

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1300 Session of 2010

INTRODUCED BY RAFFERTY, LOGAN, FONTANA, MUSTO, M. WHITE, EARLL
AND MENSCH, MARCH 29, 2010

REFERRED TO LAW AND JUSTICE, MARCH 29, 2010

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 definitions, for authority to issue
18 liquor licenses to hotels, restaurants and clubs, for
19 issuance, transfer or extension of hotel, restaurant and club
20 liquor licenses and for sale of malt or brewed beverages by
21 liquor licensee; providing for food store licenses; further
22 providing for malt and brewed beverages manufacturers',
23 distributors' and importing distributors' licenses, for malt
24 and brewed beverages retail licenses, for prohibitions
25 against the grant of licenses, for retail dispensers'
26 restrictions on purchases and sales, for limiting number of
27 retail licenses to be issued in each county, for licenses not
28 assignable and transfers, for unlawful acts relative to
29 liquor, malt and brewed beverages and licensees and for
30 premises to be vacated by patrons.

31 The General Assembly of the Commonwealth of Pennsylvania
32 hereby enacts as follows:

1 Section 1. The definitions of "case" and "retail dispenser"
2 in section 102 of the act of April 12, 1951 (P.L.90, No.21),
3 known as the Liquor Code, reenacted and amended June 29, 1987
4 (P.L.32, No.14) and amended July 7, 2006 (P.L.584, No.84), are
5 amended and the section is amended by adding definitions to
6 read:

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

10 * * *

11 "Case" shall mean a package prepared by the manufacturer for
12 sale or distribution [of twelve or more original containers
13 totaling two hundred sixty-four or more fluid ounces of malt or
14 brewed beverages excepting those packages] containing [twenty-
15 four] six or more original containers each holding seven fluid
16 ounces or more of malt or brewed beverages.

17 * * *

18 "Convenience store" shall mean a reputable place operated by
19 persons of good repute who may sell liquid fuels for use in
20 motor vehicles, which primarily sells food and nonfood items on
21 the premises and which has an area under one roof of one
22 thousand (1,000) square feet or more.

23 * * *

24 "Grocery store" shall mean a reputable place operated by
25 persons of good repute, which primarily sells food items on the
26 premises and which has an area under one roof of ten thousand
27 (10,000) square feet or more.

28 * * *

29 "Retail dispenser" shall mean any person licensed under
30 section 432 to engage in the retail sale of malt or brewed

1 beverages [for consumption on the premises of such licensee,
2 with the privilege of selling malt or brewed beverages in
3 quantities not in excess of one hundred ninety-two fluid ounces
4 in a single sale to one person, to be carried from the premises
5 by the purchaser thereof].

6 * * *

7 Section 2. Section 401(a) of the act, amended July 6, 2005
8 (P.L.135, No.39), is amended to read:

9 Section 401. Authority to Issue Liquor Licenses to Hotels,
10 Restaurants and Clubs.--(a) Subject to the provisions of this
11 act and regulations promulgated under this act, the board shall
12 have authority to issue a retail liquor license for any premises
13 kept or operated by a hotel, restaurant or club and specified in
14 the license entitling the hotel, restaurant or club to purchase
15 liquor from a Pennsylvania Liquor Store and to keep on the
16 premises such liquor and, subject to the provisions of this act
17 and the regulations made thereunder, to sell the same and also
18 malt or brewed beverages to guests, patrons or members for
19 consumption on the hotel, restaurant or club premises. Such
20 licensees, other than clubs, shall be permitted to sell malt or
21 brewed beverages for consumption off the premises [where sold in
22 quantities of not more than one hundred ninety-two fluid ounces
23 in a single sale to one person] as provided for in section 407.
24 Such licenses shall be known as hotel liquor licenses,
25 restaurant liquor licenses and club liquor licenses,
26 respectively. No person who holds, either by appointment or
27 election, any public office which involves the duty to enforce
28 any of the penal laws of the United States of America or the
29 penal laws of the Commonwealth of Pennsylvania or any penal
30 ordinance or resolution of any political subdivision of this

1 Commonwealth shall be issued any hotel or restaurant liquor
2 license, nor shall such a person have any interest, directly or
3 indirectly, in any such license.

