



THE CITY OF PHILADELPHIA

**FREQUENTLY ASKED QUESTIONS
FOR
PERMIT TO SELL MALT OR BREWED
BEVERAGES FOR CONSUMPTION OFF-PREMISES**

What is Act 39 AND Act 155?

Under Act 39 of 2005 and Act 155 of 2006, any restaurant, tavern or take-out deli with an ("R") or ("E") liquor license in Philadelphia that wishes to sell take-out beer after October 31, 2007 must obtain a new permit.

How does a licensed establishment apply for the new take-out beer permit?

First, an applicant must apply to the Department of Licenses and Inspections (L&I). Applications are available at 3rd Floor, 990 Spring Garden, Philadelphia, PA 19123 or online at L&I's website at <http://www.phila.gov> or <http://webapps.phila.gov/li/>. If using a web application, the applicant must bring three (3) copies of the application to L&I. The applicant will obtain approval if the application is complete and no protest is filed within 21 days of the application marked "filed" by L&I. If a protest is filed, approval of the application is pending a hearing by the "Malt and Brewed Beverage Hearing Board" as established by Act 39 of 2005 and Act 155 of 2006. Once approved, the applicant must file an application with the Pennsylvania Liquor Control Board ("LCB"). Consult the LCB for information concerning the application to the LCB.

Where do I get an application form?

If you have not received an application in the mail, applications are available at 3rd Floor, 990 Spring Garden Street, Philadelphia, PA 19123 or online at L&I's website at <http://www.phila.gov> or <http://webapps.phila.gov/li/>. If using a web application, the applicant must bring three (3) copies of the application to L&I.

Where do I file the application form?

Completed application forms must be filed in person with the L&I Board Administration Unit at 3rd Floor, 990 Spring Garden Street, Philadelphia, PA 19123.

How does a licensed establishment obtain approval for the new permit?

To obtain approval of the new permit for the take-out sale of beer, an establishment must file a completed application form with the Department of Licenses and Inspections (L&I). Applications are available for review by the public between the hours of 8:00am and 4:00pm at 3rd Floor, 990 Spring Garden Street, Philadelphia, PA 19123.

What happens after an application is filed?

Once an application has been accepted, the applicant will be given posters for each street premise that must be prominently displayed. **The poster must be displayed for a 14 day period beginning the day after an application is marked filed by L&I.**

What does the poster say?

The poster explains how to file a protest and who can file a protest. The poster also lists the name of the applicant, the location of the establishment, the Beer Permit Application number, the establishment's Liquor license number, the date the application was marked filed by L&I and the last date to file a protest to the application.

What happens if the establishment doesn't properly display the poster for the full 14 day period?

If you believe that an establishment is not properly displaying the poster, you can contact the Department of Licenses and Inspections at 215-686-2463. If an inspection reveals that an establishment has failed to post the poster during the entire 14 day period, the applicant will need to pay \$50.00 to refile an application and repost the premises, and a new 90 day period for Board action will begin when the refiled application is accepted.

Who can file a protest to the permit application?

1. Any combination of ten (10) individuals or businesses who reside or which are located within 500 feet of the Premises;
2. A house of worship, school, daycare center, senior citizen center, charitable institution or other non-profit organization located within 500 feet of the Premises;
3. An elected official of any level of government (including a member of Council) who represents a district that includes the Premises. An at-large member of Council shall be considered to represent all districts of the City for purposes of filing a protest;
4. The City and County of Philadelphia, acting through any of its agencies, departments, boards or commissions;

5. The Commonwealth of Pennsylvania, acting through any of its agencies, departments, boards or commissions;
6. A community or neighborhood group or other organization that includes any combination of ten (10) individuals or businesses who reside or which are located within 500 feet of the Premises;
7. A community development corporation or nonprofit civic association whose mission is to promote the general welfare of a defined geographical area, which includes the subject premises of the applicant.

What is the deadline for filing protests?

Written protests must be filed against the application by 4:30 PM on the 21st day after an application is marked as filed by L&I. The last date to file a protest is listed on the poster.

Where are protests filed?

Written protests may be filed in person to 990 Spring Garden Street, 3rd Floor, Philadelphia, PA, 19123.

Protests may also be filed by mail to Board Administration Unit, Department of Licenses and Inspections, 1401 JFK Boulevard, Philadelphia, PA 19102. Mailed protests must be received by the deadline for filing protests and must be made on the form provided by the Department of Licenses and Inspections (L&I). Protest forms are available at the Municipal Services Building (MSB), 1401 JFK Boulevard, Philadelphia, PA, 19102, or 990 Spring Garden Street, 3rd Floor, Philadelphia, PA, 19123 or on L&I's website at <http://www.phila.gov>.

Do I have to use the official protest form?

Yes.

What if I don't know where to find the information I need to completely fill out the protest form?

You should find all the information you need on the poster on display at the establishment.

What do I need to provide at the hearing in order to convince the Board to recommend against the granting of a take-out beer permit to the applicant?

The Board will be judging whether granting of an application for permit for take-out consumption off the premises would adversely affect the welfare, health, peace and morals of the City or its residents.

How can a protestant demonstrate that allowing the take-out sale of beer will adversely affect the welfare, health, peace and morals of the City or its residents?

While there may be other issues that arise at the hearing, these are the factors that the Board will consider when arriving at a decision:

1. The history of state and local law enforcement actions brought against the Premises, its owner(s), its staff and its patrons;
2. The number and nature of calls to the Police Department's 911 emergency response system or to the State Police Bureau of Liquor Control Enforcement relating to the incidents occurring within and immediately outside the Premises;
3. The character of the surrounding neighborhood, including the presence of vulnerable populations and the nature and extent of community opposition to the take-out sale of beer at the Premises;
4. The proximity of houses of worship, schools, daycare centers, senior citizen centers, charitable institutions or other non-profit organizations to the Premises;
5. The impact on the surrounding community of other establishments engaged in the take-out sale of beer located in close proximity to the Premises;
6. The failure of the applicant to remain current in the payment of any City or School District taxes, charges, fees, rents or claims;
7. The failure of the applicant to obtain all other permits and approvals required by law for the operation of a take-out beer establishment at the Premises;
8. Whether the applicant has made any material false statements in any written application for Council approval of a take-out beer permit.

What if no one files a protest to an application?

If no protest is filed within 21 days after an application is filed, the application will be approved, and both the applicant and the LCB will be so notified. The applicant will then be free to file its application with the LCB for the actual permit.

What happens when a protest is filed against an application?

Once a protest is received, a hearing will be scheduled. The applicant and the designated representatives of all protestants will be advised of the date, time and place of a hearing at which you, the person(s) filing the protest, and any other person may testify or submit evidence that is relevant to the issue of whether approving the application would adversely affect the welfare, health, peace and morals of the City or its residents. There will be NO continuances of hearings. If the applicant or protestant does not appear, the Board will evaluate the case on the information at hand.

Do I need an attorney to represent me at the hearing?

No, unless you are filing the protest on behalf of a for-profit corporation. Any person has the right to be represented by an attorney at the hearing, but having an attorney represent you is not a requirement.

What happens if the Board turns down my application for approval?

Under Act 39 and Act 155, once the Board has refused to approve your application, the LCB will not accept your application for a permit to sell malt or brewed beverages for consumption off the premises.

Does a protestant have the right to appeal the Board's decision to approve an application to the courts?

Under Act 39, an applicant aggrieved by an adverse decision of the Board can file an appeal with the Court of Common Pleas of Philadelphia County. Act 39 is silent as to the rights of protestants to appeal. You should consult with a lawyer to determine what rights a protestant may have, if any, to appeal.