
TITLE 4 ALCOHOLIC BEVERAGES AND MARIJUANA

DELAWARE ADMINISTRATIVE CODE

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DEPARTMENT OF STATE

OFFICE OF THE ALCOHOLIC BEVERAGE CONTROL COMMISSIONER

800 Suspension of License; Sanctions and Fines

803 (Formerly Rule 73.1) Sanctions for Certified Alcoholic Beverage Servers Who Violate the Liquor Control Act or Commissioner Rules

1.0 Purpose and Findings

- 1.1 The purpose of this rule is to establish administrative sanctions for certified alcoholic beverage servers who violate the Liquor Control Act ("LCA") or Delaware Alcoholic Beverage Control Commissioner ("Commissioner") rules.
- 1.2 The Commissioner finds that certification cards issued by server training providers are revocable permits under the Liquor Control Act, as licenses, and may be subject to administrative sanctions, including suspension or revocation.

2.0 Applicability

This rule shall govern administrative sanctions imposed upon certified alcoholic beverage servers who violate the Liquor Control Act or Commissioner rules while performing their duties as commercial servers of alcoholic liquor in licensed establishments.

3.0 Certification of Training

- 3.1 Any employee of a premises licensed to sell alcohol who has worked for the licensee for at least 30 days for at least 10 hours per week shall take and pass a course certified pursuant to this Rule and maintain the certification as provided in 4 **Del.C.** §1205. All persons who have been certified by a Commissioner-approved server training provider shall be issued a certification card issued by the provider that must display the following information: Trainee's full name, date of birth, expiration date, and instructor's signature.
- 3.2 All certified servers are required to carry this card on their immediate person while serving alcoholic beverages in any establishment subject to the provisions of 4 **Del.C.** Ch. 12.
- 3.3 No person shall make any false statement or other misrepresentation of fact to obtain a server training identification card.
- 3.4 No person shall possess, or present to any DATE Agent or employee of the Commissioner's office, as proof of program certification, a fictitious, altered, or fraudulently obtained server training identification card.
- 3.5 No person shall present a fictitious, altered, or fraudulently obtained server training identification card to any licensee of the Commissioner during the process of seeking employment with said licensee.
- 3.6 No person certified by the Commissioner as a trained alcoholic beverage server shall sell, serve, or promote the sales of alcoholic beverages in a manner not consistent with the rules of the Commissioner or the Liquor Control Act.
- 3.7 No licensee shall encourage or knowingly permit any employee or staff member or other person under their employ, supervision, or direction, to sell, serve, or promote the sales of alcoholic beverages in any manner not consistent with the Liquor Control Act or rules of the Commissioner.

4.0 Administrative Procedures

- 4.1 DATE Agents may administratively cite any licensee or Delaware certified alcoholic beverage server for violating provisions of the Liquor Control Act or Commissioner rules.
- 4.2 A certified alcoholic beverage server who violates the Liquor Control Act or Commissioner Rules shall be notified of the alleged violation by the investigating agent as promptly as is possible.
- 4.3 A Notice of Violation will be mailed "Return Receipt Requested" to the server. The server shall have ten (10) working days after receipt of the notice to request a hearing by the Commissioner.
- 4.4 Should a certified alcoholic beverage server fail to request a hearing after receiving notice in conformity with 29 **Del.C.** §10122, the server shall be assessed by the division the sanction listed in subsection 5 below which may then be ratified by the Commissioner at the next regularly scheduled meeting.

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- 4.5 If a server timely requests a hearing before the Commissioner pursuant to 29 **Del.C.** §10125, he/she shall be placed on the next available agenda before the Commissioner and shall retain the rights set forth in 29 **Del.C.** §10122.

5.0 Sanctions

- 5.1 If the Commissioner finds that a certified beverage server has violated the Liquor Control Act or Commissioner rules, the Commissioner may impose any or all of the sanctions that follow:
- 5.1.1 Require the server to participate in public service speaking engagements at server training classes presented by the Commissioner. The topic and number of speaking engagements shall be determined by the Commissioner; or
 - 5.1.2 Require the server to re-take the mandatory server training program; or
 - 5.1.3 Suspend the training certification of the alcoholic beverage server for a period determined by the Commissioner.
- 5.2 Suspension of server training certification shall preclude that person from employment as an alcoholic beverage server in those establishments covered by 4 **Del.C.** Ch. 12. Any establishment employing a person whose alcoholic beverage training certification has been suspended may be subject to administrative sanctions pursuant to 4 **Del.C.** Ch. 12.
- 5.3 The Commissioner may deny server training certification privileges to any person who fraudulently obtains, or attempts to fraudulently obtain server training certification.

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