

NEWS & INSIGHTS

On the road to recovery - Pennsylvania Liquor Control Board implements fast process for restaurants to serve alcohol outdoors

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One of the most anticipated updates from Governor Wolf's office impacting the alcohol and hospitality industries was released this week. [New guidance](#) effectively places all counties in the yellow phase of re-opening (except for counties already in the green phase) and allows restaurants (including bars, breweries, distilleries and other food

service establishments) to have outdoor dine-in service beginning on Friday, June 5. The notable exception to this is for our friends in Philadelphia, who are waiting for guidance from the Mayor's office on when they can allow outdoor dining.

For the restaurants that were already set-up and equipped for outdoor service, this could be a great way to jump-start re-opening and get warmed-up for future stages of recovery. Restaurants that did not previously have outdoor service are now re-evaluating their premises to determine if they can establish outdoor dining space in order to have customers return, even if on a smaller scale. For liquor licensees, this creates both an opportunity and a challenge, especially if the restaurant has not licensed any outdoor space before.

It is important to remember that licensees are only allowed to serve alcohol within their licensed areas. These licensed areas are determined as part of the initial license application process. The licensed area can be modified and extended, including to cover outdoor space, but the process is similar to filing a completely new license application including:

- Posting an orange placard for thirty days to notify the public that you intend to extend your premises (which means objections to your extension could be filed)
- Showing the source of funds used to create the outdoor space
- If you are using sidewalks or other areas controlled by your local municipality, getting the municipality's approval as well

All told, the process could take several months to complete – time restaurant owners currently do not have.

Emergency Temporary Extension of Premises

Fortunately, the Pennsylvania Liquor Control Board (PLCB) has been working with the hospitality and alcohol industries and has created an "Emergency Temporary Extension of Premises" program to fast-track these applications and allow restaurants to expand their licenses to cover new outdoor spaces. The application went live on Wednesday, June 3 and can be found in the [PLCB+ portal](#) under the "Other License Changes/Amendments" menu.

The most important part of this new application is that it does not require posting an orange notice placard for 30 days **prior to being approved** — upon completion of the application, the restaurant prints its confirmation page as its temporary authority to use the new space. Please note that licensees, except for manufacturers, will still need to post the orange notice placard after submitting the application; however, they can use the space immediately. Another benefit in these cash-strapped times is the PLCB is waiving the usual fee for this application.

Licensees who wish to submit an emergency application still need to include a drawing with dimensions for the area to be licensed and proof that they have the right to use that space (usually a lease). Additionally, the area to be licensed must be immediately adjacent and connected to the existing licensed area and cannot be separated by a public thoroughfare (generally a street, public alley, etc.). Businesses who plan to use a public sidewalk or other area controlled by their local municipality will still need to submit a document showing the municipality approves your use of that space, which can take some time.

The emergency extension of premises application is temporary and will expire when the COVID-19 Emergency Declaration ends, if an objection or petition to intervene is received by the PLCB, or if the PLCB determines the licensed space does not satisfy the requirements or otherwise determines the temporary authority has come to an end.

A licensee can still set-up an outdoor dining space without extending its license to cover that area — it just will not be permitted to serve alcohol there. Businesses should also check with their municipality regarding any rules or regulations it has with respect to outdoor dining and check with your insurer to make sure these new operations are covered. Although not all restaurants will be able to take advantage of this benefit, we are hopeful that this will be an early step on a quick path to recovery.

Industry outlook and support

We recognize the unique challenges that hospitality and alcohol industries have experienced in recent years, including natural disasters, government shutdowns and unexpected changes to laws. We remain positive that the industry will continue to thrive. In these uncertain times, an experienced attorney can provide information and guidance to help you make fully informed decisions. In addition to licensing, there are questions businesses may have related to employment matters, such as the [Families First Coronavirus Response Act](#), [insurance coverage relief for business interruption losses](#) and financial consulting relating to [tax credits and employee benefits](#).

Saxton & Stump attorneys [Ken McDermott](#) and [Anthony Foschi](#) are available to discuss the current restrictions in place and how our [Hospitality](#) and [Liquor Licensing and Alcohol Law](#) groups can partner with you to navigate the complex business and legal questions arising from the COVID-19 pandemic.

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