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SESSION OF 2009 193RD OF THE GENERAL ASSEMBLY

No. 49

SENATE

WEDNESDAY, July 1, 2009

The Senate met at 1 p.m., Eastern Daylight Saving Time.

The PRESIDENT (Lieutenant Governor Joseph B. Scarnati III) in the Chair.

PRAYER

The Chaplain, Reverend ROBERT SIEBER, Retired Pastor of Faith Bible Baptist Church, Mifflintown, offered the following prayer:

Shall we pray.

Almighty God, Creator of heaven and earth and giver of all that we have, we stand before You here, this afternoon, with thankful hearts and a desire to please You. As such, we come to Your throne through no works of our own but only by the granting of Your infinite love, mercy, and grace, all of which You have so freely bestowed upon us. And for this, we are thankful.

Heavenly Father, this nation is on the verge of celebrating her 233rd birthday, a birthday that has given us a Constitution which guarantees to us certain freedoms, one of which is the coming together as elected leaders to enact legislation giving us the ability to pursue life, liberty, and happiness. For this blessing, we also pause and say, thank You, Lord.

Heavenly Father, we have come here today to look to You in prayer, and it is because of this freedom that we have of self-government that we can come to You in prayer here in this Senate body today. This Senate body has convened this afternoon to work upon various proposals pertaining to the Commonwealth's budget, and then to eventually compile and vote upon a new State budget. So, Heavenly Father, as this honorable Assembly begins its work this afternoon, may each Member do so in a spirit of cooperation with each other and an attitude of doing what is right and fair for each person who resides within the confines of this great and beautiful State.

For this reason, most gracious and loving Lord, we now hold these elected officials up to You, simply asking that You would work Your perfect will in each and every one of them as they begin today's deliberations. This we ask in Your magnificent and holy name. Amen.

The PRESIDENT. The Chair thanks Reverend Sieber, who is the guest today of Senator Corman.

PLEDGE OF ALLEGIANCE

(The Pledge of Allegiance was recited by those assembled.)

HOUSE MESSAGES

HOUSE CONCURS IN SENATE BILL

The Clerk of the House of Representatives returned to the Senate **SB 241**, with the information the House has passed the same without amendments.

HOUSE BILLS FOR CONCURRENCE

The Clerk of the House of Representatives presented to the Senate the following bills for concurrence, which were referred to the committees indicated:

July 1, 2009

- HB 1 and 746** -- Committee on Banking and Insurance.
- HB 120, 1607 and 1648** -- Committee on Judiciary.
- HB 1152** -- Committee on Aging and Youth.
- HB 1312** -- Committee on State Government.

BILL SIGNED

The PRESIDENT (Lieutenant Governor Joseph B. Scarnati III) in the presence of the Senate signed the following bill:

SB 241.

BILL REPORTED FROM COMMITTEE

Senator YAW, from the Committee on Urban Affairs and Housing, reported the following bill:

SB 900 (Pr. No. 1246) (Amended)

An Act amending Title 53 (Municipalities Generally) of the Pennsylvania Consolidated Statutes, providing for neighborhood blight reclamation and revitalization.

RESOLUTION REPORTED FROM COMMITTEE

Senator YAW, from the Committee on Urban Affairs and Housing, reported the following resolution:

SR 142 (Pr. No. 1227)

A Resolution directing the Legislative Budget and Finance Committee to complete a study and cost analysis of the implementation of a Statewide blighted property database and report its findings, conclusions and recommendations to the Senate.

The PRESIDENT. The resolution will be placed on the Calendar.

LEGISLATIVE LEAVES

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Pileggi.

Senator PILEGGI. Mr. President, I request a legislative leave for Senator Wonderling.

The PRESIDENT. The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Mr. President, I request a temporary Capitol leave for Senator Dinniman.

The PRESIDENT. Senator Pileggi requests a legislative leave for Senator Wonderling.

Senator Mellow requests a temporary Capitol leave for Senator Dinniman.

Without objection, the leaves will be granted.

LEAVE OF ABSENCE

Senator PILEGGI asked and obtained a leave of absence for Senator BAKER, for today's Session, for personal reasons.

