

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 111 Session of  
2005

INTRODUCED BY MUSTIO, BELFANTI, CALTAGIRONE, CRAHALLA,  
DENLINGER, J. EVANS, HENNESSEY, MANDERINO, O'NEILL, REICHLEY,  
SAINATO, T. STEVENSON, WASHINGTON, YOUNGBLOOD, HARPER, DALLY,  
RAYMOND AND MELIO, JANUARY 25, 2005

SENATOR THOMPSON, APPROPRIATIONS, IN SENATE, RE-REPORTED AS  
AMENDED, OCTOBER 31, 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 DEFINING "CASE" AND "ELIGIBLE ENTITY"; providing for <—  
18 extension of existing license to cover additional area;  
19 ~~authorizing an alcohol access control tax credit; and~~ <—  
20 ~~imposing powers and duties on the Secretary of Revenue.~~ AND <—  
21 FURTHER PROVIDING FOR BREWERIES, FOR SURRENDER OF CERTAIN <—  
22 LICENSES FOR BENEFIT OF LICENSEE, FOR UNLAWFUL ACTS RELATIVE  
23 TO MALT OR BREWED BEVERAGES AND LICENSEES, FOR HOURS OF  
24 OPERATION RELATIVE TO MANUFACTURERS, IMPORTING DISTRIBUTORS  
25 AND DISTRIBUTORS AND FOR UNLAWFUL ACTS RELATIVE TO LIQUOR,  
26 MALT AND BREWED BEVERAGES AND LICENSEES.

27 The General Assembly of the Commonwealth of Pennsylvania  
28 hereby enacts as follows:

~~Section 1. Sections 404, 406.1 and 432(d) of the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code, reenacted and amended June 29, 1987 (P.L.32, No.14) and amended December 9, 2002 (P.L.1653, No.212), are amended to read:~~

SECTION 1. THE DEFINITIONS OF "CASE" AND "ELIGIBLE ENTITY" IN SECTION 102 OF THE ACT OF APRIL 12, 1951 (P.L.90, NO.21), KNOWN AS THE LIQUOR CODE, REENACTED AND AMENDED JUNE 29, 1987 (P.L.32, NO.14), AND AMENDED OR ADDED MAY 31, 1996 (P.L.312, NO.49) AND DECEMBER 30, 2003 (P.L.423, NO.59), ARE AMENDED TO READ:

SECTION 102. DEFINITIONS.--THE FOLLOWING WORDS OR PHRASES, UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE, SHALL HAVE THE MEANINGS ASCRIBED TO THEM IN THIS SECTION:

\* \* \*

"CASE" SHALL MEAN A PACKAGE PREPARED BY THE MANUFACTURER FOR SALE OR DISTRIBUTION OF TWELVE OR MORE ORIGINAL CONTAINERS TOTALING [TWO HUNDRED EIGHTY-EIGHT] TWO HUNDRED SIXTY-FOUR OR MORE FLUID OUNCES OF MALT OR BREWED BEVERAGES EXCEPTING THOSE PACKAGES CONTAINING TWENTY-FOUR OR MORE ORIGINAL CONTAINERS EACH HOLDING SEVEN FLUID OUNCES OR MORE.

\* \* \*

"ELIGIBLE ENTITY" SHALL MEAN A CITY OF THE THIRD CLASS, A HOSPITAL, A CHURCH, A SYNAGOGUE, A VOLUNTEER FIRE COMPANY, A VOLUNTEER AMBULANCE COMPANY, A VOLUNTEER RESCUE SQUAD, A UNIT OF A NATIONALLY CHARTERED CLUB WHICH HAS BEEN ISSUED A CLUB LIQUOR LICENSE, A CLUB IN A CITY OF THE THIRD CLASS WHICH HAS BEEN ISSUED A CLUB LIQUOR LICENSE AND WHICH, AS OF DECEMBER 31, 2002, HAS BEEN IN EXISTENCE FOR AT LEAST 100 YEARS, A LIBRARY, A NATIONALLY ACCREDITED PENNSYLVANIA NONPROFIT ZOOLOGICAL INSTITUTION LICENSED BY THE UNITED STATES DEPARTMENT OF

