Legislative Council,
General Assembly
State of Delaware

Title 4

Alcoholic Liquors and Marijuana

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Chapter 1
GENERAL PROVISIONS

§ 101 Definitions.

As used in this title, in addition to their usual meaning:

(1) "Alcohol" means ethyl alcohol produced by the distillation of any fermented liquid, whether rectified or diluted with water or not, whatever may be the origin thereof, and includes synthetic ethyl alcohol, but it does not mean ethyl alcohol, diluted or not, that has been denatured or otherwise rendered unfit for beverage purposes.

(2) "Alcoholic liquor" or "alcoholic liquors" include the 5 varieties of liquor defined in this section (alcohol, spirits, wine, beer and alcoholic cider) as well as every liquid or solid, patented or not, containing alcohol, spirits, wine, beer or alcoholic cider and capable of being consumed by a human being, and any liquid or solid containing more than 1 of the 5 varieties defined in this section is considered as belonging to that variety which usually has the higher percentage of alcohol. "Alcoholic liquor" or "alcoholic liquors" does not include a powdered alcoholic beverage. Notwithstanding any other definition in this chapter, "alcoholic liquor" does not include solids and confections that contain 2% or less alcohol by weight, so long as the package which contains the product or any menu or other medium noticing the product for sale, if the product contains between ½ of 1% alcohol by volume and 2% alcohol by weight, is labeled with the word "alcoholic," the phrase "contains alcohol," or some other indication that the product contains alcohol.

(3) "Appeals Commission" shall mean 3 persons, 1 from each County, appointed by the Governor with the advice and consent of a majority of the Senate.

(4) "Barrel", when used as a container for beer, means such container having a capacity of 31 United States standard gallons of 231 cubic inches.

(5) "Beer" means any beverage containing more than ½ of 1% of ethyl alcohol by volume, obtained by the alcoholic fermentation of any infusion or decoction of barley malt and hops in water and includes, among other things, ale, porter, stout and other malt or brewed liquors.

(6) "Beer garden" means a defined, outdoor establishment not less than 10,000 contiguous square feet, which is open to the public for at least 5 consecutive months. A beer garden may sell beer, wine, and spirits by the glass or beer by the bottle, for consumption on any portion of the licensed premises. The sale of food is not required for licensure. The boundaries of a beer garden must be enclosed with a barrier no less than 42 inches high from the floor elevation, constructed of wood, concrete, plastic, rope, or wrought iron fencing, or other approved material. A beer garden must have a physical structure, which may be permanent or removable, and must be substantial. A "substantial physical structure" shall mean equipment and structures costing no less than $250,000 at the time of acquisition. A beer garden license may not be used by an existing liquor license holder to expand the size or nature of the licensed establishment.

(7) "Bottle" means any vessel that is corked, capped or stopped or arranged so to be and intended to contain or to convey liquids.

(8) "Bottle club" means an establishment operated for profit or pecuniary gain where customers of the establishment enter on the premises for the purpose of consuming alcoholic liquors that are brought onto the premises by the customers, consumed on the premises by the customers, and removed by the customers when the customers depart.

(9) "Cabaret" means an establishment where patrons are entertained by performers who dance, sing, play instruments, or perform other legal acts for entertainment, where such entertainment may be performed during or after service or dinner, and where a minor, as defined in § 708 of this title, is to be denied admission to or permission to remain on premises after 11:00 p.m. (official eastern time) unless accompanied by a parent or by a legal guardian. "Cabaret" includes a dinner theater.

(10) "Caterer" means any proprietorship, partnership or corporation engaged in the business of providing food and beverages at social gatherings such as weddings, dinners, benefits, banquets or other similar events for consideration on a regular basis and duly licensed by the State as caterers with at least 60% of its gross receipts resulting from the sale of food.

(11) Without regard to its usual meaning, and by way of limitation, "alcoholic cider" means any fermented beverage made from apples, containing more than ½ of 1% but not more than 7% of ethyl alcohol by volume. For purposes of this title, alcoholic cider shall be treated as within the definition of "wine" unless the specific language of a particular section indicates a contrary intent.

(12) "Club" means a corporation or association created by competent authority, which is the owner, lessee or occupant of premises operated solely for objects of national, social, patriotic, political or athletic nature, or the like, whether or not for pecuniary gain, and the property as well as the advantages of which belong to or are enjoyed by the stockholders or by the members of such corporation or association. A public golf course, open to all members of the public, whether privately or publicly owned, whose primary purpose is the operation of a golf course shall be included within meanings of this definition. Members of the public, utilizing the golf facility, shall be considered guests of the club.

(13) "Commissioner" means the person appointed by the Governor and confirmed by the Senate who serves as the Alcoholic Beverage Control Commissioner for the State.

(14) "Concert hall" means an indoor facility used to host live entertainment that is owned, leased, under easement, and/or operated by any person and that has capacity for at least 500 patrons for any single event. In order for a facility to be licensed as a concert hall, the facility must, host a minimum of 200 live music events in any biennial licensing period. A facility meeting this definition may license

the entire building, including patio, with the concert hall license.

(15) “Cooking wine” means a wine that is no more than 20% alcohol by volume and includes no less than 1.5% salt that is intended for cooking and not for beverage consumption.

(16) “Denatured alcohol” means ethyl alcohol or liquors containing ethyl alcohol to which substances or ingredients have been added to render the ethyl alcohol or liquors unfit for beverage purposes.

(17) “Distillery”, “winery” and “brewery” mean not only the premises whereon alcohol or spirits is distilled or rectified, wine is fermented or beer is brewed, but, in addition, the person owning, representing or in charge of such premises and the operations conducted thereon, including the blending and bottling or other handling and preparation of alcoholic liquor in any form.

(18) “Division” means “Division of Alcohol, Tobacco, and Marijuana Enforcement.”

(19) “Establishment” means any place located physically in this State where alcoholic liquor of 1 or more varieties is stored, sold or used by authority of any law of this State, including a hotel, restaurant, tavern, beer garden, or club as defined in this section, or where alcoholic liquor of 1 or more varieties is manufactured by virtue of any law of this State.

(20) “Fermented beverage” means any product similar to beer, including sake and seltzer, containing ½ of 1% or more of alcohol by volume, brewed from substitutes for malt, including rice, grain, bran, glucose, sugar and molasses.

(21) “Gathering of persons” or “gathering” means a banquet, picnic, bazaar, fair, or similar private gathering or similar public gathering that is all of the following:

a. Organized and hosted by an Internal Revenue Service-recognized 26 U.S.C. § 501(c)(3) nonprofit organization or a similar organization serving the public good, such as churches, colleges and universities, volunteer fire companies, political parties, or other similar nonprofit groups having a common civic, social, educational, or religious purpose.

b. Where food or drink are sold, served, or dispensed or where entrance tickets are sold or entrance fees are required by the nonprofit organization.

(22) “Hotel” means any establishment, provided with special space and accommodation, where, in consideration of payment, food and lodging are habitually furnished to travelers.

(23) “Import” means the transporting or ordering or arranging for the transportation or shipment of alcoholic liquor or infused beverages into this State whether by a resident of this State or otherwise.

(24) a. “Importer,” or “distributor,” or “wholesaler” means a person, whether the person is a resident of this State or not, transporting alcoholic liquors, or ordering, authorizing, or arranging the transportation or shipment of alcoholic liquors or infused beverages, into this State, the person being permitted to sell the alcoholic liquors or infused beverages only to those persons licensed to resell alcoholic liquors or infused beverages.

b. Nothing contained in this definition may be construed as prohibiting an importer from selling the alcoholic liquors or infused beverages to an active owner of that importer for that owner’s use and not for resale or to a full-time, bona fide employee of that importer for that employee’s use and not for resale.

c. Nothing contained in this definition may be construed as prohibiting an importer from selling beer in “half-barrel,” “quarter barrel,” or “sixtel” containers to the holders of a license to resell alcoholic liquors.

d. The Commissioner may enact rules regulating the sale of alcoholic liquors or infused beverages to active owners and employees of licensed importers as the Commissioner deems necessary.

(25) “Infused beverage” means as defined in § 1302 of this title.

(26) “License” means any license or permit to manufacture, to sell, to purchase, to transport, to import or to possess alcoholic liquor authorized or issued by the Commissioner under the provisions of Chapter 5 of this title.

(27) “Manufacture” means distill, rectify, ferment, brew, make, mix, concoct or process any substance or substances capable of producing a beverage containing more than ½ of 1% of alcohol by volume and includes blending, bottling or other preparation for sale, or any substance or substances capable of producing an “infused beverage” as defined under § 1302 of this title.

(28) “Manufacturer” means any person engaged in the manufacture of any alcoholic liquor or infused beverage and among others includes a distiller, a rectifier, a wine maker, a brewer, and includes a bottler or one who prepares alcoholic liquor or infused beverages for sale. No person licensed under this title may manufacture, whether or not the manufacturing occurs in this State, any infused beverage that is intended to be sold or offered for sale in this State unless the person holds an infused beverage endorsement under § 1335E of this title.

(29) “Mead” means an alcoholic beverage that is naturally fermented (not distilled or frozen) wherein the major source of fermentable sugars comes from honey.

(30) “Member of a club” means an individual who, whether as a charter member or admitted in accordance with the rules or the bylaws of the club, has become a member thereof, who maintains membership by the payment of dues in the manner established by the rules or bylaws, and whose name and address is entered on the list of members supplied to the Commissioner at the time of the application for a license under Chapter 5 of this title, or, if admitted thereafter, within 8 days after admission and payment of dues, if such dues are required. The Commissioner is authorized to extend the meaning of the words “member of a club” to include those who are granted temporary membership or membership of less than 1 year in accordance with a rule or bylaw of the club approved by the Commissioner. “Member of a club” which is a multiple activity club means a person who, pursuant to the charter, bylaws or rules of the

club, is a member in good standing of such club, and whose name and address is supplied in writing to the Commissioner by the club within 8 days after admission to membership, or who holds a temporary membership in such club, pursuant to a charter provision, or bylaw or rule approved by the Commissioner.

(31) "Motorsports speedway" shall mean a motorsports speedway (including any contiguous land when being used in connection with its events) that is owned, leased, under easement, and/or operated by any person and having a seating capacity of at least 5,000 seats. A motorsports speedway may operate under its own license while using the premises of a license holder at a horse racetrack, but only to the extent that neither license holder uses the same portion of the premises at the same time and no commingling of inventory occurs. The converse of this shall also apply to a license holder at a horse racetrack using the premises of a motorsports speedway.

(32) "Movie theater" shall mean an indoor facility used to host showings of motion pictures and that has a capacity of at least 500 patrons for any single movie showing or for showing of multiple movies in separate theaters at the same time. In order for a facility to be licensed as a movie theater, the facility shall host a minimum of 250 movie showings in any calendar year and shall be open at least 5 days a week.

(33) "Multiple activity club" is a club as to which, in the determination of the Commissioner, the service of spirits, wine or beer is not the principal activity in the premises of the club as established by the following:

a. Gross revenue of the club from the sale of spirits, wine and beer does not exceed 40% of its total annual revenue including dues, fees and assessments, and either

b. Meals are served by the club at regular hours on at least 6 days of the week,

c. The club has a physical facility, regularly used by members of the club, which is devoted primarily to activities other than the sale or consumption of spirits, wine or beer, or

d. A public golf course, as defined in paragraph (12) of this section, may be licensed as a multiple activity club, however, is not subject to the requirements as set forth in paragraph (33)c. of this section.

(34) "Multi-purpose sports facility" shall mean a stadium, featuring sporting events where admission fees are charged to the public and having a seating capacity of at least 2,500 seats, and excludes stadia which are operated and maintained by educational institutions, including, but not limited to, high schools, colleges or universities.

(35) "Off-site caterer" means any proprietorship, partnership or corporation engaged in the business of providing food and beverages at social gatherings, such as weddings, dinners, benefits, banquets or other similar events, that are held off the site of the caterer's business for consideration and on a regular basis. An off-site caterer must be duly licensed by the State under Title 30 as a caterer, with at least 60% of its gross receipts resulting from the sale of food.

(36) a. "Package store" or "store" means an establishment whose principal business is the sale of alcoholic liquors for consumption off the establishment's premises. "Package store" or "store" does not include a grocery store, convenience store, drug store, hotel, restaurant, club, delicatessen, tobacco retailer, or cigar store.

b. "Package store" or "store" means a store that sells alcoholic liquors for off-premises consumption that is not a grocery store, convenience store, drug store, hotel, restaurant, club, delicatessen, tobacco retailer, or cigar store. A package store licensed under this title with an infused beverage permit may also sell infused beverages for off-premises consumption.

(37) "Person" includes an individual, a partnership, a corporation, a club or any other association of individuals.

(38) "Powdered alcoholic beverage" means any powders or crystals that, after being mixed with sugar, water, or any other nonalcoholic materials, ferments or otherwise becomes a wine, beer, or other alcoholic beverage.

(39) "Preparation" means any medicine (patented or proprietary); any mixture containing drugs or mineral substances; any perfume, lotion, tincture, varnish, dressing, fluid extract or essence, vinegar, cream, ointment or salve; any distillate or decoction, whether or not containing other substances in solution or suspension, that contains ethyl alcohol or any alcoholic liquor to any amount exceeding ½ of 1% by volume.

(40) "Residence" means the place occupied by a person as a domicile or otherwise, either permanently or temporarily, and includes not only the premises occupied, but also every annex or dependency thereof held under the same title as the premises occupied.

(41) "Restaurant" means any establishment that is regularly used and kept open principally for the purpose of serving complete meals to persons for consideration, which has seating for 12 or more persons at tables and suitable kitchen facilities connected to the establishment for cooking an assortment of foods for complete meals under the charge of a chef or cook.

(42) "Sale" means every act of selling as defined in this section.

(43) "Sell" means: solicit or receive an order for; keep or expose for sale; deliver for value or in any other way than purely gratuitously; keep with intent to sell; keep or transport in contravention of this title; traffic in; or for any valuable consideration, promised or obtained, directly or indirectly, or under any pretext or by any means whatsoever, procure or allow to be procured for any other person, to carry alcoholic liquors on one's person or to transport with one and with intent to sell the same, but not in any establishment where the sale thereof is allowed.

(44) "Special event venue" means an establishment that holds public or private gatherings of more than 250 persons, including festival, convention, rally, art festival, music event, or other similar open-air event, where food or drink are sold, served, or dispensed and which requires an entrance ticket or fee to attend.

(45) "Spirits" means any beverage containing more than ½ of 1% of ethyl alcohol by volume mixed with water and other substances

in solution, and includes, among other things, brandy, rum, whiskey and gin.

(46) "Spirits, wine and beer tasting" means the consumption of spirits, wine and beer for the purpose of sampling for prospective purchase only. The quantity of any individual spirit, wine and beer sampled is not to exceed 1 ounce for wine and beer and ½ ounce for spirits.

(47) "Supplier" means an out-of-state manufacturer licensed by the federal government, or an entity licensed by the federal government as an importer, that acts as an agent on behalf of a manufacturer by facilitating sales between the manufacturer and a Delaware-licensed importer.

(48) "Taproom" means an establishment provided with special space and accommodations and operated primarily for the sale by the glass and for consumption on the premises of alcoholic liquors with the sale of food as a secondary object as distinguished from a restaurant where the sale of food is the primary object.

(49) "Tavern" means any establishment with special space and accommodation for sale of beer and wine as defined in this section to be sold to each customer in single servings.

(50) "Temporary large event" means a public or private gathering of more than 1,000 people where food or drink are sold, served or dispensed and which requires an entrance ticket or entrance fee to attend, including but not limited to a: music festival; car show; auction; convention or rally.

(51) "Temporary large event promoter" means the person arranging or promoting the temporary large event.

(52) "Third-party delivery service" means a company, organization, or entity that is outside of the operation of an establishment's business and acts as an intermediary to provide food-delivery services to customers.

(53) "Traveler" means an individual guest or customer of a hotel, restaurant or tavern.

(54) "Vehicle" means any means of transportation by land, by water or by air, and includes everything made use of in any way whatsoever for such transportation.

(55) "Whoever", when used in reference to any offender under this title, includes every person who acts individually or by permission or agreement for any other person, and includes also such other person.

(56) "Wine" means any beverage containing more than ½ of 1% ethyl alcohol by volume obtained by the fermentation of the natural contents of fruits, vegetables or other products and other vinous liquors, and also includes such beverages when fortified by the addition of alcohol or spirits as defined in this section.

(38 Del. Laws, c. 18, §§ 3, 4; Code 1935, §§ 6132, 6133(12); 45 Del. Laws, c. 263, § 1; 4 Del. C. 1953, § 101; 50 Del. Laws, c. 300, § 1; 51 Del. Laws, c. 239; 56 Del. Laws, c. 335, §§ 1, 2; 59 Del. Laws, c. 107, §§ 1-3, 71; 59 Del. Laws, c. 128, § 1; 60 Del. Laws, c. 466, §§ 1, 2; 63 Del. Laws, c. 397, § 1; 64 Del. Laws, c. 437, § 1; 65 Del. Laws, c. 50, §§ 1-3; 65 Del. Laws, c. 283, § 1; 67 Del. Laws, c. 48, § 1; 67 Del. Laws, c. 109, § 1; 69 Del. Laws, c. 6, § 1; 69 Del. Laws, c. 18, § 1; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 353, § 1; 70 Del. Laws, c. 559, §§ 1-4; 71 Del. Laws, c. 210, § 1; 71 Del. Laws, c. 302, §§ 1, 2; 72 Del. Laws, c. 486, §§ 1-4; 73 Del. Laws, c. 244, § 1; 73 Del. Laws, c. 393, § 1; 74 Del. Laws, c. 250, § 1; 76 Del. Laws, c. 32, § 6; 77 Del. Laws, c. 339, § 1; 78 Del. Laws, c. 220, § 1; 79 Del. Laws, c. 6, § 1; 79 Del. Laws, c. 229, § 1; 79 Del. Laws, c. 308, § 1; 80 Del. Laws, c. 4, § 1; 80 Del. Laws, c. 109, § 1; 81 Del. Laws, c. 15, § 1; 81 Del. Laws, c. 69, § 1; 81 Del. Laws, c. 100, § 1; 81 Del. Laws, c. 372, § 1; 82 Del. Laws, c. 4, § 1; 83 Del. Laws, c. 36, § 1; 83 Del. Laws, c. 152, § 1; 83 Del. Laws, c. 207, § 1; 83 Del. Laws, c. 438, § 1; 84 Del. Laws, c. 37, § 1; 85 Del. Laws, c. 269, § 1; 85 Del. Laws, c. 394, § 1; 85 Del. Laws, c. 518, § 1.)

§ 102 Statewide application; exceptions.

(a) This title shall apply to the State, but if, in any of the districts created by § 2, article XIII of the Constitution of this State, a majority of the qualified electors thereof vote against license, the application of this title and the provisions thereof shall be suspended therein.

(b) Nothing in this title shall be interpreted as authorizing the manufacture, distribution, sale, transportation or importation of alcoholic liquors, alcohol, spirits, wines or beer, as defined in § 101 of this title, where such manufacture, distribution, sale, transportation or importation is prohibited by the Constitution of the United States or of the State, or under the statutes thereof.

(38 Del. Laws, c. 18, § 2; Code 1935, § 6131(l); 4 Del. C. 1953, § 102.)

§ 103 Effective date; extent of effectiveness.

(a) Any section or provision of this title which purports to authorize or to license the manufacture, distribution, sale, transportation, importation, purchase or possession of alcoholic liquor, as defined in § 101 of this title, shall be effective only when and to such extent as may be permitted under the Constitutions of the United States and of the State, or under the statutes thereof.

(b) At such time or times as the manufacture and sale of alcoholic liquor is permitted in any of the districts created by § 2, article XIII of the Constitution of this State, such manufacture and sale shall be regulated under the provisions of this title and by the Commissioner mentioned in § 301 of this title.

(38 Del. Laws, c. 18, §§ 2, 4; Code 1935, §§ 6131(2), 6133(2); 4 Del. C. 1953, § 103; 72 Del. Laws, c. 486, § 5.)

§ 104 Sale or shipment out of State.

(a) No sale of alcoholic liquor shall be made to a person in a state or a division of a state where such sale is prohibited by law.

(b) No shipment of alcoholic liquor shall be made into a state or into a division of a state where such shipment is prohibited by law.

(38 Del. Laws, c. 18, § 2; Code 1935, § 6131(3), (4); 4 Del. C. 1953, § 104.)

Chapter 2
TRANSITION PROVISIONS

§ 201 Transition provisions.

(a) All definitions and references to any commission, division or agency which appear in any other act or law are to be construed, to the extent they are consistent with this chapter and in connection with the function transferred by this chapter, as referring or relating to the agency, department, division, office or subdivision to which the function is transferred.

(b) All orders, rules and regulations made by any commission, division or agency which govern the functions of such commission, division or agency, and which are in effect on December 1, 2000, shall remain in full force and effect until revoked or modified in accordance with law by the agency, department, division, office or subdivision to which the functions are transferred.

(c) All investigations, petitions, hearings and legal proceedings pending before or instituted by, any agency, commission or division from which functions are transferred by this chapter and which are not concluded by December 1, 2000, shall continue unabated and remain in full force and effect to be completed by the agency, department, division, office or subdivision assigned under this chapter.

(72 Del. Laws, c. 486, § 6.)

Chapter 3
DELAWARE ALCOHOLIC BEVERAGE CONTROL COMMISSIONER

§ 301 Delaware Alcoholic Beverage Control Commissioner; Appeals Commission; qualifications; appointment; term; compensation.

(a) The Commissioner shall be a resident of Delaware and suitably educated and experienced to carry out the duties and responsibilities set forth in this chapter.

(b) The Commissioner and 3 members of the Appeals Commission, 1 from each County, shall be appointed by the Governor and confirmed by a majority of the members elected to the Senate and shall serve at the pleasure of the Governor.

(c) In the event of death, resignation, temporary incapacity or removal of the Commissioner and prior to the appointment of a successor, the Governor may appoint the Deputy Commissioner, or such other person as deemed qualified by the Governor, to serve as Acting Commissioner. The Commissioner may name a Deputy Commissioner. The Commissioner may, during an absence from the State, appoint the Deputy Commissioner to serve as Acting Commissioner during such absence. In either case, the Acting Commissioner shall have all the powers and shall perform all the duties and functions of the Commissioner during the Commissioner's absence or incapacity or until a successor is duly qualified and appointed.

(d) The Commissioner shall be compensated as provided for in the Annual Budget Act.

(e) The members of the Appeals Commission shall be compensated at the rate of $150 per meeting together with the reasonable expenses for no more than 12 meetings per year.

(f) The Appeals Commission shall meet and elect a chairperson who shall convene meetings of the Commission as frequently as needed to consider appeals of the Commissioner's decision.

(38 Del. Laws, c. 18, § 4; Code 1935, § 6133(1), (5)-(7); 4 Del. C. 1953, § 301; 50 Del. Laws, c. 393, § 3; 50 Del. Laws, c. 547, § 3; 55 Del. Laws, c. 308, § 1; 60 Del. Laws, c. 265, § 1; 72 Del. Laws, c. 486, § 7; 73 Del. Laws, c. 135, § 1.)

§ 302 Location of office [Repealed].

38 Del. Laws, c. 18, § 4; Code 1935, § 6133(11); 4 Del. C. 1953, § 302; 57 Del. Laws, c. 404, § 1; 72 Del. Laws, c. 486, § 7; repealed by 83 Del. Laws, c. 339, § 39, effective June 30, 2022; repealed by 83 Del. Laws, c. 514, § 2, effective Oct. 26, 2022.

§ 303 Employees.

Necessary staff as required shall be employed as required to carry out the work under the chapter. After December 1, 2001, the Joint Legislative Oversight Committee will review the duties and responsibilities of the Commissioner to determine if additional staff, including hearing officer or officers, is necessary. The Department of State shall provide personnel services and other necessary support services for the office of the Commissioner and the Appeals Commission.

(38 Del. Laws, c. 18, § 4; Code 1935, §§ 6133(8)-(10); 4 Del. C. 1953, § 303; 72 Del. Laws, c. 486, § 7; 74 Del. Laws, c. 110, § 138; 80 Del. Laws, c. 260, § 6; 84 Del. Laws, c. 81, § 124; 85 Del. Laws, c. 263, § 1.)

§ 304 Duties and powers of the Commissioner.

(a) The Commissioner, in accordance with the Delaware Administrative Procedures Act [Chapter 101 of Title 29], has the duty and power to do all of the following:

(1) a. Adopt and promulgate rules and regulations not inconsistent with this title or of any other law of this State, and all such rules and regulations have the force and effect of law.

b. A rule or regulation may not extend, modify, or conflict with any law of this State or the reasonable implications of a law.

c. The rules and regulations, as established by the Commissioner, must focus primarily on public safety and the best interests of the consumer and may not unduly restrict competition within the alcoholic beverage industry.

(2) Establish by rules and regulations an effective control of the business of manufacture, sale, dispensation, distribution, and importation of alcoholic liquors within and into this State, including the time, place, and manner in which alcoholic liquors are sold and dispensed, not inconsistent with this title or with any other law of this State. However, the rules and regulations established by the Commissioner may not control or regulate any of the following:

a. Recreational equipment located on the business premises of any business selling alcoholic beverages.

b. Credit transactions between licensed wholesalers and licensed package stores, to the extent permitted by federal law.

(3) a. Control the manufacture, possession, sale, and delivery of alcoholic liquors in accordance with this title; and control the purchase, possession, transportation, and sale of alcoholic liquors by those licensed to manufacture or to sell.

b. The Commissioner's power to control the sale of alcoholic liquors may not be exercised in such a manner as to prevent any holder of a package store license for the sale of alcoholic liquors not for consumption on the premises where sold from giving a retail purchaser of a case or more of spirits, wine, or both a discount not to exceed 10% of the total dollar sale.

(4) Grant, refuse, or cancel licenses required by this title for the manufacture or sale of alcoholic liquor, or other licenses required by this title in regard thereto, and transfer any license granted.

(5) a. On petition signed by at least 10 individuals who are residents of the neighborhood, hear complaints regarding the appointments

of, or the conduct of business in, any establishment where alcoholic liquor is licensed to be sold.

b. The Commissioner's office shall give 10 days' notice of a hearing by sending the notice, together with a recital of the complaint, by first-class mail to the address of the holder of the license for the establishment.

c. A hearing must be conducted by the Commissioner and must be public. For the purpose of a hearing, the Commissioner has the power to issue subpoenas, compel the attendance of witnesses, administer oaths, take testimony, and compel the production of pertinent books, payrolls, accounts, papers, records, and documents.

d. Whenever a person summoned to testify or to produce any such written or printed evidence refuses, without reasonable cause, to be examined, answer a legal and pertinent question, or produce any such written or printed evidence, the Commissioner conducting the hearing may certify the fact of any refusal to the Superior Court of the county in which the hearing is held and the court may proceed against the person for a contempt and punish the person in the same manner as persons are punished for contempt of court.

(6) Determine and publish standards for the manner in which a dining room of a hotel, restaurant, or club must be equipped in order to be allowed to exercise the privilege of the sale of alcoholic liquors in the dining room; and examine the plans or premises proposed for use as a dining room and authorize their use in connection with a license to sell alcoholic liquors, but the Commissioner's authorization does not prevent the Commissioner from requiring future alterations in accordance with published standards.

(7) a. Compel the attendance of witnesses and the production of contracts, papers, books, accounts, and other documents.

b. Subpoenas issued must be signed by the Commissioner. Subpoenas may be served by any sheriff, deputy sheriff, constable, or any agent of the Division and return thereof made to the Commissioner.

c. The Commissioner may enforce compliance with a subpoena issued under this subsection by filing a motion to compel in the Superior Court that has jurisdiction over the matter. The court may award costs and attorney fees if the court determines that noncompliance with a Commissioner subpoena was unjustified, intentional, or in bad faith.

(8) For purposes of this title, act as the competent authority in connection with other matters pertinent thereto.

(9) Annually publish license information on the Commissioner's publicly-available website setting forth all matters of interest and all statistics concerning liquor regulation and control in this State, including all of the following:

a. The number of licenses of each variety issued within this State.

b. The name and address of each person licensed to manufacture or to sell alcohol, spirits, wine, and beer.

c. The amount of alcohol, spirits, wine, and beer sold within this State.

d. The number of licenses of each kind granted and the number cancelled during the year.

e. Other data that makes a complete report to the people of this State.

(10) Negotiate and, with the approval of the Governor, enter into reciprocal agreements with the duly authorized officials of other states of the United States relative to the manufacture, importation, sale, and transportation of alcoholic liquors in the several states.

(11) [Repealed.]

(12) Provide warning signs as required by § 903(a)(16) of this title, distribute warning signs to license holders, and promulgate regulations with respect to the posting of the warning signs. A nominal fee may be charged by the Commissioner to cover printing, handling, and distribution costs.

(b) The Commissioner's decision is conclusive unless, within 30 days after the Commissioner's office mails notice of the decision, a party to the hearing files an appeal in the office of the Commissioner. Upon receipt of the appeal, the Commissioner shall cause the Chairperson of the Appeals Commission to be advised of the pending appeal. The Chairperson shall cause the Appeals Commission to be convened, with at least 20 days' notice to all parties. The appeal must be heard by the Appeals Commission, who shall review, in accordance with the Administrative Procedures Act, Chapter 101 of Title 29, the matter on the record and affirm, reverse, or modify the Commissioner's decision.

(c) The Commissioner may appear before the Appeals Commission for any appeal of the Commissioner's decision and may appeal any decision of the Appeals Commission or any decision of the Superior Court on appeal from the Appeals Commission.

(38 Del. Laws, c. 18, §§ 5, 27, 35; Code 1935, §§ 6134, 6156, 6164; 42 Del. Laws, c. 193, § 1; 4 Del. C. 1953, § 304; 49 Del. Laws, c. 387; 50 Del. Laws, c. 547, § 4; 57 Del. Laws, c. 494, § 2; 57 Del. Laws, c. 740, §§ 5A, B; 59 Del. Laws, c. 107, §§ 4-7; 59 Del. Laws, c. 590, § 1; 65 Del. Laws, c. 322, § 1; 67 Del. Laws, c. 23, § 3; 67 Del. Laws, c. 110, § 1; 67 Del. Laws, c. 109, §§ 2, 3; 67 Del. Laws, c. 344, § 2; 69 Del. Laws, c. 314, § 1; 69 Del. Laws, c. 340, §§ 1, 2; 71 Del. Laws, c. 271, § 1; 72 Del. Laws, c. 486, § 7; 73 Del. Laws, c. 133, § 1; 80 Del. Laws, c. 325, § 1; 82 Del. Laws, c. 99, § 1; 85 Del. Laws, c. 269, §§ 2, 21.)

§ 305 Oath of Office of Commissioner and employees.

The Commissioner, Appeals Commission and any hearing officer(s) shall, on entering office, take the oath of the Constitution of the State. Any other employee may be required to take the oath of the Constitution of the State at the discretion of the Secretary of State.

(38 Del. Laws, c. 18, § 6; Code 1935, § 6135(1); 4 Del. C. 1953, § 305; 57 Del. Laws, c. 740, § 5C; 67 Del. Laws, c. 109, § 4; 69 Del. Laws, c. 314, § 2; 70 Del. Laws, c. 186, § 1; 72 Del. Laws, c. 486, § 7; 84 Del. Laws, c. 81, § 124.)

§ 306 Conflict of interest.

(a) The Commissioner, Appeals Commission, and any hearing officer(s) or such person's spouse, or such person's son or daughter residing at such person's residence, shall not have a financial interest in any entity that sells, manufactures, or uses alcohol; provided, however, such persons may invest in mutual funds or similar financial instruments that hold no more than a 10% interest in any such entity.

(b) Neither the Commissioner nor any person employed in the office of the Commissioner shall receive any commission or profit whatsoever from, or have any interest whatsoever in a business licensed under this chapter to purchase or sell alcoholic liquors; provided, however, that nothing in this section shall prevent the Commissioner, Appeals Commission, hearing officer(s) or employee from purchasing and keeping alcoholic liquors in his or her possession for the personal use of him or herself, members of his or her family or his or her guests if such purchase is otherwise permitted by this title.

(c) The Commissioner and the Appeals Commission shall annually file with the Public Integrity Commission the Financial Report pursuant to § 5813 of Title 29.

(38 Del. Laws, c. 18, § 7; Code 1935, § 6136(1), (3); 4 Del. C. 1953, § 307; 57 Del. Laws, c. 740, §§ 5E, F; 59 Del. Laws, c. 107, § 8; 72 Del. Laws, c. 486, § 7.)

§ 307 Commissioner's statement of interest in liquor business.

When notified of appointment as Commissioner or Appeals Commissioner, the individual so notified shall furnish in duplicate and in writing to the Governor and to the President Pro Tempore of the Senate a statement of every interest, direct or indirect, and however small, held or owned by him or her as a member or as a stockholder in any partnership, corporation or other association engaged in the sale or in the manufacture of alcoholic liquors or in any undertaking, industry or business in which alcoholic liquors are used or required and prior to taking the oath of office the Commissioner and Appeals Commission must wholly and fully dispose of all interests. One copy of the statement shall be inserted in the permanent records of the office of the Commissioner open to public inspection.

(38 Del. Laws, c. 18, § 6; Code 1935, § 6135(2), (3); 4 Del. C. 1953, § 306; 57 Del. Laws, c. 740, § 5D; 69 Del. Laws, c. 314, § 3; 70 Del. Laws, c. 186, § 1; 72 Del. Laws, c. 486, § 7.)

§ 308 Promulgation, repeal and amendment of rules and regulations.

(a) All rules and regulations of the former Alcoholic Beverage Control Commission currently in place as of December 1, 2000, shall remain in full force and effect until revoked or modified in accordance with the procedures set forth in this chapter.

(b) The Commissioner may make any regulation and may amend or repeal any regulation as the Commissioner deems necessary for carrying out this title respecting internal economy and the conduct of business, and may amend or repeal any such regulation. Such regulations shall be published in form open to public inspection at the office of the Commissioner and in accordance with the Administrative Procedures Act.

(c) Any regulation made by the Commissioner and approved and published as provided by this chapter may be repealed or amended either by another regulation of the Commissioner, approved and published as so provided, or by an act of the General Assembly of this State.

(38 Del. Laws, c. 18, § 8; Code 1935, § 6137; 4 Del. C. 1953, § 309; 57 Del. Laws, c. 494, § 1; 72 Del. Laws, c. 486, § 7.)

§ 309 Bond [Repealed].

Repealed by 73 Del. Laws, c. 134, § 1, eff. July 9, 2001.

§ 310 Deposit of receipts with the Office of the State Treasurer.

All moneys received by the Commissioner must be paid to state bank accounts custodied with the Office of the State Treasurer. The Commissioner shall maintain a record of all receipts and make records available to the Department of Finance, Division of Accounting, upon request.

(38 Del. Laws, c. 18, § 11; 40 Del. Laws, c. 24, § 1; Code 1935, § 6140(1); 42 Del. Laws, c. 77, §§ 1-3; 4 Del. C. 1953, § 311; 59 Del. Laws, c. 107, § 9; 67 Del. Laws, c. 109, § 5; 72 Del. Laws, c. 486, § 7; 85 Del. Laws, c. 269, § 3.)

§ 311 Property and profits of the office of the Commissioner.

All property owned by the office of the Commissioner and all associated profits shall be the property of the State.

(38 Del. Laws, c. 18, § 11; Code 1935, § 6141; 4 Del. C. 1953, § 313; 67 Del. Laws, c. 109, § 5; 72 Del. Laws, c. 486, § 7.)

§ 312 Financial statements of the Commissioner.

The Commissioner shall render an account to the State Treasurer, in the manner and at the time required by the latter, of its receipts and disbursements, and of its assets and liabilities. The State Treasurer will not, however, require such reports to be rendered more often than quarterly.

(38 Del. Laws, c. 18, § 13; Code 1935, § 6142(1); 4 Del. C. 1953, § 314; 59 Del. Laws, c. 107, § 11; 67 Del. Laws, c. 109, § 5; 72 Del. Laws, c. 486, § 7.)

§ 313 Audit.

The operation of the office of the Commissioner must be examined and audited by the Auditor of Accounts, as often as the Auditor of Accounts considers necessary.

(38 Del. Laws, c. 18, § 13; Code 1935, § 6142(2); 4 Del. C. 1953, § 315; 59 Del. Laws, c. 107, § 12; 67 Del. Laws, c. 109, § 5; 72 Del. Laws, c. 486, § 7; 85 Del. Laws, c. 269, § 4.)

Chapter 4
Division of Alcohol, Tobacco, and Marijuana Enforcement

§ 401 Division of Alcohol, Tobacco, and Marijuana Enforcement.

The Division of Alcohol, Tobacco, and Marijuana Enforcement of the Department of Safety and Homeland Security is established as follows for the administrative, ministerial, budgetary and clerical functions for the enforcement of the alcohol laws of this Code, youth access to tobacco laws in §§ 1115 through 1127 of Title 11, and the marijuana laws of this title.

(72 Del. Laws, c. 486, § 8; 74 Del. Laws, c. 110, § 138; 74 Del. Laws, c. 250, § 1; 84 Del. Laws, c. 24, § 3; 85 Del. Laws, c. 518, § 1.)

§ 402 Location of office [Repealed].

72 Del. Laws, c. 486, § 8; repealed by 78 Del. Laws, c. 348, § 1, eff. July 18, 2012.

§ 403 Duties and powers of the Division.

The Division shall:

(1) Investigate, prevent, and arrest for violations of this title, make seizure of alcoholic liquor and infused beverages manufactured, sold, kept, or transported in contravention thereof, and confiscate such alcoholic liquor and infused beverages whenever required by any provision of this title.

(2) Arrange for the proper sampling, testing and analyzing of alcoholic liquor and infused beverages offered for sale in this State upon receipt of a complaint regarding health by entering into an agreement with the Director of the Public Health Laboratory of the Department of Health and Social Services to test alcoholic liquor product and infused beverage product when requested by the Division. This subsection does not apply to home breweries.

(3) Only require an inventory by a package store licensee if it has evidence to support a finding that such licensee has violated this title.

(4) Investigate, prevent, and arrest for violations of this title; seize infused beverages and marijuana, including marijuana products and accessories that are manufactured, sold, kept, or transported in contravention thereof; and confiscate such infused beverages and marijuana, including marijuana products and accessories, whenever required by any provision of this title.

(5) Conduct administrative inspections of a premise licensed under any provision of this title, any provision of the rules and regulations of the Alcoholic Beverage Control Commissioner, or any provision of the rules and regulations of the Marijuana Commissioner, at any time the licensee, employee of the licensee, or customer is upon the licensed premise. Administrative inspections under this paragraph may be conducted only for the purpose of ensuring compliance with the regulations of this title, the rules and regulations of the Alcoholic Beverage Control Commissioner, or the rules and regulations of the Marijuana Commissioner.

(72 Del. Laws, c. 486, § 8; 84 Del. Laws, c. 24, § 3; 84 Del. Laws, c. 301, § 1; 85 Del. Laws, c. 394, § 1.)

§ 404 Employees of the Division.

The Department of Safety and Homeland Security shall appoint, employ or dismiss every officer or employee necessary for carrying out the work of the Division, establish salaries, subject to the Annual Appropriation in the Budget Act, and assign them their official titles and duties, and engage the services of experts and persons engaged in the practice of a profession at the discretion of the Secretary of the Department of Safety and Homeland Security. At the discretion of the Secretary of the Department of Safety and Homeland Security, officers and employees appointed by the Department of Safety and Homeland Security shall have the police powers of constables and other police officers of the State, counties and other subdivisions of the State, and they shall be conservators of the peace throughout the State, and they shall be eligible for certification by the Police Officer Standards and Training Commission, and may suppress all acts of violence and enforce the provisions of this title.

(72 Del. Laws, c. 486, § 8; 74 Del. Laws, c. 110, § 138; 84 Del. Laws, c. 149, § 16.)

Chapter 5
LICENSES AND TAXES

Subchapter I

Manufacture and Import

§ 501 Supplier and representative licenses; importer, wholesaler, and distributor delivery and storage at in-state warehouse.

(a) (1) Before a person sells alcoholic liquor intended for importation into this State, the person shall do all of the following:

a. Obtain from the Commissioner a supplier's license in the form prescribed by the Commissioner.

b. Pay a biennial license fee in the amount of $100 to be permitted to sell not more than 200 cases of alcoholic liquors for importation into this State during the calendar year or a biennial fee in the amount of $1,000 to be permitted to sell more than 200 cases of alcoholic liquors for importation into this State during the calendar year.

(2) This subsection does not apply to any of the following:

a. A person licensed under subsection (b) of this section.

b. A person who is licensed by the Commissioner and has a place of business in this State for the manufacture or sale of alcoholic liquors.

c. A person who is an officer, director, or employee of a person who is licensed by the Commissioner and has a place of business in this State for the manufacture or sale of alcoholic liquors.

(b) (1) Before a person may do any business in this State in any manner whatsoever as a sales representative of a person who sells any alcoholic liquors intended for importation into this State, the person shall do all of the following:

a. Obtain from the Commissioner a sales representative license in the form to be prescribed by the Commissioner.

b. Pay a $50 biennial license fee.

(2) Unless employed in any way by a person required to be licensed under subsection (a) of this section, this subsection does not apply to any of the following:

a. A person who is licensed by the Commissioner and has a place of business in this State for the manufacture or sale of alcoholic liquors.

b. A person who is an officer, director, or employee of a person who is licensed by the Commissioner and has a place of business in this State for the manufacture or sale of alcoholic liquors.

(c) (1) This section does not apply to a daily importation into this State of a quantity of alcoholic liquor that does not exceed the amount of alcoholic liquor the United States government permits to be imported into the United States without payment of any duty thereon, provided such alcoholic liquor is imported as follows:

a. By a person permitted by the laws of this State to purchase and consume alcoholic liquor.

b. Solely for consumption by the person importing it or the person's family or guests.

(2) If such importation is by motor vehicle, the alcoholic liquor must be transported in an area of the motor vehicle not immediately accessible to the driver or to any passenger in the motor vehicle.

(d) Persons licensed by the Commissioner as suppliers under this section and persons who manufacture infused beverages under this title are may be authorized only to sell, ship, or deliver alcoholic liquors to licensed Delaware importers or manufacturers, and persons with an infused beverage endorsement under § 1335E of this title to sell, ship, and deliver infused beverages may also be authorized to sell, ship, or deliver infused beverages only to licensed Delaware importers. Persons licensed by the Commissioner as sales representatives under this section are may be authorized only to solicit orders, on behalf of licensed Delaware importers or manufacturers, from persons licensed by the Commissioner to sell alcoholic liquors.

(e) The Commissioner may promulgate rules and regulations the Commissioner deems necessary for the enforcement or furtherance of the objectives of this section. The Commissioner may provide by such rules or regulations that the applicant for a supplier's license may pay a fee for each calendar year or pay the increased fee during any calendar year without the filing of an additional application.

(f) (1) A person may not import alcoholic liquor or infused beverage into this State, unless the alcoholic liquor or infused beverage is delivered directly to a licensed warehouse in this State owned, leased, or operated by a licensed Delaware importer, wholesaler, or distributor and is unloaded and physically stored in the warehouse.

(2) An importer licensed as a supplier by the Commissioner must deliver alcoholic liquors directly to a licensed warehouse in this State owned, leased, or operated by a licensed Delaware importer, wholesaler, or distributor to be unloaded and physically stored in the warehouse.

(38 Del. Laws, c. 18, § 15; Code 1935, § 6144(1); 4 Del. C. 1953, § 501; 58 Del. Laws, c. 25; 59 Del. Laws, c. 107, § 13; 67 Del. Laws, c. 48, § 2; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 408, §§ 1, 2; 72 Del. Laws, c. 486, § 9; 77 Del. Laws, c. 72, § 2; 85 Del. Laws, c. 269, § 5; 85 Del. Laws, c. 394, § 1.)

§ 502 Application; requirements.

(a) The application for a license to manufacture or to import alcoholic liquor shall be made upon a blank form furnished by the Commissioner and shall state:

(1) The name, age, and previous occupation of an individual applicant or the name and description of a partnership, corporation, or other applicant organization;

(2) The location and description of the premises, located in this State, where it is proposed that such alcoholic liquor is to be manufactured or is to be stored by the importer prior to its resale in the State and whether the premises are owned or leased by the applicant and, if leased, the name of the owner thereof;

(3) The amount of capital proposed to be invested in the undertaking;

(4) The kind and approximate amount of alcoholic liquor proposed to be manufactured or imported;

(5) The approximate date on which it is proposed to start such manufacture or importation;

(6) Such other information as is required by the Commissioner.

(b) The individual signing the application for a license to manufacture or to import alcoholic liquor shall be over 21 years of age.

(38 Del. Laws, c. 18, § 15; Code 1935, § 6144(1); 4 Del. C. 1953, § 502; 59 Del. Laws, c. 107, § 14; 67 Del. Laws, c. 48, § 3; 67 Del. Laws, c. 109, § 6; 72 Del. Laws, c. 486, § 9.)

§ 503 Inspection of premises.

The Commissioner shall inspect or cause to be inspected premises, located in this State, which are proposed by any applicant to be used for manufacture or storage, and shall make record of the date of such inspection, the name of the inspector and the result of the inspection.

(38 Del. Laws, c. 18, § 15; Code 1935, § 6144(2); 4 Del. C. 1953, § 503; 72 Del. Laws, c. 486, § 9.)

§ 504 Bond.

The Commissioner may require that any person licensed in accordance with § 501 of this title shall furnish a satisfactory bond in such amount as the Commissioner deems necessary to guarantee the performance of the requirements of this title.

(38 Del. Laws, c. 18, § 15; Code 1935, § 6144(9); 4 Del. C. 1953, § 504; 59 Del. Laws, c. 107, § 15; 72 Del. Laws, c. 486, § 9.)

§ 505 Conditions for issuance of license.

No license to manufacture or import shall be issued unless the Commissioner is satisfied as to the responsibility of the applicant, as to the condition of the premises proposed to be used and as to the means proposed to be used to determine the amount of alcoholic liquor manufactured or imported.

(38 Del. Laws, c. 18, § 15; Code 1935, § 6144(3); 4 Del. C. 1953, § 505; 72 Del. Laws, c. 486, § 9.)

§ 506 Interest in establishment selling to consumer.

(a) It shall be unlawful:

(1) For a manufacturer or supplier, or the owner, partner or stockholder of a manufacturer or supplier, to own or be interested in any manner in any establishment licensed by the Commissioner to sell alcoholic liquors, either by the bottle or by the glass to the consumer thereof for consumption either on or off the premises where sold; or

(2) For a manufacturer, as defined in § 101 of this title, and whether or not said “manufacturing” takes place within this State and whether or not the activity is licensed by the Commissioner, or the owner, partner or stockholder of such a manufacturer, to own or be interested in any manner in any establishment licensed by the Commissioner to import alcoholic liquors into the State; or

(3) For a supplier, whether or not licensed by the Commissioner, who manufactures or has an interest in a manufacturer, or the owner, partner or stockholder of such a supplier, to own or be interested in any manner in any establishment licensed by the Commissioner to import alcoholic liquors into the State; or

(4) For a supplier licensed by the Commissioner, or the owner, partner or stockholder of such a licensed supplier, to own or be interested in any manner in any establishment licensed by the Commissioner to import alcoholic liquors into the State; or

(5) For any importer, or the owner, partner or stockholder of an importer, to own or be interested in any manner in any establishment licensed by the Commissioner to sell alcoholic liquors, either by the bottle or by the glass, to the consumer thereof, for consumption either on or off the premises where sold.

(b) This section shall not be construed to prohibit a manufacturer, supplier or importer doing business as a corporation, or the stockholders thereof, from having an interest in any establishment licensed to sell alcoholic liquors to the consumer thereof, where:

(1) The stock of such manufacturer, supplier or importer and such establishment is publicly traded on a national or regional exchange or over-the-counter;

(2) The manufacturer, supplier or importer does not use its ownership interest in such establishment as to induce, directly or indirectly, such establishment to purchase any products from the manufacturer, supplier or importer to the exclusion, in whole or in part, of products sold or offered for sale by other manufacturers, suppliers or importers.

(c) This section shall not be construed to prohibit a manufacturer or supplier doing business as a corporation, or the stockholders or affiliates thereof, from having an interest in or obtaining a license for a boat pursuant to § 554(b) of this title.

(38 Del. Laws, c. 18, § 15; Code 1935, § 6144(4); 4 Del. C. 1953, § 506; 63 Del. Laws, c. 258, § 1; 65 Del. Laws, c. 291, § 1; 72 Del. Laws, c. 486, § 9; 74 Del. Laws, c. 252, § 1; 78 Del. Laws, c. 220, § 1.)

§ 507 Monthly report.

(a) Notwithstanding any of the provisions of this chapter, every importer of alcoholic liquors licensed by the Commissioner shall make a report to the Commissioner every month, in the form that the Commissioner determines, which report shall contain an exact return of the gross amount of each variety of alcoholic liquors bought by the importer and alcoholic liquors sold within this State during the preceding calendar month. The Commissioner may require such returns to be certified under oath or affirmation of the holder of the license, or of such other person approved by the Commissioner.

(b) Any importer who fails to make a return to the Commissioner within 15 days following the expiration of any calendar month for which it should be made shall be fined $50 per day for each day's delay counting from the expiration of said 15 days, and the license of such importer shall be suspended by the Commissioner if the return is not made within 15 additional days.

(38 Del. Laws, c. 18, § 15; Code 1935, §§ 6144(5)-(8); 4 Del. C. 1953, § 507; 59 Del. Laws, c. 107, § 16; 72 Del. Laws, c. 486, § 9.)

§ 508 Filing of price schedules required.

(a) All manufacturers and distilleries offering alcoholic liquors for sale in this State shall annually file a verified schedule, in writing, on the form required by the Commissioner. A verified schedule must contain all of the following information as to each item the manufacturers and distilleries are offering for sale at that time, in this State, by brand or trade name:

(1) The capacity of each package of an item offered for sale.

(2) The nature of the contents of an item.

(3) The age and proof of an item where stated on the container label.

(4) The number of bottles of an item contained in a case of the item.

(5) The individual bottle and case price to the Delaware wholesaler or importer, for each item and not in combination with any other item.

(6) The discount given for quantity or time of payment, if any.

(b) A verified schedule need not contain information as to any brand that is owned exclusively by a package store and sold at retail in this State exclusively by the package store.

(c) A schedule of prices or price of an individual item need not be filed at any time other than provided for in subsection (a) of this section and need not be updated any time a manufacturer or distillery changes such prices between required filing times.

(4 Del. C. 1953, § 508; 59 Del. Laws, c. 107, § 66; 67 Del. Laws, c. 109, § 7; 72 Del. Laws, c. 486, § 9; 85 Del. Laws, c. 269, § 6.)

Subchapter II

Purchase, Sale and Dispensing

§ 511 General licensing requirements.

(a) (1) Upon proper application, the Commissioner may grant licenses to persons described in §§ 512-521 of this title to purchase and resell or dispense alcoholic liquor in the manner and to the extent provided in those sections. The person to whom such license is granted may purchase, resell or dispense alcoholic liquor in accordance with the person's license if the license fee has been paid and the license is still in force.

(2) a. Except as provided in paragraph (a)(2)b. of this section, a person licensed under §§ 512 and 516 of this title may purchase product only from an importer licensed by the Commissioner.

b. A person licensed under §§ 512 and 516 of this title may purchase up to 20 gallons of product per day from a licensee licensed by the Commissioner for off-premises sales.

(b) If a licensee holds an on premises license and an off premises license, voluntary relinquishment of 1 of the said licenses and the retention of the other license shall be permitted automatically by the Commissioner.

(c) If a person applies for a license as a motorsports speedway under § 512(a) of this title, in lieu of compliance with the procedural notice and protest requirements of §§ 524 and 541 of this title, the Commissioner shall, on the date the application is filed, schedule a hearing to consider the application to be held at least 20 days after the application filing date and notify applicant of the hearing date. Within 3 days thereof, the applicant shall:

(1) Mail a notice by certified mail, return receipt requested, to all property owners within 1,000 feet from any point on the boundary line of the premises to which the license shall apply; and

(2) Cause to be advertised a notice in at least 2 different newspapers for 3 issues circulated in the community in which the applicant will operate.

The said notices of the time and location of the hearing shall be approved by the Commissioner prior to distribution.

(38 Del. Laws, c. 18, § 17; Code 1935, § 6146; 4 Del. C. 1953, § 511; 59 Del. Laws, c. 107, § 17; 72 Del. Laws, c. 486, § 9; 73 Del. Laws, c. 244, § 11; 82 Del. Laws, c. 99, § 2.)

§ 512 Licenses.

(a) Any person, who is the owner or lessee, or who is recognized by the Commissioner as being in charge of a hotel, beer garden, motel, taproom, restaurant, motorsports speedway, concert hall, horse racetrack, multi-purpose sports facility, club or multiple activity club, may apply to the Commissioner for a license to purchase spirits, beer, or wine from an importer and to receive, keep and sell such spirits, beer, or wine either by the glass or by the bottle for consumption on any portion of the premises approved by the Commissioner for that purpose. Such a license entitles a club to sell such spirits, wine, or beer only to members of that club. A multiple activity club which holds such a license may apply for an additional license to sell such spirits, wine, or beer to any person who is a guest of such club or of a member of such club who is duly registered in accordance with a bylaw or rule of such club, approved by the Commissioner, provided that if the Commissioner determines that any applicant is not a multiple activity club, as defined in § 101 of this title, the application shall be denied. There shall be no age restrictions on persons permitted on the premises of a licensed multiple activity club.

(1) Notwithstanding any law, regulation, or rule to the contrary, any restaurant, brewpub, tavern, or taproom, or other entity with a valid on-premise license issued pursuant to subchapter II of Chapter 5 of this title may sell alcoholic liquors in transactions for take-out, curbside, drive through, or delivery service. No person shall provide alcoholic beverage delivery services unless such person or business entity holds a third-party delivery license. Upon proper application, the Commissioner may grant a third-party delivery license to provide alcoholic liquor delivery services to customers so long as the person or business entity is also registered to do business in this State. The Commissioner shall not grant a third-party delivery license to a person or entity that also holds an on-premise license. Delivery service must be made by a licensed third-party vendor, or such third party's employee or independent contractor, provided that the on-premise licensee has entered into a written agreement with a licensed third-party delivery vendor that authorizes the third-party vendor, or such third-party vendor's employee or independent contractor, to deliver alcoholic liquors on behalf of the on-premise licensee. The licensed third-party vendor may not include an entity whose business is primarily the interstate shipment of goods.

(2) All alcoholic liquors sold for off-premise consumption under this subsection must comply with all of the following requirements:

a. Be sold in containers that are securely closed, which means a container that is designed to prevent consumption without removal of the lid, cap, or seal, and does not include a container with a lid with sipping holes or openings for straws.

b. [Repealed.]

c. Be limited per customer to 2 750 ML bottles of wine, 1 bottle of a private label whiskey or whisky purchased from a Delaware-licensed importer that is either limited availability or limited allocation, 6 servings of beer, and mixed cocktails which are made in the restaurant, brewpub, tavern, taproom or other entity with a valid on-premise license.

d. Be sold and served on the premises only by a person certified as a responsible alcoholic beverage server pursuant to § 1205 of this title.

e. If sold by a restaurant, comply with 1 of the following requirements:

1. The alcoholic liquor is sold with the customer's purchase of food that costs at least $10.

2. The alcoholic liquor is ice cream containing up to 10% alcohol by volume.

f. If sold in a transaction for delivery service:

1. Be delivered by a licensed third-party vendor, or such licensed third-party vendor's employee or independent contractor, who is at least 21 years of age, and has been provided a program of learning content related to the responsible delivery of alcoholic beverages that has been approved by the Commissioner. A third-party delivery vendor's program shall address the following topics:

A. Age requirements for possessing, purchasing, and consuming alcoholic beverages;

B. Acceptable forms of identification;

C. Methods to detect fake and altered forms of identification;

D. Typical signs of intoxication;

E. Methods of detecting intoxication in consumers;

F. Reasons to refuse delivery, including that a consumer failed to provide valid identification, was underage, or displayed signs of intoxication; and

G. How to use ID scanning technology to verify a recipient's age.

2. If delivered by motor vehicle, be placed in a trunk, rear compartment, back seat, or other area that is not readily accessible to the driver of the vehicle.

3. Be conveyed to the purchaser to whom the alcoholic liquors are being delivered only after the licensed third-party delivery vendor, or such third party's employee or independent contractor, has verified that the recipient is not intoxicated and is 21 years of age or older, signified by the recipient's identification with a photograph that reasonably appears to match the appearance of the recipient. The licensed third-party delivery vendor shall maintain a record of the following information for all recipients for a period of 2 years: name, date of birth, and address to which the alcoholic beverages were delivered. If such person's age and apparent sobriety cannot be verified, the alcoholic liquors must be returned to the premises of the licensee.

