

# CONSEQUENCES OF VIOLATING THE COVID-19 EMERGENCY ORDER

BY ED TARASKUS

The Pennsylvania Liquor Control Board (PLCB) mandated, pursuant to Governor Wolf's Covid-19 emergency order, that licensees had to cease all consumption of alcohol and food on their licensed premises effective Wednesday March 18, 2020 at 8 P.M. However, sales of food, beer, and wine for off premises (take-out) consumption were still permitted. The PLCB then issued Advisory Notice 26 on March 18, 2020 to all license holders throughout Pennsylvania. The advisory notice listed the retail license types that were affected, which included restaurants and clubs.

Governor Wolf had authorized the closure of non-essential businesses pursuant to Pennsylvania's Emergency Management Services Code. The Pennsylvania Liquor Code, 47 P.S. §4-462, in turn gives the PLCB the authority to close licensed establishments during times of emergency when authorized by the governor. Section 4-471 of the liquor code gives the state police the authority to issue a citation for violating the emergency order. The PLCB furthermore has the authority to object to the renewal of the licensee's license for the violation of the emergency order even though the particular citation case is closed out by the payment of the fine or the service of a suspension.

The emergency order allowed customers to enter and be on the licensed

**The Pennsylvania Liquor Code, 47 P.S. §4-462, in turn gives the PLCB the authority to close licensed establishments during times of emergency when authorized by the governor.**

premises solely to obtain the take-out food and beer, and wine to go, where the licensee has a PLCB wine expanded permit. No consumption of food or alcohol on the licensed premises was permitted. A licensee who allowed any consumption of food or alcohol on the licensed premises was in violation of the liquor code.

The PA State of Police Bureau of Liquor Control Enforcement (BLCE) began to aggressively monitor compliance for any violations where a licensee or an employee allowed customers to consume alcoholic beverages (Scotch, wine, or beer) or food on the premises, even if waiting for the take-out food.

Citations were brought by the State Police BLCE against a number of licensees who violated the governor's emergency order by serving alcohol for consumption on the licensed premises. Depending on the licensee's circumstances and citation/violation record, the Office of Administrative Law Judge generally has imposed a minimum fine of \$1,000 against the license as a penalty for violating the emergency order.

However, the PLCB has also objected to the renewal of the licenses of the licensees who violated the emergency order.

Governor Wolf rescinded the emergency order on May 31, 2021, allowing licensed establishments to resume on-premise sales of food and alcoholic beverages. However, the consequences of violating the emergency Covid-19 order continues on.

Any licensee involved should consult with their attorney immediately. ■

Edward Taraskus is in private practice in Philadelphia concentrating in the area of representation of liquor licensees. He previously served as an Assistant Attorney General in the Pennsylvania Justice Department representing the Pennsylvania Liquor Control Board. Along with his legal column for The Observer he frequently presents educational lectures to both industry members and attorney practitioners. He received his B.A. from LaSalle University and his J.D. from Temple University School of Law. He is a member of the Administrative Law and Regulatory Practice Section of the American Bar Association as well as a member of the Administrative Law Section of the Pennsylvania Bar Association and the Philadelphia Bar Association. Ed can be contacted at [www.paliquorlaw.com](http://www.paliquorlaw.com).