

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 1525 Session of  
2005

INTRODUCED BY HARHART, SCAVELLO, CAPPELLI, CALTAGIRONE,  
CRAHALLA, DALLY, FREEMAN, GEIST, GERGELY, GODSHALL, KILLION,  
MANN, MUSTIO, PHILLIPS, B. SMITH, R. STEVENSON, YOUNGBLOOD,  
WANSACZ AND HARPER, MAY 3, 2005

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,  
JUNE 29, 2005

## AN ACT

1 Amending the act of April 12, 1951 (P.L.90, No.21), entitled, as  
2 reenacted, "An act relating to alcoholic liquors, alcohol and  
3 malt and brewed beverages; amending, revising, consolidating  
4 and changing the laws relating thereto; regulating and  
5 restricting the manufacture, purchase, sale, possession,  
6 consumption, importation, transportation, furnishing, holding  
7 in bond, holding in storage, traffic in and use of alcoholic  
8 liquors, alcohol and malt and brewed beverages and the  
9 persons engaged or employed therein; defining the powers and  
10 duties of the Pennsylvania Liquor Control Board; providing  
11 for the establishment and operation of State liquor stores,  
12 for the payment of certain license fees to the respective  
13 municipalities and townships, for the abatement of certain  
14 nuisances and, in certain cases, for search and seizure  
15 without warrant; prescribing penalties and forfeitures;  
16 providing for local option, and repealing existing laws,"  
17 further providing for limiting the number of retail licenses  
18 to be issued in each county, FOR UNLAWFUL ACTS AND FOR  
19 UNLAWFUL ADVERTISING. <—

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

22 Section 1. Section 461(c) of the act of April 12, 1951  
23 (P.L.90, No.21), known as the Liquor Code, reenacted and amended  
24 June 29, 1987 (P.L.32, No.14), is amended to read:

25 Section 461. Limiting Number of Retail Licenses To Be Issued



1 In Each County.--\* \* \*

2 (c) The word "hotel" as used in this section shall mean any  
3 reputable place operated by a responsible person of good  
4 reputation where the public may, for a consideration, obtain  
5 sleeping accommodations, and which shall have the following  
6 number of bedrooms and requirements in each case--at least one-  
7 half of the required number of bedrooms shall be regularly  
8 available to transient guests seven days weekly, except in  
9 resort areas; at least one-third of such bedrooms shall be  
10 equipped with hot and cold water, a lavatory, commode, bathtub  
11 or shower and a clothes closet; and an additional one-third of  
12 the total of such required rooms shall be equipped with lavatory  
13 and commode:

14 (1) In municipalities having a population of less than three  
15 thousand, at least twelve permanent bedrooms for the use of  
16 guests.

17 (2) In municipalities having a population of three thousand  
18 and more but less than ten thousand inhabitants, at least  
19 sixteen permanent bedrooms for the use of guests.

20 (3) In municipalities having a population of ten thousand  
21 and more but less than twenty-five thousand inhabitants, at  
22 least thirty permanent bedrooms for the use of guests.

23 (4) In municipalities having a population of twenty-five  
24 thousand and more but less than one hundred thousand  
25 inhabitants, at least forty permanent bedrooms for the use of  
26 guests.

27 (5) In municipalities having a population of one hundred  
28 thousand and more inhabitants, at least fifty permanent bedrooms  
29 for the use of guests.

30 (6) A public dining room or rooms operated by the same



1 management accommodating at least thirty persons at one time and  
2 a kitchen, apart from the dining room or rooms, in which food is  
3 regularly prepared for the public.

4 (7) Each room to be considered a bedroom under the  
5 requirements of this section shall have an area of not less than  
6 eighty square feet and an outside window.

7 (8) The provisions of this subsection (c) shall not apply to  
8 hotel licenses granted prior to the first day of September, one  
9 thousand nine hundred forty-nine, or that have been granted on  
10 any application made and pending prior to said date, nor to any  
11 renewal or transfer thereof, or hotels under construction or for  
12 which a bona fide contract had been entered into for  
13 construction prior to said date. In such cases, the provisions  
14 of section one of the act, approved the twenty-fourth day of  
15 June, one thousand nine hundred thirty-nine (Pamphlet Laws 806),  
16 shall continue to apply.

