

AMENDMENTS TO HOUSE BILL NO. 1048

Sponsor: SENATOR CORMAN

Printer's No. 3721

1 Amend Bill, page 2, line 10, by inserting after "FOR"
2 issuance, transfer or extension of hotel, restaurant and club
3 liquor licenses, for sale of malt or brewed beverages by
4 liquor licensees, for wine expanded permits, for malt and
5 brewed beverages manufacturers', distributors' and importing
6 distributors' licenses, for malt and brewed beverages retail
7 licenses, for retail dispensers' restrictions on purchases
8 and sales and for

9 Amend Bill, page 2, lines 25 and 26, by striking out all of
10 said lines and inserting

11 Section 1. Sections 404(a) and 407(a) of the act of April
12 12, 1951 (P.L.90, No.21), known as the Liquor Code, are amended
13 to read:

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

1 new license, transfer or extension is applied for a place which
2 is within two hundred feet of any other premises which is
3 licensed by the board: And provided further, That the board's
4 authority to refuse to grant a license because of its proximity
5 to a church, hospital, charitable institution, public playground
6 or other licensed premises shall not be applicable to license
7 applications submitted for public venues or performing arts
8 facilities: And provided further, That the board shall refuse
9 any application for a new license, the transfer of any license
10 to a new location or the extension of an existing license to
11 cover an additional area if, in the board's opinion, such new
12 license, transfer or extension would be detrimental to the
13 welfare, health, peace and morals of the inhabitants of the
14 neighborhood within a radius of five hundred feet of the place
15 proposed to be licensed: And provided further, That the board
16 shall have the discretion to refuse a license to any person or
17 to any corporation, partnership or association if such person,
18 or any officer or director of such corporation, or any member or
19 partner of such partnership or association shall have been
20 convicted or found guilty of a felony within a period of five
21 years immediately preceding the date of application for the said
22 license. [The board shall not license the area where liquid
23 fuels or oil is sold. No sales of liquid fuels or oil may be
24 made from a licensee's licensed premises. A licensed premises
25 may not have an interior connection with a location that sells
26 liquid fuels or oil unless it first receives permission from the
27 board for the interior connection. The approval shall be
28 required regardless of whether the licensee or another party is
29 the entity selling the liquid fuels or oil.] The board may enter
30 into an agreement with the applicant concerning additional
31 restrictions on the license in question. If the board and the
32 applicant enter into such an agreement, such agreement shall be
33 binding on the applicant. Failure by the applicant to adhere to
34 the agreement will be sufficient cause to form the basis for a
35 citation under section 471 and for the nonrenewal of the license
36 under section 470. If the board enters into an agreement with an
37 applicant concerning additional restrictions, those restrictions
38 shall be binding on subsequent holders of the license until the
39 license is transferred to a new location or until the board
40 enters into a subsequent agreement removing those restrictions.
41 If the application in question involves a location previously
42 licensed by the board, then any restrictions imposed by the
43 board on the previous license at that location shall be binding
44 on the applicant unless the board enters into a new agreement
45 rescinding those restrictions. The board may, in its discretion,
46 refuse an application for an economic development license under
47 section 461(b.1) or an application for an intermunicipal
48 transfer of a license if the board receives a protest from the
49 governing body of the receiving municipality. The receiving
50 municipality of an intermunicipal transfer or an economic
51 development license under section 461(b.1) may file a protest

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

7 * * *

8 Section 407. Sale of Malt or Brewed Beverages by Liquor
9 Licensees.--(a) (1) Every liquor license issued to a hotel,
10 restaurant, club, or a railroad, pullman or steamship company
11 under this subdivision (A) for the sale of liquor shall
12 authorize the licensee to sell malt or brewed beverages at the
13 same places but subject to the same restrictions and penalties
14 as apply to sales of liquor, except that licensees other than
15 clubs may sell malt or brewed beverages for consumption off the
16 premises where sold in quantities of not more than one hundred
17 ninety-two fluid ounces in a single sale to one person. The
18 sales may be made in either open or closed containers, Provided,
19 however, That a municipality may adopt an ordinance restricting
20 open containers in public places. No licensee under this
21 subdivision (A) shall at the same time be the holder of any
22 other class of license, except a retail dispenser's license
23 authorizing the sale of malt or brewed beverages only. Sales of
24 malt or brewed beverages must occur on the licensed premises.

