
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2105

Session of
2003

INTRODUCED BY MARSICO, CIVERA, DENLINGER, FABRIZIO, HARHAI,
HENNESSEY, O'NEILL, SAINATO, TIGUE, WILT AND YOUNGBLOOD,
OCTOBER 16, 2003

AMENDMENTS TO SENATE AMENDMENTS, HOUSE OF REPRESENTATIVES,
NOVEMBER 20, 2004

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 adding definitions; further defining "public venue"; further
18 providing for general powers of the Pennsylvania Liquor
19 Control Board, for when sales may be made by Pennsylvania
20 Liquor Stores, for continuing care retirement community
21 retail licenses, FOR REPACKAGING BY MANUFACTURERS, for <—
22 renewal of licenses, for privately owned golf courses located
23 in more than one county; providing for a point system for
24 certain licensees, ~~for unlawful acts relative to malt or~~ <—
25 ~~brewed beverages and licensees~~, for unlawful acts relative to
26 liquor, malt and brewed beverages and licensees and for
27 limited wineries; and providing for distilleries.

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

1 Section 1. The definition of "public venue" in section 102
2 of the act of April 12, 1951 (P.L.90, No.21), known as the
3 Liquor Code, reenacted and amended June 29, 1987 (P.L.32, No.14)
4 and amended July 17, 2003 (P.L.63, No.15), is amended and the
5 section is amended by adding definitions to read:

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

9 * * *

10 "Equine center" shall mean a facility of at least two hundred
11 fifty acres in size which hosts equestrian shows and which has a
12 primary building with permanent seating for at least six
13 thousand (6,000) people.

14 * * *

15 "Holiday" shall mean the first day of January, commonly known
16 as New Year's Day; the third Monday of January, known as Dr.
17 Martin Luther King, Jr., Day; the third Monday in February,
18 known as Presidents Day; the last Monday in May, known as
19 Memorial Day; the fourth day of July, known as Independence Day;
20 the first Monday of September, known as Labor Day; the fourth
21 Thursday in November, known as Thanksgiving Day; and the twenty-
22 fifth day of December, known as Christmas Day.

23 * * *

24 "Public venue" shall mean a stadium, arena, convention
25 center, museum, amphitheater or similar structure. If the public
26 venue is a cruise terminal owned or leased by a port authority
27 created under the act of June 12, 1931 (P.L.575, No.200),
28 entitled "An act providing for joint action by Pennsylvania and
29 New Jersey in the development of the ports on the lower Delaware
30 River, and the improvement of the facilities for transportation

1 across the river; authorizing the Governor, for these purposes,
2 to enter into an agreement with New Jersey; creating The
3 Delaware River Joint Commission and specifying the powers and
4 duties thereof, including the power to finance projects by the
5 issuance of revenue bonds; transferring to the new commission
6 all the powers of the Delaware River Bridge Joint Commission;
7 and making an appropriation," it shall have no permanent seating
8 requirement. If the public venue is an open-air amphitheater
9 owned by a port authority created under the act of December 6,
10 1972 (P.L.1392, No.298), known as the "Third Class City Port
11 Authority Act," it shall have no permanent seating requirement.
12 If the public venue is owned by a political subdivision, a
13 municipal authority, the Commonwealth, an authority created
14 under the act of July 29, 1953 (P.L.1034, No.270), known as the
15 "Public Auditorium Authorities Law," an authority created under
16 Article XXV-A of the act of July 28, 1953 (P.L.723, No.230),
17 known as the "Second Class County Code," an art museum
18 established under the authority of the act of April 6, 1791 (3
19 Sm.L.20, No.1536), entitled "An act to confer on certain
20 associations of the citizens of this commonwealth the powers and
21 immunities of corporations, or bodies politic in law," or an
22 authority created under Article XXIII (n) or (o) of the act of
23 August 9, 1955 (P.L.323, No.130), known as "The County Code," it
24 shall have permanent seating for at least one thousand (1,000)
25 people; otherwise, it shall have permanent seating for at least
26 three thousand (3,000) people. The term shall also mean any
27 regional history center, multipurpose cultural and science
28 facility [or], museum or convention or trade show center,
29 regardless of owner and seating capacity, that has a floor area
30 of at least sixty thousand (60,000) square feet in one building.

1 The term shall also mean a convention or conference center owned
2 by a city of the third class, regardless of seating capacity,
3 that has a floor area of at least fifteen thousand (15,000)
4 square feet in one building.

5 * * *

6 "Wine" shall mean liquor which is fermented from grapes and
7 other fruits, having alcoholic content of twenty-four per centum
8 or less. The term "wine" shall not include any products
9 containing alcohol derived from malt, grain, cereal, molasses or
10 cactus.

11 * * *

12 Section 2. Section 207(a) of the act, amended December 30,
13 2003 (P.L.423, No.59), is amended to read:

14 Section 207. General Powers of Board.--Under this act, the
15 board shall have the power and its duty shall be:

16 (a) To buy, import or have in its possession for sale and
17 sell liquor, alcohol, corkscrews, wine and liquor accessories,
18 trade publications, wine or liquor-scented candles and wine
19 glasses in the manner set forth in this act: Provided, however,
20 That all purchases shall be made subject to the approval of the
21 State Treasurer, or his designated deputy. The board shall buy
22 liquor and alcohol at the lowest price and in the greatest
23 variety reasonably obtainable.

24 * * *

25 Section 3. Section 304 of the act, amended December 9, 2002
26 (P.L.1653, No.212), is amended to read:

27 Section 304. When Sales May Be Made at Pennsylvania Liquor
28 Stores.--(a) Except as provided for in subsection (b), every
29 Pennsylvania Liquor Store shall be open for business week days,
30 except [legal holidays or any day on which a general, municipal,

1 special or primary election is being held, during such hours as
2 the board, in its discretion, shall determine: Provided, That
3 the Pennsylvania Liquor Stores in the case of a special election
4 for members of the General Assembly or members of the Congress
5 of the United States, when such special election is held on
6 other than a primary, municipal or general election day, shall
7 be open in those Legislative or Congressional Districts as
8 though the day were not a special election day.] holidays as
9 that term is defined in section 102. The board may, with the
10 approval of the Governor, temporarily close any store in any
11 municipality.

12 (b) Certain Pennsylvania Liquor Stores operated by the board
13 shall be open for Sunday retail sales between the hours of noon
14 and five o'clock postmeridian, except that no Sunday sales shall
15 occur on Easter Sunday or Christmas day. [For a two-year time
16 period following the effective date of this subsection, the] The
17 board shall open up to [ten] twenty-five per centum of the total
18 number of Pennsylvania Liquor Stores at its discretion for
19 Sunday sales as provided for in this subsection. [At the
20 expiration of the two-year time period, the board shall conduct
21 a review and determine whether the stores shall be closed or
22 whether additional stores shall be opened for these Sunday
23 sales.] The board shall submit yearly reports to the
24 Appropriations and the Law and Justice Committees of the Senate
25 and the Appropriations and the Liquor Control Committees of the
26 House of Representatives summarizing the total dollar value of
27 sales under this section.