SPECIAL ORDER OF BUSINESS JOURNAL APPROVED

The PRESIDENT. The Journal of the Session of June 23, 2009, is now in print.

The Clerk proceeded to read the Journal of the Session of June 23, 2009.

Senator PILEGGI. Mr. President, I move that further reading of the Journal be dispensed with and that the Journal be approved.

On the question,

Will the Senate agree to the motion?

The yeas and nays were required by Senator PILEGGI and were as follows, viz:

YEA-49

Alloway	Folmer	Orie	Vogel
Argall	Fontana	Piccola	Ward
Boscola	Gordner	Pileggi	Washington
Browne	Greenleaf	Pippy	Waugh
Brubaker	Hughes	Rafferty	White, Donald
Corman	Kasunic	Robbins	White, Mary Jo
Costa	Kitchen	Scarnati	Williams
Dinniman	Leach	Smucker	Wonderling
Earll	Logan	Stack	Wozniak
Eichelberger	McIlhinney	Stout	Yaw
Erickson	Mellow	Tartaglione	
Farnese	Musto	Tomlinson	
Ferlo	O'Pake	Vance	

NAY-0

A majority of the Senators having voted "aye," the question was determined in the affirmative.

The PRESIDENT. The Journal is approved.

LEGISLATIVE LEAVES CANCELLED

The PRESIDENT. Senator Dinniman and Senator Wonderling have returned, and their respective leaves are cancelled.

SPECIAL ORDER OF BUSINESS GUESTS OF SENATOR DAVID G. ARGALL PRESENTED TO THE SENATE

The PRESIDENT. The Chair recognizes the gentleman from Schuylkill, Senator Argall.

Senator ARGALL. Mr. President, I have three interns today whom I would like to introduce who are seated in the gallery. David Delay of Tamaqua is a recent graduate of West Chester University, with a bachelor's degree in political science; Katelynn McAuliffe of Hamburg is a student at Andrews University in Michigan, majoring in business administration; and Malea Hetrick of Port Matilda is a student at Juniata College, majoring in international studies.

Malea is working with me in the Harrisburg office as a representative of the Finnegan Fellowship Foundation, which is a program that has been granting internships to students interested in State government since the 1950s. And as a former Finnegan intern, I would like the Senate to give Malea as well as my other two interns a special warm welcome today.

The PRESIDENT. Would the guests of Senator Argall please rise to be welcomed by the Senate.

(Applause.)

GUEST OF SENATOR MICHAEL J. STACK PRESENTED TO THE SENATE

The PRESIDENT. The Chair recognizes the gentleman from Philadelphia, Senator Stack.

Senator STACK. Mr. President, I would like to welcome Patrick Ragan, who is interning at my district office in northeast Philadelphia and is visiting us today at the Capitol. Patrick is a student at Temple University studying human resource management, and he plans to graduate in January with a bachelor's degree in business administration. He is a member of the Temple Society for Human Resource Management. For the past 6 years, Pat has worked at Acme Markets, where he has gained experience in customer service. I am confident that Patrick will make a great member of my district office team this summer, where he will gain experience in State government and public service. Mr. President, I ask that my colleagues join me in giving Patrick Ragan our usual warm Senate welcome.

The PRESIDENT. Would the guest of Senator Stack please rise to be welcomed by the Senate.

(Applause.)

GUESTS OF SENATOR LANNA WASHINGTON PRESENTED TO THE SENATE

The PRESIDENT. The Chair recognizes the gentlewoman from Philadelphia, Senator Washington.

Senator WASHINGTON. Mr. President, this afternoon, it gives me great pleasure to introduce two very fine young ladies who are serving as guest Pages today.

Jamila Carol Hall is a student at Alabama Agricultural and Mechanical University in Normal, Alabama, working toward her bachelor of science degree in communicative sciences and disorders, with an expected graduation date of May 2011. She serves as president of the Gamma Mu chapter of Alpha Kappa Alpha Sorority, Inc. Jamila is a graduate of Philadelphia-Montgomery Christian Academy in Erdenheim, Pennsylvania, and is working

on her third consecutive summer internship with my office in Philadelphia.