25 (2) If a restaurant liquor license holder has an interior
26 connection to another business that it operates, the restaurant
27 liquor license holder may use one or more of the registers in
28 the other business to sell malt or brewed beverages for off-
29 premises consumption under the following conditions:

30 (i) the building is eleven thousand (11,000) square feet or
31 less;

32 (ii) the registers are located in the same building as the
33 licensed premises;

34 (iii) the registers comply with the signage, staffing,
35 training, carding, scanning and prohibition on the sharing of
36 data provisions of section 415(a) (8) and (9); and

37 (iv) the board has been provided notice of compliance with
38 this paragraph by the restaurant liquor license holder,
39 including square footage of the building and the location of the
40 specific registers to be used prior to their use.

41 (3) The registers used under paragraph (2) shall be deemed
42 to be licensed areas but no formal application beyond notice to
43 the board shall be required. The registers may be used by the
44 other business.

45 * * *

46 Section 2. Section 415(a) (9) of the act is amended and the
47 subsection is amended by adding paragraphs to read:

48 Section 415. Wine Expanded Permits.--(a) * * *

49 (9) A sale of wine by a wine expanded permit holder shall be
50 made through a register, which malt or brewed beverages and
51 restaurant foods sales are made on the licensed premises, which

1 is well designated with signage, which is staffed at all times
2 when patrons are on the licensed premises[, which is staffed].
3 The actual sale shall be conducted by a sales clerk who is at
4 least eighteen years of age and has been trained under section
5 471.1 and which utilizes a transaction scan device for the sale
6 as set forth in paragraph (8). The sale of wine may not occur at
7 a point of sale where the customer scans the customer's own
8 purchases. Sales of wine must occur on the licensed premises.

9 (10) If a wine expanded permit holder has an interior
10 connection to another business that it operates, the wine
11 expanded permit holder may use one or more of the registers in
12 the other business to sell wine for off-premises consumption
13 under the following conditions:

14 (i) the building is eleven thousand (11,000) square feet or
15 less;

16 (ii) the registers are located in the same building as the
17 licensed premises;

18 (iii) the registers comply with the signage, staffing,
19 training, carding, scanning and prohibition on the sharing of
20 data provisions of paragraphs (8) and (9); and

21 (iv) the board has been provided notice of compliance with
22 this paragraph by the wine expanded permit holder, including
23 square footage of the building and the location of the specific
24 registers to be used prior to their use.

25 (11) The registers used under paragraph (10) shall be deemed
26 to be licensed areas but no formal application beyond notice to
27 the board shall be required. The registers may be used by the
28 other business.

29 * * *

30 Section 3. Sections 431(b), 432(d), 442(a) and 470(a) of the
31 act are amended to read:

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

34 (b) The board shall issue to any reputable person who
35 applies therefor, and pays the license fee hereinafter
36 prescribed, a distributor's or importing distributor's license
37 for the place which such person desires to maintain for the sale
38 of malt or brewed beverages, not for consumption on the premises
39 where sold, and in quantities of not less than a case or
40 original containers containing one hundred twenty-eight ounces
41 or more which may be sold separately as prepared for the market
42 by the manufacturer at the place of manufacture. In addition, a
43 distributor license holder may sell malt or brewed beverages in
44 any amount to a person not licensed by the board for off-
45 premises consumption. The sales shall not be required to be in
46 the package configuration designated by the manufacturer and may
47 be sold in refillable growlers. The board shall have the
48 discretion to refuse a license to any person or to any
49 corporation, partnership or association if such person, or any
50 officer or director of such corporation, or any member or
51 partner of such partnership or association shall have been