1 AGRICULTURE, A NONPROFIT AGRICULTURAL ASSOCIATION IN EXISTENCE  
2 FOR AT LEAST TEN YEARS, A BONA FIDE SPORTSMEN'S CLUB IN  
3 EXISTENCE FOR AT LEAST TEN YEARS, A NATIONALLY CHARTERED  
4 VETERANS' ORGANIZATION AND ANY AFFILIATED LODGE OR SUBDIVISION  
5 OF SUCH ORGANIZATION, A FRATERNAL BENEFIT SOCIETY THAT IS  
6 LICENSED TO DO BUSINESS IN THIS COMMONWEALTH AND ANY AFFILIATED  
7 LODGE OR SUBDIVISION OF SUCH FRATERNAL BENEFIT SOCIETY, A MUSEUM  
8 OPERATED BY A NONPROFIT CORPORATION IN A CITY OF THE THIRD CLASS  
9 OR TOWNSHIP OF THE FIRST CLASS, A NONPROFIT CORPORATION ENGAGED  
10 IN THE PERFORMING ARTS IN A CITY OF THE THIRD CLASS, BOROUGH OR  
11 IN AN INCORPORATED TOWN, AN ARTS COUNCIL, A NONPROFIT  
12 CORPORATION THAT OPERATES AN ARTS FACILITY OR MUSEUM IN A CITY  
13 OF THE THIRD CLASS IN THE COUNTY OF THE FOURTH CLASS, A  
14 NONPROFIT ORGANIZATION AS DEFINED UNDER SECTION 501(C)(3) OF THE  
15 INTERNAL REVENUE CODE OF 1986 (PUBLIC LAW 99-514, 26 U.S.C. §  
16 501(C)(3)) WHOSE PURPOSE IS TO PROTECT THE ARCHITECTURAL  
17 HERITAGE OF BOROUGHs AND WHICH HAS BEEN RECOGNIZED AS SUCH BY A  
18 MUNICIPAL RESOLUTION, A NONPROFIT ORGANIZATION AS DEFINED UNDER  
19 SECTION 501(C)(3) OF THE INTERNAL REVENUE CODE OF 1986 (PUBLIC  
20 LAW 99-514, 26 U.S.C. § 501(C)(3)) CONDUCTING A REGATTA IN A  
21 CITY OF THE SECOND CLASS WITH THE PERMIT TO BE USED ON STATE  
22 PARK GROUNDS OR CONDUCTING A FAMILY-ORIENTED CELEBRATION AS PART  
23 OF WELCOME AMERICA IN A CITY OF THE FIRST CLASS ON PROPERTY  
24 LEASED FROM THAT CITY FOR MORE THAN FIFTY YEARS, [OR] A  
25 NONPROFIT ORGANIZATION AS DEFINED UNDER SECTION 501(C)(3) OF THE  
26 INTERNAL REVENUE CODE OF 1986 (26 U.S.C. § 501(C)(3)) WHOSE  
27 PURPOSE IS TO RAISE FUNDS FOR THE RESEARCH AND TREATMENT OF  
28 CYSTIC FIBROSIS, A NONPROFIT ORGANIZATION AS DEFINED UNDER  
29 SECTION 501(C)(3) OF THE INTERNAL REVENUE CODE OF 1986 (26  
30 U.S.C. § 501(C)(3)) WHOSE PURPOSE IS TO EDUCATE THE PUBLIC ON

1 ISSUES DEALING WITH WATERSHED CONSERVATION[.], A NONPROFIT  
2 ECONOMIC DEVELOPMENT AGENCY IN A CITY OF THE SECOND CLASS WITH  
3 THE PRIMARY FUNCTION TO SERVE AS AN ECONOMIC GENERATOR FOR THE  
4 GREATER SOUTHWESTERN PENNSYLVANIA REGION BY ATTRACTING AND  
5 SUPPORTING FILM, TELEVISION AND RELATED MEDIA INDUSTRY PROJECTS  
6 AND COORDINATING GOVERNMENT AND BUSINESS OFFICES IN SUPPORT OF A  
7 PRODUCTION OR A JUNIOR LEAGUE IN A THIRD CLASS COUNTY THAT IS A  
8 NONPROFIT ORGANIZATION AS DEFINED UNDER SECTION 501(C)(3) OF THE  
9 INTERNAL REVENUE CODE OF 1986 (PUBLIC LAW 99-514, 26 U.S.C. § 1  
10 ET SEQ.) THAT IS COMPRISED OF WOMEN WHOSE PURPOSE IS EXCLUSIVELY  
11 EDUCATIONAL AND CHARITABLE IN PROMOTING THE VOLUNTEERISM OF  
12 WOMEN AND DEVELOPING AND PARTICIPATING IN COMMUNITY PROJECTS AND  
13 THAT HAS BEEN IN EXISTENCE FOR OVER SEVENTY YEARS.