28 Section 4. Section 305(f) and (h) of the act, amended July
29 17, 2003(P.L.63, No.15) and December 30, 2003 (P.L.423, No.59),
30 are amended and the section is amended by adding a subsection to

1 read:

2 Section 305. Sales by Pennsylvania Liquor Stores.--* * *

3 (f) Every purchaser of liquor, alcohol, corkscrews, wine or
4 liquor accessories, trade publications, gift cards, gift
5 certificates, wine or liquor-scented candles or wine glasses
6 from a Pennsylvania Liquor Store shall receive a numbered
7 receipt which shall show the price paid therefor and such other
8 information as the board may prescribe. Copies of all receipts
9 issued by a Pennsylvania Liquor Store shall be retained by and
10 shall form part of the records of such store.

11 * * *

12 (h) Every Pennsylvania Liquor Store shall sell gift
13 certificates which may be redeemed for [liquor] any product sold
14 by the board. In addition, the board may sell corkscrews, wine
15 and liquor accessories, wine or liquor-scented candles, trade
16 publications and wine sleeves at Pennsylvania Liquor Stores.

17 (i) Notwithstanding any other provision of law to the
18 contrary, the board may sell wine in containers having a
19 capacity of six liters or less.

20 ~~Section 5. Sections 414(b) and 461(b.3) of the act, amended~~ <—
21 ~~or added February 21, 2002 (P.L.103, No.10), are amended to~~
22 ~~read:~~

23 SECTION 5. SECTION 414(B) OF THE ACT, ADDED FEBRUARY 21, <—
24 2002 (P.L.103, NO.10), IS AMENDED TO READ:

25 Section 414. Continuing Care Retirement Community Retail
26 Licenses.--* * *

27 (b) Licenses issued under this section are restaurant liquor
28 licenses for all purposes except as provided herein. However,
29 the following additional restrictions and privileges apply:

30 (1) Licenses issued under this section are not subject to

1 the quota restrictions of section 461.

2 (2) Sales of liquor and malt or brewed beverages may not
3 occur from two o'clock antemeridian to seven o'clock
4 antemeridian. In addition, sales may not occur prior to one
5 o'clock postmeridian or after ten o'clock postmeridian on
6 Sunday.

7 (3) Liquor and malt or brewed beverages sold or furnished by
8 the licensee may be possessed anywhere within the continuing
9 care retirement community regardless of whether that portion of
10 the premises is licensed. However, no liquor or malt or brewed
11 beverages sold or furnished by the licensee may be taken beyond
12 the confines of the continuing care retirement community.

13 (4) Sales of liquor or malt or brewed beverages may occur in
14 those portions of the premises licensed by the board as well as
15 in rooms that are lived in or used by residents of the
16 continuing care retirement community. Sales of liquor and malt
17 or brewed beverages are limited to residents of the continuing
18 care retirement community and the guests of residents in
19 conjunction with the normal, regularly scheduled dining,
20 entertainment or social activities of the continuing care
21 retirement community.

22 (5) Licenses issued under this section are not subject to
23 the provisions defining "restaurant" in section 102.

24 (6) Licenses issued under this section are subject to
25 section 493(13) relating to employment of minors, with the
26 exception that the minimum age threshold for employment on
27 licensed premises shall be reduced from sixteen (16) to fourteen
28 (14) years of age. The prohibition against minors under the age
29 of eighteen (18) dispensing or serving alcoholic beverages shall
30 remain in effect.

1 * * *

2 SECTION 5.1. SECTION 431(A.1), (A.2) AND (B) OF THE ACT, <—
3 AMENDED OR ADDED JUNE 18, 1998 (P.L.664, NO.86), DECEMBER 21,
4 1998 (P.L.1202, NO.155) AND DECEMBER 9, 2002 (P.L.1653, NO.212),
5 ARE AMENDED AND THE SECTION IS AMENDED BY ADDING A SUBSECTION TO
6 READ:

7 SECTION 431. MALT AND BREWED BEVERAGES MANUFACTURERS',
8 DISTRIBUTORS' AND IMPORTING DISTRIBUTORS' LICENSES.--* * *

9 (A.1) ANY OUT OF STATE MANUFACTURER WHOSE PRODUCTS ARE SOLD
10 AND DELIVERED WITHIN THIS COMMONWEALTH [AND WHOSE PRODUCTION
11 EXCEEDS 15,000 BARRELS PER YEAR] SHALL BE AUTHORIZED: TO RENT,
12 LEASE OR OTHERWISE ACQUIRE SPACE FROM AN IMPORTING DISTRIBUTOR
13 OR BAILEE FOR HIRE AUTHORIZED BY THIS ACT AT NO MORE THAN TWO
14 LOCATIONS PER MANUFACTURER FOR USE OF A SEGREGATED PORTION OF A
15 WAREHOUSE OR OTHER STORAGE FACILITY OWNED OR OPERATED BY THE
16 IMPORTING DISTRIBUTOR OR BAILEE FOR HIRE AT WHICH THE OUT OF
17 STATE MANUFACTURER MAY STORE, REPACKAGE AND SELL MALT OR BREWED
18 BEVERAGES TO ANY IMPORTING DISTRIBUTOR TO WHOM THE OUT OF STATE
19 MANUFACTURER HAS GRANTED DISTRIBUTION RIGHTS PURSUANT TO
20 SUBSECTION (B) OR TO ANY PURCHASER OUTSIDE THIS COMMONWEALTH FOR
21 DELIVERY OUTSIDE THIS COMMONWEALTH; OR TO SHIP TO ITS STORAGE
22 FACILITY OUTSIDE THIS COMMONWEALTH. SUCH MANUFACTURER MAY
23 COMPENSATE THE IMPORTING DISTRIBUTOR OR BAILEE FOR HIRE FOR ANY
24 RELATED STORAGE, REPACKAGING OR DELIVERY SERVICES. THE OUT OF
25 STATE MANUFACTURER MUST FILE WITH THE LIQUOR CONTROL BOARD THE
26 RATE OF COMPENSATION TO BE PAID. A SEPARATE WRITTEN APPLICATION
27 MUST BE FILED TO ACQUIRE STORAGE LICENSES, AND THE BOARD MAY
28 ESTABLISH THE INFORMATION THAT MUST BE PROVIDED ON THE
29 APPLICATION. THE INITIAL FILING MUST BE MADE PRIOR TO ANY
30 PAYMENTS BEING MADE, AND ANY SUBSEQUENT CHANGES IN THE RATE OF

1 COMPENSATION MUST BE FILED WITHIN THIRTY DAYS OF ANY SUCH
2 CHANGE. NOTHING IN THIS ACT AUTHORIZING STORAGE FACILITIES FOR
3 OUT OF STATE MANUFACTURERS IS INTENDED TO MAKE ANY CHANGE IN THE
4 MANNER MALT OR BREWED BEVERAGES ARE DISTRIBUTED THROUGH THE
5 THREE-TIER SYSTEM.

