

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2721 Session of
2000

INTRODUCED BY McILHINNEY, STEIL, REINARD, DONATUCCI,
L. I. COHEN, CORRIGAN, McNAUGHTON AND STEVENSON,
SEPTEMBER 14, 2000

AS REPORTED FROM COMMITTEE ON LIQUOR CONTROL, HOUSE OF
REPRESENTATIVES, AS AMENDED, SEPTEMBER 26, 2000

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 issuance of hotel, restaurant and club
18 liquor licenses, for transfer of restaurant licenses to
19 deteriorated areas, for malt and brewed beverages retail
20 licenses, for limiting the number of retail licenses to be
21 issued in each municipality, for incorporated units of
22 national veterans' organizations, for hearings and appeals
23 upon refusal of licenses, renewals or transfers, for licenses
24 not assignable, for transfer of licenses, for local option
25 and for granting of liquor licenses in certain
26 municipalities.

27 The General Assembly of the Commonwealth of Pennsylvania

28 hereby enacts as follows:

29 Section 1. Section 404 of the act of April 12, 1951 (P.L.90,

1 No.21), known as the Liquor Code, reenacted and amended June 29,
2 1987 (P.L.32, No.14), and amended December 21, 1998 (P.L.1202,
3 No.155), is amended to read:

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

1 the welfare, health, peace and morals of the inhabitants of the
2 neighborhood within a radius of five hundred feet of the place
3 proposed to be licensed: And provided further, That prior to
4 July 1, 1996, in any license district in a city of the first
5 class, the board may, in its opinion, refuse any application for
6 a new license or for any person-to-person transfer which shall
7 include a change in stockholders involving ten per centum or
8 more of all outstanding voting stock and/or less than ten per
9 centum of all outstanding voting stock when such change involves
10 a majority or controlling interest, of any license if the
11 licensed premises is or would be within three hundred feet of
12 any church, hospital, charitable institution, school or public
13 playground or within two hundred feet of any other premises
14 licensed by the board and if, in the opinion of the board, the
15 licensed premises is or would be detrimental to the welfare,
16 health, peace and morals of such church, hospital, school,
17 public playground and/or the inhabitants of the neighborhood
18 within a radius of five hundred feet of the licensed premises.
19 This authority to refuse a person-to-person transfer in a city
20 of the first class is in addition to and not in derogation of
21 the authority of the board generally stated for all areas of
22 this Commonwealth: And provided further, That the board shall
23 have the discretion to refuse a license to any person or to any
24 corporation, partnership or association if such person, or any
25 officer or director of such corporation, or any member or
26 partner of such partnership or association shall have been
27 convicted or found guilty of a felony within a period of five
28 years immediately preceding the date of application for the said
29 license. The board shall refuse any application for a new
30 license or the transfer of any license to a location where the

1 sale of liquid fuels or oil is conducted. The board may, in its
2 discretion, refuse an application for an economic development
3 license under section 461(b) of this act or an application for
4 an inter-municipal transfer of a license if the board receives a
5 protest from the receiving municipality. The receiving
6 municipality of an inter-municipal transfer or economic
7 development license under section 461(b) of this act may file a
8 protest against the transfer of a license into its municipality
9 and the receiving municipality shall have standing in a hearing
10 to present testimony in support of or against the issuance or
11 transfer of a license. Upon any opening in any quota, an
12 application for a new license shall only be filed with the board
13 for a period of six months following said opening.