14 \* \* \*

15 SECTION 2. SECTIONS 404, 406.1 AND 432(D) OF THE ACT,  
16 AMENDED DECEMBER 9, 2002 (P.L.1653, NO.212), ARE AMENDED TO  
17 READ:

18 Section 404. Issuance, Transfer or Extension of Hotel,  
19 Restaurant and Club Liquor Licenses.--Upon receipt of the  
20 application and the proper fees, and upon being satisfied of the  
21 truth of the statements in the application that the applicant is  
22 the only person in any manner pecuniarily interested in the  
23 business so asked to be licensed and that no other person will  
24 be in any manner pecuniarily interested therein during the  
25 continuance of the license, except as hereinafter permitted, and  
26 that the applicant is a person of good repute, that the premises  
27 applied for meet all the requirements of this act and the  
28 regulations of the board, that the applicant seeks a license for  
29 a hotel, restaurant or club, as defined in this act, and that  
30 the issuance of such license is not prohibited by any of the

1 provisions of this act, the board shall, in the case of a hotel  
2 or restaurant, grant and issue to the applicant a liquor  
3 license, and in the case of a club may, in its discretion, issue  
4 or refuse a license: Provided, however, That in the case of any  
5 new license or the transfer of any license to a new location or  
6 the extension of an existing license to cover an additional area  
7 the board may, in its discretion, grant or refuse such new  
8 license [or], transfer or extension if such place proposed to be  
9 licensed is within three hundred feet of any church, hospital,  
10 charitable institution, school, or public playground, or if such  
11 new license [or], transfer or extension is applied for a place  
12 which is within two hundred feet of any other premises which is  
13 licensed by the board: And provided further, That the board's  
14 authority to refuse to grant a license because of its proximity  
15 to a church, hospital, charitable institution, public playground  
16 or other licensed premises shall not be applicable to license  
17 applications submitted for public venues or performing arts  
18 facilities: And provided further, That the board shall refuse  
19 any application for a new license [or], the transfer of any  
20 license to a new location, or the extension of an existing  
21 license to cover an additional area if, in the board's opinion,  
22 such new license [or], transfer or extension would be  
23 detrimental to the welfare, health, peace and morals of the  
24 inhabitants of the neighborhood within a radius of five hundred  
25 feet of the place proposed to be licensed: And provided further,  
26 That the board shall have the discretion to refuse a license to  
27 any person or to any corporation, partnership or association if  
28 such person, or any officer or director of such corporation, or  
29 any member or partner of such partnership or association shall  
30 have been convicted or found guilty of a felony within a period

1 of five years immediately preceding the date of application for  
2 the said license. The board shall refuse any application for a  
3 new license [or], the transfer of any license to a new location  
4 or the extension of any license to cover an additional area  
5 where the sale of liquid fuels or oil is conducted. The board  
6 may enter into an agreement with the applicant concerning  
7 additional restrictions on the license in question. If the board  
8 and the applicant enter into such an agreement, such agreement  
9 shall be binding on the applicant. Failure by the applicant to  
10 adhere to the agreement will be sufficient cause to form the  
11 basis for a citation under section 471 and for the nonrenewal of  
12 the license under section 470. If the board enters into an  
13 agreement with an applicant concerning additional restrictions,  
14 those restrictions shall be binding on subsequent holders of the  
15 license until the license is transferred to a new location or  
16 until the board enters into a subsequent agreement removing  
17 those restrictions. If the application in question involves a  
18 location previously licensed by the board, then any restrictions  
19 imposed by the board on the previous license at that location  
20 shall be binding on the applicant unless the board enters into a  
21 new agreement rescinding those restrictions. The board may, in  
22 its discretion, refuse an application for an economic  
23 development license under section 461(b.1) or an application for  
24 an intermunicipal transfer of a license if the board receives a  
25 protest from the governing body of the receiving municipality.  
26 The receiving municipality of an intermunicipal transfer or an  
27 economic development license under section 461(b.1) may file a  
28 protest against the transfer of a license into its municipality,  
29 and the receiving municipality shall have standing in a hearing  
30 to present testimony in support of or against the issuance or

1 transfer of a license. Upon any opening in any quota, an  
2 application for a new license shall only be filed with the board  
3 for a period of six months following said opening.