1 convicted or found guilty of a felony within a period of five
2 years immediately preceding the date of application for the said
3 license: And provided further, That, in the case of any new
4 license or the transfer of any license to a new location, the
5 board may, in its discretion, grant or refuse such new license
6 or transfer if such place proposed to be licensed is within
7 three hundred feet of any church, hospital, charitable
8 institution, school or public playground, or if such new license
9 or transfer is applied for a place which is within two hundred
10 feet of any other premises which is licensed by the board: And
11 provided further, That the board shall refuse any application
12 for a new license or the transfer of any license to a new
13 location if, in the board's opinion, such new license or
14 transfer would be detrimental to the welfare, health, peace and
15 morals of the inhabitants of the neighborhood within a radius of
16 five hundred feet of the place proposed to be licensed. [The
17 board shall not license the area where liquid fuels or oil is
18 sold. No sales of liquid fuels or oil may be made from a
19 licensee's licensed premises. A licensed premises may not have
20 an interior connection with a location that sells liquid fuels
21 or oil unless it first receives permission from the board for
22 the interior connection. The approval shall be required
23 regardless of whether the licensee or another party is the
24 entity selling the liquid fuels or oil.] 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
31 under section 470. If the board enters into an agreement with an
32 applicant concerning additional restrictions, those restrictions
33 shall be binding on subsequent holders of the license until the
34 license is transferred to a new location or until the board
35 enters into a subsequent agreement removing those restrictions.
36 If the application in question involves a location previously
37 licensed by the board, then any restrictions imposed by the
38 board on the previous license at that location shall be binding
39 on the applicant unless the board enters into a new agreement
40 rescinding those restrictions. The board shall require notice to
41 be posted on the property or premises upon which the licensee or
42 proposed licensee will engage in sales of malt or brewed
43 beverages. This notice shall be similar to the notice required
44 of hotel, restaurant and club liquor licensees.

45 Except as hereinafter provided, such license shall authorize
46 the holder thereof to sell or deliver malt or brewed beverages
47 in quantities above specified anywhere within the Commonwealth
48 of Pennsylvania, which, in the case of distributors, have been
49 purchased only from persons licensed under this act as
50 manufacturers or importing distributors, and in the case of
51 importing distributors, have been purchased from manufacturers

1 or persons outside this Commonwealth engaged in the legal sale
2 of malt or brewed beverages or from manufacturers or importing
3 distributors licensed under this article. In the case of an
4 importing distributor, the holder of such a license shall be
5 authorized to store and repackage malt or brewed beverages owned
6 by a manufacturer at a segregated portion of a warehouse or
7 other storage facility authorized by section 441(d) and operated
8 by the importing distributor within its appointed territory and
9 deliver such beverages to another importing distributor who has
10 been granted distribution rights by the manufacturer as provided
11 herein. The importing distributor shall be permitted to receive
12 a fee from the manufacturer for any related storage, repackaging
13 or delivery services. In the case of a bailee for hire hired by
14 a manufacturer, the holder of such a permit shall be authorized:
15 to receive, store and repackage malt or brewed beverages
16 produced by that manufacturer for sale by that manufacturer to
17 importing distributors to whom that manufacturer has given
18 distribution rights pursuant to this subsection or to purchasers
19 outside this Commonwealth for delivery outside this
20 Commonwealth; or to ship to that manufacturer's storage
21 facilities outside this Commonwealth. The bailee for hire shall
22 be permitted to receive a fee from the manufacturer for any
23 related storage, repackaging or delivery services. The bailee
24 for hire shall, as required in Article V of this act, keep
25 complete and accurate records of all transactions, inventory,
26 receipts and shipments and make all records and the licensed
27 areas available for inspection by the board and for the
28 Pennsylvania State Police, Bureau of Liquor Control Enforcement,
29 during normal business hours.