14 Section 2. Section 408.13 of the act, amended May 31, 1996
15 (P.L.312, No.49), is amended to read:

16 [Section 408.13. Transfer of Restaurant Licenses to
17 Deteriorated Areas.--(a) The board is hereby authorized to
18 approve the transfer of restaurant liquor licenses from one
19 municipality to another in the same county regardless of the
20 quota limitations provided for in section 461, if sales of
21 liquor and malt or brewed beverages are legal in such other
22 municipality and if the place proposed to be licensed in the
23 other municipality is located within a deteriorated area whose
24 boundaries have been affixed pursuant to the criteria set forth
25 in the act of December 1, 1977 (P.L.237, No.76), known as the
26 "Local Economic Revitalization Tax Assistance Act," and as of
27 the date of restaurant liquor license transfer is designated as
28 a distressed community by the Department of Commerce pursuant to
29 criteria set forth in the act of July 2, 1984 (P.L.520, No.105),
30 known as the "Business Infrastructure Development Act," and in

1 which the cost of new construction must receive for real
2 property at least five percentum tax exemption by more than one
3 local taxing authority for a period of at least three years from
4 the completion of the new construction and whose total area
5 comprises at least fifty acres. Any such area in this section
6 shall be referred to as a "LERTA zone." For purposes of this
7 section, the board shall not, however, approve such a transfer
8 if the license to be transferred is located in a municipality in
9 which the number of licenses issued in the municipality does not
10 exceed the quota limitations provided in section 461 or if such
11 municipality has been designated as a resort area by either the
12 board or any court. In addition, the board shall not approve the
13 transfer of any license, if the license was issued under the
14 resort area exception provided in section 461.

15 (b) For the purposes of this section, a local taxing
16 authority shall mean a county, city, borough, incorporated town,
17 township, institution district or school district having
18 authority to levy real property taxes.

19 (c) For the purposes of this section, a municipal governing
20 body shall mean a city, borough, incorporated town or township.

21 (d) Licenses approved for transfer under this section shall
22 be limited to one licensed premises per one hundred thousand
23 square feet of completed new construction in the LERTA zone
24 which is climate-controlled and must receive at least five
25 percentum for local property tax exemption by more than one
26 taxing authority for a period of three years from the completion
27 of construction, except that in no instance shall more than four
28 restaurant liquor licenses be transferred to any single LERTA
29 zone pursuant to this section. Licenses transferred pursuant to
30 this section may be filed on a prior or final approval basis

1 pursuant to section 403.

2 (e) Before an application for transfer may be filed with the
3 board under subsection (a) of this section, the applicant for
4 transfer must receive the approval of the municipal governing
5 body which specified the boundaries of the LERTA zone wherein
6 the place proposed to be licensed is located. Within thirty days
7 of a request for approval of a transfer of a restaurant liquor
8 license to a LERTA zone by an applicant, at least one public
9 hearing shall be held by the municipal governing body for the
10 purpose of receiving the comments and recommendations of
11 interested individuals residing within the LERTA zone concerning
12 the applicant's intent to transfer a restaurant liquor license
13 to the LERTA zone. The municipal governing body shall, within
14 forty-five days of a request for approval, render a decision by
15 ordinance or resolution to approve or disapprove the applicant's
16 request to transfer a restaurant liquor license to the LERTA
17 zone. A decision by the municipal governing body to approve the
18 request is appealable to the board. A municipal governing body
19 shall not approve any request to transfer a restaurant liquor
20 license to a LERTA zone which does not meet the requirements
21 relating to property tax exemption by more than one local taxing
22 authority, total acreage of the LERTA zone, and the square
23 footage of new construction receiving tax exemption contained in
24 subsections (a) and (d) of this section.

25 (f) Every applicant for transfer of a restaurant liquor
26 license under this section shall file a written application with
27 the board and shall conform with the requirements of section
28 102. Applications for transfer under this section must meet all
29 the requirements of restaurant liquor license transfers not
30 inconsistent with the provisions of this section but shall not

1 be subject to the two hundred-foot restriction set forth in
2 section 404.

3 (g) An application for transfer filed under this section
4 shall contain a copy of the ordinance or resolution of the
5 municipal governing body approving the transfer of a restaurant
6 liquor license to a LERTA zone. The applicant shall submit such
7 other information as the board may by regulation require.