4. The delivery is completed during the hours in which the on-premise licensee is lawfully allowed to sell alcoholic liquors.

5. If the on-premise licensee uses a web application or internet website to facilitate delivery of alcoholic liquors by a licensed third-party vendor, the sales transactions take place between the customer and the on-premise licensee, and the on-premise licensee appears as the merchant of record.

6. Only alcoholic beverages obtained directly from the on-premise licensee with which the order was placed may be delivered.

7. May not be delivered out-of-state or to a state-operated facility, a correctional facility, a hospital, a locker mailbox, a post office box, a package shipping or storage facility, a retail licensee, a public school, a charter school, a grade school, a middle school, a high school, undergraduate housing at an institution of higher learning, or outside of Delaware.

8. In addition to application requirements and any regulations promulgated by the Commissioner, third-party delivery licensees shall provide to the Commissioner, upon request, a copy of any contracts entered into by the third-party delivery licensee with any on-premise licensee offering alcoholic beverages for delivery.

g. An on-premise licensee's responsibilities under this section regarding delivery of alcoholic liquor to a consumer by a licensed third-party delivery vendor are considered satisfied at the time the on-premise licensee transfers possession of the alcoholic liquor to the licensed third-party delivery vendor, or such third party's employee or independent contractor. The acts during delivery of a licensed third-party delivery vendor or such third party's employee or independent contractor are not attributable to the on-premise licensee.

(b) (1) The license issued to a horse racetrack or multi-purpose sports facility pursuant to this section shall continue to be valid whether or not a race meet or sporting event is in progress.

(2) Subject to the provisions, restrictions and prohibitions of this title, the Commissioner may allow a horse racetrack to brew beer on its premises under all of the following conditions and restrictions:

a. The brewing facility must be situated on the premises of, or be physically a part of, the horse racetrack.

b. The brewing facility must not brew more than 4,000 barrels of beer in any calendar year.

c. In addition to other permitted sales, the horse racetrack may sell at the licensed premises beer manufactured on the licensed premises for on-premises consumption.

d. In addition to other permitted sales, the horse racetrack may sell at the licensed premises beer manufactured on the licensed premises for consumption off of the premises if the beer is sold in a growler.

e. The horse racetrack may sell beer manufactured on licensed premises in labeled barrels, bottles, or other closed containers to wholesalers licensed under this title for delivery by them to persons inside or outside this State.

f. The horse racetrack is prohibited from owning, operating, or being affiliated with any importer of alcoholic liquor, either in or without this State.

g. The Commissioner may make and publish such rules and regulations with respect to the assessment and payment of the tax on beer, under § 581 of this title, as the Commissioner deems proper, and all such rules and regulations that are not inconsistent with this title shall have the force and effect of law.

(3) The issuance of a horse racetrack license that permits the manufacture and sale of beer for off-premises consumption are exempt from the distance requirements for establishments licensed or to be licensed under § 543(d) of this title, and such requirements do not affect the granting of a horse racetrack license.

(c) Any person operating a dinner theater presenting public performances featuring live actors in dramatic or musical productions may apply to the Commissioner for a license to keep and sell alcoholic liquor to patrons for consumption on the premises served at such performances, and for consumption on the premises during intermissions, subject to such rules and regulations as may be promulgated by the Delaware Alcoholic Beverage Control Commissioner, provided that the licensee does not serve alcohol unaccompanied by a meal at more than 10 performances during the calendar year.

(d) Any person who has purchased a bottle of alcoholic liquor other than beer from a premises licensed for the sale and consumption on the premises where sold licensed under this title, and who has partially consumed the contents of such bottle on the licensed premises, may, if the bottle is capped, remove it from the licensed premises for the purpose of consumption off the licensed premises.

(e) Any person receiving a license under this section shall be permitted to charge a cover charge at any time live entertainment is actually being provided by the licensee, provided that any licensee charging a cover charge shall prominently display the fact that a cover charge is being made, both at the entrance to the premises and on the menu if one is used on the premises.

(f) Any person operating a bowling alley or movie theater may apply to the Commissioner for a license to keep and sell alcoholic liquor to patrons for consumption on the premises only. A license for a movie theater shall allow for consumption by patrons within the theater or theaters where movies are being shown. A movie theater which obtains a license must sell alcoholic liquors at a separate bar or location away from other food and drink, may only sell 1 alcoholic beverage at a time per age-verified patron and may only serve 2 alcoholic beverages per patron per movie showing. Movie theater managers and employees involved in serving alcohol must complete alcohol service training as prescribed by the Commissioner.

(g) (1) A caterer may apply to the Commissioner for a license to purchase alcoholic liquors from an importer and to receive, keep and sell such alcoholic liquors either by the glass or by the bottle, for consumption on any portion of the premises approved by the Commissioner for that purpose.

(2) An off-site caterer may apply to the Commissioner for a license to purchase alcoholic liquors from an importer and to receive, keep, transport and sell such alcoholic liquors either by the glass or by the bottle for consumption on any portion of off-site premises approved by the Commissioner for that purpose. Transporting of alcoholic liquors by an off-site caterer must be done in accordance with the Commissioner's rules.

(h) Notwithstanding any provision of this title to the contrary, motorsports speedways may permit patrons to bring inside with them alcoholic beverages regulated under this title for their own personal consumption, provided that they have a lawful ticket for admission to the facility and are of the lawful age to consume alcoholic beverages. The motorsports speedway may restrict the portions of the facility that patrons may act in accord with this section. Notwithstanding any provision of this title to the contrary, a motorsports speedway is not required to maintain a license required pursuant to § 554 of this title in order to permit patrons to bring inside with them alcoholic beverages regulated under this title for their own personal consumption.

(i) A certificated air passenger carrier maintaining and operating a warehouse storage facility in the State may apply to the Commissioner for a license to purchase alcoholic liquors from an importer and to receive at the carrier's warehouse or airport facility, keep at the carrier's warehouse or airport facility, transport to the carrier's airport facility, and sell such alcoholic liquor to its passengers for consumption on its aircraft only.

(j) An establishment licensed as a restaurant shall not be required to use the word "restaurant" in its tradename, menus, advertisements or signage unless the Commissioner specifically finds that the public may be confused as to its status as a restaurant.

(k) Any person who holds a valid restaurant license issued by the Commissioner may deny a minor, as defined in § 708 of this title, admission to or permission to remain on the premises after 9:00 p.m. (official Eastern time) unless accompanied by a parent or by a legal guardian.

(38 Del. Laws, c. 18, § 17; Code 1935, § 6146; 4 Del. C. 1953, § 512; 55 Del. Laws, c. 283, § 1; 56 Del. Laws, c. 335, § 3; 57 Del. Laws, c. 189; 57 Del. Laws, c. 447; 58 Del. Laws, c. 199; 59 Del. Laws, c. 107, § 17A; 59 Del. Laws, c. 590, §§ 2, 4; 60 Del. Laws, c. 466, §§ 3, 9; 64 Del. Laws, c. 434, §§ 1, 2; 67 Del. Laws, c. 109, §§ 8-10; 69 Del. Laws, c. 6, § 2; 71 Del. Laws, c. 42, § 1; 71 Del. Laws, c. 182, § 1; 71 Del. Laws, c. 210, § 2; 71 Del. Laws, c. 472, § 1; 72 Del. Laws, c. 486, § 9; 73 Del. Laws, c. 244, §§ 2-6; 73 Del. Laws, c. 393, § 2; 75 Del. Laws, c. 246, § 1; 78 Del. Laws, c. 220, § 2; 79 Del. Laws, c. 308, § 2; 80 Del. Laws, c. 109, § 2; 81 Del. Laws, c. 69, § 2; 81 Del. Laws, c. 254, § 1; 82 Del. Laws, c. 4, § 2; 82 Del. Laws, c. 99, § 3; 82 Del. Laws, c. 117, § 1; 82 Del. Laws, c. 141, § 1; 82 Del. Laws, c. 247, §§ ? 2, 5; 82 Del. Laws, c. 279, § 1; 83 Del. Laws, c. 9, § 2; 83 Del. Laws, c. 9, § 5; 83 Del. Laws, c. 284, § 1; 83 Del. Laws, c. 523, § 1; 84 Del. Laws, c. 442, § 1; 85 Del. Laws, c. 256, § 1.)

§ 512A Farm wineries.

(a) Upon proper application and subject to the provisions, restrictions and prohibitions of this title, the Commissioner may grant a license to any person who is the owner or lessee of a farm winery to manufacture, ferment, blend, age, store and bottle wine, mead, and cider on the premises designated in the license. For purposes of this title, a "farm winery" is defined as an establishment at which the basic ingredients, including but not limited to the harvesting of grapes, to make wine are grown and where wine, mead, or cider are fermented or manufactured. Notwithstanding any provisions of this title to the contrary, a farm winery licensee shall be authorized to sell, deliver and ship such wine, mead, and cider in barrels, bottles or other closed containers to persons licensed under the provisions of this title to import wine, mead, and cider; and to sell and ship wine, mead, and cider to persons outside of the State in accordance with this title.

(b) A farm winery licensee may store and sell wine, mead, and cider on the premises by the bottle or by the glass for consumption on or off the premises where sold. A farm winery licensee may purchase and store product from a Delaware-licensed importer or package store, licensed under § 516 of this title, and sell the product to its retail customers for consumption on the premises where sold, so long as the product is manufactured by an entity that holds a Delaware license under § 512A, § 512B, § 512C, or § 512E of this title or the manufacturer, as determined by the Commissioner, would qualify for a license under 1 or more of these sections if the manufacturer were physically located in this State.

(c) A farm winery licensee shall be exempt from the distance requirements for establishments licensed, or to be licensed, for consumption off the premises, as contained in § 543(d) of this title, and shall not affect the granting of a license of the same type.

(d) A farm winery licensee may sell, on the licensed premises, food items, souvenirs, wine-related supplies and educational material as approved by the Commissioner.

(e) The Commissioner may grant a tasting license to a farm winery licensee consistent with the provisions of §§ 525 and 554(ff) of this title.

(f) All wine, mead, and cider sold by a farm winery licensee shall be in a container which is securely sealed and has attached thereto a label setting forth such information as required by this title, Commissioner rules and laws of the State.

(g) A farm winery licensee may not engage in any business or activity in the licensed establishment unless authorized by this title or approved by the Commissioner.

(h) A farm winery licensee or a temporary licensee not to exceed 3 years shall be authorized to purchase and receive shipments of bottled, finished wine, mead, and cider from importers located within the State that are licensed in accordance with this title. Such purchases and shipments, if in bottled, finished form, must be manufactured specifically for the Delaware farm winery licensee and bear the private label of the Delaware farm winery licensee on each bottle, and, if being imported from without the State, shall be limited, as follows:

(1) During the first year of operation, no more than 10,000 gallons of the combination of wine, mead, and cider;

(2) During the second year of operation, no more than 7,500 gallons of the combination of wine, mead, and cider;

(3) During the third year of operation, no more than 5,000 gallons of the combination of wine, mead, and cider; and

(4) After 3 years of operation, no more than 25% of the total gallons of the combination of wine, mead, and cider manufactured within the State.

(5) Notwithstanding the importation limitations for bottled wine established in this paragraph, at such time when there is sufficient quantity, variety and quality of wine grapes grown in the State, then the Secretary of the Department of Agriculture may mandate that all licensed Delaware farm wineries must use at least 51% Delaware-grown fruit in their blend inventories. In the case of hardship due to crop loss, the Secretary of the Department of Agriculture may issue a special permit to import fruit, juice or other raw materials to compensate for such crop loss. Until such time as the Secretary of the Department of Agriculture makes such mandate, the licensee or a temporary licensee not to exceed 3 years shall be authorized to import grapes or grape juice from other locations within or outside of the State, pursuant to the rules and regulations of the Department of Agriculture, for the purpose of fermentation, blending, bottling and aging.

(6) [Repealed.]

(7) A temporary farm winery license may be issued, for not more than 3 years, allowing the temporary licensee to operate according to paragraphs (h)(1), (2) and (3) of this section herein if all the licensing requirements have been met except for those required in § 543(j) of this title, which requires government permitting to manufacture or ferment wine, mead and cider at the location. The temporary licensee shall, however, have obtained all necessary government permitting to operate as a temporary licensee.

(i) A farm winery licensee shall be authorized to purchase and receive shipments of unfinished wine, mead, and cider in bulk form from suppliers and importers located within and without the State that are licensed in accordance with this title.

(j) A farm winery licensee may not own, operate, or be affiliated with any importer or package store, within or without this State. But a farm winery may apply to the Commissioner for a license, under § 512(g)(1) of this title, for use of a portion of the farm winery premises as a caterer or apply to the Commissioner for a license, under this title generally, for use of a portion of the farm winery premises as a restaurant.

(k) The Commissioner may promulgate such rules and regulations with respect to the enforcement or furtherance of the objectives and provisions of this section as the Commissioner may deem necessary, and all such rules and regulations that are not inconsistent with the provisions of this title shall have the force and effect of law.

(*l*) A Delaware winery or farm winery shall be permitted to sell wine, mead, and cider at times permitted pursuant to § 709 of this title.

(m) A farm winery licensee shall be authorized to export grapes, grape juice or unfinished wine grown in this State in bulk to persons outside the State for crushing, fermenting, bottling and labeling and shall be authorized to receive the finished product from that person, so long as no grapes, grape juice or wine, grown or manufactured outside the State, are added to the finished product.

(n) The provisions of § 506 of this title to the contrary notwithstanding, a farm winery licensee shall be permitted to have an interest in, be affiliated with, operate, or own another supplier or manufacturer located outside the State and have an interest in a brewery-pub, microbrewery, and/or craft distillery licensed under this chapter and actually located in this State.

(68 Del. Laws, c. 107, § 1; 70 Del. Laws, c. 353, § 3; 72 Del. Laws, c. 486, § 9; 75 Del. Laws, c. 71, §§ 1, 2; 75 Del. Laws, c. 252, § 1; 77 Del. Laws, c. 61, §§ 1, 2; 79 Del. Laws, c. 157, § 1; 80 Del. Laws, c. 62, § 1; 80 Del. Laws, c. 336, § 1; 80 Del. Laws, c. 382, § 2; 81 Del. Laws, c. 78, § 1; 81 Del. Laws, c. 261, § 1; 83 Del. Laws, c. 284, § 3; 84 Del. Laws, c. 499, § 1; 85 Del. Laws, c. 269, § 7.)

§ 512B Brewery-pubs.

(a) Subject to the provisions, restrictions, and prohibitions of this title, the Commissioner may grant a brewery-pub license to each qualified applicant. No person shall own or operate a brewery-pub unless licensed to do so by the Commissioner. For purposes of this section, a “brewery-pub” means an establishment in which beer, cider, mead, or fermented beverages are manufactured on the premises of the licensed establishment, limited to restaurants owned or leased by the brewery-pub applicant.

(b) The following conditions and restrictions shall apply to the holder of each brewery-pub license:

(1) It must be situated on the premises of, or be physically a part of, a restaurant.

(2) It may brew, bottle, and sell beer at no more than 3 licensed establishments, provided that each such licensed establishment qualifies as a separate brewery-pub under this section.

(3) It shall brew no more than 4,000 barrels of beer in any calendar year.

(4) It may sell beer manufactured on licensed premises in labeled barrels, bottles, or other closed containers to wholesalers licensed under this title for delivery by them to persons inside or outside this State.

(5) It may sell at the licensed premises beer manufactured on the licensed premises at retail for consumption off the premises.

(6) It may sell at the licensed premises beer manufactured on the licensed premises for on-premises consumption.

(7) It is prohibited from owning, operating, or being affiliated with any importer of alcoholic liquor, either in or without this State.

(8) The provisions of § 506 of this title to the contrary notwithstanding, it may have an interest in, be affiliated with, operate, or own another supplier or manufacturer located outside the State and have an interest in 1 or more farm winery, microbrewery, or craft distillery licensed under this chapter and physically located in this State, if the total domestic sales of beer of all affiliated suppliers or manufacturers does not exceed 6 million barrels in a calendar year.

(c) It is unlawful for a person to operate a brewery-pub if any of the following apply:

(1) The restaurant portion of the licensed establishment fails to offer complete meals for consideration to patrons or fails to operate as a bona fide restaurant as defined by Commissioner rules or this title.

(2) The license is denied, cancelled, suspended, or revoked for any of the grounds contained in § 543 or § 561 of this title.

(3) The business is transferred to a different location.

(d) This section does not prohibit the granting of a restaurant license to sell alcoholic liquors, for on-premises consumption, under § 512 of this title.

(e) The Commissioner may make and publish such rules and regulations with respect to the assessment and payment of the tax on beer, as contained in § 581 of this title, as it deems proper, and all such rules and regulations that are not inconsistent with this title shall have the force and effect of law.

(f) Notwithstanding any other provision of this title to the contrary, the holder of a brewery-pub license may also make, bottle, and sell an alcoholic liquor that is fermented or distilled on the premises, subject to all of the following conditions and restrictions:

(1) All of the conditions and restrictions relating to beer under subsection (b) of this section.

(2) Alcoholic liquor that is fermented or distilled on the premises shall be taxed under § 581 of this title.

(g) The provisions of § 546 of this title to the contrary notwithstanding, the sale for off-premises consumption at up to a combined total of 3 licensees licensed under this section or 2 licensees licensed under this section and a microbrewery licensed under § 512C of this title all owned or controlled by the same person is permitted.

(h) Notwithstanding any provision of this title to the contrary, a brewery-pub located within the premises of a public golf course, as defined in "club" under § 101 of this title, may apply to the Commissioner for authorization to sell alcoholic beverages at retail to members of the public for consumption on the public golf course, if the public golf course owns, is owned by, or is under common ownership with an entity that holds a membership or ownership interest in the licensed brewery-pub.

(68 Del. Laws, c. 205, § 1; 70 Del. Laws, c. 469, §§ 1, 2; 71 Del. Laws, c. 83, § 1; 72 Del. Laws, c. 486, § 9; 73 Del. Laws, c. 225, § 1; 77 Del. Laws, c. 432, §§ 4, 5; 79 Del. Laws, c. 157, § 1; 82 Del. Laws, c. 22, § 1; 82 Del. Laws, c. 141, § 2; 83 Del. Laws, c. 36, § 2; 83 Del. Laws, c. 283, § 4; 84 Del. Laws, c. 316, § 1.)

§ 512C Microbreweries; license; alternating premises.

(a) Upon proper application and subject to the applicable provisions, restrictions, and prohibitions under this title, the Commissioner may grant a license to any of the following:

(1) A person who is the owner or lessee of a microbrewery to manufacture and sell beer, fermented beverages, mead, and cider.

(2) A person who owns a tenant microbrewery under subsection (i) of this section.

(b) For purposes of this section:

(1) "Alternating premises" means the portion of a microbrewery's premises that is used at different times by 2 or more microbreweries to manufacture beer, fermented beverages, mead, or cider.

(2) "Host microbrewery" means the microbrewery that owns the brewing equipment in an alternating premises.

(3) "Microbrewery" means a single establishment in which beer, fermented beverages, mead, or cider is manufactured and which is operated by the licensee under this section.

(4) "Tenant microbrewery" means the microbrewery that does not own, but uses, the brewing equipment in an alternating premises.

(c) Notwithstanding any provision of this title to the contrary, a microbrewery license allows the licensee to do all of the following:

(1) To manufacture and sell on the licensed premises beer, fermented beverages, mead, or cider or a combination thereof, but the licensee may not manufacture or sell more than the maximum amount permitted by federal regulations to qualify for a "reduced rate of tax for certain brewers" under 27 C.F.R., Part 25, § 25.152(a)(2).

(2) To manufacture on the licensed premises beer, fermented beverages, mead, or cider for persons, other than the licensee, licensed under this title or for persons outside this State.

(3) To sell beer, fermented beverages, mead, and cider manufactured on the licensed premises in labeled barrels, bottles, or other closed containers to importers licensed under this title for delivery by them to persons inside or outside the State.

(4) To sell at the licensed premises beer, fermented beverages, mead, and cider manufactured on the licensed premises for consumption on or off the licensed premises. The amount of beer, fermented beverages, mead, and cider sold for off-premises consumption is limited to a maximum of 5 cases per day to each retail customer.

(5) To purchase and store product from a Delaware-licensed importer or package store licensed under § 516 of this title, and sell the product to its retail customers for consumption on the premises where sold, so long as the product is manufactured by an entity that holds a Delaware license under § 512A, § 512B, § 512C, or § 512E of this title or the manufacturer, as determined by the Commissioner, would qualify for a license under 1 or more of these sections if the manufacturer were physically located in this State.

(6) The provisions of § 506 of this title to the contrary notwithstanding, to be permitted to have an interest in, be affiliated with, operate, or own another supplier or manufacturer located outside the State and have an interest in a farm winery, brewery-pub, or craft distillery licensed under this chapter and actually located in this State, provided that the total domestic sales of beer of all affiliated suppliers or manufacturers does not exceed 6 million barrels in a calendar year.

(d) It is unlawful for a person to operate a microbrewery if any of the following apply:

(1) The license is denied, canceled, suspended, or revoked for any of the grounds under § 543 or § 561 of this title.

(2) The establishment is moved to a location other than the licensed premises.

(3) The licensee owns, operates, or is affiliated with any importer of alcoholic liquor either in or without this State.

(e) A microbrewery licensee is exempt from the distance requirements for establishments licensed or to be licensed under § 543(d) of this title, and such requirements may not affect the granting of a microbrewery license.

(f) All beer, fermented beverages, mead, and cider sold by a microbrewery licensee for off-premise consumption must be in containers that are securely sealed and have an attached label setting forth the information required under this title, Commissioner rules, and laws of the State.

(g) Any microbrewery licensed by the Commissioner to manufacture beer, fermented beverages, mead, or cider in this State may provide samples of the beer, fermented beverages, mead, or cider manufactured at the licensed premises in a manner approved by the Commissioner.

(h) Notwithstanding § 546 of this title, a microbrewery may sell a product that the microbrewery manufactures for off-premises consumption at a licensee licensed under this section and either at up to 2 brewery-pubs licensed under § 512B of this title or 1 additional microbrewery licensed under this section and 1 brewery-pub licensed under § 512B of this title that are all owned or controlled by the same person.

(i) (1) The requirements to grant a license to a tenant microbrewery must include all of the following:

a. An agreement with a host microbrewery that allows the tenant microbrewery to use the host microbrewery's brewing equipment for specified periods of time to manufacture beer, fermented beverages, mead, or cider. The compensation to the host microbrewery under an agreement may not be based upon the profit of the tenant microbrewery and is subject to the approval of the Commissioner.

b. The host microbrewery and the tenant microbrewery must have the approval of the Federal Trade and Tax Bureau ("TTB"), or its successor, to operate as an alternating premises.

c. The tenant microbrewery must retain title to all of the tenant microbrewery's raw materials, except for water.

d. The tenant microbrewery must act as the brewer of the beer, fermented beverages, mead, or cider.

e. Upon completion of the manufacturing process, the tenant microbrewery shall remove all product from the alternating premises and transport the product to a location approved by the Commissioner for the tenant microbrewery to store and sell for on or off premises consumption. A tenant microbrewery may satisfy the requirement under this paragraph (i)(1)e. by leasing space from the host microbrewery but the tenant microbrewery may only store the tenant microbrewery's brands in the leased space.

(2) The Commissioner may suspend or revoke the license of the tenant microbrewery upon the termination of the agreement between the host microbrewery and the tenant microbrewery.

(3) The Commissioner may suspend all licenses at the alternating premises if the TTB suspends the approval of the host or tenant microbrewery, The Commissioner must provide reasons for and conditions of a suspension under this paragraph (i)(3).

(j) Any microbrewery licensed by the Commissioner to manufacture beer under this section may sell infused beverages for off-premises consumption if the following requirements are met:

(1) The microbrewery maintains a designated location on its floor plan to store its own infused beverages produced at the licensee's approved premises.

(2) The microbrewery pays the following fees:

a. A $100 filing fee to request off-premises sales of infused beverages.

b. A $100 inspection fee for a floor plan.

c. A $200 biennial fee for limited off-premises sales of infused beverages.

(3) The microbrewery complies with the product "at-rest" requirement under § 1335G of this title.

(4) The microbrewery provides documentation as may be required by the Commissioner, including written landlord approval and a floor plan for the licensed premises that complies with this section.

(5) The microbrewery reports to the Division of Revenue, under § 581A of this title, all sales of infused beverages that were sold directly to consumers.

(6) The microbrewery's designated importer or wholesaler includes infused beverages in its monthly price list that will be available for distribution to package stores or retail marijuana stores.

(k) Failure to comply with this section and any other provision of the Delaware Liquor Control Act [§ 101 et seq. of this title], Marijuana Control Act [§ 1301 et seq. of this title], or regulations promulgated under this title may result in a fine or in a suspension or revocation of the authorization for off-premises sales of infused beverages.

(69 Del. Laws, c. 361, § 1; 71 Del. Laws, c. 211, §§ 1-3; 72 Del. Laws, c. 486, § 9; 76 Del. Laws, c. 32, §§ 1-5; 77 Del. Laws, c. 432, §§ 1-3; 79 Del. Laws, c. 157, § 1; 81 Del. Laws, c. 261, § 1; 82 Del. Laws, c. 22, § 1; 82 Del. Laws, c. 141, § 3; 83 Del. Laws, c. 36, § 3; 83 Del. Laws, c. 168, § 1; 83 Del. Laws, c. 283, § 5; 85 Del. Laws, c. 41, § 1; 85 Del. Laws, c. 269, § 8; 85 Del. Laws, c. 394, § 1.)

§ 512D Wine and spirits auctions.

(a) Subject to the provisions, restrictions and prohibitions of this title, the Commissioner may grant a wine auction license, a spirits auction license, or a wine and spirits auction license to each qualified applicant. No person shall operate a wine auction or spirits auction unless licensed to do so by the Commissioner. For purposes of this section:

(1) A "wine auction" shall mean a person, partnership or corporation that sells rare or fine wines on consignment from the owners of said wines or obtained from private collections at public auction to those persons who are of legal age to purchase such items. A nonprofit organization may apply for a "wine auction-gathering license" for a specific date upon application to the Commissioner as a fund raiser for their organization.

(2) A "spirits auction" shall mean a person, partnership or corporation that sells rare or collectable spirits obtained from private

collections at public auction to those persons who are of legal age to purchase such items.

(b) Said wine auction license holder or spirits auction license holder must have an office situated within the State, however said auctions may take place at any location within the State subject to the rules and regulations of the Commissioner which shall have the force of law. A nonprofit organization does not need to maintain an office within the State.

(c) No more than 12 wine auctions may be conducted within a calendar year and no more than 12 spirits auctions may be conducted within a calendar year, with a maximum of 3 days per auction event. Auctions may be conducted in person or online; both formats count towards the total auctions permitted in a calendar year.

(d) The wine auction or spirits auction license holder shall have the responsibility for collecting and remitting the applicable excise taxes and gross receipt taxes due for all products auctioned. Provided further, that any products purchased at auction shall not be stocked as inventory or made available for further retail sale in any facility or store licensed under this title.

(71 Del. Laws, c. 383, § 1; 72 Del. Laws, c. 486, § 9; 85 Del. Laws, c. 316, § 1.)

§ 512E Craft distillery.

(a) Upon proper application and subject to the applicable provisions, restrictions and prohibitions of this title, the Commissioner may grant a license to any person who is the owner or lessee of a craft distillery to manufacture and sell spirits.

(b) For purposes of this section, “craft distillery” shall mean a single establishment in which spirits are manufactured and which is operated by the licensee in accordance with this section.

(c) Notwithstanding any provision of this title to the contrary, a craft distillery license allows the licensee to do all of the following:

(1) Manufacture, on the licensed premises, and sell not more than 750,000 proof gallons of distilled spirits in a calendar year.

(2) Manufacture spirits, on the licensed premises, for persons other than the licensee who are licensed under this title or for persons outside this State.

(3) Sell, deliver, and ship such spirits in labeled barrels, bottles, or other closed containers to persons licensed under this title to import spirits; and sell and ship spirits to persons outside of this State in accordance with this title.

(4) Store and sell spirits on the premises by the bottle or by the glass for consumption on or off the premises where sold; and to purchase alcoholic beverages from licensed Delaware importers or package stores to add to product manufactured by the craft distillery to sell to patrons for on-premises consumption only. The amount of spirits sold for off-premises consumption must be limited to a maximum of 1 case (12 750-milliliter bottles) per day to each retail customer for consumption off the premises.

(5) Purchase and store product from a Delaware licensed importer or package store licensed under § 516 of this title, and sell the product to its retail customers for consumption on the premises where sold, so long as the product is manufactured by an entity that holds a Delaware license under § 512A, § 512B, § 512C, or § 512E of this title or the manufacturer, as determined by the Commissioner, would qualify for a license under 1 or more of these sections if the manufacturer were physically located in this State.

(6) Sell, on the licensed premises, food items, souvenirs, spirit-related supplies, and educational material as approved by the Commissioner.

(d) It shall be unlawful for a person to operate a craft distillery if:

(1) The license is denied, canceled, suspended or revoked for any of the grounds contained in § 543 or § 561 of this title;

(2) The establishment is moved to a location other than the licensed premises; or

(3) It is owned, operated or affiliated with any importer of alcoholic liquor, either in or without this State; except that the holder of a craft distillery license may have an interest in, be affiliated with, operate, or own in common ownership a microbrewery, farm winery, and/or brewery-pub licensed under this chapter and actually located within this State.

(e) A craft distillery licensee shall be exempt from the distance requirements for establishments licensed or to be licensed as contained in § 543(d) of this title, and such requirements shall not affect the granting of a craft distillery license.

(f) All spirits sold by a craft distillery licensee for off-premise consumption shall be in containers which are securely sealed and have attached thereto a label setting forth such information as required by this title, Commissioner rules and laws of the State.

(g) Any craft distillery licensed by the Commissioner to manufacture spirits in this State may provide tastings of the spirits at said premises pursuant to a spirits tasting license granted by the Commissioner pursuant to § 525 of this title.

(h) The provisions of § 546 of this title to the contrary notwithstanding, the sale for off-premises consumption at up to a combined total of 3 licenses licensed under this section, § 512A, § 512B, or § 512C of this title all owned or controlled by the same person shall be permitted.

(i) A craft distillery licensee shall be authorized to purchase and receive shipments of unfinished neutral grain spirit in bulk form from suppliers and importers located within and without the State that are licensed in accordance with this title.

(j) A craft distillery licensee shall be authorized to export unfinished spirit manufactured in this State in bulk to persons within or outside the State for blending, aging, finishing, bottling or labeling and shall be authorized to receive the finished product from that person.

(k) A craft distillery shall be exempt from the prohibition of sales on Sundays as proscribed in § 709 of this title, but any sales on Sundays shall be limited to the hours during which the holders of licenses for the sale of spirits in a store may sell on Sundays pursuant to § 709 of this title. A craft distillery shall remain closed on Thanksgiving, Christmas and Easter.

(*l*) The Commissioner may promulgate such rules and regulations with respect to the enforcement or furtherance of the objectives and provisions of this section as the Commissioner may deem necessary, and all such rules and regulations that are not inconsistent with the

provisions of this title shall have the force and effect of law.

(m) The provisions of § 506 of this title to the contrary notwithstanding, the holder of a craft distillery license may have an interest in, be affiliated with, or own another supplier or manufacturer, whether located inside or outside this State.

(78 Del. Laws, c. 251, § 1; 79 Del. Laws, c. 157, § 1; 80 Del. Laws, c. 62, § 1; 80 Del. Laws, c. 73, § 1; 80 Del. Laws, c. 251, § 1; 80 Del. Laws, c. 382, § 3; 81 Del. Laws, c. 261, § 1; 85 Del. Laws, c. 269, § 9.)

§ 512F Temporary large events.

Any person licensed under § 512 of this title hosting a temporary large event may share the profits from the event, including the profits from alcohol sales, with the temporary large event promoter, and such sharing of profits shall not be in violation of this title, including § 561 of this title or any regulations promulgated by the Commissioner, provided that:

(1) The licensee shall be responsible for the purchase and resale or dispensing of all alcohol at the temporary large event as provided in and in compliance with this title and may not allow the temporary large event promoter to participate in such purchasing, reselling or dispensing; and

(2) The temporary large event promoter shall, prior to the temporary large event, obtain a temporary large event license from the Commissioner. Application for a temporary large event license shall be on a form prescribed by the Commissioner, made under oath or affirmation and signed before 2 witnesses, containing a statement to the effect that the temporary large event promoter:

a. Will comply with this title and the regulations promulgated hereunder;

b. Agrees to submit to the jurisdiction of the Commissioner and the courts of the State;

c. Is not a manufacturer, supplier or importer;

d. Has not been convicted of violating the liquor laws of this State or been convicted and imprisoned for a crime; and

e. Such other matters as the Commissioner may prescribe by rule or regulation.

The Commissioner may promulgate such rules and regulations with respect to the enforcement or furtherance of the objectives and provisions of this section as it may deem necessary, and all such rules and regulations that are not inconsistent with the provisions of this title shall have the force and effect of law.

(79 Del. Laws, c. 6, § 2.)

§ 512G Shipment of alcoholic beverages between commonly-owned entities.

(a) Any entity licensed in this State pursuant to § 512A, § 512B, § 512C or § 512E of this title, or any out-of-state supplier licensed pursuant to § 501 of this title who, as determined by the Commissioner, would meet the requirements of § 512A, § 512B, § 512C or § 512E of this title if it were located in this State, is permitted to sell or ship alcoholic beverages they manufacture to an entity licensed in this State pursuant to § 512A, § 512B, § 512C or § 512E of this title subject to all of the following conditions:

(1) The shipping and receiving licensees must be under common ownership and control, the licensees' domestic sales of beer must be less than 6 million barrels in a calendar year, and must both apply for and receive a permit pursuant to this section.

(2) A licensee must apply for a permit with the Commissioner setting forth the nature of its license, naming the licensees or out-of-state suppliers that it desires to ship to directly or receive alcoholic beverages from directly, and such other information as the Commissioner may require.

(3) The Commissioner shall determine if a licensee meets the requirements of § 512A, § 512B, § 512C or § 512E of this title and is otherwise qualified for a permit pursuant to this section.

(4) If the Commissioner determines the licensee is eligible, the Commissioner shall issue a permit to the licensee.

(5) A permit holder under this section shall be permitted to sell product properly received under the terms of its permit as though it were manufactured at its premises, in accordance with the terms and conditions of its license, so long as it is permitted to manufacture that type of alcohol.

(6) If a licensee's total domestic sales of beer for all affiliated suppliers or manufacturers is between 2 million and 6 million barrels of beer in a calendar year, transfers authorized by this section from licensees pursuant to § 501 and § 512C of this title to commonly owned licensees pursuant to § 512B of this title for the purpose of sales to consumers for consumption on the brewery-pub premises may be made only if the brands transferred for on-premise consumption are produced under the same trade name approved by the Commissioner for the licensee pursuant to § 512B of this title. Licensees pursuant to § 512B of this title may sell product to consumers produced by affiliated licensees under different trade names for consumption on the brewery premises if such product is purchased from a licensee pursuant to § 522 of this title.

(7) For purposes of this section, "trade name" means a trade name approved by the Commissioner that is consistent with the definition in § 3302 of Title 6 or a successor statute.

(b) As used in this section, "common ownership and control" means that the shipping and receiving licensees applying for a permit under this section manufacture and sell the same brands of alcoholic liquor that each such licensee desires to ship to directly or receive from directly the other, share at least a majority of the same directors, officers, members, or other fiduciaries, and are owned 51 percent or more by 1 person. It shall be permitted for the interest of 51 percent or more in the shipping licensee and the interest of 51 percent or more in the receiving licensee to be held by more than 1 person, but only if 1 of the following is satisfied:

(1) One person is an individual and the other person(s) is 1 or more trusts, the beneficiaries of which include such individual, such individual's spouse, or such individual's lineal descendants; or

(2) Each person is 1 or more trusts established by the same settlor for the benefit of the settlor, the settlor's spouse, or the settlor's lineal descendants, and are managed by the same fiduciaries; or

(3) Such interests are held by the same individuals.

(c) For the purposes of this section, "person" shall be defined as set forth in § 1-201(b)(27) of Title 6.

(81 Del. Laws, c. 276, § 1; 82 Del. Laws, c. 22, § 1; 82 Del. Laws, c. 141, § 4.)

§ 512H Special event license [For application of this section, see 85 Del. Laws, c. 269, § 23].

(a) (1) Subject to the provisions, restrictions, and prohibitions of this title, the Commissioner may grant a special event license to a qualified applicant, upon the applicant paying the application process fee set forth in § 554 of this title and submitting all documentation required by the Commissioner. Subject to rules and regulations established by the Commissioner, a special event license permits a licensee to sell and serve alcoholic liquors on the licensed premises at each special event the licensee hosts on the licensed premises for consumption on the licensed premises.

(2) A qualified applicant may not be granted more than 1 special event license.

(b) (1) The licensee may have an office outside this State, but the licensed premises where the special event will take place and where alcoholic liquors will be sold, served, dispensed, or consumed must be located in this State.

(2) In addition to the requirements of paragraph (b)(1) of this section, the licensed premises must meet all of the following requirements:

a. The licensed premises must be owned or leased by the licensee.

b. The licensed premises must not be more than 3 acres in size.

c. The licensed premises must be sufficiently designated, enclosed, secured, and maintained.

d. The licensed premises must contain fencing or a wall not less than 30 inches high that, at a minimum, encloses the area where alcoholic beverages will be sold, served, dispensed, and consumed.

e. The licensed premises must be maintained in compliance with all applicable zoning, health, and fire safety requirements.

(3) If a licensee fails to comply with paragraph (b)(2) of this section, the licensee's special event license is suspended, under § 561 of this title, until the licensee complies with paragraph (b)(2) of this section.

(c) At least 30 days before the date of a special event, a licensee must report the special event to the Commissioner for the Commissioner's review and approval. For each special event, all of the following conditions apply:

(1) Sufficient restrooms or enclosed portable toilets must be provided within the licensed premises during the special event.

(2) a. Sufficient food must be available to consumers for consumption on the licensed premises during all hours that the licensee is selling and serving alcoholic liquors. Items like bags of chips and pretzels are insufficient.

b. The food may be prepared on the licensed premises, provided by a food truck or a caterer, or consist of prepackaged items, such as sandwiches, burgers, and hot dogs of sufficient quantity in relation to the alcoholic liquors being sold and served.

(3) Tents, mobile units, and other temporary fixtures located on the licensed premises must be approved by the appropriate political subdivision and reported to the Commissioner at least 20 days before the special event.

(4) The appropriate political subdivision responsible for regulating the licensed premises must have provided written approval for the special event.

(d) A licensee must purchase all alcoholic liquors sold and served at a special event from importers licensed under § 501 of this title. Notwithstanding any provision of this title to the contrary, an importer may buy back any unopened and resalable bottles of alcoholic liquors at the end of a special event. An importer shall keep all records, as required by the Commissioner, necessary to document the purchase of products under this subsection.

(e) (1) Notwithstanding any provisions of this title to the contrary, whenever the Commissioner finds that a licensee fails to meet any of the requirements of this section or that the licensee misrepresented information in its application, the Commissioner may do 1 or more of the following:

a. Suspend the licensee's special event license.

b. Deny any future applications for a special event license for a period of up to 2 years after the Commissioner finds that a failure or misrepresentation has occurred.

c. Impose a fine of up to $10,000 per violation.

(2) Before any new special event license may be issued, all penalties imposed by the Commissioner under this subsection must be resolved.

(f) Licensees are subject to the restrictions on the hours of sale of alcoholic liquors set forth in § 709(c) of this title, to the prohibitions of overservice, and the prohibition of sales to minors set forth in § 708 of this title.

(g) A licensee is permitted to enter into a concessionaire agreement, but a concessionaire agreement may not permit the sharing of proceeds from alcohol sales.

(85 Del. Laws, c. 269, § 10.)

§ 513 Sale of beer and wine for consumption on premises of tavern.

(a) Any person in charge of a tavern may apply to the Commissioner for a license to purchase from an importer and to receive, keep, and

sell beer and wine, if such beverages are consumed on the premises where sold.

(b), (c) [Repealed.]

(38 Del. Laws, c. 18, § 17; Code 1935, § 6146; 4 Del. C. 1953, § 513; 54 Del. Laws, c. 377, § 1; 67 Del. Laws, c. 109, § 11; 69 Del. Laws, c. 6, § 3; 72 Del. Laws, c. 486, § 9; 73 Del. Laws, c. 244, §§ 7, 8; 82 Del. Laws, c. 4, § 3; 83 Del. Laws, c. 207, § 2.)

§ 514 Gathering licenses; consumption on premises.

(a) If alcoholic liquors are to be sold during a gathering of persons, the manager or person in charge of the gathering of persons, or the owner, tenant, or person in charge of the premises in which the gathering of persons is being held, must obtain 1 of the types of gathering licenses provided for in this section. Both types of gathering licenses permit consumption of alcoholic liquors on the premises where sold and permit sale of alcoholic liquors for consumption off the premises where sold by way of a raffle or auction, live or silent, so long as the amount of alcoholic liquors sold for consumption off of the premises where sold does not exceed 10 gallons (or 38 liters) in a single day.

(b) The 2 types of gathering licenses that may be granted under this section are as follows:

(1) *Gathering License — Group. —*

The manager or person in charge of a gathering of persons at which alcoholic liquors are to be sold shall apply for a group type gathering license that, if granted, is valid only for the time and at the location specified in the license application. A group gathering license is not required if the gathering of persons is being held on premises that are validly licensed under a biennial premises gathering license issued under paragraph (b)(2) of this section.

(2) *Gathering License — Biennial Premises. —*

The owner, tenant, or person in charge of the premises, other than a residence, on which gatherings of persons are held, may apply for a biennial premises type gathering license that is valid for the entire 2 years for gatherings of persons at the location specified in the license application.

(c) A holder of a gathering license may purchase alcoholic liquors for sale at a gathering of persons from either package stores, or importers and the package stores, and importers may make deliveries to persons holding a gathering license. A holder of a gathering license granted under this section is exempt from paying the application process fee as provided in § 554(x) of this title.

(d) For purposes of this section only, the price paid for alcoholic liquors to be sold at a gathering of persons licensed under this section must be a price agreed upon between the licensee and the package store, in-state manufacturer, or importer from whom the alcoholic liquors are purchased. A package store, in-state manufacturer, or importer may donate some or all of the alcoholic liquor to the gathering licensee so long as a license has been granted for the gathering of persons by the Commissioner prior to the donation.

(e) Any person holding a biennial premises gathering license granted under this section must report each gathering of persons to be held on its premises to the Commissioner. The report may be made in person, in writing, or by telephone. The report must be received by the Commissioner not later than noon on the day the gathering of persons is to be held. But if the gathering of persons is to be held on a day the Commissioner's office is closed, the gathering of persons must be reported on the last day on which the Commissioner is open immediately preceding the gathering of persons.

(f) A person holding a gathering license of either type granted under this section who has purchased alcoholic liquors for sale at a gathering of persons may return any unopened bottles to the licensee from whom they were purchased and shall receive the amount paid for each bottle, so long as the bottles are returned within 30 days of the date of the gathering of persons for which the bottles were purchased. A biennial premises type gathering licensee is not required to return bottles it has purchased for sale during the gathering of persons, but may store the bottles in a suitable storage facility for sale at a future gathering of persons to be held on the licensee's premises.

(g) All holders of gathering licenses under this section are subject to the restrictions on the hours of sale of alcoholic liquors set forth in § 709(c) of this title and to the prohibitions of sales to minors set forth in § 708 of this title.

(h) It is not necessary to obtain a license to dispense alcoholic liquors at a gathering of persons if no alcoholic liquors are to be sold at that gathering of persons. Importers may sell and deliver beer directly to persons for dispensing at a gathering of persons and not for resale.

(i) An applicant for a "biennial premises type gathering license," as defined in § 554 of this title, must give notice of the application as required by § 524 of this title, but an applicant who has previously been granted a license under this section and has no violations is not required to give notice.

(38 Del. Laws, c. 18, § 17; Code 1935, § 6146; 4 Del. C. 1953, § 514; 59 Del. Laws, c. 107, § 18; 59 Del. Laws, c. 128, §§ 2-4; 67 Del. Laws, c. 273, § 24; 72 Del. Laws, c. 486, § 9; 78 Del. Laws, c. 64, §§ 1, 2; 85 Del. Laws, c. 269, § 11.)

§ 515 Sale to members of club and multiple activity club.

(a) A club or multiple activity club may apply to the Commissioner for a license to purchase spirits, wine, or beer and to sell the spirits, wine, or beer to a member of the club.

(b) (1) A bottle club is not a club.

(2) [Repealed.]

(38 Del. Laws, c. 18, § 17; Code 1935, § 6146; 4 Del. C. 1953, § 515; 56 Del. Laws, c. 335, § 4; 59 Del. Laws, c. 107, §§ 19, 20; 63 Del. Laws, c. 232, § 1; 67 Del. Laws, c. 109, § 12; 67 Del. Laws, c. 122, § 1; 72 Del. Laws, c. 486, § 9; 81 Del. Laws, c. 69, § 1; 83 Del. Laws, c. 152, § 2.)

§ 515A Licenses for bottle clubs [For application of this section, see 85 Del. Laws, c. 269, § 23].

(a) Except as provided in this section, it is unlawful to operate a bottle club for profit or pecuniary gain.

(b) The Commissioner may, upon application, grant a license to the owner, lessor, or person in charge of the premises to operate a bottle club in accordance with this chapter.

(c) The Commissioner may grant a bottle club license only to the following:

(1) A person doing business in an establishment meeting the standards of a restaurant. The license permits the establishment to operate as a bottle club on every day of the week and on holidays, except between the hours of 2:00 a.m. and 9:00 a.m. during which time alcoholic liquors may not be consumed on the premises of the establishment.

(2) A person renting premises to customers for holding weddings or other social gatherings where there is adequate food, as determined by the Commissioner, provided by the customer or a caterer. The license permits the establishment to operate as a bottle club on every day of the week and on holidays, except between the hours of 2:00 a.m. and 9:00 a.m. during which time alcoholic liquors may not be consumed on the premises of the establishment. If a bottle club licensed under this paragraph (c)(2) has a function that utilizes a licensed off-site caterer, all alcohol must be provided by the licensed off-site caterer.

(3) A person doing business in a licensed establishment where persons pay a fee to participate in a creative arts experience, including painting, pottery-making, candle-making, and other similar activities, and where sufficient food is provided by the establishment's owner or by the customer while alcoholic liquors are being consumed. Prepackaged chips, pretzels, and other similar food items are not sufficient food. The license permits the establishment to operate as a bottle club on every day of the week and on holidays, except between the hours of 11:00 p.m. and 9:00 a.m., during which time alcoholic liquors may not be consumed on the premises of the establishment.

(63 Del. Laws, c. 232, § 2; 67 Del. Laws, c. 122, § 2; 72 Del. Laws, c. 486, § 9; 83 Del. Laws, c. 152, § 3; 85 Del. Laws, c. 269, § 12.)

§ 516 Consumption off the premises of a package store, restaurant, club, or taproom [Effective until Jan. 23, 2027].

(a) (1) a. Any person in charge of a package store, whether owner, lessee, or manager, and recognized as such by the Commissioner, may apply to the Commissioner for a license to purchase from an importer and to keep and sell and deliver on the premises only spirits, wine, or beer by the bottle, half bottle, keg, half keg, quarter keg, or sixtel, but not for consumption on the premises where sold, or in any dependency thereof.

b. All vessels sold must be delivered to the purchaser and must be removed from the premises where sold with the seals of the vessels unbroken, unless a license is approved by the Commissioner for a growler filler permit. A growler filler permit allows a licensee to purchase beer by the keg or partial keg and fill containers at time of purchase which will then be capped to leave the licensed premises for consumption off the premises.

c. For purposes of issuing a new license under this section, all establishments licensed for the sale of alcoholic liquors, but not for consumption on the premises where sold, are considered as being of the same type. But this paragraph (a)(1)c. does not apply to the transfer of ownership or the renewal of an existing license.

d. A package store licensed under this section must request a permit in the form and manner prescribed by the Commissioner to purchase from an importer and to keep, sell, and deliver on the premises infused beverages, but not for consumption on the premises where sold.

e. Any infused beverages offered for sale must be in a designated section of the store that is separate and apart from alcohol liquors and nonalcoholic mixers, with clear signage that states the products contain THC. All infused beverages must be delivered to the purchaser and removed from the premises where sold with the seals of the infused beverage containers unbroken.

(2) A person in charge of a package store, whether owner, lessee, or manager, and recognized as such by the Commissioner with a valid license for consumption off premises issued under this section may sell spirits, wine, beer, or infused beverages under paragraph (a)(1) of this section, including sales for curbside service. An entity with a valid off-premises license issued under §§ 512A through 512E of this title may sell alcoholic liquor for curbside service under the entity's off-premises license. All sales for curbside service must do all of the following:

a. Comply with Chapter 7 of this title, including § 706 of this title, which prohibits sales to intoxicated individuals, and § 708 of this title, which prohibits sales to individuals who have not reached the age of 21 years.

b. Be completed and delivered by a person certified as a responsible alcoholic beverage server under § 1205 of this title.

(b) Notwithstanding the provisions of subsection (a) of this section, any person, firm, or corporation duly licensed by the government of the United States as a ship's chandler, may apply to the Commissioner for a license to purchase and to keep, sell, and deliver off the premises, spirits, wine, or beer. The Commissioner may issue the license if the Commissioner is satisfied that all of the following conditions are met:

(1) The applicant is a ship's chandler operating a customs bonded warehouse under a license issued by the United States government.

(2) Sales by a ship's chandler are limited to vessels of the United States or of a foreign country engaged in foreign trade under 19 U.S.C. § 1309.

(c) A person in charge of a taproom, restaurant, or club, whether as owner, lessee, manager, or otherwise, may not apply for a license to sell alcoholic liquors for consumption off the premises where sold, and the Commissioner may not issue such a license for use in a taproom, restaurant, or club, except as follows:

(1) A person issued a license that authorizes the person to sell alcoholic liquors in a taproom for consumption off the premises prior to

July 6, 1983, may is retain the license, unless revoked by the Commissioner under this title.

(2) A person issued a license that authorizes the person to sell alcoholic liquors in a restaurant or club for consumption off the premises before May 21, 2026, may retain or transfer the license, unless revoked by the Commissioner under this title.

(3) A person issued a license that authorizes the person to sell alcoholic liquors in a taproom for consumption off the premises prior to July 6, 1983, and person issued a license that authorizes the person to sell alcoholic liquors in a restaurant or club for consumption off-the-premises before May 21, 2026, may transfer the license with the approval of the Commissioner as provided in § 571 of this title.

(38 Del. Laws, c. 18, § 17; Code 1935, § 6146(6); 42 Del. Laws, c. 186; 42 Del. Laws, c. 191, § 2; 44 Del. Laws, c. 203, § 2; 47 Del. Laws, c. 337, § 1; 4 Del. C. 1953, § 516; 55 Del. Laws, c. 82, § 1; 56 Del. Laws, c. 311, § 4; 62 Del. Laws, c. 69, § 1; 64 Del. Laws, c. 104, § 1; 67 Del. Laws, c. 109, § 13; 72 Del. Laws, c. 486, § 9; 79 Del. Laws, c. 23, § 1; 82 Del. Laws, c. 99, § 4; 83 Del. Laws, c. 275, § 1; 84 Del. Laws, c. 42, § 42; 85 Del. Laws, c. 269, § 13; 85 Del. Laws, c. 394, § 1.)

§ 516 Consumption off the premises of a package store, restaurant, or taproom [Effective Jan. 23, 2027; Effective until July 23, 2029].

(a) (1) a. Any person in charge of a package store, restaurant, or club not store, convenience store, drug store, tobacco retailer, whether owner, lessee, or manager, and recognized as such by the Commissioner, may apply to the Commissioner for a license to purchase from an importer and to keep and sell and deliver on the premises only spirits, wine, or beer by the bottle, half bottle, keg, half keg, quarter keg, or sixtel, but not for consumption on the premises where sold, or in any dependency thereof.

b. All vessels sold must be delivered to the purchaser and must be removed from the premises where sold with the seals of the vessels unbroken, unless a license is approved by the Commissioner for a growler filler permit. A growler filler permit allows a licensee to purchase beer by the keg or partial keg and fill containers at time of purchase which will then be capped to leave the licensed premises for consumption off the premises.

c. For purposes of issuing a new license under this section, all establishments licensed for the sale of alcoholic liquors, but not for consumption on the premises where sold, are considered as being of the same type. But this paragraph (a)(1)c. does not apply to the transfer of ownership or the renewal of an existing license.

d. A package store licensed under this section must request a permit in the form and manner prescribed by the Commissioner to purchase from an importer and to keep, sell, and deliver on the premises infused beverages, but not for consumption on the premises where sold.

e. Any infused beverages offered for sale must be in a designated section of the store that is separate and apart from alcohol liquors and nonalcoholic mixers, with clear signage that states the products contain THC. All infused beverages must be delivered to the purchaser and removed from the premises where sold with the seals of the infused beverage containers unbroken.

(2) A person in charge of a package store, restaurant, or club not store, convenience store, drug store, tobacco retailer, whether owner, lessee, or manager, and recognized as such by the Commissioner with a valid license for consumption off premises issued under this section may sell spirits, wine, beer, or infused beverages under paragraph (a)(1) of this section, including sales for curbside service or delivery service, for delivery within a 3-mile radius of the store. An entity with a valid off-premises license issued under §§ 512A through 512E of this title may sell alcoholic liquor for curbside service under the entity's off-premises license. All sales for curbside or delivery service must comply with all of the following:

a. Comply with Chapter 7 of this title, including § 706 of this title, which prohibits sales to intoxicated individuals, and § 708 of this title, which prohibits sales to individuals who have not reached the age of 21 years.

b. Be sold and served on the premises only by a person certified as a responsible alcoholic beverage server under § 1205 of this title.

(3) No person may provide alcoholic beverage delivery services unless such person or business entity holds a third-party delivery license. Upon proper application, the Commissioner may grant a third-party delivery license to provide alcoholic delivery services to customers so long as the person or business entity is also registered to do business in this State. The Commissioner shall not grant a third-party delivery license to a person or entity that also holds an off-premises license. Delivery service must be made by a licensed third-party vendor, or such third party's employee or independent contractor, provided that the off-premises licensee has entered into a written agreement with a licensed third-party delivery vendor that authorizes the third-party vendor, or such third-party vendor's employee or independent contractor, to deliver alcoholic liquors on behalf of the off-premises licensee. The licensed third-party vendor may not include an entity whose business is primarily the interstate shipment of goods. All sales for third-party delivery service must do all of the following:

a. Comply with Chapter 7 of this title including § 706 of this title, which prohibits sales to intoxicated individuals, and § 708 of this title, which prohibits sales to individuals who have not reached the age of 21 years.

b. Be delivered by a licensed third-party vendor, or such licensed third-party vendor's employee or independent contractor, who is at least 21 years of age and has been provided a program of learning content related to the responsible delivery of alcoholic beverages that has been approved by the Commissioner. A third-party delivery vendor's program shall address all of the following topics:

1. Age requirements for possessing, purchasing, and consuming alcoholic beverages.
2. Acceptable forms of identification.
3. Methods to detect fake and altered forms of identification.
4. Typical signs of intoxication.

5. Methods of detecting intoxication in consumers.

6. Reasons to refuse delivery, including that a consumer failed to provide valid identification, was underage, or displayed signs of intoxication.

7. How to use identification scanning technology to verify a recipient's age.

c. If delivered by motor vehicle, be placed in a trunk, rear compartment, back seat, or other area that is not readily accessible to the driver of the vehicle.

d. Be conveyed to the purchaser to whom the alcoholic liquors are being delivered only after the licensed third-party delivery vendor, or such third party's employee or independent contractor, has verified that the recipient is not intoxicated and is 21 years of age or older, signified by the recipient's identification with a photograph that reasonably appears to match the appearance of the recipient. The licensed third-party delivery vendor shall maintain a record of the following information for all recipients for a period of 2 years: name, date of birth, and address to which the alcoholic beverages were delivered. If such person's age and apparent sobriety cannot be verified, the alcoholic liquors must be returned to the premises of the licensee.

e. The delivery is completed during the hours in which the off-premises licensee is lawfully allowed to sell alcoholic liquors and before midnight or an hour before the off-premises licensee's establishment closes, whichever is earlier.

f. If the off-premises licensee uses a web application or internet website to facilitate delivery of alcoholic liquors by a licensed third-party vendor, the sales transactions take place between the customer and the off-premises licensee, and the off-premises licensee appears as the merchant of record.

g. Only alcoholic beverages obtained directly from the off-premises licensee with which the order was placed may be delivered.

h. May not be delivered out-of-state or to a state-operated facility, a correctional facility, a hospital, a locker mailbox, a post office box, a package shipping or storage facility, a retail licensee, a public school, a charter school, a grade school, a middle school, a high school, undergraduate housing at an institution of higher learning, or outside of this State.

i. In addition to application requirements and any regulations promulgated by the Commissioner, third-party delivery licensees shall provide to the Commissioner, upon request, a copy of any contracts entered into by the third-party delivery licensee with any off-premises licensee offering alcoholic beverages for delivery.

j. A third-party delivery vendor may charge package stores a fee for deliveries, and the fee charged must be applied equally to all package stores that enter into a delivery contract with the third-party delivery vendor.

k. An off-premises licensee's responsibilities under this section regarding delivery of alcoholic liquor to a consumer by a licensed third-party delivery vendor are considered satisfied at the time the off- premises licensee transfers possession of the alcoholic liquor to the licensed third-party delivery vendor, or such third party's employee or independent contractor. The acts during delivery of a licensed third-party delivery vendor or such third party's employee or independent contractor are not attributable to the off-premises licensee.

