

Time to Cash-in with Curbside Cocktails: Governor Tom Wolf Relaxes Sales of Mixed Drinks in Pennsylvania

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Restaurants, bars, and hotels have experienced tough financial times since the coronavirus pandemic started. Government action forced restaurants to close dine-in service, resulting in mass layoffs and a pivot to take-out and delivery options.

While restaurateurs often receive take-out orders for mixed drinks, they had no choice but to decline these opportunities to make money. In Pennsylvania, the owner of a retail restaurant "R" or hotel "H" liquor license can only sell up to 192 fluid ounces of beer for off-premises consumption and wine bottles with a special permit. The sale of spirits and mixed drinks for off-premises consumption is prohibited.

Restaurants run on tight margins that depend on combined sales of food and beverage, the latter of which can constitute 40% or more of these businesses' profits. New legislation (HR 327), **signed today** by Governor Tom Wolf, allows restaurants and hotel licensees to sell mixed drinks and cocktails to-go with food orders during the coronavirus pandemic.

WHAT CAN BE SOLD?

Mixed drinks with spirits and mixers of no less than four (4) fluid ounces and up to sixty-four (64) fluid ounces prepared at a licensed restaurant, bar, or hotel. For example, a two (2) ounce shot of tequila is prohibited, however a margarita, which is a combination of tequila and mixers, is allowed in containers of up to sixty-four (64) fluid ounces.

WHO CAN SELL MIXED DRINKS?

The owner of a valid and current retail "R" or "H" liquor license who has lost more than 25% of its average monthly sales, including food and alcohol, due to the Governor's stay-at-home orders.

HOW CAN MIXED DRINKS BE SOLD?

In "sealed containers" of no less than four (4) fluid ounces and up to sixty-four (64) fluid ounces in a single transaction.

WHAT IS A "SEALED CONTAINER"?

A packaged container with a secure lid or cap designed to prevent consumption without removal of the lid or cap. A lid with sipping holes or openings for straws must be covered with an additional seal before it is sold.

WHEN CAN MIXED DRINKS BE SOLD?

Sales may happen during normal business hours but must cease at 11:00 PM as opposed to the 2:00 AM usual requirement to cease sales. Sales of alcohol on Sundays still require a Sunday sales permit.

WHAT WILL THIS COST A BUSINESS OWNER?

Nothing initially. But, by July 20, 2020, the business must purchase and use an ID scanner for everyone that appears to be under 35 years of age.

ARE THERE POSTING REQUIREMENTS?

Yes. The licensee must include a prominent warning at the business (e.g., the designated pick-up area) advising the customer that the drink is an “open container” 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.

CAN A LICENSEE DELIVER MIXED DRINKS TO A CUSTOMER FOR OFF-PREMISES CONSUMPTION?

No. Retail licensees cannot deliver alcohol without also having a “transporter-for-hire” license that enables delivery of alcohol in Pennsylvania. (47 P.S. §5-501).

CAN A LICENSEE WITH SURPLUS INVENTORY OF SPIRITS SELL THESE BOTTLES TO ANOTHER LICENSEE?

Yes. A licensee may sell bottles of liquor to another “R” or “H” licensee. However, the seller must notify the PLCB in writing of the buyer’s name and identify any product sold. This notice must include the liquor’s name and brand, size, and number of bottles sold.

HOW LONG CAN A LICENSEE SELL MIXED DRINKS FOR OFF-PREMISES CONSUMPTION AND SELL LIQUOR BOTTLES TO OTHER “R” AND “H” LICENSEES?

Until Governor Wolf terminates his March 6, 2020 Proclamation of Disaster Emergency, and during the mitigation period after the termination of the disaster emergency in which a licensee is operating at less than sixty per centum (60%) capacity.

Additional guidance by the Pennsylvania Liquor Control Board is available [here](#).

For additional information contact Daniel Conlon.