

PLCB Comments on House Bill 1247 (PN 1346)

Good Morning,

My name is Rodrigo Diaz and I am the Executive Director for the Pennsylvania Liquor Control Board (PLCB). Although I cannot be in attendance, I have been asked to provide some comments on House Bill 1247 (PN 1346).

Before proceeding any further, I do want to point out that my agency does not generally take positions on pending legislation. The PLCB is a legislative creation, and we simply attempt to comply with the requirements imposed on us by legislation passed by the Legislature and signed by the Governor. My comments should therefore not be construed as in support for or in opposition to any particular bill, but rather technical in nature.

As set forth in Representative Miller's co-sponsorship memorandum, the purpose of House Bill 1247 is to give holders of Pennsylvania driver's licenses the option to download a digital version of their licenses. It is intended not as a replacement for the physical license but as added protection in case someone misplaces their physical license.

While the bill does not directly amend the Liquor Code, it may have implications to both the PLCB and to licensees.

The Liquor Code prohibits providing or selling alcohol to minors. The only defenses available to a charge of providing alcohol to a minor are set forth in section 495 of the Liquor Code. The defenses require proof that the minor was asked for and provided one of the following documents:

The valid photo driver's license or identification card issued by the Department of Transportation or by any other state, or Canadian driver's license or other bona fide Canadian identification such as a Canadian-issued passport, or a valid armed forces of the United States identification card, a valid passport or a travel visa issued by the United States or a foreign country that contains the holder's photograph shall, for the purpose of this act, be accepted as an identification card.

In addition, the person accused of providing alcohol must establish that it did one of the following:

the person accused required the minor to fill out a form in which the minor acknowledges providing one of the identification cards referenced earlier and further asserting that they are indeed 21 years of age or older;

the person accused took a photograph, photocopy or other visual or video presentation of the identification card and relied on the document in good faith; or,

the person accused used a transaction scan device to establish the validity of the identification card and transaction scan results were relied upon in good faith.

A “transaction scan device” is a device capable of deciphering in an electronically readable format the information encoded on the magnetic strip or bar code of an identification card.

Since an electronic driver’s license is not specifically referenced in the Liquor Code, it does not appear that it would qualify as a form of identification that would be acceptable if one is attempting to purchase alcohol. However, specifically stating such, even if it is stated in the Vehicle Code rather than the Liquor Code, would minimize confusion on this issue.

If the intent is to add electronic driver’s licenses to the list of acceptable forms of identification, then there are some additional issues you may wish to consider:

- Licensees are currently taught the FEAR (Feel, Examine, Ask, Return or Refuse) method of assessing identification cards – feel the identification card for imperfections that may indicate alteration, examine the card by looking for such things as the hologram, the expiration date and the photo itself, ask questions about the identification card such as address or birthdate, return the card or refuse service. This approach will not work with an electronic driver’s license.

- Assuming that existing transaction scan devices are ineffective on electronic driver's licenses, it will be much harder and/or most expensive for individuals to avail themselves of the defenses available under the Liquor Code. This could either result in more minors acquiring alcohol, less adults acquiring alcohol (because licensees will simply refuse to accept electronic driver's licenses), or both.
- Since licensees and the PLCB are less familiar with electronic driver's licenses, it is unclear what training should be conducted to avoid accepting fake licenses.

We appreciate this opportunity to comment on the bill and are always happy to provide any additional information you may require.