(b) Notwithstanding the provisions of subsection (a) of this section, any person, firm, or corporation duly licensed by the government of the United States as a ship's chandler, may apply to the Commissioner for a license to purchase and to keep, sell, and deliver off the premises, spirits, wine, or beer. The Commissioner may issue the license if the Commissioner is satisfied that all of the following conditions are met:

(1) The applicant is a ship's chandler operating a customs bonded warehouse under a license issued by the United States government.

(2) Sales by a ship's chandler are limited to vessels of the United States or of a foreign country engaged in foreign trade under 19 U.S.C. § 1309.

(c) A person in charge of a taproom, restaurant, or club, whether as owner, lessee, manager, or otherwise, may not apply for a license to sell alcoholic liquors for consumption off the premises where sold, and the Commissioner may not issue such a license for use in a taproom, restaurant, or club, except as follows:

(1) A person issued a license that authorizes the person to sell alcoholic liquors in a taproom for consumption off the premises prior to July 6, 1983, may is retain the license, unless revoked by the Commissioner under this title.

(2) A person issued a license that authorizes the person to sell alcoholic liquors in a restaurant or club for consumption off the premises before May 21, 2026, may retain or transfer the license, unless revoked by the Commissioner under this title.

(3) A person issued a license that authorizes the person to sell alcoholic liquors in a taproom for consumption off the premises prior to July 6, 1983, and person issued a license that authorizes the person to sell alcoholic liquors in a restaurant or club for consumption off-the-premises before May 21, 2026, may transfer the license with the approval of the Commissioner as provided in § 571 of this title.

(38 Del. Laws, c. 18, § 17; Code 1935, § 6146(6); 42 Del. Laws, c. 186; 42 Del. Laws, c. 191, § 2; 44 Del. Laws, c. 203, § 2; 47 Del. Laws, c. 337, § 1; 4 Del. C. 1953, § 516; 55 Del. Laws, c. 82, § 1; 56 Del. Laws, c. 311, § 4; 62 Del. Laws, c. 69, § 1; 64 Del. Laws, c. 104, § 1; 67 Del. Laws, c. 109, § 13; 72 Del. Laws, c. 486, § 9; 79 Del. Laws, c. 23, § 1; 82 Del. Laws, c. 99, § 4; 83 Del. Laws, c. 275, § 1; 84 Del. Laws, c. 42, § 42; 85 Del. Laws, c. 269, § 13; 85 Del. Laws, c. 394, § 1; 85 Del. Laws, c. 366, § 1.)

§ 516 Consumption off the premises of a package store, restaurant, club, or taproom [Effective July 23, 2029].

(a) (1) a. Any person in charge of a package store, whether owner, lessee, or manager, and recognized as such by the Commissioner, may apply to the Commissioner for a license to purchase from an importer and to keep and sell and deliver on the premises only spirits, wine, or beer by the bottle, half bottle, keg, half keg, quarter keg, or sixtel, but not for consumption on the premises where sold, or in any

dependency thereof.

b. All vessels sold must be delivered to the purchaser and must be removed from the premises where sold with the seals of the vessels unbroken, unless a license is approved by the Commissioner for a growler filler permit. A growler filler permit allows a licensee to purchase beer by the keg or partial keg and fill containers at time of purchase which will then be capped to leave the licensed premises for consumption off the premises.

c. For purposes of issuing a new license under this section, all establishments licensed for the sale of alcoholic liquors, but not for consumption on the premises where sold, are considered as being of the same type. But this paragraph (a)(1)c. does not apply to the transfer of ownership or the renewal of an existing license.

d. A package store licensed under this section must request a permit in the form and manner prescribed by the Commissioner to purchase from an importer and to keep, sell, and deliver on the premises infused beverages, but not for consumption on the premises where sold.

e. Any infused beverages offered for sale must be in a designated section of the store that is separate and apart from alcohol liquors and nonalcoholic mixers, with clear signage that states the products contain THC. All infused beverages must be delivered to the purchaser and removed from the premises where sold with the seals of the infused beverage containers unbroken.

(2) A person in charge of a package store, whether owner, lessee, or manager, and recognized as such by the Commissioner with a valid license for consumption off premises issued under this section may sell spirits, wine, beer, or infused beverages under paragraph (a)(1) of this section, including sales for curbside service. An entity with a valid off-premises license issued under §§ 512A through 512E of this title may sell alcoholic liquor for curbside service under the entity's off-premises license. All sales for curbside service must do all of the following:

a. Comply with Chapter 7 of this title, including § 706 of this title, which prohibits sales to intoxicated individuals, and § 708 of this title, which prohibits sales to individuals who have not reached the age of 21 years.

b. Be completed and delivered by a person certified as a responsible alcoholic beverage server under § 1205 of this title.

(3) [Repealed.]

(b) Notwithstanding the provisions of subsection (a) of this section, any person, firm, or corporation duly licensed by the government of the United States as a ship's chandler, may apply to the Commissioner for a license to purchase and to keep, sell, and deliver off the premises, spirits, wine, or beer. The Commissioner may issue the license if the Commissioner is satisfied that all of the following conditions are met:

(1) The applicant is a ship's chandler operating a customs bonded warehouse under a license issued by the United States government.

(2) Sales by a ship's chandler are limited to vessels of the United States or of a foreign country engaged in foreign trade under 19 U.S.C. § 1309.

(c) A person in charge of a taproom, restaurant, or club, whether as owner, lessee, manager, or otherwise, may not apply for a license to sell alcoholic liquors for consumption off the premises where sold, and the Commissioner may not issue such a license for use in a taproom, restaurant, or club, except as follows:

(1) A person issued a license that authorizes the person to sell alcoholic liquors in a taproom for consumption off the premises prior to July 6, 1983, may is retain the license, unless revoked by the Commissioner under this title.

(2) A person issued a license that authorizes the person to sell alcoholic liquors in a restaurant or club for consumption off the premises before May 21, 2026, may retain or transfer the license, unless revoked by the Commissioner under this title.

(3) A person issued a license that authorizes the person to sell alcoholic liquors in a taproom for consumption off the premises prior to July 6, 1983, and person issued a license that authorizes the person to sell alcoholic liquors in a restaurant or club for consumption off-the-premises before May 21, 2026, may transfer the license with the approval of the Commissioner as provided in § 571 of this title.

(38 Del. Laws, c. 18, § 17; Code 1935, § 6146(6); 42 Del. Laws, c. 186; 42 Del. Laws, c. 191, § 2; 44 Del. Laws, c. 203, § 2; 47 Del. Laws, c. 337, § 1; 4 Del. C. 1953, § 516; 55 Del. Laws, c. 82, § 1; 56 Del. Laws, c. 311, § 4; 62 Del. Laws, c. 69, § 1; 64 Del. Laws, c. 104, § 1; 67 Del. Laws, c. 109, § 13; 72 Del. Laws, c. 486, § 9; 79 Del. Laws, c. 23, § 1; 82 Del. Laws, c. 99, § 4; 83 Del. Laws, c. 275, § 1; 84 Del. Laws, c. 42, § 42; 85 Del. Laws, c. 269, § 13; 85 Del. Laws, c. 394, § 1; 85 Del. Laws, c. 366, § 3.)

§ 517 Pharmacists.

Any person, whether as owner, lessee or manager, who conducts a pharmacy which is recognized as such by the Commissioner, and in which pharmacy there is in constant attendance a pharmacist, may purchase alcoholic liquors and may keep and sell the same on the prescription of any physician, and otherwise supply or sell alcoholic liquors for medicinal purposes as provided in § 518 of this title without a permit or license from the Commissioner.

(38 Del. Laws, c. 18, § 17; Code 1935, § 6146; 4 Del. C. 1953, § 517; 59 Del. Laws, c. 107, § 21; 72 Del. Laws, c. 486, § 9.)

§ 518 Physicians, dentists, veterinarians and medical institutions.

(a) A physician or dentist may purchase alcoholic liquors for professional purposes without a permit or license. A physician may administer alcoholic beverages to a bona fide patient in cases of actual need when in the judgment of the physician the use of alcoholic beverages is necessary.

(b) A veterinarian may purchase alcoholic liquors for professional purposes without a permit or license. A veterinarian may, in the course of the veterinarian's practice, administer or cause to be administered alcoholic beverages to any animal under treatment.

(c) A person in charge of an institution regularly conducted as a hospital or sanitarium for the care of persons in ill health, or as a home devoted exclusively to the care of aged people, may purchase alcoholic beverages for professional purposes without the requirement of a permit or license. Such person may, after obtaining proper permission, administer alcoholic beverages to any bona fide patient of a medical institution who is in need of the same, either by way of external application or otherwise for emergency medical purposes.

(38 Del. Laws, c. 18, § 17; Code 1935, § 6146; 4 Del. C. 1953, § 518; 59 Del. Laws, c. 107, § 22; 84 Del. Laws, c. 42, § 43.)

§ 519 Hospital; retention and use.

Any person in charge of a hospital recognized by the Commissioner as such may purchase alcoholic liquors, and may keep and administer alcoholic liquors for purposes of compounding medicines or to use alcohol for purposes of sterilization without a permit or license.

(38 Del. Laws, c. 18, § 17; Code 1935, § 6146; 4 Del. C. 1953, § 519; 59 Del. Laws, c. 107, § 23; 72 Del. Laws, c. 486, § 9.)

§ 520 Clergymen; wine for sacramental purposes.

Any minister, priest, rabbi or clergyman of any established or recognized church or religious sect may purchase wine for sacramental purposes, and may keep and use wine for sacramental purposes, without a permit or license.

(38 Del. Laws, c. 18, § 17; Code 1935, § 6146; 4 Del. C. 1953, § 520; 59 Del. Laws, c. 107, § 24.)

§ 521 Temporary license to sell by the glass.

A temporary license to sell alcoholic liquor of 1 or more varieties, by the glass only, and for a period of not more than 3 months, may be granted by the Commissioner to any person to whom a biennial license may be issued under this chapter, but such temporary license shall not be renewed more than once during the same 12 months' period.

(38 Del. Laws, c. 18, § 25; Code 1935, § 6154; 4 Del. C. 1953, § 521; 67 Del. Laws, c. 273, § 25; 72 Del. Laws, c. 486, § 9.)

§ 522 Application for license to purchase for resale.

(a) Any person proposing to purchase alcoholic liquor for resale shall make application to the Commissioner for license.

(b) Any individual 21 years of age or older may apply for a license permitting the purchase of alcoholic liquors for resale. Any partnership may apply for a license permitting the purchase of alcoholic liquors for resale if such application is approved by a majority of the partners and each of the partners is 21 years of age or older. A corporation may apply for a license permitting the purchase of alcoholic liquors for resale if all the officers and directors of the corporation making the application are 21 years of age or older, and no stockholder under the age of 21 years owns or controls, either directly or through a custodian, more than 25% of the outstanding shares of stock of the applicant corporation, with the further provision that no group of such minor stockholders and/or custodians may own or control in the aggregate, more than 45% of the stock of the applicant corporation.

(c) The application shall be made on a blank form furnished by the Commissioner and shall be signed by the applicant before two witnesses. The application shall give the name, age, occupation and residence of the applicant and the kind of license requested.

(d) The application furnished by the Commissioner shall contain a statement to the effect that the applicant will comply with this title and the rules of the Delaware Alcoholic Beverage Control Commissioner.

(e) The Commissioner shall require that the statement of the applicant and of the witnesses be made under oath or affirmation.

(38 Del. Laws, c. 18, § 18; Code 1935, § 6147; 4 Del. C. 1953, § 522; 57 Del. Laws, c. 418, §§ 1, 2; 59 Del. Laws, c. 107, §§ 26-28; 60 Del. Laws, c. 242, § 1; 67 Del. Laws, c. 109, § 14; 71 Del. Laws, c. 383, § 2; 72 Del. Laws, c. 486, § 9; 84 Del. Laws, c. 42, § 44.)

§ 523 Application by partnership or corporation; liability for fines or costs.

If a license to purchase for resale is to be used on behalf of a partnership or corporation, the application therefor shall be accompanied by a declaration to that effect signed by an authorized member of such partnership or an authorized officer of such corporation. In such case the partnership or corporation, or the directors and officers thereof shall be liable jointly and severally for any fine and costs to which the holder of the license is liable.

(38 Del. Laws, c. 18, § 18; Code 1935, § 6147; 4 Del. C. 1953, § 523.)

§ 524 Notice of application.

(a) An application for a new license to purchase for resale, for transfer of an existing license, or for a substantive change to a license or licensed premise shall be filed with the Commissioner's office.

(b) Upon filing of an application for a new license to purchase for resale or for a substantive change to a license or licensed premise the applicant shall cause notice to be advertised in at least 2 different newspapers circulated in the community in which the applicant will operate if the application is approved for 3 issues. One of the newspapers must be a "local newspaper," as determined by the Commissioner either through rules or on a case by case basis. If the newspaper is a daily newspaper, the first publication shall be made within 3 days of the filing of the application and the third publishing shall occur within 10 days of filing the application. If the newspaper is a weekly publication, the first publication shall be made within 8 days of filing the application and the third publishing shall occur within 22 days of filing the application.

(c) Within 3 days of filing of an application for a new license to purchase for resale or for a substantive change to a license or licensed premise a notice shall be mailed by certified mail or first class mail as evidenced by a certificate of mailing postage-pre-paid to the

following entities, individuals or groups of individuals:

(1) Except as provided in paragraph (c)(2) of this section, all property owners within 200 feet from any point on the property boundary line of the premises to which the license is to apply;

(2) All property owners within 1,000 feet from any point on the property boundary line of the premises to which the license is to apply if the premises is located within 1/4 of a mile of a riverfront, beachfront or other open water, or if the applicant intends to include space for outside dining, outside entertainment or the outside service or consumption of alcoholic beverages;

(3) The governing body of any incorporated areas within 1 mile from any point on the property boundary line of the premises to which the license is to apply.

(d) The notices referred to in subsections (b) and (c) of this section must provide information as determined by the Commissioner either through duly adopted rules or on a case-by-case basis. The following notice, in addition to the Commissioner-approved notice, satisfies this notice provision:

"[Name of applicant] has on [Date of application] applied with the Alcoholic Beverage Control Commissioner ("Commissioner") for [type of license] for a premises located at [Location of the premises, including street and city]. [Applicant may include additional information about the application]. Persons who are against this application should provide written notice of their objections ("protest") to the Commissioner. For the Commissioner to be required to hold a hearing to consider additional input from persons against the application, the Commissioner must receive 1 or more documents containing at least 10 signatures of residents or property owners located within 1 mile of the premises or in any incorporated areas located within 1 mile of the premises and at least 5 residents or property owners who filed a protest and who reside or own property within 1 mile of the premises where the license is to operate or in any incorporated areas located within 1 mile of the premises where the license is to operate must preregister to provide testimony at the hearing. The protest(s) must be received by the Commissioner's office on or before [state a date at least 30 days after the application is filed]. The protest(s) can be emailed to the email address provided on the Commissioner's website or delivered or mailed to the Office of the Alcohol Beverage Control Commissioner, Carvel State Office Building, 820 North French Street, Wilmington, DE 19801. Failure to file such a protest may result in the Commissioner considering the application without further notice, input or hearing. If you have questions regarding this matter please contact the Commissioner's Office by emailing the email address provided on the Commissioner's website."

(e) The term "substantive change" referenced in this section shall mean any of the following:

(1) Any permanent change that will increase the square footage of the licensed premises;

(2) Any temporary change that will last longer than 60 days and result in an increase of the square footage of the licensed premises;

(3) Any change that would require a variance of the Commissioner's rules or suspension thereof and results in:

a. Live entertainment on a licensed patio;

b. External speakers or amplifiers on a licensed patio; or

c. Wet bar on a licensed patio;

(4) Any change in the floor plan of a restaurant licensee which would increase the number of bar seats or increase the area utilized for entertainment; or

(5) Any additional circumstance that the Commissioner determines is a substantive change.

(f)-(h) [Repealed.]

(i) Notwithstanding subsection (e) of this section or any other law, rule, or regulation to the contrary, substantive change does not mean any of the following:

(1) An expansion of outdoor seating for serving of food and drinks that as of March 31, 2022, was approved by the Commissioner.

(2) An expansion of outdoor seating for serving of food and drinks that meets all of the following requirements:

a. A plan approved by the appropriate political subdivision that does all of the following:

1. Considers local traffic patterns and parking capacity needs, but may extend the boundaries of seating beyond current property boundaries under the discretion of the appropriate political subdivision and applicable property owners on all local right of ways.

2. Does not intrude upon the State's right of way, unless approved by the Delaware Department of Transportation in writing.

3. Maintains current access, unless approved by Delaware Department of Transportation in writing.

4. Maintains proper access to the property for all emergency services.

5. Complies with the Americans Disabilities Act [42 U.S.C. § 12101 et seq.].

6. Adheres to all local noise ordinances.

7. Allows for the proper control over the distribution of alcoholic beverages.

b. Approval by the Commissioner regarding the service of alcohol on premises.

c. Complies with the Delaware Food Code.

(j) Any plan approved by or submitted to the appropriate political subdivision and the Commissioner pursuant to subsection (i) of this section may allow for the service of alcoholic beverages without the requirement to serve food.

(k) Any plan submitted to the appropriate political subdivision and the Commissioner pursuant to subsection (i) of this section that meets all of the requirements of paragraph (i)(2) of this section should not be denied approval absent exceptional circumstances.

(*l*) Any political subdivision that revokes or modifies its approval for an expansion of outdoor seating for serving of food and drinks

under subsection (i) of this section must notify the Commissioner within 30 days of such revocation or modification.

(38 Del. Laws, c. 18, § 18; Code 1935, § 6147; 43 Del. Laws, c. 275, § 1; 44 Del. Laws, c. 205, § 1; 46 Del. Laws, c. 222, § 1; 4 Del. C. 1953, § 524; 59 Del. Laws, c. 107, §§ 29, 30; 67 Del. Laws, c. 118, §§ 1, 2; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 435, § 1; 72 Del. Laws, c. 221, §§ 2-4; 72 Del. Laws, c. 486, § 9; 73 Del. Laws, c. 136, § 1; 74 Del. Laws, c. 242, § 1; 82 Del. Laws, c. 247, §§ ? 3, 5; 83 Del. Laws, c. 9, § 3; 83 Del. Laws, c. 9, § 5; 83 Del. Laws, c. 284, § 3; 85 Del. Laws, c. 269, § 14.)

§ 525 Spirits, wine, and beer tasting.

A license to permit spirits, wine, and beer tasting may be granted by the Commissioner to any person holding a package store license as a package store under § 516 of this title. Spirits, wine, and beer tasting may take place only in a separate portion of a licensee's premises where alcoholic beverages and infused beverages are not sold. The separate portion of the premises must be an area designated for spirits, wine, and beer tasting by the Commissioner. There may not be a charge made for the spirits, wine, and beer tasting.

(65 Del. Laws, c. 283, § 2; 70 Del. Laws, c. 353, § 2; 72 Del. Laws, c. 486, § 9; 85 Del. Laws, c. 269, § 15; 85 Del. Laws, c. 394, § 1.)

§ 526 Direct shipping of wine [Effective until Aug. 15, 2030].

(a) Notwithstanding § 501 of this title, upon proper application and subject to the applicable provisions, restrictions and prohibitions of this title, the Commissioner may grant a wine direct shipper license to any person who is a farm winery as defined by § 512A of this title or a manufacturer, as determined by the Commissioner, that would qualify for a license under § 512A of this title if the manufacturer were physically located in this State.

(b) A person who is licensed as a wine direct shipper under this section may ship up to 3 9-liter cases of wine annually to a household located in this State if a member of the household is at least 21 years of age and the wine is for the household's personal use and not for resale.

(c) An application for a wine direct shipper license must contain all of the following:

(1) The application materials required by the Commissioner.

(2) A true copy of the applicant's state-issued alcohol license and Federal Basic Permit.

(d) A wine direct shipper licensee may not:

(1) Ship wine to any person who is under the age of 21. In any prosecution for an offense under this subsection, it is an affirmative defense if the individual, who has not reached the age of 21 years, presented to the accused identification, with a photograph of such individual affixed thereon, which identification sets forth information which would lead a reasonable person to believe such individual was 21 years of age or older.

(2) Ship more than 3 9-liter cases of wine annually to any household for the household's personal use.

(3) Ship any wine for resale.

(4) Ship more than 1,800 9-liter cases into this State per year under this section. A direct shipper licensee that ships into Delaware 1,800 9-liter cases in 1 year will have its direct shipper license cancelled by the Commissioner and must apply for a supplier license pursuant to § 501 of this title.

(5) Ship wine if they are currently represented in this State by a licensed importer/wholesaler. This shall include wineries that are a subsidiary of a larger wine manufacturer or a supplier licensed pursuant to § 501 of this title that is listed in a licensed importer/wholesaler's current price publication designated by the Commissioner. All licensed importers/wholesalers shall provide in the manner and timing as required by the Commissioner, monthly price lists that include the manufacturers, names of the products, and any identifying SKU numbers. The Commissioner will remove proprietary price information before posting the importer/wholesaler's monthly lists on the Office of the Alcoholic Beverage Control Commissioner's publicly-available webpage.

(e) A wine direct shipper licensee must:

(1) Deliver wine for shipment into this State only to a common carrier who has a common carrier license issued by the Commissioner as provided in § 527 of this title.

(2) Ensure that all containers of wine shipped directly to a resident of this State are conspicuously labeled with the words "CONTAINS ALCOHOL: SIGNATURE OF INDIVIDUAL AGE 21 OR OLDER REQUIRED FOR DELIVERY". Upon delivery, the carrier delivery person shall be required to scan, and retain as proof of age verification, the required state-issued driver's license or state-issued identification card.

(3) a. If located outside of this State:

1. Report the following to the Commissioner and the Division of Alcohol, Tobacco, and Marijuana Enforcement (DATME) monthly, or more frequently as required by rules promulgated by the Commissioner that are based upon quantity of product shipped:

A. The total amount of wine shipped into this State in the preceding quarter.

B. The name and address of the individuals to whom the wine was sold and the amount of wine sold in each sale.

C. The tracking number for each shipment.

D. The name and license number of the common carrier to whom the order was sent for delivery.

2. Pay to the Division of Revenue monthly, or as otherwise required by regulations promulgated by the Commissioner, all excise taxes due on sales to residents of this State at the rate set forth in § 581(d) of this title. The amount of such taxes must be calculated as if the sale were in this State at the location where delivery is made.

b. The information reported under paragraph (e)(3)a.1. of this section is exempt from the requirements of Chapter 100 of Title 29.

(4) a. If located within this State, pay to the Division of Revenue monthly, or as otherwise required by regulations promulgated by the Commissioner, all excise taxes due on sales to residents of this State as required by § 581(b) of this title and provide the Division of Revenue, DATME, and the Commissioner any additional information deemed necessary beyond that already required for retail sales from a farm winery to ensure compliance with this section including the following:

1. The total amount of wine shipped under this section in the preceding quarter.
2. The name and address of the individuals to whom the wine was sold and the amount of wine sold in each sale.
3. The tracking number for each shipment.
4. The name and license number of the common carrier to whom the order was sent for delivery.

b. The information reported under paragraph (e)(4)a. of this section is exempt from the requirements of Chapter 100 of Title 29.

(5) Permit DATME, the Commissioner, or the Division of Revenue to perform an audit of the wine direct shipper licensee's records upon request.

(f) A wine direct shipper licensee is deemed to have consented to the jurisdiction of the Commissioner or any other state agency and the courts of this State concerning enforcement of this section and any related laws, rules, or regulations.

(g) The Commissioner and the Division of Revenue may establish rules and regulations necessary for the implementation of this section.

(72 Del. Laws, c. 230, § 1; 72 Del. Laws, c. 486, § 9; 85 Del. Laws, c. 139, § 1; 85 Del. Laws, c. 518, § 2; 85 Del. Laws, c. 139, § 7.)

§ 526 Direct purchasing of wine and beer [Effective Aug. 15, 2030].

(a) Notwithstanding any other provision in this title, a natural person who is a Delaware resident may purchase sparkling wine, still wine and beer that is not readily available to consumers throughout the State directly from a manufacturer or retailer of such beverages domiciled outside of Delaware provided that the following apply:

(1) The resident is 21 years of age or older;

(2) The sparkling wine, still wine or beer is for the resident's personal consumption and not for resale;

(3) The total amount of sparkling wine or still wine purchased in 1 calendar year by the resident may not exceed 60 750-milliliter bottles per calendar year;

(4) The total amount of beer purchased in 1 calendar year by the resident may not exceed 6 cases of 12 ounce bottles or the equivalent;

(5) The manufacturer or retailer engaging in such direct sales holds a valid manufacturer's or retailer's license issued by the state of its domicile;

(6) The package in which the sparkling wine, still wine or beer is shipped is prominently labeled as containing alcoholic beverages;

(7) The package in which such sparkling wine, still wine or beer is shipped is received by a person 21 years of age or older;

(8) The package in which such sparkling wine, still wine or beer is shipped contains an invoice indicating the date of the shipment, providing a full and complete description of all items included in the shipment, and stating the price thereof.

(b) A person who is licensed in its state of domicile as an alcoholic beverage manufacturer, importer, wholesaler or licensee and who may legally ship alcoholic beverages out of state may apply to the Commissioner for a direct shipper license. Only a person holding a direct shipper license may accept an order for the purchase of sparkling wine, still wine and/or beer from a natural person who is a Delaware resident. The license fee for a direct shipper shall be determined by the Commissioner. The amount of the fee must approximate and reasonably reflect the costs necessary to defray the expenses of the Commissioner's service and activities in connection with this section.

(c) All persons licensed under this section to ship wine and beer shall pay a tax on all wine and beer sold to residents in this State at the rates set forth in § 581(d) of this title. Taxes levied by § 581(d) of this title shall be collected, as far as practical, from the direct shipper in the manner set forth by the Commissioner. If for any reason the direct shipper who first handles the taxable beer and wine to be shipped to Delaware has escaped payment of taxes, those taxes shall be collected from any person in whose hands the taxable beer and wine is found. In no case, however, shall there be a duplication.

(d) Direct shippers shall file invoices for each shipment with the Commissioner showing the retail price of the product, the quantity shipped, the customer's name and address and the tax collected and paid to the State. Such filings shall be quarterly and arrive at the Commissioner no later than the 10th of March, June, September and December. Direct shippers shall maintain the records for at least 3 years.

(e) Under no circumstance may the wine or beer be shipped directly to the resident. Direct shippers must deliver the wine and beer by common carrier to a Delaware wholesaler, who will in turn deliver the shipment to a holder of a Delaware off-premises retail license. The retail licensee must then deliver the wine or beer to the resident in a manner consistent with this title and as set forth by Commissioner rules. The direct shipper shall pay a handling fee in the amount of $4 dollars per case or partial case of wine and $2 dollars per case or partial case of beer to the wholesaler who receives the shipment on behalf of the Delaware resident. The wholesaler shall then remit to the retail licensee one-half of the total handling fee.

(72 Del. Laws, c. 230, § 1; 72 Del. Laws, c. 486, § 9; 85 Del. Laws, c. 139, § 7; 85 Del. Laws, c. 139, § 1; 85 Del. Laws, c. 518, § 2.)

§ 527 Common carrier license [Expires Aug. 15, 2030, pursuant to 85 Del. Laws, c. 139, § 7].

(a) For the purposes of this title, "common carrier" means a business entity that:

(1) Holds itself out as being available to the public to transport in interstate or foreign commerce for compensation any class of passenger or property; and

(2) Holds a common carrier permit issued under this section.

(3) "Common carrier" does not include a business entity that transports only property the business entity owns or that is consigned to the business entity.

(b) Upon proper application and subject to the applicable provisions, restrictions and prohibits of this title, the Commissioner may grant a common carrier license to approved persons. Upon approval, the person shall pay the license as set forth in § 554 of this title.

(c) A common carrier permit licensee shall do all the following:

(1) Provide the Commissioner, the Division of Alcohol, Tobacco, and Marijuana Enforcement, and the Division of Revenue a monthly report containing the following:

a. The names and addresses of the consignor of the shipment.

b. The name and address of the consignee of the shipment.

c. The tracking number for each shipment made under this section.

d. The information reported under this paragraph (c)(1) is exempt from the requirements of Chapter 100 of Title 29.

(2) Deliver wine only on behalf of a wine direct shipper licensed by the Commissioner. The employee or independent contractor of the licensed common carrier shall deliver the wine to the address provided by the wine direct shipper licensee Upon delivery, the carrier delivery person shall be required to scan, and retain as proof of age verification, the required state-issued driver's license or state-issued identification card.

a. In any proceeding for an offense under this subsection, it is an affirmative defense if the individual, who has not reached the age of 21 years, presented to the accused identification, with a photograph of such individual affixed thereon, which identification sets forth information which would lead a reasonable person to believe such individual was 21 years of age or older.

b. To ensure effective age verification for deliveries, a common carrier licensee shall provide its employees and independent contractors with age verification training approved by the Commissioner.

(d) At least once a year, in a manner acceptable to the Commissioner, a holder of a common carrier license shall verify that the shipper of wine into this State holds a valid direct wine shipper's license issued by the Commissioner.

(e) A common carrier licensee is deemed to have consented to the jurisdiction of the Commissioner or any other state agency and the courts of this State concerning enforcement of this section and any related laws, rules, or regulations.

(f) The Commissioner shall provide the common carrier licensee charged with violating any provision of this section with a hearing. The Commissioner may suspend or cancel a common carrier license if the common carrier license if the common carrier licensee is found to have committed 3 or more violations. The Commissioner may impose a suspension or monetary fine against a common carrier licensee but may not impose a fine under this section greater than $5,000. Failure to pay such fine and costs may result in an automatic license suspension until such fines and costs are paid.

(85 Del. Laws, c. 139, § 2; 85 Del. Laws, c. 518, § 3.)

Subchapter III

Determination of Applications

§ 541 Procedural requirements governing Commissioner's action; hearing; appeal.

(a) The Commissioner shall distribute and receive all of the applications for licensure under this chapter, and shall refer the application to the Division for investigation, and if it appears that any application should not be granted, the Commissioner shall so notify the applicant stating the cause for denial.

(b) (1) A hearing must be held to consider the application and protest and, specifically, the concerns of the members of the community within which the license is to operate if all of the following conditions are met:

a. Ten or more persons who reside or own property within 1 mile of the premises where the license is to operate or in any incorporated areas located within 1 mile of the premises where the license is to operate file a protest against the issuance of the license with the Commissioner within 30 days from the filing of the application.

b. Five or more of the persons who filed a protest under paragraph (b)(1)a. of this section and who reside or own property within 1 mile of the premises where the license is to operate or in any incorporated areas located within 1 mile of the premises where the license is to operate preregister to provide testimony.

(2) The Commissioner may hold a hearing in the absence of a protest.

(3) The Commissioner shall cause notice of the time and location of the hearing to be posted on the State Public Meeting Calendar. The Commissioner shall send notice of the time and location of the hearing to the applicant and to each of the persons who signed the protest and provided a legible name and address. It is sufficient for the Commissioner to send notice to the attorney of a person who is represented by legal counsel.

(4) The Commissioner shall conduct the hearing and shall make and keep a record of the hearing. The record must include the evidence, the Commissioner's findings of fact, the Commissioner's decision, and a brief statement of the reasons therefor. The Commissioner's decision must show the manner in which the Commissioner construed the law and applied it to the facts, must recite any objections presented by the community, and must show how and the extent to which the Commissioner took community concerns into account and gave them due consideration when making the decision.

(c) The Commissioner's decision must be in writing and is conclusive unless, within 30 days from the date of the postmark on the Commissioner's decision, a party to the hearing files a written appeal in the office of the Commissioner. Upon receipt of the appeal, the Commissioner shall cause the Chairperson of the Appeals Commission to be advised of the pending appeal. The Chairperson shall cause the Appeals Commission to be convened with at least 20 days' notice to all parties. The Appeals Commission's review of an appeal from the Commissioner's final decision must be on the record and in accordance with the Administrative Procedures Act, subchapter III of Chapter 101 of Title 29. A decision of the Commissioner may be reversed only upon a finding of abuse of discretion.

(d) A party who is aggrieved by a final decision of the Appeals Commission may file a written appeal with the Superior Court within 30 days of the date that the Appeals Commission's decision was mailed. The Superior Court's review of an appeal must be on the record and in accordance with the Administrative Procedures Act, subchapter V of Chapter 101 of Title 29. The Superior Court's review must take into account the experience and specialized competence of the agency and the purpose under which the agency acted. In the absence of fraud, the Superior Court's review is limited to whether the agency's decision is supported by substantial evidence on the record and is free from legal error.

(38 Del. Laws, c. 18, § 21; Code 1935, § 6150; 42 Del. Laws, c. 188, § 1; 43 Del. Laws, c. 275, § 2; 4 Del. C. 1953, § 541; 59 Del. Laws, c. 107, §§ 32, 33; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 384, § 1; 71 Del. Laws, c. 435, §§ 2, 3; 72 Del. Laws, c. 486, §§ 9, 16-18; 73 Del. Laws, c. 133, § 2; 73 Del. Laws, c. 383, § 1; 78 Del. Laws, c. 384, § 1; 85 Del. Laws, c. 269, § 16.)

§ 542 Decision upon application for renewal of license; time of making.

On or before the first day of the month preceding the biennial expiration date of a license, the Commissioner shall render its decision upon every application properly and completely made to it on or before the first day of the third month preceding the biennial expiration date of a license.

(38 Del. Laws, c. 18, § 25; Code 1935, § 6154; 4 Del. C. 1953, § 542; 57 Del. Laws, c. 404, § 2; 67 Del. Laws, c. 273, § 23; 72 Del. Laws, c. 486, § 9.)

§ 543 Grounds for refusal of license; transfer or extension of premises.

(a) The Commissioner shall refuse to grant a license to be used in any county or subdivision thereof, if contrary to any prohibitory law then in force, in such county or subdivision thereof.

(b) The Commissioner may refuse to license an applicant if the Commissioner has substantial evidence that would reasonably support a belief that:

(1) Except for restaurants, there are sufficient licensed premises in the locality; or the granting of a license in the locality stated in the application is not otherwise demanded by public interest or convenience;

(2) The applicant is an importer of alcoholic liquors and has not furnished an acceptable bond for the purpose of assuring tax payments;

(3) The applicant appears to be financially irresponsible;

(4) The applicant has been provided with funds by, or has any forbidden connection with, a manufacturer, supplier or importer of alcoholic liquors;

(5) The applicant has made false statements to the Commissioner;

(6) The applicant has been convicted of violating any of the liquor laws of this State, or has been convicted and imprisoned for a crime;

(7) The applicant or any of the applicant's directors or officers, or any of the applicant's shareholders who hold more than 10% of the outstanding issued shares has been convicted of violating any of the prohibited acts defined in Chapter 47 of Title 16, the Uniform Controlled Substances Act, or its functional equivalent under the laws of the United States, any state or territory or any other country, including, but not limited to, the illegal manufacture, delivery, trafficking, possession or consumption of any controlled or noncontrolled substance, or the delivery or possession of illegal drug paraphernalia or illegal hypodermic syringes or needles, or the conspiracy, solicitation or other attempt to engage in such illegal activities;

(8) As to a restaurant applicant, the applicant has failed to designate a substantial portion of the premises' floor space, as determined by the Commissioner, to be used for the storage, preparation, service and consumption of complete meals;

(9) As to a restaurant applicant, the applicant's projected or actual receipts from the sale of complete meals fails to represent a substantial portion of the establishment's total gross receipts as determined by the Commissioner, provided that gross receipts received as payments from the State Lottery Office shall not be included by the Commissioner in the Commissioner's determination;

(10) As to a restaurant applicant, the applicant's proposed premises or any proposed extension of the premises of an existing licensed restaurant is protested in accordance with the provisions contained in § 541(b) of this title or any applicable Commissioner rule, and the Commissioner finds that substantial evidence exists to conclude that the establishment's primary purpose will be the serving of alcoholic liquor to patrons. In reaching its decision, the Commissioner shall consider factors including, but not limited to, the number and sizes of

bars in the establishment, the establishment's floor plan, an approximate percentage of the projected revenue to be derived from the sale of alcoholic liquor as compared to the percentage of revenue to be derived from the sale of complete meals, the establishment's seating capacity, storage and preparation area for food service, and the number of service employees employed, or to be employed, in the establishment and their functions.

(11) A substantial objection to the granting of the license has been presented by the community within which the license is to operate, or that the granting of such license is otherwise not in the public interest. For the purposes of this subsection, the term "substantial objection" shall include:

a. Any objection, or group of objections, presented to the Commissioner either individually or as a group, by persons who reside within the election district where the license is to operate and all contiguous election districts, sufficient to give the Commissioner reason to believe that a majority of the residents of the community within which the license is to operate oppose the issuance of the license; or

b. Any objection, or group of objections, presented to the Commissioner either individually or as a group, the content of which gives the Commissioner reason to believe the quality of life of the community within which the license is to operate will be adversely affected by the granting of the license.

(c) The Commissioner may refuse to grant a license to sell alcoholic liquor to any new establishment to be located in the vicinity of a church, school or college. The Commissioner may issue a license to any establishment located in the vicinity of a church, school or college when such establishment has been located in a place prior to the time any church, school or college may thereafter be located in the vicinity of such establishment.

(d) The Commissioner shall refuse to grant a license for the sale of alcoholic liquor by any store, or establishment for consumption off the premises, when there is an existing licensed establishment of similar type within a ½ mile by accessible public road or street in any incorporated city or town, or within 3 miles by accessible public road or street in any unincorporated or rural area measured in driving distance both ways between the existing and proposed establishments. This subsection does not apply to any of the following:

(1) An existing license or to the sale, transfer of ownership, or renewal of an existing license.

(2) A club licensed to sell off the premises where sold, farm winery, brewery-pub, microbrewery, or craft distillery.

(3) A licensee who desires to move the location of the license to a location within 500 feet thereof by accessible public road or street. However, a licensee located in a shopping center or shopping mall may move the location of the license any distance within the same shopping center or shopping mall, whether such center or mall consist of 1 or more than 1 separate buildings.

(4) [Repealed.]

(e) The Commissioner may grant a new license to a licensee who desires to move the location of the license due to the destruction of the building, loss of lease, diversion of highway traffic pattern, or similar reason beyond the control of the licensee, if the application meets all of the following:

(1) The requirements under subsection (d) of this section and all other requirements under this title.

(2) The location to which the licensee proposes to move meets either of the following:

a. If in an incorporated city or town, is within 500 feet of the existing location of the licensee.

b. If in an unincorporated or rural area, is within a ½ mile by accessible public road or street of the existing location of the licensee.

(f) (1) The Commissioner shall refuse to grant a license to sell alcoholic liquor to any restaurant or eating place located on or a part of the Delaware Turnpike.

(2) The Commissioner shall refuse to grant a license to sell alcoholic liquor to any new store located in an unincorporated area on or along any state highway listed in § 701(d) of Title 21 within 1½ miles of a Department of Motor Vehicles' facility on or along the same state highway.

(g) [Repealed.]

(h) Any existing restaurant which was licensed by the State to permit the sale of alcoholic beverages and which was in compliance with applicable state, county or municipal laws and regulations as of June 14, 1991 shall be permitted to continue to operate in the same manner as it was operating on said date so long as said license is in effect, notwithstanding any ordinance or other restriction subsequently enacted by a municipal corporation.

(i) The Commissioner shall refuse to grant a license for the sale of alcoholic liquor by any beer garden, taproom, or tavern establishment when there is an existing licensed establishment of any of these types within 1200 feet by accessible public road or street in any incorporated city or town, or within $^{9}/_{10}$ of a mile by accessible public road or street in any unincorporated or rural area measured in driving distance both ways between the existing and proposed establishments. This subsection does not apply to any of the following:

(1) An existing license or to the sale, transfer of ownership, or renewal of an existing license.

(2) A licensee who desires to move the location of the license to a location within 500 feet thereof by accessible public road or street. However, a licensee located in a shopping center or shopping mall may move the location of the license any distance within the same shopping center or shopping mall, whether the center or mall consists of 1 or more separate buildings.

(j) The Commissioner shall not grant a new license of any type and shall not grant an extension of premises of an existing license of any type unless the application for said new license or for said extension is accompanied by a Certificate of Compliance from the appropriate political subdivision showing:

(1) That the premises where the license is to be used are properly zoned for the applicant's intended use; and

(2) That all necessary permits have been approved; and

(3) That the applicant has complied with all other applicable licensing requirements of the appropriate political subdivision.

This subsection shall not apply to any application for a temporary extension of premises as authorized by Commissioner rule; provided, that any such application has not been objected to by the appropriate political subdivision which shall be provided with notice of the application by the applicant within 7 days of the date the application is filed with the Commissioner.

This subsection shall not apply to any extension of premises of an existing license granted by the Commissioner pursuant to § 524(i) of this title even if the State of Emergency is no longer in effect.

(k) (1) A municipality with a population of 50,000 or more may, by ordinance, promulgate rules for the location of any new establishment licensed to sell alcoholic liquor for consumption off of the premises that are more restrictive than those set forth in this section.

(2) The Commissioner shall refuse to grant a license for the sale of alcoholic liquor for consumption off of the premises that does not comply with a municipal ordinance promulgated pursuant to paragraph (k)(1) of this section.

(38 Del. Laws, c. 18, §§ 22, 24; Code 1935, §§ 6151, 6153; 4 Del. C. 1953, § 543; 54 Del. Laws, c. 324; 54 Del. Laws, c. 377, § 2; 55 Del. Laws, c. 116, § 1; 55 Del. Laws, c. 283, § 2; 55 Del. Laws, c. 342, §§ 1, 2; 55 Del. Laws, c. 446; 56 Del. Laws, c. 34; 57 Del. Laws, c. 708; 58 Del. Laws, c. 542; 59 Del. Laws, c. 107, §§ 34-37; 61 Del. Laws, c. 145, § 1; 63 Del. Laws, c. 373, § 1; 64 Del. Laws, c. 430, § 1; 66 Del. Laws, c. 178, § 1; 67 Del. Laws, c. 109, § 15; 68 Del. Laws, c. 44, §§ 1, 2; 69 Del. Laws, c. 338, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 435, §§ 4, 5; 72 Del. Laws, c. 157, § 1; 72 Del. Laws, c. 486, § 9; 78 Del. Laws, c. 285, § 21; 82 Del. Laws, c. 98, § 1; 82 Del. Laws, c. 247, §§ ? 3, 5; 83 Del. Laws, c. 9, § 3; 83 Del. Laws, c. 9, § 5; 83 Del. Laws, c. 56, § 106; 83 Del. Laws, c. 176, § 1; 83 Del. Laws, c. 284, § 3; 83 Del. Laws, c. 287, § 1; 84 Del. Laws, c. 37, § 2; 84 Del. Laws, c. 42, § 1; 85 Del. Laws, c. 373, § 1.)

§ 544 Finality of Commissioner's decision refusing license.

If an application is not timely protested, but the Commissioner determines that the application should nevertheless be denied, the Commissioner shall render the decision promptly in writing. The Commissioner's decision shall be final and conclusive unless, within 30 days after notice thereof has been mailed by the Commissioner's office, the applicant files an appeal in the office of the Commissioner. The appeal shall follow the procedure outlined in § 541 of this title.

(38 Del. Laws, c. 18, § 22; Code 1935, § 6151; 45 Del. Laws, c. 262, § 1; 4 Del. C. 1953, § 544; 59 Del. Laws, c. 107, § 38; 72 Del. Laws, c. 486, § 9; 73 Del. Laws, c. 133, § 3.)

§ 545 Improvements to premises.

The Commissioner may not require an applicant to make improvements to the premises before the issuance of a license; however, the Commissioner may issue a license to sell alcoholic liquor upon the condition that certain improvements shall be made to the premises.

(4 Del. C. 1953, § 545; 55 Del. Laws, c. 291; 59 Del. Laws, c. 107, § 39; 72 Del. Laws, c. 486, § 9.)

§ 546 Limit on number of package store licenses.

(a) (1) The General Assembly finds that, in order for the Commissioner to maintain effective control of the importation, distribution, and sale of alcoholic liquor into and within this State, and in order to prevent geographical price fixing of alcoholic liquor at the retail level, there must be a limitation placed on the number of package store licenses issued, held, controlled, or acquired directly or indirectly by 1 person.

(2) The General Assembly further finds that a limitation on the number of package store licenses held by 1 person is necessary to ensure a stable system for the lawful distribution of alcoholic liquor, serve the public need and convenience, and prevent the public harm associated with a monopoly of the package store alcoholic liquor trade by any person or group of persons, whether the package store licenses are held by a corporation, partnership, association, proprietorship, individual, or other entity.

(3) The General Assembly further finds that a reasonable restriction on the number of package store licenses held by 1 person will further this State's interest in maintaining a 3-tier system for the importation, distribution, and sale of alcoholic liquor by minimizing or limiting absentee ownership and the domination of package stores by suppliers, manufacturers, importers, or other economically powerful interests.

(4) Therefore, it is declared to be the public policy of this State that limitations, as specified under in this section, be placed on the number of package store licenses that a person may at 1 time hold, directly or indirectly, and that the Commissioner shall actively supervise and enforce these limitations.

(b) (1) The Commissioner shall refuse to grant a license for the sale of alcoholic liquor by any restaurant, taproom, hotel, package store, or other establishment for consumption off the premises where sold if the Commissioner has substantial evidence that would reasonably support a belief that the applicant; any of the applicant's directors, officers, or shareholders; or any of the applicant's partners, corporations, proprietorships, or other legal entities engaged in any undertaking, industry, or business is singularly, or in combination with the applicant, the holder of 2 or more package store licenses, or has any financial, pecuniary, beneficial, management, supervisory, or other interest whatsoever, direct or indirect, and however small, in 2 or more package store licenses.

(2) Nothing in this section requires any person who, prior to April 1, 1992, acquired an interest in more than 2 package store licenses to surrender, dispose of, or release the person's interest in the package store license and nothing in this section affects the person's right to continue to hold, use, and renew any such license.

(c) (1) For the purposes of this section, a person is deemed to acquire a financial, pecuniary, beneficial, management, supervisory, or other interest in a package store license to purchase and resell or dispense alcoholic liquor if the person or person's spouse or child under 21 years of age has 1 or more of the following:

a. Any interest whatsoever, direct or indirect, and however small, as a director, officer, shareholder, partner, associate, employee, or member in any corporation, partnership, association, proprietorship, or other entity engaged in any undertaking, industry, or business that holds a package store license under this chapter.

b. Any authority whatsoever to supervise, manage, control, or direct the operation of the licensee's business; to hire, terminate, or discipline the licensee's employees; or to issue any orders, policies, or directives concerning the licensee's business.

(2) For the purposes of this section, any person whose relationship with the licensee is, as determined by the Commissioner, merely that of a bona fide lender, lending institution, secured party, or lienholder, or merely that of a bona fide landlord or lessor of real or personal property, is not deemed to acquire a financial, pecuniary, beneficial, management, supervisory, or other interest in the package store license.

(d) The Commissioner may promulgate rules and regulations with respect to the enforcement and furtherance of the objectives and provisions of this section as the Commissioner may deem necessary. All rules and regulations that are not inconsistent with provisions of this title and the Code have the force and effect of law.

(68 Del. Laws, c. 376, § 1; 72 Del. Laws, c. 486, § 9; 85 Del. Laws, c. 269, § 17; 85 Del. Laws, c. 394, § 1.)

Subchapter IV

Certificate of License, Term of License and Fees

§ 551 Issuance of certificate.

If the Commissioner grants the license and payment therefor has been made, a certificate to that effect shall be issued. The certificate shall set forth the name, the kind of license granted, the date of expiration of the license, and if a license to manufacture or to sell or to keep in stock, the place or places in which it is to be manufactured, sold or kept.

(38 Del. Laws, c. 18, § 23; Code 1935, § 6152; 4 Del. C. 1953, § 551; 59 Del. Laws, c. 107, § 40; 72 Del. Laws, c. 486, § 9.)

§ 552 Term and expiration date of licenses.

All licenses issued under this title shall be valid for a period of 2 years, unless it is specifically stated in this title or by the Commissioner to be for a shorter period of time, or unless the license shall be cancelled, revoked or suspended by the Commissioner, or unless the license shall be surrendered by the licensee, or unless the license shall expire. The Commissioner shall determine the precise dates of the validity of a license issued under this title. A license issued by the Commissioner, which is not a renewal of a former license, within 3 months of the date the license would have to be renewed under the rules of the Commissioner may be made to terminate by the Commissioner 2 years after the first applicable biennial expiration date.

(38 Del. Laws, c. 18, § 25; Code 1935, § 6154; 4 Del. C. 1953, § 552; 57 Del. Laws, c. 404, § 3; 67 Del. Laws, c. 273, §§ 1, 26; 72 Del. Laws, c. 486, § 9.)

§ 553 Rate of payment for license issued for other than 2 years.

A license issued for a time other than 2 years shall be paid for when issued at the rate of one twenty-fourth of the biennial fee for each month of the term.

(38 Del. Laws, c. 18, § 25; Code 1935, § 6154; 4 Del. C. 1953, § 553; 67 Del. Laws, c. 273, §§ 2, 3.)

§ 554 License fees [Effective until Jan. 23, 2027].

(a) For a license to sell alcoholic liquor in a hotel or restaurant the biennial license fee shall be $1,000.

(b) For a license to sell alcoholic liquor on a boat the biennial license fee shall be $1,000.

(c) For a license to sell alcoholic liquor in the passenger cars of a railroad the biennial license fee shall be $600 for each railroad.

(d) For a license to sell alcoholic liquor in a club, to members of that club, the biennial license fee shall be $300 if the club has an active membership in good standing of less than 400 members; or $600 if the club has an active membership in good standing of 400 or more members.

(e) For a license to sell beer and/or wine only in a restaurant the biennial license fee shall be $500.

(f) For a license to sell beer only in a tavern the biennial license fee shall be $500.

(g) For a license to sell alcoholic liquors in a taproom the biennial license fee shall be $1,000.

(h) For a license to sell alcoholic liquor from a hotel, restaurant, taproom, or store, not for consumption on the premises, the biennial license fee shall be $1,000.

(i) For a license to sell alcoholic liquors at gatherings of persons, the license fee shall be as follows:

(1) For a group-type gathering license, the license fee shall be $5.00 for each such license granted, unless the said license shall be for a period of more than 2 days in which case the license fee shall be $5.00 plus the additional sum of $2.00 for each such additional day or unless the said license shall be for a Sunday, Thanksgiving, Christmas, or Easter, in which case the license fee shall be an additional

$5.00 for each such day.

(2) *Biennial license.* — a. For a biennial premises type gathering license for a facility in which not more than 25 gatherings of persons at which alcoholic liquors are to be sold are to be held, the biennial license fee shall be $200.

b. For a biennial premises type gathering license for a facility in which more than 25 but not more than 75 such gatherings of persons are to be held, the biennial license fee shall be $400.

c. For a biennial premises type gathering license for a facility in which more than 75 such gatherings of persons are to be held, the biennial license fee shall be $1,000.

d. For the holder of a biennial premises type gathering license to sell alcoholic liquor on a Sunday, Thanksgiving, Christmas, or Easter, the biennial license fee shall be:

1. An additional $200 for a license issued pursuant to paragraph (i)(2)a. of this section;
2. An additional $300 for a license issued pursuant to paragraph (i)(2)b. of this section; and
3. An additional $400 for a license issued pursuant to paragraph (i)(2)c. of this section.

(j) For a license to "manufacture" and to "sell" beer and cider, the biennial license fee shall be based upon annual production and shall be computed as follows: $1,500 for a brewery or microbrewery manufacturing not more than 25,000 barrels of beer and cider per year; $3,000 for a microbrewery or brewery manufacturing more than 25,000 but not more than 50,000 barrels of beer and cider per year; $6,000 for a microbrewery or brewery manufacturing more than 50,000 but not more than 100,000 barrels of beer and cider per year; and $9,000 for a microbrewery or brewery manufacturing more than 100,000 barrels of beer and cider per year.

(k) For a license to operate a distillery for distillation or rectification, the biennial license fee shall be based upon annual production and shall be computed as follows: For the first 500 gallons, $100; for the next 5,000 gallons, or fraction thereof, at the rate of 6 cents per gallon; for the next 10,000 gallons, or fraction thereof, at the rate of 4.5 cents per gallon; for the next 50,000 gallons, or fraction thereof, at the rate of 3 cents per gallon; for the next 100,000 gallons, or fraction thereof, at the rate of 1.5 cents per gallon; for each gallon in excess of 165,500 gallons, at the rate of three quarters cent per gallon.

(*l*) For a license to bottle beer the biennial license fee shall be $100 for the first 500 barrels or less, and $100 for each additional 500 barrels, or fraction, bottled.

(m) For a license to operate a winery or to bottle and sell wine the biennial license fee shall be $1,500.

(n) For a license to import or to ship alcoholic liquor, other than beer and wine, into this State and to sell and deliver such alcoholic liquor as provided in this chapter the biennial license fee shall be $7,500; but a sale and delivery of alcoholic liquor to pharmacists, physicians, dentists, veterinarians, wholesale druggists, manufacturing plants where the alcohol is used in scientific work, or for the manufacture of pharmaceutical products shall not be subject to the license fee.

(o) For a license to import or to ship beer into this State and to sell and deliver such beer the biennial license fee shall be $3,000; and for a license to import or to ship unlimited amounts of wine into this State and to sell and deliver such wine the biennial license fee shall be $3,000. A license for a limited wine importer, an importer that imports, sells and delivers less than 1000 cases of wine per year, shall be $200. A limited wine importer need not pay the application fee required by subsection (x) of this section.

(p) For a license to sell alcoholic liquor as an off-site caterer the biennial license fee shall be $500.

(q) For a license to transport a stock of alcoholic liquor from the place where sale or storage of such stock has been authorized to another location, the license fee shall be fixed by the Commissioner.

(r) For a license to purchase sacramental wine, no license fee shall be charged.

(s) For a temporary license, the license fee shall be not less than ½ nor more than double the amount of the annual license fee for a regular license for the same privilege, in the discretion of the Commissioner.

(t) For a license to sell alcoholic liquor at a horse racetrack the biennial license fee shall be $3,000.

(u) For a license to sell alcoholic liquor at a motorsports speedway the biennial license fee shall be $3,000.

(v) For license to sell alcoholic liquors as a ship's chandler the biennial license fee shall be $1,000.

(w) For a license for a multiple activity club to sell alcoholic beverages to any person who is a member of such club or a guest of a member of such club, the biennial license fee shall be $1,500.

(x) *Application process fee.* — If any application for a license under this title requires any investigation by the staff or a hearing by the Commissioner before the Commissioner reaches a decision on the application, the applicant shall pay an application process fee of $1,000 in addition to any other fees required by this title or the rules of the Commissioner. The application process fee is not refundable regardless of the decision of the Commissioner. This provision for an application process fee does not apply to a gathering of persons under § 514 of this title, a limited suppliers license issued pursuant to § 501 of this title, a license to sell on Sunday, and a tasting permit. This provision for an application process fee shall not apply to applications for change of officers, directors or stockholders of a corporate licensee if there is no change in the majority of stockholders or majority of directors. Six hundred dollars of the application process fee shall be retained by the Commissioner and deposited in a special fund for the sole purpose of providing for the implementation, administration and enforcement of the Delaware Responsible Alcoholic Beverage Server Training Program established pursuant to Chapter 12 of this title.

(y) For a license to sell alcoholic liquor in a dinner theater the biennial license fee shall be $1,000.

(z) For a license to sell alcoholic liquors as a caterer for consumption on the premises where sold the biennial license fee shall be $1,000.

(aa) For a license as a "bottle club" authorized by § 515A of this title the biennial license fee shall be $300.

(bb) For a license to sell alcoholic liquors in a cabaret the biennial license fee shall be $2,000.

(cc) For a license as an air passenger carrier, as defined in § 512(i) of this title, the biennial license fee shall be $1,000.