8 (h) Upon receipt of an application in proper form and the
9 filing fee and upon being satisfied that the requirements of
10 this section have been met, the board shall approve the transfer
11 of the license.

12 (i) After transfer of the license into a LERTA zone under
13 this section, the license may not be transferred to a location
14 outside of the LERTA zone or outside of the boundaries by which
15 the LERTA zone was originally established, except as provided
16 for in section 468 and the selling price of the license, if any,
17 shall remain fixed at the price at which the license was
18 transferred to the LERTA zone.

19 (j) For the purposes of this section, the term "new
20 construction" shall mean a construction project of additional
21 square footage where local ordinance requires the application
22 and approval of a building permit and where the actual
23 construction requires the existence of a foundation or an
24 additional foundation. The term shall not include the internal
25 renovation or cosmetic change to an existing structure.]

26 Section 3. Section 432(d) of the act, amended April 29, 1994
27 (P.L.212, No.30), is amended to read:

28 Section 432. Malt and Brewed Beverages Retail Licenses.--* *
29 *

30 (d) The board shall, in its discretion, grant or refuse any

1 new license or the transfer of any license to a new location if
2 such place proposed to be licensed is within three hundred feet
3 of any church, hospital, charitable institution, school, or
4 public playground, or if such new license or transfer is applied
5 for a place which is within two hundred feet of any other
6 premises which is licensed by the board. The board shall refuse
7 any application for a new license or the transfer of any license
8 to a new location if, in the board's opinion, such new license
9 or transfer would be detrimental to the welfare, health, peace
10 and morals of the inhabitants of the neighborhood within a
11 radius of five hundred feet of the place to be licensed. The
12 board shall refuse any application for a new license or the
13 transfer of any license to a location where the sale of liquid
14 fuels or oil is conducted: 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 may, in its discretion, refuse an application
22 for an economic development license under section 461(b) of this
23 act or an application for an inter-municipal transfer of a
24 license if the board receives a protest from the receiving
25 municipality. The receiving municipality of an inter-municipal
26 transfer or an economic development license under section 461(b)
27 of this act, may file a protest against the approval for
28 issuance of a license for economic development or an inter-
29 municipal transfer of a license into its municipality and such
30 municipalities shall have standing in a hearing to present

1 testimony in support of or against the issuance or transfer of a
2 license. Upon any opening in any quota, an application for a new
3 license shall only be filed with the board for a period of six
4 months following said opening.

5 * * *

6 Section 4. Section 461 heading, (a) and (b) of the act are
7 amended and the section is amended by adding subsections to
8 read:

9 Section 461. Limiting Number of Retail Licenses To Be Issued
10 In Each [Municipality] County.--(a) [No licenses shall
11 hereafter be granted by the board for the retail sale of malt or
12 brewed beverages or the retail sale of liquor and malt or brewed
13 beverages in excess of one of such licenses of any class for
14 each three thousand inhabitants in any municipality, exclusive
15 of licenses granted to airport restaurants, municipal golf
16 courses, hotels, privately-owned public golf courses and units
17 of nonprofit nationally chartered clubs, as defined in this
18 section, whose applications are filed on or before June 30,
19 2000, and except those units falling under section 461.1, and
20 clubs; but at least one such license may be granted in each
21 municipality and in each part of a municipality where such
22 municipality is split so that each part thereof is separated by
23 another municipality, except in municipalities where the
24 electors have voted against the granting of any retail licenses
25 and except in that part of a split municipality where the
26 electors have voted against the granting of any retail licenses.
27 Nothing contained in this section shall be construed as denying
28 the right to the board to renew or to transfer existing retail
29 licenses of any class notwithstanding that the number of such
30 licensed places in a municipality shall exceed the limitation

1 hereinbefore prescribed; but where such number exceeds the
2 limitation prescribed by this section, no new license, except
3 for hotels, municipal golf courses, airport restaurants,
4 privately-owned public golf courses, privately-owned private
5 golf course licensees and units of nonprofit nationally
6 chartered clubs, as defined in this section, whose applications
7 are filed on or before June 30, 2000, and except those units
8 falling under section 461.1, shall be granted so long as said
9 limitation is exceeded.]