4 Section 406.1. Secondary Service Area.--(a) Upon  
5 application of any restaurant, hotel, club, municipal golf  
6 course liquor licensee or manufacturer of malt or brewed  
7 beverages, and payment of the appropriate fee, the board may  
8 approve a secondary service area by extending the licensed  
9 premises to include one additional permanent structure with  
10 dimensions of at least one hundred seventy-five square feet,  
11 enclosed on three sides and having adequate seating. Such  
12 secondary service area must be located on property having a  
13 minimum area of one (1) acre, and must be on land which is  
14 immediate, abutting, adjacent or contiguous to the licensed  
15 premises with no intervening public thoroughfare; however, the  
16 original licensed premises and the secondary service area must  
17 be located on the same tract of land. The board shall have  
18 discretion to refuse the application for a secondary service  
19 area in the same manner it has discretion to refuse an  
20 application for transfer of the license to a new location as set  
21 forth in section 404. There shall be no requirement that the  
22 secondary service area be physically connected to the original  
23 licensed premises. In addition, there shall be no requirement  
24 that the secondary service area be located in the same  
25 municipality as the original licensed premises, provided,  
26 however, that the board shall not approve a secondary service  
27 area in this case if that secondary service area is located in  
28 any municipality where the granting of liquor licenses has been  
29 prohibited as provided in this article. Notwithstanding 40 Pa.  
30 Code § 7.21(c)(3), the licensee shall be permitted to store,

1 serve, sell or dispense food, liquor and malt or brewed  
2 beverages at the board approved secondary service area.

3 (b) If the applicant is a manufacturer of malt or brewed  
4 beverages, the board may approve a secondary service area for  
5 use as a brewery pub pursuant to section 446, notwithstanding  
6 any intervening public thoroughfare, so long as the proposed  
7 secondary service area is within one thousand feet of the  
8 licensed premises. Notwithstanding any other provision of this  
9 act, the licensed premises and the secondary service area may be  
10 located on different tracts of lands.

11 Section 432. Malt and Brewed Beverages Retail Licenses.--\* \*  
12 \*

13 (d) The board shall, in its discretion, grant or refuse any  
14 new license [or], the transfer of any license to a new location  
15 or the extension of an existing license to cover an additional  
16 area if such place proposed to be licensed is within three  
17 hundred feet of any church, hospital, charitable institution,  
18 school, or public playground, or if such new license [or],  
19 transfer or extension is applied for a place which is within two  
20 hundred feet of any other premises which is licensed by the  
21 board. The board shall refuse any application for a new license  
22 [or], the transfer of any license to a new location or the  
23 extension of an existing license to cover an additional area if,  
24 in the board's opinion, such new license [or], transfer or  
25 extension would be detrimental to the welfare, health, peace and  
26 morals of the inhabitants of the neighborhood within a radius of  
27 five hundred feet of the place to be licensed. The board may  
28 enter into an agreement with the applicant concerning additional  
29 restrictions on the license in question. If the board and the  
30 applicant enter into such an agreement, such agreement shall be



1 binding on the applicant. Failure by the applicant to adhere to  
2 the agreement will be sufficient cause to form the basis for a  
3 citation under section 471 and for the nonrenewal of the license  
4 under section 470. If the board enters into an agreement with an  
5 applicant concerning additional restrictions, those restrictions  
6 shall be binding on subsequent holders of the license until the  
7 license is transferred to a new location or until the board  
8 enters into a subsequent agreement removing those restrictions.  
9 If the application in question involves a location previously  
10 licensed by the board, then any restrictions imposed by the  
11 board on the previous license at that location shall be binding  
12 on the applicant unless the board enters into a new agreement  
13 rescinding those restrictions. The board shall refuse any  
14 application for a new license [or], the transfer of any license  
15 to a location where the sale of liquid fuels or oil is conducted  
16 or the extension of an existing license to cover an additional  
17 area: And provided further, That the board shall have the  
18 discretion to refuse a license to any person or to any  
19 corporation, partnership or association if such person, or any  
20 officer or director of such corporation, or any member or  
21 partner of such partnership or association shall have been  
22 convicted or found guilty of a felony within a period of five  
23 years immediately preceding the date of application for the said  
24 license. The board may, in its discretion, refuse an application  
25 for an economic development license under section 461(b.1) or an  
26 application for an intermunicipal transfer or a license if the  
27 board receives a protest from the governing body of the  
28 receiving municipality. The receiving municipality of an  
29 intermunicipal transfer or an economic development license under  
30 section 461(b.1) may file a protest against the approval for

1 issuance of a license for economic development or an  
2 intermunicipal transfer of a license into its municipality, and  
3 such municipality shall have standing in a hearing to present  
4 testimony in support of or against the issuance or transfer of a  
5 license. Upon any opening in any quota, an application for a new  
6 license shall only be filed with the board for a period of six  
7 months following said opening.