(dd) For a license to conduct wine auctions the biennial license fee shall be $1,500. For a gathering license to conduct a wine auction by a nonprofit organization the fee shall be $50 per event.

(ee) For a license to permit spirits, wine and beer tasting the biennial license fee shall be $150.

(ff) For a farm winery license the biennial license fee shall be $1,500.

(gg) For a brewery-pub license the biennial license fee shall be $2,000.

(hh) For a license to sell alcoholic liquors at a multi-purpose sports facility the biennial license fee shall be $3,000.

(ii) For a license to sell alcoholic liquors at a bowling alley the biennial license fee shall be $1,000.

(jj) For a license as a "direct shipper" as provided in § 526 of this title, the biennial license fee shall be $400, unless the direct shipper licensee ships more than 200 cases annually to residents of this State, in which case the biennial license fee shall be $3,600.

(kk) Each of the licensees identified in subsections (a) through (h), (t) through (w), (y), (z), (bb), (cc), (dd), (ff), (gg), (hh), (ii), (mm), (qq), and (rr) of this section, shall pay an additional annual fee of $100. The Commissioner shall deposit the additional annual fees into a special account designated as the "Overservice Investigation Fund." The Overservice Investigation Fund must be utilized by the Division of Alcohol, Tobacco, and Marijuana Enforcement to pay overtime to its officers, to hire and equip additional officers, or both for the purpose of investigating and prosecuting licensees that serve intoxicated individuals.

(*ll*) For a permit to sell alcoholic liquors on a patio, the biennial fee shall be $1,000. If the holder of a patio permit desires a variance to Rule 42.1 [4 DE Admin. Code § 704, formerly Rule 42.1], or a subsequently adopted rule, the biennial variance permit fee shall be $100 per variance.

(mm) For a license to sell alcoholic liquor in a concert hall the biennial fee shall be $1,500.

(nn) For a license as a "craft distillery" as provided in § 512E of this title the biennial license fee shall be $1,500.

(oo) For a "temporary large event" license as provided in § 512F of this title, the fee shall be $500 for each temporary large event and no application process fee as permitted under subsection (x) of this section shall be assessed.

(pp) For a growler filler permit as provided in § 516(a) of this title, the biennial license fee shall be $150.

(qq) For a license to sell alcoholic liquor in a movie theater the biennial fee shall be $1,500.

(rr) For a license to sell alcoholic liquor in a beer garden, the biennial fee shall be $2,000. The holder of a beer garden license is not required to have a patio permit, but if the beer garden license holder desires a variance to Rule 42.1 (4 DE Admin. Code § 704, formerly Rule 42.1), or a subsequently adopted rule, the biennial variance permit fee shall be $100 per variance.

(ss) For a license to provide third-party delivery services as provided in § 512 of this title, the biennial fee shall be $1,000.

(tt) For a common carrier license to transport wine from a wine direct shipper licensee to a household in this State, the biennial license fee shall be $500.

(uu) For a special event license issued under § 512H of this title, the biennial license fee is as follows:

(1) $1,000 for a license to hold 12 or fewer special events per calendar year.

(2) $ 2,000 for a license to hold more than 12 special events per calendar year.

(38 Del. Laws, c. 18, § 30; 39 Del. Laws, c. 6; Code 1935, § 6159; 41 Del. Laws, c. 247, § 1; 41 Del. Laws, c. 248, §§ 1, 2; 42 Del. Laws, c. 191, § 4; 44 Del. Laws, c. 203, § 5; 4 Del. C. 1953, § 555; 49 Del. Laws, c. 341; 49 Del. Laws, c. 342, §§ 1-12; 50 Del. Laws, c. 424, §§ 1, 2; 54 Del. Laws, c. 377, § 3; 55 Del. Laws, c. 82, §§ 4, 5; 55 Del. Laws, c. 283, § 3; 55 Del. Laws, c. 416, §§ 1-3; 56 Del. Laws, c. 311, § 4; 56 Del. Laws, c. 335, §§ 6-8; 57 Del. Laws, c. 404, § 4; 57 Del. Laws, c. 448; 59 Del. Laws, c. 107, § 42; 60 Del. Laws, c. 466, §§ 4-6; 63 Del. Laws, c. 232, § 4; 64 Del. Laws, c. 436, § 1; 64 Del. Laws, c. 437, § 2; 65 Del. Laws, c. 152, § 1; 65 Del. Laws, c. 283, § 3; 67 Del. Laws, c. 109, § 16; 67 Del. Laws, c. 273, §§ 4-22; 68 Del. Laws, c. 107, § 2; 68 Del. Laws, c. 168, § 2; 68 Del. Laws, c. 205, § 2; 69 Del. Laws, c. 6, § 4; 70 Del. Laws, c. 353, § 3; 71 Del. Laws, c. 182, § 2; 71 Del. Laws, c. 211, § 4; 71 Del. Laws, c. 383, § 3; 72 Del. Laws, c. 486, § 9; 73 Del. Laws, c. 244, § 9; 73 Del. Laws, c. 393, § 3; 75 Del. Laws, c. 80, § 9; 75 Del. Laws, c. 253, §§ 1, 2; 77 Del. Laws, c. 72, § 1; 78 Del. Laws, c. 220, § 3; 78 Del. Laws, c. 251, § 2; 79 Del. Laws, c. 6, § 3; 79 Del. Laws, c. 23, § 2; 79 Del. Laws, c. 308, § 3; 80 Del. Laws, c. 62, § 1; 81 Del. Laws, c. 69, § 3; 81 Del. Laws, c. 79, § 1; 84 Del. Laws, c. 442, § 2; 85 Del. Laws, c. 269, § 18; 85 Del. Laws, c. 139, § 3; 85 Del. Laws, c. 518, § 4.)

§ 554 License fees [Effective Jan. 23, 2027; Effective until July 23, 2029].

(a) For a license to sell alcoholic liquor in a hotel or restaurant the biennial license fee shall be $1,000.

(b) For a license to sell alcoholic liquor on a boat the biennial license fee shall be $1,000.

(c) For a license to sell alcoholic liquor in the passenger cars of a railroad the biennial license fee shall be $600 for each railroad.

(d) For a license to sell alcoholic liquor in a club, to members of that club, the biennial license fee shall be $300 if the club has an active membership in good standing of less than 400 members; or $600 if the club has an active membership in good standing of 400 or more members.

(e) For a license to sell beer and/or wine only in a restaurant the biennial license fee shall be $500.

(f) For a license to sell beer only in a tavern the biennial license fee shall be $500.

(g) For a license to sell alcoholic liquors in a taproom the biennial license fee shall be $1,000.

(h) For a license to sell alcoholic liquor from a hotel, restaurant, taproom, or store, not for consumption on the premises, the biennial license fee shall be $1,000.

(i) For a license to sell alcoholic liquors at gatherings of persons, the license fee shall be as follows:

(1) For a group-type gathering license, the license fee shall be $5.00 for each such license granted, unless the said license shall be for a period of more than 2 days in which case the license fee shall be $5.00 plus the additional sum of $2.00 for each such additional day or unless the said license shall be for a Sunday, Thanksgiving, Christmas, or Easter, in which case the license fee shall be an additional $5.00 for each such day.

(2) *Biennial license.* — a. For a biennial premises type gathering license for a facility in which not more than 25 gatherings of persons at which alcoholic liquors are to be sold are to be held, the biennial license fee shall be $200.

b. For a biennial premises type gathering license for a facility in which more than 25 but not more than 75 such gatherings of persons are to be held, the biennial license fee shall be $400.

c. For a biennial premises type gathering license for a facility in which more than 75 such gatherings of persons are to be held, the biennial license fee shall be $1,000.

d. For the holder of a biennial premises type gathering license to sell alcoholic liquor on a Sunday, Thanksgiving, Christmas, or Easter, the biennial license fee shall be:

1. An additional $200 for a license issued pursuant to paragraph (i)(2)a. of this section;
2. An additional $300 for a license issued pursuant to paragraph (i)(2)b. of this section; and
3. An additional $400 for a license issued pursuant to paragraph (i)(2)c. of this section.

(j) For a license to "manufacture" and to "sell" beer and cider, the biennial license fee shall be based upon annual production and shall be computed as follows: $1,500 for a brewery or microbrewery manufacturing not more than 25,000 barrels of beer and cider per year; $3,000 for a microbrewery or brewery manufacturing more than 25,000 but not more than 50,000 barrels of beer and cider per year; $6,000 for a microbrewery or brewery manufacturing more than 50,000 but not more than 100,000 barrels of beer and cider per year; and $9,000 for a microbrewery or brewery manufacturing more than 100,000 barrels of beer and cider per year.

(k) For a license to operate a distillery for distillation or rectification, the biennial license fee shall be based upon annual production and shall be computed as follows: For the first 500 gallons, $100; for the next 5,000 gallons, or fraction thereof, at the rate of 6 cents per gallon; for the next 10,000 gallons, or fraction thereof, at the rate of 4.5 cents per gallon; for the next 50,000 gallons, or fraction thereof, at the rate of 3 cents per gallon; for the next 100,000 gallons, or fraction thereof, at the rate of 1.5 cents per gallon; for each gallon in excess of 165,500 gallons, at the rate of three quarters cent per gallon.

(*l*) For a license to bottle beer the biennial license fee shall be $100 for the first 500 barrels or less, and $100 for each additional 500 barrels, or fraction, bottled.

(m) For a license to operate a winery or to bottle and sell wine the biennial license fee shall be $1,500.

(n) For a license to import or to ship alcoholic liquor, other than beer and wine, into this State and to sell and deliver such alcoholic liquor as provided in this chapter the biennial license fee shall be $7,500; but a sale and delivery of alcoholic liquor to pharmacists, physicians, dentists, veterinarians, wholesale druggists, manufacturing plants where the alcohol is used in scientific work, or for the manufacture of pharmaceutical products shall not be subject to the license fee.

(o) For a license to import or to ship beer into this State and to sell and deliver such beer the biennial license fee shall be $3,000; and for a license to import or to ship unlimited amounts of wine into this State and to sell and deliver such wine the biennial license fee shall be $3,000. A license for a limited wine importer, an importer that imports, sells and delivers less than 1000 cases of wine per year, shall be $200. A limited wine importer need not pay the application fee required by subsection (x) of this section.

(p) For a license to sell alcoholic liquor as an off-site caterer the biennial license fee shall be $500.

(q) For a license to transport a stock of alcoholic liquor from the place where sale or storage of such stock has been authorized to another location, the license fee shall be fixed by the Commissioner.

(r) For a license to purchase sacramental wine, no license fee shall be charged.

(s) For a temporary license, the license fee shall be not less than ½ nor more than double the amount of the annual license fee for a regular license for the same privilege, in the discretion of the Commissioner.

(t) For a license to sell alcoholic liquor at a horse racetrack the biennial license fee shall be $3,000.

(u) For a license to sell alcoholic liquor at a motorsports speedway the biennial license fee shall be $3,000.

(v) For license to sell alcoholic liquors as a ship's chandler the biennial license fee shall be $1,000.

(w) For a license for a multiple activity club to sell alcoholic beverages to any person who is a member of such club or a guest of a member of such club, the biennial license fee shall be $1,500.

(x) *Application process fee.* — If any application for a license under this title requires any investigation by the staff or a hearing by the Commissioner before the Commissioner reaches a decision on the application, the applicant shall pay an application process fee of $1,000 in addition to any other fees required by this title or the rules of the Commissioner. The application process fee is not refundable regardless of the decision of the Commissioner. This provision for an application process fee does not apply to a gathering of persons under § 514 of this title, a limited suppliers license issued pursuant to § 501 of this title, a license to sell on Sunday, and a tasting permit. This provision for an application process fee shall not apply to applications for change of officers, directors or stockholders of a corporate licensee if there is no change in the majority of stockholders or majority of directors. Six hundred dollars of the application process fee shall be retained by the Commissioner and deposited in a special fund for the sole purpose of providing for the implementation, administration and enforcement of the Delaware Responsible Alcoholic Beverage Server Training Program established pursuant to Chapter 12 of this title.

(y) For a license to sell alcoholic liquor in a dinner theater the biennial license fee shall be $1,000.

(z) For a license to sell alcoholic liquors as a caterer for consumption on the premises where sold the biennial license fee shall be $1,000.

(aa) For a license as a "bottle club" authorized by § 515A of this title the biennial license fee shall be $300.

(bb) For a license to sell alcoholic liquors in a cabaret the biennial license fee shall be $2,000.

(cc) For a license as an air passenger carrier, as defined in § 512(i) of this title, the biennial license fee shall be $1,000.

(dd) For a license to conduct wine auctions the biennial license fee shall be $1,500. For a gathering license to conduct a wine auction by a nonprofit organization the fee shall be $50 per event.

(ee) For a license to permit spirits, wine and beer tasting the biennial license fee shall be $150.

(ff) For a farm winery license the biennial license fee shall be $1,500.

(gg) For a brewery-pub license the biennial license fee shall be $2,000.

(hh) For a license to sell alcoholic liquors at a multi-purpose sports facility the biennial license fee shall be $3,000.

(ii) For a license to sell alcoholic liquors at a bowling alley the biennial license fee shall be $1,000.

(jj) For a license as a "direct shipper" as provided in § 526 of this title, the biennial license fee shall be $400, unless the direct shipper licensee ships more than 200 cases annually to residents of this State, in which case the biennial license fee shall be $3,600.

(kk) Each of the licensees identified in subsections (a) through (h), (t) through (w), (y), (z), (bb), (cc), (dd), (ff), (gg), (hh), (ii), (mm), (qq), and (rr) of this section, shall pay an additional annual fee of $100. The Commissioner shall deposit the additional annual fees into a special account designated as the "Overservice Investigation Fund." The Overservice Investigation Fund must be utilized by the Division of Alcohol, Tobacco, and Marijuana Enforcement to pay overtime to its officers, to hire and equip additional officers, or both for the purpose of investigating and prosecuting licensees that serve intoxicated individuals.

(*ll*) For a permit to sell alcoholic liquors on a patio, the biennial fee shall be $1,000. If the holder of a patio permit desires a variance to Rule 42.1 [4 DE Admin. Code § 704, formerly Rule 42.1], or a subsequently adopted rule, the biennial variance permit fee shall be $100 per variance.

(mm) For a license to sell alcoholic liquor in a concert hall the biennial fee shall be $1,500.

(nn) For a license as a "craft distillery" as provided in § 512E of this title the biennial license fee shall be $1,500.

(oo) For a "temporary large event" license as provided in § 512F of this title, the fee shall be $500 for each temporary large event and no application process fee as permitted under subsection (x) of this section shall be assessed.

(pp) For a growler filler permit as provided in § 516(a) of this title, the biennial license fee shall be $150.

(qq) For a license to sell alcoholic liquor in a movie theater the biennial fee shall be $1,500.

(rr) For a license to sell alcoholic liquor in a beer garden, the biennial fee shall be $2,000. The holder of a beer garden license is not required to have a patio permit, but if the beer garden license holder desires a variance to Rule 42.1 (4 DE Admin. Code § 704, formerly Rule 42.1), or a subsequently adopted rule, the biennial variance permit fee shall be $100 per variance.

(ss) For a license to provide third-party delivery services as provided in §§ 512 and 516 of this title, the biennial fee shall be $1,000.

(tt) For a common carrier license to transport wine from a wine direct shipper licensee to a household in this State, the biennial license fee shall be $500.

(uu) For a special event license issued under § 512H of this title, the biennial license fee is as follows:

(1) $1,000 for a license to hold 12 or fewer special events per calendar year.

(2) $ 2,000 for a license to hold more than 12 special events per calendar year.

(38 Del. Laws, c. 18, § 30; 39 Del. Laws, c. 6; Code 1935, § 6159; 41 Del. Laws, c. 247, § 1; 41 Del. Laws, c. 248, §§ 1, 2; 42 Del. Laws, c. 191, § 4; 44 Del. Laws, c. 203, § 5; 4 Del. C. 1953, § 555; 49 Del. Laws, c. 341; 49 Del. Laws, c. 342, §§ 1-12; 50 Del. Laws, c. 424, §§ 1, 2; 54 Del. Laws, c. 377, § 3; 55 Del. Laws, c. 82, §§ 4, 5; 55 Del. Laws, c. 283, § 3; 55 Del. Laws, c. 416, §§ 1-3; 56 Del. Laws, c. 311, § 4; 56 Del. Laws, c. 335, §§ 6-8; 57 Del. Laws, c. 404, § 4; 57 Del. Laws, c. 448; 59 Del. Laws, c. 107, § 42; 60 Del. Laws, c. 466, §§ 4-6; 63 Del. Laws, c. 232, § 4; 64 Del. Laws, c. 436, § 1; 64 Del. Laws, c. 437, § 2; 65 Del. Laws, c. 152, § 1; 65 Del. Laws, c. 283, § 3; 67 Del. Laws, c. 109, § 16; 67 Del. Laws, c. 273, §§ 4-22; 68 Del. Laws, c. 107, § 2; 68 Del. Laws, c. 168, § 2; 68 Del. Laws, c. 205, § 2; 69 Del. Laws, c. 6, § 4; 70 Del. Laws, c. 353, § 3; 71 Del. Laws, c. 182, § 2; 71 Del. Laws, c. 211, § 4; 71 Del. Laws, c. 383, § 3; 72 Del. Laws, c. 486, § 9; 73 Del. Laws, c. 244, § 9; 73 Del. Laws, c. 393, § 3; 75 Del. Laws, c. 80, § 9; 75 Del. Laws, c. 253, §§ 1, 2; 77 Del. Laws, c. 72, § 1; 78 Del. Laws, c. 220, § 3; 78 Del. Laws, c. 251, § 2; 79 Del. Laws, c. 6, § 3; 79 Del. Laws, c. 23, § 2; 79 Del. Laws, c. 308, § 3; 80 Del. Laws, c. 62, § 1; 81 Del. Laws, c. 69, § 3; 81 Del. Laws, c. 79, § 1; 84 Del. Laws, c. 442, § 2; 85 Del. Laws, c. 269, § 18; 85 Del. Laws, c. 366, § 2; 85 Del. Laws, c. 139, § 3; 85 Del. Laws, c. 518, § 4.)

§ 554 License fees [Effective July 23, 2029; Effective until Aug. 15, 2030].

(a) For a license to sell alcoholic liquor in a hotel or restaurant the biennial license fee shall be $1,000.

(b) For a license to sell alcoholic liquor on a boat the biennial license fee shall be $1,000.

(c) For a license to sell alcoholic liquor in the passenger cars of a railroad the biennial license fee shall be $600 for each railroad.

(d) For a license to sell alcoholic liquor in a club, to members of that club, the biennial license fee shall be $300 if the club has an active membership in good standing of less than 400 members; or $600 if the club has an active membership in good standing of 400 or more members.

(e) For a license to sell beer and/or wine only in a restaurant the biennial license fee shall be $500.

(f) For a license to sell beer only in a tavern the biennial license fee shall be $500.

(g) For a license to sell alcoholic liquors in a taproom the biennial license fee shall be $1,000.

(h) For a license to sell alcoholic liquor from a hotel, restaurant, taproom, or store, not for consumption on the premises, the biennial license fee shall be $1,000.

(i) For a license to sell alcoholic liquors at gatherings of persons, the license fee shall be as follows:

(1) For a group-type gathering license, the license fee shall be $5.00 for each such license granted, unless the said license shall be for a period of more than 2 days in which case the license fee shall be $5.00 plus the additional sum of $2.00 for each such additional day or unless the said license shall be for a Sunday, Thanksgiving, Christmas, or Easter, in which case the license fee shall be an additional $5.00 for each such day.

(2) *Biennial license.* — a. For a biennial premises type gathering license for a facility in which not more than 25 gatherings of persons at which alcoholic liquors are to be sold are to be held, the biennial license fee shall be $200.

b. For a biennial premises type gathering license for a facility in which more than 25 but not more than 75 such gatherings of persons are to be held, the biennial license fee shall be $400.

c. For a biennial premises type gathering license for a facility in which more than 75 such gatherings of persons are to be held, the biennial license fee shall be $1,000.

d. For the holder of a biennial premises type gathering license to sell alcoholic liquor on a Sunday, Thanksgiving, Christmas, or Easter, the biennial license fee shall be:

1. An additional $200 for a license issued pursuant to paragraph (i)(2)a. of this section;
2. An additional $300 for a license issued pursuant to paragraph (i)(2)b. of this section; and
3. An additional $400 for a license issued pursuant to paragraph (i)(2)c. of this section.

(j) For a license to "manufacture" and to "sell" beer and cider, the biennial license fee shall be based upon annual production and shall be computed as follows: $1,500 for a brewery or microbrewery manufacturing not more than 25,000 barrels of beer and cider per year; $3,000 for a microbrewery or brewery manufacturing more than 25,000 but not more than 50,000 barrels of beer and cider per year; $6,000 for a microbrewery or brewery manufacturing more than 50,000 but not more than 100,000 barrels of beer and cider per year; and $9,000 for a microbrewery or brewery manufacturing more than 100,000 barrels of beer and cider per year.

(k) For a license to operate a distillery for distillation or rectification, the biennial license fee shall be based upon annual production and shall be computed as follows: For the first 500 gallons, $100; for the next 5,000 gallons, or fraction thereof, at the rate of 6 cents per gallon; for the next 10,000 gallons, or fraction thereof, at the rate of 4.5 cents per gallon; for the next 50,000 gallons, or fraction thereof, at the rate of 3 cents per gallon; for the next 100,000 gallons, or fraction thereof, at the rate of 1.5 cents per gallon; for each gallon in excess of 165,500 gallons, at the rate of three quarters cent per gallon.

(*l*) For a license to bottle beer the biennial license fee shall be $100 for the first 500 barrels or less, and $100 for each additional 500 barrels, or fraction, bottled.

(m) For a license to operate a winery or to bottle and sell wine the biennial license fee shall be $1,500.

(n) For a license to import or to ship alcoholic liquor, other than beer and wine, into this State and to sell and deliver such alcoholic liquor as provided in this chapter the biennial license fee shall be $7,500; but a sale and delivery of alcoholic liquor to pharmacists, physicians, dentists, veterinarians, wholesale druggists, manufacturing plants where the alcohol is used in scientific work, or for the manufacture of pharmaceutical products shall not be subject to the license fee.

(o) For a license to import or to ship beer into this State and to sell and deliver such beer the biennial license fee shall be $3,000; and for a license to import or to ship unlimited amounts of wine into this State and to sell and deliver such wine the biennial license fee shall be $3,000. A license for a limited wine importer, an importer that imports, sells and delivers less than 1000 cases of wine per year, shall be $200. A limited wine importer need not pay the application fee required by subsection (x) of this section.

(p) For a license to sell alcoholic liquor as an off-site caterer the biennial license fee shall be $500.

(q) For a license to transport a stock of alcoholic liquor from the place where sale or storage of such stock has been authorized to another location, the license fee shall be fixed by the Commissioner.

(r) For a license to purchase sacramental wine, no license fee shall be charged.

(s) For a temporary license, the license fee shall be not less than ½ nor more than double the amount of the annual license fee for a regular license for the same privilege, in the discretion of the Commissioner.

(t) For a license to sell alcoholic liquor at a horse racetrack the biennial license fee shall be $3,000.

(u) For a license to sell alcoholic liquor at a motorsports speedway the biennial license fee shall be $3,000.

(v) For license to sell alcoholic liquors as a ship's chandler the biennial license fee shall be $1,000.

(w) For a license for a multiple activity club to sell alcoholic beverages to any person who is a member of such club or a guest of a member of such club, the biennial license fee shall be $1,500.

(x) *Application process fee.* — If any application for a license under this title requires any investigation by the staff or a hearing by the Commissioner before the Commissioner reaches a decision on the application, the applicant shall pay an application process fee of $1,000 in addition to any other fees required by this title or the rules of the Commissioner. The application process fee is not refundable regardless of the decision of the Commissioner. This provision for an application process fee does not apply to a gathering of persons under § 514 of this title, a limited suppliers license issued pursuant to § 501 of this title, a license to sell on Sunday, and a tasting permit. This provision for an application process fee shall not apply to applications for change of officers, directors or stockholders of a corporate licensee if there

is no change in the majority of stockholders or majority of directors. Six hundred dollars of the application process fee shall be retained by the Commissioner and deposited in a special fund for the sole purpose of providing for the implementation, administration and enforcement of the Delaware Responsible Alcoholic Beverage Server Training Program established pursuant to Chapter 12 of this title.

(y) For a license to sell alcoholic liquor in a dinner theater the biennial license fee shall be $1,000.

(z) For a license to sell alcoholic liquors as a caterer for consumption on the premises where sold the biennial license fee shall be $1,000.

(aa) For a license as a "bottle club" authorized by § 515A of this title the biennial license fee shall be $300.

(bb) For a license to sell alcoholic liquors in a cabaret the biennial license fee shall be $2,000.

(cc) For a license as an air passenger carrier, as defined in § 512(i) of this title, the biennial license fee shall be $1,000.

(dd) For a license to conduct wine auctions the biennial license fee shall be $1,500. For a gathering license to conduct a wine auction by a nonprofit organization the fee shall be $50 per event.

(ee) For a license to permit spirits, wine and beer tasting the biennial license fee shall be $150.

(ff) For a farm winery license the biennial license fee shall be $1,500.

(gg) For a brewery-pub license the biennial license fee shall be $2,000.

(hh) For a license to sell alcoholic liquors at a multi-purpose sports facility the biennial license fee shall be $3,000.

(ii) For a license to sell alcoholic liquors at a bowling alley the biennial license fee shall be $1,000.

(jj) For a license as a "direct shipper" as provided in § 526 of this title, the biennial license fee shall be $400, unless the direct shipper licensee ships more than 200 cases annually to residents of this State, in which case the biennial license fee shall be $3,600.

(kk) Each of the licensees identified in subsections (a) through (h), (t) through (w), (y), (z), (bb), (cc), (dd), (ff), (gg), (hh), (ii), (mm), (qq), and (rr) of this section, shall pay an additional annual fee of $100. The Commissioner shall deposit the additional annual fees into a special account designated as the "Overservice Investigation Fund." The Overservice Investigation Fund must be utilized by the Division of Alcohol, Tobacco, and Marijuana Enforcement to pay overtime to its officers, to hire and equip additional officers, or both for the purpose of investigating and prosecuting licensees that serve intoxicated individuals.

(*ll*) For a permit to sell alcoholic liquors on a patio, the biennial fee shall be $1,000. If the holder of a patio permit desires a variance to Rule 42.1 [4 DE Admin. Code § 704, formerly Rule 42.1], or a subsequently adopted rule, the biennial variance permit fee shall be $100 per variance.

(mm) For a license to sell alcoholic liquor in a concert hall the biennial fee shall be $1,500.

(nn) For a license as a "craft distillery" as provided in § 512E of this title the biennial license fee shall be $1,500.

(oo) For a "temporary large event" license as provided in § 512F of this title, the fee shall be $500 for each temporary large event and no application process fee as permitted under subsection (x) of this section shall be assessed.

(pp) For a growler filler permit as provided in § 516(a) of this title, the biennial license fee shall be $150.

(qq) For a license to sell alcoholic liquor in a movie theater the biennial fee shall be $1,500.

(rr) For a license to sell alcoholic liquor in a beer garden, the biennial fee shall be $2,000. The holder of a beer garden license is not required to have a patio permit, but if the beer garden license holder desires a variance to Rule 42.1 (4 DE Admin. Code § 704, formerly Rule 42.1), or a subsequently adopted rule, the biennial variance permit fee shall be $100 per variance.

(ss) For a license to provide third-party delivery services as provided in § 512 of this title, the biennial fee shall be $1,000.

(tt) For a common carrier license to transport wine from a wine direct shipper licensee to a household in this State, the biennial license fee shall be $500.

(uu) For a special event license issued under § 512H of this title, the biennial license fee is as follows:

(1) $1,000 for a license to hold 12 or fewer special events per calendar year.

(2) $ 2,000 for a license to hold more than 12 special events per calendar year.

(38 Del. Laws, c. 18, § 30; 39 Del. Laws, c. 6; Code 1935, § 6159; 41 Del. Laws, c. 247, § 1; 41 Del. Laws, c. 248, §§ 1, 2; 42 Del. Laws, c. 191, § 4; 44 Del. Laws, c. 203, § 5; 4 Del. C. 1953, § 555; 49 Del. Laws, c. 341; 49 Del. Laws, c. 342, §§ 1-12; 50 Del. Laws, c. 424, §§ 1, 2; 54 Del. Laws, c. 377, § 3; 55 Del. Laws, c. 82, §§ 4, 5; 55 Del. Laws, c. 283, § 3; 55 Del. Laws, c. 416, §§ 1-3; 56 Del. Laws, c. 311, § 4; 56 Del. Laws, c. 335, §§ 6-8; 57 Del. Laws, c. 404, § 4; 57 Del. Laws, c. 448; 59 Del. Laws, c. 107, § 42; 60 Del. Laws, c. 466, §§ 4-6; 63 Del. Laws, c. 232, § 4; 64 Del. Laws, c. 436, § 1; 64 Del. Laws, c. 437, § 2; 65 Del. Laws, c. 152, § 1; 65 Del. Laws, c. 283, § 3; 67 Del. Laws, c. 109, § 16; 67 Del. Laws, c. 273, §§ 4-22; 68 Del. Laws, c. 107, § 2; 68 Del. Laws, c. 168, § 2; 68 Del. Laws, c. 205, § 2; 69 Del. Laws, c. 6, § 4; 70 Del. Laws, c. 353, § 3; 71 Del. Laws, c. 182, § 2; 71 Del. Laws, c. 211, § 4; 71 Del. Laws, c. 383, § 3; 72 Del. Laws, c. 486, § 9; 73 Del. Laws, c. 244, § 9; 73 Del. Laws, c. 393, § 3; 75 Del. Laws, c. 80, § 9; 75 Del. Laws, c. 253, §§ 1, 2; 77 Del. Laws, c. 72, § 1; 78 Del. Laws, c. 220, § 3; 78 Del. Laws, c. 251, § 2; 79 Del. Laws, c. 6, § 3; 79 Del. Laws, c. 23, § 2; 79 Del. Laws, c. 308, § 3; 80 Del. Laws, c. 62, § 1; 81 Del. Laws, c. 69, § 3; 81 Del. Laws, c. 79, § 1; 84 Del. Laws, c. 442, § 2; 85 Del. Laws, c. 269, § 18; 85 Del. Laws, c. 139, § 3; 85 Del. Laws, c. 366, §§ 2, 3; 85 Del. Laws, c. 518, § 4.)

§ 554 License fees [Effective Aug. 15, 2030].

(a) For a license to sell alcoholic liquor in a hotel or restaurant the biennial license fee shall be $1,000.

(b) For a license to sell alcoholic liquor on a boat the biennial license fee shall be $1,000.

(c) For a license to sell alcoholic liquor in the passenger cars of a railroad the biennial license fee shall be $600 for each railroad.

(d) For a license to sell alcoholic liquor in a club, to members of that club, the biennial license fee shall be $300 if the club has an active membership in good standing of less than 400 members; or $600 if the club has an active membership in good standing of 400 or more members.

(e) For a license to sell beer and/or wine only in a restaurant the biennial license fee shall be $500.

(f) For a license to sell beer only in a tavern the biennial license fee shall be $500.

(g) For a license to sell alcoholic liquors in a taproom the biennial license fee shall be $1,000.

(h) For a license to sell alcoholic liquor from a hotel, restaurant, taproom, or store, not for consumption on the premises, the biennial license fee shall be $1,000.

(i) For a license to sell alcoholic liquors at gatherings of persons, the license fee shall be as follows:

(1) For a group-type gathering license, the license fee shall be $5.00 for each such license granted, unless the said license shall be for a period of more than 2 days in which case the license fee shall be $5.00 plus the additional sum of $2.00 for each such additional day or unless the said license shall be for a Sunday, Thanksgiving, Christmas, or Easter, in which case the license fee shall be an additional $5.00 for each such day.

(2) *Biennial license.* — a. For a biennial premises type gathering license for a facility in which not more than 25 gatherings of persons at which alcoholic liquors are to be sold are to be held, the biennial license fee shall be $200.

b. For a biennial premises type gathering license for a facility in which more than 25 but not more than 75 such gatherings of persons are to be held, the biennial license fee shall be $400.

c. For a biennial premises type gathering license for a facility in which more than 75 such gatherings of persons are to be held, the biennial license fee shall be $1,000.

d. For the holder of a biennial premises type gathering license to sell alcoholic liquor on a Sunday, Thanksgiving, Christmas, or Easter, the biennial license fee shall be:

1. An additional $200 for a license issued pursuant to paragraph (i)(2)a. of this section;
2. An additional $300 for a license issued pursuant to paragraph (i)(2)b. of this section; and
3. An additional $400 for a license issued pursuant to paragraph (i)(2)c. of this section.

(j) For a license to "manufacture" and to "sell" beer and cider, the biennial license fee shall be based upon annual production and shall be computed as follows: $1,500 for a brewery or microbrewery manufacturing not more than 25,000 barrels of beer and cider per year; $3,000 for a microbrewery or brewery manufacturing more than 25,000 but not more than 50,000 barrels of beer and cider per year; $6,000 for a microbrewery or brewery manufacturing more than 50,000 but not more than 100,000 barrels of beer and cider per year; and $9,000 for a microbrewery or brewery manufacturing more than 100,000 barrels of beer and cider per year.

(k) For a license to operate a distillery for distillation or rectification, the biennial license fee shall be based upon annual production and shall be computed as follows: For the first 500 gallons, $100; for the next 5,000 gallons, or fraction thereof, at the rate of 6 cents per gallon; for the next 10,000 gallons, or fraction thereof, at the rate of 4.5 cents per gallon; for the next 50,000 gallons, or fraction thereof, at the rate of 3 cents per gallon; for the next 100,000 gallons, or fraction thereof, at the rate of 1.5 cents per gallon; for each gallon in excess of 165,500 gallons, at the rate of three quarters cent per gallon.

(*l*) For a license to bottle beer the biennial license fee shall be $100 for the first 500 barrels or less, and $100 for each additional 500 barrels, or fraction, bottled.

(m) For a license to operate a winery or to bottle and sell wine the biennial license fee shall be $1,500.

(n) For a license to import or to ship alcoholic liquor, other than beer and wine, into this State and to sell and deliver such alcoholic liquor as provided in this chapter the biennial license fee shall be $7,500; but a sale and delivery of alcoholic liquor to pharmacists, physicians, dentists, veterinarians, wholesale druggists, manufacturing plants where the alcohol is used in scientific work, or for the manufacture of pharmaceutical products shall not be subject to the license fee.

(o) For a license to import or to ship beer into this State and to sell and deliver such beer the biennial license fee shall be $3,000; and for a license to import or to ship unlimited amounts of wine into this State and to sell and deliver such wine the biennial license fee shall be $3,000. A license for a limited wine importer, an importer that imports, sells and delivers less than 1000 cases of wine per year, shall be $200. A limited wine importer need not pay the application fee required by subsection (x) of this section.

(p) For a license to sell alcoholic liquor as an off-site caterer the biennial license fee shall be $500.

(q) For a license to transport a stock of alcoholic liquor from the place where sale or storage of such stock has been authorized to another location, the license fee shall be fixed by the Commissioner.

(r) For a license to purchase sacramental wine, no license fee shall be charged.

(s) For a temporary license, the license fee shall be not less than ½ nor more than double the amount of the annual license fee for a regular license for the same privilege, in the discretion of the Commissioner.

(t) For a license to sell alcoholic liquor at a horse racetrack the biennial license fee shall be $3,000.

(u) For a license to sell alcoholic liquor at a motorsports speedway the biennial license fee shall be $3,000.

(v) For license to sell alcoholic liquors as a ship's chandler the biennial license fee shall be $1,000.

(w) For a license for a multiple activity club to sell alcoholic beverages to any person who is a member of such club or a guest of a member of such club, the biennial license fee shall be $1,500.

(x) *Application process fee.* — If any application for a license under this title requires any investigation by the staff or a hearing by the Commissioner before the Commissioner reaches a decision on the application, the applicant shall pay an application process fee of $1,000 in addition to any other fees required by this title or the rules of the Commissioner. The application process fee is not refundable regardless

of the decision of the Commissioner. This provision for an application process fee does not apply to a gathering of persons under § 514 of this title, a limited suppliers license issued pursuant to § 501 of this title, a license to sell on Sunday, and a tasting permit. This provision for an application process fee shall not apply to applications for change of officers, directors or stockholders of a corporate licensee if there is no change in the majority of stockholders or majority of directors. Six hundred dollars of the application process fee shall be retained by the Commissioner and deposited in a special fund for the sole purpose of providing for the implementation, administration and enforcement of the Delaware Responsible Alcoholic Beverage Server Training Program established pursuant to Chapter 12 of this title.

(y) For a license to sell alcoholic liquor in a dinner theater the biennial license fee shall be $1,000.

(z) For a license to sell alcoholic liquors as a caterer for consumption on the premises where sold the biennial license fee shall be $1,000.

(aa) For a license as a "bottle club" authorized by § 515A of this title the biennial license fee shall be $300.

(bb) For a license to sell alcoholic liquors in a cabaret the biennial license fee shall be $2,000.

(cc) For a license as an air passenger carrier, as defined in § 512(i) of this title, the biennial license fee shall be $1,000.

(dd) For a license to conduct wine auctions the biennial license fee shall be $1,500. For a gathering license to conduct a wine auction by a nonprofit organization the fee shall be $50 per event.

(ee) For a license to permit spirits, wine and beer tasting the biennial license fee shall be $150.

(ff) For a farm winery license the biennial license fee shall be $1,500.

(gg) For a brewery-pub license the biennial license fee shall be $2,000.

(hh) For a license to sell alcoholic liquors at a multi-purpose sports facility the biennial license fee shall be $3,000.

(ii) For a license to sell alcoholic liquors at a bowling alley the biennial license fee shall be $1,000.

(jj) For a license as a "direct shipper" as provided in § 526 of this title the biennial license fee shall be $100.

(kk) Each of the licensees identified in subsections (a) through (h), (t) through (w), (y), (z), (bb), (cc), (dd), (ff), (gg), (hh), (ii), (mm), (qq), and (rr) of this section, shall pay an additional annual fee of $100. The Commissioner shall deposit the additional annual fees into a special account designated as the "Overservice Investigation Fund." The Overservice Investigation Fund must be utilized by the Division of Alcohol, Tobacco, and Marijuana Enforcement to pay overtime to its officers, to hire and equip additional officers, or both for the purpose of investigating and prosecuting licensees that serve intoxicated individuals.

(*ll*) For a permit to sell alcoholic liquors on a patio, the biennial fee shall be $1,000. If the holder of a patio permit desires a variance to Rule 42.1 [4 DE Admin. Code § 704, formerly Rule 42.1], or a subsequently adopted rule, the biennial variance permit fee shall be $100 per variance.

(mm) For a license to sell alcoholic liquor in a concert hall the biennial fee shall be $1,500.

(nn) For a license as a "craft distillery" as provided in § 512E of this title the biennial license fee shall be $1,500.

(oo) For a "temporary large event" license as provided in § 512F of this title, the fee shall be $500 for each temporary large event and no application process fee as permitted under subsection (x) of this section shall be assessed.

(pp) For a growler filler permit as provided in § 516(a) of this title, the biennial license fee shall be $150.

(qq) For a license to sell alcoholic liquor in a movie theater the biennial fee shall be $1,500.

(rr) For a license to sell alcoholic liquor in a beer garden, the biennial fee shall be $2,000. The holder of a beer garden license is not required to have a patio permit, but if the beer garden license holder desires a variance to Rule 42.1 (4 DE Admin. Code § 704, formerly Rule 42.1), or a subsequently adopted rule, the biennial variance permit fee shall be $100 per variance.

(ss) For a license to provide third-party delivery services as provided in § 512 of this title, the biennial fee shall be $1,000.

(tt) [Repealed.]

(uu) For a special event license issued under § 512H of this title, the biennial license fee is as follows:

(1) $1,000 for a license to hold 12 or fewer special events per calendar year.

(2) $ 2,000 for a license to hold more than 12 special events per calendar year.

(38 Del. Laws, c. 18, § 30; 39 Del. Laws, c. 6; Code 1935, § 6159; 41 Del. Laws, c. 247, § 1; 41 Del. Laws, c. 248, §§ 1, 2; 42 Del. Laws, c. 191, § 4; 44 Del. Laws, c. 203, § 5; 4 Del. C. 1953, § 555; 49 Del. Laws, c. 341; 49 Del. Laws, c. 342, §§ 1-12; 50 Del. Laws, c. 424, §§ 1, 2; 54 Del. Laws, c. 377, § 3; 55 Del. Laws, c. 82, §§ 4, 5; 55 Del. Laws, c. 283, § 3; 55 Del. Laws, c. 416, §§ 1-3; 56 Del. Laws, c. 311, § 4; 56 Del. Laws, c. 335, §§ 6-8; 57 Del. Laws, c. 404, § 4; 57 Del. Laws, c. 448; 59 Del. Laws, c. 107, § 42; 60 Del. Laws, c. 466, §§ 4-6; 63 Del. Laws, c. 232, § 4; 64 Del. Laws, c. 436, § 1; 64 Del. Laws, c. 437, § 2; 65 Del. Laws, c. 152, § 1; 65 Del. Laws, c. 283, § 3; 67 Del. Laws, c. 109, § 16; 67 Del. Laws, c. 273, §§ 4-22; 68 Del. Laws, c. 107, § 2; 68 Del. Laws, c. 168, § 2; 68 Del. Laws, c. 205, § 2; 69 Del. Laws, c. 6, § 4; 70 Del. Laws, c. 353, § 3; 71 Del. Laws, c. 182, § 2; 71 Del. Laws, c. 211, § 4; 71 Del. Laws, c. 383, § 3; 72 Del. Laws, c. 486, § 9; 73 Del. Laws, c. 244, § 9; 73 Del. Laws, c. 393, § 3; 75 Del. Laws, c. 80, § 9; 75 Del. Laws, c. 253, §§ 1, 2; 77 Del. Laws, c. 72, § 1; 78 Del. Laws, c. 220, § 3; 78 Del. Laws, c. 251, § 2; 79 Del. Laws, c. 6, § 3; 79 Del. Laws, c. 23, § 2; 79 Del. Laws, c. 308, § 3; 80 Del. Laws, c. 62, § 1; 81 Del. Laws, c. 69, § 3; 81 Del. Laws, c. 79, § 1; 84 Del. Laws, c. 442, § 2; 85 Del. Laws, c. 139, § 3; 85 Del. Laws, c. 269, § 18; 85 Del. Laws, c. 139, § 7; 85 Del. Laws, c. 518, § 4.)

Subchapter V

Cancellation or Suspension of License

§ 561 Grounds for cancellation or suspension.

(a) The Commissioner may cancel every license made use of on behalf of any person other than the one to whom or on behalf of whom it has been issued.

(b) The Commissioner may suspend any license and/or fine any licensee for the sale of alcoholic liquors if it has reasonable grounds to believe that the licensee has committed any of the following violations, or may cancel any license for the sale of alcoholic liquors for the following violations, if repeated and continuous:

(1) The licensee has violated any provision of this title or any regulation of the Commissioner pursuant hereto;

(2) The licensee has made any false representation or statement to the Commissioner in order to induce or prevent action by the Commissioner;

(3) The licensee is not maintaining an acceptable bond, if said bond is required;

(4) The licensee is acting as an agent of a manufacturer of alcoholic liquor or has borrowed money or accepted gratuities from such a manufacturer or any agent thereof;

(5) The licensee maintains a noisy, lewd, disorderly, or unsanitary establishment or has been supplying impure or otherwise deleterious beverages or food;

(6) The licensee is in the habit of using dangerous or narcotic drugs, or is in the habit of using alcoholic beverages to excess;

(7) The licensee has sold alcoholic liquor in contravention of § 708 of this title;

(8) The licensee has in the licensee's possession on the licensee's licensed premises or has sold or offered for sale any alcoholic beverages not purchased or sold pursuant to this title;

(9) The licensee has misrepresented any alcoholic liquor sold by the licensee as purchased through the Commissioner or has in the licensee's possession, or has used any wrappers, labels, corks, caps, stamps or bottles not purchased from or through the Commissioner which are deceptively similar to those used by the Commissioner;

(10) The licensee has since the granting of the licensee's license been convicted of a felony or has been convicted of violating any of the liquor laws of this State, general or local, including the provisions of this title;

(11) The licensee has admitted guilt or has been adjudged guilty of violations of local, municipal, county or State regulations, ordinances or codes related to the operation of a licensed premises;

(12) There is any other reason which in the opinion of the Commissioner based on public convenience or necessity warrants cancelling or suspending the license;

(13) The licensee or a representative thereof has disciplined, threatened or otherwise penalized any person for refusing to violate or aiding the enforcement of the provisions of this title or the rules of the Commissioner.

(c) The Commissioner shall not cancel or suspend any license for the sale of alcoholic liquors or impose any fine for an alleged violation of § 708 or § 904 of this title where the licensee or its employee has made a reasonable effort to determine the age of a purchaser of alcoholic liquors. For purposes of this subsection, a licensee or its employee shall be deemed to have made a reasonable effort to determine the age of a purchaser if, prior to any sale of alcoholic liquors, the licensee or its employee requires the purchaser to display identification, with a photograph of the purchaser thereon affixed, which sets forth information that would lead a reasonable man to believe the purchaser to be 21 years of age or older.

(d) Any of the grounds for refusal of a license as provided for in § 543 of this title shall also be adequate grounds for suspension of a license.

(e) The Commissioner may cancel any retail license if it has reasonable grounds to believe that the license was granted in violation of § 546(b) of this title, or any rule enacted pursuant to § 546(d) of this title.

(f) [Repealed.]

(g) The Commissioner may suspend any license for the sale of alcoholic liquors held by any taproom or restaurant or fine any licensee holding such a license if it has reasonable grounds to believe that the licensee has operated, caused the operation of or permitted the operation of any stationary source of sound in such a manner as to create an operative average sound level which is equal to or greater than 65 dBA, but less than 75 dBA, when measured at any location 100 feet or more from the licensed premises' real property boundary. The Commissioner shall suspend any license for the sale of alcoholic liquors held by any taproom or restaurant and fine any licensee holding such a license if it has reasonable grounds to believe that the licensee has operated, caused the operation of or permitted the operation of any stationary source of sound in such a manner as to create an operative average sound level which is equal to or greater than 75 dBA when measured at any location 100 feet or more from the real property boundary of the licensed premises. For the purpose of this section, "operative average sound level" means the energy average of the A-weighted sound pressure level during the business hours of operation of the licensed premises. The operative average sound level may be determined by an average of not less than 3 individual decibel readings taken not less than 10 minutes apart and taken from the same location. Provided however, that nothing in this subsection shall apply within the boundaries of any municipality.

(h) (1) [Repealed.]

(2) The temporary suspension shall be until the Commissioner no longer has reasonable grounds to believe that the public's safety is at risk, but can be no longer than 20 days unless otherwise provided herein.

(3) At the time of the temporary suspension, the Commissioner shall provide the licensee with notice of a hearing, which shall be held by electronic, telephonic or remote means, within 20 days of the issuance of the temporary suspension.

(4) If a licensee fails to attend such hearing, the Commissioner may continue the temporary suspension. If the temporary suspension is continued, a licensee may request the Commissioner to hold another hearing which shall be provided by electronic, telephone, or remote means within 20 days of the licensee's request.

(5) After a hearing, the Commissioner may do any of the following:

a. Continue the temporary suspension until a public hearing is scheduled in accordance with § 562 of this title if the Commissioner believes that the public safety will be at risk if the temporary suspension is lifted.

b. Lift the suspension if the Commissioner believes that lifting the temporary suspension will not result in a risk to public safety.

c. Impose appropriate conditions or fines on the licensee.

d. Take whatever action the Commissioner believes is necessary and appropriate in order to ensure that the public safety will not be at risk by the licensee. Except the Commissioner may not cancel or revoke a license unless pursuant to § 562 of this title.

(6) Notwithstanding any law, regulation, or rule to the contrary, the Commissioner may temporarily suspend any license if the Commissioner has reasonable grounds to believe that the public's safety is at risk and that the licensee has violated the provisions of Title 4.

(i) If the Commissioner receives notice from the appropriate political subdivision that any Certificate of Compliance issued to satisfy an applicant's duty under § 543(j) of this title has been suspended, then the Commissioner shall suspend any license or extension of an existing license granted in reliance on such Certificate of Compliance until such time as the Commissioner receives notice from the appropriate political subdivision that such Certificate has been reinstated. If the Commissioner receives notice from the appropriate political subdivision that any Certificate of Compliance issued to satisfy an applicant's duty under § 543(j) of this title has been canceled, then the Commissioner shall revoke any license or extension of an existing license granted in reliance on such Certificate of Compliance.

(38 Del. Laws, c. 18, § 29; Code 1935, § 6158; 41 Del. Laws, c. 246, § 1; 4 Del. C. 1953, § 561; 55 Del. Laws, c. 296, § 1; 57 Del. Laws, c. 416; 59 Del. Laws, c. 107, §§ 43-48; 59 Del. Laws, c. 590, § 7; 61 Del. Laws, c. 493, § 1; 67 Del. Laws, c. 109, § 17; 68 Del. Laws, c. 130, § 1; 68 Del. Laws, c. 376, § 2; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 435, §§ 6, 7; 72 Del. Laws, c. 486, § 9; 74 Del. Laws, c. 154, § 1; 75 Del. Laws, c. 417, § 2; 82 Del. Laws, c. 247, §§ ? 4, 5; 83 Del. Laws, c. 9, § 4; 83 Del. Laws, c. 9, § 5; 83 Del. Laws, c. 284, § 4.)

§ 562 Public hearing and right of appeal.

(a) No license shall be cancelled or suspended, or any licensee fined:

(1) Until the licensee has been given a public hearing by the Commissioner at which time the licensee shall be entitled to legal representation and to present witnesses; and

(2) Unless the ground therefor shall be established by clear and convincing evidence.

A full and complete record shall be kept of all proceedings incident to such hearing. All testimony shall be recorded but need not be transcribed unless an order of the Commissioner is appealed to the Superior Court as set forth in subsection (c) of this section.

(b) Any order of the Commissioner relative to suspension or cancellation of a license, or a fine imposed against a licensee shall become final 10 days after the licensee receives notice thereof, unless within 10 days of the date of the postmark on the Commissioner's decision a written appeal is filed in the Superior Court. No bond shall be required for filing such appeal.

(c) The appeal shall state the grounds upon which a review is sought. After the appeal is filed, service shall be made by the Sheriff upon the Commissioner. The Commissioner shall certify and file with the court all documents and papers and a transcript of all testimony taken in the matter, together with the Commissioner's findings therein as soon as practicable but in no event later than 20 calendar days from the date of service of the appeal. The Superior Court's review of an appeal shall be on the record and the Superior Court shall take into account the experience and specialized competence of the agency and the purpose under which the agency acted. Further, the Superior Court's review, in the absence of fraud, shall be limited to whether the agency's decision is supported by substantial evidence on the record and is free from legal error.

(d) An appeal without bond may be taken from the decision of the Superior Court to the Supreme Court of this State in the same manner as is provided in civil cases. Upon the final determination of judicial proceedings, the Commissioner shall enter an order in accordance with such determination, or shall take such further or other action as the Court may order. A petition for judicial review shall act as a supersedeas.

(e) The public hearing required in subsection (a) of this section may be by electronic, telephone, or remote means.

(38 Del. Laws, c. 18, § 29; Code 1935, § 6158; 47 Del. Laws, c. 119, § 1; 4 Del. C. 1953, § 562; 55 Del. Laws, c. 296, § 2; 59 Del. Laws, c. 107, §§ 49, 50; 72 Del. Laws, c. 486, §§ 9, 19, 20; 78 Del. Laws, c. 384, § 3; 82 Del. Laws, c. 247, §§ ? 4, 5; 83 Del. Laws, c. 9, § 4; 83 Del. Laws, c. 284, § 4.)

§ 563 Effect of cancellation or surrender of license; notice.

(a) The cancellation or the acceptance of a surrender of any license shall entail the loss of the privilege conferred by the license and shall entail the acceptance of or the seizure by the Commissioner of any alcoholic liquor found in the possession of the holder of the license, except those which occur solely by reason of the death of the licensee.

(b) Notice of the order of the cancellation or the acceptance of the surrender of the license may be served by an officer designated by the Commissioner by affixing a duplicate thereof to the outside of the entrance door of the licensed premises, or by leaving a duplicate with the holder of the license, or with any member of the family of the holder over the age of 18 years at the residence of the holder, or otherwise, as in the judgment of the Commissioner will give notice of such cancellation or acceptance of the surrender. All cancellations or

acceptances of surrender shall take effect as soon as the order is served.

(c) The cancellation or acceptance of surrender of a license shall not in any wise prevent the institution of any criminal proceedings for any offense under this title by the person who was the holder of such license while it was in force. No conviction obtained for any offense under this title shall prevent the Commissioner from cancelling the license of any offender or from making at the same time a seizure of alcoholic liquor as provided in this title.

(38 Del. Laws, c. 18, § 29; Code 1935, § 6158; 41 Del. Laws, c. 246, § 1; 4 Del. C. 1953, § 563; 59 Del. Laws, c. 107, § 51; 72 Del. Laws, c. 486, § 9.)

§ 564 Payments to former licensee.

The Department of Finance shall, within 30 days of the date of the cancellation or acceptance of surrender of a license, remit to the former licensee a part of the license fee which has been paid and pertains to the unexpired term of the license. In addition, the Commissioner shall remit to the former licensee the amount originally received by the Commissioner from the former licensee in payment for such alcoholic liquor accepted or seized as remains in packages sealed by the Commissioner, after paying or deducting therefrom all costs and expenses incurred by the Commissioner by reason of the acceptance or seizure of the alcoholic liquor of the former licensee. When other legally acquired alcoholic liquors have been accepted or seized under this section, the value thereof as determined by the Commissioner shall be remitted by the Commissioner to the former licensee, after paying or deducting therefrom all costs and expenses incurred by the Commissioner by reason of the acceptance or seizure of the alcoholic liquor of the former licensee. When illegally acquired alcoholic liquors have been seized under this section, no payment shall be made therefor.

(38 Del. Laws, c. 18, § 29; Code 1935, § 6158; 41 Del. Laws, c. 246, § 1; 44 Del. Laws, c. 205, § 1; 4 Del. C. 1953, § 564; 57 Del. Laws, c. 741, § 27A; 72 Del. Laws, c. 486, § 9.)

Subchapter VI

Transfer of License; Death of Licensee

§ 571 Transfer of license.

(a) The rights conferred by a license may be transferred by the Commissioner to any representative designated by the person to whom or on behalf of whom the license was originally granted, if such representative is a person approved by the Commissioner. In the case of death of an individual to whom a license has been granted, the Commissioner may transfer the license to a qualified person recommended by the executor or administrator of the estate of the deceased licensee.

(b) In instances where the Commissioner has approved the transfer of a license, all matters concerning alcoholic beverage inventories shall be handled directly between the transferor and the transferee and all payments shall be made directly and not through the Commissioner.

(38 Del. Laws, c. 18, § 29; Code 1935, § 6158; 41 Del. Laws, c. 246, § 1; 4 Del. C. 1953, § 571; 59 Del. Laws, c. 107, § 52; 72 Del. Laws, c. 486, § 9.)

§ 572 Death of licensee; payments to licensee's estate.

If any licensee dies and no application is made for transfer of the license, or the Commissioner refuses to permit the transfer of the license to another person, the Department of Finance shall return to the legal representative of such deceased person a share of the license fee received by the Department proportionate to the number of full calendar months of the unexpired term; and if the alcoholic liquors in possession of the licensee at the time of the licensee's death are delivered to the Commissioner and the Commissioner ascertains that such alcoholic liquors have been received by the deceased person according to law, the Commissioner shall pay to the representative the amount originally received by the Commissioner for such alcoholic liquors less 10 percent thereof, or the appraised value less 10 percent thereof.

(38 Del. Laws, c. 18, § 31; Code 1935, § 6160; 4 Del. C. 1953, § 572; 57 Del. Laws, c. 741, § 27B; 70 Del. Laws, c. 186, § 1; 72 Del. Laws, c. 486, § 9.)

Subchapter VII

Taxes

§ 581 Rates of tax [For application of this section, see 81 Del. Laws, c. 54, § 2].

(a) All persons required to be licensed under this title as an importer shall pay a tax upon the sale of alcoholic beverages to any person who purchases alcohol from an importer in this State at the rates set forth in subsection (d) of this section.

(b) All persons licensed under this title to manufacture alcoholic beverages shall pay a tax on all alcoholic beverages sold to customers in this State at the rates set forth in subsection (d) of this section. This subsection shall not apply to sales to customers who are:

(1) Importers of alcoholic beverages subject to licensing under this title;

(2) Distributors of alcoholic beverages licensed by a state other than Delaware where the alcoholic beverages are sold for resale in such other state; or

(3) In the case of sales of beer, an instrumentality of the United States Armed Forces.