10 Except as provided in this section, no additional restaurant,
11 eating place retail dispenser or club licenses shall be issued
12 within the county if the total number of restaurant and eating
13 place retail dispenser licenses is greater than one license for
14 each three thousand inhabitants in the county. The board may
15 issue liquor licenses to airport restaurants, municipal golf
16 courses, hotels, privately owned private golf courses, privately
17 owned public golf courses and to any other entity which the act
18 specifically exempts from the limitations provided in this
19 section. When determining the number of restaurant and eating
20 place retail dispenser licenses issued in a county for the
21 purposes of this section, licenses exempted from this limitation
22 and club licenses shall not be considered. Inhabitants of dry
23 municipalities shall be considered when determining the
24 population in a county. Licenses shall not be issued or
25 transferred into municipalities where such licenses are
26 prohibited pursuant to local referendum in accordance with
27 section 472 of this act.

28 (a.1) The following provisions shall apply to application
29 for transfer from one municipality to another within the same
30 county:

1 (1) In the calendar year 2001, applications for inter-
2 municipal transfer of licenses must be made to the board prior
3 to March 1, 2001. In each county of the Commonwealth, the board,
4 in its discretion, may approve one quarter of the number of
5 applications for inter-municipal transfer or one application for
6 inter-municipal transfer in each county, whichever is greater.

7 (2) In the calendar year 2002, applications for inter-
8 municipal transfer of licenses must be made to the board prior
9 to March 1, 2002. In each county in the Commonwealth, the board,
10 in its discretion, may approve one third of the number of
11 applications for inter-municipal transfer or two applications
12 for inter-municipal transfer in each county, whichever is
13 greater.

14 (3) In the calendar year 2003, applications for inter-
15 municipal transfer of licenses shall be made to the board prior
16 to March 1, 2003. In each county in the Commonwealth, the board,
17 in its discretion, may approve half of the number of
18 applications for inter-municipal transfer or three applications
19 for inter-municipal transfer in each county, whichever is
20 greater.

21 ~~(4) When determining which application for inter municipal~~ <—
22 ~~transfer to approve under subsection (a.1)(1), (2) and (3), the~~
23 ~~board shall consider the following factors in making a~~
24 ~~determination:~~

25 ~~(i) The ratio of licenses to population in the receiving~~
26 ~~municipality.~~

27 ~~(ii) Experience of the applicant in the restaurant or retail~~
28 ~~food service industry.~~

29 ~~(iii) Any other relevant factor reasonably related to the~~
30 ~~transfer of a liquor license from one municipality to another.~~

1 (4) FOR INTER-MUNICIPAL TRANSFERS UNDER SUBSECTION (A.1)(1), <—
2 (2) AND (3), THE BOARD SHALL APPROVE LICENSE APPLICATIONS FOR
3 INTER-MUNICIPAL TRANSFER BY WAY OF RANDOM DRAWING FROM THE
4 APPLICATIONS RECEIVED DURING THE FILING PERIOD.

5 (5) In calendar year 2004 and thereafter, applications for
6 inter-municipal transfer of licenses may be made at any time.

7 (6) Licenses approved for inter-municipal transfer may not
8 be transferred from the receiving municipality for a period of
9 five years after the date that the ~~licenses~~ LICENSED premises <—
10 are operational in the receiving municipality.

11 (b) [The board shall have the power to increase the number
12 of licenses in any such municipality which in the opinion of the
13 board is located within a resort area.] The board may issue
14 restaurant and eating place retail dispenser licenses and renew
15 licenses issued under this subsection without regard to the
16 quota restrictions set forth in subsection (a) for the purpose
17 of economic development in a municipality under the following
18 conditions:

19 (1) A license may only be issued under this subsection if
20 the applicant has exhausted reasonable means for obtaining a
21 suitable liquor license within the county.