6 (A.2) THE BOARD SHALL ISSUE TO A HOLDER OF A MANUFACTURER'S
7 LICENSE [WHOSE PRODUCTION EXCEEDS 15,000 BARRELS PER YEAR] NO
8 MORE THAN TWO STORAGE LICENSES PER MANUFACTURER TO COVER STORAGE
9 FACILITIES SEPARATE FROM THE LOCATION OF THE MANUFACTURING
10 FACILITY. A MANUFACTURER MAY USE ITS STORAGE FACILITIES TO
11 RECEIVE, STORE, REPACKAGE, SELL AND DISTRIBUTE MALT OR BREWED
12 BEVERAGES IN THE SAME MANNER AS IT CAN AT ITS PLACE OF
13 MANUFACTURE OR IT MAY RENT, LEASE OR OTHERWISE ACQUIRE SPACE
14 FROM AN IMPORTING DISTRIBUTOR OR BAILEE FOR HIRE AUTHORIZED BY
15 THIS ACT IN THE SAME MANNER AS AN OUT OF STATE MANUFACTURER AS
16 SET FORTH IN SUBSECTION (A.1). A SEPARATE WRITTEN APPLICATION
17 MUST BE FILED TO ACQUIRE STORAGE LICENSES, AND THE BOARD IS
18 EMPOWERED TO ESTABLISH WHAT INFORMATION MUST BE PROVIDED ON THAT
19 APPLICATION. NOTHING IN THIS ACT AUTHORIZING OFF-SITE STORAGE
20 FACILITIES FOR MANUFACTURERS IS INTENDED TO MAKE ANY CHANGE IN
21 THE MANNER MALT OR BREWED BEVERAGES ARE DISTRIBUTED THROUGH THE
22 THREE-TIER SYSTEM.

23 (B) THE BOARD SHALL ISSUE TO ANY REPUTABLE PERSON WHO
24 APPLIES THEREFOR, AND PAYS THE LICENSE FEE HEREINAFTER
25 PRESCRIBED, A DISTRIBUTOR'S OR IMPORTING DISTRIBUTOR'S LICENSE
26 FOR THE PLACE WHICH SUCH PERSON DESIRES TO MAINTAIN FOR THE SALE
27 OF MALT OR BREWED BEVERAGES, NOT FOR CONSUMPTION ON THE PREMISES
28 WHERE SOLD, AND IN QUANTITIES OF NOT LESS THAN A CASE OR
29 ORIGINAL CONTAINERS CONTAINING ONE HUNDRED TWENTY-EIGHT OUNCES
30 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 AGREEMENT
25 WITH THE APPLICANT CONCERNING ADDITIONAL RESTRICTIONS ON THE
26 LICENSE IN QUESTION. IF THE BOARD AND THE APPLICANT ENTER INTO
27 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 EXCEPT AS HEREINAFTER PROVIDED, SUCH LICENSE SHALL AUTHORIZE
16 THE HOLDER THEREOF TO SELL OR DELIVER MALT OR BREWED BEVERAGES
17 IN QUANTITIES ABOVE SPECIFIED ANYWHERE WITHIN THE COMMONWEALTH
18 OF PENNSYLVANIA, WHICH, IN THE CASE OF DISTRIBUTORS, HAVE BEEN
19 PURCHASED ONLY FROM PERSONS LICENSED UNDER THIS ACT AS
20 MANUFACTURERS OR IMPORTING DISTRIBUTORS, AND IN THE CASE OF
21 IMPORTING DISTRIBUTORS, HAVE BEEN PURCHASED FROM MANUFACTURERS
22 OR PERSONS OUTSIDE THIS COMMONWEALTH ENGAGED IN THE LEGAL SALE
23 OF MALT OR BREWED BEVERAGES OR FROM MANUFACTURERS OR IMPORTING
24 DISTRIBUTORS LICENSED UNDER THIS ARTICLE. IN THE CASE OF AN
25 IMPORTING DISTRIBUTOR, THE HOLDER OF SUCH A LICENSE SHALL BE
26 AUTHORIZED TO STORE AND REPACKAGE MALT OR BREWED BEVERAGES OWNED
27 BY [AN OUT OF STATE] 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 [OUT
2 OF STATE] MANUFACTURER AS PROVIDED HEREIN. THE IMPORTING
3 DISTRIBUTOR SHALL BE PERMITTED TO RECEIVE A FEE FROM THE [OUT OF
4 STATE] MANUFACTURER FOR ANY RELATED STORAGE, REPACKAGING OR
5 DELIVERY SERVICES. IN THE CASE OF A BAILEE FOR HIRE HIRED BY [AN
6 OUT OF STATE] A MANUFACTURER, THE HOLDER OF SUCH A PERMIT SHALL
7 BE AUTHORIZED: TO RECEIVE [OR STORE], STORE AND REPACKAGE MALT
8 OR BREWED BEVERAGES [UNDER THE SAME CONDITIONS AS PERMITTED FOR
9 A DISTRIBUTOR OR IMPORTING DISTRIBUTOR UNDER SECTION 441(F)]
10 PRODUCED BY THAT [OUT OF STATE] MANUFACTURER FOR SALE BY THAT
11 MANUFACTURER TO IMPORTING DISTRIBUTORS TO WHOM THAT [OUT OF
12 STATE] MANUFACTURER HAS GIVEN DISTRIBUTION RIGHTS PURSUANT TO
13 THIS SUBSECTION OR TO PURCHASERS OUTSIDE THIS COMMONWEALTH FOR
14 DELIVERY OUTSIDE THIS COMMONWEALTH; OR TO SHIP TO THAT [OUT OF
15 STATE] MANUFACTURER'S STORAGE FACILITIES OUTSIDE THIS
16 COMMONWEALTH. THE BAILEE FOR HIRE SHALL BE PERMITTED TO RECEIVE
17 A FEE FROM THE [OUT OF STATE] MANUFACTURER FOR ANY RELATED
18 STORAGE, REPACKAGING OR DELIVERY SERVICES. THE BAILEE FOR HIRE
19 SHALL, AS REQUIRED IN ARTICLE V OF THIS ACT, KEEP COMPLETE AND
20 ACCURATE RECORDS OF ALL TRANSACTIONS, INVENTORY, RECEIPTS AND
21 SHIPMENTS AND MAKE ALL RECORDS AND THE LICENSED AREAS AVAILABLE
22 FOR INSPECTION BY THE BOARD AND FOR THE PENNSYLVANIA STATE
23 POLICE, BUREAU OF LIQUOR CONTROL ENFORCEMENT, DURING NORMAL
24 BUSINESS HOURS.

