



September 28, 2024

Summary of Duties and Rights of Licensees Regulation Changes

The Pennsylvania Liquor Control Board's ("PLCB") Regulations for "Duties and Rights of Licensees" have been updated effective September 28, 2024. This update pertains to sections 5.30 and 5.32 in Chapter 5, Subchapter C, relating to "Amusement and Entertainment."

Section 5.30 now includes definitions for "dancing," "floor shows," and "theatricals." In addition, the definitions for "event/tournament/contest," "game," and "instrumental music" were amended with clarifications that had been provided in the Office of Chief Counsel's Advisory Opinions.

Section 5.32 included citations to other laws that were no longer accurate. The PLCB has amended section 5.32 to provide correct citations for the Child Labor Act, the Boxing Act, the Wrestling Act, the Solicitation of Funds for Charitable Purposes Act, and the Local Option Small Games of Chance Act ("LOSGCA").

Section 5.32(e)(1) was amended to eliminate language that "there may not be lewd, immoral or improper" conduct by the licensee, its servants, agents, employees, patrons, or event, contest or tournament participants. The Third Circuit Court of Appeals struck down the phrase "lewd, immoral or improper" as unconstitutional. Conchatta, Inc. v. Miller, 458 F.3d 258 (3d Cir. 2006), *cert. denied*, Miller v. Conchatta, 127 S.Ct. 1330 (2007). Section 5.32(e)(1) now states, "The licensee, its servants, agents, employees, patrons or event, contest or tournament participants may not engage in conduct otherwise prohibited by law."

Section 5.32(e)(3) has been amended to include a sentence that "no amount of liquor, alcohol or malt or brewed beverages may be offered as a prize for participating in an event, contest or tournament, whether for on-premises or off-premises consumption."

In section 5.32(e)(5), the word "charity" was replaced with the phrase "charitable organization," which is the language used in section 5.32(e)(4) and the Solicitation of Funds for Charitable Purposes Act.

In section 5.32(e)(7), the event, tournament or contest prize limits were amended to be consistent with the LOSGCA. The regulation now states that the total value of all prizes for any given event, tournament or contest may not exceed \$2,000.00 (increased from \$1,000.00). In addition, the regulation now states that the total value of all prizes awarded in any seven-day period may not exceed \$35,000.00 (increased from \$25,000.00).

Subsection 5.32(g) addressed the enforcement of subsection 5.32(a), which had been deleted after it was rendered obsolete by the passage of Act 113 of 2011 and Act 116 of 2012. Since subsection 5.32(a) was deleted, subsection 5.32(g) was rendered moot and is now deleted.

Questions about these changes, or any other provisions of the Liquor Code or the PLCB's Regulations may be directed to the PLCB's Office of Chief Counsel at 717-783-9454 or ra-lblegal@pa.gov .