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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**HOUSE BILL**  
**No. 1519** Session of  
2001

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INTRODUCED BY REINARD, LEH, MARSICO, McILHINNEY, WILT AND  
ADOLPH, MAY 3, 2001

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AS AMENDED ON THIRD CONSIDERATION, IN SENATE, FEBRUARY 5, 2002

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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 providing for special occasion  
18 permits; providing for shipment of wine into the  
19 Commonwealth; further providing for general powers of the  
20 board, for sales by Pennsylvania liquor stores, for  
21 applications for hotel, restaurant and club liquor licenses,  
22 for public venue license, for performing arts facility  
23 license; providing FOR A CONTINUING CARE RETIREMENT COMMUNITY <—  
24 RETAIL LICENSE NOT SUBJECT TO THE QUOTA SYSTEM AND for malt  
25 and brewed beverages alternating brewers' licenses; and  
26 further providing for application for distributors',  
27 importing distributors' and retail dispensers' licenses, for  
28 limiting number of retail licenses to be issued in each  
29 county, for places of amusement not to be licensed and  
30 penalty, for licenses not assignable and transfers, for  
31 revocation and suspension of licenses and fines, for local

1 option, for clubs, for privately owned public golf courses,  
2 for establishments proximate to interstate highways not to be  
3 licensed, for applicants to provide State tax identification  
4 numbers and statement of State tax status and waiver of  
5 confidentiality of information in the possession of the  
6 Department of Revenue and other departments and review of  
7 State tax status, for unlawful acts relative to liquor, malt  
8 and brewed beverages and licensees, for identification cards  
9 and licensees and State liquor store employees saved from  
10 prosecution, for reporting of worthless checks, for unlawful  
11 advertising and for premises to be vacated by patrons.

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

14 Section 1. The definitions of "eating place," "public venue"  
15 and "restaurant" in section 102 of the act of April 12, 1951  
16 (P.L.90, No.21), known as the Liquor Code, reenacted and amended  
17 June 29, 1987 (P.L.32, No.14) and amended December 20, 2000  
18 (P.L.992, No.141), are amended and the section is amended by  
19 adding definitions to read:

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

23 \* \* \*

24 "Alternating brewer" shall mean any person, association,  
25 corporation or other business entity licensed by the board to  
26 produce malt or brewed beverages at premises that are licensed  
27 by another entity under a Pennsylvania manufacturer's license.

28 \* \* \*

29 "Automobile racetrack" shall mean a track used principally  
30 for holding automobile races which has a seating capacity in  
31 excess of twenty-five thousand.

32 \* \* \*

33 "Combination package" shall mean a package consisting of  
34 liquor or alcohol and a non-liquor or non-alcohol item as  
35 packaged by the manufacturer or its representative.

1       \* \* \*

2       "CONTINUING CARE RETIREMENT COMMUNITY" SHALL MEAN THE  
3 BUILDING OR COMPLEX OPERATED BY A NONPROFIT ENTITY INCORPORATED  
4 UNDER 15 PA.C.S. SUBPT. C (RELATING TO NONPROFIT CORPORATIONS)  
5 WHICH PRIMARILY HOUSES PERSONS OVER THE AGE OF SIXTY-TWO. AT  
6 LEAST ONE HUNDRED PERSONS RESIDING IN THE BUILDING OR COMPLEX  
7 MUST BE OVER THE AGE OF SIXTY-TWO.

8       \* \* \*

9       "Direct shipper" shall mean a person outside this  
10 Commonwealth who obtains a license from the board to accept  
11 orders placed for wine from within this Commonwealth by the  
12 Internet and who ships or facilitates in any way shipment of  
13 wine by a delivery agent or common carrier to a Pennsylvania  
14 liquor store.

15       \* \* \*

16       "Eating place" shall mean a premise where food is regularly  
17 and customarily prepared and sold, having a total area of not  
18 less than three hundred square feet available to the public in  
19 one or more rooms, other than living quarters, and equipped with  
20 tables and chairs, including bar seats, accommodating thirty  
21 persons at one time.

22       \* \* \*

23       "Management company" shall mean any entity employed or  
24 otherwise contracted by a licensee to operate, manage or  
25 supervise all or part of the operation of the licensed premises.

