

**DEPARTMENT OF SAFETY AND HOMELAND SECURITY**  
**OFFICE OF THE ALCOHOLIC BEVERAGE CONTROL COMMISSIONER**  
Statutory Authority: 4 Delaware Code, Section 304(a) (4 **Del.C.** §304(a))

**FINAL**

**ORDER**

**1407 A Rule Pertaining to Movie Theaters**

**Date of Issuance: October 21, 2014**

**Effective Date: November 11, 2014**

Under the authority vested in the Alcoholic Beverage Control Commissioner ("OABCC") under 29 **Del.C.** §8001 et seq., 29 **Del.C.** §10111 et seq. and 4 **Del.C.** §304, the following findings, reasons and conclusions are entered as an Order of the Commissioner to create the regulation, 4 **DE Admin. Code** 1407, A Rule Pertaining to Movie Theaters. The only comments made regarding the hearings and by written comment were in favor of adopting the proposed regulation with the exception that Mr. Ketchum of Penn Cinema spoke against the adoption of 1407 - §2.0(c.).

1407 - §2.0(c.) requires a camera to be located in the theaters that is able to be monitored from a central location, and Mr. Ketchum testified that this requirement would be expensive and unnecessary. It is important for operators of movie theaters to monitor patrons to prevent the passing of alcohol legally purchased to minors and the monitored cameras are an excellent means of accomplishing this. In addition, the statute requires the cameras and therefore the Rule must require the cameras.

In conclusion, the following findings and conclusions are entered:

1. OABCC, acting through this Order of the Commissioner, adopts the proposed regulation as a final regulation, as set forth below,
2. The approval of the proposed regulation as the final regulation will protect and improve the Manner in which alcohol is served in movie theaters;
3. The Regulation approved by this Order was developed consistent with the applicable law and regulatory standards, and is supported by comments from the industry;
4. OABCC provided public notice of the proposed regulation and the public hearing in a manner required by the law and regulations,
5. OABCC held public hearings in a manner required by the law and regulations, and considered all timely and relevant public comments in making its determination;
6. OABCC's proposed Regulation 1407, as published in the September 1, 2014, Delaware *Register of Regulations*, and as set forth below, is well supported by the record, and is reasonable to regulate the sale of alcohol consistent with the applicable laws and regulations.
7. OABCC shall have published this Order in the Delaware *Register of Regulations*; and the notice in newspapers, and the Regulation amendment will go into effect ten days after its publication in the Delaware *Register of Regulations*.

John H. Cordrey, Commissioner

**1407 A Rule Pertaining to Movie Theaters**

**1.0 Purpose**

This rule is promulgated pursuant to the Commissioner's authority to regulate the time, place, and manner in which alcoholic liquors are sold and dispensed (4 **Del.C.** §304). In addition, it is the purpose of this rule to implement and clarify the Commissioner's authority to license a movie theater to sell alcoholic liquors for consumption on any portion of the premises approved by the Commissioner (4 **Del.C.** §512 (f)). In accordance with these statutes alcoholic liquors may be sold or dispensed in a manner consistent with Title 4 of the Delaware Code and Commissioner Rules.

By the promulgation of this rule, the Commissioner finds that alcoholic liquors may be sold and consumed on the premises of a movie theater that has been approved by the Commissioner in accordance with the provisions of this rule.

**2.0 Definitions**

For purposes of this regulation, the following definitions shall apply.

**"Alcoholic beverage"** means a beverage consisting of no more than sixteen (16) ounces of beer, eight (8) ounces of wine, or two (2) ounces of spirits.

**"Movie theater"** means an indoor facility used to host showings of motion pictures which:

- a. has a capacity of at least 500 patrons for any single movie showing or for showing of multiple movies in separate theaters at the same time;
- b. shall host a minimum of 250 movie showings in any calendar year and shall be open at least 5 days a week;
- c. has video cameras in each theater auditorium that allows supervision of movie patrons from a centralized or remote location during a movie showing; and
- d. has a separate bar or location where alcohol is sold, served or dispensed that is separated from where food and non-alcoholic drink are sold.

**3.0** **Approved Course Required**

All movie theater managers and employees involved in serving alcohol must successfully complete within 30 days from employment an approved course on the responsible service of alcoholic beverages.

**4.0** **Minors Prohibited**

No minors are permitted to stand or sit at the bar or counter where alcoholic beverages are sold, served or consumed.

**5.0** **Dispensing Limitations**

No more than one (1) alcoholic beverage may be sold to a patron at a time who is at least twenty-one (21) years old and no more than two (2) alcoholic beverages may be sold per patron per movie showing. The alcoholic beverage must be dispensed in a container that is clearly different from other non-alcoholic drinks and the patron purchasing the alcoholic beverage must be identified by a wrist band or similar means.

**6.0** **Inspection Required**

A server trained individual must physically inspect each theater at least once during each movie showing to ensure that persons under the age of twenty-one (21) are not consuming alcohol.