8 \* \* \*

9 ~~Section 2. The act is amended by adding an article to read:~~ <—

10 ~~ARTICLE VIII A~~

11 ~~ALCOHOL ACCESS CONTROL TAX CREDITS~~

12 ~~Section 801 A. Scope.~~

13 ~~This article authorizes alcohol access control tax credits.~~

14 ~~Section 802 A. Definitions.~~

15 ~~The following words and phrases when used in this article~~  
16 ~~shall have the meanings given to them in this section unless the~~  
17 ~~context clearly indicates otherwise:~~

18 ~~"Alcohol access control tax credit." The credit provided~~  
19 ~~under this article.~~

20 ~~"Department." The Department of Revenue of the Commonwealth.~~

21 ~~"Qualified alcohol access control expense." That expense~~  
22 ~~incurred by a taxpayer for the purchase and use of technology or~~  
23 ~~software intended to control the access of minors to alcohol and~~  
24 ~~which is capable of:~~

25 ~~(1) Capturing the information from a magnetic strip on a~~  
26 ~~Pennsylvania driver's license or identification card issued~~  
27 ~~by the Department of Transportation.~~

28 ~~(2) Producing a declaration of age in print, audible or~~  
29 ~~visual form.~~

30 ~~(3) Prompting a cashier for age verification when a~~

~~purchase of alcohol is recorded by the point of sale system.~~

~~"Qualified tax liability." The liability for taxes imposed under Article III, IV or VI of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.~~

~~"Secretary." The Secretary of Revenue of the Commonwealth.~~

~~"Taxpayer." An entity licensed by the Liquor Control Board to sell alcohol to a consumer.~~

~~Section 803 A. Credit for alcohol access control expenses.~~

~~(a) Application for credit by taxpayer. A taxpayer who incurs a qualified alcohol access control expense in a taxable year may apply for an alcohol access control tax credit as provided in this article. In order to receive the credit, the taxpayer must submit an application to the department by September 15 for a qualified alcohol access control expense incurred in the taxable year that ended in the prior calendar year.~~

~~(b) Amount of credit. A taxpayer that timely applies under subsection (a) shall receive an alcohol access control tax credit for the taxable year up to the amount of \$500 per license per location.~~

~~(c) Notification of approval from department. By December 15 of the calendar year following the close of the taxable year during which the qualified alcohol access control expense was incurred, the department shall notify the taxpayer of the amount of the taxpayer's alcohol access control tax credit approved by the department.~~

~~Section 804 A. Use of credit.~~

~~(a) Carryover.~~

~~(1) The amount of the alcohol access control tax credit that a taxpayer may use against any one qualified tax~~

~~liability during any year may not exceed 50% of the qualified tax liability for that taxable year.~~

~~(2) If the taxpayer cannot use the entire amount of the alcohol access control tax credit for the taxable year in which the alcohol access control tax credit is first approved, then the excess may be carried over to succeeding taxable years and used as a credit against the qualified tax liability of the taxpayer for those taxable years.~~

~~(3) Each time that the alcohol access control tax credit is carried over to a succeeding taxable year, it shall be reduced by the amount that was used as a credit during the immediately preceding taxable year.~~

~~(4) The alcohol access control tax credit may be carried over and applied to succeeding taxable years for not more than four taxable years following the first taxable year for which the taxpayer was entitled to claim the credit.~~

~~(b) Taxable year to which applied. An alcohol access control tax credit approved by the department for qualified alcohol access control expense in a taxable year first shall be applied against the taxpayer's qualified tax liability for the current taxable year as of the date on which the credit was approved before the alcohol access control tax credit is applied against any tax liability under subsection (a).~~

~~(c) Limitations. A taxpayer may not carry back, obtain a refund of or assign an unused alcohol access control tax credit.~~

~~Section 805 A. Determination of qualified alcohol access control expenses.~~

~~In prescribing standards for determining which alcohol access control expense is to be deemed a qualified alcohol access control expense for purposes of computing the credit provided by~~

~~this article, the department shall require:~~

~~(1) A copy of the technology or software specifications demonstrating that the specifications meet the definition of a qualified alcohol access control expense.~~

~~(2) A copy of an invoice to the taxpayer for the technology or software purchased for qualification as a qualified alcohol access control expense.~~

~~(3) A copy of the check or checks and paid receipts for technology or software purchased for qualifications as qualified alcohol access control expense.~~

~~Section 806 A. Time limitation.~~

~~A taxpayer is not entitled to an alcohol access control tax credit for qualified alcohol access control expenses incurred in taxable years ending after December 31, 2009.~~

