

THE GENERAL ASSEMBLY OF PENNSYLVANIA

# HOUSE BILL

## No. 91

Session of  
1983

INTRODUCED BY ZWIKL, TRELLO, SEVENTY, POTT, HALUSKA, AFFLERBACH,  
MILLER, BELFANTI, JAROLIN, MERRY, LETTERMAN, WOZNIAK,  
DOMBROWSKI, VAN HORNE, PERZEL, GANNON AND OLIVER, JANUARY 31,  
1983

REFERRED TO COMMITTEE ON LIQUOR CONTROL, JANUARY 31, 1983

### AN ACT

1 Amending the act of April 12, 1951 (P.L.90, No.21), entitled "An  
2 act relating to alcoholic liquors, alcohol and malt and  
3 brewed beverages; amending, revising, consolidating and  
4 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 authorizing special wine dispensing licenses for restaurants;  
18 and providing penalties.

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

21 Section 1. The act of April 12, 1951 (P.L.90, No.21), known  
22 as the Liquor Code, is amended by adding sections to read:

23 Section 401.1. Authority to Issue Special Wine Licenses to  
24 Restaurants.--Subject to the provisions of this act and  
25 regulations promulgated under this act, the board shall have

1 authority to issue a special wine dispensing license for any  
2 premises kept or operated by a restaurant and specified in the  
3 license entitling the restaurant to purchase wine from a  
4 Pennsylvania Liquor Store and to keep on the premises such wine  
5 and, subject to the provisions of this act and the regulations  
6 made thereunder, to sell the same to patrons for consumption on  
7 the restaurant premises. Such licenses shall be known as  
8 restaurant wine dispensing licenses. No person who holds, either  
9 by appointment or election, any public office which involves the  
10 duty to enforce any of the penal laws of the United States of  
11 America or the penal laws of the Commonwealth of Pennsylvania or  
12 any penal ordinance or resolution of any political subdivision  
13 of this Commonwealth, shall be issued a restaurant wine  
14 dispensing license, nor shall such a person have any interest,  
15 directly or indirectly, in any such license.

16 Section 401.2. Wine Dispensing; License Year; Hearings.--The  
17 board shall hold hearings on applications for wine dispensing  
18 licenses and renewals thereof, as it deems necessary, at such  
19 time as it shall fix, by regulation, for the purpose of hearing  
20 testimony for and against applications for such licenses and  
21 renewals thereof. The board may provide for the holding of such  
22 hearings by examiners learned in the law, to be appointed by the  
23 Governor, who shall not be subject to the act of August 5, 1941  
24 (P.L.752, No.286), known as the "Civil Service Act." Such  
25 examiners shall make report to the board in each case with their  
26 recommendations. The board shall, by regulation, fix the license  
27 year.

28 Section 401.3. Applications for Restaurant Wine Dispensing  
29 Licenses.--(a) Every applicant for a restaurant wine dispensing  
30 license or for the transfer of an existing license to another

1 premises not then licensed shall file a written application with  
2 the board in such form and containing such information as the  
3 board shall from time to time prescribe, which shall be  
4 accompanied by a filing fee of twenty dollars (\$20), the  
5 prescribed license fee, and the bond hereinafter specified.  
6 Every such application shall contain a description of that part  
7 of the restaurant for which the applicant desires a license and  
8 shall set forth such other material information, description or  
9 plan of that part of the restaurant where it is proposed to keep  
10 and sell wine as may be required by the regulations of the  
11 board. The descriptions, information and plans referred to in  
12 this subsection shall show the restaurant or the proposed  
13 location for the construction of a restaurant, at the time the  
14 application is made, and shall show any alterations proposed to  
15 be made thereto, or the new building proposed to be constructed  
16 after the approval by the board of the application for a license  
17 or for the transfer of an existing license to another premises  
18 not then licensed. No physical alterations, improvements or  
19 changes shall be required to be made to any restaurant nor shall  
20 any new building for any such purpose, be required to be  
21 constructed until approval of the application for license or for  
22 the transfer of an existing license to another premises not then  
23 licensed by the board. After approval of the application, the  
24 licensee shall make the physical alterations, improvements and  
25 changes to the licensed premises, or shall construct the new  
26 building in the manner specified by the board at the time of  
27 approval, and the licensee shall not transact any business under  
28 the license until the board has approved the completed physical  
29 alterations, improvements and changes to the licensed premises,  
30 or the completed construction of the new building as conforming

to the specifications required by the board at the time of  
issuance or transfer of the license, and is satisfied that the  
establishment is a restaurant as defined by this act. The board  
may require that all such alterations or construction or  
conformity to definition be completed within six months from the  
time of issuance or transfer of the license. Failure to comply  
with these requirements shall be considered cause for revocation  
of the license. No such license shall be transferable between  
the time of issuance or transfer of the license and the approval  
of the completed alterations or construction by the board and  
full compliance by the licensee with the requirements of this  
act, except in the case of death of the licensee prior to full  
compliance with all of the aforementioned requirements, in which  
event, the license may be transferred by the board as provided  
in this act for the transfer of the license in the case of death  
of the licensee.

