

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 864 Session of  
1991

INTRODUCED BY JOSEPHS, THOMAS, STURLA, PRESTON, KOSINSKI,  
ROBINSON, BATTISTO, HAYDEN, SCHEETZ, CARN, MAIALE, TRELLO,  
WILLIAMS, HARPER, PISTELLA, R. C. WRIGHT, JAMES, RICHARDSON,  
LINTON, DONATUCCI, OLIVER, MCHUGH, WOGAN, McNALLY, FOSTER,  
CALTAGIRONE, KENNEY, WAMBACH, STETLER, PERZEL, RITTER AND  
BUTKOVITZ, MARCH 19, 1991

REFERRED TO COMMITTEE ON LIQUOR CONTROL, MARCH 19, 1991

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 defining the term "restaurant" to require minimum  
18 gross income from food sales; and establishing a new license  
19 classification known as taverns.

20 The General Assembly of the Commonwealth of Pennsylvania  
21 hereby enacts as follows:

22 Section 1. The definition of "restaurant" in section 102 of  
23 the act of April 12, 1951 (P.L.90, No.21), known as the Liquor  
24 Code, reenacted and amended June 29, 1987 (P.L.32, No.14), is

1 amended and the section is amended by adding a definition to  
2 read:

3 Section 102. Definitions.--The following words or phrases,  
4 unless the context clearly indicates otherwise, shall have the  
5 meanings ascribed to them in this section:

6 \* \* \*

7 "Restaurant" shall mean a reputable place operated by  
8 responsible persons of good reputation and habitually and  
9 principally used for the purpose of providing food for the  
10 public, the place to have an area within a building of not less  
11 than four hundred square feet, equipped with tables and chairs  
12 accommodating at least thirty persons at one time; and, after  
13 July 1, 1991, consistent with the requirement that a restaurant  
14 be habitually and principally used for the purpose of providing  
15 food for the public, earning at least twenty-five per centum of  
16 its gross income from the sale of food and non-alcoholic  
17 beverages.

18 \* \* \*

19 "Tavern" shall mean a reputable place operated by responsible  
20 persons of good reputation and habitually and principally used  
21 for the purpose of providing to the public liquor or malt or  
22 brewed beverages for consumption on the premises, which premises  
23 shall be within a building of not less than four hundred square  
24 feet and capable of accommodating at least thirty persons at one  
25 time.

26 \* \* \*

27 Section 2. Section 401 of the act is amended to read:

28 Section 401. Authority to Issue Liquor Licenses to Hotels,  
29 Restaurants, Taverns and Clubs.--(a) Subject to the provisions  
30 of this act and regulations promulgated under this act, the

1 board shall have authority to issue a retail liquor license for  
2 any premises kept or operated by a hotel, restaurant, tavern or  
3 club and specified in the license entitling the hotel,  
4 restaurant, tavern or club to purchase liquor from a  
5 Pennsylvania Liquor Store and to keep on the premises such  
6 liquor and, subject to the provisions of this act and the  
7 regulations made thereunder, to sell the same and also malt or  
8 brewed beverages to guests, patrons or members for consumption  
9 on the hotel, restaurant, tavern or club premises. Such  
10 licensees, other than clubs, shall be permitted to sell malt or  
11 brewed beverages for consumption off the premises where sold in  
12 quantities of not more than one hundred ninety-two fluid ounces  
13 in a single sale to one person. Such licenses shall be known as  
14 hotel liquor licenses, restaurant, tavern liquor licenses and  
15 club liquor licenses, respectively. No person who holds, either  
16 by appointment or election, any public office which involves the  
17 duty to enforce any of the penal laws of the United States of  
18 America or the penal laws of the Commonwealth of Pennsylvania or  
19 any penal ordinance or resolution of any political subdivision  
20 of this Commonwealth shall be issued any hotel or restaurant,  
21 tavern liquor license, nor shall such a person have any  
22 interest, directly or indirectly, in any such license.

23 (b) The board may issue to any club which caters to groups  
24 of non-members, either privately or for functions, a catering  
25 license, and the board shall, by its rules and regulations,  
26 define what constitutes catering under this subsection except  
27 that any club which is issued a catering license shall not be  
28 prohibited from catering on Sundays during the hours which the  
29 club may lawfully serve liquor, malt or brewed beverages.

30 Section 3. Section 402 of the act, amended December 7, 1990

1 (P.L.622, No.160), is amended to read:

2 Section 402. License Districts; License Year; Hearings.--(a)

3 The board shall, by regulation, divide the State into convenient  
4 license districts and shall hold hearings on applications for  
5 licenses and renewals thereof, as it deems necessary, at a  
6 convenient place or places in each of said districts, at such  
7 times as it shall fix, by regulation, for the purpose of hearing  
8 testimony for and against applications for new licenses and  
9 renewals thereof. The board shall hold a hearing on any  
10 application for a new hotel, club [or], restaurant or tavern  
11 liquor license or the transfer of any such license to a new  
12 location, upon the request of any person with standing to  
13 testify under subsection (b) if the request is filed with the  
14 board within the first fifteen days of posting of the notice of  
15 application pursuant to section 403(g). The board shall provide  
16 for the holding of such hearings by administrative law judges,  
17 who shall make a report to the board in each case with their  
18 recommendations. The board shall, by regulation, fix the license  
19 year for each separate district so that the expiration dates  
20 shall be uniform in each of the several districts but staggered  
21 as to the State.