My next guest is my granddaughter, Bry'Ana Crocker. She attends Holy Cross Parish School, where she is student council president. She will be an eighth-grade student there in the fall. She is also a longtime member of the Act II Soliloquy in Motion Dance Company, and I am very proud that she is my granddaughter. She has been visiting with me here at the Capitol since my days in the House of Representatives, and I foresee a political career in her future.

Thank you.

The PRESIDENT. Would the guests of Senator Washington please rise to be welcomed by the Senate.

(Applause.)

GUEST OF SENATOR MICHAEL W. BRUBAKER PRESENTED TO THE SENATE

The PRESIDENT. The Chair recognizes the gentleman from Lancaster, Senator Brubaker.

Senator BRUBAKER. Mr. President, it is a privilege of mine to introduce Aaron Garman. Aaron is a senior at Manheim Central High School in Lancaster County. He attends Lancaster County Bible Church, and he formerly attended LEFC. He is a member of both the swimming and the tennis teams. He is president of his high school student council. He is involved in the National Honor Society and the Spanish Honor Society. He is currently working as a swimming coach, and he enjoys skiing, traveling, and photography, and he has a significant interest in our State government. Mr. President, I ask for an enthusiastic welcome.

The PRESIDENT. Would the guest of Senator Brubaker please rise to be welcomed by the Senate.

(Applause.)

REQUEST FOR RECESS

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Pileggi.

Senator PILEGGI. Mr. President, I request a recess of the Senate for purposes of, first, a meeting of the Committee on Rules and Executive Nominations to be held in the Rules room immediately, to be followed by a Republican caucus to be held in the Majority Caucus Room. I expect the caucus to last approximately 1 hour.

The PRESIDENT. The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Mr. President, I request that the Democratic Members report to our caucus room upon conclusion of the meeting of the Committee on Rules and Executive Nominations.

SPECIAL ORDER OF BUSINESS ANNOUNCEMENT BY THE SECRETARY

The SECRETARY. Consent has also been given for the Committee on Appropriations to meet during today's Session to consider Senate Bill No. 711, Senate Bill No. 973, and House Bill No. 262.

RECESS

The PRESIDENT. For purposes of a meeting of the Committee on Rules and Executive Nominations to be held immediately in the Rules room, to be followed by Republican and Democratic caucuses, without objection, the Senate stands in recess.

AFTER RECESS

The PRESIDENT. The time of recess having expired, the Senate will come to order.

CALENDAR

THIRD CONSIDERATION CALENDAR

BILL REREPORTED FROM COMMITTEE AS AMENDED OVER IN ORDER

SB 949 -- Without objection, the bill was passed over in its order at the request of Senator PILEGGI.

BILL OVER IN ORDER

SB 14 -- Without objection, the bill was passed over in its order at the request of Senator PILEGGI.

BILL AMENDED AND LAID ON THE TABLE

HB 48 (Pr. No. 2092) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code, further providing for definitions and for limited number of retail licenses to be issued in each county.

On the question,

Will the Senate agree to the bill on third consideration?

RAFFERTY AMENDMENT A2290

Senator RAFFERTY offered the following amendment No. A2290:

Amend Bill, page 1, line 18, by inserting after "permits":
, for interlocking businesses prohibited, for number and kinds of licenses allowed same licensee

Amend Bill, page 1, line 22, by striking out "entity"" and inserting:
entity," "performing arts facilities"

Amend Bill, page 4, by inserting between lines 20 and 21:

"Performing arts facilities" shall mean those halls or theaters in which live musical, concert, dance, ballet and legitimate play book-length productions are performed. Performing arts facilities shall not mean those halls or theaters in which burlesque shows or reviews are performed. If the operator of the performing arts facility is a nonprofit entity, the facility must have seating for at least [five hundred (500)] two hundred fifty (250) people; otherwise, the facility must have seating for at least twenty-five hundred (2,500) people.

