

DEPARTMENT OF STATE
OFFICE OF THE ALCOHOLIC BEVERAGE CONTROL COMMISSIONER
700 Renewal and Alterations of Licenses

703 (Formerly Rule 42) A Rule Governing Specifications and Alterations to Proposed and Licensed Establishments

1.0 Purpose

- 1.1 This rule requires the submission of design specifications or alterations of proposed and existing establishments either licensed or to be licensed by the Commissioner for the sale of alcoholic liquor, to ensure compliance with the Liquor Control Act and Commissioner Rules.
- 1.2 The Commissioner has concluded, pursuant to the Commissioner's authority to regulate time, place, and manner in which alcoholic liquor is sold and dispensed, 4 Del.C., §304(a)(2), that the submission of this information is reasonably necessary to ensure compliance with the various specification provisions of the Liquor Control Act and existing Commissioner Rules.
- 1.3 The Commissioner has further found that the potential public safety and law enforcement risk associated with drive-in and walk-up windows, when measured against the nominal convenience they offer consumers, dictates a prohibition on future floor plans that seek to include these design features for the sale of alcoholic liquors.

2.0 Applicability

This rule shall govern the submission of specifications and floor plans by all persons licensed or to be licensed by the Commissioner to import alcoholic liquor or to sell alcoholic liquor for consumption either on or off the premises or both.

3.0 Procedure

- 3.1 Each application for a license to sell alcoholic liquor must be accompanied by a floor plan of the premises to be licensed. The plan shall be reviewed by the Commissioner and approved only if it conforms with the Liquor Control Act and Commissioner Rules.
- 3.2 The floor plan must be submitted in duplicate (two copies) and must include, at a minimum, the following:
 - 3.2.1 Detailed interior and exterior dimensions of the premises.
 - 3.2.2 Clearly indicate all fixtures and equipment, including draft systems, counters, shelving, tables, chairs, bars (if applicable), male restroom, and female restroom.
 - 3.2.3 Detailed interior and exterior dimensions of any other floors, basements, attached rooms, or adjoining structures of any type, if used or planned to be used, for the sale or storage of alcoholic liquor. If applying for a restaurant license, include areas designated for entertainment at any time.
 - 3.2.4 Clearly indicate all entrances and exits of the establishment, as well as any and all connecting halls, doors, or windows that would permit communication or access between licensed and unlicensed areas. This requirement also includes connected or attached living quarters.
- 3.3 All proposed alterations to existing licensed establishments shall comply with the aforementioned requirements and, in addition, follow the provisions of Rule 704 (Formerly Rule 42.1) before submission to the Commissioner for consideration.

4.0 Prohibition on Drive-In and Walk-Up Windows

- 4.1 It is the finding of the Commissioner that the use of drive-in and walk-up windows or counters by establishments licensed for off-premises consumption present substantial risks to public safety and law enforcement personnel that outweigh the convenience they offer consumers.
- 4.2 Specifically, the Commissioner finds the following risks associated with drive-in and walk-up windows:
 - 4.2.1 Licensee compliance with proper identification procedures and detection of intoxicated patrons is encumbered by the presence of glass partitions, increased distance, angle of view (between the window and parked vehicle), poor lighting, and automobiles.

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- 4.2.2 Law enforcement surveillance personnel cannot adequately view patrons sitting in automobiles for the purpose of assessing age and condition of sobriety.
- 4.2.3 The danger to law enforcement personnel is substantially increased when suspected liquor law violators are in a motor vehicle. The potential flight of violators also constitutes an increased risk to the public.
- 4.2.4 The practice of drivers purchasing alcoholic liquor without leaving their vehicle creates a public perception that tends to frustrate the state's goal of promoting highway safety and reducing drunk driving.
- 4.3 The Commissioner, therefore, will not accept or approve an application for an alcoholic liquor license, or a request for an alteration in the case of an existing license, wherein the accompanying floor plan includes either a drive-in or walk-up window or counter; however, this prohibition shall not apply to the transfer of ownership in any of the forms covered by Rule 301 (Formerly Rule 3) or renewal of an existing license.

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