4 * * *

5 Section 3. Section 404 of the act, amended January 6, 2006
6 (P.L.1, No.1), is amended to read:

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

1 is within two hundred feet of any other premises which is
2 licensed by the board: And provided further, That the board's
3 authority to refuse to grant a license because of its proximity
4 to a church, hospital, charitable institution, public playground
5 or other licensed premises shall not be applicable to license
6 applications submitted for public venues or performing arts
7 facilities: And provided further, That the board shall refuse
8 any application for a new license, the transfer of any license
9 to a new location or the extension of an existing license to
10 cover an additional area if, in the board's opinion, such new
11 license, transfer or extension would be detrimental to the
12 welfare, health, peace and morals of the inhabitants of the
13 neighborhood within a radius of five hundred feet of the place
14 proposed to be licensed: And provided further, That the board
15 shall have the discretion to refuse a license to any person or
16 to any corporation, partnership or association if such person,
17 or any officer or director of such corporation, or any member or
18 partner of such partnership or association shall have been
19 convicted or found guilty of a felony within a period of five
20 years immediately preceding the date of application for the said
21 license. [The board shall refuse any application for a new
22 license, the transfer of any license to a new location or the
23 extension of any license to cover an additional area where the
24 sale of liquid fuels or oil is conducted.] The board may enter
25 into an agreement with the applicant concerning additional
26 restrictions on the license in question. If the board and the
27 applicant enter into such an agreement, such agreement shall be
28 binding on the applicant. Failure by the applicant to adhere to
29 the agreement will be sufficient cause to form the basis for a
30 citation under section 471 and for the nonrenewal of the license

1 under section 470. If the board enters into an agreement with an
2 applicant concerning additional restrictions, those restrictions
3 shall be binding on subsequent holders of the license until the
4 license is transferred to a new location or until the board
5 enters into a subsequent agreement removing those restrictions.
6 If the application in question involves a location previously
7 licensed by the board, then any restrictions imposed by the
8 board on the previous license at that location shall be binding
9 on the applicant unless the board enters into a new agreement
10 rescinding those restrictions. The board may, in its discretion,
11 refuse an application for an economic development license under
12 section 461(b.1) or an application for an intermunicipal
13 transfer of a license if the board receives a protest from the
14 governing body of the receiving municipality. The receiving
15 municipality of an intermunicipal transfer or an economic
16 development license under section 461(b.1) may file a protest
17 against the transfer of a license into its municipality, and the
18 receiving municipality shall have standing in a hearing to
19 present testimony in support of or against the issuance or
20 transfer of a license. Upon any opening in any quota, an
21 application for a new license shall only be filed with the board
22 for a period of six months following said opening.

23 Section 4. Section 407(a) of the act, amended July 7, 2006
24 (P.L.584, No.84), is amended to read:

25 Section 407. Sale of Malt or Brewed Beverages by Liquor
26 Licensees.--(a) Every liquor license issued to a hotel,
27 restaurant, club, or a railroad, pullman or steamship company
28 under this subdivision (A) for the sale of liquor shall
29 authorize the licensee to sell malt or brewed beverages at the
30 same places but subject to the same restrictions and penalties

1 as apply to sales of liquor, except that licensees other than
2 clubs may sell malt or brewed beverages for consumption off the
3 premises where sold [in quantities of not more than one hundred
4 ninety-two fluid ounces in a single sale to one person]. Single
5 packages of one hundred twenty-eight fluid ounces or more as
6 prepared for the market by the manufacturer at the place of
7 manufacture may not be sold for consumption off the premises,
8 where sold. No licensee under this subdivision (A) shall at the
9 same time be the holder of any other class of license, except a
10 retail dispenser's license authorizing the sale of malt or
11 brewed beverages only.

12 Section 5. The act is amended by adding a section to read:

13 Section 415. Food Store Licenses.--(a) The board is
14 authorized to issue a food store license to the operator of a
15 grocery store or a convenience store, who has applied for or
16 possesses a restaurant liquor or eating place retail dispenser
17 license or who has applied for a distributor or importing
18 distributor license. A restaurant liquor or eating place retail
19 dispenser license applied for or granted for the purpose of
20 economic development or which is not subject to the quota
21 restrictions of section 461 may not be used to authorize the
22 issuance of a food store license.