25 EACH OUT OF STATE MANUFACTURER OF MALT OR BREWED BEVERAGES
26 WHOSE PRODUCTS ARE SOLD AND DELIVERED IN THIS COMMONWEALTH SHALL
27 GIVE DISTRIBUTING RIGHTS FOR SUCH PRODUCTS IN DESIGNATED
28 GEOGRAPHICAL AREAS TO SPECIFIC IMPORTING DISTRIBUTORS, AND SUCH
29 IMPORTING DISTRIBUTOR SHALL NOT SELL OR DELIVER MALT OR BREWED
30 BEVERAGES MANUFACTURED BY THE OUT OF STATE MANUFACTURER TO ANY

1 PERSON ISSUED A LICENSE UNDER THE PROVISIONS OF THIS ACT WHOSE
2 LICENSED PREMISES ARE NOT LOCATED WITHIN THE GEOGRAPHICAL AREA
3 FOR WHICH HE HAS BEEN GIVEN DISTRIBUTING RIGHTS BY SUCH
4 MANUFACTURER. SHOULD A LICENSEE ACCEPT THE DELIVERY OF SUCH MALT
5 OR BREWED BEVERAGES IN VIOLATION OF THIS SECTION, SAID LICENSEE
6 SHALL BE SUBJECT TO A SUSPENSION OF HIS LICENSE FOR AT LEAST
7 THIRTY DAYS: PROVIDED, THAT THE IMPORTING DISTRIBUTOR HOLDING
8 SUCH DISTRIBUTING RIGHTS FOR SUCH PRODUCT SHALL NOT SELL OR
9 DELIVER THE SAME TO ANOTHER IMPORTING DISTRIBUTOR WITHOUT FIRST
10 HAVING ENTERED INTO A WRITTEN AGREEMENT WITH THE SAID SECONDARY
11 IMPORTING DISTRIBUTOR SETTING FORTH THE TERMS AND CONDITIONS
12 UNDER WHICH SUCH PRODUCTS ARE TO BE RESOLD WITHIN THE TERRITORY
13 GRANTED TO THE PRIMARY IMPORTING DISTRIBUTOR BY THE
14 MANUFACTURER.

15 WHEN A PENNSYLVANIA MANUFACTURER OF MALT OR BREWED BEVERAGES
16 LICENSED UNDER THIS ARTICLE NAMES OR CONSTITUTES A DISTRIBUTOR
17 OR IMPORTING DISTRIBUTOR AS THE PRIMARY OR ORIGINAL SUPPLIER OF
18 HIS PRODUCT, HE SHALL ALSO DESIGNATE THE SPECIFIC GEOGRAPHICAL
19 AREA FOR WHICH THE SAID DISTRIBUTOR OR IMPORTING DISTRIBUTOR IS
20 GIVEN DISTRIBUTING RIGHTS, AND SUCH DISTRIBUTOR OR IMPORTING
21 DISTRIBUTOR SHALL NOT SELL OR DELIVER THE PRODUCTS OF SUCH
22 MANUFACTURER TO ANY PERSON ISSUED A LICENSE UNDER THE PROVISIONS
23 OF THIS ACT WHOSE LICENSED PREMISES ARE NOT LOCATED WITHIN THE
24 GEOGRAPHICAL AREA FOR WHICH DISTRIBUTING RIGHTS HAVE BEEN GIVEN
25 TO THE DISTRIBUTOR AND IMPORTING DISTRIBUTOR BY THE SAID
26 MANUFACTURER: PROVIDED, THAT THE IMPORTING DISTRIBUTOR HOLDING
27 SUCH DISTRIBUTING RIGHTS FOR SUCH PRODUCT SHALL NOT SELL OR
28 DELIVER THE SAME TO ANOTHER IMPORTING DISTRIBUTOR WITHOUT FIRST
29 HAVING ENTERED INTO A WRITTEN AGREEMENT WITH THE SAID SECONDARY
30 IMPORTING DISTRIBUTOR SETTING FORTH THE TERMS AND CONDITIONS

1 UNDER WHICH SUCH PRODUCTS ARE TO BE RESOLD WITHIN THE TERRITORY
2 GRANTED TO THE PRIMARY IMPORTING DISTRIBUTOR BY THE
3 MANUFACTURER. NOTHING HEREIN CONTAINED SHALL BE CONSTRUED TO
4 PREVENT ANY MANUFACTURER FROM AUTHORIZING THE IMPORTING
5 DISTRIBUTOR HOLDING THE DISTRIBUTING RIGHTS FOR A DESIGNATED
6 GEOGRAPHICAL AREA FROM SELLING THE PRODUCTS OF SUCH MANUFACTURER
7 TO ANOTHER IMPORTING DISTRIBUTOR ALSO HOLDING DISTRIBUTING
8 RIGHTS FROM THE SAME MANUFACTURER FOR ANOTHER GEOGRAPHICAL AREA,
9 PROVIDING SUCH AUTHORITY BE CONTAINED IN WRITING AND A COPY
10 THEREOF BE GIVEN TO EACH OF THE IMPORTING DISTRIBUTORS SO
11 AFFECTED.

12 * * *

13 (F) (1) ANY MALT OR BREWED BEVERAGE PRODUCED OUTSIDE THIS
14 COMMONWEALTH THAT IS REPACKAGED BY A BAILEE FOR HIRE OR
15 IMPORTING DISTRIBUTOR ON BEHALF OF AN OUT OF STATE MANUFACTURER
16 MUST BE RETURNED TO THE OUT OF STATE MANUFACTURER AND COME TO
17 REST OUT OF STATE BEFORE IT MAY REENTER THIS COMMONWEALTH. SUCH
18 REPACKAGED MALT OR BREWED BEVERAGES MUST BE DISTRIBUTED THROUGH
19 THE THREE-TIER SYSTEM. ANY MALT OR BREWED BEVERAGE THAT IS
20 REPACKAGED BY A BAILEE FOR HIRE OR IMPORTING DISTRIBUTOR ON
21 BEHALF OF AN IN STATE MANUFACTURER MUST BE RETURNED TO THE IN
22 STATE MANUFACTURER AND COME TO REST AT THE IN STATE
23 MANUFACTURER'S LICENSED FACILITY.

24 (2) FOR PURPOSES OF THIS SECTION, "REPACKAGE" SHALL MEAN ANY
25 CHANGE OR ALTERATION TO THE CONTAINERS OR CONTAINER
26 CONFIGURATION OF A CASE.