22 ~~(2) The proposed licensed premises must be within an area in~~ <—
23 ~~which any of the following apply:~~

24 ~~(i) The seasonal influx of transients causes the population~~
25 ~~within a two and one half mile radius of the proposed licensed~~
26 ~~establishment to increase to the extent that existing licenses~~
27 ~~within the area do not adequately meet the needs of the~~
28 ~~population and the proposed facilities are used primarily by~~
29 ~~temporary transients or tourists, not by area residents.~~

30 ~~(ii) The proposed licensed premises is located within a~~

~~municipality which has experienced an average annual growth in population of more than one and one quarter per centum (1.25%) over the previous five years and is also located within a county which has experienced an average annual growth of more than seventy five one hundredths per centum (0.75%) over the previous five years and existing licenses within the municipality do not adequately meet the needs of the population. For the purposes of this clause only, official population estimates provided by the United States Census Bureau to the Commonwealth shall be used to determine population growth.~~

~~(iii) (2) The proposed licensed premises is to~~ MUST be located within a keystone opportunity zone established under the authority of the act of October 6, 1998 (P.L.705, No.92), known as the Pennsylvania Keystone Opportunity Zone Act, or is located within an area designated as an enterprise zone by the Department of Community and Economic Development, and existing licenses within the municipality do not adequately meet the needs of the population.

~~(3) The board may issue no more than two licenses total in each county of the first through third class and no more than one license total in each county of the fourth through eighth class, per year.~~

~~(4) An applicant under this subsection shall be required to sell food and non-alcoholic beverages equal to seventy per centum (70%) or more of its combined gross sales of food and alcoholic beverages.~~

~~(5) In addition to license fees provided under existing law for the type of license issued, an applicant shall be required to pay an initial application surcharge as follows:~~

~~(i) Fifty thousands dollars (\$50,000) if the licensed~~

1 premises is located in a county of the first through third
2 class.

3 (ii) Twenty-five thousand dollars (\$25,000) if the licensed
4 premises is located in a county of the fourth through eighth
5 class.

6 The initial application surcharge shall be refunded to the
7 applicant if the board refuses to issue a provisional license
8 under subsection (b.1).

9 (6) A license issued under this subsection and a provisional
10 license issued under subsection (b.1) shall be nontransferable
11 with regard to ownership or location.

12 (7) An appeal of the board's decision refusing to grant or
13 renew a license under this subsection shall not act as a
14 supersedeas of decision of the board if the decision is based,
15 in whole or in part, on the licensee's failure to demonstrate
16 that its food and non-alcoholic beverages were at least seventy
17 per centum (70%) of its combined gross sales of food and
18 alcoholic beverages.

19 (b.1) Qualified applicants under subsection (b) shall
20 receive a provisional license for one hundred twenty days,
21 exclusive of period of safekeeping. After ninety days from the
22 date of issuance, the licensee may file an application for a
23 permanent license. A license shall be issued if the licensee
24 establishes that for ninety consecutive days from the date of
25 initial issue, its sales of food and non-alcoholic beverages
26 equal at least seventy per centum (70%) of its combined gross
27 sales of food and alcoholic beverages. Licensees shall not be
28 subject to citation by the Enforcement Bureau for a violation of
29 the requirement that food and non-alcoholic beverages equal at
30 least seventy (70%) of the combined gross sales of food and

1 alcoholic beverages during the provisional licensing period.

2 (b.2) Neither a license for economic development nor an
3 inter-municipal transfer of a license may be approved in a
4 municipality where the total number of restaurant liquor
5 licenses and eating place retail dispenser licenses in the
6 receiving municipality exceeds one license per one thousand
7 inhabitants without the approval of the municipal governing body
8 for the receiving municipality by ordinance or resolution.