(c) Except as provided in subsection (a) or (b) of this section, any person who imports alcoholic beverages for consumption in this State shall pay to the Department of Finance the tax on such imports at the rates set forth in subsection (d) of this section.

(d) The tax payable under this section shall be as follows:

(1) For each barrel of beer or fermented beverage, $8.15.

(2) For each gallon of cider, $.27.

(3) For each gallon of wine, $1.63.

(4) For each gallon of spirits containing 25 % or less of ethyl alcohol by volume, $3.00.

(5) For each gallon of spirits containing more than 25 % ethyl alcohol by volume, $4.50.

(6) For each gallon of alcohol per gallon of ethyl alcohol contained, $8.15, except that the tax of $8.15 shall not apply to the purchase of alcohol by pharmacists, physicians, dentists, veterinarians, wholesale druggists or manufacturing plants where the alcohol is used in scientific work, for the manufacture of pharmaceutical products, or for use in the manufacture or compounding of preparations unfit for beverage purposes.

(e) The Commissioner shall make and publish such rules and regulations with respect to the collection and payment of the taxes imposed by this section as it deems proper, and all such rules and regulations that are not inconsistent with the provisions of this title shall have the force and effect of law.

(f) For the months of August 2019 and July 2020, all persons required to be licensed under this title as an importer shall be entitled to a nonrefundable credit against the tax on alcoholic beverages imposed pursuant to subsection (a) of this section in an amount equal to 1/2 of the tax previously paid on such importer's alcoholic liquor floor stock or inventory resting in the State on July 31, 2019, as reported in accordance with commission rules. Any amounts of credit not used by virtue of the preceding sentence may be carried forward and used against future tax imposed by this section. A person required to be licensed under this title as an importer shall not be entitled to the credit permitted pursuant to this subsection if such person fails to report such person's alcoholic liquor floor stock or inventory resting in the State on July 31, 2019, on a timely-filed report.

(38 Del. Laws, c. 18, § 16; Code 1935, § 6145; 43 Del. Laws, c. 274, § 1; 4 Del. C. 1953, § 581; 49 Del. Laws, c. 342, § 13; 53 Del. Laws, c. 106; 57 Del. Laws, c. 136, § 30; 57 Del. Laws, c. 741, § 27C; 58 Del. Laws, c. 294, §§ 1, 2; 58 Del. Laws, c. 584, § 1; 62 Del. Laws, c. 113, § 1; 67 Del. Laws, c. 258, § 1; 68 Del. Laws, c. 107, §§ 3, 4; 70 Del. Laws, c. 488, §§ 1, 2, 5; 70 Del. Laws, c. 559, §§ 5, 6; 71 Del. Laws, c. 211, § 5; 72 Del. Laws, c. 486, § 9; 78 Del. Laws, c. 251, § 3; 81 Del. Laws, c. 54, § 1; 82 Del. Laws, c. 68, § 1; 83 Del. Laws, c. 36, § 4.)

§ 581A Rate of tax for infused beverages; administration and reporting [Effective Feb. 1, 2027].

(a) An importer holding an endorsement to sell and transport infused beverages to package stores or retail marijuana stores in this State must pay a tax upon the sale of infused beverages at the rate set forth in subsection (c) of this section.

(b) A microbrewery or marijuana product manufacturing facility holding an endorsement under this title to manufacture infused beverages must pay a tax upon the sale of infused beverages sold for off-premises consumption at the rate set forth in subsection (c) of this section. This subsection does not apply to sales of infused beverages to an importer by a microbrewery or marijuana product manufacturing facility holding an endorsement under this title to manufacture infused beverages.

(c) The tax payable for infused beverages is $0.50 per single-serving infused beverage container and $8.50 per 750 milliliter bottle.

(d) A licensed importer, microbrewery, or marijuana product manufacturing facility required to pay the tax under this section must file a monthly report with the Division of Revenue in the form required by the Director of the Division of Revenue and must provide additional information as the Director of the Division of Revenue may require.

(e) A licensed importer, microbrewery, or marijuana product manufacturing facility required to pay the tax under this section must pay the tax in the form and manner prescribed by the Director of the Division of Revenue, but no later than at the time the importer or manufacturer is required to file the monthly report.

(f) Except to the extent inconsistent with specific provisions of this title, the provisions of Chapter 5 of Title 30 govern the assessment, collection, review, and appeal of deficiencies of taxes imposed by this title, any interest and penalties thereon, and claims for refund of overpayment of taxes imposed by this title.

(g) All infused beverage tax money received by the Division of Revenue under this section must be deposited in accordance with § 6103(a) of Title 29 and credited to the Marijuana Regulation Fund.

(h) Any information set forth or disclosed in any report or return required under or as a result of this section, including any information that is required to be attached or included on any report or return required under or as a result of this section, is subject to the provisions of § 368 of Title 30. Notwithstanding the foregoing or any other law of this State to the contrary, any information set forth or disclosed in any report or return required under or as a result of this section may be shared by the Division of Revenue with the Office of the Alcoholic Beverage Control Commissioner and the Office of the Marijuana Commissioner for the purpose of enforcement under this title, and the licensee or holder of the endorsement is deemed to consent to such disclosure at the time the licensee or holder of the endorsement submits the report or return.

(85 Del. Laws, c. 394, § 1.)

§ 582 Refund of tax paid by importers or wholesalers on beer sold to instrumentalities of the armed forces of

the United States.

(a) Any tax paid by an importer or wholesaler to the Department of Finance, pursuant to § 581 of this title, on alcoholic liquors that are sold by such importer or wholesaler to an instrumentality of the armed forces of the United States shall be refunded to such importer or wholesaler by the Department of Finance.

(b) Any importer or wholesaler entitled to a refund of tax under this section may, instead of filing a claim for refund, take credit therefor against taxes imposed by § 581 of this title and due upon alcoholic liquor subsequently purchased by such importer or wholesaler.

(c) The Commissioner may make and publish rules and regulations with respect to refunds and credits allowed by this section, and such rules and regulations as are not inconsistent with this title shall have the force and effect of law.

(60 Del. Laws, c. 322, § 1; 72 Del. Laws, c. 374, § 1; 72 Del. Laws, c. 486, § 9.)

§ 583 Administration of taxes.

Except to the extent inconsistent with specific provisions of this title, the provisions of Chapter 5 of Title 30 shall govern the assessment, collection, review and appeal of deficiencies of tax imposed by this title, and any interest and penalties thereon, and claims for refund of overpayment of taxes imposed by this title.

(68 Del. Laws, c. 187, § 23.)

§ 584 State fees in lieu of county and municipal fees; preemption provision.

The fees, charges and taxes imposed by the State under this title shall be in lieu of all county and municipal license fees and taxes upon the business of manufacturing, supplying, distributing and selling alcoholic liquor as such. Provided, however, general occupational license fees and general taxes imposed uniformly on everyone within the class shall not be preempted.

For purposes of this section, “class” shall not be defined by general or specific reference to manufacturing, supplying, distributing, or selling alcoholic liquor.

(74 Del. Laws, c. 312, § 1.)

Chapter 7
REGULATORY PROVISIONS

§ 701 Persons authorized to make sale and delivery of alcoholic liquors.

(a) No sale and delivery of alcoholic liquor shall be made in this State unless by a manufacturer or other person who holds a license of the Commissioner to sell and deliver alcoholic liquor and unless the sale and delivery is made to a person who is authorized to receive alcoholic liquor under Chapter 5 of this title.

(b) No common carrier shall be held responsible for the delivery of alcoholic liquor forbidden by this section.

(c) The Commissioner shall permit the holders of a license under §§ 531-533 of this title to receive or pick up beer in the barrel or keg directly from a manufacturer, importer or any other person authorized by this title to sell and deliver alcoholic liquor, notwithstanding any provisions of this title to the contrary.

(d) The Commissioner may permit an off-site caterer to transport alcoholic liquor in accordance with the Commissioner's rules.

(38 Del. Laws, c. 18, § 16; Code 1935, § 6145; 4 Del. C. 1953, § 701; 57 Del. Laws, c. 419; 67 Del. Laws, c. 109, § 18; 72 Del. Laws, c. 486, § 11; 73 Del. Laws, c. 393, § 4.)

§ 702 Delivery of alcohol or spirits by manufacturer or importer.

The Commissioner may issue a written order signed by the Commissioner authorizing a manufacturer or importer to deliver alcohol or spirits in specified quantity to a person who holds a license to sell such alcohol or spirits, but not more than 1 delivery shall be specified or made on the same order.

(38 Del. Laws, c. 18, § 16; Code 1935, § 6145; 4 Del. C. 1953, § 707; 67 Del. Laws, c. 109, § 19; 72 Del. Laws, c. 486, § 11.)

§ 703 Sale and delivery of wine or beer by manufacturer or importer.

No manufacturer or importer shall sell, ship, transport or deliver wine or beer within this State to any person unless in accordance with the published regulations of the Commissioner and unless a statement of the date, amount and description of the transaction be mailed to the Commissioner.

(38 Del. Laws, c. 18, § 16; Code 1935, § 6145; 4 Del. C. 1953, § 708; 67 Del. Laws, c. 109, §§ 19, 20; 72 Del. Laws, c. 486, § 11.)

§ 704 Commissioner regulation of wine or beer sales.

The Commissioner may make a regulation authorizing a manufacturer or importer to sell, transport or deliver wine or beer within this State to any person or class of persons authorized under this title to receive wine or beer.

(38 Del. Laws, c. 18, § 16; Code 1935, § 6145; 4 Del. C. 1953, § 709; 67 Del. Laws, c. 109, § 19; 72 Del. Laws, c. 486, § 11.)

§ 705 Containers for sale and delivery of beer for consumption off premises.

No sale and delivery of beer, for consumption off the premises where sold, shall be made in open containers, but sales or delivery may be made in bottles, half bottles, barrels, half barrels or quarter barrels, if such containers are securely corked, capped, stopped or plugged at the time delivery thereof is made.

(38 Del. Laws, c. 18, § 16; Code 1935, § 6145; 4 Del. C. 1953, § 710; 67 Del. Laws, c. 109, § 19.)

§ 706 Sale or service of alcoholic liquors to intoxicated person.

Any licensee, or employee of a licensee, or person in charge of a licensed premises shall refuse to sell or serve alcoholic liquors to any individual if such individual is intoxicated or appears to be intoxicated. Such licensee, employee of a licensee or person in charge of the licensed premises shall not be liable to any individual for damages claimed to arise from the refusal to sell alcoholic liquors if such refusal is based upon this section.

(38 Del. Laws, c. 18, § 17; Code 1935, § 6146; 4 Del. C. 1953, § 711; 52 Del. Laws, c. 181; 59 Del. Laws, c. 107, § 53; 67 Del. Laws, c. 109, § 19.)

§ 707 Home manufacture of beer or wine for personal consumption.

(a) No license or special permit shall be required for the manufacture within homes, or other premises used in connection therewith, of beer in quantities of 200 gallons or less during any calendar year, or wine in quantities of 200 gallons or less during any calendar year, for the personal consumption only of the homeowner(s), their families or their guests; provided however, that such beer or wine shall not be offered for sale.

(b) Such beer or wine, when manufactured and used as set forth above, shall not be subject to any taxes imposed by the Liquor Control Act.

(c) Beer and wine manufactured pursuant to this section may be removed from the home and transported for personal or family use, and in addition may be transported for the purposes of participating in club-sponsored events and tasting competitions.

(d) Notwithstanding any other provision in this chapter or title, concentrated alcoholic beverages are not "home-manufactured beer or wine" for purposes of this section, and all Commissioner regulations and tax requirements concerning home-manufactured beer or wine shall not apply to concentrated alcoholic beverages.

(4 Del. C. 1953, § 712; 59 Del. Laws, c. 107, § 54; 65 Del. Laws, c. 50, § 4; 67 Del. Laws, c. 109, § 19; 71 Del. Laws, c. 315, § 2; 72 Del. Laws, c. 486, § 11.)

§ 708 Prohibition of sales to certain persons.

(a) A person or licensee may not sell any alcoholic liquor or any infused beverage to any of the following:

(1) An individual who has not reached the age of 21 years. In any prosecution for an offense under this paragraph (a)(1) it is an affirmative defense that the individual, who has not reached the age of 21 years, presented to the accused identification, with a photograph of the individual affixed on the identification, and the identification sets forth information that would lead a reasonable person to believe the individual was 21 years of age or older.

(2) A person to whom such sale is prohibited.

(3) [Repealed.]

(b) A sale made to any person mentioned in this section, other than an individual who has not reached the age of 21 years, does not constitute a misdemeanor unless the Commissioner, the Division, or both has informed the seller, by registered letter, that it is forbidden to sell to such person or unless the fact is otherwise known to the seller.

(38 Del. Laws, c. 18, § 34; Code 1935, § 6163; 41 Del. Laws, c. 249, § 1; 4 Del. C. 1953, § 715; 49 Del. Laws, c. 57, § 1; 58 Del. Laws, c. 511, § 1; 59 Del. Laws, c. 107, § 55; 61 Del. Laws, c. 493, § 2; 64 Del. Laws, c. 216, §§ 1, 2; 67 Del. Laws, c. 109, § 19; 70 Del. Laws, c. 186, § 1; 72 Del. Laws, c. 486, § 10; 75 Del. Laws, c. 255, § 1; 78 Del. Laws, c. 179, § 2; 80 Del. Laws, c. 61, § 1; 85 Del. Laws, c. 269, § 19; 85 Del. Laws, c. 394, § 1.)

§ 709 Prohibition of sales and delivery at certain times [Effective until meeting the contingency in 82 Del. Laws, c. 193, § 5].

(a) No entity licensed under § 501 of this title or importer shall sell or deliver alcoholic liquor or infused beverages on Sundays, Thanksgiving, Easter or Christmas or at hours other than those prescribed by the rules or regulations of the Commissioner, except as subsection (f) of this section may apply. An importer may receive and process orders on any day, including Sundays and holidays.

(b) No holder of a license for the sale of alcoholic liquors for off-premises consumption shall sell or deliver the same on Thanksgiving, Easter or Christmas or between the hours of 1:00 a.m. and 9:00 a.m. on Mondays through Saturdays, except as subsection (f) of this section may apply, and on Sundays before 10:00 a.m. or after 8:00 p.m. Any municipality with a population of 50,000 or more may limit sales within the boundaries of the municipality pursuant to this subsection to a maximum of 4 hours on Sundays as established by ordinance of the municipality. The closing hours for days of the week other than Sunday may be made earlier in any municipality having a population of 50,000 or more persons, by ordinance of the municipal corporation; provided however, that such ordinance be consistent with the Delaware state and federal constitutions as well as treat all businesses fairly. During the months of October through December a holder of a license for the sale of alcoholic liquor for off-premises consumption shall be permitted to have sales take place beginning at 8:00 a.m. on Fridays through Saturdays.

(c) (1) Except as provided by paragraph (c)(2) of this section, a holder of a license for the sale of alcoholic liquor for on-premises consumption may not sell the same between the hours of 1:00 a.m. and 8:00 a.m. Except for entities under paragraph (c)(2) of this section, the closing hour may be made earlier in any municipality by ordinance of the municipal corporation. The sale of alcoholic liquors by a licensee for consumption on the premises where sold shall be permitted on every day of the year; provided, that no licensee shall be required to be open to sell alcoholic liquors on Sundays, Thanksgiving, Easter or Christmas.

(2) Entities who hold a license under this title as a horse racetrack may sell alcoholic liquor until 2:00 a.m. for on-premises consumption.

(d) Any holder of a license to sell alcoholic liquor, for either on-premises consumption or off-premises consumption, who wishes to sell alcoholic liquors on Sundays, except a gathering license, shall pay a biennial license fee of $500 for the issuance of a special license to serve alcoholic liquors on Sundays, which shall be in addition to any other license fees which may be required of the licensee. If a licensee holds a license to sell for on-premises consumption and off-premises consumption it shall only be required to purchase 1 special license if it wishes to serve alcoholic liquors on Sunday.

(e) In the municipalities and other political subdivisions of this State where daylight saving time is observed, whether authorized by law or by custom, daylight saving time shall apply to the hours mentioned in this section for the period during which daylight saving time exists.

(f) Importers or holders of a license for the sale of spirits, wines or beer may deliver beer on Sundays in motor vehicles equipped with permanently-installed devices for the refrigeration and dispensing of beer to licensed gatherings only; provided, however, that such licensee shall have first given notice of such delivery to the Commissioner.

(g), (h) [Repealed.]

(38 Del. Laws, c. 18, § 33; Code 1935, § 6162; 42 Del. Laws, c. 194, § 1; 43 Del. Laws, c. 277, § 1; 45 Del. Laws, c. 260, § 1; 45 Del. Laws, c. 265, § 1; 4 Del. C. 1953, § 717; 55 Del. Laws, c. 311, § 1; 56 Del. Laws, c. 265, § 1; 57 Del. Laws, c. 352, §§ 1, 2; 58 Del. Laws, c. 146, § 1; 59 Del. Laws, c. 107, §§ 57, 58; 59 Del. Laws, c. 115, § 1; 60 Del. Laws, c. 466, §§ 7, 8; 62 Del. Laws, c. 381, §§ 1-3; 65 Del. Laws, c. 156, § 1; 67 Del. Laws, c. 109, §§ 19, 21; 68 Del. Laws, c. 107, § 5; 69 Del. Laws, c. 6, § 5; 69 Del. Laws, c. 384, §§ 1, 2; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 248, § 1; 71 Del. Laws, c. 109, § 1; 72 Del. Laws, c. 486, § 11; 73 Del. Laws, c. 244, § 10; 74 Del. Laws, c. 29, § 1; 74 Del. Laws, c. 141, §§ 1-3; 74 Del. Laws, c. 146, § 1; 74 Del. Laws, c. 202, § 1; 74 Del. Laws, c. 259, §§ 1, 2; 76 Del. Laws, c. 237, §§ 1-3; 77 Del. Laws, c. 72, § 3; 80 Del. Laws, c. 62, § 1; 80 Del. Laws, c. 382, § 1; 81 Del. Laws, c. 62, § 1; 83 Del. Laws, c. 108, § 1; 84 Del. Laws, c. 241, § 1; 85 Del. Laws, c. 394, § 1; 85 Del. Laws, c. 397, § 1.)

§ 709 Prohibition of sales and delivery at certain times [Effective upon meeting the contingency in 82 Del. Laws, c. 193, § 5].

(a) No entity licensed under § 501 of this title or importer shall sell or deliver alcoholic liquor or infused beverages on Sundays, Thanksgiving, Easter or Christmas or at hours other than those prescribed by the rules or regulations of the Commissioner, except as subsection (f) of this section may apply. An importer may receive and process orders on any day, including Sundays and holidays.

(b) No holder of a license for the sale of alcoholic liquors for off-premises consumption shall sell or deliver the same on Thanksgiving, Easter or Christmas or between the hours of 1:00 a.m. and 9:00 a.m. on Mondays through Saturdays, except as subsection (f) of this section may apply, and on Sundays before 10:00 a.m. or after 8:00 p.m. Any municipality with a population of 50,000 or more may limit sales within the boundaries of the municipality pursuant to this subsection to a maximum of 4 hours on Sundays as established by ordinance of the municipality. The closing hours for days of the week other than Sunday may be made earlier in any municipality having a population of 50,000 or more persons, by ordinance of the municipal corporation; provided however, that such ordinance be consistent with the Delaware state and federal constitutions as well as treat all businesses fairly. During the months of October through December a holder of a license for the sale of alcoholic liquor for off-premises consumption shall be permitted to have sales take place beginning at 8:00 a.m. on Fridays through Saturdays.

(c) No holder of a license for the sale of alcoholic liquor for on-premises consumption shall sell the same between the hours of 1:00 a.m. and 8:00 a.m. The closing hour may be made earlier in any municipality by ordinance of the municipal corporation. The sale of alcoholic liquors by a licensee for consumption on the premises where sold shall be permitted on every day of the year; provided, that no licensee shall be required to be open to sell alcoholic liquors on Sundays, Thanksgiving, Easter or Christmas.

(d) Any holder of a license to sell alcoholic liquor, for either on-premises consumption or off-premises consumption, who wishes to sell alcoholic liquors on Sundays, except a gathering license, shall pay a biennial license fee of $500 for the issuance of a special license to serve alcoholic liquors on Sundays, which shall be in addition to any other license fees which may be required of the licensee. If a licensee holds a license to sell for on-premises consumption and off-premises consumption it shall only be required to purchase 1 special license if it wishes to serve alcoholic liquors on Sunday.

(e) [Repealed.]

(f) Importers or holders of a license for the sale of spirits, wines or beer may deliver beer on Sundays in motor vehicles equipped with permanently-installed devices for the refrigeration and dispensing of beer to licensed gatherings only; provided, however, that such licensee shall have first given notice of such delivery to the Commissioner.

(g), (h) [Repealed.]

(38 Del. Laws, c. 18, § 33; Code 1935, § 6162; 42 Del. Laws, c. 194, § 1; 43 Del. Laws, c. 277, § 1; 45 Del. Laws, c. 260, § 1; 45 Del. Laws, c. 265, § 1; 4 Del. C. 1953, § 717; 55 Del. Laws, c. 311, § 1; 56 Del. Laws, c. 265, § 1; 57 Del. Laws, c. 352, §§ 1, 2; 58 Del. Laws, c. 146, § 1; 59 Del. Laws, c. 107, §§ 57, 58; 59 Del. Laws, c. 115, § 1; 60 Del. Laws, c. 466, §§ 7, 8; 62 Del. Laws, c. 381, §§ 1-3; 65 Del. Laws, c. 156, § 1; 67 Del. Laws, c. 109, §§ 19, 21; 68 Del. Laws, c. 107, § 5; 69 Del. Laws, c. 6, § 5; 69 Del. Laws, c. 384, §§ 1, 2; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 248, § 1; 71 Del. Laws, c. 109, § 1; 72 Del. Laws, c. 486, § 11; 73 Del. Laws, c. 244, § 10; 74 Del. Laws, c. 29, § 1; 74 Del. Laws, c. 141, §§ 1-3; 74 Del. Laws, c. 146, § 1; 74 Del. Laws, c. 202, § 1; 74 Del. Laws, c. 259, §§ 1, 2; 76 Del. Laws, c. 237, §§ 1-3; 77 Del. Laws, c. 72, § 3; 80 Del. Laws, c. 62, § 1; 80 Del. Laws, c. 382, § 1; 81 Del. Laws, c. 62, § 1; 83 Del. Laws, c. 108, § 1; 84 Del. Laws, c. 241, § 1; 85 Del. Laws, c. 394, § 1; 85 Del. Laws, c. 397, § 1; 82 Del. Laws, c. 193, § 3.)

§ 710 Reports by importers.

The Commissioner shall require every importer to make a monthly report of the importer's manufacture, purchases, stocks and sales of alcoholic liquor to the Commissioner.

(38 Del. Laws, c. 18, § 28; Code 1935, § 6157; 4 Del. C. 1953, § 718; 57 Del. Laws, c. 680; 59 Del. Laws, c. 590, § 5; 67 Del. Laws, c. 109, § 19; 72 Del. Laws, c. 486, § 11; 84 Del. Laws, c. 42, § 45.)

§ 711 Refilling bottles.

Alcoholic liquor in bottles, procured by the holder of a license to resell for the purpose of delivering the same to consumers, shall be kept in the bottles in which it was procured. As long as any such bottle bears the mark or label which it bore when delivered, no other alcoholic liquor, substance or liquid shall be put therein, and no holder of a license, nor anyone on the licensee's behalf, after the alcoholic liquor bottled in 1 of the bottles has been poured out, may refill the bottle, either wholly or in part, with intent to supply alcoholic liquor or any other substance or liquid to any consumer.

(38 Del. Laws, c. 18, § 32; Code 1935, § 6161; 4 Del. C. 1953, § 719; 59 Del. Laws, c. 107, § 60; 67 Del. Laws, c. 109, § 19; 84 Del. Laws, c. 42, § 46.)

§ 712 Label on bottle.

(a) A holder of a license may not use or allow the use of any mark or label on a bottle, in which alcoholic liquor is kept for sale, that does not precisely and clearly indicate the nature of the contents of the bottle or that might in any way deceive any consumer as to the nature, composition, or quality of the contents.

(b) If a licensee prepares infused beverages or batched cocktails, the preparation and labeling of the infused beverages or batched cocktails must comply with the rules established by the Commissioner and each batched or infused cocktail container must be clearly labeled with every ingredient and the date the infused beverage or batched cocktail was made.

(38 Del. Laws, c. 18, § 32; Code 1935, § 6161; 4 Del. C. 1953, § 720; 59 Del. Laws, c. 107, § 61; 67 Del. Laws, c. 109, § 19; 85 Del. Laws, c. 269, § 20.)

§ 713 Mixing unauthorized with authorized liquor.

No person shall, for any reason, mix or permit the mixing of or cause to be mixed any alcoholic liquor which is not authorized to be sold with any alcoholic liquor the sale of which is authorized to be sold.

(38 Del. Laws, c. 18, § 32; Code 1935, § 6161; 4 Del. C. 1953, § 721; 59 Del. Laws, c. 107, § 62; 67 Del. Laws, c. 109, § 19.)

§ 714 Places for keeping spirits, wines or beer.

No person shall keep spirits, wines or beer in the State except:

(1) In an establishment licensed by the Commissioner to sell alcoholic liquor;

(2) In an establishment where it is expressly permitted by the Commissioner to keep alcoholic liquor;

(3) In an establishment where, by exception, it is permitted by law to keep alcoholic liquors;

(4) In the residence of any person, provided the alcoholic liquor is not kept with intent to sell the same, but one sale shall suffice to establish such intent;

(5) In the office of a physician, pharmacist or veterinarian for medicinal purposes only, and in the office of a clergyman for sacramental purposes only;

(6) In the baggage of an individual who is transporting alcoholic liquor for such individual's use;

(7) In a church, chapel, or other place for religious worship or a dependence thereof where sacramental wine may be kept.

(38 Del. Laws, c. 18, § 36; Code 1935, § 6165; 41 Del. Laws, c. 251, § 1; 59 Del. Laws, c. 107, § 63; 67 Del. Laws, c. 109, §§ 19, 22; 72 Del. Laws, c. 486, § 11; 84 Del. Laws, c. 42, § 47.)

§ 715 Places for keeping alcohol.

No person shall keep alcohol in the State, except:

(1) In the establishment of a pharmacist, physician, dentist, veterinarian, wholesale druggist, university, college, school or manufacturing plant where the alcohol is used in industrial or scientific work or for the manufacture of pharmaceutical products where it is expressly permitted by the Commissioner to keep alcohol;

(2) In a distillery licensed by the Commissioner to manufacture alcohol.

(38 Del. Laws, c. 18, § 36; Code 1935, § 6165; 41 Del. Laws, c. 251, § 1; 4 Del. C. 1953, § 723; 67 Del. Laws, c. 109, §§ 19, 23; 72 Del. Laws, c. 486, § 11.)

§ 716 Transportation of spirits, wines or beer.

No person shall transport spirits, wines or beer in this State, except:

(1) Directly from one establishment in this State to another establishment belonging to or leased by the same person, provided he or she holds a license to transport alcoholic liquor; or

(2) Directly from the establishment of a holder of a license to sell and to deliver such alcoholic liquor to the establishment of a like holder of a license to sell; or

(3) Directly from the establishment of a person who is the holder of a license to transport alcoholic liquor to a place outside this State; or

(4) An individual who is transporting alcoholic liquor for his or her personal use or the use of his or her family or guests; or

(5) An individual importing alcoholic liquors into the State, the daily quantity of which does not exceed the amount permitted by federal statutes governing the importation of alcoholic liquors into the United States.

(38 Del. Laws, c. 18, § 36; Code 1935, § 6165; 41 Del. Laws, c. 251, § 1; 42 Del. Laws, c. 191, § 5; 44 Del. Laws, c. 203, § 6; 4 Del. C. 1953, § 724; 50 Del. Laws, c. 417, § 3; 55 Del. Laws, c. 82, §§ 8, 9; 59 Del. Laws, c. 107, § 64; 67 Del. Laws, c. 109, §§ 19, 24; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 407, § 1.)

§ 717 Transportation of alcohol.

No person shall transport alcohol in the State, except where it is expressly permitted by the Commissioner to transport such alcohol.

(38 Del. Laws, c. 18, § 36; Code 1935, § 6165; 41 Del. Laws, c. 251, § 1; 4 Del. C. 1953, § 725; 67 Del. Laws, c. 109, §§ 19, 25; 72 Del. Laws, c. 486, § 11.)

§ 718 Shipping and transporting alcoholic liquor.

(a) If alcoholic liquor is to be shipped to a point within the State by other than the manufacturer or importer thereof, the transportation thereof outside of the municipality in which the establishment of the seller is situated, shall be made only by a common carrier or, if not contrary to the rules of the Commissioner, by the purchaser on condition that it is transported in a vehicle owned or hired by the purchaser directly to the purchaser's residence or, if the purchaser is the holder of a license to sell, to the purchaser's establishment, but such transportation shall not be by the seller nor by any employee, agent or representative of the seller, nor by any other person interested in the sale.

(b) If alcoholic liquor is to be shipped to a point within or without this State by the manufacturer or importer thereof, the shipment shall only be made by common carrier, by vehicle owned or hired by the manufacturer or importer, or employee of the manufacturer or importer, under the rules of the Commissioner. "Shipped," as used in this subsection, shall mean any movement of alcoholic beverage to any location

other than the manufacturer's or importer's storage location.

(c) If the transportation of alcoholic liquor be effected by a common carrier, the individual transporting or in charge of the transportation of such alcoholic liquor shall have in such individual's possession and produce upon request a waybill or other evidence of authorized shipment containing the name and address of the shipper and the name and address of the consignee.

(38 Del. Laws, c. 18, § 37; Code 1935, § 6166; 4 Del. C. 1953, § 726; 67 Del. Laws, c. 109, § 19; 68 Del. Laws, c. 54, § 1; 70 Del. Laws, c. 186, § 1; 72 Del. Laws, c. 486, § 11; 84 Del. Laws, c. 42, § 48; 84 Del. Laws, c. 514, § 1.)

§ 719 Distillery and wine manufacturer.

(a) No provision of this title shall prevent any distillery or brewery, duly licensed by the United States or by this State to manufacture alcohol or spirits in this State, or any wine manufacturer in this State from having or keeping for sale in the manufacturer's establishment in this State the alcoholic liquor so licensed to be manufactured by the manufacturer or from selling or delivering the same in accordance with the provisions of this title.

(b) If alcoholic liquor is to be shipped by a distillery or manufacturer to a place within this State, the distillery or manufacturer may sell it only to the Commissioner or under the published rules of the Commissioner and the distillery or manufacturer shall in every case comply with every other applicable provision of this title.

(c) The Commissioner may, upon the conditions it determines, grant to any distillery, duly licensed by the United States or by this State to manufacture alcohol or spirits in this State, a special license authorizing the distillery to purchase and to import, from such persons as are entitled to sell the same, wines or spirits to be used for the sole purpose of blending with and flavoring such products.

(d) No provision of this title shall prevent the Commissioner from agreeing to the sale and delivery of potable and non-potable alcohol from a distillery direct to a manufacturer of articles requiring such alcohol, if such sale and delivery be made subject to such conditions as the Commissioner publishes.

(38 Del. Laws, c. 18, §§ 40, 42; Code 1935, §§ 6168, 6170; 42 Del. Laws, c. 190, § 1; 4 Del. C. 1953, § 727; 59 Del. Laws, c. 107, § 65; 67 Del. Laws, c. 109, § 19; 72 Del. Laws, c. 486, § 11; 84 Del. Laws, c. 42, § 49.)

§ 720 Storage of alcoholic liquors.

All holders of licenses for the sale of alcoholic liquor in a tavern, restaurant or taproom, and as to the public sale portions of the premises covered by holders of a hotel or club license, shall store all alcoholic liquor in adequate storage facilities and the premises, or the part of the premises where such alcoholic liquor is stored if a hotel or club, must be locked before the last person leaves the licensed premises.

(59 Del. Laws, c. 590, § 3; 67 Del. Laws, c. 109, § 19.)

§ 721 Brewery.

No provision of this title shall prevent the Commissioner from authorizing any brewery to sell and to deliver beer to any person in this State who holds a license to receive and resell beer, if a duplicate bill of each sale is filed with or mailed to the Commissioner, provided that the Commissioner shall not authorize the resale and delivery of beer to licensees within this State by any brewery whose total domestic sales, when including all affiliated licenses whether in or out of this State, exceeds 6 million barrels of beer in a single calendar year.

(38 Del. Laws, c. 18, § 41; Code 1935, § 6169; 4 Del. C. 1953, § 728; 67 Del. Laws, c. 109, § 19; 72 Del. Laws, c. 486, § 11; 82 Del. Laws, c. 22, § 2.)

§ 722 Physicians, dentists, veterinarians and pharmacists.

(a) No provision of this title shall prevent any individual who is licensed in this State to practice medicine, surgery or obstetrics, or dentistry, or veterinary medicine or surgery from purchasing alcoholic liquor in quantities larger than 1 bottle and keeping and using the same for purposes of solution or sterilization in the licensed individual's own practice, or in making a preparation for external application to be administered by the licensed individual, or from purchasing brandy, as defined in the United States Pharmacopoeia, or rum, for use in compounding the licensed individual's medicines.

(b) No owner, lessee or manager conducting a pharmacy or drugstore shall sell or dispense, on the premises conducted as a pharmacy or drugstore, alcoholic liquor for any other purpose than medicinal, scientific and industrial purposes. No provision of this title shall prevent any holder of a license for a pharmacy under § 517 of this title from:

(1) Purchasing alcoholic liquor in quantities larger than 1 bottle, for use in medicinal, official or pharmaceutical preparations, but no such person may sell such alcoholic liquor except when contained in such preparations or when filling a prescription, or an order of an individual holder of license under § 518 of this title; or

(2) Purchasing ethyl alcohol in quantities larger than 1 bottle, and selling the same for obstetrical or antiseptic purposes only, in quantities not exceeding 16 ounces, upon prescription of an individual practicing medicine, surgery or obstetrics and registered as such in this State, or upon the certificate of the latter if the sale be made to the pharmacy license holder personally.

(38 Del. Laws, c. 18, §§ 17, 39; Code 1935, §§ 6146, 6167; 42 Del. Laws, c. 187, § 1; 42 Del. Laws, c. 192, § 1; 4 Del. C. 1953, § 729; 67 Del. Laws, c. 109, §§ 19, 26; 70 Del. Laws, c. 186, § 1; 84 Del. Laws, c. 42, §§ 1, 50.)

§ 723 Disposition of stock of insolvent, deceased or former licensee.

(a) In the case of a seizure of alcoholic liquor under any judgment rendered against the holder of any license or in the case of insolvency of such person, the officer seizing such alcoholic liquor or the trustee in bankruptcy of such license holder shall provide the Commissioner an inventory of the alcoholic liquor found in the possession of the judgment debtor or bankrupt. The Commissioner shall cause notice to be

delivered to all importers who sell product on the inventory. All importers shall pick up all saleable products (as determined by the Commissioner in the event of a dispute) that they sell at that time.

(b) The importer shall determine the value of the saleable inventory by determining the cost to a retail licensee on the same day as the alcoholic liquor is picked up.

(c) The importer may retain up to 5% of the value of the saleable inventory as a handling or restocking fee.

(d) In the event the licensee from whom the alcoholic liquor was seized owes the Importer an amount equal to or greater than the net of subsections (b) and (c) of this section above, the importer shall advise the Commissioner, the debtor or bankrupt, and the seizing authority of its calculations and credit the debtor's or bankrupt's account appropriately.

(e) In the event the licensee from whom the alcoholic liquor was seized owes the importer less than the net of subsections (b) and (c) of this section above, the importer shall, within 10 days of seizure, pay the difference of the net of subsections (b) and (c) of this section above and the licensee's obligation to the importer to the officer or the trustee, and shall advise the Commissioner, the debtor or bankrupt, and the seizing authority of its calculations and credit the debtor's or bankrupt's account appropriately.

(f) No payment shall be made for illegally acquired alcoholic liquor so delivered.

(g) Any dispute as to the value or saleable condition of the alcohol shall be determined by the Commissioner. Any dispute as to the amount of the obligations of the parties to each other shall be determined by the court or its designee.

(38 Del. Laws, c. 18, § 29; Code 1935, § 6158; 41 Del. Laws, c. 246, § 1; 42 Del. Laws, c. 189, § 2; 4 Del. C. 1953, § 730; 67 Del. Laws, c. 109, § 19; 72 Del. Laws, c. 486, § 11; 77 Del. Laws, c. 137, § 1.)

§ 724 Retaliatory beer tax and regulations; violations by out-of-state manufacturers of beer; hearing, penalties and appeal.

(a) In addition to compliance with all other provisions of this title, the Commissioner shall require each person, not a licensee of this State, who desires to sell beer manufactured outside this State to licensees of this State, to pay to the Commissioner the same fee or fees as are required to be paid in the State, territory or country of origin of such beer by a person, not a licensee thereof, who desires to sell beer manufactured in this State to licensees of such state, territory or country of origin, and to observe and comply with the same regulations, prohibitions and restrictions as are required of or enforced against a person who desires to sell beer manufactured in this State to licensees in the said state, territory or country of origin. In all cases where the Commissioner has issued any reciprocal regulations or orders concerning beer manufactured in any state, territory or country other than this State no licensee of this State shall purchase any such beer if its importation has been prohibited or if not entirely prohibited, unless such regulations or orders have been observed and complied with by the licensee of this State and by the person from or through whom the licensee of this State desires to purchase. Any beer manufactured outside of this State which is sold, transported or possessed in this State contrary to any such regulations or orders of the Commissioner or without the payment of the fees required by this title shall be considered contraband and shall be confiscated by the Commissioner and disposed of in the same manner as any other illegal alcoholic liquors.

(b) Upon learning of the Commissioner by a manufacturer of beer whose principal place of business is outside this State or by any servant, agent, employee or representative of such manufacturer within or partly within and partly outside this State of any violation of this title or any laws of this State relating to alcoholic liquors, or of any regulation of the Commissioner adopted pursuant thereto, or of any violation of any laws of this State or of the United States of America relating to the tax payment of alcoholic liquors, the Commissioner shall cite such manufacturer to appear before it not less than 10 nor more than 15 days from the date of mailing to such manufacturer at such manufacturer's principal place of business wherever located by registered mail a notice to show cause why the further importation into this State of beer manufactured by such manufacturer should not be prohibited. Upon such hearing, whether or not an appearance was made by such outside manufacturer, if satisfied that any such violation has occurred, the Commissioner shall immediately issue an order prohibiting the importation of beer manufactured by such manufacturer into this State for a period of not less than 6 months nor more than 3 years. Notice of such action of the Commissioner shall be given immediately to such manufacturer and to all persons licensed to import beer within this State by mailing a copy of such order to such manufacturer at its principal place of business wherever located and to such licensees at their licensed premises. Thereafter no person licensed to import beer within this State shall purchase or sell any beer manufactured by such outside manufacturer during the term of the prohibition. Any violation of the prohibitory order is a misdemeanor and also constitutes grounds for revocation or suspension of a license to import beer. In all such cases the Commissioner shall file of record at least a brief statement in the form of an opinion of the reasons for the ruling or order. Any outside manufacturer aggrieved by the action of the Commissioner may appeal to the Superior Court in the same manner as provided in § 541 of this title for appeals from refusals to grant licenses.

(38 Del. Laws, c. 18, § 30; 39 Del. Laws, c. 6; Code 1935, § 6159; 43 Del. Laws, c. 276, § 1; 44 Del. Laws, c. 206, § 1; 4 Del. C. 1953, § 731; 50 Del. Laws, c. 350, § 1; 67 Del. Laws, c. 109, § 19; 72 Del. Laws, c. 486, § 11; 84 Del. Laws, c. 42, § 51.)

§ 725 Preparations containing alcoholic liquors but not intended for use as a beverage.

(a) No provision of this title shall, by reason only of the fact that the product contains alcoholic liquor, prevent any of the following:

(1) The sale of any perfume, lotion, tincture, varnish, dressing, fluid extract or essence, vinegar, cream, ointment, salve, distillate, cooking wine, or decoction.

(2) The sale of any preparation (official, medicinal, or pharmaceutical) or of any patent or proprietary medicine, intended solely for medicinal purposes, if the product does not contain alcohol in any greater quantity than the amount required as a solvent or preservative,

or if the product be so compounded as to render it unsuitable for use as a beverage.

(b) If the Division of Alcohol, Tobacco, and Marijuana Enforcement (DATME) is of the opinion that one of the products enumerated in this section contains alcoholic liquor and is used for beverage purposes, it may notify the manufacturer or seller to that effect and from and after the date of such notice this title shall apply to such product unless the manufacturer or seller requests a hearing before the Commissioner within 20 days of receipt of the notice. If the manufacturer or seller does not request a hearing within 20 days of the notice, or the Commissioner determines after the hearing that the product is used for beverage purposes, the manufacturer or seller so notified commits an offense under this title if the manufacturer or seller sells the product after such notice or determination, and is liable to the penalties provided in § 902 of this title.

(c) (1) In order to determine whether any particular preparation, proprietary or patented, contains alcohol in excess of the amount required as a solvent or preservative, or whether it is so compounded as to render it unsuitable for use as a beverage, DATME may purchase a sample of such preparation from any person and may have it analyzed by any individual DATME selects.

(2) If it appears from the analysis of the sample that the preparation contains alcohol in excess of the amount required as a solvent or preservative, or that it is not so compounded as to render it unsuitable for use as a beverage, DATME may notify the manufacturer or the agent in this State of the manufacturer of the preparation or the person who has acquired the preparation for purpose of resale, that the preparation is not an exempt product within the meaning of this section, but is an alcoholic liquor to which this title applies. After the service of such notice, this title shall apply to such preparation and the manufacturer or the agent in this State of the manufacturer or the person who has acquired same to resell, who has been so notified, commits an offense under this title unless a hearing is requested before the Commissioner within 20 days of receipt of the notice. If a hearing is not requested within 20 days of the notice, or the Commissioner determines after the hearing that the preparation is used for beverage purposes, the manufacturer or the agent in this State of the manufacturer of the preparation or the person who has acquired the preparation for purpose of resale commits an offense under this title if that person sells the preparation after the date of the service upon that person of the notice or determination.

(3) The notice required by this section shall consist of a letter from the Director of DATME stating that the preparation specified in the letter is not an exempt product in the sense of this section, but is an alcoholic liquor to which this title applies. The notice must be served by hand delivery or by sending a copy by certified mail to the manufacturer, or to the agent in this State of the manufacturer, or to the person who has acquired the preparation to resell.

(d) This section applies to every product which is included within the definition of the word “preparation” set forth in § 101 of this title and to every product which is defined or described in subsection (a) of this section, other than one which is prepared by a druggist at the time of the prescription of a physician and in accordance with its tenor or which is prepared by a physician for the use only of a patient actually under the physician’s care.

(38 Del. Laws, c. 18, § 43; Code 1935, § 6171; 4 Del. C. 1953, § 732; 67 Del. Laws, c. 109, § 19; 70 Del. Laws, c. 186, § 1; 72 Del. Laws, c. 486, § 11; 81 Del. Laws, c. 100, § 2; 84 Del. Laws, c. 42, § 1; 85 Del. Laws, c. 518, § 5.)

§ 726 Liability for price of illegal sale of alcoholic liquors.

No action to recover the price of any alcoholic liquor sold in contravention of this title may be maintained.

(38 Del. Laws, c. 18, § 53; Code 1935, § 6181; 4 Del. C. 1953, § 733; 67 Del. Laws, c. 109, § 19.)

§ 727 Sale at last call/closing hour of an establishment.

No more than 1 alcoholic beverage may be sold to a person less than 15 minutes prior to closing each day that a license is open pursuant to this title. Any server who violates this section shall be guilty of a violation, and shall be fined $100 for a first offense, and $250 for a second or subsequent offense accruing within 1 year and shall be further required to take a course of instruction pursuant to Chapter 12 of this title (Delaware Responsible Alcoholic Beverage Server Training Program) within 90 days.

(71 Del. Laws, c. 438, § 1.)

§§ 728-730 [Reserved.]

Chapter 9
CRIMINAL OFFENSES AND PENALTIES

§ 901 Offenses carrying penalty of imprisonment for 3 to 6 months.

Whoever:

(1) Peddles any alcoholic liquor; or

(2) Keeps, sells or dispenses alcoholic liquor in a disorderly house; or

(3) Being an employee of the Commissioner and/or Division, infringes any of the provisions of this title; or

(4) Not being the holder of a proper and valid license, or not being so authorized by this title, sells any alcoholic liquor in this State; or

(5) Not being the holder of a license under this title, claims or represents to be the holder of a license or exhibits a document purporting to be a license under this title; or

(6) Sells, offers for sale, or keeps with the intent to sell for beverage purposes, denatured alcohol, perfume, lotion, tincture, fluid extract or essence, or other liquid or solid not originally manufactured or intended for use as a beverage, containing more than one half of 1 percent of ethyl alcohol by volume,

shall, in addition to the payment of costs, be imprisoned not less than 3 nor more than 6 months. Justices of the peace shall have original jurisdiction to hear, try, and finally determine alleged violations of this section.

(38 Del. Laws, c. 18, §§ 44, 45; Code 1935, §§ 6172, 6173; 41 Del. Laws, c. 250, § 1; 4 Del. C. 1953, § 901; 58 Del. Laws, c. 239, § 43; 67 Del. Laws, c. 109, § 27; 72 Del. Laws, c. 486, § 10; 84 Del. Laws, c. 42, § 52.)

§ 902 Offenses carrying penalty of fine of $500 to $1,000 or imprisonment for 3 to 6 months on failure to pay fine.

Whoever:

(1) Being the holder of a license, sells any alcoholic liquor of a kind other than that authorized to be sold by his or her license or by this title; or

(2) Being the holder of a license, sells alcoholic liquor to any person to whom neither his license nor this title authorizes him or her to sell; or

(3) Being the holder of a license, keeps or allows the keeping in his or her establishment of any alcoholic liquor other than that which he or she is authorized to sell by virtue of his or her license; or

(4) Being the manufacturer or the agent in this State for the manufacturer of any liquid or solid containing alcoholic liquor, sells such liquid or solid as a medicine or preparation after the Commissioner and/or Division has notified him or her in accordance with § 725 of this title; or

(5) Keeps or allows the keeping of any alcoholic liquor in his or her residence, either for himself or herself or for other persons on deposit or otherwise, with intent to sell the same; or

(6) Not being the holder of a license under Chapter 5 of this title, keeps or allows alcoholic liquor to be kept in a club for himself or herself or for members of the club or for other persons in storage or otherwise; or

(7) Not being the holder of a license authorized by § 515A of this title, operates or maintains an establishment commonly known as a "bottle club,"

shall, in addition to payment of costs, be fined not less than $500 nor more than $1,000, and, on failure to pay such fine and costs, shall be imprisoned not less than 3 nor more than 6 months. Justices of the peace shall have original jurisdiction to hear, try, and finally determine alleged violations of this section.

(38 Del. Laws, c. 18, § 45; Code 1935, § 6173; 4 Del. C. 1953, § 902; 58 Del. Laws, c. 239, § 44; 63 Del. Laws, c. 232, § 3; 67 Del. Laws, c. 109, § 28; 70 Del. Laws, c. 186, § 1; 72 Del. Laws, c. 486, § 10.)

§ 903 Offenses carrying penalty of fine of not more than $100 or imprisonment for 1 month on failure to pay fine.

(a) In addition to the payment of costs, whoever does any of the following is subject to a fine of not more than $100; An individual who does any of the following is subject to a fine of not less than $100, in addition to the payment of costs:

(1) Being the holder of a license, sells beer to which wine, spirits, or alcohol has been added; sells wine to which spirits or alcohol has been added, other than an addition of spirits or alcohol to render possible transportation or to secure the customary fortifying thereof; or sells any alcoholic liquor to which has been added any adulterating or deleterious substances or liquid.

(2) Being the holder of a license, sells any alcoholic liquor in any place, in any manner, or in any quantity other than as authorized by the license.

(3) Being the holder of a license to sell spirits, wine, or beer in a dining room or bedroom, has not furnished, fitted, or equipped the dining room or bedroom in the manner or to the extent indicated by the the Commissioner, the Division, or both.

(4) Being the holder of a license to sell spirits, wine, or beer, as the case may be, does not comply with any requirement or provision of §§ 512 through 520 or § 706 of this title.

(5) Being the holder of a license, sells any alcoholic liquor that the holder is authorized by the license to sell, at any time forbidden by § 709 of this title.

(6) [Repealed.]

(7) Being the holder of a license to sell alcoholic liquor in a package store, allows any alcoholic liquor sold in the package store to be consumed in the package store or its dependencies, either by the purchaser or by any other person.

(8) Being the holder of a license to sell alcoholic liquor in the dining room of any hotel, restaurant, club, or steamboat, or in a dining car, does not keep the license constantly posted conspicuously in view of the public in the dining room or dining car.

(9) Being the holder of a license, keeps or transports any alcoholic liquor in contravention of this title.

(10) Having acquired any liquid or solid containing alcoholic liquor for the purpose of resale, sells it as a medicine or preparation after having been notified by the Commissioner, the Division, or both, in accordance with § 725 of this title.

(11) Not being the holder of a license, leads the public or travelers to believe, by means of signs, inscriptions, advertisements, or circulars, that the person is authorized to sell alcoholic liquor.

(12) Buys or receives any alcoholic liquor from any person not authorized to sell that variety of alcoholic liquor or keeps such alcoholic liquor in the person's possession.

(13) Obtains, even gratuitously, any alcoholic liquor from any holder of a license for the sale of the alcoholic liquor during the time when the sale of the alcoholic liquor is forbidden.

(14) Causes any disturbance in any place or brings into the place or drinks in the place any alcoholic liquor prohibited in the place.

(15) Buys, for any remuneration whatsoever, any alcoholic liquors for another person.

(16) Being the holder of a license to sell alcoholic liquor, fails to post in a conspicuous place a sign that clearly reads, "According to the Surgeon General, women should not drink alcoholic beverages during pregnancy because of the risk of birth defects."

(17) Manufactures, distributes, sells, offers for sale, possesses, purchases, or uses a powdered alcoholic beverage.

(b) If a person an individual fails to pay fines and costs assessed under subsection (a) of this section, the person individual is subject to imprisonment for 30 days.

(c) Justices of the Peace have original jurisdiction to hear, try, and finally determine alleged violations of this section.

(38 Del. Laws, c. 18, § 46; Code 1935, § 6174; 41 Del. Laws, c. 254, § 2; 45 Del. Laws, c. 263, § 1; 4 Del. C. 1953, § 903; 58 Del. Laws, c. 239, § 45; 67 Del. Laws, c. 23, §§ 1, 2; 67 Del. Laws, c. 109, § 29; 70 Del. Laws, c. 186, § 1; 72 Del. Laws, c. 486, § 10; 81 Del. Laws, c. 372, § 2; 84 Del. Laws, c. 42, § 1; 85 Del. Laws, c. 269, § 21; 85 Del. Laws, c. 394, § 1.)

§ 904 Offenses concerning certain persons [Effective until Aug. 15, 2030].

(a) (1) Whoever sells any alcoholic liquor to any person who has not reached the age of 21 years, or sells to any person of more than such age any alcoholic liquor knowing that such alcoholic liquor is bought for a person who is less than 21 years of age and is to be drunk by the latter, shall, in addition to the payment of costs, be fined not less than $250 nor more than $500 and, on failure to pay such fine and costs, shall be imprisoned for 30 days.

(2) In any prosecution for an offense under this subsection, it shall be an affirmative defense that the individual, who has not reached the age of 21 years, presented to the accused identification, with a photograph of such individual affixed thereon, which identification sets forth information which would lead a reasonable person to believe such individual was 21 years of age or older.

(b) Any person under the age of 21 years who knowingly makes false statement to any person engaged in the sale of alcoholic liquor for the purpose of obtaining the same and to the effect that the person is 21 years of age or older, shall, in addition to the payment of costs, be fined for the first offense, not less than $100 nor more than $500, and on failure to pay such fine and costs, shall be imprisoned for 30 days, and for each subsequent like offense, shall be fined not less than $500 nor more than $1,000, and on failure to pay such fine and costs shall be imprisoned for 60 days.

(c) Whoever purchases, buys or gives alcoholic liquor for or to a person under the age of 21 years or knowingly allows a person under such purchaser's, buyer's or provider's supervision and under the age of 21 years to consume alcoholic liquor shall, in addition to the payment of costs, be fined for the first offense, not less than $100 nor more than $500, and may be ordered by the court to perform community service for a period of 40 hours in such form and on such terms as the court shall deem appropriate under the circumstances and may be imprisoned for not more than 30 days; and for each subsequent like offense, shall be fined not less than $500 nor more than $1,000 and may be ordered by the court to perform community service for a period of 80 hours in such form and on such terms as the court shall deem appropriate under the circumstances and may be imprisoned for not more than 60 days. This subsection shall not apply to religious services or members of the same family within the private home of any of said members.

(d) Except as provided in subsections (h) and (n) of this section, whoever, being the holder of a license to operate a tavern or taproom, admits or permits to remain in such tavern or taproom any individual under the age of 21 years, shall be fined not more than $100.

(e) Except as provided in subsections (h) and (n) of this section, whoever, being under the age of 21 years, enters or remains in a tavern, taproom or package store, or while therein possesses at any time alcoholic liquors, shall be fined $50.

(f) (1) Whoever, being under the age of 21 years, has alcoholic liquor in such under-aged person's possession at any time, or consumes or is found to have consumed alcoholic liquor, shall be fined $100 for the first violation and not less than $200 nor more than $500 for each subsequent violation.

(2) Notwithstanding paragraph (f)(1) of this section, whoever commits a violation of this subsection must be assessed a civil penalty

for a first violation or a second violation. Information concerning this civil offense may not appear on an individual's certified criminal record.

(3) Whoever commits a third or subsequent violation of this subsection is guilty of an unclassified misdemeanor.

(4) This section does not apply to the possession or consumption of alcoholic liquor in connection with any religious service or by members of the same family within the private home of any of said members.

(5) A peace officer having reasonable grounds to believe that a juvenile has committed an offense under this subsection may issue the juvenile a civil citation in lieu of a civil penalty.

(g) Nothing in this section shall prevent the employment of a person, 14 years of age or older, in clubs with authorized dining facilities, hotels, racetracks and restaurants licensed under this title, provided that:

(1) A person may not be involved in the sale, service, or preparation of alcoholic liquor unless the person is 18 years of age or older.

(2) A person who is 18, 19, or 20 years old may be involved in the sale and service of alcoholic liquor but may not be involved in the preparation of alcoholic liquor unless directly supervised by a person who is 21 years of age or older and who is working behind the bar with the 18-, 19-, or 20-year-old.

(h) Nothing in this section prevents any of the following:

(1) The employment of a person 18 years of age or older to prepare, sell, or serve alcoholic liquor to patrons of establishments licensed under this title for the on-premises sale and consumption of alcoholic liquor, provided that a person who is 18, 19, or 20 years old and is involved in the preparation of alcoholic liquor is directly supervised by a person who is 21 years of age or older and who is working behind the bar with the 18-, 19-, or 20-year-old.

(2) The employment of a person 18 years or older to work in any capacity in a tavern or taproom. A person 18 years or older may prepare, sell, or serve alcoholic liquor for patrons of a tavern or taproom, provided that a person who is 18, 19, or 20 years old and is involved in the preparation of alcoholic liquor is directly supervised by a person who is 21 years of age or older and who is working behind the bar with the 18-, 19-, or 20-year-old.

(3) A person 18 years of age or older to enter a tavern or taproom to pick up a food order for delivery through a third-party delivery service.

(4) Notwithstanding paragraphs (h)(1), (2), and (3) of this section, a person under age 21 may not enter into or work in any capacity in a tavern or taproom that offers sexually-oriented entertainment. This includes all of the following:

(a) A tavern or taproom that is also licensed as an adult entertainment establishment under Chapter 16 of Title 24.

(b) A tavern or taproom that offers "sexually explicit performances," as defined in § 787 of Title 11.

(c) A tavern or taproom that is advertised as a "strip club," "adult entertainment club," "gentlemen's club," or that offers performances or services of a sexually-oriented nature.

(i) Nothing in this section shall prevent the employment of a person, 16 years of age or older, in a catering business serving liquors, provided that:

(1) A person may not be involved in the sale, service, or preparation of alcoholic liquor unless the person is 18 years of age or older.

(2) A person who is 18, 19, or 20 years old may not be involved in the preparation of alcoholic liquor unless directly supervised by a person who is 21 years of age or older and who is working behind the bar with the 18-, 19-, or 20-year-old.