26       \* \* \*

27       "Public venue" shall mean a stadium, arena, convention  
28 center, museum, amphitheater or similar structure. If the public  
29 venue is a cruise terminal owned or leased by a port authority  
30 created under the act of June 12, 1931 (P.L.575, No.200),

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

1 cultural and science facility or museum, regardless of owner and  
2 seating capacity, that has a floor area of at least sixty  
3 thousand (60,000) square feet in one building.

4 \* \* \*

5 "Restaurant" shall mean a reputable place operated by  
6 responsible persons of good reputation and habitually and  
7 principally used for the purpose of providing food for the  
8 public, the place to have an area within a building of not less  
9 than four hundred square feet, equipped with tables and chairs,  
10 including bar seats, accommodating at least thirty persons at  
11 one time.

12 \* \* \*

13 Section 2. Section 207 of the act is amended by adding a  
14 subsection to read:

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

17 \* \* \*

18 (k) To issue grants to various entities for alcohol  
19 education and prevention efforts.

20 Section 3. Section 305(a) of the act is amended to read:

21 Section 305. Sales by Pennsylvania Liquor Stores.--(a)  
22 Every Pennsylvania Liquor Store shall keep in stock for sale  
23 such classes, varieties and brands of liquor and alcohol as the  
24 board shall prescribe. Every Pennsylvania Liquor Store shall be  
25 authorized to sell combination packages. If any person shall  
26 desire to purchase any class, variety or brand of liquor or  
27 alcohol which any such store does not have in stock, it shall be  
28 the duty of such store immediately to order the same upon the  
29 payment of a reasonable deposit by the purchaser in such  
30 proportion of the approximate cost of the order as shall be

1 prescribed by the regulations of the board. No purchaser may be  
2 required to purchase more than two bottles or containers of the  
3 product, provided that such product is available through the  
4 State store system. The customer shall be notified immediately  
5 upon the arrival of the goods.

6 In computing the retail price of such special orders for  
7 liquor or alcohol, the board shall not include the cost of  
8 freight or shipping before applying the mark-up and taxes but  
9 shall add the freight or shipping charges to the price after the  
10 mark-up and taxes have been applied.

11 Unless the customer pays for and accepts delivery of any such  
12 special order within ten days after notice of arrival, the store  
13 may place it in stock for general sale and the customer's  
14 deposit shall be forfeited.

15 \* \* \*

16 Section 4. Section 403(a) of the act, amended December 21,  
17 1998 (P.L.1202, No.155), is amended to read:

18 Section 403. Applications for Hotel, Restaurant and Club  
19 Liquor Licenses.--(a) Every applicant for a hotel liquor  
20 license, restaurant liquor license or club liquor license or for  
21 the transfer of an existing license to another premises not then  
22 licensed or to another person shall file a written application  
23 with the board in such form and containing such information as  
24 the board shall from time to time prescribe, which shall be  
25 accompanied by a filing fee and an annual license fee as  
26 prescribed in section 614-A of the act of April 9, 1929  
27 (P.L.177, No.175), known as "The Administrative Code of 1929."  
28 Every such application shall contain a description of that part  
29 of the hotel, restaurant or club for which the applicant desires  
30 a license and shall set forth such other material information,

1 description or plan of that part of the hotel, restaurant or  
2 club where it is proposed to keep and sell liquor as may be  
3 required by the regulations of the board. The descriptions,  
4 information and plans referred to in this subsection shall show  
5 the hotel, restaurant, club, or the proposed location for the  
6 construction of a hotel, restaurant or club, at the time the  
7 application is made, and shall show any alterations proposed to  
8 be made thereto, or the new building proposed to be constructed  
9 after the approval by the board of the application for a license  
10 or for the transfer of an existing license to another premises  
11 not then licensed or to another person. No physical alterations,  
12 improvements or changes shall be required to be made to any  
13 hotel, restaurant or club, nor shall any new building for any  
14 such purpose, be required to be constructed until approval of  
15 the application for license or for the transfer of an existing  
16 license to another premises not then licensed or to another  
17 person by the board. After approval of the application, the  
18 licensee shall make the physical alterations, improvements and  
19 changes to the licensed premises, or shall construct the new  
20 building in the manner specified by the board at the time of  
21 approval, and the licensee shall not transact any business under  
22 the license until the board has approved the completed physical  
23 alterations, improvements and changes to the licensed premises,  
24 or the completed construction of the new building as conforming  
25 to the specifications required by the board at the time of  
26 issuance or transfer of the license, and is satisfied that the  
27 establishment is a restaurant, hotel or club as defined by this  
28 act. The board may require that all such alterations or  
29 construction or conformity to definition be completed within six  
30 months from the time of issuance or transfer of the license.