17 (9) Upon application to and subject to inspection by the  
18 board, hotel licensees under clause (8) of this subsection shall  
19 no longer be required to maintain bedrooms for public  
20 accommodation. However, areas required and designated as  
21 bedrooms for public accommodation prior to the effective date of  
22 this clause may not subsequently be used as licensed serving  
23 area. Such area may be used as licensed storage area consistent  
24 with this code and existing regulations.

25 \* \* \*

26 SECTION 2. SECTION 493(2) OF THE ACT, AMENDED DECEMBER 8,  
27 2004 (P.L.1810, NO.239), IS AMENDED TO READ:

28 SECTION 493. UNLAWFUL ACTS RELATIVE TO LIQUOR, MALT AND  
29 BREWED BEVERAGES AND LICENSEES.--THE TERM "LICENSEE," WHEN USED  
30 IN THIS SECTION, SHALL MEAN THOSE PERSONS LICENSED UNDER THE



1 PROVISIONS OF ARTICLE IV, UNLESS THE CONTEXT CLEARLY INDICATES  
2 OTHERWISE.

3 IT SHALL BE UNLAWFUL--

4 \* \* \*

5 (2) PURCHASE OR SALE OF LIQUOR OR MALT OR BREWED BEVERAGES  
6 ON CREDIT; IMPORTING DISTRIBUTORS OR DISTRIBUTORS ACCEPTING  
7 CASH. FOR ANY LICENSEE, HIS AGENT, SERVANT OR EMPLOYE, TO SELL  
8 OR OFFER TO SELL OR PURCHASE OR RECEIVE ANY LIQUOR OR MALT OR  
9 BREWED BEVERAGES EXCEPT FOR CASH, EXCEPTING CREDIT EXTENDED BY A  
10 HOTEL OR CLUB TO A BONA FIDE GUEST OR MEMBER, OR BY RAILROAD OR  
11 PULLMAN COMPANIES IN DINING, CLUB OR BUFFET CARS TO PASSENGERS,  
12 FOR CONSUMPTION WHILE ENROUTE, HOLDING AUTHORIZED CREDIT CARDS  
13 ISSUED BY RAILROAD OR RAILROAD CREDIT BUREAUS OR BY HOTEL,  
14 RESTAURANT, RETAIL DISPENSER EATING PLACE, CLUB AND PUBLIC  
15 SERVICE LICENSEES, IMPORTING DISTRIBUTORS OR DISTRIBUTORS TO  
16 CUSTOMERS NOT POSSESSING A LICENSE UNDER THIS ARTICLE AND  
17 HOLDING CREDIT CARDS ISSUED IN ACCORDANCE WITH REGULATIONS OF  
18 THE BOARD OR CREDIT CARDS ISSUED BY BANKING INSTITUTIONS SUBJECT  
19 TO STATE OR FEDERAL REGULATION: PROVIDED FURTHER, THAT NOTHING  
20 HEREIN CONTAINED SHALL BE CONSTRUED TO PROHIBIT THE USE OF  
21 CHECKS OR DRAFTS DRAWN ON A BANK, BANKING INSTITUTION, TRUST  
22 COMPANY OR SIMILAR DEPOSITORY, ORGANIZED AND EXISTING UNDER THE  
23 LAWS OF THE UNITED STATES OF AMERICA OR THE LAWS OF ANY STATE,  
24 TERRITORY OR POSSESSION THEREOF, IN PAYMENT FOR ANY LIQUOR OR  
25 MALT OR BREWED BEVERAGES IF THE PURCHASER IS THE PAYOR OF THE  
26 CHECK OR DRAFT AND THE LICENSEE IS THE PAYEE: PROVIDED FURTHER,  
27 THAT NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT TO THE  
28 CONTRARY, IT SHALL BE UNLAWFUL IN A CITY OF THE FIRST OR SECOND  
29 CLASS FOR AN IMPORTING DISTRIBUTOR OR DISTRIBUTOR TO ACCEPT CASH  
30 FOR PAYMENT OF ANY MALT OR BREWED BEVERAGES FROM ANYONE