(j) Nothing in this section shall prevent the employment of a person, 16 years of age or older, in a bowling alley licensed to serve alcoholic beverages, provided that:

(1) A person may not be involved in the sale, service, or preparation of alcoholic liquor unless the person is 18 years of age or older.

(2) A person who is 18, 19, or 20 years old may not be involved in the preparation of alcoholic liquor unless directly supervised by a person who is 21 years of age or older and who is working behind the bar with the 18-, 19-, or 20-year-old.

(k) Justices of the peace shall have original jurisdiction to hear, try, and finally determine alleged violations of this section.

(*l*) Nothing in this section shall prevent a licensed importer from employing a person who is 18, 19 or 20 years of age to:

(1) Work in an office, warehouse or other facility used by the importer in the operation of its business;

(2) Make or assist in deliveries of alcoholic liquors to licensed establishments in this State;

(3) Transport or assist in the transporting of alcoholic liquors to or from the importer's warehouse.

Such person may enter any licensed establishment in this State for the purpose of making or assisting the delivery of alcoholic liquors thereto or for any purpose related to such delivery.

No such person shall be employed by a licensed importer as a salesperson or sales representative.

(m) Nothing in this section prevents the employment in a package store of a person who has reached the age of 18 years, under conditions the Commission may by rule prescribe, but the minor may not sell or serve alcoholic liquors.

(n) Nothing in this section shall prohibit or prevent persons under the age of 21 years from entering or remaining in a premises licensed as a tavern or taproom for the purpose of a social event, including, but not limited to, events exclusively for persons under the age of 21 years, provided that the premises licensed as a taproom or tavern is closed for business (including any Sunday); and provided further, that during any such social event, no alcoholic liquor shall be sold, furnished or given to any person at any time before, during or after the social event. All alcoholic liquor must be either removed from the licensed premises or placed under lock and key at all times during the social event and any time before or after the social event when persons under the age of 21 years are present on the licensed premises.

(o) Any person who was convicted of a first offense under subsections (e) and (f) of this section or the same offense under any county or municipal code, ordinance, or regulation and who was under the age of 21 at the time of the offense may, upon reaching the age of 21, apply for an expungement of the record of the conviction and any indicia of arrest to the court in which the person was convicted. For violations of subsection (e) or (f) of this section, an order granting such expungement shall issue upon proof that the person has reached the age of 21, unless the person has failed to comply with the sentencing order or the person has another charge under this section, or under the same offense under any county or municipal code, ordinance, or regulation, which remains outstanding. Upon issuance of the order of expungement, the records of the conviction and any indicia of arrest shall be dealt with in accordance with the procedures specified in subchapter VII of Chapter 43 of Title 11. Nothing in this section prohibits the Family Court from expunging a record of conviction as otherwise provided by law. The application for or granting of a pardon under §§ 4361 through 4364 of Title 11 does not prohibit an expungement under this section. All sentencing orders for violations of this section by persons under the age of 21 at the time of the offense shall state that the record of the conviction may be expunged upon reaching the age of 21 and thereafter. The civil filing fee shall apply to applications for expungement plus a $100 fee payable to the State Bureau of Identification for administrative costs.

(p) Whoever fails to request identification for age verification, pursuant to § 527(c)(2) of this title shall, in addition to the payment of costs, be fined not less than $250 nor more than $500 for the first offense. Failure to pay such fines and costs may result in imprisonment for no more than 10 days.

(q) Notwithstanding the age-related provisions of subsections (g), (h), (i), and (j) of this section, a person who is under 19 years old may not be involved in the preparation of alcoholic liquor while the person is enrolled in a secondary school program.

(38 Del. Laws, c. 18, §§ 46, 50; Code 1935, §§ 6174, 6178; 41 Del. Laws, c. 253, §§ 1, 2; 45 Del. Laws, c. 263, § 1; 47 Del. Laws, c. 150, § 1; 4 Del. C. 1953, § 904; 53 Del. Laws, c. 390, §§ 1, 2; 54 Del. Laws, c. 295; 55 Del. Laws, c. 300; 55 Del. Laws, c. 335; 58 Del. Laws, c. 201; 58 Del. Laws, c. 239, § 46; 58 Del. Laws, c. 511, §§ 2-7; 59 Del. Laws, c. 234, § 1; 59 Del. Laws, c. 297, §§ 1-3; 61 Del. Laws, c. 448, § 1; 61 Del. Laws, c. 493, § 3; 61 Del. Laws, c. 511, §§ 1-3; 63 Del. Laws, c. 95, § 1; 64 Del. Laws, c. 216, §§ 3, 4; 64 Del. Laws, c. 435, § 1; 67 Del. Laws, c. 425, § 1; 68 Del. Laws, c. 242, § 1; 70 Del. Laws, c. 123, § 1; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 558, §§ 1-3; 72 Del. Laws, c. 134, § 1; 72 Del. Laws, c. 348, § 1; 72 Del. Laws, c. 349, § 1; 72 Del. Laws, c. 350, § 1; 74 Del. Laws, c. 237, §§ 1, 2; 75 Del. Laws, c. 255, § 2; 75 Del. Laws, c. 265, § 1; 81 Del. Laws, c. 338, § 1; 82 Del. Laws, c. 83, § 11; 82 Del. Laws, c. 143, § 1; 83 Del. Laws, c. 37, § 2; 83 Del. Laws, c. 198, § 1; 83 Del. Laws, c. 291, § 1; 83 Del. Laws, c. 339, § 39; 83 Del. Laws, c. 438, § 2; 83 Del. Laws, c. 514, § 1; 84 Del. Laws, c. 42, §§ 1, 53; 85 Del. Laws, c. 269, § 22; 85 Del. Laws, c. 284, § 1; 85 Del. Laws, c. 139, § 4.)

§ 904 Offenses concerning certain persons [Effective Aug. 15, 2030].

(a) (1) Whoever sells any alcoholic liquor to any person who has not reached the age of 21 years, or sells to any person of more than such age any alcoholic liquor knowing that such alcoholic liquor is bought for a person who is less than 21 years of age and is to be drunk by the latter, shall, in addition to the payment of costs, be fined not less than $250 nor more than $500 and, on failure to pay such fine and costs, shall be imprisoned for 30 days.

(2) In any prosecution for an offense under this subsection, it shall be an affirmative defense that the individual, who has not reached the age of 21 years, presented to the accused identification, with a photograph of such individual affixed thereon, which identification sets forth information which would lead a reasonable person to believe such individual was 21 years of age or older.

(b) Any person under the age of 21 years who knowingly makes false statement to any person engaged in the sale of alcoholic liquor for the purpose of obtaining the same and to the effect that the person is 21 years of age or older, shall, in addition to the payment of costs, be fined for the first offense, not less than $100 nor more than $500, and on failure to pay such fine and costs, shall be imprisoned for 30 days, and for each subsequent like offense, shall be fined not less than $500 nor more than $1,000, and on failure to pay such fine and costs shall be imprisoned for 60 days.

(c) Whoever purchases, buys or gives alcoholic liquor for or to a person under the age of 21 years or knowingly allows a person under such purchaser's, buyer's or provider's supervision and under the age of 21 years to consume alcoholic liquor shall, in addition to the payment of costs, be fined for the first offense, not less than $100 nor more than $500, and may be ordered by the court to perform community service for a period of 40 hours in such form and on such terms as the court shall deem appropriate under the circumstances and may be imprisoned for not more than 30 days; and for each subsequent like offense, shall be fined not less than $500 nor more than $1,000 and may be ordered by the court to perform community service for a period of 80 hours in such form and on such terms as the court shall deem appropriate under the circumstances and may be imprisoned for not more than 60 days. This subsection shall not apply to religious services or members of the same family within the private home of any of said members.

(d) Except as provided in subsections (h) and (n) of this section, whoever, being the holder of a license to operate a tavern or taproom, admits or permits to remain in such tavern or taproom any individual under the age of 21 years, shall be fined not more than $100.

(e) Except as provided in subsections (h) and (n) of this section, whoever, being under the age of 21 years, enters or remains in a tavern, taproom or package store, or while therein possesses at any time alcoholic liquors, shall be fined $50.

(f) (1) Whoever, being under the age of 21 years, has alcoholic liquor in such under-aged person's possession at any time, or consumes or is found to have consumed alcoholic liquor, shall be fined $100 for the first violation and not less than $200 nor more than $500 for each subsequent violation.

(2) Notwithstanding paragraph (f)(1) of this section, whoever commits a violation of this subsection must be assessed a civil penalty for a first violation or a second violation. Information concerning this civil offense may not appear on an individual's certified criminal record.

(3) Whoever commits a third or subsequent violation of this subsection is guilty of an unclassified misdemeanor.

(4) This section does not apply to the possession or consumption of alcoholic liquor in connection with any religious service or by members of the same family within the private home of any of said members.

(5) A peace officer having reasonable grounds to believe that a juvenile has committed an offense under this subsection may issue the juvenile a civil citation in lieu of a civil penalty.

(g) Nothing in this section shall prevent the employment of a person, 14 years of age or older, in clubs with authorized dining facilities, hotels, racetracks and restaurants licensed under this title, provided that:

(1) A person may not be involved in the sale, service, or preparation of alcoholic liquor unless the person is 18 years of age or older.

(2) A person who is 18, 19, or 20 years old may be involved in the sale and service of alcoholic liquor but may not be involved in the preparation of alcoholic liquor unless directly supervised by a person who is 21 years of age or older and who is working behind the bar with the 18-, 19-, or 20-year-old.

(h) Nothing in this section prevents any of the following:

(1) The employment of a person 18 years of age or older to prepare, sell, or serve alcoholic liquor to patrons of establishments licensed under this title for the on-premises sale and consumption of alcoholic liquor, provided that a person who is 18, 19, or 20 years old and is involved in the preparation of alcoholic liquor is directly supervised by a person who is 21 years of age or older and who is working behind the bar with the 18-, 19-, or 20-year-old.

(2) The employment of a person 18 years or older to work in any capacity in a tavern or taproom. A person 18 years or older may prepare, sell, or serve alcoholic liquor for patrons of a tavern or taproom, provided that a person who is 18, 19, or 20 years old and is involved in the preparation of alcoholic liquor is directly supervised by a person who is 21 years of age or older and who is working behind the bar with the 18-, 19-, or 20-year-old.

(3) A person 18 years of age or older to enter a tavern or taproom to pick up a food order for delivery through a third-party delivery service.

(4) Notwithstanding paragraphs (h)(1), (2), and (3) of this section, a person under age 21 may not enter into or work in any capacity in a tavern or taproom that offers sexually-oriented entertainment. This includes all of the following:

(a) A tavern or taproom that is also licensed as an adult entertainment establishment under Chapter 16 of Title 24.

(b) A tavern or taproom that offers "sexually explicit performances," as defined in § 787 of Title 11.

(c) A tavern or taproom that is advertised as a "strip club," "adult entertainment club," "gentlemen's club," or that offers performances or services of a sexually-oriented nature.

(i) Nothing in this section shall prevent the employment of a person, 16 years of age or older, in a catering business serving liquors, provided that:

(1) A person may not be involved in the sale, service, or preparation of alcoholic liquor unless the person is 18 years of age or older.

(2) A person who is 18, 19, or 20 years old may not be involved in the preparation of alcoholic liquor unless directly supervised by a person who is 21 years of age or older and who is working behind the bar with the 18-, 19-, or 20-year-old.

(j) Nothing in this section shall prevent the employment of a person, 16 years of age or older, in a bowling alley licensed to serve alcoholic beverages, provided that:

(1) A person may not be involved in the sale, service, or preparation of alcoholic liquor unless the person is 18 years of age or older.

(2) A person who is 18, 19, or 20 years old may not be involved in the preparation of alcoholic liquor unless directly supervised by a person who is 21 years of age or older and who is working behind the bar with the 18-, 19-, or 20-year-old.

(k) Justices of the peace shall have original jurisdiction to hear, try, and finally determine alleged violations of this section.

(*l*) Nothing in this section shall prevent a licensed importer from employing a person who is 18, 19 or 20 years of age to:

(1) Work in an office, warehouse or other facility used by the importer in the operation of its business;

(2) Make or assist in deliveries of alcoholic liquors to licensed establishments in this State;

(3) Transport or assist in the transporting of alcoholic liquors to or from the importer's warehouse.

Such person may enter any licensed establishment in this State for the purpose of making or assisting the delivery of alcoholic liquors thereto or for any purpose related to such delivery.

No such person shall be employed by a licensed importer as a salesperson or sales representative.

(m) Nothing in this section prevents the employment in a package store of person a who has reached the age of 18 years, under conditions the Commission may by rule prescribe, but the minor may not sell or serve alcoholic liquors.

(n) Nothing in this section shall prohibit or prevent persons under the age of 21 years from entering or remaining in a premises licensed as a tavern or taproom for the purpose of a social event, including, but not limited to, events exclusively for persons under the age of 21 years, provided that the premises licensed as a taproom or tavern is closed for business (including any Sunday); and provided further, that during any such social event, no alcoholic liquor shall be sold, furnished or given to any person at any time before, during or after the social event. All alcoholic liquor must be either removed from the licensed premises or placed under lock and key at all times during the social event and any time before or after the social event when persons under the age of 21 years are present on the licensed premises.

(o) Any person who was convicted of a first offense under subsections (e) and (f) of this section or the same offense under any county or municipal code, ordinance, or regulation and who was under the age of 21 at the time of the offense may, upon reaching the age of 21,

apply for an expungement of the record of the conviction and any indicia of arrest to the court in which the person was convicted. For violations of subsection (e) or (f) of this section, an order granting such expungement shall issue upon proof that the person has reached the age of 21, unless the person has failed to comply with the sentencing order or the person has another charge under this section, or under the same offense under any county or municipal code, ordinance, or regulation, which remains outstanding. Upon issuance of the order of expungement, the records of the conviction and any indicia of arrest shall be dealt with in accordance with the procedures specified in subchapter VII of Chapter 43 of Title 11. Nothing in this section prohibits the Family Court from expunging a record of conviction as otherwise provided by law. The application for or granting of a pardon under §§ 4361 through 4364 of Title 11 does not prohibit an expungement under this section. All sentencing orders for violations of this section by persons under the age of 21 at the time of the offense shall state that the record of the conviction may be expunged upon reaching the age of 21 and thereafter. The civil filing fee shall apply to applications for expungement plus a $100 fee payable to the State Bureau of Identification for administrative costs.

(p) [Repealed.]

(q) Notwithstanding the age-related provisions of subsections (g), (h), (i), and (j) of this section, a person who is under 19 years old may not be involved in the preparation of alcoholic liquor while the person is enrolled in a secondary school program.

(38 Del. Laws, c. 18, §§ 46, 50; Code 1935, §§ 6174, 6178; 41 Del. Laws, c. 253, §§ 1, 2; 45 Del. Laws, c. 263, § 1; 47 Del. Laws, c. 150, § 1; 4 Del. C. 1953, § 904; 53 Del. Laws, c. 390, §§ 1, 2; 54 Del. Laws, c. 295; 55 Del. Laws, c. 300; 55 Del. Laws, c. 335; 58 Del. Laws, c. 201; 58 Del. Laws, c. 239, § 46; 58 Del. Laws, c. 511, §§ 2-7; 59 Del. Laws, c. 234, § 1; 59 Del. Laws, c. 297, §§ 1-3; 61 Del. Laws, c. 448, § 1; 61 Del. Laws, c. 493, § 3; 61 Del. Laws, c. 511, §§ 1-3; 63 Del. Laws, c. 95, § 1; 64 Del. Laws, c. 216, §§ 3, 4; 64 Del. Laws, c. 435, § 1; 67 Del. Laws, c. 425, § 1; 68 Del. Laws, c. 242, § 1; 70 Del. Laws, c. 123, § 1; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 558, §§ 1-3; 72 Del. Laws, c. 134, § 1; 72 Del. Laws, c. 348, § 1; 72 Del. Laws, c. 349, § 1; 72 Del. Laws, c. 350, § 1; 74 Del. Laws, c. 237, §§ 1, 2; 75 Del. Laws, c. 255, § 2; 75 Del. Laws, c. 265, § 1; 81 Del. Laws, c. 338, § 1; 82 Del. Laws, c. 83, § 11; 82 Del. Laws, c. 143, § 1; 83 Del. Laws, c. 37, § 2; 83 Del. Laws, c. 198, § 1; 83 Del. Laws, c. 291, § 1; 83 Del. Laws, c. 339, § 39; 83 Del. Laws, c. 438, § 2; 83 Del. Laws, c. 514, § 1; 84 Del. Laws, c. 42, §§ 1, 53; 85 Del. Laws, c. 139, § 4; 85 Del. Laws, c. 269, § 22; 85 Del. Laws, c. 284, § 1; 85 Del. Laws, c. 139, § 7.)

§ 905 Unlicensed manufacture of alcoholic liquor; possession of still, apparatus, mash, etc., by unlicensed person.

(a) Whoever manufactures any alcoholic liquor without having first obtained from the Commissioner a license authorizing such manufacture, or, not being the holder of a license to manufacture alcoholic liquor, has at any time possession of any still, receptacle, paraphernalia, apparatus, mash, wort or wash, adapted for use in connection with the manufacture of alcoholic liquor, shall, in addition to the payment of costs, be fined not less than $500 nor more than $5,000, or imprisoned not less than 6 months nor more than 2 years, or both.

(b) Nothing in this section shall apply to the making of beer, cider or wine for personal consumption and not for the purpose of sale, nor to fermented liquids used in the manufacture of vinegar exclusively; however, no pipe, conductor or contrivance of any description whatsoever whereby vapor might in any manner be conveyed away and converted into distilled spirits, shall be used or employed or be fastened to or connected with any apparatus used for the manufacture of beer, cider, wine or vinegar except in the case of a duly licensed manufacturer. Any violation of this subsection shall carry the same penalties as provided in subsection (a) of this section.

(Code 1935, § 6174A; 45 Del. Laws, c. 261, § 1; 4 Del. C. 1953, § 905; 71 Del. Laws, c. 315, § 1; 72 Del. Laws, c. 486, § 11.)

§ 906 Transportation and shipment.

(a) Whoever transports or ships alcoholic liquor in violation of the requirements of § 718 of this title, or, in connection with such transportation or shipment, knowingly has in his or her possession a waybill giving a false name or a false address, or transports by any vehicle any alcoholic liquor upon which the taxes provided by § 581 of this title have not been paid, shall, in addition to the payment of costs, be fined not less than $100 nor more than $1,000, or imprisoned not less than 30 days nor more than 6 months, or both.

(b) In any trial for an offense under this section, the burden shall be upon the defendant to prove that the taxes provided by § 581 of this title have been paid. Nothing in this section shall apply to any alcoholic liquor purchased from a legal source and being transported by the purchaser.

(c) In addition to the penalties provided by this section, any vehicle used to transport alcoholic liquor manufactured in violation of § 905 of this title shall be deemed confiscated and shall be delivered to, retained by and disposed of by the Commissioner and/or Division as provided in Chapter 11 of this title. A vehicle used to transport alcoholic liquor in violation of other sections of this title shall be seized or confiscated under this section only if it can be proved beyond a reasonable doubt that the transported alcoholic liquor was for some use other than personal consumption by the person or his or her passengers transporting it. This section shall not apply to vehicles operated by common carriers over scheduled routes, or to vehicles in which the sale of alcoholic liquor is licensed.

(d) Justices of the peace shall have original jurisdiction to hear, try, and finally determine alleged violations of this section.

(Code 1935, § 6172A; 45 Del. Laws, c. 263, § 2; 4 Del. C. 1953, § 906; 55 Del. Laws, c. 82, § 10; 58 Del. Laws, c. 108; 58 Del. Laws, c. 208; 58 Del. Laws, c. 239, § 47; 67 Del. Laws, c. 109, § 30; 70 Del. Laws, c. 186, § 1; 72 Del. Laws, c. 486, § 10.)

§ 907 Interference with officer or inspector.

Whoever interferes with or hinders any officer or inspector authorized by the Director to investigate any infringements of this title or to make any search, examination or seizure, in the performance of the officer's or inspector's duties to that end, shall, in addition to any other penalty which may be imposed upon him or her under this title, and in addition to payment of costs, be fined $100 for each offense, and on

failure to pay such fine and costs, shall be imprisoned for a term of 1 month. Justices of the peace shall have original jurisdiction to hear, try, and finally determine alleged violations of this section.

(38 Del. Laws, c. 18, § 48; Code 1935, § 6176; 4 Del. C. 1953, § 907; 58 Del. Laws, c. 239, § 48; 70 Del. Laws, c. 186, § 1; 72 Del. Laws, c. 486, § 12.)

§ 908 Failure of licensee to file report.

Whoever, being the holder of a license for the sale of alcoholic liquor, neglects or refuses to make a return to the Commissioner, within 10 days immediately following the date indicated by the Commissioner, of his or her purchases and sales of alcoholic liquor as provided in this title, shall be fined $10 per day for each day's delay, to run from the expiration of such 10 days. Justices of the peace shall have original jurisdiction to hear, try, and finally determine alleged violations of this section.

(38 Del. Laws, c. 18, § 49; Code 1935, § 6177; 4 Del. C. 1953, § 908; 58 Del. Laws, c. 239, § 49; 70 Del. Laws, c. 186, § 1; 72 Del. Laws, c. 486, § 11.)

§ 909 Violation of rules respecting liquor taxes.

Whoever violates any rule or regulation made and published by the Commissioner respecting the collection and payment of taxes, as provided in § 581(d) of this title, shall be fined not more than $1,000 and the costs of prosecution.

(38 Del. Laws, c. 18, § 16; Code 1935, § 6145; 43 Del. Laws, c. 274, § 1; 4 Del. C. 1953, § 909; 72 Del. Laws, c. 486, § 11.)

§ 910 Offenses without specific penalty.

Whoever violates any provision of this title or any regulation of the Commissioner adopted and published under the authority of this title, for which no penalty is provided in this chapter, shall, in addition to the payment of costs, be fined or imprisoned, or both.

(38 Del. Laws, c. 18, § 46; Code 1935, § 6174; 41 Del. Laws, c. 254, § 1; 4 Del. C. 1953, § 910; 72 Del. Laws, c. 486, § 11.)

§ 911 Penalty for partnerships and associations.

Wherever the penalty for an offense committed consists of imprisonment in whole or in part and the accused is a corporation, partnership or other association of persons, the penalty shall be a fine of $2,000 in addition to the costs.

(38 Del. Laws, c. 18, § 47; Code 1935, § 6175; 4 Del. C. 1953, § 911.)

§ 912 Exemption of employees of Commissioner and/or Division.

No officer or inspector employed by the Commissioner and/or Division for the enforcement of this title, when acting in the officer's or inspector's official capacity, shall incur any of the penalties exacted by this chapter for the punishment of those who obtain alcoholic liquor either from a holder of a license granted under this title or from a person who is not the holder of a license.

(38 Del. Laws, c. 18, § 52; Code 1935, § 6180; 4 Del. C. 1953, § 912; 70 Del. Laws, c. 186, § 1; 72 Del. Laws, c. 486, § 10.)

§ 913 Licensees convicted of violations by the Commissioner may be assessed costs.

Any licensee found guilty by the Commissioner of a violation of the rules of the Commissioner or the provisions of the Liquor Control Act of this State, as amended, may be required by the Commissioner to pay costs incurred by the Commissioner for the hearing, whether there is a plea of guilty or not guilty entered by the licensee. If a licensee fails to pay the costs assessed under the provisions of this section, the Commissioner may suspend or revoke the license or licenses issued by the Commissioner to the licensee.

(4 Del. C. 1953, § 913; 57 Del. Laws, c. 404, § 5; 72 Del. Laws, c. 486, § 11.)

§ 914 Authority to suspend licenses and/or impose fines.

Whenever the Commissioner has found a licensee to be guilty of a violation of the rules of the Commissioner or the Delaware Liquor Control Act, in addition to the power and authority granted to the Commissioner by this title, the Commissioner shall have the power and authority to suspend a license and/or to impose a fine on the licensee and to require the licensee to pay a fine with regard to such violation. Prior to a license suspension and/or the imposition of any fine, the Commissioner may cause such investigation to be made as the Commissioner deems desirable and the suspension and/or fine shall only be imposed and required to be paid if the Commissioner is satisfied:

(1) That the public welfare and morals would not be impaired by the suspension and/or imposition of the fine and that the payment of the sum of money will achieve the desired disciplinary purposes; and

(2) That the books and records of the licensee are kept in such a manner that the average monthly gross sales of alcoholic beverages can be determined with reasonable accuracy therefrom.

Any fine imposed by the Commissioner, pursuant to this section, shall not exceed 10% of the estimated average gross monthly sales of alcoholic liquor for the operations of the licensee within the 12 months immediately preceding the date of the finding of guilt provided that such amount exceeds $250. In no case shall the fine imposed by the Commissioner upon a finding of guilt be less than $250. Each licensee shall maintain financial records that clearly demonstrate the licensee's estimated average gross monthly sale of alcoholic liquor for the operations of the business within the 12 months immediately preceding the date of the licensee's hearing before the Commissioner and, upon a finding of guilt, shall submit such documentation to the Commissioner.

(4 Del. C. 1953, § 914; 57 Del. Laws, c. 453, § 1; 70 Del. Laws, c. 186, § 1; 72 Del. Laws, c. 351, § 1; 72 Del. Laws, c. 486, § 11; 75 Del. Laws, c. 417, § 1.)

§ 915 Licensees pleading guilty; voluntary fines; limitation.

The Commissioner is authorized to create a "voluntary fine assessment plan," with fines not to exceed $5,000, available to any licensee who pleads guilty to any violation of the Commissioner rules. Where a licensee chooses to pay a voluntary fine under the plan, such licensee shall have waived the licensee's right to and shall forego a formal hearing before the Commissioner, and shall be deemed to have waived any right to appeal relating to the offense(s). The plan shall be administered by the Executive Secretary or by such other persons as shall be designated by the Commissioner. The plan shall be published as a Commissioner rule.

(67 Del. Laws, c. 91, § 1; 70 Del. Laws, c. 93, § 1; 70 Del. Laws, c. 186, § 1; 72 Del. Laws, c. 378, § 1; 72 Del. Laws, c. 486, § 11.)

§ 916 Penalties imposed against licensees who threaten employees.

No licensee or representative thereof may discipline, threaten or otherwise penalize an employee for refusing to violate rules of the Commissioner and/or Division or statutes of the State. Any licensee violating the provisions of this section shall be subject to the penalties described in § 561(b)(10), § 910 and § 913 of this title.

(70 Del. Laws, c. 132, § 1; 72 Del. Laws, c. 486, § 10.)

Chapter 11
SEIZURE AND CONFISCATION

§ 1101 Peddled or illegally transported liquor.

(a) Wherever alcoholic liquor is being peddled in this State, or whenever any alcoholic liquor is transported in this State, unaccompanied by a license to transport such alcoholic liquor, or unaccompanied by a waybill as provided in § 718(c) of this title, any police officer of the State or subdivision thereof or any inspector of the Division may seize such alcoholic liquor, as well as the receptacle or receptacles containing the same, and hand them over to the Division.

(b) This section shall not at any time or in any instance apply to an individual who is the holder of a license to purchase a stock of draft beer in half barrel or quarter barrel containers for personal use and is transporting for the individual's own personal use from the individual's home after delivery has been made thereto by an importer.

(c) This section does not apply to persons transporting alcoholic liquor under §§ 501 and 716 of this title.

(38 Del. Laws, c. 18, § 55; Code 1935, § 6182; 41 Del. Laws, c. 256, § 1; 42 Del. Laws, c. 191, § 6; 4 Del. C. 1953, § 1101; 55 Del. Laws, c. 82, § 11; 58 Del. Laws, c. 248, §§ 1, 2; 67 Del. Laws, c. 109, § 31; 70 Del. Laws, c. 186, § 1; 72 Del. Laws, c. 486, § 13.)

§ 1102 Shipments to unauthorized portions of State; other illegal sales or shipments.

(a) Any officer or inspector of the Division so authorized, may seize, without a warrant, any alcoholic liquor, as well as any receptacle containing it, shipped into a municipality or part of this State in which a prohibitory law is in force, or whose competent authority has decided, in the manner set forth in § 102 of this title, that any license or any certain kind of license shall not be granted, unless each parcel containing such alcoholic liquor is clearly and visibly addressed to the bona fide purchaser. The fact that such parcel is so addressed shall not, however, prevent the seizure of the alcoholic liquor and of the receptacle containing it if such alcoholic liquor is shipped or sold contrary to any provision of this title.

(b) The alcoholic liquor seized as well as the receptacles containing it shall be handed over to the Division.

(c) This section shall not apply to an individual, the holder of a license to purchase a stock of draft beer in half barrel or quarter barrel containers for personal use, who having said license then with him or her, is personally transporting for his or her own personal use such draft beer.

(38 Del. Laws, c. 18, § 56; Code 1935, § 6183; 42 Del. Laws, c. 191, § 7; 4 Del. C. 1953, § 1102; 55 Del. Laws, c. 82, § 12; 58 Del. Laws, c. 248, § 3; 70 Del. Laws, c. 186, § 1; 72 Del. Laws, c. 486, § 13.)

§ 1103 Manufacture on unauthorized premises; seizure or destruction of liquor, apparatus and materials.

All alcoholic liquor, stills and other apparatus, tubs, barrels, containers and paraphernalia of any character, and all mash, wort or wash, used or useful in connection with the manufacture of alcoholic liquor which are upon the premises wherein or whereon are committed any offense defined in § 905 of this title, shall be seized by the officers apprehending the same and disposed of as provided in this section. The officers finding the same may forthwith destroy any or all mash, wort or wash upon the premises, and any or all stills or other apparatus, tubs, barrels, containers and paraphernalia so found. The officer or officers destroying any property shall forthwith report the same to the Commissioner and in such report shall itemize all property destroyed and the estimated value thereof and shall state the names of the persons in whose presence such act or acts of destruction were performed. The report shall be witnessed by at least 2 responsible persons other than the officer or officers performing such act or acts of destruction. The Commissioner may sell any property of value so seized to any person or persons desiring to purchase same, who in the opinion of the Commissioner will not utilize same in connection with any violation of this chapter. The proceeds from such sale shall be deposited in the General Fund of the State.

(Code 1935, § 6174A; 45 Del. Laws, c. 261, § 1; 4 Del. C. 1953, § 1103; 50 Del. Laws, c. 427, § 1; 72 Del. Laws, c. 486, § 11.)

§ 1104 Property found in disorderly house or used in connection with offenses.

Every officer and inspector of the Commissioner and all other peace officers of this State, may, without a warrant, seize property, as hereinafter defined, kept, transported, possessed or sold in contravention of this title, when found in any disorderly house; and may also seize such property in like manner and for like violations when the said property is used in connection with any offense under this title to the knowledge of the Commissioner or any of its officers or inspectors or to the knowledge of any other peace officer of this State. Immediately upon seizure, such property shall be deemed to be confiscated and the Commissioner shall be vested with a special property therein, subject to this chapter. The word "property" as used in this chapter includes alcoholic liquor, stills and other apparatus designed for the manufacture of alcoholic liquor, receptacles and other paraphernalia used in connection with any violation of this title, and all vehicles used in connection with the unlawful transportation of alcoholic liquor. This chapter shall not apply to vehicles operated by common carriers over scheduled routes, or to such vehicles in which the sale of alcoholic liquor is licensed. Forthwith upon seizure, all property seized shall be delivered to and shall be retained and disposed of by the Commissioner under the provisions of this chapter, subject, however, to any right or power of immediate destruction otherwise conferred by this chapter. The word "Commissioner" as used in the immediately preceding sentence includes any officer or inspector thereof with respect to delivery to the Commissioner of seized property as defined in this section.

(38 Del. Laws, c. 18, § 57; Code 1935, § 6184; 45 Del. Laws, c. 264, § 1; 4 Del. C. 1953, § 1104; 72 Del. Laws, c. 486, § 11.)

§ 1105 Retention of seized property; return to owner; disposition of alcoholic liquor.

All property seized and delivered into the possession of the Division shall be disposed of in the following manner:

(1) The enforcement officers of the Division or the peace officers who seized the property shall give written notice to the person whom they reasonably believe to be the owner of the property, and to the person from whom the property was seized, if they reasonably believe such person is not the owner, that such person may within 10 days of the date of notice and upon proof, satisfactory to the Commissioner that such property had not been used in connection with any violation of any of the provisions of this title, or of the rules of the Commissioner or both, if so used, that the use was without the knowledge, acquiescence or consent of the rightful owner, the owner's agent, employee or servant, return said property to the rightful owner. Any dispute between the enforcement personnel of the Division and the person believed to be the rightful owner or the person from whom the property was seized, shall be resolved by a hearing before the Commissioner. The Commissioner's decision shall be final and conclusive unless any party, having appeared before the Commissioner, appeals to the Superior Court of the State within 10 days of the date of the written decision.

(2) Any property seized pursuant to this chapter which consists of alcoholic liquor and its container may, after the provisions of paragraph (1) of this section have been complied with, be offered for sale to the licensed Delaware importers of alcoholic liquor at the prevailing price paid by the importers for like brands and quality. If the alcoholic liquor is distributed in this State by more than 1 licensed importer, then the Commissioner shall offer said seized alcoholic liquor to all importers who engage in the sale of such brand of alcoholic liquor. If the seized alcoholic liquor is purchased by a licensed Delaware importer, the importer shall issue to the Commissioner a voucher showing at least the following facts:

(a) The date of the purchase;

(b) The purchase price of each item purchased; and

(c) The quantity and nature of the item purchased.

At the subsequent direction of the Commissioner, the licensed Delaware importer which purchased the liquor shall:

1. If the owner of the alcoholic liquor or the person from whom the liquor was seized, if different from the person reasonably believed to be the owner, shall be found guilty of the offenses in violation of the Liquor Control Act or the rules of the Office of the Commissioner or both, issue its check payable to the Office of the Commissioner in the amount of the total purchase price shown on the voucher, which amount shall be applied by the Commissioner as provided in § 1110 of this title as proceeds of a sale authorized by order of court; or

2. If the owner of the alcoholic liquor and the person from whom the liquor was seized, if different from the person reasonably believed to be the owner, shall be acquitted of the offenses alleged to have been in violation of the Liquor Control Act or the rules of the Commissioner, or both, issue its check payable to such person, or, at such person's election, deliver alcoholic liquor of the same or similar nature and quantity described in the voucher to such person.

3. The enforcement officers of the Division with the advice of other peace officers of this State and/or the Department of Justice may retain all or part of the alcoholic liquor and its containers seized for use as evidence for as long a period as they deem necessary. Thereafter it may be disposed of pursuant to this chapter.

4. All other such seized property shall be disposed of as is provided in this chapter.

(38 Del. Laws, c. 18, § 57; Code 1935, § 6184; 45 Del. Laws, c. 264, § 1; 4 Del. C. 1953, § 1105; 58 Del. Laws, c. 248, § 4; 70 Del. Laws, c. 186, § 1; 72 Del. Laws, c. 486, § 14.)

§ 1106 Ascertainment of ownership and liens upon seized vehicles.

Before filing the report and petition required by § 1107 of this title, the Division shall examine or cause to be examined records of liens on motor vehicles at the titling department in Dover and records of conditional sales contracts recorded in the offices of the recorders of the counties to ascertain what liens, if any, had been entered against any motor vehicles seized under this chapter and all available information as to ownership of such vehicles and liens, if any, upon the same shall be incorporated in such report and petition.

(38 Del. Laws, c. 18, § 57; Code 1935, § 6184; 45 Del. Laws, c. 264, § 1; 4 Del. C. 1953, § 1106; 72 Del. Laws, c. 486, § 13.)

§ 1107 Commission's report and petition to Court.

The Division shall, from time to time in its discretion, file a report and petition in the Superior Court in any county of the State. The report and petition shall set forth (1) the date of the filing of the last preceding report, with term number thereof, (2) an itemized list of all property seized and delivered to the Division under this chapter with the date of seizure of each item, but the report may not include property previously disposed of under this chapter or involved in pending offenses either before the courts of the State or the Division, (3) a statement of the circumstances of each seizure with the names and addresses, so far as known, of any persons in possession of the property at the time of the seizure thereof, and the names and addresses of any persons believed by the enforcement officers of the Division or the peace officers who made the seizure to be the rightful owners of said property (and as to motor vehicles, the lienholders thereon), (4) whether or not any portion or part of the property listed in the report and petition was returned to others or other claimants, (5) a list of requests, if any, of state departments, agencies, institutions, hospitals or other institutions supported in whole or in part by state appropriations, for any property seized and herein described, (6) the disposition of any prosecutions in any court of any cases involving offenses under this title or against the rules of the Division and arising out of arrests made in connection with the seizure of any such property, and (7) a statement of the estimated value of each item of property listed in the report and petition, so far as may be ascertained, with the names and addresses, so far as known, of all persons claiming ownership of such property or any lien thereon. The report and

petition shall request an order of the Court as to the disposal of the property.

(38 Del. Laws, c. 18, § 57; Code 1935, § 6184; 45 Del. Laws, c. 264, § 1; 4 Del. C. 1953, § 1107; 58 Del. Laws, c. 248, § 5; 72 Del. Laws, c. 486, § 13.)

§ 1108 Rule to show cause and service thereof; hearing and order of disposal.

(a) Upon the filing with the Court of the Division's report and petition in accordance with § 1107 of this title, the Court shall direct the issuance of a rule returnable on a day certain at the next succeeding term of the Court, directed to all known claimants, owners and lienors, and such rule shall be issued to and served by the sheriff of the county in which such claimant, owner or lienor shall reside or, if the Court shall so direct, may be mailed by the clerk of the peace to such claimants, owners or lienors at the addresses disclosed by the report and petition. In addition, the Court shall direct publication of a notice, in a form approved by the Court, in a newspaper of general circulation in the county or counties where the property or any part thereof was located at the time of seizure. The publication shall be made at least 1 time weekly during 2 successive weeks preceding the week during which the rule is returnable.

(b) Upon the return of the rule, the Court may order:

(1) The destruction of any of such property except legally distilled spirits with seals and containers so preserved and with labels and seals unbroken as to permit or be eligible for resale;

(2) The delivery of any thereof to any state department, agency or institution or to any hospital or other institution supported in whole or in part by state appropriations, for which such institution shall have use in the conduct of its authorized activities, which order and subsequent delivery shall vest title in and to all such property in the agency, department or institution receiving same;

(3) The sale of any thereof by the Division at public sale, except that such order may direct the Division in its discretion to offer privately for sale in regular trade channels to the licensed importers of alcoholic liquor such of the alcoholic liquor as are bottled for the trade and with labels and seals unbroken at the prevailing price paid by the importers for like brands and quality, and upon any other terms the Court decides should be imposed;

(4) In the case of order for sale of any motor vehicle seized in accordance with this chapter, the order shall also direct that after advertisement and public sale, the proceeds of such sale shall first be applied to the costs of the proceedings including storage, then to bona fide liens placed upon the vehicles prior to seizure, and then to the Division to be disposed of as otherwise provided in this chapter.

(c) The Division shall make return to the Court of its proceedings under the Court's order.

(38 Del. Laws, c. 18, § 57; Code 1935, § 6184; 45 Del. Laws, c. 264, § 1; 4 Del. C. 1953, § 1108; 72 Del. Laws, c. 486, § 13.)

§ 1109 Procedural provisions.

(a) The Superior Court may adopt rules to govern proceedings under this chapter.

(b) All proceedings under this chapter shall be in the nature of proceedings in rem for the forfeiture and disposition of property seized and not otherwise disposed of under this chapter.

(c) Nothing contained in this chapter shall be construed as depriving any owner or person holding a lien upon or conditional title to any property seized from pursuing any remedy otherwise available in any court for the recovery of said property, but no such other remedy shall be available and no other proceeding for the recovery of said property shall be brought after a petition, involving said property, has been filed in the Superior Court under the authority of § 1107 of this title, and in such case all remedies of persons claiming title to or liens upon such seized property shall be asserted and adjudicated in the cause presented by such petition in the Superior Court.

(d) In any action or proceeding brought by an alleged owner, lienor or claimant of the seized property, this State, acting on behalf of the Division, shall be permitted to intervene as a party defendant and justify the seizure under the authority of this chapter, and in such case, as well as in any case arising under this chapter, the Court may by order, judgment or decree require the payment to the Division of all proper costs and expenses of seizure, holding, storage or other acts or proceedings under the authority of this chapter.

(e) It shall be no objection to any report and petition filed by the Division under § 1107 of this title that it relates to and deals with the property of more than one person or property seized on more than one occasion, nor shall the Superior Court refuse to act upon any such petition because any criminal proceeding arising out of the seizure of such property remains undisposed of, has resulted in an acquittal or has been retired or nolle prossed by the Attorney General.

(38 Del. Laws, c. 18, § 57; Code 1935, § 6184; 45 Del. Laws, c. 264, § 1; 4 Del. C. 1953, § 1109; 72 Del. Laws, c. 486, § 13.)

§ 1110 Proceeds of sale; payment of costs.

(a) Where a sale of property has been authorized by order of court under this chapter, and consummated, the proceeds to the extent of an aggregate of $15,000 during any one fiscal year, shall be retained by the Division as a special fund for enforcement of this title, any sum so received in excess of $15,000, during any 1 fiscal year, shall be paid into the General Fund of the State. If at the end of any fiscal year there is in the fund more than $15,000, the excess shall be paid into the General Fund of the State.

(b) All taxable costs in any proceeding under this chapter in the Superior Court, including the costs of publication and sale, shall be paid by the Division from any of its available funds, but first out of the proceeds of sale to the extent such proceeds may be adequate for the purpose.

(38 Del. Laws, c. 18, § 57; Code 1935, § 6184; 45 Del. Laws, c. 264, § 1; 4 Del. C. 1953, § 1110; 72 Del. Laws, c. 486, § 13; 79 Del. Laws, c. 118, § 1.)

§ 1111 Procedure governing searches and seizures.

The provisions of this chapter pertaining to searches and seizures shall be subject to Chapter 23 of Title 11. In the event of any conflict or inconsistency between this chapter and Chapter 23 of Title 11, the latter shall prevail.

(4 Del. C. 1953, § 1111.)

Chapter 12
DELAWARE RESPONSIBLE ALCOHOLIC BEVERAGE SERVER TRAINING PROGRAM

§ 1201 Findings and declaration of policy.

It is determined and declared as a matter of legislative findings that:

(1) The irresponsible service and consumption of alcoholic beverages has had a significant adverse impact on highway safety, personal health and individual welfare and is not in the best interests of the citizens of this State;

(2) Commercial servers of alcoholic beverages who are licensed by the State have a responsibility to ensure that their customers are served alcoholic beverages in a responsible and appropriate manner;

(3) Responsible server training programs have proven to be an effective means of addressing, in a positive and constructive manner, the irresponsible and inappropriate service of alcoholic beverages by commercial establishments;

(4) The voluntary responsible alcoholic beverage server training program which has been conducted by the Division of Alcohol, Tobacco, and Marijuana Enforcement staff has been well received by those licensed commercial servers of alcoholic beverages who have undergone the training;

(5) A voluntary server training program cannot be as effective as a mandatory program which would reach all licensed commercial servers of alcoholic beverages;

(6) Such a mandatory training program should be provided to licensees and their employees at a reasonable cost so as to encourage their full support and participation while creating an incentive for the employees to take the program seriously; and

(7) The establishment of a mandatory responsible alcoholic beverage server training program will promote highway safety and the public health and welfare of the citizens of Delaware.

Therefore, it is declared to be the policy of this State to promote the safety, health and welfare of its citizens by the establishment and operation of a mandatory responsible alcoholic beverage server training program pursuant to the provisions of this chapter.

(68 Del. Laws, c. 168, § 1; 70 Del. Laws, c. 602, § 6; 72 Del. Laws, c. 486, §§ 15, 21; 75 Del. Laws, c. 80, §§ 1, 2; 85 Del. Laws, c. 518, § 6.)

§ 1202 Implementation.

(a) It shall be the responsibility of the Division of Alcohol, Tobacco, and Marijuana Enforcement to establish training courses and materials, examinations and examination procedures with respect to the implementation of a mandatory responsible alcoholic beverage server training program in Delaware.

(b) It shall be permissible for any person or entity to establish a responsible alcoholic beverage server training program that conforms to the requirements of § 1204 of this title.

(c) In establishing, implementing, certifying or otherwise approving any training program, the Alcoholic Beverage Control Commissioner and the Division of Alcohol, Tobacco, and Marijuana Enforcement shall consult with and seek comment from industry groups affected by the program as well as other interested state agencies.

(d) For the purposes of § 1203(a) and (c) of this title, the term “employees” means persons who have been employed by the holder of a license for at least 30 days and who work in a licensed establishment at least 10 hours a week.

(e) The Commissioner may grant new licenses or renew valid licenses conditional upon the certification required by § 1203(b) and (d) of this title being provided to the Commissioner within 30 days of the granting or renewal of such license.

(68 Del. Laws, c. 168, § 1; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 602, §§ 4, 5; 72 Del. Laws, c. 486, §§ 15, 21; 74 Del. Laws, c. 250, § 2; 75 Del. Laws, c. 80, § 3; 85 Del. Laws, c. 518, § 7.)

§ 1203 Applicability; on-premises licenses.

(a) Effective July 1, 1992, every person who holds any valid license issued by the Alcoholic Beverage Control Commissioner pursuant to this title which authorizes the sale of alcoholic beverages for on-premises consumption shall, upon request, be required to demonstrate that his or her employees who as part of their employment responsibilities sell, prepare, dispense, serve or otherwise deliver alcoholic beverages directly to patrons of the licensed establishment for on-premises consumption, or who manage employees who do, have successfully completed a responsible alcoholic beverage server training program recognized and approved by the Commissioner in accordance with the provisions of this chapter. Each licensee who participates directly in the management of the licensed establishment shall also be required to successfully complete a responsible alcoholic beverage server training program recognized and approved by the Commissioner.

(b) Following July 1, 1992, every person who makes application for any license or for renewal of any valid license issued by the Alcoholic Beverage Control Commissioner pursuant to this title, which authorizes the sale of alcoholic beverages for on-premises consumption shall, as part of the application process, certify to the Commissioner that his or her employees who as part of their employment responsibilities sell, prepare, dispense, serve or otherwise deliver alcoholic beverages directly to patrons of the licensed establishment for on-premises consumption, or who manage employees who do, have successfully completed a responsible alcoholic beverage server training program recognized and approved by the Commissioner in accordance with the provisions of this chapter. Each applicant who intends to participate directly in the management of the licensed establishment shall also be required to successfully

complete a responsible alcoholic beverage server training program recognized and approved by the Commissioner.

(c) Effective January 1, 1997, every person who holds any valid license issued by Alcoholic Beverage Control Commissioner pursuant to this title which authorizes the sale of alcoholic beverages for off-premises consumption shall, upon request, be required to demonstrate that any employees who, as part of their employment responsibilities, sell, serve or otherwise deliver alcoholic beverages directly to patrons of the licensed establishment for off-premises consumption or who manage employees who do, have successfully completed a responsible alcoholic beverage server training program recognized and approved by the Commissioner in accordance with the provisions of this chapter. Each licensee who participates directly in the management of the licensed establishment shall also be required to successfully complete a responsible alcoholic beverage server training program recognized and approved by the Commissioner.

(d) Following January 1, 1997, every person who makes application for any license or renewal of any valid license issued by the Alcoholic Beverage Control Commissioner pursuant to this title which authorizes the sale of alcoholic beverages for off-premises consumption shall, as part of the application process, certify to the Commissioner that any employees who, as part of their employment responsibilities, sell, serve or otherwise deliver alcoholic beverages directly to patrons of the license establishment for off-premises consumption or who manage employees who do, have successfully completed a responsible alcoholic beverage server training program recognized and approved by the Commissioner in accordance with the provisions of this chapter. Each applicant who intends to participate directly in the management of the licensed establishment shall also be required to complete a responsible alcoholic beverage server training program recognized and approved by the Commissioner.

(e) The provisions of subsections (a) through (d) of this section shall not apply to licenses issued pursuant to §§ 514 and 525 of this title.

(68 Del. Laws, c. 168, § 1; 68 Del. Laws, c. 327, § 1; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 602, §§ 1-3; 72 Del. Laws, c. 486, §§ 15, 21.)

§ 1204 Training standards and curriculum.

(a) In order to be recognized and approved by the Alcoholic Beverage Control Commissioner, a responsible alcoholic beverage server training program shall include, but need not be limited to, providing information related to the following:

(1) Alcohol as a drug and its effects on the body and behavior, especially as to driving ability;

(2) Effects of alcohol in combination with commonly used legal prescription or nonprescription drugs and illegal drugs;

(3) Recognizing the problem drinker and the identification of community treatment programs and agencies;

(4) Applicable Delaware alcoholic beverage control laws and Alcoholic Beverage Control Commissioner rules;

(5) Delaware laws related to drinking and driving;

(6) Intervention techniques, involving methods of dealing with the problem customer who has had, or is approaching the point of having had, too much to drink;

(7) Advertising, promotion and marketing of alcoholic beverages for safe and responsible drinking patterns and standard operating procedures for dealing with customers.

(b) The Commissioner may by regulation provide additional training standards and curricula to be included within any responsible alcoholic beverage server training program as a condition to its being recognized and approved by the Commissioner.

(c) The Division of Alcohol, Tobacco, and Marijuana Enforcement shall provide a responsible alcoholic beverage server training program through its trained personnel for a course approved by the Commissioner and the Commissioner may approve and certify such a training program or programs to be provided through independent contractors, private persons or educational institutions.

(d) Anyone required to undergo training in accordance with the provisions of this chapter, who has within the previous 2 years successfully completed a responsible alcoholic beverage server training program which satisfies the requirements of the Commissioner, and is approved by the Commissioner, shall not be obligated to undertake additional training until such time as the person is required to undergo renewal training in accordance with § 1205 of this title.

(68 Del. Laws, c. 168, § 1; 72 Del. Laws, c. 486, §§ 15, 21; 74 Del. Laws, c. 250, § 2; 75 Del. Laws, c. 80, § 4; 85 Del. Laws, c. 284, § 2; 85 Del. Laws, c. 518, § 8.)

§ 1205 Certification and renewal training.

Every person who successfully completes an approved responsible alcoholic beverage server training program shall be certified by the instructor as having met the requirements of this chapter. The course taught shall be either the Division of Alcohol, Tobacco, and Marijuana Enforcement course or any other Commissioner approved course. The instructor shall provide the names of the persons who successfully complete the approved class, as well as such additional information that is required by the Commissioner, to the Commissioner and the Division of Alcohol, Tobacco, and Marijuana Enforcement. Such certification shall be valid for a period of 2 years at which time the person must undergo renewal training in order to obtain recertification which shall also be valid for a period of 2 years. Renewal training shall include the information described in § 1204 of this title and/or such other information as the Commissioner may by regulation require.

(68 Del. Laws, c. 168, § 1; 72 Del. Laws, c. 486, § 15; 75 Del. Laws, c. 80, § 5; 85 Del. Laws, c. 284, § 3; 85 Del. Laws, c. 518, § 9.)

§ 1206 Violations; penalties.

(a) The Commissioner may reprimand or impose an administrative fine against any licensee who intentionally violates any provision of this chapter or any regulation promulgated by the Commissioner pursuant thereto.

(b) The Commissioner may preclude any employee of a licensee who fails to comply with the applicable training requirements contained in this chapter or any regulation promulgated by the Commissioner pursuant thereto from working in any capacity in a licensed establishment until such time as it is provided with proof that the employee has successfully completed the applicable training requirements.

(c) The Commissioner may suspend or revoke the server training card of any person who the Commission determines, after a hearing, has violated this title or the Commissioner's rules. If a person's card is suspended or revoked, that person shall not be permitted to serve alcohol in Delaware during the period of suspension or, if revoked, for such period of time as stated by the Commissioner in the order of revocation. In addition, the Commissioner may require that a person that has completed the course attend and successfully complete either the full course or the recertification course.

(68 Del. Laws, c. 168, § 1; 72 Del. Laws, c. 486, § 15; 75 Del. Laws, c. 80, § 6.)

§ 1207 Enforcement.

The Division of Alcohol, Tobacco, and Marijuana Enforcement shall be responsible for enforcement of this chapter and shall bring charges of violations of this chapter against a licensee or a certified trained server before the Commissioner. The Commissioner shall have exclusive original jurisdiction over all alleged violations of the provisions of this chapter.

(68 Del. Laws, c. 168, § 1; 72 Del. Laws, c. 486, §§ 15, 21; 75 Del. Laws, c. 80, § 7; 85 Del. Laws, c. 518, § 10.)

§ 1208 Training program costs.

(a) All costs associated with the implementation, administration and enforcement of the requirements of this chapter shall be paid from a special fund entitled the "Delaware Responsible Alcoholic Beverage Server Training Program Fund."

(b) The Commissioner shall deposit $300 from each application process fee, collected pursuant to § 554(x) of this title, into the Delaware Responsible Alcoholic Beverage Server Training Program Fund.

(c) Any person that takes the course offered by the Division of Alcohol, Tobacco, and Marijuana Enforcement after January 1, 2006, shall pay a fee, in the amount determined by the Commissioner, not to exceed $15 for the full course and $10 for the recertification course. Said fee shall be deposited into the Delaware Responsible Alcoholic Beverage Server Training Program Fund to pay for the costs associated with the program. Any person that is approved by the Commissioner to offer a responsible alcoholic beverage server training course may be required to remit a fee determined by the Commissioner, not to exceed $15, to offset any costs associated with creating an identification card for the server.

(d) The Fund shall be a revolving fund and no funds deposited therein shall revert to the General Fund of the State Treasury.

(e) The Alcoholic Beverage Control Commissioner and Division of Alcohol, Tobacco, and Marijuana Enforcement shall, on or before December 31 of each year, make a report to the Governor of all income and expenditures made from said Fund. A copy of said reports shall be given biennially on or before December 31 to any member of the General Assembly who requests a copy.

(f) The Commissioner shall deposit $200 from each application process fee, collected pursuant to § 554(x) of this title, into an account designated by the Department of Finance for the General Fund of the State Treasury.

(68 Del. Laws, c. 168, § 1; 68 Del. Laws, c. 327, § 2; 72 Del. Laws, c. 486, §§ 15, 21; 75 Del. Laws, c. 80, § 8; 85 Del. Laws, c. 518, § 11.)

Chapter 13
The Delaware Marijuana Control Act
Subchapter I
General Provisions

§ 1301 Purpose and findings.

(a) In the interest of creating jobs with community benefits, eliminating the marijuana illegal market to allow law enforcement to focus on violent crime and property crimes, and promoting individual freedom, the General Assembly finds and declares that the personal use of marijuana should be legal for persons 21 years of age or older and taxed in a manner similar to alcohol.

(b) In the interest of the health and public safety of our citizenry, the General Assembly further finds and declares that marijuana must be regulated in a manner similar to alcohol to ensure all of the following:

(1) Individuals will have to show proof of age before purchasing marijuana.

(2) Selling, distributing, or transferring marijuana to individuals under the age of 21 remains illegal.

(3) Driving under the influence of marijuana remains illegal.

(4) Legitimate, taxpaying businesspeople, not criminal actors, conduct sales of marijuana.

(5) Marijuana sold in this State will be tested, labeled, and subject to additional regulations to ensure that consumers are informed and protected.

(c) The General Assembly further finds and declares that it is necessary to ensure consistency and fairness throughout this State, and therefore, that the matters addressed by this chapter are of statewide concern, except as specified in this chapter.

(84 Del. Laws, c. 24, § 4.)

§ 1302 Definitions.

As used in this chapter:

(1) "Appeals Commission" means 3 persons, 1 from each county, appointed by the Governor with the advice and consent of the majority of the Senate.

(2) "Cannabinoids" means naturally occurring chemical compounds found in the Cannabis sativa L. plant, including, but not limited to, cannabidiol (CBD), cannabigerol (CBG), cannabinol (CBN), tetrahydrocannabinol (THC), and their respective acids.

(3) "CBD" means cannabidiol, a nonintoxicating cannabinoid abundant in hemp and marijuana.

(4) "Commissioner" means the person appointed by the Governor and confirmed by the Senate who serves as the Marijuana Commissioner for the State.

(5) "Compassion center" means an entity registered as a compassion center under § 4914A of Title 16.

(6) "Conditional license" means a license that is issued to an applicant who has met minimum qualifications and been selected through the Commissioner's process to receive a license. Conditional licensees are granted for a period of 18 months to allow the licensee to secure a physical business premises, complete additional application requirements, receive approval from the Commissioner for the licensed premises, and demonstrate readiness to commence operations.

(7) "Consumer" means an individual 21 years of age or older who purchases marijuana, marijuana products, marijuana accessories, or infused beverages for personal use by the individual or other individuals 21 years of age or older, but not for resale to others.

(8) "Conversion license" means an open license issued to a compassion center for participation in the adult use recreational market.