~~Section 807 A. Limitation on credits.~~

~~The cumulative amount of alcohol access control tax credits approved by the department under this article shall not exceed \$5,000,000. If the amount of alcohol access control tax credits applied for by taxpayers in any taxable year exceeds the remaining authorized amount for such credits under this section, then the alcohol access control tax credit to be received by each applicant for that taxable year shall be the product of the remaining authorized amount multiplied by the quotient of the alcohol access control tax credit applied for by the applicant divided by the total of all alcohol access control tax credits applied for by all applicants.~~

~~Section 808 A. Pennsylvania S corporation shareholder pass through.~~

~~(a) General rule. If a Pennsylvania S corporation does not have an eligible tax liability against which the alcohol access~~

~~control tax credit may be applied, a shareholder of the Pennsylvania S corporation is entitled to an alcohol access control tax credit equal to the alcohol access control tax credit determined for the Pennsylvania S corporation for the taxable year multiplied by the percentage of the Pennsylvania S corporation's distributive income to which the shareholder is entitled.~~

~~(b) Double use of credit prohibited. A Pennsylvania S corporation and a shareholder of a Pennsylvania S corporation may not claim a credit under this article for the same qualified alcohol access control expense.~~

~~Section 809 A. Report to General Assembly.~~

~~The secretary shall submit an annual report to the General Assembly indicating the effectiveness of the credit provided by this article not later than March 15 following the year in which the credits are approved. The report shall include the number of taxpayers utilizing the credit as of the date of the report and the amount of credits approved and utilized. The report may also include any recommendations for changes in the calculation or administration of the credit.~~

~~Section 810 A. Expiration.~~

~~The department may not approve an alcohol access control tax credit under this article for taxable years ending after December 31, 2009.~~

~~Section 811 A. Regulations.~~

~~The secretary shall promulgate regulations necessary for the implementation and administration of this article.~~

SECTION 3. SECTION 446(2) OF THE ACT, AMENDED NOVEMBER 10, 1999 (P.L.514, NO.47), IS AMENDED TO READ:

SECTION 446. BREWERIES.--HOLDERS OF A BREWERY LICENSE MAY:

1       \* \* \*

2       (2) OPERATE A RESTAURANT OR BREWERY PUB ON THE LICENSED  
3 PREMISES UNDER SUCH CONDITIONS AND REGULATIONS AS THE BOARD MAY  
4 ENFORCE: PROVIDED, HOWEVER, THAT SALES ON SUNDAY MAY BE MADE  
5 IRRESPECTIVE OF THE VOLUME OF FOOD SALES IF THE LICENSED  
6 PREMISES ARE AT A [STADIUM OR ARENA] PUBLIC VENUE LOCATION. THE  
7 HOLDER OF A BREWERY LICENSE MAY SELL AT ITS BREWERY PUB PREMISES  
8 PENNSYLVANIA WINES IT HAS PURCHASED FROM EITHER THE HOLDER OF A  
9 PENNSYLVANIA LIMITED WINERY LICENSE OR FROM THE BOARD: PROVIDED,  
10 HOWEVER, THAT SAID WINES MUST BE CONSUMED AT THE LICENSED  
11 BREWERY PUB PREMISES.

12       \* \* \*

13       SECTION 4. SECTION 474.1 OF THE ACT, ADDED DECEMBER 9, 2002     <—  
14 (P.L.1653, NO.212), IS AMENDED TO READ:

15       SECTION 474.1. SURRENDER OF RESTAURANT, EATING PLACE RETAIL  
16 DISPENSER, HOTEL, IMPORTING DISTRIBUTOR AND DISTRIBUTOR LICENSE  
17 FOR BENEFIT OF LICENSEE.--(A) A RESTAURANT, EATING PLACE RETAIL  
18 DISPENSER, HOTEL, IMPORTING DISTRIBUTOR AND DISTRIBUTOR LICENSEE  
19 WHOSE LICENSED ESTABLISHMENT IS NOT IN OPERATION FOR FIFTEEN  
20 CONSECUTIVE DAYS SHALL RETURN ITS LICENSE FOR SAFEKEEPING WITH  
21 THE BOARD NO LATER THAN AT THE EXPIRATION OF THE FIFTEEN-DAY  
22 PERIOD. THE LICENSE MAY ONLY BE REISSUED FROM SAFEKEEPING IN THE  
23 MANNER SET FORTH BY THE BOARD THROUGH REGULATION.