22 (b) Where a hearing is held in the case of an application  
23 for a new hotel, club [or], restaurant or tavern liquor license  
24 or an application for the transfer of a hotel, club [or],  
25 restaurant or tavern liquor license to a new location, the board  
26 shall permit residents residing within a radius of five hundred  
27 feet of the premises to testify at the hearing. The board and  
28 any administrative law judge thereof shall give appropriate  
29 evidentiary weight to any testimony of such residents given at  
30 the hearing.

1       Section 4.   Sections 403(a), (b) and (c), 404, 405(a) and  
2   (b), 406, 407, 411, 465(d), 472, 491(5) and (6), 493(2), (11),  
3   (13), (14), (17), (18) and (25) of the act are amended to read:

4       Section 403.   Applications for Hotel, Restaurant, Tavern and  
5   Club Liquor Licenses.--(a)   Every applicant for a hotel liquor  
6   license, restaurant or tavern liquor license or club liquor  
7   license or for the transfer of an existing license to another  
8   premises not then licensed shall file a written application with  
9   the board in such form and containing such information as the  
10   board shall from time to time prescribe, which shall be  
11   accompanied by a filing fee of twenty dollars (\$20), the  
12   prescribed license fee, and the bond hereinafter specified.  
13   Every such application shall contain a description of that part  
14   of the hotel, restaurant, tavern or club for which the applicant  
15   desires a license and shall set forth such other material  
16   information, description or plan of that part of the hotel,  
17   restaurant, tavern or club where it is proposed to keep and sell  
18   liquor as may be required by the regulations of the board. The  
19   descriptions, information and plans referred to in this  
20   subsection shall show the hotel, restaurant, tavern, club, or  
21   the proposed location for the construction of a hotel,  
22   restaurant, tavern or club, at the time the application is made,  
23   and shall show any alterations proposed to be made thereto, or  
24   the new building proposed to be constructed after the approval  
25   by the board of the application for a license or for the  
26   transfer of an existing license to another premises not then  
27   licensed. No physical alterations, improvements or changes shall  
28   be required to be made to any hotel, restaurant, tavern or club,  
29   nor shall any new building for any such purpose, be required to  
30   be constructed until approval of the application for license or

1 for the transfer of an existing license to another premises not  
2 then licensed by the board. After approval of the application,  
3 the licensee shall make the physical alterations, improvements  
4 and changes to the licensed premises, or shall construct the new  
5 building in the manner specified by the board at the time of  
6 approval, and the licensee shall not transact any business under  
7 the license until the board has approved the completed physical  
8 alterations, improvements and changes to the licensed premises,  
9 or the completed construction of the new building as conforming  
10 to the specifications required by the board at the time of  
11 issuance or transfer of the license, and is satisfied that the  
12 establishment is a restaurant, tavern, hotel or club as defined  
13 by this act. The board may require that all such alterations or  
14 construction or conformity to definition be completed within six  
15 months from the time of issuance or transfer of the license.  
16 Failure to comply with these requirements shall be considered  
17 cause for revocation of the license. No such license shall be  
18 transferable between the time of issuance or transfer of the  
19 license and the approval of the completed alterations or  
20 construction by the board and full compliance by the licensee  
21 with the requirements of this act, except in the case of death  
22 of the licensee prior to full compliance with all of the  
23 aforementioned requirements, in which event, the license may be  
24 transferred by the board as provided in section 468 of this act  
25 for the transfer of the license in the case of death of the  
26 licensee.

27 (b) If the applicant is a natural person, his application  
28 must show that he is a citizen of the United States and has been  
29 a resident of this Commonwealth for at least two years  
30 immediately preceding his application.

1 (c) If the applicant is a corporation, the application must  
2 show that the corporation was created under the laws of  
3 Pennsylvania or holds a certificate of authority to transact  
4 business in Pennsylvania, that all officers, directors and  
5 stockholders are citizens of the United States, and that the  
6 manager of the hotel, restaurant, tavern or club is a citizen of  
7 the United States.

8 \* \* \*

9 Section 404. Issuance of Hotel, Restaurant, Tavern and Club  
10 Liquor Licenses.--Upon receipt of the application, the proper  
11 fees and bond, and upon being satisfied of the truth of the  
12 statements in the application that the applicant is the only  
13 person in any manner pecuniarily interested in the business so  
14 asked to be licensed and that no other person will be in any  
15 manner pecuniarily interested therein during the continuance of  
16 the license, except as hereinafter permitted, and that the  
17 applicant is a person of good repute, that the premises applied  
18 for meet all the requirements of this act and the regulations of  
19 the board, that the applicant seeks a license for a hotel,  
20 restaurant, tavern or club, as defined in this act, and that the  
21 issuance of such license is not prohibited by any of the  
22 provisions of this act, the board shall, in the case of a hotel  
23 [or], restaurant or tavern, grant and issue to the applicant a  
24 liquor license, and in the case of a club may, in its  
25 discretion, issue or refuse a license: Provided, however, That  
26 in the case of any new license or the transfer of any license to  
27 a new location the board may, in its discretion, grant or refuse  
28 such new license or transfer if such place proposed to be  
29 licensed is within three hundred feet of any church, hospital,  
30 charitable institution, school, or public playground, or if such