(9) "Delta-9 extract" means the THC that comes directly from an extracted oil or a concentrate of delta-9 tetrahydrocannabinol produced in compliance with the United States Department of Agriculture United States Domestic Hemp Production Program that is intended for manufacturing, human ingestion, inhalation, or other internal consumption, and not converted or synthesized from other cannabinoids.

(10) "Department" means the Department of Safety and Homeland Security.

(11) "Disproportionately-impacted area" means census tracts in the State identified by the Commissioner in collaboration with state and local agencies that have high rates of arrest, conviction, and incarceration relating to the sale, possession, use, cultivation, manufacture, or transport of marijuana.

(12) "Division" means the Division of Alcohol, Tobacco, and Marijuana Enforcement.

(13) "Flowering plant" means a marijuana plant from the time it exhibits the first signs of sexual maturity through harvest, which includes budding.

(14) "Immature plant" means a nonflowering marijuana plant: no taller than 8 inches and no wider than 8 inches; that is produced from a cutting, clipping, or seedling; is in a cultivating container; and which does not have buds that may be observed by visual examination.

(15) "Infused beverage" means a beverage intended for human consumption that meets all of the following criteria:

a. The beverage does not contain "alcoholic liquor" as defined in § 101 of this title.

b. The beverage is not infused with any THC other than delta-9 extract.

c. The beverage contains, or is advertised, labeled, or offered for sale as containing total delta-9 extract that does not exceed 10 milligrams per infused beverage container.

d. The beverage contains, or is advertised, labeled, or offered for sale as containing total delta-9 extract that does not exceed 170 milligrams in a 750 milliliter bottle.

(16) "Infused beverage container" means any of the following:

a. A single-serving beverage container with no less than 12 ounces that contains, or is advertised, labeled, or offered for sale as containing, total delta-9 extract that does not exceed 10 milligrams.

b. A 750 milliliter bottle that contains, or is advertised, labeled, or offered for sale as containing, total delta-9 extract that does not exceed 170 milligrams.

(17) "Infused beverage endorsement" means a special permit required to manufacture, prepare, package, and deliver infused beverages to a package store or retail marijuana store for off-premises consumption, but not to consumers.

(18) "Labor peace agreement" means an agreement between a licensee and any bona fide labor organization that prohibits labor organizations and members from engaging in picketing, work stoppages, boycotts, and any other economic interference with the licensee's business. This agreement means that the licensee has agreed not to disrupt efforts by the bona fide labor organization to communicate with, and attempt to organize and represent, the licensee's employees. The agreement shall provide a bona fide labor organization access at reasonable times to areas in which the licensee's employees work, for the purpose of meeting with employees to discuss the employees' right to representation, employment rights under state law, and terms and conditions of employment. This type of agreement shall not mandate a particular method of election or certification of the bona fide labor organization.

(19) "License" means any license or permit to cultivate, possess, manufacture, sell, transport, or test marijuana or marijuana products and accessories authorized or issued by the Commissioner under this chapter.

(20) "Marijuana" means as defined in § 4701 of Title 16.

(21) "Marijuana accessories" means any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing marijuana; or for ingesting, inhaling, or otherwise introducing marijuana into the human body.

(22) "Marijuana cultivation facility" or "cultivation facility" means an entity licensed to cultivate, prepare, and package marijuana and sell marijuana to retail marijuana stores, to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers. A marijuana cultivation facility may not produce marijuana concentrates, tinctures, extracts, or other marijuana products.

(23) "Marijuana establishment" means an entity licensed as a marijuana cultivation facility, a marijuana testing facility, a marijuana product manufacturing facility, or a retail marijuana store.

(24) "Marijuana product manufacturing facility" means an entity licensed to: purchase marijuana; manufacture, prepare, and package marijuana products; and sell marijuana and marijuana products to other marijuana product manufacturing facilities and retail marijuana stores, but not to consumers.

(25) "Marijuana products" means products that are comprised of marijuana, including concentrated marijuana, and other ingredients and are intended for use or consumption, such as edible products, ointments, tinctures, and transdermal patches, but does not include infused beverages.

(26) "Marijuana testing facility" means an entity licensed to test marijuana for potency and contaminants.

(27) "Microbusiness license" means a license issued pursuant to part C of subchapter III of this chapter which includes any of the following:

a. Marijuana cultivation facility license.

b. Marijuana product manufacturing license.

(28) "Nonintoxicating cannabinoid" means a cannabinoid that is classified as a nonintoxicating cannabinoid in this title or by rule of the Commissioner. Cannabidiol (CBD), cannabigerol (CBG), cannabinol (CBN), and cannabichromene (CBC) are nonintoxicating cannabinoids.

(29) "Open license" means a license issued pursuant to part B of subchapter III of this chapter that is not a social equity license or microbusiness license which includes all of the following:

a. Retail marijuana store license

b. Marijuana testing facility license.

c. Marijuana cultivation facility license.

d. Marijuana product manufacturing license.

(30) "Park" means real property that is owned, developed, or controlled by a government entity for outdoor passive or active recreational use. "Park" does not mean real property recorded on a plan as a development's open space.

(31) "Person" means as defined in § 302 of Title 1.

(32) "Personal use quantity" means as defined in § 4701 of Title 16.

(33) “Possession limit” means the amount of marijuana that may legally be possessed at any 1 time by an individual 21 years of age or older who is not a registered qualifying patient or a registered designated caregiver under Chapter 49A of Title 16.

(34) “Public place” means any indoor or outdoor area or portion thereof generally accessible to the public.

(35) “Retail marijuana” means “marijuana”, as defined in § 4701 of Title 16, that is cultivated, manufactured, distributed, or sold by a licensed marijuana establishment.

(36) “Retail marijuana store” means an entity licensed to purchase marijuana from marijuana cultivation facilities; to purchase marijuana and marijuana products from marijuana product manufacturing facilities; to purchase infused beverages from an importer licensed under this title; and to sell marijuana, marijuana products, and infused beverages to consumers.

(37) “Smoking” means both of the following:

a. The burning of a lighted cigarette, cigar, pipe, or any other matter or substance that contains marijuana.

b. The use of an electronic smoking device which creates an aerosol or vapor, in any manner or in any form.

(38) “Social equity license” means a license issued pursuant to part C of subchapter III of this chapter for any of the following:

a. Retail marijuana store license.

b. Marijuana testing facility license.

c. Marijuana cultivation facility license.

d. Marijuana product manufacturing license.

(39) “THC” means tetrahydrocannabinol, and includes delta-7-tetrahydrocannabinol, delta-8-tetrahydrocannabinol, delta-9-tetrahydrocannabinol, delta-10-tetrahydrocannabinol, an intoxicating cannabinoid, or any material, compound, mixture, or preparation that contains their salts, isomers, and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation, regardless of the source, except the following:

a. Dronabinol substituted in sesame oil and encapsulated in a soft gelatin capsule in a product approved by the federal Food and Drug Administration or successor agency.

b. Any tetrahydrocannabinol product that has been approved by the federal Food and Drug Administration or successor agency to have a medical use and reclassified in any schedule of controlled substances or unscheduled by the federal Drug Enforcement Administration or successor agency.

(40) “Total THC” means the sum of the percentage by weight of tetrahydrocannabinolic acid, multiplied by 0.877, plus the percentage of weight of THC.

(41) “Unreasonably impracticable” means that the measures necessary to comply with the regulations require such a high investment of risk, money, time, or any other resource or asset that the operation of a marijuana establishment is not worthy of being carried out in practice by a reasonably-prudent businessperson.

(84 Del. Laws, c. 24, § 4; 84 Del. Laws, c. 301, § 2; 84 Del. Laws, c. 303, § 1; 85 Del. Laws, c. 11, § 1; 85 Del. Laws, c. 333, § 1; 85 Del. Laws, c. 394, § 1; 85 Del. Laws, c. 518, § 12.)

§ 1303 Marijuana accessories authorized.

An individual who is 21 years of age or older is authorized to manufacture, possess, and purchase marijuana accessories, and to distribute or sell marijuana accessories, to an individual who is 21 years of age or older.

(84 Del. Laws, c. 24, § 4.)

§ 1304 Places of employment.

Nothing in this chapter is intended to impact or impose any requirement or restriction on employers with respect to terms and conditions of employment including accommodation, policies, or discipline.

(84 Del. Laws, c. 24, § 4; 84 Del. Laws, c. 514, § 2.)

§ 1305 Driving under the influence prohibited.

Nothing in this chapter is intended to allow driving under the influence of marijuana, marijuana products, or infused beverages, or to allow driving while impaired by marijuana, marijuana products, or infused beverages. Nothing in this chapter is intended to supersede laws related to driving under the influence of marijuana, marijuana products, or infused beverages, or to supersede laws related to driving while impaired by marijuana, marijuana products, or infused beverages. This chapter is not intended to prevent this State from enacting and imposing penalties for driving under the influence of or while impaired by by marijuana, marijuana products, or infused beverages.

(84 Del. Laws, c. 24, § 4; 85 Del. Laws, c. 394, § 1.)

§ 1306 Individuals under age 21; prohibitions.

(a) Nothing in this chapter is intended to permit the transfer of marijuana, marijuana products, or infused beverages, with or without remuneration, to an individual under the age of 21 or to allow an individual under the age of 21 to purchase, possess, use, transport, or consume marijuana, marijuana products, or infused beverages. Nothing in this subsection prohibits a package store from employing a person who has reached the age of 18 years under such conditions as the Alcoholic Beverage Control Commissioner may prescribe by rule or regulation.

(b) It is unlawful for an individual under the age of 21 years to knowingly enter or remain in an establishment licensed under this chapter. A violation of this subsection is a civil offense punishable by a civil penalty of $50.

(84 Del. Laws, c. 24, § 4; 85 Del. Laws, c. 394, § 1.)

§ 1307 Private property rights.

Nothing in this chapter prohibits a person, employer, school, hospital, detention facility, corporation, or any other entity who occupies, owns, or controls a property from prohibiting or otherwise regulating the possession, consumption, use, display, transfer, distribution, sale, transportation, or growing of marijuana on or in that property, except that in the case of the rental of a residential dwelling, a landlord may only prohibit the possession of marijuana or the consumption of marijuana by nonsmoked means if 1 or more of the following applies:

(1) The building is the primary residence of the landlord, no more than 3 rooms in the building are rented to tenants, and no more than 3 tenants occupy such building.

(2) Residence is merely incidental to detention or to the provision of medical, geriatric, educational, counseling, religious, or similar services, including prisons, student housing provided by a college or school, long-term care facilities, and hospitals.

(3) Failing to prohibit marijuana possession or consumption would violate federal law or regulations or cause the landlord to lose a monetary or licensing-related benefit under federal law or regulations.

(84 Del. Laws, c. 24, § 4.)

§ 1308 Unlawful marijuana extraction, penalties; class G felony.

(a) It is unlawful for a person, other than a marijuana product manufacturer complying with this chapter and department regulations, to extract compounds from marijuana using solvents other than water, glycerin, propylene glycol, vegetable oil, or food grade ethanol (ethyl alcohol).

(b) It is unlawful for a person to extract compounds from marijuana using ethanol in the presence or vicinity of open flame.

(c) Violation of this section is a class G felony.

(84 Del. Laws, c. 24, § 4.)

§ 1309 Lawful operation of marijuana establishments.

(a) It is lawful and may not be an offense under the law of this State, or be the basis for seizure or forfeiture of assets under the law of this State, for an individual 21 years of age or older to do any of the following:

(1) Manufacture, possess, or purchase marijuana accessories or sell marijuana accessories to an individual who is 21 years of age or older in a manner set forth in this chapter.

(2) Possess, display, or transport marijuana or marijuana products; purchase marijuana from a marijuana cultivation facility; purchase marijuana or marijuana products from a marijuana product manufacturing facility; or sell marijuana or marijuana products to consumers if the person conducting the activities described in this paragraph (a)(2) holds a valid license to operate a retail marijuana store or is acting in the person's capacity as an owner, employee, or agent of a licensed retail marijuana store.

(3) Cultivate, harvest, process, package, transport, display, or possess marijuana; deliver or transfer marijuana to a marijuana testing facility; sell marijuana to a marijuana cultivation facility, a marijuana product manufacturing facility, or a retail marijuana store; or purchase marijuana from a marijuana cultivation facility if the person conducting the activities described in this paragraph (a)(3) holds a valid license to operate a marijuana cultivation facility or is acting in the person's capacity as an owner, employee, or agent of a licensed marijuana cultivation facility.

(4) Package, process, transport, manufacture, display, or possess marijuana or marijuana products; deliver, transport, or transfer marijuana or marijuana products; sell marijuana or marijuana products to a retail marijuana store or a marijuana product manufacturing facility; purchase marijuana from a marijuana cultivation facility; or purchase marijuana or marijuana products from a marijuana product manufacturing facility if the person conducting the activities described in this paragraph (a)(4) holds a valid license to operate a marijuana product manufacturing facility or is acting in the person's capacity as an owner, employee, or agent of a licensed marijuana product manufacturing facility.

(5) Possess, cultivate, process, repackage, store, transport, display, transfer, or deliver marijuana or marijuana products if the person holds a valid license to operate a marijuana testing facility or is acting in the person's capacity as an owner, employee, or agent of a licensed marijuana testing facility.

(6) Lease or otherwise allow the use of property owned, occupied, or controlled by any person, for any of the activities conducted lawfully under this chapter.

(b) (1) An entity licensed under this chapter may not sell or deliver marijuana or marijuana products on Thanksgiving, Easter, or Christmas or at hours other than those prescribed by the rules or regulations of the Commissioner.

(2) A holder of license for a retail marijuana store may not sell or deliver marijuana, marijuana products, or infused beverages on Thanksgiving, Easter, or Christmas or between the hours of 10:00 p.m. and 9:00 a.m. on Mondays through Saturdays, and on Sundays before noon or after 8:00 p.m. Any municipality with a population of 50,000 or more may limit sales under this subsection within the boundaries of the municipality to a maximum of 4 hours on Sundays as established by ordinance of the municipality. The closing hours for days of the week other than Sunday may be made earlier in any municipality having a population of 50,000 or more persons, by ordinance of the municipality; provided, however, that such ordinance be consistent with the Delaware and federal constitutions and must treat all businesses fairly. During the months of October through December, a holder of a license for a retail marijuana store may have sales take place beginning at 8:00 a.m. on Fridays through Saturdays and 10:00 a.m. on Sundays.

(3) Any holder of a license for a retail marijuana store who wishes to sell marijuana or marijuana products on Sundays must pay a biennial license fee of $500 for the issuance of a special license to sell marijuana and marijuana products on Sundays, which is in addition to any other license fees which may be required of the holder.

(4) Any holder of a license for a retail marijuana store who wishes to sell infused beverages on Sundays must pay a biennial license fee of $500 to the Commissioner for the issuance of a special endorsement to sell infused beverages on Sundays, which is in addition to any other license or endorsement fees that may be required of the holder.

(c) Marijuana and marijuana products may not be sold in an establishment licensed to sell alcoholic liquors under this title.

(84 Del. Laws, c. 24, § 4; 84 Del. Laws, c. 301, § 3; 85 Del. Laws, c. 394, § 1.)

§ 1309A Lawful sale of infused beverages.

(a) No infused beverage may be sold or offered for sale in this State unless all of the following apply:

(1) The infused beverage is sold or offered for sale to consumers for off-premises consumption by a licensed package store or retail marijuana store.

(2) The infused beverage contains, or is advertised, labeled, or offered for sale as containing delta-9 extract that does not exceed the following limits:

a. 10 milligrams of delta-9 extract per single-serving infused beverage container.

b. 60 milligrams of delta-9 extract per package containing multiple single-serving infused beverage containers.

c. 170 milligrams per 750 milliliter bottle.

(3) The infused beverage does not contain alcoholic liquors.

(4) The infused beverage does not contain any THC other than delta-9 extract or nonintoxicating cannabinoids.

(5) The infused beverage meets all packaging, labeling, advertising, product testing, sampling, and safety standards for infused beverages established in the regulations adopted under this chapter and in the State of Delaware Food Code, 16 DE Admin. Code 4458, or any successor regulation, and provided that:

a. No infused beverage may be sold or offered for sale to any consumer in this State by third-party delivery or by way of any indirect means, including by mail, telephonic, or electronic means, except that a package store may accept and fulfill orders placed electronically through the store's webpage or other electronic application for infused beverages to be picked up in-store or for curbside delivery.

b. No infused beverage sold or offered for sale in this State may be packaged, labeled, or advertised in any manner designed to make the product appealing to children.

c. Each infused beverage container sold or offered for sale in this State must prominently display a symbol, in a size and format approved by the Commissioner by regulation, that indicates that the infused beverage contains THC and is not legal or safe for individuals younger than 21 years of age.

(6) The infused beverage is sold in a container that is securely sealed by the manufacturer and is designed to prevent consumption without removal of the seal.

(7) The infused beverage is stored separately from alcoholic liquors or marijuana products and is offered for sale in a designated section of the store, separate and apart from alcoholic liquors, nonalcoholic mixers, marijuana, and marijuana products, with clear signage that states the products contain THC.

(b) No supplier, importer, manufacturer, marijuana establishment, package store, or agent or employee of a supplier, importer, manufacturer, marijuana establishment, or package store may gift or transfer an infused beverage to a consumer, at no cost to the consumer, as part of a commercial transaction.

(c) The Alcoholic Beverage Control Commissioner and the Marijuana Commissioner may each summarily fine, suspend, revoke, or cancel any license or endorsement the Office of Alcoholic Beverage Control Commissioner or the Office of the Marijuana Commissioner has issued to any person who violates any provision of this section.

(d) A violation of this section shall be deemed an unlawful practice under § 2513 of Title 6 and a violation of subchapter II of Chapter 25 of Title 6.

(85 Del. Laws, c. 394, § 1.)

§ 1310 Enforcement.

(a) Inspections and enforcement activities are to be conducted by the Division of Alcohol, Tobacco, and Marijuana Enforcement in accordance with Chapter 4 of this title.

(b) The Division of Alcohol, Tobacco, and Marijuana Enforcement may conduct administrative inspections under § 403 of this title. The Office of the Marijuana Commissioner may conduct administrative inspections of a premise licensed under any provision of this title at any time the licensee, employee of the licensee, or customer is upon the licensed premise. Administrative inspections under this subsection may be conducted only for the purpose of ensuring compliance with the regulations of this title or the rules and regulations of the Marijuana Commissioner.

(c) The Division of Alcohol, Tobacco, and Marijuana Enforcement shall conduct administrative inspections related to the production, storage, processing, handling, preparation, sanitation, safety standards, and labeling of marijuana products and infused beverages to

determine compliance with Title 16 and the State of Delaware Food Code, 16 DE Admin. Code 4458, or any successor regulation. Administrative inspections may take place at any time a licensee, employee of the licensee, or customer is on the licensed premises. A violation of Title 16 or the State of Delaware Food Code found during an administrative inspection under this section is a violation of this title.

(84 Del. Laws, c. 24, § 4; 84 Del. Laws, c. 301, § 4; 85 Del. Laws, c. 394, § 1; 85 Del. Laws, c. 518, § 13.)

§ 1311 Contracts enforceable.

Contracts related to the operation of a marijuana establishment licensed under this chapter are enforceable. A contract entered into by a licensed marijuana establishment or its employees or agents as permitted under a valid license, or by those who allow property to be used by a licensed marijuana establishment, its employees, or its agents as permitted under a valid license, is not unenforceable on the basis that cultivating, obtaining, manufacturing, distributing, dispensing, transporting, selling, possessing, or using marijuana is prohibited by federal law.

(84 Del. Laws, c. 24, § 4.)

§ 1312 Verifying the age of marijuana consumers.

(a) Whoever sells any marijuana, marijuana product, or infused beverage to a person who has not reached the age of 21 years, or sells to any person of more than such age any marijuana, marijuana product, or infused beverage knowing that such marijuana, marijuana product, or infused beverage is bought for a person who is less than 21 years of age shall be subject to a civil penalty not less than $250 nor more than $500 for a first violation. For each subsequent violation within a 5-year period, a civil penalty of up to $10,000 may be imposed at the discretion of the Commissioner.

(b) In any enforcement action under this section, it is an affirmative defense that the individual who is under 21 years old presented identification, with a photograph of such individual affixed thereon, to the accused and the identification set forth information which would lead a reasonable person to believe such individual was 21 years old or older.

(c) Nothing in this chapter limits the sale of marijuana or marijuana products to an individual under 21 years of age who is a registered qualifying patient or a registered designated caregiver under Chapter 49A of Title 16.

(84 Del. Laws, c. 24, § 4; 85 Del. Laws, c. 394, § 1.)

§ 1313 Medical marijuana provision not affected.

Nothing in this chapter may be construed to limit any privileges or rights of a medical marijuana patient, primary caregiver, or medical marijuana compassion center under the Delaware Medical Marijuana Act, Chapter 49A of Title 16.

(84 Del. Laws, c. 24, § 4.)

§ 1313A Hemp products not affected.

Nothing in this chapter or in any regulation adopted under this chapter may be construed to do any of the following:

(1) Prohibit or restrict the manufacture, distribution, or sale of hemp products or cannabinoid products that are not infused beverages, provided that such products are produced and sold in compliance with applicable federal and State hemp laws or regulations and any other applicable State or federal food, drug, consumer safety, or other regulations.

(2) Require a hemp retail store that does not sell marijuana, marijuana products, or infused beverages to obtain a license or endorsement under this chapter solely for the retail sale of nonbeverage hemp products.

(3) Treat a hemp product as marijuana, a marijuana product, or an infused beverage solely because the product contains cannabinoids, including cannabidiol (CBD), cannabigerol (CBG), 0.3% delta-9 tetrahydrocannabinol (THC) by dry-weight basis, cannabinol (CBN), or cannabichromene (CBC), in accordance with this chapter.

(85 Del. Laws, c. 394, § 1.)

§ 1314 Oversight Committee; annual report by the Commissioner.

(a) The Delaware Marijuana Control Act Oversight Committee is established to evaluate and make recommendations regarding the implementation of this chapter.

(1) The Oversight Committee shall consist of 15 members who possess the qualifications and are appointed as follows:

a. The Secretary of the Department, or designee appointed by the Secretary.

b. The Director of the Division of Revenue, or the Director’s designee.

c. The Director of the Division of Public Health, or the Director’s designee.

d. The Director of the Division of Substance Abuse and Mental Health, or the Director’s designee.

e. The Director of the Delaware Medical Marijuana Program, or the Director’s designee.

f. The Chief Diversity Officer of the Division of People and Culture, or the Chief Diversity Officer’s designee.

g. The Director of the Division of Small Business, or the Director’s designee.

h. One member of the House of Representatives, appointed by the Speaker of the House of Representatives.

i. One member of the Senate, appointed by the President Pro Tempore of the Senate.

j. One marijuana advocate from each county appointed by the Speaker of the House of Representatives.

k. One marijuana advocate from each county appointed by the President Pro Tempore of the Senate.

(2) The members of the Oversight Committee shall serve at the pleasure of the appointing authority.

(3) A quorum shall consist of a majority of the membership of the Oversight Committee.

(4) The Oversight Committee shall select a chair and vice chair from among its members.

(5) Staff support for the Oversight Committee shall be provided by the Division.

(6) The Oversight Committee shall meet at least 2 times per year for the purpose of evaluating and making recommendations to the Governor, the General Assembly, and the Department regarding the following:

a. The ability of consumers in all areas of the State to obtain legal marijuana.

b. The sufficiency of the regulatory and security safeguards under this chapter and adopted by the Commissioner to ensure that access to and use of marijuana cultivated is provided only to individuals age 21 or over.

c. Any recommended additions or revisions to the Commissioner's regulations or this chapter, including relating to security, safe handling, labeling, and nomenclature.

d. Any research studies regarding health effects of using marijuana.

e. The impact of this chapter on decreasing the illegal sales and production of marijuana.

f. The impact of this chapter other aspects of public safety, including the incidence of people driving under the influence, using marijuana in places or in a manner prohibited by this chapter, and the use of prescription opioids and illegal opioids.

g. Any research and recommendations to implement current best practices for the development of a diverse workforce among marijuana establishments, including diversity among employees, licensees, and owners of marijuana establishments.

(b) The Commissioner shall submit to the Governor and members of the General Assembly an annual report setting forth all matters of interest and all statistics concerning marijuana regulation and control in the State, including the following:

(1) The number of licenses of each kind issued within the State and the number cancelled during the year.

(2) The amount of marijuana and marijuana products sold within the State.

(3) Statistics regarding diversity among marijuana establishments, including diversity of employees, licensees, and owners of marijuana establishments.

(4) Outcomes and effectiveness of the issuance of social equity licenses which shall include all of the following:

a. The number of and types of social equity licenses issued.

b. The number of persons or entities receiving financial assistance, and from what source.

c. The location of the social equity licensed premises.

d. If applicable, the number of new jobs or other forms of economic output created as a result of the social equity licenses.

(5) Other data as may make a complete report to the people of this State.

(c) If marijuana is decriminalized under federal law, the Commissioner shall submit a report to the Governor and the General Assembly evaluating the State's compliance with federal law and make recommendations as to any changes needed in this State's marijuana law to be compliant with federal law.

(84 Del. Laws, c. 24, § 4; 84 Del. Laws, c. 89, § 1; 84 Del. Laws, c. 514, § 3; 85 Del. Laws, c. 260, § 2.)

§ 1315 Protections for conduct authorized by this chapter.

(a) A public officer or employee of the State, including the members of any board, commission, conservation district or agency of the State, whether elected or appointed, and whether now or previously serving as such, and any contractor or volunteer performing work for the State, whose job functions include, assist, support, regulate, approve, or authorize any of the conduct authorized by this chapter are not subject to arrest, prosecution, or the denial of any right or privilege, including any criminal or civil penalty or disciplinary action by a court or occupational or professional licensing board or bureau where the conduct of the public officer or employee, contractor, or volunteer meets all of the following:

(1) The conduct arises out of or relates to activities required or authorized by this chapter.

(2) The conduct was carried out as authorized by this chapter or regulations authorized by this chapter.

(3) The conduct was carried out in good faith.

(b) A public officer or employee of the State, including the members of any board, commission, conservation district or agency of the State, whether elected or appointed, and whether now or previously serving as such, and any contractor or volunteer performing work for the State, whose job functions include, assist, support, regulate, approve, or authorize any of the conduct authorized by this chapter is entitled to the same rights and privileges set forth in §§ 3925 and 4002 of Title 10.

(84 Del. Laws, c. 24, § 4.)

Subchapter II

Marijuana Commissioner and Appeals Commission

§ 1321 Marijuana Commissioner; Appeals Commission; qualifications; appointment; term; compensation.

(a) The Commissioner must be a resident of this State and suitably educated and experienced to carry out the duties and responsibilities set forth in this chapter.

(b) The Commissioner and the 3 members of the Appeals Commission, consisting of 1 member from each county, shall be appointed by the Governor and confirmed by a majority of the members elected to the Senate and shall serve at the pleasure of the Governor. The Governor shall make initial nominations for the Commissioner and the 3 members of the Appeals Commission by October 30, 2023.

(c) The Commissioner may name a Deputy Commissioner. The Commissioner may, during an absence from the State, appoint the Deputy Commissioner to serve as Acting Commissioner during such absence. In the event of death, resignation, temporary incapacity, or removal of the Commissioner, and prior to the appointment of a successor, the Governor may appoint the Deputy Commissioner, or such other person as deemed qualified by the Governor, to serve as Acting Commissioner. The Acting Commissioner has all the powers and shall perform all the duties and functions of the Commissioner during the Commissioner's absence or incapacity or until a successor is qualified and appointed.

(d) The Commissioner is to be compensated as provided for in the annual Budget Act.

(e) The members of the Appeals Commission are to be compensated at the rate of $150 per meeting together with the reasonable expenses for no more than 12 meetings per year.

(f) The Appeals Commission shall meet and elect a chair who shall convene meetings of the Commission as frequently as needed to consider appeals of the Commissioner's decision.

(84 Del. Laws, c. 24, § 4.)

§ 1322 Duties and powers of the Commissioner.

(a) The Commissioner, in accordance with the Administrative Procedures Act, Chapter 101 of Title 29, shall do all of the following:

(1) Adopt rules and regulations consistent with § 1331 of this title and other provisions of this chapter or of any other law of this State, and all such rules and regulations have the force and effect of law. A rule or regulation may not extend, modify, or conflict with any law of this State or the reasonable implications thereof. A rule or regulation adopted under this paragraph (a)(1) must focus primarily on public safety and the best interests of the consumer and may not unduly restrict competition within the marijuana industry.

(2) Maintain ongoing communication with the Department of Agriculture regarding the physical address where marijuana or hemp is cultivated. Prior to issuing any license for cultivation of marijuana, the Commissioner shall notify the Department of Agriculture of a proposed location of any marijuana cultivation establishment, and take into consideration any concerns by the Department of Agriculture as it relates to the indoor and outdoor cultivation of marijuana.

(3) Establish rules and regulations for the effective control of the business of cultivation, manufacture, and sale of marijuana and marijuana products within the State, including the time, place, and manner in which marijuana and marijuana products may be sold and dispensed, not inconsistent with § 1331 of this title and other provisions of this chapter or with any other law of this State.

(4) Establish health and safety regulations for the indoor and outdoor cultivation of marijuana by marijuana establishments under this chapter. Such rules and regulations under this section must be consistent with applicable rules and regulations established under the regulatory authority of the Department of Agriculture and the Department of Natural Resources and Environmental Control and may include all of the following:

a. Prohibition of the use of pesticides that are neither organic nor federally approved for marijuana.

b. Standards for the use of carbon dioxide.

c. Standards for water use.

d. Standards for disposal of waste.

e. Standards for indoor and outdoor air quality.

(5) Grant, refuse, suspend, or cancel licenses required by this chapter for the cultivation, manufacture, or sale of marijuana and marijuana products, or other licenses required by this chapter in regard thereto and to transfer any license granted. The Commissioner must provide the applicant or licensee with written communication regarding any decision to grant, refuse, suspend, or cancel licenses required by this chapter for the cultivation, manufacture, or sale of marijuana and marijuana products, or other licenses required by this chapter in regard thereto, and when transferring any license granted.

(6) Hear complaints in regard to the conduct of business in any establishment where marijuana or marijuana products are licensed to be sold upon receipt of a petition signed by at least 10 individuals who are residents of the same neighborhood. Ten days' notice of such hearings, together with a recital of the complaint, must be sent by the Commissioner's office by registered mail to the address of the holder of the license for the establishment. Like notice must be delivered at the establishment by affixing the notice addressed to the holder of the license to the outside of an entrance door to the establishment. The hearings must be public and conducted by the Commissioner. The Commissioner, for the purpose of such hearings, has the power to issue subpoenas, compel the attendance of witnesses, administer oaths, take testimony, and compel the production of pertinent books, payrolls, accounts, papers, records, and documents. In case any person summoned to testify or to produce any such written or printed evidence refuses, without reasonable cause, to be examined, to answer a legal and pertinent question, or to produce any such written or printed evidence, the Commissioner conducting the hearing may certify the fact of any such refusal to the Superior Court of the county in which such hearing is held and the court may proceed against the person so refusing as for a contempt and punish such person in the same manner as persons are punished for contempt of court.

(7) Compel the attendance of witnesses and the production of contracts, papers, books, accounts, and other documents. Subpoenas issued must be signed by the Commissioner and may be served by any sheriff, deputy sheriff, constable, or any agent of the Division

and return thereof made to the Commissioner. The Commissioner may enforce compliance with a subpoena issued under this subsection by filing a motion to compel in the Superior Court, which shall have jurisdiction over the matter. The court may award costs and attorneys' fees if it determines that noncompliance with a Commissioner subpoena was unjustified, intentional, or in bad faith.

(8) Act, for purposes of this chapter, as the competent authority in connection with other matters pertinent thereto.

(9) Provide such special seals, labels, and wrappers as deemed necessary for protection of the public against imitations, adulterations, and frauds, and prescribe the proper use of the seals, labels, and wrappers.

(10) Provide such warning signs as may be required by this chapter and distribute such signs to license holders and promulgate regulations with respect to the posting of said signs. The Commissioner may charge a fee to cover printing, handling, and distribution costs.

(11) Coordinate with the Division of Small Business to connect potential marijuana establishments licensed under this chapter with programs that support business development, including farms and programs that support small businesses owned by minorities, women, and veterans.

(12) Establish rules and regulations for the effective collection of data regarding retail sales of marijuana and marijuana products.

(13) Consult with the Division of Alcohol, Tobacco, and Marijuana Enforcement before adopting or establishing any rules or regulations that concern enforcement.

(14) Oversee and administer the Delaware Medical Marijuana Act under Chapter 49A of Title 16.

(15) Establish rules and regulations for the effective control of the business of manufacture of, and the sale of, infused beverages within this State, including the time, place, and manner in which infused beverages may be sold, dispensed, and disposed.

(b) The Commissioner's decision on any appeal or hearing under this chapter must be in writing and is final and conclusive unless a party to such hearing files an appeal within 30 days from the date of the postmark on the Commissioner's decision by mailing notice of the appeal to the Commissioner's office. Upon receipt of the appeal, the Commissioner shall notify the chair of the Appeals Commission of the pending appeal and the chair shall convene the Appeals Commission with at least 20 days' notice to all parties. The Appeals Commission shall hear the appeal and shall: review the matter on the record; act in accordance with the Administrative Procedures Act, Chapter 101 of Title 29; and affirm, reverse, or modify the decision of the Commissioner. A decision of the Commissioner may only be reversed upon a finding of abuse of discretion.

(c) The Commissioner may appear before the Appeals Commission for any appeal of a Commissioner's decision and may appeal any decision of the Appeals Commission or any decision of the Superior Court on appeal from the Appeals Commission.

(84 Del. Laws, c. 24, § 4; 84 Del. Laws, c. 300, § 2; 84 Del. Laws, c. 301, § 5; 85 Del. Laws, c. 394, § 1; 85 Del. Laws, c. 518, § 14.)

§ 1323 Oath of Office of Commissioner and employees.

The Commissioner, members of the Appeals Commission, and any hearing officer shall, on entering office, take the oath or affirmation set forth in Article XIV of the Delaware Constitution. Any other employee may be required to take the oath or affirmation set forth in Article XIV of the Delaware Constitution at the discretion of the Secretary of the Department of Safety and Homeland Security.

(84 Del. Laws, c. 24, § 4.)

§ 1324 Conflict of interest.

(a) The Commissioner, members of the Appeals Commission, and any hearing officer or such person's spouse, or such person's parent, or child residing at such person's residence, may not have a financial interest in any entity that sells, manufactures, cultivates, or uses marijuana; provided, however, such persons may invest in mutual funds or similar financial instruments that hold no more than a 10% interest in any such entity.

(b) Neither the Commissioner nor any person employed in the office of the Commissioner shall receive any commission or profit whatsoever from, or have any interest whatsoever in a business licensed under this chapter to cultivate, manufacture, purchase, or sell marijuana or marijuana products; provided, however, that nothing in this section shall prevent the Commissioner, a member of the Appeals Commission, a hearing officer, or an employee from purchasing and keeping marijuana or marijuana products for the personal use of one's self or members of one's family or one's guests if such purchase is otherwise permitted by this chapter.

(c) The Commissioner and the members of the Appeals Commission shall annually file the financial report required under § 5813 of Title 29 with the Public Integrity Commission.

(84 Del. Laws, c. 24, § 4; 84 Del. Laws, c. 42, § 1.)

§ 1325 Commissioner's statement of interest in marijuana business.

When notified of appointment as Commissioner or to the Appeals Commission, the individual so notified shall furnish in duplicate and in writing to the Governor and to the President Pro Tempore of the Senate a statement of every interest, direct or indirect, and however small, held or owned by the individual as a member or as a stockholder in any partnership, corporation, or other association engaged in the sale or in the cultivation or manufacture of marijuana or marijuana products or in any undertaking, industry, or business in which marijuana or marijuana products are used or required. Prior to taking the oath of office, the Commissioner and members of the Appeals Commission must wholly and fully dispose of all interests, except those permitted by § 1324 of this title. One copy of the statement must be inserted in the permanent records of the office of the Commissioner open to public inspection.

(84 Del. Laws, c. 24, § 4.)

§ 1326 Employees of the Division; Commissioner.

The Department of Safety and Homeland Security shall: appoint, employ, or dismiss every officer or employee, not appointed by the Governor, necessary for carrying out the work of the Division, Appeals Commission, and Commissioner; establish salaries, subject to the annual appropriation in the Budget Act; and assign official titles and duties. The Department may engage the services of experts and persons engaged in the practice of a relevant profession. At the discretion of the Secretary of the Department of Safety and Homeland Security, officers and employees of the Division: shall have the police powers of constables and other police officers of the State, counties, and other subdivisions of the State; shall be conservators of the peace throughout the State; shall be eligible for certification by the Police Officer Standards and Training Commission; and may suppress all acts of violence and enforce the provisions of this chapter.

(84 Del. Laws, c. 24, § 4; 84 Del. Laws, c. 149, § 17.)

§ 1327 Property and profits of the office of the Commissioner.

All property owned by the office of the Commissioner and all associated profits are the property of the State.

(84 Del. Laws, c. 24, § 4.)

Subchapter III

Regulation and Licensure

Part A

Regulations

§ 1331 Regulations.

The Commissioner shall adopt regulations necessary for implementation of this chapter. The regulations may not prohibit the operation of marijuana establishments, either expressly or through regulations that make their operation unreasonably impracticable. Regulations and fees for marijuana cultivation facilities may be varied based on the size of the facility to ensure that the operation of smaller facilities is not made unreasonably impracticable. The Commissioner shall include all of the following in the regulations:

(1) Procedures for the issuance, renewal, suspension, transfer, and revocation of a license to operate a marijuana establishment with all procedures subject to the Administrative Procedures Act, Chapter 101 of Title 29.

(2) A selection process to determine which applicants may obtain licenses to operate each type of marijuana establishment if more qualified applicants apply than the Commissioner may license under this subchapter and that ensures applicants will follow best practices for community engagement, consumer protection, food safety, worker safety, family support jobs, diversity, public safety, and environmental stewardship.

(3) Minimum qualifications for all license types must include submission of the following information:

a. The applicants comprehensive business plan, including an annual budget and pro forma financial statements.

b. The experience, training, and expertise of the applicant and managing officers.

c. The applicant's plans for safety, security, and the prevention of diversion.

d. The applicant's plans for operations, training, and staffing, including all of the following:

1. A social responsibility plan outlining diversity goals, including plans to recruit and hire people of color, women, and veterans and to support their ownership and promotion within the organization, as well as the percentage of employees it plans to hire from within the respective city or region of the State.

2. A plan to provide a safe, healthy, and economically beneficial working environment with fair scheduling practices, family-supporting wages, and benefits for its employees.

3. Any criminal, civil, or regulatory history encountered by other entities the applicant and managing officers have previously controlled or managed.

4. [Repealed.]

5. Any other criteria deemed appropriate by the Commissioner.

(4) For applications for marijuana cultivation facility licenses and marijuana product manufacturing facility licenses only, minimum qualifications must include an environment and sustainability plan, including efforts it will take to minimize the environmental impact, and resource needs of its facilities and other business operations, such as plans to minimize water usage, employing organic cultivation methods, and adoption of other sustainable business practices.

a., b. [Repealed.]

(5) Except as provided in part C of this subchapter, a nonrefundable $5,000 application fee for all marijuana establishments that the Commissioner may adjust annually for inflation.

(6) Qualifications for licensure that are directly and demonstrably related to the operation of a marijuana establishment.

(7) Procedures for how establishments licensed under this chapter must track marijuana from seed to sale.

(8) Security requirements for marijuana establishments, including lighting, physical security, video, and alarm requirements.

(9) Requirements for the transportation and storage of marijuana, marijuana products, and infused beverages by marijuana establishments.

(10) Employment and training requirements for licensees, employees, and agents of marijuana establishments, including the following:

a. That the Commissioner must create and issue identification badges for each employee or agent and may require a fee for each identification badge. The amount to be charged for the fee imposed under this paragraph (10)a. must approximate and reasonably reflect the costs necessary to defray the expenses of the Division.

b. That employees of retail marijuana store establishments must complete training approved by the Commissioner in recognizing valid identification cards.

c. That agents of a marijuana establishment are subject to all standards and requirements of regulations adopted by the Commissioner.

(11) Requirements to prevent the sale or diversion of marijuana, marijuana products, and infused beverages to individuals under the age of 21. To protect individual privacy, the Commissioner may not require a consumer to provide a retail marijuana store with personal information other than government-issued identification to determine the consumer's age and a retail marijuana store may not be required to acquire and record personal information about consumers.

(12) Standards for marijuana product manufacturers to use so that consumers can determine the amount of marijuana in each product and compare the amount of marijuana in different products based upon the standard measurements, including a definition of the amount of delta-9 tetrahydrocannabinol that constitutes a single serving in a marijuana product.

(13) Requirements for marijuana, marijuana products, and infused beverages sold or distributed by marijuana establishments, including information for consumers and labeling requirements for marijuana products that include all of the following:

a. The length of time it typically takes for a product to take effect.

b. The amount of marijuana in the product using the standard established in this section, not to exceed 10 mg per serving.

c. The serving size and the number of servings in each package, not to exceed 10 milligrams of total THC per serving and 100 milligrams of total THC in a multi-serving package.

d. Ingredients and possible allergens.

e. A nutritional fact panel.

f. The requirement that information on the packaging may not mislead consumers.

g. The specific batch number of the product.

h. Educational information for consumers to educate consumers, including evidence-based information about how to interpret the information on the label, health effects, and potential interactions with prescription and nonprescription medications.

i. Opaque, resealable, and continually child-resistant packaging, which must be designed or constructed to be significantly difficult for children under 5 years of age to open and not difficult for an adult to use properly as defined by 16 C.F.R. § 1700.20.

j. A standard symbol indicating edible marijuana products contain marijuana so that marijuana products are clearly identifiable.

k. A warning label that explains evidence-based harms from consuming marijuana, including the impact on developing brains, the impact on an individual's ability to operate machinery, the impact on pregnant and breastfeeding women, and any interference with prescription drugs.

l. A label that indicates the product is not for children.

m. All required information must be in typed, legible font that is easy to read, is unobstructed and conspicuous, and contrasts sufficiently with the background. The information must be in English, but may also include translations in additional languages.

n. The serving size of each infused beverage may not exceed the following limits:

1. 10 milligrams of delta-9 extract per single-serving infused beverage container.

2. 60 milligrams of delta-9 extract per package containing multiple single-serving infused beverage containers.

3. 170 milligrams per 750 milliliter bottle.

o. Availability of testing analysis results to consumers.

(14) Health and safety regulations and standards for the manufacture of marijuana products and infused beverages by marijuana establishments consistent with other Delaware requirements for food, including all of the following:

a. Prohibition of the manufacture of products that look like candy or cartoon characters.

b. Restrictions or prohibitions on additives to marijuana, marijuana products, and infused beverages, including additives that are toxic, designed to make the product more addictive, or designed to make the product more appealing to children, but not including common baking and cooking items.

c. Standards for the safe manufacture of marijuana extracts and concentrates.

d. Requirements for random sample testing, including the manner and frequency of testing, to ensure quality control, including by ensuring that marijuana, marijuana products, and infused beverages are accurately labeled for potency. The testing analysis must include testing for: residual solvents, poisons, or toxins; harmful chemicals; dangerous molds or mildew; filth; harmful microbials such as E. coli or salmonella; and pesticides.

(15) Restrictions on the advertising, marketing, and signage of marijuana, marijuana products, and infused beverages, including a prohibition on mass-market campaigns that have a high likelihood of reaching minors.

(16) Restrictions on the display of marijuana, marijuana products, and infused beverages, including requirements that marijuana, marijuana products, and infused beverages may not be displayed in a manner that is visible to the general public from a public right-of-way.

(17) Requirements governing visits to cultivation facilities and product manufacturers, including the requirement that these marijuana establishment log visitors.

(18) Requirements that educational materials be disseminated to consumers who purchase marijuana, marijuana products, and infused beverages.

(19) Standards for the operation of marijuana testing facilities, including requirements for equipment and qualifications for personnel, which shall be based upon international standard ISO/IEC 17025. Marijuana testing facilities shall achieve and maintain accreditation to ISO/IEC 17025 by an International Laboratory Accreditation Corporation recognized accreditation body. The marijuana testing facilities shall achieve and maintain accreditation within the first applicable licensing period.

(20) Civil penalties for the failure to comply with regulations made under this chapter.

(21) Procedures for receiving and processing consumer complaints about marijuana establishments.

(22) Procedures for the issuance, renewal, suspension, transfer, and revocation of an infused beverage endorsement.

(84 Del. Laws, c. 24, § 4; 84 Del. Laws, c. 301, § 6; 85 Del. Laws, c. 394, § 1.)

Part B

Open Licenses

§ 1332 Retail marijuana store licenses.

(a) A retail marijuana store license may only be issued to a person selling retail marijuana or retail marijuana products under the terms and conditions of this chapter. A license issued under this section is valid for 2 years. Each application for a retail marijuana store license must contain all of the following:

(1) The application materials required by the Commissioner, including the location where the retail marijuana store will operate.

(2) The application fee in an amount determined by the Commissioner.

(3) Materials required by § 1331(3) and (4) of this title.

(b) A retail marijuana store licensee shall pay the Commissioner $10,000 biennially for the retail marijuana store license. A retail marijuana store licensee must renew the license biennially by paying the fee required by this subsection and by providing documentation of a labor peace agreement.

(c) A retail marijuana store may purchase retail marijuana from a licensed retail marijuana cultivation facility or may cultivate its own retail marijuana if it obtains a retail marijuana cultivation facility license under § 1334 of this title.

(d) A retail marijuana store shall track all of its retail marijuana and retail marijuana products from the point that they are transferred from a retail marijuana cultivation facility or retail marijuana products manufacturer to the point of sale.

(e) (1) A retail marijuana store licensee may also sell retail marijuana products that are prepackaged and labeled as required by this chapter.

(2) A retail marijuana store licensee may transact with a retail marijuana products manufacturing licensee for the purchase of retail marijuana products upon a retail marijuana products manufacturing licensee's licensed premises or a retail marijuana store's licensed premises.

(f) (1) A retail marijuana store may not sell more than a personal use quantity of marijuana, except for nonedible, nonpsychoactive retail marijuana products, including ointments, lotions, balms, and other nontransdermal topical products, during a single transaction to an individual.

(2) Before initiating a sale to an individual, an employee of the retail marijuana store making the sale shall verify that the purchaser has a valid government-issued photo identification card showing that the individual is 21 years of age or older. If an individual under 21 years of age presents a fraudulent proof of age, any action relying on the fraudulent proof of age is not grounds for the revocation or suspension of any license issued under this section.

a. If a retail marijuana store licensee or employee has reasonable cause to believe that an individual is under 21 years of age and is exhibiting fraudulent proof of age in an attempt to obtain any retail marijuana or marijuana product, the licensee or employee is authorized to confiscate such fraudulent proof of age, if possible, and shall, within 72 hours after the confiscation, remit it to a state or local law-enforcement agency. The failure to confiscate such fraudulent proof of age or to remit to a state or local law-enforcement agency within 72 hours after the confiscation does not constitute a criminal offense.

b. The questioning of an individual suspected of providing fraudulent proof of age by an employee of the Division or a law-enforcement officer does not render the employee of the Division or the law-enforcement officer civilly or criminally liable for slander, false arrest, false imprisonment, malicious prosecution, or unlawful detention.

(g) A retail marijuana store must provide a sample of its products to a facility that has a marijuana testing facility license for testing and research purposes as required by regulations adopted under this chapter. A retail marijuana store shall maintain a record of what was provided to the testing facility, the identity of the testing facility, and the results of the testing.

(h) All retail marijuana and retail marijuana products sold at a licensed retail marijuana store must be packaged and labeled as required by this chapter.

(i) A retail marijuana store shall comply with all provisions of Delaware and federal law in regard to individuals with disabilities.

(j) (1) A retail marijuana store may only sell retail marijuana; retail marijuana products; marijuana accessories; nonconsumable products such as apparel; and marijuana related products, such as childproof packaging containers. A retail marijuana store is prohibited from selling or giving away any consumable product, including cigarettes or alcohol, or any edible product that does not contain marijuana, including sodas, candies, or baked goods.

(2) A retail marijuana store may not sell any retail marijuana or retail marijuana products that contain nicotine or alcohol if the sale of the alcohol would require a license under this title.

(3) A retail marijuana store may not sell retail marijuana or retail marijuana products over the Internet or deliver retail marijuana or retail marijuana products to a person not physically present in the retail marijuana store's licensed premises.

(k) A display case containing marijuana concentrate must include the potency of the marijuana concentrate next to the name of the product using the standard established under this chapter.

(*l*) [Repealed.]

(m) Marijuana or marijuana products may not be consumed on the premises of a retail marijuana store.

(84 Del. Laws, c. 24, § 4; 84 Del. Laws, c. 301, § 7.)

§ 1333 Marijuana testing facility licenses.

(a) A marijuana testing facility license may be issued to a person who performs testing and research on retail marijuana under the terms and conditions of this chapter. A license issued under this section is valid for 2 years. Each application for a marijuana testing facility license must contain all of the following:

(1) The application materials required by the Commissioner, including the location where the marijuana testing facility will operate.

(2) The application fee in an amount determined by the Commissioner.

(3) Materials required by § 1331(3) and (4) of this title.

(b) A marijuana testing facility licensee shall pay the Commissioner $10,000 biennially for the marijuana testing facility license. A marijuana testing facility licensee must renew the license biennially by paying the fee required by this subsection and by providing documentation of a labor peace agreement.

(c) The Commissioner shall promulgate rules related to: acceptable testing and research practices, including testing, standards; quality control analysis; equipment certification and calibration; chemical identification; identifying other substances; and other measurers used in bona fide research methods.

(d) A person who has a financial interest in a marijuana testing facility license from the Commissioner for testing purposes may not have a financial interest in a registered compassion center, a marijuana cultivation facility, a marijuana products manufacturing facility, or a retail marijuana store. A person that has a financial interest in a registered compassion center, a marijuana cultivation facility, a marijuana products manufacturing facility, or a retail marijuana store may not have a financial interest in a facility that has a marijuana testing facility license or is a registered safety compliance facility.

(e) Marijuana or marijuana products may not be consumed on the premises of a marijuana testing facility.

(84 Del. Laws, c. 24, § 4.)

§ 1334 Marijuana cultivation facility licenses.

(a) A marijuana cultivation facility license may be issued only to a person who cultivates retail marijuana for sale and distribution to licensed retail marijuana stores, marijuana products manufacturing licensees, or other marijuana cultivation facilities under the terms and conditions of this chapter. A license issued under this section is valid for 2 years. Each application for a marijuana cultivation facility license must contain all of the following:

(1) The application materials required by the Commissioner, including the location where the marijuana cultivation facility will operate.

(2) The application fee in an amount determined by the Commissioner.

(3) Materials required by § 1331(3) and (4) of this title.

(b) (1) A marijuana cultivation facility shall pay the Commissioner biennially for a marijuana cultivation facility license as set forth in this subsection. A marijuana cultivation facility licensee must renew the license biennially by paying the fee set forth in this subsection and by providing documentation of a labor peace agreement.

(2) The license fee is based on the cannabis plant grow canopy area, which is calculated as follows:

a. Square footage of a cannabis plant grow canopy area is measured horizontally starting from the outermost point of the furthest plant in a cannabis plant grow canopy area and continuing around the outside of all plants located within the cannabis plant grow canopy area.

b. If a vertically-tiered or shelving system is included in the cultivation area, the surface area of each tier or shelf must be included in calculating the cannabis plant grow canopy area. Vertical tiers or shelving systems may not exceed 24 feet in height.

c. A cannabis plant grow canopy area is the total square feet of space used by a cannabis cultivator for the production of flowering plants and does not include areas exclusively used for harvesting, drying, curing, packaging, labeling, or storing cannabis.

(3) a. For an indoor facility with a cannabis plant grow canopy area less than or equal to 2,500 square feet or for an outdoor facility with a cannabis plant grow canopy area less than or equal to 1 acre, the fee is $2,500.

b. For an indoor facility with a cannabis plant grow canopy area equal to or between 2,501 and 7,500 square feet or for an outdoor facility with a cannabis plant grow canopy area equal to or between 1.1 and 2.5 acres, the fee is $5,000.

c. For an indoor facility with a cannabis plant grow canopy area between 7,501 and 10,000 square feet or for an outdoor facility with a cannabis plant grow canopy area equal to or between 2.6 and 5 acres, the fee is $7,500.

d. For an indoor facility with a cannabis plant grow canopy area equal to or greater than 10,001 square feet or for an outdoor facility with a cannabis plant grow canopy area equal to or greater than 5.1 acres, the fee is $10,000.

(c) A marijuana cultivation facility shall track the marijuana it cultivates from seed or immature plant to sale pursuant to subsection (a) of this section.

(d) A marijuana cultivation facility must provide a sample of its products to a facility that has a marijuana testing facility license for testing and research purposes as required by regulations adopted under this chapter. A marijuana cultivation facility shall maintain a record of what was provided to the testing facility, the identity of the testing facility, and the testing results.

(e) Marijuana or marijuana products may not be consumed on the premises of a marijuana cultivation facility.

(f) No marijuana cultivation facility license may be issued for an indoor facility with a cannabis plant grow canopy area exceeding 12,500 square feet or for an outdoor facility with a cannabis plant grow canopy area exceeding 7.5 acres unless additional tiers are created by the Commissioner under subsection (h) of this section.

(g) At the time of renewal under subsection (b) of this section, a marijuana cultivation facility licensee may request a 1-tier increase in size each renewal period, as long as an updated safety, security and prevention of diversion plan is provided as required under § 1331(3)c. of this title.

(h) The Commissioner may create additional tiers under subsection (b) of this section anytime after August 1, 2025, if demand requires additional tiers.

(84 Del. Laws, c. 24, § 4; 84 Del. Laws, c. 301, § 8.)

§ 1335 Marijuana product manufacturing facility license [For application of section, see 85 Del. Laws, c. 394, § 4].

(a) A marijuana product manufacturing facility license may be issued only to a person who manufactures and distributes marijuana products under the terms and conditions of this chapter. A license issued under this section is valid for 2 years. Each application for a marijuana product manufacturing facility license must contain all of the following:

(1) The application materials required by the Commissioner, including the location where the marijuana product manufacturing facility will operate.

(2) The application fee in an amount determined by the Commissioner.

(3) Materials required by § 1331(3) and (4) of this title.

(b) A marijuana product manufacturing facility licensee shall pay the Commissioner $10,000 biennially for the marijuana product manufacturing facility license. A marijuana product manufacturing facility licensee must renew the license biennially by paying the fee required by this subsection and by providing documentation of a labor peace agreement.

(c) A marijuana product manufacturing facility shall track all of its marijuana products from the point the marijuana is received from the retail marijuana cultivation facility until the products are transferred to a retail marijuana store.

(d) A marijuana product manufacturing facility may not do any of the following:

(1) Add any marijuana to a food product where the manufacturer of the food product holds a trademark to the food product's name; except that a manufacturer may use a trademarked food product if the manufacturer uses the product as a component or as part of a recipe and where the marijuana product manufacturer does not state or advertise to the consumer that the final retail marijuana product contains a trademarked food product.

(2) Intentionally or knowingly label or package a retail marijuana product in a manner that would cause a reasonable consumer confusion as to whether the retail marijuana product was a trademarked food product.

(3) Label or package a product in a manner that violates any federal trademark law or regulation.

(e) Retail marijuana products shall be prepared in a marijuana product manufacturing facility that is used exclusively for the manufacture and preparation of retail marijuana or retail marijuana products and using equipment that is used exclusively for the manufacture and preparation of retail marijuana products.

(f) All licensed premises on which retail marijuana products or infused beverages are manufactured must meet the sanitary standards for retail marijuana product and infused beverage preparation promulgated under this chapter and as applicable under all of the following:

(1) Section 122(3)u of Title 16 and related regulations, the State of Delaware Food Code, 16 DE Admin. Code 4458, and the Cottage Food Regulations, 16 DE Admin. Code 4458A.

(2) Chapter 35 of Title 16.

(3) Chapter 41 of Title 16.

(4) Chapter 43 of Title 16.

(g) All retail marijuana products must be shelf-stable and not require refrigeration to prevent spoilage.

(h) A retail marijuana product must be sealed and conspicuously labeled in compliance with this chapter and any rules promulgated under this chapter.

(1) A marijuana product manufacturing facility shall package and label each product manufactured as required by the rules established by the Commissioner, including the use of the standard symbol.

(2) An edible retail marijuana product must list its ingredients and may list its compatibility with dietary practices.