9 Section 5. Section 461.1(a) of the act is amended to read:

10 Section 461.1. Incorporated Units of National Veterans'
11 Organizations.--(a) The board shall have the authority to issue
12 new licenses to incorporated units of national veterans'
13 organizations, as defined herein, in [municipalities] counties
14 where the number of licenses exceeds the limitation prescribed
15 by section 461.

16 * * *

17 Section 6. Section 464 of the act, amended October 5, 1994
18 (P.L.522, No.77), is amended to read:

19 Section 464. Hearings Upon Refusal of Licenses, Renewals or
20 Transfers; Appeals.--The board may of its own motion, and shall
21 upon the written request of any applicant for club, hotel or
22 restaurant liquor license, or any applicant for any malt or
23 brewed beverage license other than a public service license, or
24 for renewal or transfer thereof, or for the renewal of an
25 amusement permit, whose application for such license, renewal or
26 transfer, or the renewal of an amusement permit, has been
27 refused, fix a time and place for hearing of such application
28 for license or for renewal or transfer thereof, or the renewal
29 of an amusement permit, notice of which hearing shall be mailed
30 to the applicant at the address given in his application. Such

1 hearing shall be before a hearing examiner designated by the
2 board. At such hearing, the board shall present its reasons for
3 its refusal or withholding of license, renewal or transfer
4 thereof, or its refusal for renewal of an amusement permit. The
5 applicant may appear in person or by counsel, may cross-examine
6 the witnesses for the board and may present evidence which shall
7 likewise be subject to cross-examination by the board. Such
8 hearing shall be stenographically recorded. The hearing examiner
9 shall thereafter report, with the examiner's recommendation, to
10 the board in each case. The board shall thereupon grant or
11 refuse the license, renewal or transfer thereof or the renewal
12 of an amusement permit. In considering the renewal of a license
13 or amusement permit, the board shall not refuse any such renewal
14 on the basis of the propriety of the original issuance or any
15 prior renewal of such license or amusement permit. If the board
16 shall refuse such license, renewal or transfer or the renewal of
17 an amusement permit, following such hearing, notice in writing
18 of such refusal shall be mailed to the applicant at the address
19 given in his application. In all such cases, the board shall
20 file of record at least a brief statement in the form of an
21 opinion of the reasons for the ruling or order and furnish a
22 copy thereof to the applicant. Any applicant who has appeared at
23 any hearing, as above provided, who is aggrieved by the refusal
24 of the board to issue any such license or to renew or transfer
25 any such license or to renew any amusement permit may appeal, or
26 any church, hospital, charitable institution, school or public
27 playground located within three hundred feet of the premises
28 applied for, aggrieved by the action of the board in granting
29 the issuance of any such license or the transfer of any such
30 license, may take an appeal limited to the question of such

1 grievance, within twenty days from date of refusal or grant, to
2 the court of common pleas of the county in which the premises or
3 permit applied for is located. If the application is for an
4 economic development license under section 461(b) or the inter-
5 municipal transfer of a license, the governing body of the
6 municipality receiving the new license or the transferred
7 license may file an appeal of the board decision granting the
8 license, within twenty days of the date of the board's decision,
9 to the court of common pleas of the county in which the proposed
10 premises is located. Such appeal shall be upon petition of the
11 aggrieved party, who shall serve a copy thereof upon the board,
12 whereupon a hearing shall be held upon the petition by the court
13 upon ten days' notice to the board. The said appeal shall act as
14 a supersedeas unless upon sufficient cause shown the court shall
15 determine otherwise. The court shall hear the application de
16 novo on questions of fact, administrative discretion and such
17 other matters as are involved, at such time as it shall fix, of
18 which notice shall be given to the board. The court shall either
19 sustain or over-rule the action of the board and either order or
20 deny the issuance of a new license or the renewal or transfer of
21 the license or the renewal of an amusement permit to the
22 applicant.