* * *

Amend Bill, page 7, by inserting between lines 5 and 6:
Section 2. Sections 411(e) and 438(c) of the act are amended to read:

Section 411. Interlocking Business Prohibited.--* * *

(e) Except as herein provided, no hotel, restaurant, retail dispenser or club licensee, and no officer, director or stockholder, agent or employe of any such licensee shall in any wise be interested, directly or indirectly, in the ownership or leasehold of any property or the equipment of any property or any mortgage lien against the same, used by a

distributor, importing distributor, or by an importer or sacramental wine licensee, in the conduct of his business; nor shall any hotel, restaurant, retail dispenser or club licensee, or any officer, director, stockholder, agent or employe of any such licensee, either directly or indirectly, lend any moneys, credit, or give anything of value or the equivalent thereof, to any distributor, importing distributor, importer or sacramental wine licensee, for equipping, fitting out, or maintaining and conducting, either in whole or in part, an establishment used in the conduct of his business.

The purpose of this section is to require a separation of the financial and business interests between manufacturers and holders of hotel or restaurant liquor licenses and, as herein provided, of club licenses, issued under this article, and no person shall, by any device whatsoever, directly or indirectly, evade the provisions of the section. But in view of existing economic conditions, nothing contained in this section shall be construed to prohibit the ownership of property or conflicting interest by a manufacturer of any place occupied by a licensee under this article after the manufacturer has continuously owned and had a conflicting interest in such place for a period of at least five years prior to July eighteenth, one thousand nine hundred thirty-five: Provided, however, That this clause shall not prohibit any hotel, restaurant or club liquor licensee from owning land which is leased to, and the buildings thereon owned by, a holder of a retail dispenser's license; and nothing in this clause shall prevent the issuance of a retail dispenser's license to a lessee of such lands who owns the buildings thereon: And, provided further, That nothing contained in this section shall be construed to prohibit any hotel, restaurant, retail dispenser or club licensee or any officer, director or stockholder, agent or employe of any such licensee from having a financial or other interest, directly or indirectly in the ownership or leasehold of any property or the equipment of any property or any mortgage lien against same, used, leased by an importer or sacramental wine licensee for the exclusive purpose of maintaining commercial offices and on the condition that said property is not used for the storage or sale of liquor or malt or brewed beverages in any quantity[.]; And, provided further, That nothing contained in this section shall be construed to prohibit a member of the governing board of a public authority created under subdivision (n) of Article XXIII of the act of August 9, 1955 (P.L.323, No.130), known as "The County Code," from having an interest in a distributor or importing distributor license notwithstanding the fact that the public authority has an interest in one or more retail licenses or acts as a landlord for one or more retail licenses.

Section 438. Number and Kinds of Licenses Allowed Same Licensee.--* * *

(c) No person shall possess more than one class of license, except that a holder of a retail dispenser's license may also be a holder of a retail liquor license[.]; Provided, however, That nothing contained in this section shall be construed to prohibit a member of the governing board of a public authority created under subdivision (n) of Article XXIII of the act of August 9, 1955 (P.L.323, No.130), known as "The County Code," from having an interest in a distributor or importing distributor license notwithstanding the fact that the public authority has an interest in one or more retail licenses or acts as a landlord for one or more retail licenses.

Section 3. Section 443(g) of the act, amended May 31, 1996 (P.L.312, No.49), is amended to read:

Section 443. Interlocking Business Prohibited.--* * *

(g) The purpose of this section is to require a separation of the financial and business interests between the various classes of business regulated by subdivision (B) of this article, and no person or corporation shall, by any device whatsoever, directly or indirectly, evade the provisions of this section. But in view of existing economic conditions, nothing contained in this section shall be construed to prohibit the ownership of property or conflicting interest by a malt or brewed beverage manufacturer of any place occupied by a distributor, importing distributor or retail dispenser after the manufacturer has continuously owned and had a conflicting interest in such place for a period of at least five years prior to the eighteenth day of July, one thousand nine hundred thirty-five: Provided, however, That a holder of a manufacturer's license under section 431(a) who is eligible to operate a brewery pub under section 446(2) or a limited winery as provided for under section 505.2 may also hold and operate under a hotel liquor license, a restaurant liquor license or a malt and brewed beverages retail license on the manufacturer's or limited winery's licensed premises. The hotel liquor license or restaurant liquor license or the malt and brewed beverages

retail license shall be acquired by the manufacturer or limited winery subject to section 461 and shall satisfy all requirements for each respective license[.]; And, provided further, That nothing contained in this section shall be construed to prohibit a member of the governing board of a public authority created under subdivision (n) of Article XXIII of the act of August 9, 1955 (P.L.323, No.130), known as "The County Code," from having an interest in a distributor or importing distributor license notwithstanding the fact that the public authority has an interest in one or more retail licenses or acts as a landlord for one or more retail licenses.