24       (B) THE BOARD MAY HOLD THE LICENSE IN SAFEKEEPING FOR A  
25 PERIOD NOT TO EXCEED THREE CONSECUTIVE YEARS. ANY LICENSE  
26 REMAINING IN SAFEKEEPING FOR MORE THAN THREE CONSECUTIVE YEARS  
27 SHALL BE IMMEDIATELY REVOKED BY THE BUREAU OF LICENSING UNLESS A  
28 TRANSFER APPLICATION OR REQUEST FOR REISSUE FROM SAFEKEEPING HAS  
29 BEEN FILED PRIOR TO THE EXPIRATION OF THE THREE-YEAR PERIOD. THE  
30 BOARD SHALL EXTEND THE PERIOD FOR AN ADDITIONAL YEAR IF, AT THE

1 END OF THE THREE-YEAR PERIOD, THE LICENSED PREMISES ARE  
2 UNAVAILABLE DUE TO FIRE, FLOOD OR OTHER SIMILAR NATURAL  
3 DISASTER.

4 (C) IN THE EVENT A TRANSFER APPLICATION FILED PRIOR TO THE  
5 EXPIRATION OF THE THREE-YEAR PERIOD IS DISAPPROVED BY THE BOARD  
6 THROUGH ITS EXERCISE OF DISCRETION, THEN THE LICENSE MAY REMAIN  
7 IN SAFEKEEPING FOR AN ADDITIONAL PERIOD OF THREE CONSECUTIVE  
8 MONTHS AFTER THE BOARD'S DECISION TO REFUSE THE TRANSFER  
9 APPLICATION. FAILURE TO REMOVE THE LICENSE FROM SAFEKEEPING OR  
10 TO FILE ANOTHER TRANSFER APPLICATION PRIOR TO THE EXPIRATION OF  
11 THE THREE-MONTH PERIOD OF TIME SHALL RESULT IN REVOCATION OF THE  
12 LICENSE.

13 (D) ANY PERIOD OF TIME IN WHICH THE LICENSEE ALLOWS THE  
14 LICENSE TO LAPSE BY NOT FILING A TIMELY LICENSE RENEWAL OR  
15 LICENSE VALIDATION SHALL BE CONSIDERED TIME IN WHICH THE LICENSE  
16 WAS HELD IN SAFEKEEPING FOR PURPOSES OF THIS SECTION.

17 (E) A LICENSE PLACED IN SAFEKEEPING PRIOR TO THE EFFECTIVE  
18 DATE OF THIS ACT WILL BE DEEMED TO HAVE BEEN PLACED IN  
19 SAFEKEEPING ON THE EFFECTIVE DATE OF THIS ACT FOR PURPOSES OF  
20 THIS SECTION.

21 (F) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, NO  
22 LICENSE SHALL BE REVOKED UNDER THE PROVISIONS OF THIS SECTION  
23 PRIOR TO FEBRUARY 7, 2007.

24 Section 4 5. Sections 492(4) and 492.1 of the act, amended <—  
25 or added July 6, 2005 (P.L.135, No.39), are amended to read:

26 Section 492. Unlawful Acts Relative to Malt or Brewed  
27 Beverages and Licensees.--

28 It shall be unlawful--

29 \* \* \*

30 (4) Activities of Manufacturers, Importing Distributors or



1 Distributors on Sunday. For any manufacturer of malt or brewed  
2 beverages, importing distributor or distributor, or the  
3 servants, agents or employes of the same, to sell malt or brewed  
4 beverages between the hours of eleven o'clock postmeridian of  
5 any Saturday and eight o'clock in the forenoon of the following  
6 Monday, except that a distributor or importing distributor may  
7 sell malt or brewed beverages on Sunday between the hours of  
8 twelve o'clock noon and five o'clock postmeridian. Upon purchase  
9 of a permit from the board at an annual fee of one hundred  
10 dollars (\$100), manufacturers, importing distributors and  
11 distributors, or the servants, agents or employes of the same,  
12 may sell malt or brewed beverages to anyone not licensed under  
13 this act or to a holder of a special occasion permit on Sunday  
14 between the hours of noon and five o'clock postmeridian.

15 Notwithstanding any other provision of this section, delivery or  
16 receiving of malt or brewed beverages shall be permissible on  
17 Sunday after prior arrangement as follows:

18 (i) A manufacturer may, at any time, deliver to any  
19 importing distributor or distributor to which the manufacturer  
20 has granted wholesale distribution rights for the manufacturer's  
21 product.

22 (ii) An importing distributor or distributor may deliver to  
23 any organization to which a special occasion permit has been  
24 issued between the hours of nine o'clock antemeridian and twelve  
25 o'clock noon.

26 (iii) An importing distributor or distributor may deliver to  
27 anyone not licensed under this act between the hours of nine  
28 o'clock antemeridian and twelve o'clock noon.

