



House Liquor Control Committee

Democratic Chairman Paul Costa
333 Main Capitol Building

“Freeing the Six-Pack” – A Fact Sheet

Questions and Answers:

Q. Has a new license been created to allow gas stations to now sell 6-packs?

A. No, only the legislature has the authority to create a new license.

Q. How does a gas station qualify to sell 6-packs?

A. A gas station will need to purchase a retail license (restaurant, eating place, hotel, and distributor) and be approved by the PLCB to utilize the license at the gas station.

To qualify for an “R” or “E” license an applicant:

Restaurant License:

Must have an area min. 400sq.ft. with seating for 30 persons while providing food for the public. Can sell alcohol, beer and 6-packs.

Eating Place License:

Must have an area min. 300sq.ft. with seating for 30 persons while providing food for the public. Can sell beer and 6-packs.

Q. What changed to allow a gas station to now be able to sell 6-packs?

A. Nothing. The PLCB Board has approved several licenses already to gas stations and grocery stores with beer-to-go and that sell gas. Gas station applicants have increased due to recent Commonwealth Court rulings favoring their approval. Potential licensees need to meet the requirements of a restaurant or eating place license and get Board approval for an unlicensed business which will be connected to the licensed premises.

Q. How many applications have been approved?

A. At the recent Board meeting, ten applications were approved for beer-to-go sales at locations that also sell liquid fuels.

Breakdown of the applicants approved with liquid fuels sales:

- 2 distributor licenses
- 1 eating place license
- 7 restaurant licenses

Background:

- There are four sections of the Liquor Code that reference liquid fuels. These sections generally prohibit the issuance of a license by the Board to a *place, property, location or area* that is used for the sale of liquid fuels.
- The prohibition has existed since 1937, but that changed in 2014 when the Commonwealth Court issued an opinion in Water Street Beverage, Ltd. v. P.L.C.B., 84 A.3d 786 Pa.Cmwlth. 2014., that further delineates the meaning of “place, property, location or area”.
- Commonwealth Court held that the prohibition applies **only** to the licensed business itself thus no prohibition exists on the sale of liquid fuels in close proximity to the licensed premises, even if the sale of gas is being conducted by the licensee.
 - **In short:** So long as liquid fuels are not sold within the specified licensed area, the prohibition is not violated.
- After the Water Street decision, a majority of the PLCB Board members approved license applications in which fuel pumps were not contained within the proposed licensed area but were very close in proximity. However, a vacancy on the 3-member Board resulted in deadlock on certain applications and no further action on new applications was taken.
- On April 13, 2016, a new member was approved by the Senate to fill the vacancy on the PLCB Board. Now that the Board has the requisite 3 members, applications which were on hold due to no clear majority are now able to be voted upon for approval.