Due to the coronavirus (COVID-19) outbreak, Pennsylvania restaurants and hotel licensees that are permitted to sell mixed drinks and cocktails for on-premises consumption have lost a significant amount of business due to the on-premises sales prohibition. While there have been reports of restaurant licensees in Pennsylvania selling mixed drinks and cocktails to-go, that is not currently legal under the Pennsylvania Liquor Code. On April 28, the Pennsylvania House of Representatives voted to amend the Liquor Code to temporarily permit restaurant and hotel licensees to sell mixed drinks and cocktails to-go, so long as food is available as well, during the coronavirus pandemic.

According to the Bill, to qualify to sell mixed drinks and cocktails to-go, a business must meet the following
requirements:

- Have an active Restaurant (“R”) or Hotel (“H”) license that is not subject to an objection to their license or suspension
- It must have lost more than 25% of its average monthly sales, including food and alcohol, due to the Pennsylvania stay-at-home orders

Restaurant and Hotel licensees would have to follow these requirements:

- The sales to-go must meet the definition of a “Prepared Beverage and Mixed Drinks,” which is a sealed container with no less than 4 fl. oz. and no more than 64 fl. oz. that is prepared on the licensed premises
- A “sealed container” is a package container with a secure lid designed to prevent consumption without removal of the lid (a lid with straw or sipping holes must be covered or sealed at the point of sale)
- Sales may happen during permitted licensed hours but must cease at 11:00 PM as opposed to the 2:00 AM usual requirement to cease sales
- Must use a transaction scan device for everyone that appears to be under 35 years of age within 60 days of the effective date, which would be upon Governor Wolf’s signature
- The licensee shall prominently display a warning sign that puts consumers on notice that these beverages to-go are “open containers” under the Vehicle Code and may only be transported by the driver of a vehicle in the vehicle’s trunk or in some other area that is not occupied by the driver or passengers

An interesting privilege is that licensees can sell to other licensees that are qualified to sell mixed drinks or cocktails to-go.

This is a privilege to sell the extra inventory of spirits and the selling licensee must notify the PLCB in writing.

These privileges would cease upon the ending of the mitigation period taking place after the COVID-19 Disaster Emergency is lifted, which shall mean that the licensee is permitted to operate at more than 60% capacity (likely related to occupancy restrictions that will be in place when on-premises sales continue).

We will update this blog should anything change with the House Bill as it makes its way to the Governor’s desk for signature. To date, Pennsylvania has been reluctant to expand privileges, even going so far as to close the doors on consumers’ access to spirits by shuttering State Stores.

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