AN ACT

Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An act relating to tax reform and State taxation by codifying and enumerating certain subjects of taxation and imposing taxes thereon; providing procedures for the payment, collection, administration and enforcement thereof; providing for tax credits in certain cases; conferring powers and imposing duties upon the Department of Revenue, certain employers, fiduciaries, individuals, persons, corporations and other entities; prescribing crimes, offenses and penalties," in sales and use tax, further providing for definitions, for time for filing returns, for payment and for tax held in trust for the Commonwealth and providing for COVID-19 public eating or drinking place restriction order grants; and making an editorial change.

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

Section 1. Section 201 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, is amended by adding definitions to read:

Section 201. Definitions.--The following words, terms and phrases when used in this Article II shall have the meaning
ascribed to them in this section, except where the context
clearly indicates a different meaning:

* * *

(mmm) "Public eating or drinking place." A licensee which
is a place located in this Commonwealth where food or drink is
served to or provided for the public with or without charge. The
term does not include dining cars operated by a railroad company
in interstate commerce or a bed and breakfast homestead or inn.

(nnn) "COVID-19 public eating or drinking place restriction
order." Any of the following which requires a public eating or
drinking place to operate at less than 100% seating capacity:

(1) An executive order, proclamation or regulation of the
Governor under 35 Pa.C.S. Ch. 73 Subch. A (relating to the
Governor and disaster emergencies) which relates to the novel
coronavirus known as "COVID-19."

(2) An order or directive of the Secretary of Health under
sections 2102(a) and 2106(b) of the act of April 9, 1929
(P.L.177, No.175), known as "The Administrative Code of 1929,"
section 8(a) of the act of April 27, 1905 (P.L.312, No.218)
entitled "An act creating a Department of Health, and defining
its powers and duties" or section 5 of the act of April 23, 1956
(1955 P.L.1510, No.500), known as the "Disease Prevention and
Control Law of 1955," which relates to the novel coronavirus
known as "COVID-19."

Section 2. Section 217 of the act is amended by adding a
subsection to read:

Section 217. Time for Filing Returns.--* * *

(e) Public Eating or Drinking Places. A public eating or
drinking place may submit an application under section 257(a)
for any portion of a time period under this section for which
the return has not previously been filed.

Section 3. Section 221 of the act is amended to read:

Section 221. Payment.--(a) When a return of tax is required under this part, the person required to make the return shall pay the tax to the department.

(b) For an amount required to be paid under this section by a public eating or drinking place for a time period determined under section 217, the amount which is required to be paid to the department under this section shall be reduced by the amount approved under section 257(b).

Section 4. Section 225 of the act, amended June 28, 2019 (P.L.50, No.13), is amended to read:

Section 225. Tax Held in Trust for the Commonwealth.--All taxes collected by any person from purchasers in accordance with this article and all taxes collected by any person from purchasers under color of this article, including all taxes paid by any person who advertises or holds out or states, directly or indirectly, that such person will pay the tax for the purchaser, which have not been properly refunded by such person to the purchaser shall constitute a trust fund for the Commonwealth, and such trust shall be enforceable against such person, his representatives and any person (other than a purchaser to whom a refund has been made properly) receiving any part of such fund without consideration, or knowing that the taxpayer is committing a breach of trust: Provided, however, That any person receiving payment of a lawful obligation of the taxpayer from such fund shall be presumed to have received the same in good faith and without any knowledge of the breach of trust. Any person, other than a taxpayer, against whom the department makes any claim under this section shall have the same right to

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petition and appeal as is given taxpayers by any provisions of
this part. This section shall not apply to an amount of tax
collected by a public eating or drinking place for food and
beverages which is approved as a grant under section 257.

Section 5. The heading of Chapter V of Article II of the act
is amended to read:

Chapter V
Refunds [and] Credits and Grants

Section 6. The act is amended by adding a section to read:

Section 257. COVID-19 Public Eating or Drinking Place
Restriction Order Grants.--(a) A public eating or drinking
place may submit to the department an application for a grant
under subsection (b) on an application form prescribed by the
department.

(b) Upon receipt of an application under subsection (a), the
department shall approve the public eating or drinking place for
a grant equal to the amount of tax collected by the public
eating or drinking place for food and beverages under section
204(29)(i), (ii) and (iii) which are sold at retail during a
time period in which the public eating or drinking place is
subject to a COVID-19 public eating or drinking place
restriction order.

(c) (1) Upon approval of an application under subsection
(b), the amount subject to the approval may be transferred from
the licensee's trust account under section 225 to an account
available to the public eating or drinking place.

(2) Any amount transferred under paragraph (1) shall not be
considered from funds of a public body under the act of August
15, 1961 (P.L.987, No.442), known as the Pennsylvania Prevailing
Wage Act.
(d) Amounts approved under subsection (b) are appropriated to the department for purposes of this section.

Section 7. This act shall take effect immediately.