30 Each out of State manufacturer of malt or brewed beverages
31 whose products are sold and delivered in this Commonwealth shall
32 give distributing rights for such products in designated
33 geographical areas to specific importing distributors, and such
34 importing distributor shall not sell or deliver malt or brewed
35 beverages manufactured by the out of State manufacturer to any
36 person issued a license under the provisions of this act whose
37 licensed premises are not located within the geographical area
38 for which he has been given distributing rights by such
39 manufacturer. In addition, the holder of a distributor license
40 may not sell or deliver malt or brewed beverages to any licensee
41 whose licensed premises is located within the designated
42 geographical area granted to an importing distributor other than
43 the importing distributor that sold the malt or brewed beverages
44 to the distributor. If the licensee purchasing the malt or
45 brewed beverages from the distributor license holder holds
46 multiple licenses or operates at more than one location, then
47 the malt or brewed beverages may not be consumed or sold at
48 licensed premises located within the designated geographical
49 area granted to an importing distributor other than the
50 importing distributor that sold the malt or brewed beverages to
51 the distributor. Should a licensee accept the delivery of malt

1 or brewed beverages or transfer 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 When a Pennsylvania manufacturer of malt or brewed beverages
12 licensed under this article names or constitutes a distributor
13 or importing distributor as the primary or original supplier of
14 his product, he shall also designate the specific geographical
15 area for which the said distributor or importing distributor is
16 given distributing rights, and such distributor or importing
17 distributor shall not sell or deliver the products of such
18 manufacturer to any person issued a license under the provisions
19 of this act whose licensed premises are not located within the
20 geographical area for which distributing rights have been given
21 to the distributor and importing distributor by the said
22 manufacturer. In addition, the holder of a distributor license
23 may not sell or deliver malt or brewed beverages to a licensee
24 whose licensed premises is located within the designated
25 geographical area granted to an importing distributor other than
26 the importing distributor that sold the malt or brewed beverages
27 to the distributor. If the licensee purchasing the malt or
28 brewed beverages from the distributor license holder holds
29 multiple licenses or operates at more than one location, the
30 malt or brewed beverages may not be consumed or sold at licensed
31 premises located within the designated geographical area granted
32 to an importing distributor other than the importing distributor
33 that sold the malt or brewed beverages to the distributor. If a
34 licensee accepts the delivery of malt or brewed beverages or
35 transfers malt or brewed beverages in violation of this section,
36 the licensee shall be subject to suspension of his license for
37 at least thirty days: Provided, That the importing distributor
38 holding such distributing rights for such product shall not sell
39 or deliver the same to another importing distributor without
40 first having entered into a written agreement with the said
41 secondary importing distributor setting forth the terms and
42 conditions under which such products are to be resold within the
43 territory granted to the primary importing distributor by the
44 manufacturer. Nothing herein contained shall be construed to
45 prevent any manufacturer from authorizing the importing
46 distributor holding the distributing rights for a designated
47 geographical area from selling the products of such manufacturer
48 to another importing distributor also holding distributing
49 rights from the same manufacturer for another geographical area,
50 providing such authority be contained in writing and a copy
51 thereof be given to each of the importing distributors so

1 affected.