29 The term "prior arrangement" shall mean that malt or brewed  
30 beverages having a total sale price, excluding any deposits or

1 credits, exceeding two hundred fifty dollars (\$250) have been  
2 ordered, invoiced and paid for in full at the seller's licensed  
3 premises before the Sunday of delivery.

4 \* \* \*

5 Section 492.1. Hours of Operation Relative to Manufacturers,  
6 Importing Distributors and Distributors.--Manufacturers may sell  
7 malt or brewed beverages between two o'clock antemeridian of any  
8 Monday and twelve o'clock midnight of the following Saturday.  
9 Notwithstanding this section, manufacturers operating a brewery  
10 pub under section 446 shall be subject to the hours of operation  
11 set forth by the board through regulation. Importing  
12 distributors and distributors may sell malt or brewed beverages  
13 between [two] eight o'clock antemeridian of any Monday and  
14 [twelve o'clock midnight] eleven o'clock postmeridian of the  
15 following Saturday to holders of a liquor or malt and brewed  
16 beverage license or permit issued by the board. Importing  
17 distributors and distributors may sell malt or brewed beverages  
18 between eight o'clock antemeridian and eleven o'clock  
19 postmeridian of any day, except Sunday, to persons not licensed  
20 or permitted by this act.

21 Section ~~5~~ 6. Section 493(13) and (24) of the act, amended <—  
22 December 16, 2002 (P.L.1806, No.221) and November 30, 2004  
23 (P.L.1727, No.221), are amended to read:

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

29 It shall be unlawful--

30 \* \* \*

1       (13) Retail Licensees Employing Minors. For any hotel,  
2 restaurant or club liquor licensee, or any retail dispenser, to  
3 employ or to permit any minor under the age of eighteen to serve  
4 any alcoholic beverages or to employ or permit any minor under  
5 the age of sixteen to render any service whatever in the  
6 licensed premises, nor shall any entertainer under the age of  
7 eighteen be employed or permitted to perform in any licensed  
8 premises in violation of the labor laws of this Commonwealth:  
9 Provided, That in accordance with board regulations minors  
10 between the ages of sixteen and eighteen may be employed to  
11 serve food, clear tables and perform other similar duties, not  
12 to include the dispensing or serving of alcoholic beverages. A  
13 ski resort, golf course or amusement park licensee may employ  
14 minors fourteen and fifteen years of age to perform duties in  
15 rooms or areas of the licensed premises; however, such minors  
16 may not perform duties in rooms or areas in which alcohol is  
17 being concurrently dispensed or served or in which alcohol is  
18 being concurrently stored in an unsecured manner.

19 Notwithstanding any provisions of law to the contrary, a hotel,  
20 restaurant or club liquor licensee or any retail dispenser may  
21 allow students receiving instruction in a performing art to  
22 perform an exhibition in observance of ethnic heritage if the  
23 students are not compensated and are under proper supervision.  
24 Written notice of the performance must be provided to the  
25 enforcement bureau prior to the performance.

26       \* \* \*

27       (24) Things of Value Offered as Inducement. For any licensee  
28 under the provisions of this article, or the board or any  
29 manufacturer, or any employe or agent of a manufacturer,  
30 licensee or of the board, to offer to give anything of value or

1 to solicit or receive anything of value as a premium for the  
2 return of caps, stoppers, corks, stamps or labels taken from any  
3 bottle, case, barrel or package containing liquor or malt or  
4 brewed beverage, or to offer or give or solicit or receive  
5 anything of value as a premium or present to induce directly the  
6 purchase of liquor or malt or brewed beverage, or for any  
7 licensee, manufacturer or other person to offer or give to trade  
8 or consumer buyers any prize, premium, gift or other inducement  
9 to purchase liquor or malt or brewed beverages, except  
10 advertising novelties of nominal value which the board shall  
11 define. This section shall not prevent any manufacturer or any  
12 agent of a manufacturer from offering and honoring coupons which  
13 offer monetary rebates on purchases of wines and spirits through  
14 State Liquor Stores or purchases of malt or brewed beverages  
15 through distributors and importing distributors in accordance  
16 with conditions or regulations established by the board. The  
17 board may redeem coupons offered by a manufacturer or an agent  
18 of a manufacturer at the time of purchase. Coupons offered by a  
19 manufacturer or an agent of a manufacturer shall not be redeemed  
20 without proof of purchase. This section shall not apply to the  
21 return of any monies specifically deposited for the return of  
22 the original container to the owners thereof.

23 \* \* \*

24 Section ~~3-6~~ 7. This act shall take effect in 60 days.

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