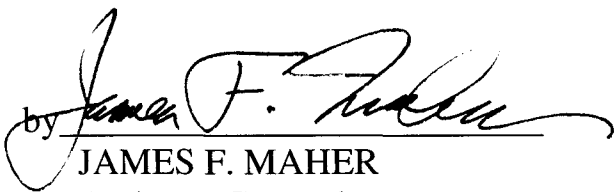
Finally, Mr. Sandusky suggested that section 5.255, "Premises Certification," be clarified on the issues of process, forms and fees.

This recommendation has been implemented in a revision to section 5.255.

The Board is resubmitting these regulations herewith. Enclosed are the form CDL-1 face sheet, Preamble, Annex A and Regulatory Analysis Form. A transmittal sheet showing receipt by the Committees is also enclosed.

Very truly yours,

FAITH S. DIEHL
CHIEF COUNSEL

by 
JAMES F. MAHER
Assistant Counsel

cc: Honorable John Rafferty, Chairman, Senate Committee on Law and Justice
Honorable Sean Logan, Democratic Chairman, Senate Committee on Law and Justice
Honorable Ron Raymond, Chairman, House Committee on Liquor Control
Honorable Robert Donatucci, Democratic Chairman, House Committee on Liquor Control
Robert A. Mulle, Chief Deputy Attorney General
Mr. Mark Meyer, Senate Committee on Law and Justice
Mr. Ken Varhola, Senate Committee on Law and Justice
Mr. David Thomas, Executive Director (R), House Committee on Liquor Control
Ms. Lynn Benka-Davies, Executive Director (D), House Committee on Liquor Control
Ms. M. Lois Hein, Governor's Office of the Budget
Barbara Adams, Chief Counsel, Governor's Office of General Counsel
Ms. Donna Cooper, Governor's Office
Major Leonard McDonald, Director, Pennsylvania State Police, Bureau of Liquor Control Enforcement
Steven Schmidt, Director, Bureau of Alcohol Education

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT
TO THE
REGULATORY REVIEW ACT**

I.D. NUMBER: 54-60
SUBJECT: Responsible Alcohol Management Program
AGENCY: Liquor Control Board

TYPE OF REGULATION

___ Proposed Regulation
 ___ Final Regulation
X Final Regulation with Notice of Proposed Rulemaking Omitted
 ___ 120-day Emergency Certification of the Attorney General
 ___ 120-day Emergency Certification of the Governor

FILING OF REGULATION

<u>DATE</u>	<u>SIGNATURE</u>	<u>DESIGNATION</u>
1/5/06	<u>Tim Root</u>	HOUSE COMMITTEE ON LIQUOR CONTROL (<i>Republican</i>) (<i>Democrat</i>)
1-5-06	<u>Jay Smith</u>	SENATE COMMITTEE ON LAW & JUSTICE (<i>Republican</i>) (<i>Democrat</i>)
1-5-06	<u>Bruce Messel</u>	
1-5-06	<u>Duffy Lane</u>	INDEPENDENT REGULATORY REVIEW COMMISSION
1/5/06	<u>D. Belmont</u>	
1-5-06	<u>M. Munnert</u>	ATTORNEY GENERAL
___	___	LEGISLATIVE REFERENCE BUREAU