



## **Does the Pennsylvania Liquor Control Board Consider You to be a Person of Ill Repute?**

*What Pennsylvania Liquor Licensees Need to Know About the PLCB's Nuisance Bar Program \**

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As part of the biennial liquor license renewal process, the Pennsylvania Liquor Control Board ("PLCB") implements its "Nuisance Bar Program" to eliminate liquor licensed establishments that are deemed problematic. Following a licensee's application for renewal of their liquor license, a licensee who is flagged by the nuisance bar program receives a letter from the PLCB indicating that a hearing must be conducted to determine whether the license should be renewed.

Although the term "nuisance bar" may conjure up images of a dark, windowless bar in an unsafe neighborhood, the PLCB uses a low threshold and any establishment that has even a minimal citation history with the PLCB can be subject to review. Licensees have expressed great frustration trying to remain in compliance because the term "nuisance bar" is not defined in the law, is based on a subjective determination of what the PLCB believes to be the problem, and can vary from establishment to establishment.

According to the statute used to implement the Nuisance Bar Program, the PLCB can object to the renewal of a liquor license based upon the mere existence of "one or more adjudicated citations" or if the owner has become a person of "ill repute." This vague standard, with no definitive criteria, makes it difficult to advise licensees what conduct will warrant review under the Nuisance Bar Program.

The lack of a benchmark for determining what number of citations and what incidents will trigger a hearing results in inconsistent enforcement efforts against establishments and creates confusion for many licensees. In addition, licensees that have been in business for many years can expect the PLCB to consider

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even citations that are more than 20 years old. Moreover, if a restaurant owner has an equity interest in more than one licensed establishment, any adjudicated citations for all establishments, owned directly or indirectly by that individual, might be admitted as evidence against the licensee at the renewal hearing.

In addition to adjudicated citations, the PLCB may also seek to admit evidence related to police incidents or other activity that occurs “on or about” the licensed establishment. Therefore, if a fight occurs outside the licensed establishment after last call, or if a patron is arrested with illegal drugs on the premises, these incidents may be admitted against the licensee. These incidents may be admitted to show the character of the licensee and the establishment, whether or not the licensee had any participation in the wrongful conduct or even had knowledge of it. The fact that the incident occurs “on or about” the licensed premises is enough of a nexus for the PLCB to consider such evidence.

Licensees responding to nuisance bar allegations are given the opportunity to present testimony and other evidence that rebuts the presumption that the establishment is a nuisance bar.

It is imperative that licensees not wait until they face nuisance bar allegations to take proactive steps to guard against challenges to their license. Just as the PLCB may admit evidence to highlight a licensee’s alleged nuisance status, the licensee may likewise admit evidence to show what actions it has taken to be proactive and responsive to citations or police calls to the premises. If a citation is issued for serving a minor, licensees should consider the installation of age verification scanners and hiring additional security to prevent the same citation in the future. Likewise, if a citation is issued for a loudspeaker violation, licensees should consider installation of noise-dampening equipment or task employees with monitoring noise levels from outside the establishment. A licensee that has implemented proactive measures following each incident or citation issued will have created valuable testimony in the event of a renewal hearing.

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In today's environment, Licensees must be vigilant and proactive with respect to preserving one of their most valuable assets, their Liquor License. They should work closely with their attorney or seek out competent legal representation to advise on these matters. If you have any additional questions, please do not hesitate to contact Keith A. Clark, Esquire ([clark@shumakerwilliams.com](mailto:clark@shumakerwilliams.com)) or Evan C. Pappas, Esquire ([pappas@shumakerwilliams.com](mailto:pappas@shumakerwilliams.com)), General Counsel to the Pennsylvania Restaurant Association.

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