23 (b) The application, renewal and filing fees for a food
24 store license shall be as prescribed for a restaurant liquor
25 license in section 614-A(19) of the act of April 9, 1929
26 (P.L.177, No.175), known as "The Administrative Code of 1929."
27 In addition, if the applicant is a grocery store with ten
28 thousand (10,000) square feet or more under one roof, then the
29 initial application and any subsequent transfer application
30 shall be subject to a surcharge of \$25,000; otherwise, if the

applicant is a convenience store or a grocery store with less than ten thousand (10,000) square feet under one roof, then the initial application and any subsequent transfer application shall be subject to a surcharge of \$10,000. In addition, a food store license shall be subject to a yearly surcharge of \$2,500. All surcharges collected under this section shall be transferred to the enforcement bureau as part of its annual appropriation, to be used to combat underage drinking.

(c) Upon being satisfied that the applicant meets all the requirements in this act and the board's regulations, the board shall issue the applicant a food store license upon the surrender by the applicant of its restaurant liquor or eating place retail dispenser license or distributor or importing distributor license.

(d) Licenses issued under this section shall be considered restaurant liquor licenses subject to the following additional restrictions and privileges:

(1) License holders may sell malt or brewed beverages for consumption off the premises between the hours of 8:00 a.m. and 11:00 p.m. on Mondays through Saturdays. License holders may sell malt or brewed beverages for consumption off the premises between the hours of noon and 5:00 p.m. on Sundays upon acquiring the Sunday sales permit available to restaurant liquor license holders.

(2) License holders are not subject to the definition of a "restaurant" unless they wish to sell alcohol for on the premises consumption. Sales of alcohol for on the premises consumption may occur at the same hours as any other restaurant liquor license holder.

(3) License holders shall not be allowed to provide

entertainment as otherwise authorized by the special permit
available under section 493(10).

(4) License holders shall not be subject to section 493(14)
as it relates to minors frequenting the licensed premises,
except section 493(14) shall apply in those areas licensed for
on the premises sale, service, storage or consumption of
alcohol.

(5) License holders shall not be subject to the prohibition
on cashing certain checks set forth in section 493(15).

(6) License holders shall not be subject to the cost and
total display area limitations of section 493(20)(i).

(7) Sales of malt or brewed beverages for off the premises
consumption may be paid for at any register designated by the
license holder and such register may also be used to pay for
other items sold by the license holder. Sales of alcohol for on
the premises consumption may only be paid for at a register or
registers located within the area designated as the area at
which on the premises consumption of alcohol may occur.

Section 6. Section 431(b) of the act, amended December 8,
2004 (P.L.1810, No.239), is amended to read:

Section 431. Malt and Brewed Beverages Manufacturers',
Distributors' and Importing Distributors' Licenses.--* * *

(b) (1) The board shall issue to any reputable person who
applies therefor, and pays the license fee hereinafter
prescribed, a distributor's or importing distributor's license
for the place which such person desires to maintain for the sale
of malt or brewed beverages, not for consumption on the premises
where sold, and in quantities of not less than a case or
original containers containing one hundred twenty-eight ounces
or more which may be sold separately as prepared for the market

1 by the manufacturer at the place of manufacture. The board shall
2 have the discretion to refuse a license to any person or to any
3 corporation, partnership or association if such person, or any
4 officer or director of such corporation, or any member or
5 partner of such partnership or association shall have been
6 convicted or found guilty of a felony within a period of five
7 years immediately preceding the date of application for the said
8 license: And provided further, That, in the case of any new
9 license or the transfer of any license to a new location, the
10 board may, in its discretion, grant or refuse such new license
11 or transfer if such place proposed to be licensed is within
12 three hundred feet of any church, hospital, charitable
13 institution, school or public playground, or if such new license
14 or transfer is applied for a place which is within two hundred
15 feet of any other premises which is licensed by the board: And
16 provided further, That the board shall refuse any application
17 for a new license or the transfer of any license to a new
18 location if, in the board's opinion, such new license or
19 transfer would be detrimental to the welfare, health, peace and
20 morals of the inhabitants of the neighborhood within a radius of
21 five hundred feet of the place proposed to be licensed. [The
22 board shall refuse any application for a new license or the
23 transfer of any license to a location where the sale of liquid
24 fuels or oil is conducted.] The board may enter into an
25 agreement with the applicant concerning additional restrictions
26 on the license in question. If the board and the applicant enter
27 into such an agreement, such agreement shall be binding on the
28 applicant. Failure by the applicant to adhere to the agreement
29 will be sufficient cause to form the basis for a citation under
30 section 471 and for the nonrenewal of the license under section