27 SECTION 5.2. SECTION 461(B.3) OF THE ACT, AMENDED FEBRUARY
28 21, 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.--* * *

1 (b.3) An intermunicipal transfer of a license or issuance of
2 a license for economic development under subsection (b.1)(2)(i)
3 must first be approved by the governing body of the receiving
4 municipality when the total number of existing restaurant liquor
5 licenses and eating place retail dispenser licenses in the
6 receiving municipality exceed one license per three thousand
7 inhabitants. Upon request for approval of an intermunicipal
8 transfer of a license or issuance of an economic development
9 license by an applicant, at least one public hearing shall be
10 held by the municipal governing body for the purpose of
11 receiving comments and recommendations of interested individuals
12 residing within the municipality concerning the applicant's
13 intent to transfer a license into the municipality or acquire an
14 economic development license from the Pennsylvania Liquor
15 Control Board. The governing body shall, within forty-five days
16 of a request for approval, render a decision by ordinance or
17 resolution to approve or disapprove the applicant's request for
18 an intermunicipal transfer of a license or issuance of an
19 economic development license. The municipality must approve the
20 request unless it finds that doing so would adversely affect the
21 welfare, health, peace and morals of the municipality or its
22 residents. A decision by the governing body of the municipality
23 to deny the request may be appealed to the court of common pleas
24 in the county in which the municipality is located. A copy of
25 the approval must be submitted with the license application. The
26 approval requirement shall not apply to licenses transferred
27 into a tax increment district created pursuant to the act of
28 July 11, 1990 (P.L.465, No.113), known as the "Tax Increment
29 Financing Act," located in a township of the second class that
30 is located within a county of the second class if the district

1 was created prior to December 31, 2002, and the governing body
2 of the township has adopted an agreement at a public meeting
3 that consents to the transfer of licenses into the tax increment
4 district.

5 * * *

6 Section 6. Section 470(a.1) and (b) of the act, amended
7 December 21, 1998 (P.L.1202, No.155), are amended and the
8 section is amended by adding a subsection to read:

9 Section 470. Renewal of Licenses; Temporary Provisions for
10 Licensees in Armed Service.--* * *

11 (a.1) The Director of the Bureau of Licensing may object to
12 and the board may refuse a properly filed license application:

13 (1) if the licensee, its shareholders, directors, officers,
14 association members, servants, agents or employes have violated
15 any of the laws of this Commonwealth or any of the regulations
16 of the board;

17 [(2) if the licensee has one or more adjudicated citations;]

18 (2) if the licensee, its shareholders, directors, officers,
19 association members, servants, agents or employes have one or
20 more adjudicated citations under this or any other license
21 issued by the board or were involved in a license whose renewal
22 was objected to by the Bureau of Licensing under this section;

23 (3) if the licensed premises no longer meets the
24 requirements of this act or the board's regulations; or

25 [(4) due to the manner in which the licensed premises is
26 being operated, the board can consider activity occurring on or
27 about the licensed premises or in areas under licensee's control
28 if the activity occurs when the premises is open for operation
29 and if there is a relationship between the activity outside the
30 premises and the manner in which the licensed premises is

1 operated. The board may take into consideration whether the
2 licensee has taken any substantial steps to address the activity
3 occurring on or about the premises when the premises is open for
4 operation.]

5 (4) due to the manner in which this or another licensed
6 premises was operated while the licensee, its shareholders,
7 directors, officers, association members, servants, agents or
8 employees were involved with that license. When considering the
9 manner in which this or another licensed premises was being
10 operated, the board may consider activity that occurred on or
11 about the licensed premises or in areas under licensee's control
12 if the activity occurred when the premises was open for
13 operation and if there was a relationship between the activity
14 outside the premises and the manner in which the licensed
15 premises was operated. The board may take into consideration
16 whether any substantial steps were taken to address the activity
17 occurring on or about the premises.

18 * * *

19 (a.3) If the objection to the application is based on the
20 reputation, criminal history, citation history or activity of
21 one or more of the applicant's shareholders, directors,
22 officers, association members, servants, agents or employees, and
23 not on the reputation, criminal history, citation history or
24 activity attributable to the applicant, the board shall order
25 the divestiture of the shareholders, directors, officers,
26 association members, servants, agents or employees in question,
27 in lieu of refusing the application. If such divestiture does
28 not occur within thirty (30) days of the board's order, then the
29 board may refuse the application.

30 (b) [In cases where a licensee or his servants, agents or

1 employees are arrested, charged with violating any of the laws of
2 this Commonwealth relating to liquor, alcohol or malt or brewed
3 beverages, and where the board has on file in such cases reports
4 of enforcement officers or investigators of the enforcement
5 bureau or from other sources that a licensee or his servants,
6 agents or employees have violated any of the aforementioned laws
7 and a proceeding to revoke such licensee's license is or is
8 about to be instituted, and such arrest occurs or report of
9 violations is received or revocation proceeding instituted or
10 about to be instituted during the time a renewal application of
11 such license is pending before the board, the board may, in its
12 discretion, renew the license, notwithstanding such alleged
13 violations, but such renewal license may be revoked if and when
14 the licensee or any of his servants, agents or employees are
15 convicted of or plead guilty to violations under the previous
16 license, as aforesaid, or if and when such previous license is
17 for any reason revoked.] In cases where a licensee or its
18 servants, agents or employees are arrested or charged with
19 violating any of the laws of this Commonwealth or if a licensee
20 has one or more unadjudicated citations pending against the
21 licensee at the time a renewal application for the license is
22 pending before the board, the board may, in its discretion,
23 renew the license; however, the renewed license may be
24 subsequently revoked by the board if and when the licensee or
25 its servants, agents or employees are convicted of the pending
26 criminal charges or when the citation issued against the license
27 is adjudicated by the Office of Administrative Law Judge.

28 In the event [such] the renewal license is revoked by the
29 board, neither the license fee paid for [such] the license nor
30 any part thereof shall be returned to the licensee.

1 * * *

2 Section 7. Section 472.5 of the act, added April 29, 1994
3 (P.L.212, No.30), is amended to read:

4 Section 472.5. Privately Owned Golf Courses Located in More
5 than One County; Equine Centers.--(a) The board may issue to a
6 nonprofit corporation a club liquor license or club catering
7 license if all of the following apply:

8 (1) The nonprofit corporation is incorporated in this
9 Commonwealth.

10 (2) The nonprofit corporation operates a privately owned
11 private golf course:

12 (i) having contiguous land situate in two or more
13 municipalities;

14 (ii) in which one or more of the municipalities, but less
15 than all, the granting of a liquor license has not been
16 prohibited; and

17 (iii) in which at least one acre of the contiguous land is
18 situate in more than one county and one or more municipalities.

19 (3) The board finds that the license will not be detrimental
20 to any residential neighborhood.

21 (b) Subsection (a) shall not be construed to prohibit the
22 issuance of club liquor licenses or club catering licenses which
23 may otherwise be issued under the provisions of this act.

24 (c) The board may issue public venue, hotel and restaurant
25 liquor licenses to qualifying facilities at an equine center
26 notwithstanding a vote by electors which prohibits the issuance
27 of licenses for the retail sale of liquor and malt or brewed
28 beverages.