1 Failure to comply with these requirements shall be considered  
2 cause for revocation of the license. No such license shall be  
3 transferable between the time of issuance or transfer of the  
4 license and the approval of the completed alterations or  
5 construction by the board and full compliance by the licensee  
6 with the requirements of this act, except in the case of death  
7 of the licensee prior to full compliance with all of the  
8 aforementioned requirements, unless full compliance is  
9 impossible for reasons beyond the licensee's control, in which  
10 event, the license may be transferred by the board as provided  
11 in this act.

12 \* \* \*

13 Section 5. Section 408.4(a) of the act, amended November 10,  
14 1999 (P.L.514, No.47), is amended to read:

15 Section 408.4. Special Occasion Permits.--(a) Upon  
16 application of any hospital, church, synagogue, volunteer fire  
17 company, volunteer ambulance company, volunteer rescue squad,  
18 nonprofit organization as defined under section 501(c)(3) of the  
19 Internal Revenue code of 1986 (Public Law 99-514, 26 U.S.C. §  
20 501(c)(3)) whose purpose is to protect the architectural  
21 heritage of boroughs, and which has been recognized as such by a  
22 municipal resolution, unit of a nationally chartered club which  
23 has been issued a club liquor license, nonprofit agricultural  
24 association in existence for at least ten years, bona fide  
25 sportsmen's club in existence for at least ten years, nationally  
26 chartered veterans' organization and any affiliated lodge or  
27 subdivision of such organization, fraternal benefit society that  
28 is licensed to do business in this Commonwealth and any  
29 affiliated lodge or subdivision of such fraternal benefit  
30 society, or one auxiliary of any of the foregoing, and upon



1 payment of the prescribed fee for special occasion permits under  
2 section 614-A of the act of April 9, 1929 (P.L.177, No.175),  
3 known as "The Administrative Code of 1929," the board shall  
4 issue a special occasion permit good for a period of not more  
5 than six consecutive or nonconsecutive days during a calendar  
6 year. Special occasion permits may also be issued to a museum  
7 operated by a nonprofit corporation in a city of the third class  
8 or township of the first class or a nonprofit corporation  
9 engaged in the performing arts in a city of the third class or  
10 in an incorporated town or to an arts council or to a nonprofit  
11 corporation that operates an arts facility or museum in a city  
12 of the third class in a county of the fourth class for a period  
13 of not more than six nonconsecutive or ten consecutive days at  
14 the prescribed fee for special occasion permits under section  
15 614-A of "The Administrative Code of 1929."

16 \* \* \*

17 Section 6. Sections 412(b), (d), (e) and (f) and 413(d), (e)  
18 and (g) of the act, added December 20, 2000 (P.L.992, No.141),  
19 are amended to read:

20 Section 412. Public Venue License.--\* \* \*

21 (b) An application for a restaurant liquor license under  
22 this section may be made by the owner of the public venue, [a  
23 nonprofit corporation operating] the operator of the public  
24 venue or by a concessionaire designated by the governing body of  
25 either the owner of the public venue or the [nonprofit  
26 corporation] operator. The application and issuance of the  
27 license is subject to sections 403 and 404 unless otherwise  
28 stated. The licensing period shall be as set forth by the board  
29 under section 402. The application, renewal and filing fees  
30 shall be as prescribed in section 614-A(25) of the act of April

1 9, 1929 (P.L.177, No.175), known as "The Administrative Code of  
2 1929." [For the purposes of this section, a nonprofit  
3 corporation is an entity incorporated under the nonprofit  
4 corporation laws for the purpose of benefiting the public and  
5 not for the purpose of benefiting its members.]