23 Section 7. Section 468(a) of the act is amended to read:

24 Section 468. Licenses Not Assignable; Transfers.--(a) (1)
25 Licenses issued under this article may not be assigned. The
26 board, upon payment of the transfer filing fee, is hereby
27 authorized to transfer any license issued by it under the
28 provisions of this article from one person to another or from
29 one place to another, or both, within the same [municipality,
30 and if the applicant is a unit of a nonprofit nationally

1 chartered club or a volunteer fire company or an affiliated
2 organization of a volunteer fire company, the board is hereby
3 authorized to transfer such license to a place in any other
4 municipality within the same county if the sale of liquor or
5 malt and brewed beverages are legal in such other municipality
6 as the board may determine. Prior to the approval of an
7 application for transfer by a unit of a nonprofit nationally
8 chartered club the board shall make an affirmative finding, upon
9 proof submitted by the applicant, and after investigation by the
10 board, that at the time the application for transfer is made the
11 club continues to hold a valid national charter and continues to
12 function in fact as a club as defined in section 102. The board,
13 in its discretion, may transfer an existing restaurant retail
14 dispenser or club license from one municipality to another in
15 the same county regardless of the quota limitations provided for
16 in this act, if sales of liquor or malt and brewed beverages are
17 legal in such other municipality and if the restaurant retail
18 dispenser or club lost the use of the building in which it was
19 located due to governmental exercise of the right of eminent
20 domain and no other suitable building can be found in the first
21 municipality] county.

22 [(2) (i) The board, in its discretion, may transfer an
23 existing restaurant liquor license from one municipality to
24 another municipality of the same county or in a contiguous
25 county regardless of the quota limitations provided for in this
26 act if:

27 (A) sales of liquor or malt and brewed beverages are legal
28 in such other municipality;

29 (B) the location in the same county or a contiguous county
30 is an indoor bowling center; and

1 (C) the restaurant liquor license is currently located in an
2 area which has been designated as blighted.

3 (ii) For purposes of this subsection, a property shall be
4 determined to be blighted if it is any of the following:

5 (A) real property within or outside a certified
6 redevelopment area determined to be blighted property under the
7 act of May 24, 1945 (P.L.991, No.385), known as the "Urban
8 Redevelopment Law";

9 (B) any property declared to be blighted under the "Urban
10 Redevelopment Law" by a Pennsylvania local government or its
11 agency; or

12 (C) any property which is located within a redevelopment
13 area, when one of the stated purposes of designation as a
14 redevelopment area is to remove blight, designated by a local
15 government or its agencies under the "Urban Redevelopment Law."

16 (iii) If a restaurant liquor license is transferred to an
17 indoor bowling center located outside of the municipality in
18 which the license was originally issued, that restaurant liquor
19 license may not be transferred within five years of the date of
20 initial transfer unless the subsequent transfer is for use in an
21 indoor bowling center. In the case of distributor and importing
22 distributor licenses, the board may transfer any such license
23 from its place in a municipality to a place in any other
24 municipality within the same county, or from one place to
25 another place within the same municipality, or exchange a
26 distributor license for an importing distributor license or an
27 importing distributor license for a distributor license, if the
28 building for which the license is to be issued has, in the case
29 of an importing distributor license, an area under one roof of
30 two thousand five hundred square feet and, in the case of a