1 470. If the board enters into an agreement with an applicant
2 concerning additional restrictions, those restrictions shall be
3 binding on subsequent holders of the license until the license
4 is transferred to a new location or until the board enters into
5 a subsequent agreement removing those restrictions. If the
6 application in question involves a location previously licensed
7 by the board, then any restrictions imposed by the board on the
8 previous license at that location shall be binding on the
9 applicant unless the board enters into a new agreement
10 rescinding those restrictions. The board shall require notice to
11 be posted on the property or premises upon which the licensee or
12 proposed licensee will engage in sales of malt or brewed
13 beverages. This notice shall be similar to the notice required
14 of hotel, restaurant and club liquor licensees.

15 (2) Except as hereinafter provided, such license shall
16 authorize the holder thereof to sell or deliver malt or brewed
17 beverages in quantities above specified anywhere within the
18 Commonwealth of Pennsylvania, which, in the case of
19 distributors, have been purchased only from persons licensed
20 under this act as manufacturers or importing distributors, and
21 in the case of importing distributors, have been purchased from
22 manufacturers or persons outside this Commonwealth engaged in
23 the legal sale of malt or brewed beverages or from manufacturers
24 or importing distributors licensed under this article. In the
25 case of an importing distributor, the holder of such a license
26 shall be authorized to store and repackage malt or brewed
27 beverages owned by a manufacturer at a segregated portion of a
28 warehouse or other storage facility authorized by section 441(d)
29 and operated by the importing distributor within its appointed
30 territory and deliver such beverages to another importing

1 distributor who has been granted distribution rights by the
2 manufacturer as provided herein. The importing distributor shall
3 be permitted to receive a fee from the manufacturer for any
4 related storage, repackaging or delivery services. In the case
5 of a bailee for hire hired by a manufacturer, the holder of such
6 a permit shall be authorized: to receive, store and repackage
7 malt or brewed beverages produced by that manufacturer for sale
8 by that manufacturer to importing distributors to whom that
9 manufacturer has given distribution rights pursuant to this
10 subsection or to purchasers outside this Commonwealth for
11 delivery outside this Commonwealth; or to ship to that
12 manufacturer's storage facilities outside this Commonwealth. The
13 bailee for hire shall be permitted to receive a fee from the
14 manufacturer for any related storage, repackaging or delivery
15 services. The bailee for hire shall, as required in Article V of
16 this act, keep complete and accurate records of all
17 transactions, inventory, receipts and shipments and make all
18 records and the licensed areas available for inspection by the
19 board and for the Pennsylvania State Police, Bureau of Liquor
20 Control Enforcement, during normal business hours.

21 (3) Each out of State manufacturer of malt or brewed
22 beverages whose products are sold and delivered in this
23 Commonwealth shall give distributing rights for such products in
24 designated geographical areas to specific importing
25 distributors, and such importing distributor shall not sell or
26 deliver malt or brewed beverages manufactured by the out of
27 State manufacturer to any person issued a license under the
28 provisions of this act whose licensed premises are not located
29 within the geographical area for which he has been given
30 distributing rights by such manufacturer. Should a licensee

1 accept the delivery of such malt or brewed beverages in
2 violation of this section, said licensee shall be subject to a
3 suspension of his license for at least thirty days: Provided,
4 That the importing distributor holding such distributing rights
5 for such product shall not sell or deliver the same to another
6 importing distributor without first having entered into a
7 written agreement with the said secondary importing distributor
8 setting forth the terms and conditions under which such products
9 are to be resold within the territory granted to the primary
10 importing distributor by the manufacturer.

