



## **ADVISORY NOTICE NO. 28 (1<sup>st</sup> REVISION)**

### **SALE OF ITEMS OTHER THAN ALCOHOLIC BEVERAGES**

**February 14, 2024**

TO: All Retail Licensees

NOTE: This notice is issued to replace in its entirety previous Advisory Notice No. 28 dated August 31, 2022.

Section 3.52(c) of the Board's Regulations, 40 Pa. Code § 3.52(c), states that a licensee may not conduct another business on the licensed premises without Board approval. This section is similar to section 492(12) of the Liquor Code, 47 P. S. § 4-492(12), which prohibits a distributor or importing distributor from engaging in any other business without Board approval.

What constitutes another business is not defined by statute but is typically understood to mean a business enterprise beyond the operation of the licensed business itself, e.g., the Liquor Code defines a restaurant as a location "habitually and principally used for the purpose of providing food for the public (emphasis added)." As such, the other business must be ancillary to the licensed business, i.e., the majority of the income derived from business activity occurring on the retail licensed portion of the premises should be from the retail sale of food and beverages unless your retail license clearly contemplates otherwise. Examples of such licenses include hotel, golf course, public venue and performing arts licenses. A one-time transaction is typically not considered another business.

Further, while retail licensees are authorized to sell food and beverages, sales of such items on a wholesale level or in bulk rather than at retail needs specific Board approval. By way of example, a licensee that wants to sell a cooked pizza to-go does not need Board approval to do so; a licensee that wishes to sell frozen pizzas in case quantities, should first ask for Board approval to do so. For purposes of beverages, sales for off premises consumption in containers of greater than two liters or in case quantities or greater should not occur on licensed retail premises without specific Board approval. For those licensees that have interior connections to other businesses that sell items in bulk or convenience items not intended for use/consumption on the licensed premises – such as grocery stores or convenience stores – this means that there must be a clear delineation between the location of items sold by the respective businesses.

The Board has issued Advisory Notice No. 9 to provide guidance to distributors and importing distributors as to what they may or may not sell; however, no similar guidance has been provided to retail licensees.

The purpose of this notice is to provide a complete list of items that have previously received Board approval and may therefore be sold by retail licensees, without the need for obtaining specific additional approval from the Board.

A. Retail licensees may sell the following on the licensed premises:

1. Automotive products, such as:
  - a. Air fresheners
  - b. Antifreeze
  - c. Bumper stickers
  - d. De-icer
  - e. Fuses
  - f. Ice scrapers
  - g. Jumper cables
  - h. Maps
  - i. Motor oil
  - j. Power steering fluid
  - k. Tire gauges
  - l. Tire patches
  - m. Transmission fluid
  - n. Washer fluid
2. Non-consumable cannabidiol (CBD) products that **do not contain THC**, specifically:
  - a. Oils and creams
  - b. Liquid – pre-filled tanks, pods and bottles for electric cigarettes
3. Cell phone accessories, such as:
  - a. Chargers
  - b. Cords
  - c. Earbuds
4. Clothing, such as:
  - a. Aprons
  - b. Backpacks
  - c. Bags
  - d. Bandanas
  - e. Bibs
  - f. Gloves
  - g. Hats
  - h. Jackets
  - i. Shirts
  - j. Sweaters
  - k. Sweatshirts
5. Household items, such as:
  - a. All-purpose cleaner
  - b. Batteries
  - c. Books
  - d. Bottle openers
  - e. Candles – jar, pillar, votive, taper, cake
  - f. Coolers
  - g. Dish detergent

- h. Firewood
  - i. Flashlights
  - j. Garbage bags
  - k. Greeting cards
  - l. Incense
  - m. Lighter fluid
  - n. Lighters
  - o. Magazines
  - p. Newspapers
  - q. Paper products
  - r. Pencils and pens
  - s. Plastic cups
  - t. Rock salt
  - u. Stationary
  - v. Vinyl gloves
  - w. Window cleaner
6. Pet products, such as:
- a. Cat food and treats
  - b. Cat litter
  - c. Dog food and treats
7. Promotional/logo merchandise (location specific), such as:
- a. Glassware
  - b. Logo hats
  - c. Logo shirts
  - d. Souvenirs
8. Sundries, such as:
- a. Beauty products
  - b. First aid products
  - c. Haircare products
  - d. Hand sanitizer
  - e. Jewelry
  - f. Laundry products
  - g. Medicine and health products
  - h. Personal care products
  - i. Personal hygiene products
  - j. Protective face masks
  - k. Sunglasses
9. Tobacco, such as:
- a. Cigarettes – cartons, packs
  - b. Cigars – singles, boxes, multi-packs
  - c. Electric cigarettes and:
    - Batteries
    - Chargers

- Coils
  - Liquid – pre-filled tanks, pods and bottles
  - Tanks
  - d. Leaf chew
  - e. Nicotine gum
  - f. Smoking accessories, such as:
    - Ashtrays
    - Charcoal
    - Cigarette cases
    - Cutters
    - Filters
    - Flint
    - Grinders
    - Hookahs
    - Humidors
    - Injector machines
    - Lighter fluid
    - Lighters
    - Matches
    - Pipes
    - Rolling machines
    - Rolling papers
    - Tins
    - Tubes
    - Vaporizers
    - Wicks
  - g. Snus
  - h. Tobacco pouches
- B. WEP holders may also sell the following for consumption on or off the licensed premises:
1. Wine-infused ice cream (no more than 3L in a single transaction for consumption off the licensed premises)

Retail licensees must seek approval from the Board for permission to sell items not addressed in this advisory notice by contacting the Board's Bureau of Licensing.

The provisions of this bulletin are effective immediately. Please govern your operations accordingly.

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



**Michael Vigoda  
Secretary to the Board**