1 new license or transfer is applied for a place which is within  
2 two hundred feet of any other premises which is licensed by the  
3 board: And provided further, That the board shall refuse any  
4 application for a new license or the transfer of any license to  
5 a new location if, in the board's opinion, such new license or  
6 transfer would be detrimental to the welfare, health, peace and  
7 morals of the inhabitants of the neighborhood within a radius of  
8 five hundred feet of the place proposed to be licensed: And  
9 provided further, That the board shall not issue new licenses in  
10 any license district more than twice each license year,  
11 effective from specific dates fixed by the board, and new  
12 licenses shall not be granted, except for hotels as defined in  
13 this act, unless the application therefor shall have been filed  
14 at least thirty days before the effective date of the license:  
15 And provided further, That nothing herein contained shall  
16 prohibit the board from issuing a new license for the balance of  
17 any unexpired term in any license district to any applicant in  
18 such district, who shall have become eligible to hold such  
19 license as the result of legislative enactment, when such  
20 enactment shall have taken place during the license term of that  
21 district for which application is made or within the thirty days  
22 immediately preceding such term, nor shall anything herein  
23 contained prohibit the board from issuing at any time a new  
24 license for an airport restaurant, or municipal golf course, as  
25 defined in section 461 of this act, for the balance of the  
26 unexpired license term in any license district: And provided  
27 further, That the board shall have the discretion to refuse a  
28 license to any person or to any corporation, partnership or  
29 association if such person, or any officer or director of such  
30 corporation, or any member or partner of such partnership or



1 association shall have been convicted or found guilty of a  
2 felony within a period of five years immediately preceding the  
3 date of application for the said license. The board shall refuse  
4 any application for a new license or the transfer of any license  
5 to a location where the sale of liquid fuels or oil is  
6 conducted.

7 Section 405. License Fees.--(a) License fees for hotel  
8 [and], restaurant and tavern liquor licenses shall be graduated  
9 according to the population of the municipality as determined by  
10 the last preceding decennial census of the United States in  
11 which the hotel [or], restaurant or tavern is located, as  
12 follows:

13 In municipalities having a population of less than fifteen  
14 hundred inhabitants, one hundred fifty dollars (\$150.00).

15 In municipalities, except townships, having a population of  
16 fifteen hundred and more but less than ten thousand inhabitants,  
17 and in townships having a population of fifteen hundred and more  
18 but less than twelve thousand inhabitants, two hundred dollars  
19 (\$200.00).

20 In municipalities, except townships, having a population of  
21 ten thousand and more but less than fifty thousand inhabitants,  
22 and in townships having a population of twelve thousand and more  
23 but less than fifty thousand inhabitants, three hundred dollars  
24 (\$300.00).

25 In those having a population of fifty thousand and more but  
26 less than one hundred thousand inhabitants, four hundred dollars  
27 (\$400.00).

28 In those having a population of one hundred thousand and more  
29 but less than one hundred fifty thousand inhabitants, five  
30 hundred dollars (\$500.00).

1 In those having a population of one hundred fifty thousand  
2 and more inhabitants, six hundred dollars (\$600.00).

3 (b) Every applicant for a club liquor license shall pay to  
4 the board a license fee of fifty dollars (\$50.00), except clubs  
5 to which catering licenses are issued, in which cases the  
6 license fees shall be the same as for hotels [and], restaurants  
7 and taverns located in the same municipality.

8 \* \* \*

9 Section 406. Sales by Liquor Licensees; Restrictions.--(a)

10 (1) Every hotel, restaurant, tavern or club liquor licensee may  
11 sell liquor and malt or brewed beverages by the glass, open  
12 bottle or other container, and in any mixture, for consumption  
13 only in that part of the hotel or restaurant habitually used for  
14 the serving of food to guests or patrons, or in the premises of  
15 the tavern or in a bowling alley that is immediately adjacent to  
16 and under the same roof as a restaurant when no minors are  
17 present, unless minors who are present are under proper  
18 supervision as defined in section 493, in the bowling alley, and  
19 in the case of hotels, to guests, and in the case of clubs, to  
20 members, in their private rooms in the hotel or club. No club  
21 licensee nor its officers, servants, agents or employes, other  
22 than one holding a catering license, shall sell any liquor or  
23 malt or brewed beverages to any person except a member of the  
24 club. In the case of a restaurant located in a hotel which is  
25 not operated by the owner of the hotel and which is licensed to  
26 sell liquor under this act, liquor and malt or brewed beverages  
27 may be sold for consumption in that part of the restaurant  
28 habitually used for the serving of meals to patrons and also to  
29 guests in private guest rooms in the hotel. For the purpose of  
30 this paragraph, any person who is an active member of another

1 club which is chartered by the same state or national  
2 organization shall have the same rights and privileges as  
3 members of the particular club. For the purpose of this  
4 paragraph, any person who is an active member of any volunteer  
5 firefighting company, association or group of this Commonwealth,  
6 whether incorporated or unincorporated, shall upon the approval  
7 of any club composed of volunteer firemen licensed under this  
8 act, have the same social rights and privileges as members of  
9 such licensed club. For the purposes of this paragraph, the term  
10 "active member" shall not include a social member.

11 (2) Hotel [and], restaurant or tavern liquor licensees,  
12 airport restaurant liquor licensees, municipal golf course  
13 restaurant liquor licensees and privately-owned public golf  
14 course restaurant licensees may sell liquor and malt or brewed  
15 beverages only after seven o'clock antemeridian of any day until  
16 two o'clock antemeridian of the following day, except Sunday,  
17 and except as hereinafter provided, may sell liquor and malt or  
18 brewed beverages on Sunday between the hours of twelve o'clock  
19 midnight and two o'clock antemeridian.