11 (4) When a Pennsylvania manufacturer of malt or brewed
12 beverages licensed under this article names or constitutes a
13 distributor or importing distributor as the primary or original
14 supplier of his product, he shall also designate the specific
15 geographical area for which the said distributor or importing
16 distributor is given distributing rights, and such distributor
17 or importing distributor shall not sell or deliver the products
18 of such manufacturer to any person issued a license under the
19 provisions of this act whose licensed premises are not located
20 within the geographical area for which distributing rights have
21 been given to the distributor and importing distributor by the
22 said manufacturer: Provided, That the importing distributor
23 holding such distributing rights for such product shall not sell
24 or deliver the same to another importing distributor without
25 first having entered into a written agreement with the said
26 secondary importing distributor setting forth the terms and
27 conditions under which such products are to be resold within the
28 territory granted to the primary importing distributor by the
29 manufacturer. Nothing herein contained shall be construed to
30 prevent any manufacturer from authorizing the importing

1 distributor holding the distributing rights for a designated
2 geographical area from selling the products of such manufacturer
3 to another importing distributor also holding distributing
4 rights from the same manufacturer for another geographical area,
5 providing such authority be contained in writing and a copy
6 thereof be given to each of the importing distributors so
7 affected.

8 * * *

9 Section 7. Section 432(d) of the act, amended January 6,
10 2006 (P.L.1, No.1), is amended to read:

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

1 Failure by the applicant to adhere to the agreement will be
2 sufficient cause to form the basis for a citation under section
3 471 and for the nonrenewal of the license under section 470. If
4 the board enters into an agreement with an applicant concerning
5 additional restrictions, those restrictions shall be binding on
6 subsequent holders of the license until the license is
7 transferred to a new location or until the board enters into a
8 subsequent agreement removing those restrictions. If the
9 application in question involves a location previously licensed
10 by the board, then any restrictions imposed by the board on the
11 previous license at that location shall be binding on the
12 applicant unless the board enters into a new agreement
13 rescinding those restrictions[. The board shall refuse any
14 application for a new license, the transfer of any license to a
15 location where the sale of liquid fuels or oil is conducted or
16 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 8. Section 437(f) of the act, amended December 7,
10 1990 (P.L.622, No.160), is amended to read:

11 Section 437. Prohibitions Against the Grant of Licenses.--*
12 * *

13 (f) (1) No new distributor's or importing distributor's
14 license shall hereafter be granted by the board in any county of
15 the Commonwealth where the combined number of distributor and
16 importing distributor licenses and food service licenses that
17 have been issued in exchange for distributor or importing
18 distributor licenses exceeds one license for each thirty
19 thousand inhabitants of the county in which the license is to be
20 issued: Provided, That a combined total of five such licenses
21 may be granted in any county of the Commonwealth.

22 (2) Nothing in this subsection shall be construed as denying
23 the right of the board to renew or to transfer existing
24 distributors' [or], importing distributors' or food store
25 licenses or to exchange a distributor's license for an importing
26 distributor's license or to exchange an importing distributor's
27 license for a distributor's license, or to exchange a
28 distributor's or importing distributor's license for a food
29 store license upon [adjustment] payment of the applicable fee,
30 notwithstanding that the number of such licensed places in the

1 county shall exceed the limitation hereinbefore prescribed:
2 Provided, That no distributor's license or importing
3 distributor's license shall be transferred from one county to
4 another county so long as the quota is filled in the county to
5 which the license is proposed to be transferred.

6 Section 9. Section 442(a)(1) of the act, amended November
7 29, 2006 (P.L.1421, No.155), is amended to read:

8 Section 442. Retail Dispensers' Restrictions on Purchases
9 and Sales.--(a) (1) No retail dispenser shall purchase or
10 receive any malt or brewed beverages except in original
11 containers as prepared for the market by the manufacturer at the
12 place of manufacture. The retail dispenser may thereafter break
13 the bulk upon the licensed premises and sell or dispense the
14 same for consumption on or off the premises so licensed:

15 Provided, however, That [no] a retail dispenser may sell malt or
16 brewed beverages for consumption off the premises [in quantities
17 in excess of one hundred ninety-two fluid ounces] regardless of
18 whether it sells for consumption on the licensed premises:

19 Provided, further, That single packages of one hundred twenty-
20 eight fluid ounces or more as prepared for the market by the
21 manufacturer at the place of manufacture may not be sold for
22 consumption off the premises where sold: Provided, further, That
23 no club licensee may sell any malt or brewed beverages for
24 consumption off the premises where sold or to persons not
25 members of the club.