(3) The standard symbol requirements as established by the Commissioner do not apply to a multi-serving liquid retail marijuana product that is impracticable to mark if the product complies with all statutory and rule packaging requirements for multi-serving edibles and with all of the following enhanced requirements to reduce the risk of accidental ingestion:

a. A multi-serving liquid is packaged in a structure that uses a single mechanism to achieve both child-resistance and accurate pouring measurement of each liquid serving in increments equal to or less than 10 milligrams of delta-9 extract per serving, with no more than 60 milligrams of delta-9 extract per multi-serving package.

b. The measurement component is within the child-resistant cap or closure of the bottle and is not a separate component.

(i) Marijuana, marijuana products, and infused beverages may not be consumed on the premises of a marijuana product manufacturing facility.

(j) A marijuana product manufacturing facility must provide a sample of its products to a facility that has a marijuana testing facility license for testing and research purposes as required by regulations adopted under this chapter. A marijuana product manufacturing facility shall maintain a record of what was provided to the testing facility, the identity of the testing facility, and the results of the testing.

(k) A licensed marijuana product manufacturing facility may apply for an infused beverage endorsement to sell its own infused beverages to a licensed Delaware importer.

(84 Del. Laws, c. 24, § 4; 85 Del. Laws, c. 394, § 1.)

§ 1335A Conversion licenses.

(a) Conversion licenses may be issued to a currently licensed compassion center when the applicant meets the following criteria:

(1) The applicant is eligible for renewal under § 4916A of Title 16.

(2) The applicant has submitted documentation demonstrating how the applicant currently meets the demands of the medical market and a plan outlining how the applicant will continue to serve the medical market.

(3) The applicant has submitted a plan detailing how the applicant will support the social equity program.

(4) The applicant has submitted a signed labor peace agreement with a bona fide labor organization.

(5) If seeking a conversion license for a cultivation facility, the applicant has submitted facility dimensions.

(6) The applicant has paid a conversion license fee.

a. Except as described in paragraphs (6)b. and c. of this section, the base conversion license fee is $100,000, which may be paid in quarterly installments over 12 months.

b. If the conversion license sought is for a cultivation facility, the base conversion license fee is $200,000, which may be paid in quarterly installments over 12 months.

c. The conversion license fee may be paid in quarterly installments over 18 months, in which case the base conversion license fee is increased by 10%.

(7) If the conversion license sought is for a retail facility, the applicant has submitted a signed attestation that the applicant will serve medical cardholders in accordance with Chapter 49A of Title 16, including a commitment to doing the following:

a. Selling tax-free marijuana to qualifying patients directly or through designated caregivers.

b. Selling up to 3 ounces of marijuana in any 14-day period to qualifying patients directly or through designated caregivers and up to a total of 6 ounces per month.

c. Providing home delivery to qualifying patients.

(8) The applicant meets all other requirements set forth in this title or by regulation for each requested license.

(b) If an existing registered compassion center or marijuana testing facility seeking a conversion license is located in a jurisdiction that prohibits the operation of an open license under this title, the registered compassion center or marijuana testing facility may request an open license in a new location. If the conversion license would be granted under this section but for the jurisdictional prohibition on the operation of an open license, the Commissioner must grant the request so long as the new location meets the requirements set forth in this title for the open license.

(c) If an applicant seeks a conversion license for a cultivation facility, pays the conversion license fee, and otherwise qualifies for and is granted a conversion license, the applicant may upon receipt of a conversion license operate a facility with any grow canopy area allowed under this chapter or regulations established by the Commissioner under § 1334(h) of this title.

(84 Del. Laws, c. 303, § 1.)

§ 1335B Conversion license for retail marijuana stores.

(a) If a conversion license to operate a retail marijuana store is granted to a compassion center under § 1335A of this title, the licensee and any successor licensee must, in addition to complying with any other requirements for the operation of a retail marijuana store under this title or regulations promulgated by the Commissioner, do the following:

(1) Continue to operate the former compassion center as a medical dispensing location.

(2) Prioritize the distribution of marijuana and marijuana products to qualifying patients, including suspending recreational marijuana and recreational marijuana product sales to consumers in the event of a shortage of marijuana or marijuana products.

(3) Maintain or increase the diversity of medical marijuana products available.

(4) Provide to the Commissioner a product list with the maximum prices to be offered for all marijuana or marijuana products, and provide an updated list within 7 days when a new product is offered or the maximum price for any marijuana or marijuana product offered by the licensee is increased.

(b) The licensee must agree and abide by the agreement to continue medical marijuana operations, maintain an adequate and diverse supply, and maintain justifiable pricing with respect to medical marijuana and medical marijuana products.

(c) Failure to abide by subsection (a) or (b) of this section is a violation of this chapter for which the Commissioner may fine the licensee or take any other action against the license authorized under § 1361 of this title.

(84 Del. Laws, c. 303, § 1.)

§ 1335C Conversion license for marijuana cultivation facilities.

(a) If a conversion license to operate a marijuana cultivation facility is granted to a compassion center under § 1335A of this title, the licensee and any successor licensee must, in addition to complying with any other requirements for the operation of a marijuana cultivation facility under this title or regulations promulgated by the Commissioner, provide monthly wholesale pricing information to the Commissioner.

(b) Failure to abide by this section is a violation of this chapter for which the Commissioner may fine the licensee or take any other action against the license authorized under § 1361 of this title.

(84 Del. Laws, c. 303, § 1.)

§ 1335D Conversion license for marijuana product manufacturing facility.

(a) If a conversion license to operate a marijuana product manufacturing facility is granted to a compassion center under § 1335A of this title, the licensee and any successor licensee must, in addition to complying with any other requirements for the operation of a marijuana product manufacturing facility under this title or regulations promulgated by the Commissioner, provide monthly wholesale pricing information to the Commissioner.

(b) Failure to abide by this section is a violation of this chapter for which the Commissioner may fine the licensee or take any other action against the license authorized under § 1361 of this title.

(84 Del. Laws, c. 303, § 1.)

§ 1335E Infused beverage endorsement [For application of section, see 85 Del. Laws, c. 394, § 4].

(a) The following may apply to the Commissioner for an infused beverage endorsement:

(1) A supplier or importer licensed by the Alcohol Beverage Control Commissioner under this title.

(2) A manufacturer licensed by the Alcohol Beverage Control Commissioner under § 512A, § 512B, § 512C, or § 512E of this title.

(3) A marijuana product manufacturing facility licensed under § 1335 of this title.

(4) A marijuana product manufacturing microbusiness licensed under § 1340 of this title.

(5) A marijuana product manufacturing facility holding a conversion license under § 1335D of this title.

(6) An out-of-state infused beverage manufacturer, duly licensed by the state wherein its manufacturing facility is located, that is not otherwise licensed by the Office of the Alcoholic Beverage Control Commissioner under this title and that sells infused beverages to a licensed Delaware importer.

(b) An infused beverage endorsement issued under this section is valid for 2 years, unless the endorsement is suspended, revoked, or canceled by the Commissioner. An infused beverage endorsement may be renewed every 2 years by paying the fee under subsection (d) of this section and providing confirmation that the holder of the endorsement continues to meet all requirements for continued endorsement. An infused beverage endorsement is automatically suspended, revoked, or canceled if the holder’s license to sell alcoholic liquors or marijuana products under this title is suspended, revoked, or canceled.

(c) An application for an infused beverage endorsement must contain all of the following:

(1) All application materials required by the Commissioner.

(2) Proof of an active license to sell alcoholic liquors or marijuana products under this title.

(3) An application fee.

a. Except as specified in paragraph (c)(3)b. of this section, the application fee is $1,500.

b. For any marijuana product manufacturing facility owned by a social equity licensee or licensed as a microbusiness, the application fee is $600.

(d) *Infused beverage endorsement renewal fees. —*

(1) For manufacturers of infused beverages:

a. Except as specified in paragraph (d)(1)b. of this section, the infused beverage endorsement renewal fee is $1,000.

b. For any marijuana product manufacturing facility owned by a social equity licensee or licensed as a microbusiness, the infused beverage endorsement renewal fee is $400.

(2) For suppliers of infused beverages, the infused beverage endorsement renewal fee is $1,000, of which the Commissioner must remit $400 to the Office of the Alcohol Beverage Control Commissioner.

(3) For importers of infused beverages, the infused beverage endorsement renewal fee is $1,000.

(85 Del. Laws, c. 394, § 1.)

§ 1335F Infused beverage manufacturing requirements.

(a) Upon proper application and subject to the applicable provisions, restrictions, and prohibitions under this title and regulations promulgated under this title, the Commissioner may grant an infused beverage manufacturing endorsement to any of the following:

(1) A manufacturer licensed by the Alcohol Beverage Control Commissioner under § 512A, § 512B, § 512C, or § 512E of this title.

(2) A marijuana product manufacturing facility licensed under § 1335 of this title.

(3) A marijuana product manufacturing microbusiness licensed under § 1340 of this title.

(4) A marijuana product manufacturing facility holding a conversion license under § 1335D of this title.

(b) A manufacturer that manufactures infused beverages intended to be sold or offered for sale in this State must comply with the following:

(1) The manufacture may not manufacture any infused beverage containing alcoholic liquor.

(2) The manufacturer may not include any cannabinoids in an infused beverage except for delta-9 extract or nonintoxicating cannabinoids, including cannabidiol (CBD), cannabigerol (CBG), cannabinol (CBN), and cannabichromene (CBC).

(3) The manufacturer may not manufacture an infused beverage with a delta-9 extract that exceeds 10 milligrams per single-serving infused beverage container or 170 milligrams per 750 milliliter bottle.

(4) The manufacturer may not obtain any THC for the purpose of manufacturing an infused beverage unless the THC is a delta-9 extract, and no manufacturer may use any THC product other than a delta-9 extract to manufacture an infused beverage. The delta-9 extract used to manufacture an infused beverage must meet the following requirements:

a. The delta-9 was extracted from hemp grown by 1 of the following:

1. A hemp producer, as evidenced by a certificate of authenticity issued by the hemp producer and a copy of the hemp grower's state-issued license.

2. A licensed hemp grower regulated by a state, territory, or federally recognized Indian tribe, and in accordance with a state or tribal plan approved by the United States Department of Agriculture, as evidenced by a certificate of authenticity issued by the licensed hemp grower.

b. The delta-9 extract meets all of the following criteria:

1. The delta-9 extract was extracted by a person who is actively credentialed by a state or federally recognized Indian tribe to extract hemp, as evidenced by a certificate of authenticity issued by the person who is actively credentialed to extract hemp and a copy of the hemp grower's state-issued license.

2. The delta-9 extract was extracted in a facility that is credentialed by a state or federally recognized Indian tribe, as evidenced by a certificate of authenticity issued by the facility that is credentialed to extract hemp and a copy of the hemp grower's state-issued license.

3. The delta-9 extract was extracted from hemp using 1 of the following processes:

A. Mechanical extraction, such as dry screens, sieves, presses, potable water and ice made from potable water, cryogenic or subzero manufacturing not involving a solvent, or pressure and temperature.

B. Chemical extraction using a nonvolatile solvent such as a non-hydrocarbon-based or other solvent such as water, vegetable glycerin, vegetable oils, animal fats, or food-grade glycerin. Non-hydrocarbon-based solvents must be food grade.

C. Chemical extraction using a closed loop extraction system approved by the Commissioner.

D. Alcohol (ethanol) extraction.

(5) The manufacturer may not manufacture any infused beverage using the hydrocarbon extraction method for extraction, which is not authorized for human consumption.

(6) The manufacturer must comply with all standards and requirements of this title and regulations promulgated by the Commissioner .

(7) The manufacturer is subject to the testing provisions under § 1335G of this title.

(8) The manufacturer is subject to the investigation and enforcement provisions under § 1310 of this title.

(85 Del. Laws, c. 394, § 1.)

§ 1335G Delivery, storage, and testing of infused beverages at in-state warehouse.

(a) No shipment of infused beverages may be made into this State unless:

(1) The infused beverages are delivered directly by a Delaware licensed supplier or importer, and the licensed supplier or importer

holds an infused beverage endorsement.

(2) The infused beverages are delivered directly to a licensed warehouse in Delaware that is owned, leased, or operated by a Delaware licensed importer who holds an infused beverage endorsement.

(3) The infused beverages are unloaded and physically stored in the licensed warehouse.

(b) An importer may not sell or distribute any infused beverage within this State that contains any of the following:

(1) Alcoholic liquor.

(2) THC that is not delta-9 extract.

(3) Delta-9 extract in a quantity that exceeds 10 milligrams per single-serving infused beverage container or 170 milligrams per 750 milliliter bottle. For purposes of this paragraph (b)(3), advertising, labeling, or offering a container for sale as containing total THC that exceeds 10 milligrams per single-serving container or 170 milligrams per 750 milliliter bottle is a violation, regardless of the actual content of the container.

(c) When a licensed Delaware importer receives a shipment of infused beverages, the importer must do the following, unless granted a waiver of the requirements under this section by the Commissioner for products previously approved by the Commissioner:

(1) The importer must notify the Commissioner of the delivery.

(2) The importer must ensure the infused beverages remain physically stored in an authorized warehouse and at rest until inspected, sampled, and tested by the Commissioner or Division.

(3) The importer may not sell or distribute any infused beverage contained in the shipment within this State until approved by the Commissioner.

(d) The Commissioner must collect a statistically significant number of samples from each lot of infused beverages delivered into this State and submit the samples to a licensed marijuana testing facility or Delaware laboratory for final product testing in a manner approved by the Commissioner. The importer must pay the cost of random sampling testing under this subsection.

(e) Each licensed supplier or importer is responsible for ensuring compliance with the relevant provisions of this title, as well as regulations promulgated under this title at all premises of the licensed supplier or importer.

(f) Each licensed importer or supplier is subject to inspection by the Division of Revenue, which may inventory any infused beverages in the possession or control of the importer or supplier and inventory sale invoices or bills of sale for infused beverage deliveries, at any time the Division of Revenue deems reasonable and necessary to carry out its statutory duties to verify the reporting and collection of taxes payable to this State.

(g) The transportation and delivery of infused beverages must comply with the following:

(1) Vehicles owned by suppliers may not be used for delivery of infused beverages to retailers in this State.

(2) No peddling is allowed. Definite orders for all infused beverages shipped from an importer's warehouse must have been received from customers before a loaded vehicle leaves the warehouse.

(3) No infused beverages other than those contained in a definite order may be carried on the vehicles.

(4) A statement showing the destination of each package of infused beverages must be furnished to the driver and carried by the driver over the route.

(5) Upon the driver's return to the warehouse, the driver must sign a statement confirming the infused beverages were delivered to the destination listed. This statement must be available for inspection by the Commissioner at all times.

(6) Every person in charge of transportation by motor vehicle, by railroad, by water vessel, by common carrier, or by any other vehicle that transports infused beverages in or through this State in an interstate shipment must have a way bill. The carrier must have in its possession the way bill and be prepared to present it when asked.

a. The way bill must include these written or printed terms:

1. The date of its issue.
2. The name and address of the consignor.
3. The name and address of the consignee.
4. A statement as to whether the goods will be delivered to a specified person or to the order of a specified person.
5. A description of the package, stating the number and contents.
6. The signature of the carrier or its duly authorized agent.

(85 Del. Laws, c. 394, § 1.)

Part C

Social Equity and Microbusiness Licenses

§ 1336 Social equity applicant.

A social equity applicant must meet 1 of the following criteria:

(1) An applicant for any type of license with at least 51% ownership and control by 1 or more individuals who have resided for at least 5 of the preceding 15 years in a disproportionately-impacted area, as defined in § 1302 of this title.

(2) An applicant for any type of license with at least 51% ownership and control by 1 or more individuals who meets 1 of the following criteria:

a. Was convicted of or adjudicated delinquent of a marijuana-related offense under Delaware law prior to April 23, 2023, except any of the following:

1. Delivery to a minor.

2. Any marijuana offense with a Tier 3 quantity of marijuana as defined in § 4751C of Title 16.

3. [Repealed.]

b. Had or has a parent, legal guardian, child, spouse, or dependent who was convicted of or adjudicated delinquent for any marijuana-related offense that would qualify an applicant under paragraph (2)a. of this section.

(84 Del. Laws, c. 24, § 4; 84 Del. Laws, c. 301, § 9.)

§ 1337 Social equity application and fees.

(a) A social equity license issued under this part is valid for 2 years. Each application for a social equity license must contain all of the following:

(1) The application materials required by the Commissioner.

(2) The discounted application fee in the amount of $1,000.

(3) Materials required by § 1331(3) and (4) of this title.

(b) A social equity licensee shall pay the Commissioner biennially for the social equity license at a discounted rate of 40% of the applicable open license. A social equity licensee must renew the license biennially by paying the fee required by this subsection, providing confirmation that all of the criteria in § 1336 of this title are satisfied, and by providing documentation of a labor peace agreement.

(84 Del. Laws, c. 24, § 4.)

§ 1338 Technical assistance.

The Commissioner shall develop a technical assistance program to aid social equity applicants in applying for a license and finding financial resources. The Commissioner may partner with the Division of Small Business to administer workshops to assist social equity applicants and licensees in applying for a license and operating a business.

(84 Del. Laws, c. 24, § 4.)

§ 1339 Financial assistance.

(a) The Commissioner shall investigate opportunities for public and private sources of financial assistance that could support social equity applicants, including, but not limited to, portions of the Justice Reinvestment Fund under § 1387 of this title.

(b) All funds derived from the issuance of conversion licenses shall only be used as sources of financial assistance for social equity applicants issued a conditional license under § 1342 of this title.

(84 Del. Laws, c. 24, § 4; 84 Del. Laws, c. 301, § 10; 84 Del. Laws, c. 303, § 1.)

§ 1340 Microbusiness license.

A microbusiness applicant is an applicant for a marijuana cultivation facility license or a marijuana product manufacturing license who meets all the following criteria:

(1) [Repealed.]

(2) Intends to employ no more than 10 employees.

(3) Will not operate a facility with a cannabis plant grow canopy area greater than 2500 square feet.

(4) [Repealed.]

(84 Del. Laws, c. 24, § 4; 84 Del. Laws, c. 301, § 11.)

§ 1341 Microbusiness application and fees.

(a) A microbusiness license issued under this part is valid for 2 years. Each application for a microbusiness license must contain all of the following:

(1) The application materials required by the Commissioner.

(2) The discounted application fee in the amount of $3,000.

(3) Materials required § 1331(3) and (4) of this title.

(b) A microbusiness licensee shall pay the Commissioner biennially for the microbusiness license at a discounted rate of 40% of the applicable open license. A microbusiness licensee must renew the license biennially by paying the fee required by this subsection and by providing confirmation that all of the criteria in § 1340 of this title are satisfied.

(84 Del. Laws, c. 24, § 4.)

§ 1342 Conditional license [Repealed].

84 Del. Laws, c. 24, § 4; repealed by 84 Del. Laws, c. 301, § 12, effective July 17, 2024.

Part D

Issuance of All Licenses

§ 1343 Licensing process.

(a) Beginning September 1, 2024, the Commissioner may begin accepting applications for all licenses, including open, social equity, and microbusiness licenses.

(b) [Repealed.]

(c) Beginning November 1, 2024, the Commissioner shall issue the following number of conditional licenses for cultivation facilities, provided a sufficient number of qualified applicants exist:

(1) Indoor facility with a cannabis plant grow canopy area less than or equal to 2500 square feet or an outdoor facility with a cannabis plant grow canopy area less than or equal to 1 acre:

a. Twenty microbusiness licenses.

b. Ten social equity licenses.

(2) Indoor facility with a cannabis plant grow canopy area greater than 2500 square feet or an outdoor facility with a cannabis plant grow canopy area greater than 1 acre:

a. Twenty open licenses.

b. Ten social equity licenses.

(d) Beginning December 1, 2024, the Commissioner shall issue the following number of conditional licenses for product manufacturing facilities, provided a sufficient number of qualified applicants exist:

(1) Ten open licenses.

(2) Ten social equity licenses.

(3) Ten microbusiness licenses.

(e) Beginning March 1, 2025, the Commissioner shall issue the following number of conditional licenses, provided a sufficient number of qualified applicants exist:

(1) Retail store licenses:

a. Fifteen open licenses.

b. Fifteen social equity licenses.

(2) Testing facility licenses:

a. Three open licenses.

b. Two social equity licenses.

(f) Impossibility of performance because of opposition by localities or lack of qualified applications is a defense to any lawsuit brought against the Commissioner to comply with the issuance of the required number of licenses.

(g) At any time after August 1, 2025, the Commissioner may accept applications for any type of license and issue licenses in excess of the numbers identified in this section for any of the following reasons:

(1) The Commissioner determines that additional stores or facilities are needed.

(2) The number of licenses for a particular type of license is less than the number permitted for that type of license in this section.

(84 Del. Laws, c. 24, § 4; 84 Del. Laws, c. 301, § 13.)

§ 1343A Conversion licensing process.

(a) Beginning August 1, 2024, the Commissioner may begin accepting applications for conversion licenses from compassion centers. Facilities granted a conversion license may commence operations as follows:

(1) A cultivation facility, manufacturing facility, or testing facility may commence operations immediately upon receipt of a conversion license.

(2) A retail facility may commence operations only upon receipt of authorization to operate by the Commissioner. Before authorizing a retail marijuana store with a conversion license to commence operations, the Commissioner must consider the following:

a. The ability of the converted retail marijuana store to continue to serve the medical market.

b. The number of retail marijuana stores under this Part C of this subchapter that are available to open.

(b) A conversion license expires 24 months after it is issued.

(c) No conversion license may be issued after November 1, 2024.

(d) Prior to the expiration of a conversion license, the licensee may apply to renew the license as an open license of the type applicable to the facility. A renewal fee of $10,000 is required to renew the conversion license as an open license. This renewal fee is in lieu of any renewal fee that would be required to renew an open license other than a conversion license.

(84 Del. Laws, c. 303, § 1.)

§ 1344 Applications for multiple licenses.

(a) An applicant may not apply for, may not be issued, and may not renew any license that would result in the applicant, or a person with a financial interest in that application or license under this chapter, owning or operating more than 1 marijuana establishment of the same license type in a single county.

(b) This section does not prohibit an applicant from applying for and being issued or renewed more than 1 license in a single county,

provided that each license is of a different license type.

(84 Del. Laws, c. 301, § 13.)

§ 1345 Conditional license.

The Commissioner may grant an applicant a conditional license under this section. Any applicant who receives a conditional license must identify a physical location for the licensed premises and become operational within 18 months from the date the conditional license is granted. The proposed licensed premises must be approved by the Commissioner. If the applicant is unable to begin operations meeting all criteria established by the Commissioner within 18 months of issuance of the conditional license, the Commissioner may extend the period to become operational if the conditional licensee demonstrates good faith efforts to begin operations. If the Commissioner denies the extension of the conditional license or the licensee is unable to become operational, the Commissioner must rescind the conditional license.

(84 Del. Laws, c. 301, § 13.)

§ 1346 Active license.

(a) The Commissioner shall grant an active license to a conditional licensee who does all of the following:

(1) Pays any fees or costs associated with obtaining a background check.

(2) Provides financial and ownership documentation for review and approval.

(3) Submits an attestation signed by a bona fide labor organization stating that the licensee has entered into a labor peace agreement with such bona fide labor organization.

(4) Is in compliance with all local laws including local zoning, fire codes and building codes.

(5) Submits any additional information or documentation required by the Commissioner.

(b) The Commissioner may refuse to grant an active license to a conditional licensee if the requirements of subsection (a) of this section are not met.

(84 Del. Laws, c. 301, § 13.)

§ 1347 Background checks.

(a) All of the following persons are required to complete a background check under this chapter:

(1) An applicant for a marijuana establishment license.

(2) A person who performs work at or for a marijuana establishment, whether classified as a contractor, employee, or volunteer, with or without compensation, and prior to beginning work.

(3) A person who is or seeks to become a director, officer, or board member of a licensed marijuana establishment or a business entity that is an applicant for a marijuana establishment license.

(4) A person who holds an ownership interest of 10% or more in a licensed marijuana establishment or a business entity that is an applicant for a marijuana establishment license.

(b) A person required to obtain a background check under subsection (a) of this section must submit fingerprints and other necessary information to the State Bureau of Identification in order to obtain a Delaware and national criminal history background check through all of the following:

(1) A report of the person's entire criminal history record from the State Bureau of Identification or a statement that the State Central Repository contains no such information relating to that person.

(2) A report of the person's entire federal criminal history record pursuant to the Federal Bureau of Investigation (FBI) appropriation of Title II of Public Law 92-544 (28 U.S.C. § 534) or a statement that the FBI's records contain no such information relating to that person.

(c) The State Bureau of Identification is the intermediary for the purpose of this section and must forward all information required by subsections (a) and (b) of this section to the Division of Alcohol, Tobacco, and Marijuana Enforcement.

(d) The Division and the Commissioner may use the background check required by this section only to consider the background, qualifications, and suitability of persons required to obtain a background check for licensure or employment under this chapter.

(e) A person required to obtain a background check under this chapter is responsible for any costs associated with obtaining the background check.

(f) If a current applicant, person performing work at or for a marijuana establishment, director, officer, board member, or person who holds an ownership interest of 10% or more in a licensed marijuana establishment or a business entity that is an applicant for a marijuana establishment license obtains a background check under this section, the State Bureau of Identification shall provide all of the following to the Division:

(1) Any subsequent state criminal history record information of the person.

(2) Any subsequent criminal history record information of the person available through the "Rap Back System" as defined under § 8502 of Title 11, if the Rap Back System is available.

(g) The failure of an applicant, person holding a 10% or more ownership interest in a licensed marijuana establishment, or current officer or director to satisfy the requirements of § 1336(2), § 1354(b)(4), or § 1361(c) of this title may constitute grounds for refusal, suspension, or cancellation of a license issued by the Commissioner pursuant to this chapter.

(84 Del. Laws, c. 301, § 13; 85 Del. Laws, c. 11, § 2; 85 Del. Laws, c. 114, § 1; 85 Del. Laws, c. 518, § 15.)

§ 1348 Confidentiality.

(a) Information and data required by the Commissioner to be furnished in the application or background investigative process, or which may otherwise be obtained by the Commissioner during the license application or renewal process is confidential and is exempt from the Delaware Freedom of Information Act [Chapter 100 of Title 29].

(b) No part of the information and data described under subsection (a) of this section may be revealed except in the ordinary administration of this chapter, upon the lawful order of a court of competent jurisdiction, or, with the approval of the Attorney General, to a duly authorized law-enforcement agency.

(84 Del. Laws, c. 301, § 13.)

Subchapter IV

Determination of Applications

§ 1351 Local control; municipalities.

(a) A municipality may prohibit the operation of marijuana establishments through the enactment of an ordinance or through an initiated or referred measure.

(b) A municipality may enact ordinances or regulations that do not conflict with this chapter, including regulations promulgated under this chapter, governing the time, place, manner, and number of marijuana establishment operations. A municipality may establish civil penalties for violation of an ordinance or regulations governing the time, place, and manner that a marijuana establishment may operate in the municipality.

(84 Del. Laws, c. 24, § 4; 85 Del. Laws, c. 333, § 2.)

§ 1351A Local control; counties.

(a) (1) A county may limit the operation of marijuana establishments by enacting ordinances or regulations that do not conflict with this chapter, including regulations promulgated under this chapter.

(2) An ordinance or regulation governing the time or manner of marijuana establishment operations must allow a retail marijuana store to be open no less than the following hours:

a. Monday through Saturday, between 9 a.m. and 9 p.m.

b. Sunday, between noon and 8 p.m.

(3) Notwithstanding Chapter 26, Chapter 49, or Chapter 69 of Title 9, this section preempts and supersedes all existing and future county ordinances or regulations regarding the operation of marijuana establishments licensed under this chapter.

(b) If a compassion center is granted a conversion license for a retail marijuana store under §§ 1335A and 1335B of this title, a county must allow the retail marijuana store to operate as a nonconforming use under § 2610, § 4920, or § 6920 of Title 9, however a county may not deny a building permit to a licensee under §§ 1335A and 1335B of this title if the improvements comply with the physical requirements for properties in that zoning category.

(c) In an area that is zoned for agricultural or industrial use, a county may not prohibit a marijuana cultivation facility that is indoors and fully enclosed.

(d) In an area that is zoned for commercial or industrial use, a county may not prohibit the operation of a retail marijuana store except as follows:

(1) Within a ½ mile of another retail marijuana store.

(2) Within 500 feet of any of the following:

a. A school or institution of higher education.

b. A child care facility licensed under Chapter 30A of Title 14.

c. A residential treatment facility, as defined in § 2203 [repealed] of Title 16.

d. A park or library.

(e) A marijuana establishment that is operating lawfully may continue to operate as a nonconforming use under § 2610, § 4920, or § 6920 of Title 9 after any of the following occur:

(1) The county enacts a change to the zoning of the location.

(2) An entity listed under subsection (d) of this section is established.

(f) A county may establish civil penalties for violation of an ordinance or regulations enacted under this section.

(85 Del. Laws, c. 333, § 3; 85 Del. Laws, c. 461, § 8.)

§ 1352 Procedural requirements governing Commissioner's action; hearing; appeal.

(a) The Commissioner shall distribute and receive all of the applications for licensure under this chapter and shall refer an application to the Division for investigation. If it appears that any application should not be granted, the Commissioner shall timely notify the applicant stating the reason for denial.

(b) *Hearings on applications for licensure under this chapter.* — (1) If 10 or more persons who reside or own property within 1 mile of the premises where the licensee is to operate or in any incorporated areas located within 1 mile of the premises where the licensee is to operate file a protest against the issuance of the license with the Commissioner within 30 days from the filing of the application, then a hearing must be held to consider the application and protest and, specifically, the concerns of the members of the community within which the licensee is to operate.

(2) The Commissioner may hold a hearing in the absence of a protest.

(3) The Commissioner shall cause notice of the time and location of the hearing to be published in 2 consecutive issues of the same newspapers within which the applicant published notice of the applicant's application for the license.

(4) The Commissioner shall send notice of the time and location of the hearing to the applicant and to each of the persons who signed the protest and provided a legible name and address; provided, however, that it is sufficient for the Commissioner to send notice to a legal agent representing a person.

(5) The Commissioner shall conduct the hearing and shall make and keep a record of the hearing. The record must include the evidence, the Commissioner's findings of fact, the Commissioner's decision, and a brief statement of the reasons for the decision.

(6) The Commissioner shall issue a written decision after the hearing. The Commissioner's decision must show the manner in which the Commissioner construed the law and applied it to the facts, must recite any objections presented by the community, and must show how and the extent to which the Commissioner took community concerns into account and gave them due consideration when making the decision.

(c) The Commissioner's decision on an application must be in writing and is final and conclusive unless a party to such hearing files an appeal within 30 days from the date of the postmark on the Commissioner's decision by mailing notice of the appeal to the Commissioner's office. Upon receipt of the appeal, the Commissioner shall notify the chair of the Appeals Commission of the pending appeal and the chair shall convene the Appeals Commission with at least 20 days' notice to all parties. The Appeals Commission shall hear the appeal and shall review the matter on the record; act in accordance with the Administrative Procedures Act, Chapter 101 of Title 29; and affirm, reverse, or modify the decision of the Commissioner. A decision of the Commissioner may only be reversed upon a finding of abuse of discretion.

(d) A party who is aggrieved by a final decision of the Appeals Commission may file a written appeal with the Superior Court within 30 days of the date that the Appeals Commission's decision was mailed. The Superior Court's review of an appeal shall be on the record and in accordance with the Administrative Procedures Act, subchapter V of Chapter 101 of Title 29. The Superior Court's review shall take into account the experience and specialized competence of the Commissioner and the purpose under which the Commissioner acted. Further, the Superior Court's review, in the absence of fraud, shall be limited to whether the Commissioner's decision is supported by substantial evidence on the record and is free from legal error.

(84 Del. Laws, c. 24, § 4.)

§ 1353 Decision upon application for renewal of license; time of making.

On or before the first day of the month preceding the biennial expiration date of a license, the Commissioner shall render a decision upon every application properly and completely made to it on or before the first day of the third month preceding the biennial expiration date of a license.

(84 Del. Laws, c. 24, § 4.)

§ 1354 Grounds for refusal of license; transfer or extension of premises.

(a) The Commissioner may not grant a license under this chapter in any county or subdivision thereof, if granting a license is contrary to the law of any municipality or county adopted under § 1351 of this title.

(b) The Commissioner may refuse to license an applicant if the Commissioner has substantial evidence that would reasonably support a belief that any of the following apply:

(1) There are sufficient licensed premises in the municipality or county, or the granting of a license in the municipality or county stated in the application is not otherwise demanded by public interest or convenience.

(2) The applicant is financially irresponsible.

(3) The applicant has made false statements to the Commissioner.

(4) The applicant, including any of the directors, officers, board members, or such other person who holds an ownership interest of 10% or more in a licensed marijuana establishment or a business entity that is an applicant for a marijuana establishment, has been convicted of an offense that may impact the qualifications, functions, or duties of the business or profession for which the application is made, except that if the Commissioner determines that the applicant is otherwise suitable to be issued a license, and granting the license would not compromise public safety, the Commissioner shall conduct a thorough review of the nature of the crime, conviction, circumstances, and evidence of rehabilitation of the applicant, and shall evaluate the suitability of the applicant to be issued a license based on the evidence found through the review. In determining which offenses may impact the qualifications, functions, or duties of the business or profession for which the application is made, the Commissioner shall include the following:

a. A violent Title 11 or Title 31 felony conviction as defined in § 4201(c) of Title 11 or its functional equivalent under the laws of the United States, any state or territory of the United States, or any other country.

b. Any class A through C felony conviction as defined in Title 11 or its functional equivalent under the laws of the United States,

any state or territory of the United States, or any other country.

c. Any felony conviction regarding an offense against public administration as defined in subchapter VI of Chapter 5 of Title 11 or its functional equivalent under the laws of the United States, any state or territory of the United States, or any other country.

d. A felony conviction for hiring, employing, or using a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling, any controlled substance to a minor; or selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor.

e. Any felony conviction as defined in Chapter 47 of Title 16 or its equivalent under the laws of the United States, any state or territory of the United States, or any other country.

f. Any felony conviction as defined in Chapter 5 of Title 30 or its equivalent under the laws of the United States, any state or territory of the United States, or any other country.

(5) A substantial objection to the granting of the license has been presented by the community within which the license is to operate, or that the granting of such license is otherwise not in the public interest. For the purposes of this subsection, the term "substantial objection" includes 1 or more of the following:

a. Any objection, or group of objections, presented to the Commissioner either individually or as a group, by persons who reside within 5 miles of where the licensee is to operate, sufficient to give the Commissioner reason to believe that a majority of the residents in that 5 mile radius within which the licensee is to operate oppose the issuance of the license.

b. Any objection, or group of objections, presented to the Commissioner either individually or as a group, the content of which gives the Commissioner reason to believe the quality of life of the community within which the licensee is to operate will be adversely affected by the granting of the license.

(c) Except as set forth in subsection (b) of this section, a prior conviction for possession of, possession for sale, sale, manufacture, transportation, or cultivation of marijuana may not be a ground for denial of a license.

(d) The Commissioner may refuse to grant a license to sell marijuana, marijuana products, or marijuana accessories to any new establishment to be located in the vicinity of a church, school, college or substance abuse treatment facility as defined under § 2203 [repealed] of Title 16. The Commissioner may issue a license to any establishment located in the vicinity of a church, school, or college when such establishment has been located in a place prior to the time any church, school, or college may thereafter be located in the vicinity of such establishment.

(e) The Commissioner shall refuse to grant a retail marijuana license for the sale of marijuana, marijuana products, or marijuana accessories when there is an existing licensed retail marijuana establishment within 1200 feet by accessible public road or street in any incorporated city or town, or within 1 mile by accessible public road or street in any unincorporated or rural area. If there is an existing licensed retail marijuana establishment less than 1 mile but more than ⁹⁄₁₀ of 1 mile by accessible public road or street in any unincorporated or rural area, the Commissioner may grant such license. This subsection does not apply to any of the following:

(1) Any existing retail license or to the sale, transfer of ownership, or renewal of an existing retail license.

(2) Any retail licensee who desires to move the location of the licensee's licensed premises to a location within 500 feet thereof by accessible public road or street or any retail licensee located in a shopping center or shopping mall who desires to move the location of the licensee's licensed premises any distance within the same shopping center or shopping mall, whether such center or mall consists of 1 or more than 1 separate buildings.

(f) Any holder of an existing license who desires to move the location of the existing licensed premises due to the destruction of the building, loss of lease, diversion of highway traffic pattern, or other reason beyond the control of the licensee, shall have preference in the issuance of a new license provided that the application satisfies this section and all other requirements under this chapter.

(g) The Commissioner may not grant a new license of any type and may not grant an extension of premises of an existing license of any type unless the application for said new license or for said extension is accompanied by a certificate of compliance from the appropriate political subdivision showing all of the following:

(1) That the premises where the license is to be used are properly zoned for the applicant's intended use.

(2) That all necessary permits have been approved.

(3) That the applicant has complied with all other applicable licensing requirements of the appropriate political subdivision.

(h) Subsection (g) of this section does not apply to any application for a temporary extension of premises as authorized by Commissioner rule if such application has not been objected to by the appropriate political subdivision and the political subdivision was provided with notice of the application by the applicant within 7 days of the date the application is filed with the Commissioner.

(i) The Commissioner may refuse to issue a license to an applicant that in the Commissioner's discretion, based on information collected in the criminal background check process, presents a risk to the health or public safety of Delaware citizens.

(84 Del. Laws, c. 24, § 4; 84 Del. Laws, c. 514, § 4; 85 Del. Laws, c. 11, § 3; 85 Del. Laws, c. 293, § 1; 85 Del. Laws, c. 461, § 8; 85 Del. Laws, c. 548, § 1.)

§ 1355 Finality of Commissioner's decision refusing license [Repealed].

84 Del. Laws, c. 24, § 4; repealed by 85 Del. Laws, c. 394, § 1, effective Oct. 21, 2026.

§ 1356 Improvements to premises.

The Commissioner may not require an applicant to make improvements to the premises before the issuance of a license; however, the

Commissioner may issue a license to sell marijuana, marijuana products, or marijuana accessories upon the condition that certain improvements shall be made to the premises.

(84 Del. Laws, c. 24, § 4.)

Subchapter V

Cancellation or Suspension of License

§ 1361 Grounds for cancellation, suspension, or fines [For application of section, see 85 Del. Laws, c. 394, § 4].

(a) The Commissioner may cancel every license made use of on behalf of any person other than the one to whom or on behalf of whom it has been issued.

(b) If the Commissioner has reasonable grounds to believe that a licensee has committed any of the violations in subsection (c) of this section, the Commissioner may do 1 or more of the following:

(1) Suspend the licensee's license.

(2) Cancel the licensee's license if the Commissioner determines the violations to be repeated and continuous, or egregious.

(3) Fine the licensee.

(c) It is a violation for a licensee to do any of the following:

(1) Violate any provision of this chapter, any regulation of the Commissioner, or any applicable regulation of the Department of Health and Social Services.

(2) Make any false representation or statement to the Commissioner in order to induce or prevent action by the Commissioner.

(3) Not maintain an acceptable bond, if a bond is required.

(4) Maintain a noisy, lewd, disorderly, or unsanitary establishment or supply impure or otherwise deleterious marijuana or marijuana products.

(5) Habitually use dangerous or narcotic drugs, or habitually uses alcoholic beverages or marijuana to excess.

(6) Sell marijuana or marijuana products to minors in contravention of § 1312 of this title.

(7) Possess on the licensee's licensed premises or sell or offer for sale any marijuana or marijuana products not purchased or sold in compliance with this chapter.

(8) Use any seal, labels, or wrapper not purchased from or through the Commissioner which are deceptively similar to those used by the Commissioner.

(9) Be convicted of a felony or be convicted of violating any of the marijuana laws of this State, general or local, including the provisions of this chapter.

(10) Admit guilt or be adjudged guilty of violations of local, municipal, county, or Delaware regulations, ordinances, or codes related to the operation of a licensed premises.

(11) Discipline, threaten, or otherwise penalize any person for refusing to violate or aiding the enforcement of the provisions of this chapter or the rules of the Commissioner.

(d) Notwithstanding subsection (b) of this section, the Commissioner may cancel or suspend a license if there is any other reason which, in the opinion of the Commissioner, warrants cancelling or suspending the license.

(e) The Commissioner may not cancel or suspend any license for the sale of marijuana products or impose any fine for an alleged violation of § 1306 or § 1312 of this title where the licensee or its employee has made a reasonable effort to determine the age of a purchaser of the marijuana products. For purposes of this subsection, a licensee or its employee is deemed to have made a reasonable effort to determine the age of a purchaser if, prior to any sale of marijuana products, the licensee or its employee requires the purchaser to display identification, with a photograph of the purchaser thereon affixed, which sets forth information that would lead a reasonable person to believe the purchaser to be 21 years of age or older.

(f) The Commissioner may also suspend a license for any of the grounds for refusal of a license under § 1354 of this title.

(g) The Commissioner may cancel any retail license if it has reasonable grounds to believe that the license was granted in violation of this chapter, or any regulation enacted under § 1331 of this title.

(h) For any violation of this title or a regulation promulgated under this title pertaining to infused beverages, the Commissioner may impose an administrative civil penalty of $250 or up to 10% of the estimated average gross monthly sales of infused beverages for the operations of any licensee within the 12 months immediately preceding the date the penalty is imposed, whichever is greater. The Commissioner may also suspend, revoke, or place conditions upon the license or authorization of any person or entity that violates any provision of this title or regulation promulgated under this title pertaining to infused beverages.

(84 Del. Laws, c. 24, § 4; 85 Del. Laws, c. 394, § 1.)

§ 1362 Public hearing and right of appeal.

(a) The Commissioner may not cancel or suspend a license, or fine a licensee, before both of the following occur:

(1) The licensee has been given a public hearing by the Commissioner at which time the licensee is entitled to legal representation and

to present witnesses.

(2) The ground for canceling or suspending a license is established by clear and convincing evidence.

(b) The Commissioner shall keep a full and complete record of all proceedings incident to a hearing under subsection (a) of this section. The Commissioner shall record all testimony at such hearing, but need not have it transcribed unless an order of the Commissioner is appealed to the Superior Court under subsection (c) of this section.

(c) An order of the Commissioner relative to suspension or cancellation of a license, or fining a licensee, becomes final 10 days after the licensee receives notice thereof, unless, within 10 days of the date of the postmark on the Commissioner's decision, a written appeal is filed in the Superior Court. No bond may be required for filing such appeal.

(d) The appeal must state the grounds upon which a review is sought. After the appeal is filed, service shall be made by the sheriff upon the Commissioner. The Commissioner shall certify and file with the court all documents and papers and a transcript of all testimony taken in the matter, together with the Commissioner's findings therein as soon as practicable but in no event later than 20 calendar days from the date of service of the appeal. The Superior Court's review of an appeal shall be on the record and the Superior Court shall take into account the experience and specialized competence of the Commissioner and the purpose under which the Commissioner acted. Further, the Superior Court's review, in the absence of fraud, shall be limited to whether the Commissioner's decision is supported by substantial evidence on the record and is free from legal error.

(e) An appeal without bond may be taken from the decision of the Superior Court to the Supreme Court in the same manner as is provided in civil cases. Upon the final determination of judicial proceedings, the Commissioner shall enter an order in accordance with such determination, or shall take such further or other action as the Court may order. A petition for Supreme Court review shall act as a supersedeas.

(84 Del. Laws, c. 24, § 4.)

§ 1363 Effect of cancellation or surrender of license; notice.

(a) The cancellation or acceptance of a surrender of a license entails the loss of the privilege conferred by the license and entails the acceptance of or the seizure by the Commissioner of any marijuana or marijuana products found in the possession of the licensee, except those which occur solely by reason of the death of the licensee.

(b) Notice of the order of the cancellation or acceptance of the surrender of a license may be served by an officer designated by the Commissioner: by affixing a duplicate thereof to the outside of the entrance door of the licensed premises; by leaving a duplicate with the holder of the license, or with any member of the family of the holder over the age of 18 years at the residence of the holder; or otherwise as in the judgment of the Commissioner will give notice of such cancellation or acceptance of the surrender. All cancellations or acceptances of surrender of a license take effect as soon as the order is served.

(c) The cancellation or acceptance of surrender of a license does not prevent the filing of any criminal proceedings for any offense against the licensee while the license was in force. No conviction obtained for any offense prevents the Commissioner from cancelling a license or from making at the same time a seizure of marijuana or marijuana products as provided in this title.

(d) The Commissioner shall adopt regulations for seizure of marijuana and marijuana products that preserves and does not destroy the marijuana or marijuana products.

(84 Del. Laws, c. 24, § 4.)

§ 1364 Payments to former licensee.

The Commissioner shall, within 30 days of the date of the cancellation or acceptance of surrender of a license, remit to the former licensee a part of the license fee which has been paid and pertains to the unexpired term of the license. In addition, the Commissioner shall remit to the former licensee the amount originally received by the Commissioner from the former licensee in payment for such marijuana or marijuana products accepted or seized as remains in packages sealed by the Commissioner, after paying or deducting therefrom all reasonable costs and expenses incurred by the Commissioner by reason of the acceptance or seizure of the marijuana or marijuana products of the former licensee. When other legally-acquired marijuana or marijuana products have been accepted or seized under this section, the fair market value thereof as determined by the Commissioner must be remitted by the Commissioner to the former licensee, after paying or deducting therefrom all reasonable costs and expenses incurred by the Commissioner by reason of the acceptance or seizure of the marijuana or marijuana products of the former licensee. No payment may be made for illegally-acquired marijuana or marijuana products that have been seized under this section.

(84 Del. Laws, c. 24, § 4.)

Subchapter VI

Transfer of License; Death of Licensee

§ 1366 Transfer of license.

(a) The rights conferred by a license may be transferred by the Commissioner to any representative designated by the person to whom or on behalf of whom the license was originally granted, if such representative is a person approved by the Commissioner. In the case of death

of a licensee, the Commissioner may transfer the license to a qualified person recommended by the executor or administrator of the estate of the deceased licensee.

(b) In instances where the Commissioner has approved the transfer of a license, all matters concerning marijuana inventories must be handled directly between the transferor and the transferee and all payments must be made directly and not through the Commissioner.

(c) A social equity licensee may not transfer the license to a person who would not meet the criteria for the issuance of a social equity license until at least 3 years from the date the licensee was awarded an active social equity license.

(84 Del. Laws, c. 24, § 4; 84 Del. Laws, c. 301, § 14.)

§ 1367 Death of licensee; payments to licensee's estate.

If any licensee dies and no application is made for transfer of the license, or the Commissioner refuses to permit the transfer of the license to another person, the Commissioner shall return to the legal representative of such deceased licensee a share of the license fee received by the Department proportionate to the number of full calendar months of the unexpired term. If the marijuana or marijuana products in possession of the licensee at the time of the licensee's death are delivered to the Commissioner and the Commissioner ascertains that such marijuana or marijuana products have been received by the deceased licensee according to law, the Commissioner must pay to the legal representative the amount originally received by the Commissioner for such marijuana or marijuana products less 10% thereof, or the appraised value less 10% thereof.

(84 Del. Laws, c. 24, § 4.)

Subchapter VII

Owner and Financial Interests of Licensee

§ 1371 Commissioner approval.

The commissioner may refuse approval of changes in the ownership, officers, or directors, financial interest, or lease in connection with any license. No such change shall be implemented until reported to and approved by the Commissioner.

(84 Del. Laws, c. 24, § 4.)

§ 1372 Change in ownership.

(a) In order to change ownership of a license, all of the following must be filed with the Commissioner on behalf of the new owner or owners:

(1) An application.

(2) A financial statement of the new owner or owners.

(3) Personal financial statements of all individuals, partners, or stockholders holding at least 10% of the corporate stock.

(4) A copy of the agreement of the terms of the sale or other exchange of financial interest, including stock distribution.

(5) Copy of all documents explaining interest and profit/loss distribution.

(6) Any application fee required by the Commissioner.

(7) Any other documents requested by the Commissioner.

(b) A change in ownership includes a change in the entire ownership, change in the partial ownership, or the sale or exchange of shares of stock by stockholders.

(84 Del. Laws, c. 24, § 4.)

§ 1373 Change in officers or directors.

A person elected as an officer or director of a licensee must notify the Commissioner within 7 days of the election and provide all information requested by the Commissioner.

(84 Del. Laws, c. 24, § 4.)

§ 1374 Changes in financial interest.

No person may obtain a financial interest in a license or licensee without doing all of the following:

(1) Notifying the Commissioner.

(2) Providing all information and documents requested by the Commissioner.

(84 Del. Laws, c. 24, § 4.)

§ 1375 Fees.

If there is a change in ownership or financial interest more than 10%, a fee of $5,000 or 15% of the value of the transaction, whichever is higher, is required.

(84 Del. Laws, c. 24, § 4.)

Subchapter VIII

Marijuana Regulation Fund; Taxes

§ 1381 Marijuana Regulation Fund; Justice Reinvestment Fund.

(a) The Marijuana Regulation Fund is established as a special fund of the State consisting of fees collected, civil penalties imposed under this chapter, and a portion of taxes imposed under this subchapter. The Office of the State Treasurer shall administer the Fund.

(b) The Justice Reinvestment Fund is established as a special fund of the State consisting of a portion of taxes imposed under this subchapter as set forth in § 1386 of this title.

(84 Del. Laws, c. 24, § 4.)

§ 1382 Levy and rate of marijuana tax; collection.

(a) A tax is imposed on the retail sale of marijuana products under this chapter in this State. This tax is not imposed on the sale of medical marijuana products under Chapter 49A of Title 16. This tax is not imposed on the retail sale of infused beverages by a package store or a marijuana retail store.

(b) The tax imposed under this section is at the rate of 15% of the retail sales price of the marijuana product.

(c) If the tax imposed under this section does not equal an amount calculable to a whole cent, the tax shall be equal to the next higher whole cent.

(d) The amount of tax shall be separately stated on an invoice, receipt, or other similar document, in the manner directed by the Director of Revenue, that the marijuana retailer provides to the consumer at the time the retail sale occurs.

(e) A person may not knowingly sell, purchase, install, transfer, or possess electronic devices or software programs for the purposes of either of the following:

(1) Hiding or removing records of retail sales of marijuana products.

(2) Falsifying records of retail sales of marijuana products.

(f) A marijuana retailer may not discount a marijuana product or offer a marijuana product for free if the retail sale of the marijuana item is made in conjunction with the retail sale of any other item.

(84 Del. Laws, c. 24, § 4; 85 Del. Laws, c. 394, § 1.)

§ 1383 Collection and administration of the marijuana tax; mandatory reports; preemption.

(a) The marijuana tax imposed on the consumer under § 1382 of this title shall be collected at the point of sale and remitted by each retail marijuana store licensee that engages in the retail sale of marijuana products. The marijuana tax is considered a tax upon the retail marijuana store licensee that is required to collect the tax, and the retail marijuana store licensee is considered a taxpayer.

(b) A retail marijuana store licensee shall file a monthly report to the Commissioner, the Division of Revenue, and the Division of Alcohol, Tobacco, and Marijuana Enforcement.

(c) A retail marijuana store licensee shall pay the marijuana tax to the Division of Revenue in the form and manner prescribed by the Director of Revenue, but not later than with each monthly report.

(d) Except to the extent inconsistent with specific provisions of this chapter, the provisions of Chapter 5 of Title 30 shall govern the assessment, collection, review, and appeal of deficiencies of tax imposed by this title, and any interest and penalties thereon, and claims for refund of overpayment of taxes imposed by this chapter.

(e) The fees, charges, and taxes imposed by the State under this chapter shall be in lieu of all county and municipal license fees and taxes upon the business of selling, growing, and manufacturing marijuana as such. Provided, however, general occupational licenses fees and general taxes imposed uniformly on everyone within the class are not preempted.

(f) Any information set forth or disclosed in any report or return required under or as a result of this section, including any information which is required to be attached or included on any report or return required under or as a result of this section, is subject to the provisions of § 368 of Title 30.

(84 Del. Laws, c. 24, § 4; 85 Del. Laws, c. 518, § 16.)

§ 1384 Retention of records by retail marijuana store licensee; penalties.

(a) Each retail marijuana store licensee shall maintain and keep, for a period of 3 years, such records of marijuana products sold within this State by such retail marijuana store licensee, together with invoices, bills of lading, and other pertinent records and papers as may be required by the Commissioner for the reasonable administration of this chapter.

(b) A person who violates this section is subject to a civil penalty of up to $1,000 and may be charged the costs of an enforcement action .

(84 Del. Laws, c. 24, § 4.)

§ 1385 Discontinuance, sale, or transfer of business by retail marijuana store licensee; penalties.

(a) Whenever a person ceases to engage in business as retail marijuana store licensee within this State, all taxes, penalties, and interest under this chapter not yet due and payable under the provisions of this chapter shall, notwithstanding such provisions, become due and payable concurrently with the discontinuance, sale, or transfer, and the retail marijuana store licensee shall concurrently with such discontinuance, sale, or transfer make a report and pay all such taxes, interest, and penalties.

(b) If a retail marijuana store license is transferred under § 1366 of this title, the purchaser or transferee shall be liable to this State for the

amount of all taxes, penalties, and interest under this chapter, accrued against any retail marijuana store licensee selling or transferring a business, on the date of such sale or transfer, but only to the extent of the value of the property and business thereby acquired from such distributor or retailer.

(c) A person who violates this section is subject to a civil penalty of not less than $50 nor more than $500.

(84 Del. Laws, c. 24, § 4.)

§ 1386 Deposit of receipts.

(a) All money received by the Division of Revenue under this chapter shall be allocated as follows:

(1) All marijuana tax money and all money received through fees or other mechanisms must be deposited in accordance with § 6103(a) of Title 29 and credited to the Marijuana Regulation Fund.

(2) Each month, 7% of total marijuana tax money received from the preceding month shall be withdrawn from the Marijuana Regulation Fund and credited to the Justice Reinvestment Fund.

(b) The State Treasurer shall invest the Funds consistent with the investment policies established by the Cash Management Policy Board. The State Treasurer shall credit interest to the Funds on a monthly basis consistent with the rate established by the Cash Management Policy Board.

(84 Del. Laws, c. 24, § 4.)

§ 1387 Appropriation of revenue.

(a) The funds in the Marijuana Regulation Fund in each fiscal year must be appropriated by the General Assembly as follows:

(1) To the administrative costs and expenses of the Commissioner and the Division, including administrative expenses, including payroll and other employment costs.

(2) To the administrative costs and expenses of the Department of Finance, Department of Health and Social Services, Department of Agriculture, Department of Justice, and other agencies responsible for taxing and regulating personal use marijuana in Delaware. These departments shall submit a proposed expenditure plan for approval by the Commissioner, Controller General, and Director of the Office of Management and Budget prior to the expenditure of these funds.

(3) To the administrative costs and expenses of the Criminal Justice Council incurred to administer the Justice Reinvestment Fund.

(4) The maximum unencumbered balance which shall remain in the Marijuana Regulation Fund at the end of any fiscal year shall not exceed $5,000,000.

(5) After the payment under paragraphs (a)(2) and (3) of this section, the transfer to the Justice Reinvestment Fund set forth in § 1386(a)(2) of this title, and the maximum unencumbered balance set forth under paragraph (a)(4) of this section, any remainder shall be deposited to the General Fund.

(b) The funds in the Justice Reinvestment Fund in each fiscal year shall be appropriated to the Criminal Justice Council to administer grants, contracts, services, or initiatives that focus on any of the following:

(1) Restorative justice, jail diversion, workforce development, industry-specific technical assistance or mentoring services for economically-disadvantaged persons in disproportionately-impacted areas.

(2) Addressing the underlying causes of crime, reducing drug-related arrests, and reducing the prison population in this State.

(3) Creating or developing technology to assist with the restoration of civil rights and expungement of criminal records.

(4) Supporting social equity applicants with select business-related expenses.

(5) Supporting or providing reentry services for justice-involved individuals.

(6) Any remainder in the Fund at the end of a fiscal year is not subject to reversion.

(84 Del. Laws, c. 24, § 4; 84 Del. Laws, c. 295, § 139; 84 Del. Laws, c. 301, § 15; 85 Del. Laws, c. 62, § 31; 85 Del. Laws, c. 394, § 1.)

§ 1388 Financial statements of the Commissioner.

The Commissioner shall render an account to the State Treasurer, in the manner and at the time required by the latter, of its receipts and disbursements, and of its assets and liabilities. The State Treasurer may not, however, require such reports to be rendered more often than quarterly.

(84 Del. Laws, c. 24, § 4.)

§ 1389 Annual audit.

The State Auditor of Accounts shall annually examine and audit the operation of the Office of the Commissioner.

(84 Del. Laws, c. 24, § 4.)

Subchapter IX

Consumer Protection

§ 1390 Unlawful practices.

A violation of any provision of this chapter shall be deemed an unlawful practice under § 2513 of Title 6 and a violation of subchapter II

of Chapter 25 of Title 6.

(85 Del. Laws, c. 394, § 1.)