

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2093 Session of
2005

INTRODUCED BY BLACKWELL, CALTAGIRONE, JAMES, MCGEEHAN, THOMAS,
FABRIZIO AND YOUNGBLOOD, OCTOBER 21, 2005

REFERRED TO COMMITTEE ON LIQUOR CONTROL, OCTOBER 21, 2005

AN ACT

1 Amending the act of April 12, 1951 (P.L.90, No.21), entitled, as
2 reenacted, "An act relating to alcoholic liquors, alcohol and
3 malt and brewed beverages; amending, revising, consolidating
4 and changing the laws relating thereto; regulating and
5 restricting the manufacture, purchase, sale, possession,
6 consumption, importation, transportation, furnishing, holding
7 in bond, holding in storage, traffic in and use of alcoholic
8 liquors, alcohol and malt and brewed beverages and the
9 persons engaged or employed therein; defining the powers and
10 duties of the Pennsylvania Liquor Control Board; providing
11 for the establishment and operation of State liquor stores,
12 for the payment of certain license fees to the respective
13 municipalities and townships, for the abatement of certain
14 nuisances and, in certain cases, for search and seizure
15 without warrant; prescribing penalties and forfeitures;
16 providing for local option, and repealing existing laws,"
17 further providing for sale of malt or brewed beverages by
18 liquor licensees, for retail dispensers' restrictions on
19 purchases and sales and for renewal of amusement permit and
20 renewal of permit for sales for off-premises consumption in
21 cities of the first class.

22 The General Assembly of the Commonwealth of Pennsylvania
23 hereby enacts as follows:

24 Section 1. Sections 407(b), 442(a) and 478(c) of the act of
25 April 12, 1951 (P.L.90, No.21), known as the Liquor Code,
26 reenacted and amended June 29, 1987 (P.L.32, No.14) and amended
27 July 6, 2005 (P.L.135, No.39), are amended to read:

1 Section 407. Sale of Malt or Brewed Beverages by Liquor

2 Licensees.--* * *

3 (b) (1) Notwithstanding subsection (a), after October 31,
4 2005, a restaurant licensee located in a city of the first class
5 who is otherwise permitted to sell malt or brewed beverages for
6 consumption off the premises may not do so unless it acquires a
7 permit from the board.

8 (2) The application for a permit to sell malt or brewed
9 beverages for consumption off the premises shall be on forms
10 designated by the board and contain such information as the
11 board may require. The application and renewal fee shall be as
12 prescribed in section 614-A(27) of the act of April 9, 1929
13 (P.L.177, No.175), known as "The Administrative Code of 1929."

14 (3) The application for a permit to sell malt or brewed
15 beverages for consumption off the premises must be accompanied
16 by a copy of the approval of such request by the [governing body
17 of the] city of the first class in which the licensed premises
18 is located.

19 (4) The [governing body of a] city of the first class must
20 render a decision by ordinance or resolution within [forty-five]
21 ninety days of receipt of a request for approval of a permit to
22 sell malt or brewed beverages for consumption off the premises.
23 The [governing body] city of the first class must approve the
24 request unless it finds that doing so would adversely affect the
25 welfare, health, peace and morals of the city or its residents.
26 A decision by the city to deny a request may be appealed to the
27 court of common pleas in the county in which the city is
28 located. The failure to render a decision by the [governing body
29 of a] city of the first class within the [forty-five-day]
30 ninety-day period shall be deemed approval of the permit.

1 (5) Upon being satisfied that the applicant has fulfilled
2 all the requirements of this act and the board's regulations,
3 the board shall approve the application.

4 Section 442. Retail Dispensers' Restrictions on Purchases

5 and Sales.--(a) (1) No retail dispenser shall purchase or
6 receive any malt or brewed beverages except in original
7 containers as prepared for the market by the manufacturer at the
8 place of manufacture. The retail dispenser may thereafter break
9 the bulk upon the licensed premises and sell or dispense the
10 same for consumption on or off the premises so licensed:

11 Provided, however, That no retail dispenser may sell malt or
12 brewed beverages for consumption off the premises in quantities
13 in excess of one hundred ninety-two fluid ounces: Provided,
14 further, That no club licensee may sell any malt or brewed
15 beverages for consumption off the premises where sold or to
16 persons not members of the club.

17 (2) Notwithstanding paragraph (1), after October 31, 2005, a
18 retail dispenser licensee located in a city of the first class
19 who is otherwise permitted to sell malt or brewed beverages for
20 consumption off the premises may not do so unless it acquires a
21 permit from the board.

22 (3) The application for a permit to sell malt or brewed
23 beverages for consumption off the premises shall be on forms
24 designated by the board and contain such information as the
25 board may require. The application and renewal fee shall be as
26 prescribed in section 614-A(28) of the act of April 9, 1929
27 (P.L.177, No.175), known as "The Administrative Code of 1929."

28 (4) The application for a permit to sell malt or brewed
29 beverages for consumption off the premises must be accompanied
30 by a copy of the approval of such request by the [governing body

1 of the] city of the first class in which the licensed premises
2 is located.

3 (5) The [governing body of a] city of the first class must
4 render a decision by ordinance or resolution within [forty-five]
5 ninety days of receipt of a request for approval of a permit to
6 sell malt or brewed beverages for consumption off the premises.
7 The [governing body] city of the first class must approve the
8 request unless it finds that doing so would adversely affect the
9 welfare, health, peace and morals of the city or its residents.
10 A decision by the city to deny a request may be appealed to the
11 court of common pleas in the county in which the city is
12 located. The failure to render a decision by the [governing body
13 of a] city of the first class within the [forty-five-day]
14 ninety-day period shall be deemed approval of the permit.

15 (6) Upon being satisfied that the applicant has fulfilled
16 all the requirements of this act and the board's regulations,
17 the board shall approve the application.

18 * * *

19 Section 478. Renewal of Amusement Permit; Renewal of Permit
20 for Sales for Off-Premises Consumption in Cities of the First
21 Class.--* * *

22 (c) Upon the annual review of the operating history of a
23 licensee prior to the validation period or the periodic renewal
24 of the license, a city of the first class and the Director of
25 the Bureau of Licensing shall have the authority to state
26 objection to the renewal of the permit for sale of malt or
27 brewed beverages required under section 407 or 442. Any
28 objection shall be based upon the operating history, and notice
29 shall be provided to the licensee in writing, by certified mail,
30 at the address listed on the license. Upon the completion of any

1 hearing conducted concerning the renewal of the permit pursuant
2 to section 464, the board may, in its discretion, refuse to
3 renew the permit. Nothing contained in this section shall be
4 construed to require licensees granted permits pursuant to
5 section 407 or 442 to obtain the prior approval of a city of the
6 first class to renew a permit granted pursuant to those
7 sections. Licensees granted permits pursuant to sections 407 and
8 442 shall be entitled to renew in the discretion of the Director
9 of the Bureau of Licensing unless the director or a city of the
10 first class has filed a timely objection pursuant to this
11 section.

12 * * *

13 Section 2. This act shall take effect immediately.