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# TITLE 4 ALCOHOLIC BEVERAGES AND MARIJUANA

## DELAWARE ADMINISTRATIVE CODE

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### DEPARTMENT OF STATE

#### OFFICE OF THE ALCOHOLIC BEVERAGE CONTROL COMMISSIONER

#### 600 Licenses for Gatherings

### 601 (Formerly Rule 35.1) Gathering Licenses

#### 1.0 Purpose and Scope

- 1.1 This regulation implements the definition of "gathering of persons" under the Delaware Liquor Control Act.
- 1.2 The purpose of a licensed gathering of persons is to raise funds or to further the stated mission and goals of the nonprofit organization.
- 1.3 To qualify for a license, the event to be licensed as a gathering of persons is one which is planned, coordinated, and hosted by or on behalf of the nonprofit organization and is advertised to the public as an event that will raise funds or otherwise further the stated mission and goals of the organization.
- 1.4 The holder of the gathering license is responsible for the sale and service of alcoholic liquors. The sale and service of alcoholic liquors includes the purchase, receipt, storage, and dispensing of alcoholic products. All proceeds from the sale or service of alcoholic liquors pursuant to a gathering license shall be retained by the holder of the gathering license and shall not be shared with other persons, businesses, or organizations.

**28 DE Reg. 318 (10/01/24)**

#### 2.0 Definitions

The following words and terms, when used in this regulation, have the following meaning:

**"Affiliated licensee"** means a licensed manufacturer of beer, wine, or spirits whose members, all or in part, are members of a nonprofit organization that is issued a gathering license.

**"Gathering of persons"** or **"gathering"** is defined in 4 **Del.C.** §101(22) and means a banquet, picnic, bazaar, fair, or similar private gathering, or similar public gathering, where food or drink are sold, served, or dispensed by nonprofit organizations such as churches, colleges, universities, volunteer fire companies, political parties, or other similar nonprofit groups having a common civic, social, educational, or religious purpose, or where entrance tickets are sold or entrance fees are required by those nonprofit organizations.

**"Social, civic and educational groups"** or **"groups"** as used in 4 **Del.C.** §101(22) and defined by the IRS, means nonprofit social welfare organizations and business leagues (operated exclusively to promote social welfare or common business interests in which no earnings inure to the benefit of a private individual or shareholder); veterans organizations; fraternal orders and societies; and nonprofit entities organized with members, for exempt purposes, supported by membership dues/assessments, with earnings that do not benefit a person having a personal or private interest in the organization's activities, and with organizational documents that do not contain any discriminatory provisions.

**28 DE Reg. 318 (10/01/24)**

#### 3.0 Gathering License - Requirements

- 3.1 A group as defined in this regulation shall submit an application in the form prescribed by the Delaware Alcoholic Beverage Control Commissioner and pay the appropriate fee.
- 3.2 The group must submit proof of incorporation or formation.
- 3.3 The group must submit a recent IRS Form 990 that has been filed by the nonprofit group and accepted by the IRS within the last 3 years. If the group has been organized in the prior calendar year, it must submit proof from the IRS that nonprofit status has been requested.
- 3.4 Religious groups must file IRS Form 1065 or demonstrate a current affiliation with a church or diocese.
- 3.5 Political groups must submit proof of current registration with the Delaware Department of Elections or with the Federal Election Commission.
- 3.6 The group must submit a floor plan of the premises where the gathering will take place, to include all seating, alcohol service areas, alcohol storage, entertainment areas, food service and preparation areas, and all points of ingress and egress.
- 3.7 A daily gathering license application must be completed and submitted 10 working days prior to the first scheduled gathering listed on the application.

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- 3.8 Within 60 days after a licensed gathering has taken place, the holder of the license shall submit a completed and signed post event report (a sample form can be obtained from the Office) which shall include: total alcohol sales and/or portion of ticket sales related to alcohol; cost of the alcohol; and the net proceeds from the sale of alcohol at the event. The holder of the license may submit all information by electronic means.
- 3.8.1 If a group fails to submit the information required by subsection 3.8 of this regulation, future gathering licenses may not be granted to the organization.
- 3.8.2 A group that has obtained a biennial gathering license may submit the report required by subsection 3.8 of this regulation on a quarterly basis, in lieu of 60 days after each event. Failure to submit the information required may result in cancellation of the biennial gathering license.
- 3.9 If a gathering license is issued to a nonprofit group with an affiliated licensee, the affiliated licensee shall not receive any alcohol proceeds from the gathering. For purposes of this regulation, "proceeds from the gathering" does not include the purchase of alcoholic beverages provided for the gathering.
- 3.10 The requirements of subsections 3.2, 3.3, and 3.8 of this regulation shall not apply to a volunteer fire company, a religious organization, or a political organization.

**19 DE Reg. 775 (02/01/16)**

**28 DE Reg. 318 (10/01/24)**