29 Section 8. The act is amended by adding sections to read:

30 Section 479. Point System for Certain Licensees.--(a) (1)

A numerical system for liquor license control is hereby established for use in cities of the first class. The system shall be utilized in conjunction with other provisions of this act for license transfer, renewal, suspension or revocation.

(2) Every liquor and malt beverages licensee in cities of the first class who has been cited for a violation under section 471 shall have points assessed to his license record as of the date of the final adjudication.

(b) The following shall be considered enhanced penalty violations and the administrative law judge shall assign five to ten points depending upon the circumstances surrounding the violations to a license record for each and every enhanced penalty violation, even when arising from the same core of operative facts:

(1) a violation of section 493(1) as relates to sales to minors and visibly intoxicated individuals;

(2) a violation of section 493(10) as relates to lewd, immoral or improper entertainment;

(3) a violation of section 493(14) as relates to permitting undesirable persons or minors to frequent premises;

(4) a violation of section 493(16) as relates to furnishing liquor at unlawful hours;

(5) a violation of section 493(21) as relates to refusing inspection;

(6) a violation of section 611 as relates to public nuisances;

(7) any violation of the act of April 14, 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug, Device and Cosmetic Act," permitted by the owner, employees or operator of the licensed premises or an agent thereof if the violation

1 occurs at the licensed premises;

2 (8) a violation of 18 Pa.C.S. § 5902 (relating to
3 prostitution and related offenses) committed by the owner or
4 operator of the licensed premises or an agent thereof if the
5 violation occurs at the licensed premises;

6 (9) a violation of 18 Pa.C.S. § 6301 (relating to corruption
7 of minors) committed by the owner or operator of the licensed
8 premises or an agent thereof if the violation occurs at the
9 licensed premises; or

10 (10) a violation of 18 Pa.C.S. (relating to crimes and
11 offenses) if the violation is graded as a felony.

12 (c) Except as provided in subsections (b) and (d), the board
13 shall, by regulation, assign points ranging on a scale of one to
14 five for violations set forth in this act and its regulations.
15 If a licensee or his agent is found to have violated two or more
16 nonenhanced violations under this act arising from the same core
17 of operative facts, points shall be assigned only for the
18 violation for which the greatest number of points may be
19 assessed.

20 (d) Two points shall be assessed for the following
21 violations:

22 (1) section 467 as relates to failure to display license
23 under transparent material;

24 (2) section 491(5) as relates to failure to properly dispose
25 of empty liquor containers;

26 (3) section 493(6) as relates to brand or trade name on
27 spigot;

28 (4) section 493(12) as relates to failure to have records on
29 premises;

30 (5) section 493(20) as relates to unlawful advertising;

1 (6) 40 Pa. Code § 3.51 (relating to liquor) as relates to
2 inside passages and connections to residence;

3 (7) 40 Pa. Code § 5.42 (relating to lighting) as relates to
4 adequate lighting;

5 (8) 40 Pa. Code §§ 5.51(a) (relating to cleaning of coils,
6 tap rods and connections) and 5.52 (relating to certificate or
7 record required) as relates to cleaning of coils and maintenance
8 of records on the cleaning of coils;

9 (9) a violation of any requirement of the board or the city
10 to obtain or maintain the license issued by the board; or

11 (10) a violation of section 13(32) or (33) of the act of
12 April 14, 1972 (P.L.233, No.64), known as "The Controlled
13 Substance, Drug, Device and Cosmetic Act," by any person in a
14 licensed premises.

15 (e) Whenever points are assigned to a license record, the
16 administrative law judge shall send to that licensee a notice
17 regarding the points assigned and emphasizing the nature and
18 effects of the point system. Failure to receive such letter
19 shall not prevent the assignment of points or the subsequent
20 revocation of license privileges under this section.

21 (f) As used in this section, "final adjudication" shall mean
22 when the administrative law judge has rendered a decision on the
23 citation notwithstanding any appeals of that decision.

24 (g) The establishment of a point system does not in any way
25 limit the right of an administrative law judge to revoke a
26 license under section 471, nor does it limit the board's rights
27 to not renew a license or amusement permit under sections 470
28 and 478.

29 Section 480. Removal of Points.--Points assigned to any
30 license record shall be removed at the rate of three points for

each twelve consecutive months of operation of the establishment in which such licensee has not been subject to a citation which results in the assignment of points under this act.

Section 481. School, Mandatory Safekeeping or Revocation of License Privilege on Accumulation of Points.--(a) Except as provided for in subsection (c), when any license accumulates ten points or more, the administrative law judge shall require the license holder to become compliant with and remain compliant with the responsible alcohol management provisions of section 471.1. Failure to comply with such an order within ninety days, shall result in two additional points being assessed against the license record.

(b) When any license accumulates fifteen points or more, the administrative law judge shall place the license in safekeeping. The license can only be removed from safekeeping upon approval by the board of a transfer to a disinterested third party in an arm's-length transaction. A license transferred under this subsection shall have the points assigned to it reduced to ten upon completion of the transfer. If within ninety days of the transfer the new owner voluntarily becomes compliant with and remains compliant with the responsible alcohol management provisions of section 471.1, two additional points shall be removed from the license record.

(c) Notwithstanding any other provision of this act, when any license accumulates two enhanced penalty violations under section 479(b) within a two-year period or accumulates two or more points within two years after an initial accumulation of ten points, the administrative law judge shall revoke the license and the license may be immediately confiscated by the board, Pennsylvania State Police or local law enforcement. This

1 shall be followed by a hearing before the administrative law
2 judge within fifteen days following seizure.

3 (d) An appeal of an order issued under this section shall
4 not act as an automatic stay of the order. The licensee has the
5 right to seek a supersedeas under the Pennsylvania Rules of
6 Procedure. The application for the appellate supersedeas would
7 be submitted to the reviewing authority and would have to
8 demonstrate how the administrative law judge abused his
9 authority, committed an error of law, or failed to base his
10 findings of fact upon substantial evidence.

11 Section 482. Points Follow Transfer of License.--Points
12 assigned to the license record shall transfer with the license
13 to the new owner. If within ninety days of the transfer the new
14 owner voluntarily becomes compliant with and remains compliant
15 with the responsible alcohol management provisions of section
16 471.1, two points shall be removed from the license record.