6 \* \* \*

7 (d) Licenses under this section shall expire upon: (1)  
8 revocation by an administrative law judge under section 471; (2)  
9 nonrenewal by the board under section 470; (3) nonrenewal of the  
10 license by the license holder; (4) termination of the contract  
11 between the owner of the public venue and its concessionaire; or  
12 (5) termination of the contract between [a nonprofit  
13 corporation] an operator and its concessionaire.

14 \* \* \*

15 (e) The board may issue a license under this section at any  
16 time to a new applicant even if the previous license had: (1)  
17 been revoked by an administrative law judge under section 471;  
18 (2) not been renewed by the board under section 470; (3) not  
19 been renewed by the license holder; (4) expired because of the  
20 termination of the contract between the owner of the public  
21 venue and its concessionaire; or (5) expired because of the  
22 termination of the contract between [the nonprofit corporation]  
23 an operator and its concessionaire.

24 (f) Licenses issued under this section are to be considered  
25 restaurant liquor licenses. However, the following additional  
26 restrictions and privileges apply:

27 (1) Sales may only be made one hour before, during and one  
28 hour after any athletic performance, performing arts event,  
29 trade show, convention, banquet or any other performance at the  
30 facility; however, sales may not be made from two o'clock

1 antemeridian to seven o'clock antemeridian. In addition, sales  
2 may not occur prior to eleven o'clock antemeridian on Sundays or  
3 seven o'clock antemeridian on Mondays. Notwithstanding this  
4 section, facilities that had been licensed under former sections  
5 408.9 and 408.14 may sell liquor and/or malt or brewed beverages  
6 anytime except from two o'clock antemeridian to seven o'clock  
7 antemeridian or prior to eleven o'clock antemeridian on Sundays  
8 or seven o'clock antemeridian on Mondays, regardless of whether  
9 there is a performance at the facility.

10 (2) Sales of alcoholic beverages before, during and after  
11 all professional and amateur athletic events on the premises  
12 shall be limited to sales of malt or brewed beverages in  
13 shatterproof containers. Sales of alcoholic beverages before,  
14 during and after performing arts events or other entertainment  
15 events may consist of liquor or malt or brewed beverages in  
16 shatterproof containers. Sales during trade shows, conventions,  
17 banquets or at other events, or sales made in the club seats or  
18 at a restaurant facility, may consist of liquor or malt or  
19 brewed beverages in any type of container; however, any liquor  
20 or malt or brewed beverages sold in the club seats or restaurant  
21 facility must remain in the club seating level or restaurant  
22 facility. For purposes of this section, a club seat is any  
23 seating located on the designated club seating level and  
24 partitioned from general seating by a wall, divider, partial  
25 wall or railing. The club seating level must not be accessible  
26 by the general public. The board's records shall clearly  
27 delineate where the sale of liquor or malt or brewed beverages  
28 in any type of container may occur.

29 (3) Sales of malt or brewed beverages for off-premises  
30 consumption are prohibited.

(4) Licenses issued under this section shall not be subject to: (i) the proximity provisions of sections 402 and 404; (ii) the quota restrictions of section 461; [(iii) the provisions of section 463;] (iv) the provisions of section 493(10) except as they relate to lewd, immoral or improper entertainment; and (v) the prohibition against minors frequenting as described in section 493(14). In addition, licenses issued under this section shall not be subject to the provisions defining "restaurant" in section 102.

Section 413. Performing Arts Facility License.--\* \* \*

(d) Licenses under this section shall expire upon: (1) revocation by an administrative law judge under section 471; (2) nonrenewal by the board under section 470; (3) nonrenewal of the license by the license holder; or (4) termination of the contract between the [owner] operator of the [public venue] performing arts facilities and its concessionaire[; or (5) termination of the contract between a corporation and its concessionaire].

(e) The board may issue a license under this section at any time to a new applicant even if the previous license had: (1) been revoked by an administrative law judge under section 471; (2) not been renewed by the board under section 470; (3) not been renewed by the license holder; or (4) expired because of the termination of the contract between the [owner] operator of the [public venue] performing arts facilities and its concessionaire[; or (5) expired because of the termination of the contract between the corporation and its concessionaire].