2 * * *

3 Section 432. Malt and Brewed Beverages Retail Licenses.--* *

4 *

5 (d) The board shall, in its discretion, grant or refuse any
6 new license, the transfer of any license to a new location or
7 the extension of an existing license to cover an additional area
8 if such place proposed to be licensed is within three hundred
9 feet of any church, hospital, charitable institution, school, or
10 public playground, or if such new license, transfer or extension
11 is applied for a place which is within two hundred feet of any
12 other premises which is licensed by the board. The board shall
13 refuse any application for a new license, the transfer of any
14 license to a new location or the extension of an existing
15 license to cover an additional area if, in the board's opinion,
16 such new license, transfer or extension would be detrimental to
17 the welfare, health, peace and morals of the inhabitants of the
18 neighborhood within a radius of five hundred feet of the place
19 to be licensed. The board may enter into an agreement with the
20 applicant concerning additional restrictions on the license in
21 question. If the board and the applicant enter into such an
22 agreement, such agreement shall be binding on the applicant.
23 Failure by the applicant to adhere to the agreement will be
24 sufficient cause to form the basis for a citation under section
25 471 and for the nonrenewal of the license under section 470. If
26 the board enters into an agreement with an applicant concerning
27 additional restrictions, those restrictions shall be binding on
28 subsequent holders of the license until the license is
29 transferred to a new location or until the board enters into a
30 subsequent agreement removing those restrictions. If the
31 application in question involves a location previously licensed
32 by the board, then any restrictions imposed by the board on the
33 previous license at that location shall be binding on the
34 applicant unless the board enters into a new agreement
35 rescinding those restrictions. [The board shall not license the
36 area where liquid fuels or oil is sold. No sales of liquid fuels
37 or oil may be made from a licensee's licensed premises. A
38 licensed premises may not have an interior connection with a
39 location that sells liquid fuels or oil unless it first receives
40 permission from the board for the interior connection. The
41 approval shall be required regardless of whether the licensee or
42 another party is the entity selling the liquid fuels or oil: And
43 provided further, That the] The board shall have the discretion
44 to refuse a license to any person or to any corporation,
45 partnership or association if such person, or any officer or
46 director of such corporation, or any member or partner of such
47 partnership or association shall have been convicted or found
48 guilty of a felony within a period of five years immediately
49 preceding the date of application for the said license. The
50 board may, in its discretion, refuse an application for an
51 economic development license under section 461(b.1) or an

1 application for an intermunicipal transfer or a license if the
2 board receives a protest from the governing body of the
3 receiving municipality. The receiving municipality of an
4 intermunicipal transfer or an economic development license under
5 section 461(b.1) may file a protest against the approval for
6 issuance of a license for economic development or an
7 intermunicipal transfer of a license into its municipality, and
8 such municipality shall have standing in a hearing to present
9 testimony in support of or against the issuance or transfer of a
10 license. Upon any opening in any quota, an application for a new
11 license shall only be filed with the board for a period of six
12 months following said opening.

13 * * *

14 Section 442. Retail Dispensers' Restrictions on Purchases
15 and Sales.--(a) (1) (i) No retail dispenser shall purchase or
16 receive any malt or brewed beverages except in original
17 containers as prepared for the market by the manufacturer at the
18 place of manufacture. The retail dispenser may thereafter break
19 the bulk upon the licensed premises and sell or dispense the
20 same for consumption on or off the premises so licensed. No
21 retail dispenser may sell malt or brewed beverages for
22 consumption off the premises in quantities in excess of one
23 hundred ninety-two fluid ounces. Sales may be made in open or
24 closed containers, Provided, however, That a municipality may
25 adopt an ordinance restricting open containers in public places.
26 No club licensee may sell any malt or brewed beverages for
27 consumption off the premises where sold or to persons not
28 members of the club. Sales of malt or brewed beverages must
29 occur on the licensed premises.

30 (ii) If a retail dispenser license holder has an interior
31 connection to another business that it operates, the retail
32 dispenser license holder may use one or more of the registers in
33 the other business to sell malt or brewed beverages for off-
34 premises consumption under the following conditions:

35 (A) the building is eleven thousand (11,000) square feet or
36 less;

37 (B) the registers are located in the same building as the
38 licensed premises;

39 (C) the registers comply with the signage, staffing,
40 training, carding, scanning and prohibition on the sharing of
41 data provisions of section 415(a)(8) and (9); and

42 (D) the board has been provided notice of compliance with
43 this subparagraph by the retail dispenser license holder,
44 including square footage of the building and the location of the
45 specific registers to be used prior to their use.

46 (iii) The registers used under subparagraph (ii) shall be
47 deemed to be licensed areas but no formal application beyond
48 notice to the board shall be required. The registers may be used
49 by the other business.

50 * * *

1 Amend Bill, page 4, line 28, by striking out "2" and
2 inserting
3 4