1 distributor license, an area under one roof of one thousand
2 square feet: And provided, That, in the case of all transfers of
3 distributor or importing distributor licenses, whether from a
4 place within the same municipality to another place within the
5 same municipality or from a place in a municipality to a place
6 in any other municipality within the same county, and, in the
7 case of an exchange of a distributor license for an importing
8 distributor license or an importing distributor license for a
9 distributor license, the premises to be affected by the transfer
10 or exchange shall contain an office separate and apart from the
11 remainder of the premises to be licensed for the purpose of
12 keeping records, required by the board, adequate toilet
13 facilities for employes of the licensee and an entrance on a
14 public thoroughfare: Provided, however, That in the event that
15 the majority of the voting electors of a municipality, at an
16 election held under the provisions of any law so empowering them
17 to do, shall vote against the issuance of distributor or
18 importing distributor licenses in such municipality, the board
19 is hereby authorized to transfer any such distributor or
20 importing distributor license from its place in such
21 municipality to a place in any other municipality within the
22 same county, upon application prior to the expiration of any
23 such license and upon payment of the transfer filing fee and the
24 execution of a new bond; but no transfer shall be made to a
25 person who would not have been eligible to receive the license
26 originally nor for the transaction of business at a place for
27 which the license could not lawfully have been issued
28 originally, nor, except as herein provided, to a place as to
29 which a license has been revoked.]

30 (3) No license shall be transferred to any place or property

1 upon which is located as a business the sale of liquid fuels and
2 oil. Except in cases of emergency such as death, serious
3 illness, or circumstances beyond the control of the licensee, as
4 the board may determine such circumstances to justify its
5 action, transfers of licenses may be made only at times fixed by
6 the board. In the case of the death of a licensee, the board may
7 transfer the license to the surviving spouse or personal
8 representative or to a person designated by him. From any
9 refusal to grant a transfer or upon the grant of any transfer,
10 the party aggrieved shall have the right of appeal to the proper
11 court in the manner hereinbefore provided.

12 * * *

13 Section 8. Section 472 of the act is amended by adding a
14 subsection to read:

15 Section 472. Local Option.--* * *

16 (d) Nothing in this section shall prohibit the board from
17 approving the transfer of a retail license from a municipality
18 which has voted to prohibit the issuance of such a license to a
19 location in another municipality in the same county which allows
20 the issuance of that type of license.

21 Section 9. Section 472.2 of the act, amended November 10,
22 1999 (P.L.514, No.47), is amended to read:

23 Section 472.2. Granting of Liquor Licenses in Certain
24 Municipalities.--[(a) In any municipality which has by
25 referendum approved the granting of malt and brewed beverage
26 retail dispensers' licenses and has also thereafter, in a
27 separate and subsequent referendum approved the granting of
28 liquor licenses, the board may issue to an applicant holding a
29 malt and brewed beverage retail dispenser's license, a liquor
30 license: Provided, That the applicant surrenders for

1 cancellation the malt and brewed beverage retail dispenser's
2 license. The board shall not issue such a liquor license in
3 excess of one for each three thousand residents in said
4 municipality.

5 (b) Nothing in this section shall otherwise affect any
6 existing malt and brewed beverage retail dispenser's license.

7 (c) The board may not accept, act upon, or grant an
8 application for a liquor license under this section, when such
9 application, if granted, would cause an excess in the aforesaid
10 quota of one liquor license for each three thousand residents in
11 said municipality. Nor shall an applicant under this section be
12 required to surrender his malt and brewed beverage retail
13 dispenser's license until and unless the board has granted his
14 application for a liquor license.] The board may issue a
15 restaurant liquor license to an applicant holding an eating
16 place retail dispenser's license in a municipality which, by
17 referendum, approved the granting of eating place retail
18 dispenser licenses and, in a subsequent referendum, approved the
19 granting of restaurant liquor licenses. This subsection applies
20 to eating place retail dispenser licenses which were issued in
21 the municipality prior to the referendum that allowed the
22 issuance of restaurant liquor licenses. If the board grants the
23 restaurant liquor license, the applicant must immediately
24 surrender for cancellation its eating place retail dispenser
25 license.

26 Section 10. This act shall take effect as follows:

27 (1) The amendment of section 468(a)(2) of the act shall
28 take effect July 1, 2001.

29 (2) This section shall take effect immediately.

30 (3) The remainder of this act shall take effect January

1 1, 2001.