26 * * *

27 Section 10. Section 461(a) of the act, amended February 21,
28 2002 (P.L.103, No.10), is amended to read:

29 Section 461. Limiting Number of Retail Licenses To Be Issued
30 In Each County.--(a) No additional restaurant, eating place

1 retail dispenser or club licenses shall be issued within a
2 county if the total number of restaurant and eating place retail
3 dispenser licenses and food store licenses that have been issued
4 in exchange for restaurant and eating place retail dispenser
5 licenses is greater than one license for each three thousand
6 inhabitants in the county, except the board may issue licenses
7 to public venues, performing arts facilities, continuing care
8 retirement communities, airport restaurants, municipal golf
9 courses, hotels, privately-owned private golf courses,
10 privately-owned public golf courses, racetracks, automobile
11 racetracks, nonprimary pari-mutuel wagering locations and to any
12 other entity which this act specifically exempts from the
13 limitations provided in this section, and the board may issue a
14 license to a club situated in a borough having a population less
15 than eight thousand inhabitants which is located in a county of
16 the second class A whose application is filed on or before
17 February 28, 2001. In addition, the board may issue an eating
18 place retail dispenser license for on-premises sales only to the
19 owner or operator of a facility having a minimum of a one-half
20 mile asphalt track and having a permanent seating capacity of at
21 least six thousand people used principally for holding
22 automobile races, regardless of the number of restaurant and
23 eating place retail dispenser licenses already issued in that
24 county. When determining the number of restaurant and eating
25 place retail dispenser licenses issued in a county for the
26 purposes of this section, licenses exempted from this limitation
27 and club licenses shall not be considered. Inhabitants of dry
28 municipalities shall be considered when determining the
29 population in a county. Licenses shall not be issued or
30 transferred into municipalities where such licenses are

1 prohibited pursuant to local referendum in accordance with
2 section 472. Licenses approved for intermunicipal transfer may
3 not be transferred from the receiving municipality for a period
4 of five years after the date that the licensed premises are
5 operational in the receiving municipality.

6 * * *

7 Section 11. Section 468(a)(3) of the act, amended December
8 20, 2000 (P.L.992, No.141), is amended to read:

9 Section 468. Licenses Not Assignable; Transfers.--(a) * * *

10 (3) [No license shall be transferred to any place or
11 property upon which is located as a business the sale of liquid
12 fuels and oil.] Except in cases of emergency such as death,
13 serious illness, or circumstances beyond the control of the
14 licensee, as the board may determine such circumstances to
15 justify its action, transfers of licenses may be made only at
16 times fixed by the board. In the case of the death of a
17 licensee, the board may transfer the license to the surviving
18 spouse or personal representative or to a person designated by
19 him. From any refusal to grant a transfer or upon the grant of
20 any transfer, the party aggrieved shall have the right of appeal
21 to the proper court in the manner hereinbefore provided.

22 * * *

23 Section 12. Section 493(10), (14) and (15) of the act,
24 amended December 20, 2000 (P.L.992, No.141) and May 8, 2003
25 (P.L.1, No.1), are amended and the section is amended by adding
26 a clause to read:

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

1 otherwise.

2 It shall be unlawful--

3 * * *

4 (10) Entertainment on Licensed Premises (Except Clubs);
5 Permits; Fees. For any licensee, his servants, agents or
6 employes, except club licensees, public venue licensees or
7 performing arts facility licensees, to permit in any licensed
8 premises or in any place operated in connection therewith,
9 dancing, theatricals or floor shows of any sort, or moving
10 pictures other than television, or such as are exhibited through
11 machines operated by patrons by the deposit of coins, which
12 project pictures on a screen not exceeding in size twenty-four
13 by thirty inches and which forms part of the machine, unless the
14 licensee shall first have obtained from the board a special
15 permit to provide such entertainment, or for any licensee, under
16 any circumstances, to permit in any licensed premises or in any
17 place operated in connection therewith any lewd, immoral or
18 improper entertainment, regardless of whether a permit to
19 provide entertainment has been obtained or not. The special
20 permit may be used only during the hours when the sale of liquor
21 or malt or brewed beverages is permitted, and between eleven
22 o'clock antemeridian on Sunday and two o'clock antemeridian on
23 the following Monday, regardless of whether the licensee
24 possesses a Sunday sales permit. The board shall have power to
25 provide for the issue of such special permits, and to collect an
26 annual fee for such permits as prescribed in section 614-A of
27 the act of April 9, 1929 (P.L.177, No.175), known as "The
28 Administrative Code of 1929." All such fees shall be paid into
29 the State Stores Fund. No such permit shall be issued in any
30 municipality which, by ordinance, prohibits amusements in

