

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

SENATOR RAFFERTY, LAW AND JUSTICE, IN SENATE, AS AMENDED,
SEPTEMBER 27, 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:

1 Section 461. Limiting Number of Retail Licenses To Be Issued
2 In Each County.--* * *

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

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

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

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

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

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

1 (6) A public dining room or rooms operated by the same
2 management accommodating at least thirty persons at one time and
3 a kitchen, apart from the dining room or rooms, in which food is
4 regularly prepared for the public.

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

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

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

26 * * *

27 ~~Section 2. Section 493(2) of the act, amended December 8,~~ <—
28 ~~2004 (P.L.1810, No.239), is amended to read:~~

29 ~~Section 493. Unlawful Acts Relative to Liquor, Malt and~~
30 ~~Brewed Beverages and Licensees. The term "licensee," when used~~

1 ~~in this section, shall mean those persons licensed under the~~
2 ~~provisions of Article IV, unless the context clearly indicates~~
3 ~~otherwise.~~

4 ~~It shall be unlawful—~~

5 ~~* * *~~

6 ~~(2) Purchase or Sale of Liquor or Malt or Brewed Beverages~~
7 ~~on Credit; Importing Distributors or Distributors Accepting~~
8 ~~Cash. For any licensee, his agent, servant or employe, to sell~~
9 ~~or offer to sell or purchase or receive any liquor or malt or~~
10 ~~brewed beverages except for cash, excepting credit extended by a~~
11 ~~hotel or club to a bona fide guest or member, or by railroad or~~
12 ~~pullman companies in dining, club or buffet cars to passengers,~~
13 ~~for consumption while enroute, holding authorized credit cards~~
14 ~~issued by railroad or railroad credit bureaus or by hotel,~~
15 ~~restaurant, retail dispenser eating place, club and public~~
16 ~~service licensees, importing distributors or distributors to~~
17 ~~customers not possessing a license under this article and~~
18 ~~holding credit cards issued in accordance with regulations of~~
19 ~~the board or credit cards issued by banking institutions subject~~
20 ~~to State or Federal regulation: Provided further, That nothing~~
21 ~~herein contained shall be construed to prohibit the use of~~
22 ~~checks or drafts drawn on a bank, banking institution, trust~~
23 ~~company or similar depository, organized and existing under the~~
24 ~~laws of the United States of America or the laws of any state,~~
25 ~~territory or possession thereof, in payment for any liquor or~~
26 ~~malt or brewed beverages if the purchaser is the payor of the~~
27 ~~check or draft and the licensee is the payee: Provided further,~~
28 ~~That notwithstanding any other provision of this act to the~~
29 ~~contrary, it shall be unlawful in a city of the first or second~~
30 ~~class for an importing distributor or distributor to accept cash~~

1 ~~for payment of any malt or brewed beverages from anyone~~
2 ~~possessing a license issued under this article. No right of~~
3 ~~action shall exist to collect any claim for credit extended~~
4 ~~contrary to the provisions of this clause. Nothing herein~~
5 ~~contained shall prohibit a licensee from crediting to a~~
6 ~~purchaser the actual price charged for original containers~~
7 ~~returned by the original purchaser as a credit on any sale, or~~
8 ~~from refunding to any purchaser the amount paid by such~~
9 ~~purchaser for such containers or as a deposit on containers when~~
10 ~~title is retained by the vendor, if such original containers~~
11 ~~have been returned to the licensee. Nothing herein contained~~
12 ~~shall prohibit a manufacturer from extending usual and customary~~
13 ~~credit for liquor or malt or brewed beverages sold to customers~~
14 ~~or purchasers who live or maintain places of business outside of~~
15 ~~the Commonwealth of Pennsylvania, when the liquor or malt or~~
16 ~~brewed beverages so sold are actually transported and delivered~~
17 ~~to points outside of the Commonwealth: Provided, however, That~~
18 ~~as to all transactions affecting malt or brewed beverages to be~~
19 ~~resold or consumed within this Commonwealth, every licensee~~
20 ~~shall pay and shall require cash deposits on all returnable~~
21 ~~original containers and all such cash deposits shall be refunded~~
22 ~~upon return of the original containers.~~

23 ~~* * *~~

24 ~~Section 3. Section 498(e)(3) of the act, amended February~~
25 ~~21, 2002 (P.L.103, No.10), is amended to read:~~

26 ~~Section 498. Unlawful Advertising. * * *~~

27 ~~(e) The following shall apply to all alcoholic beverage and~~
28 ~~malt beverage advertising:~~

29 ~~* * *~~

30 ~~(3) [No] (i) Except as provided in subclause (ii), no print~~

1 ~~advertisement of alcoholic beverages of any type shall be~~
2 ~~permitted within [three] five hundred feet of any church, school~~
3 ~~or public playground. This prohibition shall not preclude any~~
4 ~~point of sale advertisement, menus or other print advertisement~~
5 ~~regarding alcoholic beverages inside the licensed premises.~~

6 ~~(ii) For premises licensed prior to January 1, 2006, no~~
7 ~~print advertisement of alcoholic beverages of any type shall be~~
8 ~~permitted within three hundred feet of any church, school or~~
9 ~~public playground. This prohibition shall not preclude any point~~
10 ~~of sale advertisement, menus or other print advertisement~~
11 ~~regarding alcoholic beverages inside the licensed premises.~~

12 ~~* * *~~

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

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