20 (3) Hotel [and], restaurant and tavern liquor licensees,  
21 airport restaurant liquor licensees, municipal golf course  
22 restaurant liquor licensees and privately-owned public golf  
23 course restaurant licensees whose sales of food and nonalcoholic  
24 beverages are equal to forty per centum or more of the combined  
25 gross sales of both food and alcoholic beverages may sell liquor  
26 and malt or brewed beverages on Sunday between the hours of  
27 eleven o'clock antemeridian and two o'clock antemeridian Monday  
28 upon purchase of a special annual permit from the board at a fee  
29 of two hundred dollars (\$200.00) per year, which shall be in  
30 addition to any other license fees.

1       (4) Hotel [and], restaurant and tavern liquor licensees,  
2 airport restaurant liquor licensees, municipal golf course  
3 restaurant liquor licensees and privately-owned public golf  
4 course restaurant licensees which do not qualify for and  
5 purchase such annual special permit, their servants, agents or  
6 employes may sell liquor and malt or brewed beverages only after  
7 seven o'clock antemeridian of any day and until two o'clock  
8 antemeridian of the following day, and shall not sell after two  
9 o'clock antemeridian on Sunday. No hotel, restaurant, tavern and  
10 public service liquor licensee which does not have the special  
11 annual permit for Sunday sales shall sell liquor and malt or  
12 brewed beverages after two o'clock antemeridian on any day on  
13 which a general, municipal, special or primary election is being  
14 held until one hour after the time fixed by law for closing the  
15 polls, except, that, in the case of a special election for  
16 members of the General Assembly or members of the Congress of  
17 the United States, when such special election is held on other  
18 than a primary, municipal or general election day, licensees in  
19 those Legislative or Congressional Districts may make such  
20 sales, as though the day were not a special election day. No  
21 club licensee or its servants, agents or employes may sell  
22 liquor or malt or brewed beverages between the hours of three  
23 o'clock antemeridian and seven o'clock antemeridian on any day.  
24 No public service liquor licensee or its servants, agents, or  
25 employes may sell liquor or malt or brewed beverages between the  
26 hours of two o'clock antemeridian and seven o'clock antemeridian  
27 on any day.

28       (5) Any hotel, restaurant, tavern, club or public service  
29 liquor licensee may, by giving notice to the board, advance by  
30 one hour the hours herein prescribed as those during which

1 liquor and malt or brewed beverages may be sold during such part  
2 of the year when daylight saving time is being observed  
3 generally in the municipality in which the place of business of  
4 such licensee is located. Any licensee who elects to operate his  
5 place of business in accordance with daylight saving time shall  
6 post a conspicuous notice in his place of business that he is  
7 operating in accordance with daylight saving time.

8 (6) Notwithstanding any provisions to the contrary, whenever  
9 the thirty-first day of December or Saint Patrick's Day falls on  
10 a Sunday, every hotel [or], restaurant or tavern liquor  
11 licensee, their servants, agents or employes may sell liquor and  
12 malt or brewed beverages on any such day after one o'clock  
13 postmeridian and until two o'clock antemeridian of the following  
14 day.

15 (b) Such Sunday sales by hotel [and], restaurant and tavern  
16 liquor licensees which qualify for and purchase such annual  
17 special permit, their servants, agents and employes, shall be  
18 made subject to the restrictions imposed by the act on sales by  
19 hotels [and], restaurants and taverns for sales on weekdays as  
20 well as those restrictions set forth in this section.

21 Section 407. Sale of Malt or Brewed Beverages by Liquor  
22 Licensees.--Every liquor license issued to a hotel, restaurant,  
23 tavern, club, or a railroad, pullman or steamship company under  
24 this subdivision (A) for the sale of liquor shall authorize the  
25 licensee to sell malt or brewed beverages at the same places but  
26 subject to the same restrictions and penalties as apply to sales  
27 of liquor, except that licensees other than clubs may sell malt  
28 or brewed beverages for consumption off the premises where sold  
29 in quantities of not more than one hundred ninety-two fluid  
30 ounces in a single sale to one person. No licensee under this

1 subdivision (A) shall at the same time be the holder of any  
2 other class of license, except a retail dispenser's license  
3 authorizing the sale of malt or brewed beverages only.

4 Section 411. Interlocking Business Prohibited.--(a) No  
5 manufacturer and no officer or director of any manufacturer  
6 shall at the same time be a holder of a hotel, restaurant,  
7 tavern or club liquor license, nor be the owner, proprietor or  
8 lessor of any place covered by any hotel, restaurant, tavern or  
9 club liquor license.

10 (b) No manufacturer, importer or sacramental wine licensee,  
11 and no officer or director of a manufacturer, importer or  
12 sacramental wine licensee shall own any stock or have any  
13 financial interest in any hotel [or], restaurant or tavern  
14 licensed under this act.