1 POSSESSING A LICENSE ISSUED UNDER THIS ARTICLE. NO RIGHT OF  
2 ACTION SHALL EXIST TO COLLECT ANY CLAIM FOR CREDIT EXTENDED  
3 CONTRARY TO THE PROVISIONS OF THIS CLAUSE. NOTHING HEREIN  
4 CONTAINED SHALL PROHIBIT A LICENSEE FROM CREDITING TO A  
5 PURCHASER THE ACTUAL PRICE CHARGED FOR ORIGINAL CONTAINERS  
6 RETURNED BY THE ORIGINAL PURCHASER AS A CREDIT ON ANY SALE, OR  
7 FROM REFUNDING TO ANY PURCHASER THE AMOUNT PAID BY SUCH  
8 PURCHASER FOR SUCH CONTAINERS OR AS A DEPOSIT ON CONTAINERS WHEN  
9 TITLE IS RETAINED BY THE VENDOR, IF SUCH ORIGINAL CONTAINERS  
10 HAVE BEEN RETURNED TO THE LICENSEE. NOTHING HEREIN CONTAINED  
11 SHALL PROHIBIT A MANUFACTURER FROM EXTENDING USUAL AND CUSTOMARY  
12 CREDIT FOR LIQUOR OR MALT OR BREWED BEVERAGES SOLD TO CUSTOMERS  
13 OR PURCHASERS WHO LIVE OR MAINTAIN PLACES OF BUSINESS OUTSIDE OF  
14 THE COMMONWEALTH OF PENNSYLVANIA, WHEN THE LIQUOR OR MALT OR  
15 BREWED BEVERAGES SO SOLD ARE ACTUALLY TRANSPORTED AND DELIVERED  
16 TO POINTS OUTSIDE OF THE COMMONWEALTH: PROVIDED, HOWEVER, THAT  
17 AS TO ALL TRANSACTIONS AFFECTING MALT OR BREWED BEVERAGES TO BE  
18 RESOLD OR CONSUMED WITHIN THIS COMMONWEALTH, EVERY LICENSEE  
19 SHALL PAY AND SHALL REQUIRE CASH DEPOSITS ON ALL RETURNABLE  
20 ORIGINAL CONTAINERS AND ALL SUCH CASH DEPOSITS SHALL BE REFUNDED  
21 UPON RETURN OF THE ORIGINAL CONTAINERS.

22 \* \* \*

23 SECTION 3. SECTION 498(E)(3) OF THE ACT, AMENDED FEBRUARY  
24 21, 2002 (P.L.103, NO.10), IS AMENDED TO READ:

25 SECTION 498. UNLAWFUL ADVERTISING.--\* \* \*

26 (E) THE FOLLOWING SHALL APPLY TO ALL ALCOHOLIC BEVERAGE AND  
27 MALT BEVERAGE ADVERTISING:

28 \* \* \*

29 (3) [NO] (I) EXCEPT AS PROVIDED IN SUBCLAUSE (II), NO PRINT  
30 ADVERTISEMENT OF ALCOHOLIC BEVERAGES OF ANY TYPE SHALL BE



1 PERMITTED WITHIN [THREE] FIVE HUNDRED FEET OF ANY CHURCH, SCHOOL  
2 OR PUBLIC PLAYGROUND. THIS PROHIBITION SHALL NOT PRECLUDE ANY  
3 POINT OF SALE ADVERTISEMENT, MENUS OR OTHER PRINT ADVERTISEMENT  
4 REGARDING ALCOHOLIC BEVERAGES INSIDE THE LICENSED PREMISES.

5 (II) FOR PREMISES LICENSED PRIOR TO JANUARY 1, 2006, NO  
6 PRINT ADVERTISEMENT OF ALCOHOLIC BEVERAGES OF ANY TYPE SHALL BE  
7 PERMITTED WITHIN THREE HUNDRED FEET OF ANY CHURCH, SCHOOL OR  
8 PUBLIC PLAYGROUND. THIS PROHIBITION SHALL NOT PRECLUDE ANY POINT  
9 OF SALE ADVERTISEMENT, MENUS OR OTHER PRINT ADVERTISEMENT  
10 REGARDING ALCOHOLIC BEVERAGES INSIDE THE LICENSED PREMISES.

11 \* \* \*

12 Section ~~2~~ 4. All applications filed under section 461(c)(9) <—  
13 must be filed within one year of the effective date of this  
14 section.

15 Section ~~3~~ 5. This act shall take effect in 60 days. <—