

DEPARTMENT OF SAFETY AND HOMELAND SECURITY
OFFICE OF THE ALCOHOLIC BEVERAGE CONTROL COMMISSIONER

1600 Drug Activities

Rule 1601 (Formerly Rule 70) A Rule Pertaining to Drug Activities on Licensed Premises

1.0 Purpose

- 1.1 This rule implements and clarifies the grant of authority to the Commissioner contained in 4 **Del.C.** §304(a)(2) to control the time, place, and manner in which alcoholic liquors shall be sold and dispensed. In accordance with this statute, alcoholic liquors shall not be sold or dispensed in any manner inconsistent with Title 4, the Liquor Control Act, or any other law of this state.
- 1.2 By the promulgation of this rule, the Commissioner finds that alcoholic beverages may not be sold in a place that is also used to deliver, possess, or consume illegal drugs, or deliver or possess illegal drug paraphernalia, or illegal hypodermic syringes or needles, or to conspire or solicit such activities.
- 1.3 The Commissioner finds that illicit drug activities on licensed premises encourages additional unlawful behavior including acts of violence. Such conditions interfere with public convenience and lawful access to licensed establishments. The Commissioner, therefore, finds licensees have an obligation to prevent this type of activity on their licensed premises.
- 1.4 The Commissioner recognizes, in promulgating this rule, that illicit drug activities are often conducted surreptitiously and that it would be inappropriate to hold a licensee responsible for such behavior. However, licensees may not ignore or act negligently in policing conditions on licensed premises which would lead a reasonable person to conclude that illegal drug activity is occurring. An affirmative defense is, therefore, provided to the licensee under this rule who takes the prescribed action.

2.0 Applicability

This rule shall govern the manner in which all licensees, agents of licensees, and employees of licensees, conduct themselves concerning illegal drug activity on premises licensed by the Delaware Alcoholic Beverage Control Commissioner.

3.0 Prohibited Practices

- 3.1 No licensee, its agents or employees, shall suffer, permit, or participate in any illegal drug activity on the premises of a licensed establishment, or in a vehicle licensed by the Commissioner, that is prohibited by the Uniform Controlled Substance Act of the State of Delaware, Title 16, Chapter 47, or the Delaware Criminal Code, Title 11, Chapter 5, Sub-Chapter I, of the Delaware Code of 1974 as amended.
- 3.2 It is an affirmative defense to the prosecution of a violation of this rule that the licensee, its agent, or employee, immediately contacted law enforcement officials when said licensee became aware through actual or constructive notice that a violation of 16 **Del.C.** Ch. 47, or 11 Delaware Code, Chapter 5, Sub-Chapter I, of the Delaware Code of 1974, as amended, had occurred, was occurring, or was about to occur on their licensed premises.

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