\* \* \*

(g) Licenses issued under this section shall not be subject to: (1) the proximity provisions of sections 402 and 404; (2)

1 the quota restrictions of section 461; [(3) the provisions of  
2 section 463;] (4) the provisions of section 493(10) except as  
3 they relate to lewd, immoral or improper entertainment; and (5)  
4 the prohibitions against minors frequenting as described in  
5 section 493(14). In addition, licenses issued under this section  
6 shall not be subject to the provisions defining "restaurant" in  
7 section 102.

8 \* \* \*

9 Section 7. The act is amended by adding ~~a section~~ SECTIONS <—  
10 to read:

11 SECTION 414. CONTINUING CARE RETIREMENT COMMUNITY RETAIL <—  
12 LICENSES.--(A) THE BOARD IS AUTHORIZED TO ISSUE A RESTAURANT  
13 LIQUOR LICENSE TO A CONTINUING CARE RETIREMENT COMMUNITY AS THAT  
14 TERM IS DEFINED IN THIS ACT, OR ITS DESIGNATED CONCESSIONAIRE.  
15 THE LICENSING PERIOD SHALL BE ESTABLISHED UNDER SECTION 402. THE  
16 APPLICATION AND ISSUANCE OF THE LICENSE IS SUBJECT TO SECTIONS  
17 403 AND 404 UNLESS OTHERWISE STATED. THE APPLICATION, RENEWAL,  
18 AND FILING FEE, SHALL BE AS PRESCRIBED IN SECTION 614-A(1) OF  
19 THE ACT OF APRIL 9, 1929 (P.L.177, NO.175), KNOWN AS "THE  
20 ADMINISTRATIVE CODE OF 1929."

21 (B) LICENSES ISSUED UNDER THIS SECTION ARE RESTAURANT LIQUOR  
22 LICENSES FOR ALL PURPOSES EXCEPT AS PROVIDED HEREIN. HOWEVER,  
23 THE FOLLOWING ADDITIONAL RESTRICTIONS AND PRIVILEGES APPLY:

24 (1) LICENSES ISSUED UNDER THIS SECTION ARE NOT SUBJECT TO  
25 THE QUOTA RESTRICTIONS OF SECTION 461.

26 (2) SALES OF LIQUOR AND MALT OR BREWED BEVERAGES MAY NOT  
27 OCCUR FROM TWO O'CLOCK ANTEMERIDIAN TO SEVEN O'CLOCK  
28 ANTEMERIDIAN. IN ADDITION, SALES MAY NOT OCCUR PRIOR TO ONE  
29 O'CLOCK POSTMERIDIAN OR AFTER TEN O'CLOCK POSTMERIDIAN ON  
30 SUNDAY.

1       (3) LIQUOR AND MALT OR BREWED BEVERAGES SOLD OR FURNISHED BY  
2 THE LICENSEE MAY BE POSSESSED ANYWHERE WITHIN THE CONTINUING  
3 CARE RETIREMENT COMMUNITY REGARDLESS OF WHETHER THAT PORTION OF  
4 THE PREMISES IS LICENSED. HOWEVER, NO LIQUOR OR MALT OR BREWED  
5 BEVERAGES SOLD OR FURNISHED BY THE LICENSEE MAY BE TAKEN BEYOND  
6 THE CONFINES OF THE CONTINUING CARE RETIREMENT COMMUNITY.

7       (4) SALES OF LIQUOR OR MALT OR BREWED BEVERAGES MAY OCCUR IN  
8 THOSE PORTIONS OF THE PREMISES LICENSED BY THE BOARD AS WELL AS  
9 IN ROOMS THAT ARE LIVED IN OR USED BY RESIDENTS OF THE  
10 CONTINUING CARE RETIREMENT COMMUNITY. SALES OF LIQUOR AND MALT  
11 OR BREWED BEVERAGES ARE LIMITED TO RESIDENTS OF THE CONTINUING  
12 CARE RETIREMENT COMMUNITY, EMPLOYEES OF THE CONTINUING CARE <—  
13 RETIREMENT COMMUNITY AND THE GUESTS OF RESIDENTS AND EMPLOYEES IN <—  
14 CONJUNCTION WITH THE NORMAL, REGULARLY SCHEDULED DINING,  
15 ENTERTAINMENT OR SOCIAL ACTIVITIES OF THE CONTINUING CARE  
16 RETIREMENT COMMUNITY.