The term "manufacturer" as used in this section shall include manufacturers of malt or brewed beverages as defined in this act and any person manufacturing any malt or brewed beverages outside of this Commonwealth.

Amend Bill, page 7, line 6, by striking out "2" and inserting:

4

Amend Bill, page 8, line 2, by striking out "3" and inserting:

5

On the question,

Will the Senate agree to the amendment?

It was agreed to.

On the question,

Will the Senate agree to the bill on third consideration, as amended?

LOGAN AMENDMENT A2298

Senator LOGAN offered the following amendment No. A2298:

Amend Bill, page 7, by inserting between lines 5 and 6:

Section 2. Section 409 of the act, amended February 17, 1956 (P.L.1078, No.349), December 21, 1998 (P.L.1202, No.155) and December 9, 2002 (P.L.1653, No.212), is amended to read:

Section 409. Sacramental Wine Licenses; Fees; Privileges; Restrictions.--(a) Subject to the provisions of this act in general and more particularly to the following provisions of this section, the board shall issue sacramental wine licenses to qualified applicants.

(b) Every applicant for a sacramental wine license shall file a written application with the board in such form as the board shall from time to time prescribe, which shall be accompanied by a filing fee and a license fee as prescribed in section 614-A of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of [1929," and a license fee of one hundred dollars.] 1929. Every such application shall contain a description of the premises for which the applicant desires a license and shall set forth such other material information as may be required by the board.

(c) If the applicant is a natural person, his application must show that he is a citizen of the United States or a resident alien and a resident of this Commonwealth. If the applicant is an association or partnership, each and every member of the association or partnership must be a citizen of the United States or a resident alien and a resident of this Commonwealth. If the applicant is a corporation, the application must show that the corporation was created under the laws of Pennsylvania or holds a certificate of authority to transact business in Pennsylvania, and that all officers, directors and stockholders are citizens of the United States or resident aliens.

(d) [Holders] Except as otherwise provided under subsection (d.1), holders of such licenses may purchase from manufacturers or bring or import into this Commonwealth wine to be used for sacramental or religious purposes only, and bottle and sell the same to priests, clergymen and rabbis for use in the cathedral, church, synagogue or temple, or for sustaining members of the congregation or members of the faith who attend religious services, duly certified by such priests, clergymen or rabbis. The sale and use of wine for sacramental or religious purposes shall be subject to and in accordance with the regulations of the board.

(d.1) In addition to the privileges conferred under subsection (d), the holder of a sacramental wine license who owns or operates an eating place or a restaurant may sell food for consumption on or off the pre-

mises and sell for consumption on the premises only the wine that it may acquire and sell pursuant to its license. In addition, the holder of a sacramental wine license may allow persons who have purchased but only partially consumed a bottle of wine on the premises to remove the bottle from the premises so long as the bottle was purchased in conjunction with a meal that was consumed on the premises and so long as the bottle is resealed.

(e) [Any] Except as provided under subsection (d.1), any wine purchased under the authority of this section shall not be used for any other than sacramental or religious purposes. Sacramental wine may not be sold by any person except the holder of a sacramental wine license.

(f) Every sacramental wine licensee shall maintain on the licensed premises such records as the board may prescribe. No deliveries of sacramental wine shall be made unless and until an order therefor is on file at the principal place of business in Pennsylvania. All shipments into Pennsylvania of wine to be used [for sacramental or religious purposes] as prescribed in this section shall be consigned to the principal place of business maintained by the licensee.

(g) Any such license may be suspended or revoked by the board upon proof satisfactory to it that the licensee has violated any law of this Commonwealth or any regulation of the board relating to liquor and alcohol. The procedure in such cases shall be the same as for the revocation and suspension of hotel, restaurant and club licenses.