(b) If the applicant is a natural person, his application  
shall show that he is a citizen of the United States and has  
been a resident of this Commonwealth for at least two years  
immediately preceding his application.

(c) If the applicant is a corporation, the application shall  
show that the corporation was created under the laws of  
Pennsylvania or holds a certificate of authority to transact  
business in Pennsylvania, that all officers, directors and  
stockholders are citizens of the United States, and that the  
manager of the restaurant is a citizen of the United States.

(d) Each application shall be signed and verified by oath or  
affirmation by the owner, if a natural person, or, in the case  
of an association, by a member or partner thereof, or, in the  
case of a corporation, by an executive officer thereof or any

1 person specifically authorized by the corporation to sign the  
2 application, to which shall be attached written evidence of his  
3 authority.

4 (e) If the applicant is an association, the application  
5 shall set forth the names and addresses of the persons  
6 constituting the association, and if a corporation, the names  
7 and addresses of the principal officers thereof.

8 (f) Every applicant for a new license or for the transfer of  
9 an existing license to another premises not then licensed shall  
10 post, for a period of a least fifteen days beginning with the  
11 day the application is filed with the board, in a conspicuous  
12 place on the outside of the premises or at the proposed new  
13 location for which the license is applied, a notice of such  
14 application, in such form, of such size, and containing such  
15 provisions as the board may require by its regulations. Proof of  
16 the posting of such notice shall be filed with the board.

17 (g) If any false statement is intentionally made in any part  
18 of the application, the affiant shall be deemed guilty of a  
19 misdemeanor of the third degree and, upon conviction, shall be  
20 subject to the penalties provided by this act.

21 Section 401.4. Issuance of Restaurant Wine Dispensing  
22 Licenses.--Upon receipt of the application, the proper fees and  
23 bond, and upon being satisfied of the truth of the statements in  
24 the application that the applicant is the only person in any  
25 manner pecuniarily interested in the business so asked to be  
26 licensed and that no other person will be in any manner  
27 pecuniarily interested therein during the continuance of the  
28 license, except as hereinafter permitted, and that the applicant  
29 is a person of good repute, that the premises applied for meet  
30 all the requirements of this act and the regulations of the

board, that the applicant seeks a license as a restaurant wine dispenser, and that the issuance of such license is not prohibited by any of the provisions of this act, the board shall, in such case grant and issue to the applicant a license. The board shall, however, have the discretion to refuse a license to any person or to any corporation, partnership or association if such person, or any officer or director of such corporation, or any member or partner of such partnership or association shall have been convicted or found guilty of a felony within a period of five years immediately preceding the date of application for the said license.

Section 401.5. License Fees.--(a) License fees for restaurant wine dispensing licenses shall be graduated according to the population of the municipality as determined by the last preceding decennial census of the United States in which the restaurant is located, as follows:

(1) In municipalities having a population of less than fifteen hundred inhabitants, one hundred fifty dollars (\$150).

(2) In municipalities, except townships, having a population of fifteen hundred and more but less than ten thousand inhabitants, and in townships having a population of fifteen hundred and more but less than twelve thousand inhabitants, two hundred dollars (\$200).

(3) In municipalities, except townships, having a population of ten thousand and more but less than fifty thousand inhabitants, and in townships having a population of twelve thousand and more but less than fifty thousand inhabitants, three hundred dollars (\$300).

(4) In those municipalities having a population of fifty thousand and more but less than one hundred thousand

1 inhabitants, four hundred dollars (\$400).

2 (5) In those municipalities having a population of one  
3 hundred thousand and more but less than one hundred fifty  
4 thousand inhabitants, five hundred dollars (\$500).

5 (6) In those municipalities having a population of one  
6 hundred fifty thousand and more inhabitants, six hundred dollars  
7 (\$600).

8 (b) All license fees authorized under this section shall be  
9 collected by the board for the use of the municipalities in  
10 which such fees were collected.

11 (c) Whenever any checks issued in payment of filing or  
12 license fees shall be returned to the board as dishonored, the  
13 board shall charge a fee of five dollars (\$5) per hundred  
14 dollars, or fractional part thereof, plus all protest fees, to  
15 the maker of such check submitted to the board. Failure to pay  
16 the face amount of the check in full and all charges thereon as  
17 herein required within ten days after demand has been made by  
18 the board upon the maker of the check, the license of such  
19 person, if issued, shall immediately terminate and be cancelled  
20 without any action on the part of the board.

21 Section 401.6. Sales by Restaurant Dispensing Wine  
22 Licensees; Restrictions.--Every such restaurant licensee may  
23 sell wine by the glass, open bottle or other container, for  
24 consumption only in that part of the restaurant habitually used  
25 for the serving of food to patrons.

26 Section 2. This act shall take effect in 60 days.