17       (5) LICENSES ISSUED UNDER THIS SECTION ARE NOT SUBJECT TO  
18 THE PROVISIONS DEFINING "RESTAURANT" IN SECTION 102.

19       (C) LICENSES ISSUED UNDER THIS SECTION ARE NONTRANSFERABLE  
20 AND IF ISSUED TO A CONCESSIONAIRE SHALL EXPIRE UPON THE  
21 TERMINATION OF THE CONTRACT BETWEEN THE CONTINUING CARE  
22 RETIREMENT COMMUNITY AND THE CONCESSIONAIRE.

23       (D) THE BOARD MAY ISSUE AN EATING PLACE RETAIL DISPENSER  
24 LICENSE TO A CONTINUING CARE RETIREMENT COMMUNITY LOCATED IN A  
25 MUNICIPALITY THAT HAS VOTED TO ALLOW THE ISSUANCE OF EATING  
26 PLACE RETAIL DISPENSER LICENSES BUT HAS NOT VOTED TO ALLOW THE  
27 ISSUANCE OF RESTAURANT LIQUOR LICENSES. EATING PLACE RETAIL <—  
28 DISPENSER LICENSES ISSUED UNDER THIS SUBSECTION SHALL BE SUBJECT  
29 TO THE RESTRICTIONS AND PRIVILEGES CONTAINED IN SUBSECTIONS (B)  
30 AND (C).

Section 431.1. Malt and Brewed Beverages Alternating

Brewers' Licenses.--(a) The board shall be authorized to issue an alternating brewer's license to qualified entities. In order to qualify for the alternating brewer's license, the applicant must demonstrate that it holds a Federal brewer's notice registration issued for a premises within this Commonwealth and meet all the qualifications imposed on the holder of a malt and brewed beverage manufacturer's license.

(b) The holder of an alternating brewer's license shall have all the rights and be subject to the same conditions and qualifications as those imposed on holders of a malt or brewed beverage manufacturer's license except as set forth in this section.

(c) The holder of an alternating brewer's license is not required to maintain separate manufacturing premises; rather, the alternating brewer's license shall be valid at premises that are licensed by another entity under a Pennsylvania manufacturer's license. The holder of an alternating brewer's license shall not be entitled to the limited tax credit available under section 2010 of the act of March 4, 1971 (P.L.6, No.2), known as the "Tax Reform Code of 1971."

(d) Malt and brewed beverages manufactured under the authority of an alternating brewer's license must be distributed in this Commonwealth only through specific importing distributors who shall first have been given distributor rights for such products in designated geographical areas through the distribution system required for out-of-State manufacturers under section 431(b) as well as all other pertinent sections of this act. The alternating brewer must comply with section 444.

(e) The application, renewal and filing fees for a malt and

1 brewed beverages alternating brewer's license shall be as  
2 prescribed in section 614-A(10) of the act of April 9, 1929  
3 (P.L.177, No.175), known as "The Administrative Code of 1929."

4 Section 8. Section 436 INTRODUCTORY PARAGRAPH AND (b) of the <—  
5 act, amended April 29, 1994 (P.L.212, No.30), ~~is~~ ARE amended to <—  
6 read:

7 Section 436. Application for Distributors', Importing  
8 Distributors' and Retail Dispensers' Licenses.--Application for  
9 distributors', importing distributors' and retail dispensers'  
10 licenses, or for the transfer of an existing license to another  
11 premises not then licensed, OR TO ANOTHER PERSON, shall contain <—  
12 or have attached thereto the following information and  
13 statements:

14 \* \* \*

15 (b) The particular place for which the license is desired  
16 and a detailed description thereof. The description, information  
17 and plans referred to in this subsection shall show the premises  
18 or the proposed location for the construction of the premises at  
19 the time the application is made, and shall show any alterations  
20 proposed to be made thereto, or the new building proposed to be  
21 constructed after the approval by the board of the application  
22 for a license, or for the transfer of an existing license to  
23 another premises not then licensed or to another person. No  
24 physical alterations, improvements or changes shall be required  
25 to be made to any hotel, eating place or club, nor shall any new  
26 building for any such purpose be required to be constructed  
27 until approval of the application for license or for the  
28 transfer of an existing license to another premises not then  
29 licensed or to another person by the board. After approval of  
30 the application, the licensee shall make the physical