1 licensed places. Any violation of this clause shall, in addition
2 to the penalty herein provided, subject the licensee to
3 suspension or revocation of his permit and his license. No
4 entertainment otherwise authorized by the special permit shall
5 be permitted at a licensed grocery store or convenience store
6 and no special permit may be issued to the holder of a food
7 store license.

8 * * *

9 (14) Permitting Undesirable Persons or Minors to Frequent
10 Premises. For any hotel, restaurant or club liquor licensee, or
11 any retail dispenser, his servants, agents or employes, to
12 permit persons of ill repute or prostitutes to frequent his
13 licensed premises or any premises operated in connection
14 therewith. Minors may only frequent licensed premises if: (a)
15 they are accompanied by a parent; (b) they are accompanied by a
16 legal guardian; (c) they are under proper supervision; (d) they
17 are attending a social gathering; or (e) the hotel, restaurant
18 or retail dispenser licensee has gross sales of food and
19 nonalcoholic beverages equal to fifty per centum or more of its
20 combined gross sale of both food and alcoholic beverages. If a
21 minor is frequenting a hotel, restaurant or retail dispenser
22 licensee under subsection (e), then the minor may not sit at the
23 bar section of the premises, nor may any alcoholic beverages be
24 served at the table or booth at which the said minor is seated
25 unless said minor is with a parent, legal guardian or under
26 proper supervision. Further, if a hotel, restaurant, club liquor
27 licensee or retail dispenser is hosting a social gathering under
28 subsection (d), then written notice at least forty-eight hours
29 in advance of such gathering shall be given to the Bureau of
30 Enforcement. If a minor is frequenting licensed premises with

proper supervision under subsection (c), each supervisor can supervise up to twenty minors, except for premises located in cities of the first class, where each supervisor can supervise up to five minors. Notwithstanding any other provisions of this section, if the minors are on the premises as part of a school-endorsed function, then each supervisor can supervise fifty minors. Nothing in this clause shall be construed to make it unlawful for minors to frequent public venues or performing arts facilities or for minors to frequent those portions of a grocery store or convenience store that are not licensed for the on the premises consumption of alcohol.

(15) Cashing Pay Roll, Public Assistance, Unemployment Compensation or Any Other Relief Checks. For any licensee, except a food store licensee, or his servants, agents or employes to cash pay roll checks or to cash, receive, handle or negotiate in any way Public Assistance, Unemployment Compensation or any other relief checks.

* * *

(32) Selling malt or brewed beverages for off the premises consumption without verification of identity. For any licensee to sell malt or brewed beverages for off the the premises consumption to a person not licensed by this act, without first verifying the identity of the purchaser by requiring the person to produce one of the forms of identification set forth in section 495.

Section 13. Section 499(a.1) of the act, amended October 5, 1994 (P.L.522, No.77), is amended to read:

Section 499. Premises to be Vacated by Patrons.--* * *

(a.1) Subsection (a) shall not apply to sales of malt and brewed beverages for consumption off the premises when the

1 following conditions are met:

2 [(1) no licensee may sell malt or brewed beverages in excess
3 of one hundred ninety-two fluid ounces in any one sale for
4 consumption off the premises;]

5 (2) sales and service of malt and brewed beverages for
6 consumption off the premises are made prior to the designated
7 time the licensee is required by this act to cease serving
8 liquor, malt or brewed beverages;

9 (3) persons who have purchased malt and brewed beverages for
10 consumption off the premises shall remove the malt and brewed
11 beverages from the premises by the designated time as contained
12 in this act that patrons are required to vacate the premises;

13 (4) no club licensee may sell any malt or brewed beverage
14 for consumption off the premises where sold or to any persons
15 who are not members of the club.

16 * * *

17 Section 14. This act shall take effect in 60 days.