15 (c) Excepting as herein provided, no manufacturer, or  
16 officer, director, stockholder, agent or employe of a  
17 manufacturer shall in any wise be interested, either directly or  
18 indirectly, in the ownership or leasehold of any property or the  
19 equipment of any property or any mortgage lien against the same,  
20 for which a hotel, restaurant, tavern or club license is  
21 granted; nor shall a manufacturer, importer or sacramental wine  
22 licensee, or officer, director, stockholder, agent or employe of  
23 a manufacturer, importer or sacramental wine licensee, either  
24 directly or indirectly, lend any moneys, credit, or give  
25 anything of value or the equivalent thereof to, or guarantee the  
26 payment of any bond, mortgage, note or other obligation of, any  
27 hotel, restaurant, tavern or club licensee, his servant, agent  
28 or employe, for equipping, fitting out, or maintaining and  
29 conducting, either in whole or in part, a hotel, restaurant,  
30 tavern or club licensed for the selling of liquor for use and

1 consumption upon the premises.

2 (d) Excepting as herein provided, no hotel licensee,  
3 restaurant, tavern licensee or club licensee, and no officer,  
4 director, stockholder, agent or employe of any such licensee  
5 shall in any wise be interested, either directly or indirectly,  
6 in the ownership or leasehold of any property or the equipment  
7 of any property or any mortgage lien against the same, used by a  
8 manufacturer in manufacturing liquor or malt or brewed  
9 beverages; nor shall any hotel, restaurant, tavern or club  
10 licensee, or any officer, director, stockholder, agent or  
11 employe of any such licensee, either directly or indirectly,  
12 lend any moneys, credit, or give anything of value or the  
13 equivalent thereof, to any manufacturer for equipping, fitting  
14 out, or maintaining and conducting, either in whole or in part,  
15 an establishment used for the manufacture of liquor or malt or  
16 brewed beverages.

17 (e) Except as herein provided, no hotel, restaurant, tavern,  
18 retail dispenser or club licensee, and no officer, director or  
19 stockholder, agent or employe of any such licensee shall in any  
20 wise be interested, directly or indirectly, in the ownership or  
21 leasehold of any property or the equipment of any property or  
22 any mortgage lien against the same, used by a distributor,  
23 importing distributor, or by an importer or sacramental wine  
24 licensee, in the conduct of his business; nor shall any hotel,  
25 restaurant, tavern, retail dispenser or club licensee, or any  
26 officer, director, stockholder, agent or employe of any such  
27 licensee, either directly or indirectly, lend any moneys,  
28 credit, or give anything of value or the equivalent thereof, to  
29 any distributor, importing distributor, importer or sacramental  
30 wine licensee, for equipping, fitting out, or maintaining and

1 conducting, either in whole or in part, an establishment used in  
2 the conduct of his business.

3 The purpose of this section is to require a separation of the  
4 financial and business interests between manufacturers and  
5 holders of hotel [or], restaurant or tavern liquor licenses and,  
6 as herein provided, of club licenses, issued under this article,  
7 and no person shall, by any device whatsoever, directly or  
8 indirectly, evade the provisions of the section. But in view of  
9 existing economic conditions, nothing contained in this section  
10 shall be construed to prohibit the ownership of property or  
11 conflicting interest by a manufacturer of any place occupied by  
12 a licensee under this article after the manufacturer has  
13 continuously owned and had a conflicting interest in such place  
14 for a period of at least five years prior to July eighteenth,  
15 one thousand nine hundred thirty-five: Provided, however, That  
16 this clause shall not prohibit any hotel, restaurant, tavern or  
17 club liquor licensee from owning land which is leased to, and  
18 the buildings thereon owned by, a holder of a retail dispenser's  
19 license; and nothing in this clause shall prevent the issuance  
20 of a retail dispenser's license to a lessee of such lands who  
21 owns the buildings thereon: And, provided further, That nothing  
22 contained in this section shall be construed to prohibit any  
23 hotel, restaurant, tavern, retail dispenser or club licensee or  
24 any officer, director or stockholder, agent or employe of any  
25 such licensee from having a financial or other interest,  
26 directly or indirectly in the ownership or leasehold of any  
27 property or the equipment of any property or any mortgage lien  
28 against same, used, leased by an importer or sacramental wine  
29 licensee for the exclusive purpose of maintaining commercial  
30 offices and on the condition that said property is not used for



1 the storage or sale of liquor or malt or brewed beverages in any  
2 quantity.

3 Section 465. All Licensees to Furnish Bond.--\* \* \*

4 (d) The penal sum of the respective bonds filed under the  
5 provisions of this section shall be as follows:

6 (1) Manufacturers of malt or brewed beverages, ten thousand  
7 dollars (\$10,000.00) for each place at which the licensee is  
8 authorized to manufacture.

9 (2) Liquor importers, ten thousand dollars (\$10,000.00) for  
10 each license.

11 (3) Sacramental wine licensees, ten thousand dollars  
12 (\$10,000.00).

13 (4) Importing distributors of malt or brewed beverages, two  
14 thousand dollars (\$2,000.00).

15 (5) Hotel, restaurant, tavern, club and public service  
16 liquor licensees, two thousand dollars (\$2,000.00), but in the  
17 case of a railroad or pullman company, such penal sum shall  
18 cover every dining, club or buffet car of such company operated  
19 under such license.

20 (6) Distributors of malt or brewed beverages, one thousand  
21 dollars (\$1,000.00).

22 (7) Retail dispensers and public service malt or brewed  
23 beverage licensees, one thousand dollars (\$1,000.00) for each  
24 place at which the licensee is authorized to sell malt or brewed  
25 beverages, except that in the case of railroad or pullman  
26 companies, said penal sum shall be one thousand dollars  
27 (\$1,000.00), irrespective of the number of licensed cars  
28 operated by the company.