1 alterations, improvements and changes to the licensed premises,  
2 or shall construct the new building in the manner specified by  
3 the board at the time of approval. The licensee shall not  
4 transact any business under the license until the board has  
5 approved the completed physical alterations, improvements and  
6 changes of the licensed premises or the completed construction  
7 of the new building as conforming to the specifications required  
8 by the board at the time of issuance or transfer of the license  
9 and is satisfied that the premises meet the requirements for a  
10 distributor's or importing distributor's license as set forth in  
11 this act or that the establishment is an eating place, hotel or  
12 club as defined by this act. The board may require that all such  
13 alterations or construction or conformity to definition be  
14 completed within six months from the time of issuance or  
15 transfer of the license. Failure to comply with these  
16 requirements shall be considered cause for revocation of the  
17 license. No such license shall be transferable between the time  
18 of issuance or transfer of the license and the approval of the  
19 completed alterations or construction by the board and full  
20 compliance by the licensee with the requirements of this act,  
21 except in the case of death of the licensee prior to full  
22 compliance with all of the aforementioned requirements, unless  
23 full compliance is impossible for reasons beyond the licensee's  
24 control, in which event the license may be transferred by the  
25 board as provided in this act.

26 Section 9. Section 461(a), (b.1), (b.2), (b.3) and (e.1),  
27 amended or added December 20, 2000 (P.L.992, No.141), are  
28 amended to read:

29 Section 461. Limiting Number of Retail Licenses To Be Issued  
30 In Each County.--(a) No additional restaurant, eating place

1 retail dispenser or club licenses shall be issued within a  
2 county if the total number of restaurant and eating place retail  
3 dispenser licenses is greater than one license for each three  
4 thousand inhabitants in the county, except the board may issue  
5 licenses to public venues, performing arts facilities,  
6 CONTINUING CARE RETIREMENT COMMUNITIES, airport restaurants, <—  
7 municipal golf courses, hotels, privately-owned private golf  
8 courses, privately-owned public golf courses, racetracks,  
9 automobile racetracks, nonprimary pari-mutuel wagering locations  
10 and to any other entity which this act specifically exempts from  
11 the limitations provided in this section, and the board may  
12 issue a license to a club situated in a borough having a  
13 population less than eight thousand inhabitants which is located  
14 in a county of the second class A whose application is filed on  
15 or before February 28, 2001. In addition, the board may issue an  
16 eating place retail dispenser license for on-premises sales only  
17 to the owner or operator of a facility having a minimum of a  
18 one-half mile asphalt track and having a permanent seating  
19 capacity of at least six thousand people used principally for  
20 holding automobile races, regardless of the number of restaurant  
21 and eating place retail dispenser licenses already issued in  
22 that county. When determining the number of restaurant and  
23 eating place retail dispenser licenses issued in a county for  
24 the purposes of this section, licenses exempted from this  
25 limitation and club licenses shall not be considered.  
26 Inhabitants of dry municipalities shall be considered when  
27 determining the population in a county. Licenses shall not be  
28 issued or transferred into municipalities where such licenses  
29 are prohibited pursuant to local referendum in accordance with  
30 section 472. Licenses approved for intermunicipal transfer may

1 not be transferred from the receiving municipality for a period  
2 of five years after the date that the licensed premises are  
3 operational in the receiving municipality.

4 (b.1) The board may issue restaurant and eating place retail  
5 dispenser licenses and renew licenses issued under this  
6 subsection without regard to the quota restrictions set forth in  
7 subsection (a) for the purpose of economic development in a  
8 municipality under the following conditions:

9 (1) A license may only be issued under this subsection if  
10 the applicant has exhausted reasonable means for obtaining a  
11 suitable license within the county.