17 ~~Section 8.1. Section 492(4) of the act, amended December 20,~~ <—
18 ~~1996 (P.L.1513, No.196), is amended to read:~~

19 ~~Section 492. Unlawful Acts Relative to Malt or Brewed~~
20 ~~Beverages and Licensees.—~~

21 ~~It shall be unlawful—~~

22 ~~* * *~~

23 ~~(4) Activities of Manufacturers, Importing Distributors or~~
24 ~~Distributors on Sunday. For any manufacturer of malt or brewed~~
25 ~~beverages, importing distributor or distributor, or the~~
26 ~~servants, agents or employes of the same, to sell malt or brewed~~
27 ~~beverages between the hours of twelve o'clock midnight of any~~
28 ~~Saturday and two o'clock in the forenoon of the following~~
29 ~~Monday. Upon purchase of a permit from the board at an annual~~
30 ~~fee of one hundred dollars (\$100), manufacturers, importing~~

~~distributors and distributors, or the servants, agents or
employes of the same, may sell malt or brewed beverages to
anyone not licensed under this act or to a holder of a special
occasion permit on Sunday between the hours of noon and five
o'clock postmeridian. Notwithstanding any other provision of
this section, delivery or receiving of malt or brewed beverages
shall be permissible on Sunday after prior arrangement as
follows:~~

~~(i) A manufacturer may deliver to any importing distributor
or distributor to which the manufacturer has granted wholesale
distribution rights for the manufacturer's product.~~

~~(ii) An importing distributor or distributor may deliver to
any organization to which a special occasion permit has been
issued between the hours of nine o'clock antemeridian and five
o'clock postmeridian.~~

~~(iii) An importing distributor or distributor may deliver to
anyone not licensed under this act between the hours of nine
o'clock antemeridian and five o'clock postmeridian.~~

~~The term "prior arrangement" shall mean that malt or brewed
beverages having a total sale price, excluding any deposits or
credits, exceeding two hundred fifty dollars (\$250) have been
ordered, invoiced and paid for in full at the seller's licensed
premises before the Sunday of delivery.~~

~~* * *~~

Section 9. Section 493(1) and (2) of the act, amended
February 18, 1998 (P.L.162, No.25), are amended and the section
is amended by adding a clause to read:

Section 493. Unlawful Acts Relative to Liquor, Malt and
Brewed Beverages and Licensees.--The term "licensee," when used
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 (1) Furnishing Liquor or Malt or Brewed Beverages to Certain
5 Persons. For any licensee or the board, or any employe, servant
6 or agent of such licensee or of the board, or any other person,
7 to sell, furnish or give any liquor or malt or brewed beverages,
8 or to permit any liquor or malt or brewed beverages to be sold,
9 furnished or given, to any person visibly intoxicated, [or to
10 any insane person,] or to any minor[, or to habitual drunkards,
11 or persons of known intemperate habits.]: Provided further, That
12 notwithstanding any other provision of law, no cause of action
13 will exist against a licensee or the board or any employe,
14 servant or agent of such licensee or the board for selling,
15 furnishing or giving any liquor or malt or brewed beverages or
16 permitting any liquor or malt or brewed beverages to be sold,
17 furnished or given to any insane person, any habitual drunkard
18 or person of known intemperate habits unless the person sold,
19 furnished or given alcohol is visibly intoxicated or is a minor.

20 (2) Purchase or Sale of Liquor or Malt or Brewed Beverages
21 on Credit; importing distributors or distributors accepting
22 cash. For any licensee, his agent, servant or employe, to sell
23 or offer to sell or purchase or receive any liquor or malt or
24 brewed beverages except for cash, excepting credit extended by a
25 hotel or club to a bona fide guest or member, or by railroad or
26 pullman companies in dining, club or buffet cars to passengers,
27 for consumption while enroute, holding authorized credit cards
28 issued by railroad or railroad credit bureaus or by hotel,
29 restaurant, retail dispenser eating place, club and public
30 service licensees, importing distributors or distributors to

1 customers not possessing a license under this article and
2 holding credit cards issued in accordance with regulations of
3 the board or credit cards issued by banking institutions subject
4 to State or Federal regulation: Provided further, That nothing
5 herein contained shall be construed to prohibit the use of
6 checks or drafts drawn on a bank, banking institution, trust
7 company or similar depository, organized and existing under the
8 laws of the United States of America or the laws of any state,
9 territory or possession thereof, in payment for any liquor or
10 malt or brewed beverages if the purchaser is the payor of the
11 check or draft and the licensee is the payee[.]: provided
12 further, that notwithstanding any other provision of this act,
13 to the contrary, it shall be unlawful for an importing
14 distributor or distributor to accept cash for payment of any
15 malt or brewed beverages from anyone possessing a license issued
16 under this article. No right of action shall exist to collect
17 any claim for credit extended contrary to the provisions of this
18 clause. Nothing herein contained shall prohibit a licensee from
19 crediting to a purchaser the actual price charged for original
20 containers returned by the original purchaser as a credit on any
21 sale, or from refunding to any purchaser the amount paid by such
22 purchaser for such containers or as a deposit on containers when
23 title is retained by the vendor, if such original containers
24 have been returned to the licensee. Nothing herein contained
25 shall prohibit a manufacturer from extending usual and customary
26 credit for liquor or malt or brewed beverages sold to customers
27 or purchasers who live or maintain places of business outside of
28 the Commonwealth of Pennsylvania, when the liquor or malt or
29 brewed beverages so sold are actually transported and delivered
30 to points outside of the Commonwealth: Provided, however, That

1 as to all transactions affecting malt or brewed beverages to be
2 resold or consumed within this Commonwealth, every licensee
3 shall pay and shall require cash deposits on all returnable
4 original containers and all such cash deposits shall be refunded
5 upon return of the original containers.

6 * * *

7 (30) Pyrotechnics Prohibited. For any licensee, his
8 servants, agents or employees, except licensees where pyrotechnic
9 displays are performed by a pyrotechnic operator licensed by the
10 Bureau of Alcohol, Tobacco, Firearms and Explosives, and are
11 approved by a municipal fire official, to store, handle, use or
12 display any pyrotechnics within a building on the licensed
13 premises. For purposes of this clause, "pyrotechnics" shall mean
14 any chemical mixture, including pyrotechnic compositions,
15 intended to produce a visible or audible effect by combustion,
16 deflagration or detonation as defined by section 1.5.52 of the
17 National Fire Protection Association Standard 1126 entitled
18 "Standard for the Use of Pyrotechnics before a Proximate
19 Audience," 1992 Edition.

20 Section 10. Section 505.2 of the act, amended November 10,
21 1999 (P.L.514, No.47), December 9, 2002 (P.L.1653, No.212),
22 December 16, 2002 (P.L.1806, No.221) and July 17, 2003 (P.L.63,
23 No.15), is amended to read:

24 Section 505.2. Limited Wineries.--(a) In the interest of
25 promoting tourism and recreational development in Pennsylvania,
26 holders of a limited winery license may:

27 (1) Produce alcoholic ciders, wines and wine coolers,
28 subject to the exceptions provided under this section, only from
29 [fruits] an agricultural commodity grown in Pennsylvania.