29 \* \* \*

30 Section 472. Local Option.--In any municipality or any part

1 of a municipality where such municipality is split so that each  
2 part thereof is separated by another municipality, an election  
3 may be held on the date of the primary election immediately  
4 preceding any municipal election, but not oftener than once in  
5 four years, to determine the will of the electors with respect  
6 to the granting of liquor licenses to hotels, restaurants,  
7 taverns and clubs, not oftener than once in four years, to  
8 determine the will of the electors with respect to the granting  
9 of liquor licenses to privately-owned private golf courses, not  
10 oftener than once in four years, to determine the will of the  
11 electors with respect to the granting of licenses to retail  
12 dispensers of malt and brewed beverages, not oftener than once  
13 in four years, to determine the will of the electors with  
14 respect to granting of licenses to wholesale distributors and  
15 importing distributors, or not more than once in four years, to  
16 determine the will of the electors with respect to the  
17 establishment, operation and maintenance by the board of  
18 Pennsylvania liquor stores, within the limits of such  
19 municipality or part of a split municipality, under the  
20 provisions of this act: Provided, however, Where an election  
21 shall have been held at the primary preceding a municipal  
22 election in any year, another election may be held under the  
23 provisions of this act at the primary occurring the fourth year  
24 after such prior election: And provided further, That an  
25 election on the question of establishing and operating a State  
26 liquor store shall be initiated only in those municipalities, or  
27 that part of a split municipality that shall have voted against  
28 the granting of liquor licenses; and that an election on the  
29 question of granting wholesale distributor and importing  
30 distributor licenses shall be initiated only in those

1 municipalities or parts of split municipalities that shall have  
2 at a previous election voted against the granting of dispenser's  
3 licenses. Whenever electors equal to at least twenty-five per  
4 centum of the highest vote cast for any office in the  
5 municipality or part of a split municipality at the last  
6 preceding general election shall file a petition with the county  
7 board of elections of the county for a referendum on the  
8 question of granting any of said classes of licenses or the  
9 establishment of Pennsylvania liquor stores, the said county  
10 board of elections shall cause a question to be placed on the  
11 ballots or on the voting machine board and submitted at the  
12 primary immediately preceding the municipal election. Separate  
13 petitions must be filed for each question to be voted on. Said  
14 proceedings shall be in the manner and subject to the provisions  
15 of the election laws which relate to the signing, filing and  
16 adjudication of nomination petitions, insofar as such provisions  
17 are applicable.

18 When the question is in respect to the granting of liquor  
19 licenses, it shall be in the following form:

20 Do you favor the granting of liquor licenses  
21 for the sale of liquor in..... Yes  
22 of.....? No

23 When the question is in respect to the granting of liquor  
24 licenses, for privately-owned private golf courses, it shall be  
25 in the following form:

26 Do you favor the granting of liquor licenses for  
27 privately-owned private golf courses for the sale  
28 of liquor in.....by..... Yes  
29 of.....? No

30 When the question is in respect to the granting of licenses

1 to retail dispensers of malt and brewed beverages, it shall be  
2 in the following form:

3 Do you favor the granting of malt and brewed  
4 beverage retail dispenser licenses for  
5 consumption on premises where sold in the..... Yes  
6 of.....? No

7 When the question is in respect to the granting of licenses  
8 to wholesale distributors of malt or brewed beverages and  
9 importing distributors, it shall be in the following form:

10 Do you favor the granting of malt and brewed  
11 beverage wholesale distributor's and importing  
12 distributor's licenses not for consumption on  
13 premises where sold in the..... Yes  
14 of.....? No

15 When the question is in respect to the establishment,  
16 operation and maintenance of Pennsylvania liquor stores it shall  
17 be in the following form:

18 Do you favor the establishment, operation  
19 and maintenance of Pennsylvania liquor  
20 stores in the..... Yes  
21 of.....? No

22 In case of a tie vote, the status quo shall obtain. If a  
23 majority of the voting electors on any such question vote "yes,"  
24 then liquor licenses shall be granted by the board to hotels,  
25 restaurants, taverns and clubs, or liquor licenses shall be  
26 granted by the board to privately-owned private golf courses, or  
27 malt and brewed beverage retail dispenser licenses or wholesale  
28 distributor's and importing distributor's license for the sale  
29 of malt or brewed beverages shall be granted by the board, or  
30 the board may establish, operate and maintain Pennsylvania

1 liquor stores, as the case may be, in such municipality or part  
2 of a split municipality, as provided by this act; but if a  
3 majority of the electors voting on any such question vote "no,"  
4 then the board shall have no power to grant or to renew upon  
5 their expiration any licenses of the class so voted upon in such  
6 municipality or part of a split municipality; or if the negative  
7 vote is on the question in respect to the establishment,  
8 operation and maintenance of Pennsylvania liquor stores, the  
9 board shall not open and operate a Pennsylvania liquor store in  
10 such municipality or part of a split municipality, nor continue  
11 to operate a then existing Pennsylvania liquor store in the  
12 municipality or part of a split municipality for more than two  
13 years thereafter or after the expiration of the term of the  
14 lease on the premises occupied by such store, whichever period  
15 is less, unless and until at a later election a majority of the  
16 voting electors vote "yes" on such question.