(h) For purposes of this section the term "sacramental wine" shall mean any wine that is clearly marked on the bottle by the manufacturer as being produced or manufactured in accordance with religious law, practice or custom.

Amend Bill, page 7, line 6, by striking out "2" and inserting:

3

Amend Bill, page 8, line 2, by striking out "3" and inserting:

4

On the question,
Will the Senate agree to the amendment?
It was agreed to.

And the question recurring,
Will the Senate agree to the bill on third consideration, as amended?

LOGAN AMENDMENT A2310

Senator LOGAN offered the following amendment No. A2310:

Amend Bill, page 1, line 18, by striking out "and" and inserting:
; providing for an enhanced restaurant license; and further providing

Amend Bill, page 7, by inserting between lines 5 and 6:
Section 2. The act is amended by adding a section to read:

Section 415. Enhanced Restaurant License.--(a) Notwithstanding any other provision of law, a person holding a slot machine license who also holds a restaurant license issued by the Pennsylvania Liquor Control Board shall be eligible to receive an enhanced restaurant license by registering with the Liquor Control Board and paying an enhanced license fee of \$250,000. The holder of an enhanced restaurant license shall pay an annual fee of \$30,000.

(b) An enhanced restaurant license shall not be subject to section 471(c).

(c) If the holder of an enhanced restaurant license is cited and found to have violated a provision of this act, the enhanced restaurant license shall be subject to a fine of not less than \$250 nor more than \$25,000. The prior citation history of the enhanced restaurant licensee shall be considered in determining the amount of the fine.

Amend Bill, page 7, line 6, by striking out "2" and inserting:

3

Amend Bill, page 8, line 2, by striking out "3" and inserting:

4

On the question,
Will the Senate agree to the amendment?

The yeas and nays were required by Senator LOGAN and were as follows, viz:

YEA-42

Alloway	Greenleaf	Piccola	Vogel
Argall	Hughes	Pileggi	Ward
Boscola	Kasunic	Pippy	Washington
Browne	Kitchen	Rafferty	Waugh
Corman	Leach	Robbins	White, Donald
Costa	Logan	Scarnati	White, Mary Jo
Dinniman	McIlhinney	Stack	Williams
Earl	Mellow	Stout	Wozniak
Erickson	Musto	Tartaglione	Yaw
Ferlo	O'Pake	Tomlinson	
Fontana	Orie	Vance	

NAY-7

Brubaker	Farnese	Gordner	Wonderling
Eichelberger	Folmer	Smucker	

A majority of the Senators having voted "aye," the question was determined in the affirmative.

And the question recurring,
Will the Senate agree to the bill on third consideration, as amended?

Upon motion of Senator PILEGGI, and agreed to by voice vote, the bill was laid on the table.

**SPECIAL ORDER OF BUSINESS
SENATE RESOLUTION ADOPTED**

Senator WONDERLING, by unanimous consent, offered **Senate Resolution No. 148**, entitled:

A Resolution designating the month of September 2009 as "Women in Pain Awareness Month" to recognize the need to raise awareness concerning gender disparity in pain assessment and treatment.

On the question,
Will the Senate adopt the resolution?

The PRESIDENT. The Chair recognizes the gentleman from Montgomery, Senator Wonderling.

Senator WONDERLING. Mr. President, very briefly, I ask the Members to support this resolution, which designates the month of September 2009 as "Women in Pain Awareness Month."

**GUEST OF SENATOR ROBERT C. WONDERLING
PRESENTED TO THE SENATE**

Senator WONDERLING. This whole issue of the disparity between men and women and various chronic diseases associated with pain was brought to my attention by a constituent of mine, Ms. Carol Jay Levy. She is the author of "A Pained Life: A Chronic Pain Journey," and she is also in the gallery today. So Mr. President, if it would be appropriate to not only support this resolution but to recognize Ms. Levy, I would very much appreciate it. Thank you.

The PRESIDENT. Would the Senate join in welcoming Senator Wonderling's guest. Please stand in the gallery.
(Applause.)