30 (2) Sell alcoholic cider, wine and wine coolers produced by

1 the limited winery or purchased in bulk in bond from another
2 Pennsylvania limited winery on the licensed premises, under such
3 conditions and regulations as the board may enforce, to the
4 board, to individuals and to brewery, hotel, restaurant, club
5 and public service liquor licensees, and to Pennsylvania winery
6 licensees: Provided, That a limited winery shall not, in any
7 calendar year, purchase alcoholic cider or wine produced by
8 other limited wineries in an amount in excess of fifty per
9 centum of the alcoholic cider or wine produced by the purchasing
10 limited winery in the preceding calendar year. In addition, the
11 holder of a limited winery license may purchase wine in bottles
12 from another Pennsylvania limited winery if these wines undergo
13 a second fermentation process. Such wine may be sold in bottles
14 bearing the purchasing limited winery's label or the producing
15 limited winery's label. Such wines, if sold by the board, may be
16 sold by the producing limited winery to the purchasing limited
17 winery at a price lower than the price charged by the board.

18 (3) Separately or in conjunction with other limited
19 wineries, sell alcoholic cider, wine and wine coolers produced
20 by the limited winery on no more than five (5) board-approved
21 locations other than the licensed premises, with no bottling or
22 production requirement at those additional board-approved
23 locations and under such conditions and regulations as the board
24 may enforce, to the board, to individuals and to brewery, hotel,
25 restaurant, club and public service liquor licensees. If two or
26 more limited wineries apply to operate an additional board-
27 approved location in conjunction with each other, the wineries
28 need only have one board-approved manager for the location, need
29 only pay one application fee and need not designate specific or
30 distinct areas for each winery's licensed area. Each limited

1 winery must file an application for such an additional board-
2 approved location, and such location shall count as one of the
3 five permitted for each limited winery. Each limited winery is
4 responsible for keeping only its own complete records. A limited
5 winery may be cited for a violation of the recordkeeping
6 requirements of sections 512 and 513 pertaining to its own
7 records only.

8 (4) At the discretion of the board, obtain a special permit
9 to participate in alcoholic cider, wine and food expositions off
10 the licensed premises. A special permit shall be issued upon
11 proper application and payment of a fee of thirty dollars (\$30)
12 per day for each day of permitted use, not to exceed five (5)
13 consecutive days. The total number of days for all the special
14 permits may not exceed forty (40) days in any calendar year. A
15 special permit shall entitle the holder to engage in the sale by
16 the glass, by the bottle or in case lots of alcoholic cider or
17 wine produced [by the bottle or in case lots] by the permittee
18 under the authority of a limited winery license. Holders of
19 special permits may provide tasting samples of wines in
20 individual portions not to exceed one fluid ounce. Samples at
21 alcoholic cider, wine and food expositions may be sold or
22 offered free of charge. Except as provided herein, limited
23 wineries utilizing special permits shall be governed by all
24 applicable provisions of this act as well as by all applicable
25 regulations or conditions adopted by the board.

26 For the purposes of this clause, "alcoholic cider, wine and
27 food expositions" are defined as affairs held indoors or
28 outdoors with the primary intent of educating those in
29 attendance of the availability, nature and quality of
30 Pennsylvania-produced alcoholic ciders and wines in conjunction

1 with suitable food displays, demonstrations and sales. Alcoholic
2 cider, wine and food expositions may also include activities
3 other than alcoholic cider, wine and food displays, including
4 arts and crafts, musical activities, cultural exhibits,
5 agricultural exhibits and similar activities.

6 (5) Apply for and hold a hotel liquor license, a restaurant
7 liquor license or a malt and brewed beverages retail license to
8 sell for consumption at the restaurant or limited winery on the
9 licensed winery premises, liquor, wine and malt or brewed
10 beverages regardless of the place of manufacture under the same
11 conditions and regulations as any other hotel liquor license,
12 restaurant liquor license or malt and brewed beverages retail
13 license.

14 (6) (i) Secure a permit from the board to allow the holder
15 of a limited winery license to use up to twenty-five per centum
16 permitted fruit, not wine, in the current year's production.
17 Each permit is valid only for the calendar year in which it is
18 issued.

19 (ii) The fee for a permit to import and use permitted fruit
20 shall be in an amount to be determined by the board.

21 (iii) The purpose of this section is to increase the
22 productivity of limited wineries while at the same time
23 protecting the integrity and unique characteristics of wine
24 produced from fruit primarily grown in this Commonwealth.
25 Prevailing climatic conditions have a significant impact on the
26 character of the fruit. Accordingly, "permitted fruit" shall
27 mean fruit grown or juice derived from fruit grown within three
28 hundred fifty (350) miles of the winery.

29 (iv) The department is authorized to promulgate regulations
30 requiring the filing of periodic reports by limited wineries to

1 ensure compliance with the provisions of this section.

2 [(v) This clause shall expire on December 31, 2004.]

3 (6.1) Sell food for consumption on or off the licensed
4 premises and sell by the glass only wine and alcoholic ciders
5 that may otherwise be sold by the bottle.

6 (6.2) Sell wine or liquor scented candles acquired or
7 produced by the limited winery.

8 (6.3) Sell alcoholic cider, wine and wine coolers only
9 between the hours of nine o'clock antemeridian and nine o'clock
10 postmeridian. During the period from Thanksgiving Day through
11 New Year's Day, limited winery sales locations may remain open
12 to conform with the closing times of neighboring mall or
13 shopping district businesses, but no later than ten o'clock
14 postmeridian. A limited winery also may request approval from
15 the board to extend sales hours in individual locations at other
16 times during the year, or beyond the limits set in this clause.
17 The request shall be made in writing to the board's Office of
18 the Chief Counsel and shall detail the exact locations where
19 sales hours are proposed to be extended, the proposed hours and
20 dates of extended operation and the reason for the proposed
21 extended hours.

22 [(7)] (b) The total production of alcoholic ciders, wine and
23 wine coolers by a limited winery may not exceed two hundred
24 thousand (200,000) gallons per year.

25 (c) The term "agricultural commodity" as used in this
26 section shall include any of the following: agricultural,
27 apicultural, horticultural, silvicultural and viticultural
28 commodities.

29 Section 11. The act is amended by adding a section to read:

30 Section 505.4. Distilleries.--The board may issue a

1 distillery of historical significance license to any distillery
2 which was established prior to January 1, 1875. The holder of
3 the license may manufacture and sell liquor produced on the
4 licensed premises to the board, to entities licensed by the
5 board and to the public under such conditions and regulations as
6 the board may enforce. Production at the distillery of
7 historical significance shall be limited to an amount not to
8 exceed twenty thousand (20,000) gallons per year. The distillery
9 does not need to establish continuous operation since January 1,
10 1875, in order to qualify for a license under this section.

11 Section 12. Sections 479, 480, 481 and 482 of the act shall
12 expire December 31, 2006, unless extended by statute.

13 Section 13. This act shall take effect as follows:

14 (1) The amendment or addition of section 207(a), 305(f)
15 and (h), 472.5 and 505.2 of the act shall take effect
16 immediately.

17 (2) This section shall take effect immediately.

18 (3) The remainder of this act shall take effect in 60
19 days.