17 Section 491. Unlawful Acts Relative to Liquor, Alcohol and  
18 Liquor Licensees.--

19 It shall be unlawful--

20 \* \* \*

21 (5) Failure to Break Empty Liquor Containers. For any  
22 restaurant, tavern, hotel or club licensee, his servants, agents  
23 or employes, to fail to break any package in which liquors were  
24 contained, except those decanter packages that the board  
25 determines to be decorative, within twenty-four hours after the  
26 original contents were removed therefrom.

27 (6) Sales by Restaurant, Tavern and Hotel Liquor Licensees.  
28 For any restaurant, tavern or hotel licensee, his servants,  
29 agents or employes, to sell any liquor or malt or brewed  
30 beverages for consumption on the licensed premises except in a

1 room or rooms or place on the licensed premises at all times  
2 accessible to the use and accommodation of the general public,  
3 but this section shall not be interpreted to prohibit a  
4 restaurant or tavern liquor licensee from providing private  
5 affairs the primary function of which is for catering only to  
6 weddings or special occasions arranged twenty-four hours in  
7 advance, nor to prohibit a hotel licensee, or a restaurant  
8 licensee when the restaurant is located in a hotel, from  
9 selling liquor or malt or brewed beverages in any room of such  
10 hotel occupied by a bona fide guest or to prohibit a restaurant  
11 licensee from selling liquor or malt or brewed beverages in a  
12 bowling alley when no minors are present where the restaurant,  
13 tavern and bowling alley are immediately adjacent and under the  
14 same roof.

15 \* \* \*

16 Section 493. Unlawful Acts Relative to Liquor, Malt and  
17 Brewed Beverages and Licensees.--The term "licensee," when used  
18 in this section, shall mean those persons licensed under the  
19 provisions of Article IV, unless the context clearly indicates  
20 otherwise.

21 It shall be unlawful--

22 \* \* \*

23 (2) Purchase or Sale of Liquor or Malt or Brewed Beverages  
24 on Credit. For any licensee, his agent, servant or employe, to  
25 sell or offer to sell or purchase or receive any liquor or malt  
26 or brewed beverages except for cash, excepting credit extended  
27 by a hotel or club to a bona fide guest or member, or by  
28 railroad or pullman companies in dining, club or buffet cars to  
29 passengers, for consumption while enroute, holding authorized  
30 credit cards issued by railroad or railroad credit bureaus or by

1 hotel, restaurant, tavern and public service licensees to  
2 customers holding credit cards issued in accordance with  
3 regulations of the board or credit cards issued by banking  
4 institutions subject to State or Federal regulation: Provided  
5 further, That nothing herein contained shall be construed to  
6 prohibit the use of checks or drafts drawn on a bank, banking  
7 institution, trust company or similar depository, organized and  
8 existing under the laws of the United States of America or the  
9 laws of any state, territory or possession thereof, in payment  
10 for any liquor or malt or brewed beverages if the purchaser is  
11 the payor of the check or draft and the licensee is the payee.  
12 No right of action shall exist to collect any claim for credit  
13 extended contrary to the provisions of this clause. Nothing  
14 herein contained shall prohibit a licensee from crediting to a  
15 purchaser the actual price charged for original containers  
16 returned by the original purchaser as a credit on any sale, or  
17 from refunding to any purchaser the amount paid by such  
18 purchaser for such containers or as a deposit on containers when  
19 title is retained by the vendor, if such original containers  
20 have been returned to the licensee. Nothing herein contained  
21 shall prohibit a manufacturer from extending usual and customary  
22 credit for liquor or malt or brewed beverages sold to customers  
23 or purchasers who live or maintain places of business outside of  
24 the Commonwealth of Pennsylvania, when the liquor or malt or  
25 brewed beverages so sold are actually transported and delivered  
26 to points outside of the Commonwealth: Provided, however, That  
27 as to all transactions affecting malt or brewed beverages to be  
28 resold or consumed within this Commonwealth, every licensee  
29 shall pay and shall require cash deposits on all returnable  
30 original containers and all such cash deposits shall be refunded

1 upon return of the original containers.

2 \* \* \*

3 (11) Licensees Employed by Others. For any hotel,  
4 restaurant, tavern or club liquor licensee, or any malt or  
5 brewed beverage licensee, or any servant, agent or employe of  
6 such licensee, to be at the same time employed, directly or  
7 indirectly, by any other person engaged in the manufacture,  
8 sale, transportation or storage of liquor, malt or brewed  
9 beverages or alcohol: Provided, That any person (except a  
10 licensee or the manager, officer or director of a licensee) who  
11 is employed by a retail licensee to prepare or serve food and  
12 beverages may be employed in the same capacity by another retail  
13 licensee during other hours or on other days.

14 \* \* \*

15 (13) Retail Licensees Employing Minors. For any hotel,  
16 restaurant, tavern or club liquor licensee, or any retail  
17 dispenser, to employ or to permit any minor under the age of  
18 eighteen to serve any alcoholic beverages or to employ or permit  
19 any minor under the age of sixteen to render any service  
20 whatever in or about the licensed premises, nor shall any  
21 entertainer under the age of eighteen be employed or permitted  
22 to perform in any licensed premises in violation of the labor  
23 laws of this Commonwealth: Provided, That in accordance with  
24 board regulations minors between the ages of sixteen and  
25 eighteen may be employed to serve food, clear tables and perform  
26 other similar duties, not to include the dispensing or serving  
27 of alcoholic beverages.

28 (14) Permitting Undesirable Persons or Minors to Frequent  
29 Premises. For any hotel, restaurant, tavern or club liquor  
30 licensee, or any retail dispenser, his servants, agents or



1 employees, to permit persons of ill repute, known criminals,  
2 prostitutes or minors to frequent his licensed premises or any  
3 premises operated in connection therewith, except minors  
4 accompanied by parents, guardians, or under proper supervision  
5 or except minors who frequent any restaurant, tavern or retail  
6 dispensing licensee whose sales of food and non-alcoholic  
7 beverages are equal to seventy per centum or more of the  
8 combined gross sales of both food and alcoholic beverages on the  
9 condition that alcoholic beverages may not be served at the  
10 table or booth at which the said minor is seated at the time  
11 (unless said minor is under proper supervision as hereinafter  
12 defined) and on the further condition that only table service of  
13 alcoholic beverages or take-out service of beer shall be  
14 permitted in the room wherein the minor is located: Provided,  
15 however, That it shall not be unlawful for any hotel,  
16 restaurant, tavern or club liquor licensee or any retail  
17 dispenser to permit minors under proper supervision upon the  
18 licensed premises or any premises operated in connection  
19 therewith for the purpose of a social gathering, even if such  
20 gathering is exclusively for minors: And provided further, That  
21 no liquor shall be sold, furnished or given to such minors nor  
22 shall the licensee knowingly permit any liquor or malt or brewed  
23 beverages to be sold, furnished or given to or be consumed by  
24 any minor, and the area of such gathering shall be segregated  
25 from the remainder of the licensed premises. In the event the  
26 area of such gathering cannot be segregated from the remainder  
27 of the licensed premises, all alcoholic beverages must be either  
28 removed from the licensed premises or placed under lock and key  
29 during the time the gathering is taking place. Notice of such  
30 gathering shall be given the board as it may, by regulation,

1 require. Any licensee violating the provisions of this clause  
2 shall be subject to the provisions of section 471.

3 "Proper supervision," as used in this clause, means the  
4 presence, on that portion of the licensed premises where a minor  
5 or minors are present, of one person twenty-five years of age or  
6 older for every fifty minors or part thereof who is directly  
7 responsible for the care and conduct of such minor or minors  
8 while on the licensed premises and in such proximity that the  
9 minor or minors are constantly within his sight or hearing. The  
10 presence of the licensee or any employe or security officer of  
11 the licensee shall not constitute proper supervision.

12 \* \* \*

13 (17) Licensees, etc., Interested or Employed in  
14 Manufacturing or Sale of Equipment or Fixtures. For any  
15 licensee, or any officer, director, stockholder, servant, agent  
16 or employe of any licensee, to own any interest, directly or  
17 indirectly, in or be employed or engaged in any business which  
18 involves the manufacture or sale of any equipment, furnishings  
19 or fixtures to any hotel, restaurant, tavern or club licensees,  
20 or to any importing distributors, distributors or retail  
21 dispensers: Provided, however, That as to malt or brewed  
22 beverage licensees, the provisions of this subsection shall not  
23 apply to such a conflicting interest if it has existed for a  
24 period of not less than three years prior to the first day of  
25 January, one thousand nine hundred thirty-seven, and the board  
26 shall approve.

27 (18) Displaying Price of Liquor or Malt or Brewed Beverages.  
28 For any restaurant, tavern, hotel or club liquor licensee, or  
29 any importing distributor, distributor or retail dispenser, or  
30 the servants, agents or employes of such licensees, to display

1 on the outside of any licensed premises or to display any place  
2 within the licensed premises where it can be seen from the  
3 outside, any advertisement whatsoever referring, directly or  
4 indirectly, to the price at which the licensee will sell liquor  
5 or malt or brewed beverages.

6 \* \* \*

7 (25) Employment in Licensed Places. For any licensee or his  
8 agent, to employ or permit the employment of any person at his  
9 licensed hotel, restaurant, tavern or eating place for the  
10 purpose of enticing customers, or to encourage them to drink  
11 liquor, or make assignations for improper purposes.

12 Any person violating the provisions of this clause shall be  
13 guilty of a misdemeanor and, upon conviction of the same, shall  
14 be sentenced to pay a fine of not less than one hundred dollars  
15 (\$100), nor more than five hundred dollars (\$500), for each and  
16 every person so employed, or undergo an imprisonment of not less  
17 than three (3) months, nor more than one (1) year, or either or  
18 both, at the discretion of the court having jurisdiction of the  
19 case. The administrative law judge shall have the power to  
20 revoke or refuse licenses for violation of this clause.

21 \* \* \*

22 Section 5. (a) Except as provided in subsection (b), the  
23 provisions of this act shall apply to all applications for new  
24 restaurant liquor licenses and to all applications for transfers  
25 of existing restaurant licenses to new owners which are received  
26 on or after July 1, 1991.

27 (b) Tavern licenses authorized under the provisions of this  
28 act shall only be issued by the Liquor Control Board to the  
29 holders of existing restaurant licensees who are unable, after  
30 two years, to meet the minimum food sale requirements. Notice of

1 the issuance of the tavern licenses shall be posted on the  
2 premises of the affected facility. The board shall promulgate  
3 such rules and regulations necessary to implement this act.

4 Section 6. This act shall take effect immediately.