12 (2) The proposed licensed premises must be located within  
13 either of the following:

14 (i) A keystone opportunity zone established under the  
15 authority of the act of October 6, 1998 (P.L.705, No.92), known  
16 as the ["Pennsylvania Keystone Opportunity Zone Act,"] "Keystone  
17 Opportunity Zone and Keystone Opportunity Expansion Zone Act,"  
18 or an area designated as an enterprise zone by the Department of  
19 Community and Economic Development.

20 (ii) A municipality in which the issuance of a restaurant or  
21 eating place retail dispenser license has been approved by the  
22 governing body of the municipality for the purpose of local  
23 economic development. Upon request for approval of an economic  
24 development license by an applicant, at least one public hearing  
25 shall be held by the municipal governing body for the purpose of  
26 receiving comments and recommendations of interested individuals  
27 residing within the municipality concerning the applicant's  
28 intent to acquire an economic development license from the  
29 Pennsylvania Liquor Control Board. The governing body shall,  
30 within forty-five days of a request for approval, render a

1 decision by ordinance or resolution to approve or disapprove the  
2 applicant's request for an economic development license. [The  
3 municipality must approve the request unless it finds that doing  
4 so] If the municipality finds that the issuance of the license  
5 would promote economic development it may approve the request;  
6 however, it must refuse the request if it finds that approval of  
7 the request would adversely affect the welfare, health, peace  
8 and morals of the municipality or its residents. A decision by  
9 the governing body of the municipality to deny the request may  
10 be appealed to the court of common pleas in the county in which  
11 the municipality is located. A copy of the approval must be  
12 submitted with the license application.

13 (3) The board may issue no more than two licenses total in  
14 each county of the first through fourth class and no more than  
15 one license total in each county of the fifth through eighth  
16 class per calendar year.

17 (4) An applicant under this subsection shall be required to  
18 sell food and nonalcoholic beverages equal to seventy per centum  
19 (70%) or more of its combined gross sales of food and alcoholic  
20 beverages.

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

24 (i) Fifty thousand dollars (\$50,000) if the licensed  
25 premises is located in a county of the first through fourth  
26 class.

27 (ii) Twenty-five thousand dollars (\$25,000) if the licensed  
28 premises is located in a county of the fifth through eighth  
29 class.

30 (iii) The initial application surcharge minus a seven

1 hundred dollar (\$700) processing fee shall be refunded to the  
2 applicant if the board refuses to issue a provisional license  
3 under subsection (b.2). Otherwise, the initial application  
4 surcharge minus a seven hundred dollar (\$700) processing fee  
5 shall be credited to The State Stores Fund. The processing fee  
6 shall be treated as an application filing fee as prescribed in  
7 section 614(A)(1)(i) of the act of April 9, 1929 (P.L.177,  
8 No.175), known as "The Administrative Code of 1929."

9 (6) A license issued under this subsection and a provisional  
10 license issued under subsection (b.2) 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 the decision of the board if the decision is  
15 based, in whole or in part, on the licensee's failure to  
16 demonstrate that its food and nonalcoholic beverages were at  
17 least seventy per centum (70%) of its combined gross sales of  
18 food and alcoholic beverages.

19 (8) A license issued under this subsection may not be  
20 validated or renewed unless the licensee can establish that its  
21 sale of food and nonalcoholic beverages during the license year  
22 immediately preceding application for validation or renewal is  
23 equal to seventy per centum (70%) or more of its food and  
24 alcoholic beverage sales.

25 (b.2) Qualified applicants under subsection [(b)] (b.1)  
26 shall receive a provisional license for one hundred twenty days,  
27 exclusive of periods of safekeeping. After ninety days from the  
28 date of issuance, the licensee may file an application for a  
29 permanent license. A license shall be issued if the licensee  
30 establishes that for ninety consecutive days from the date of

1 initial issue its sales of food and nonalcoholic beverages is  
2 equal to at least seventy per centum (70%) of its combined gross  
3 sales of food and alcoholic beverages. Licensees shall not be  
4 subject to citation by the Enforcement Bureau for a violation of  
5 the requirement that food and nonalcoholic beverages equal at  
6 least seventy per centum (70%) of the combined gross sales of  
7 food and alcoholic beverages during the provisional licensing  
8 period.

9 (b.3) An intermunicipal transfer of a license or issuance of  
10 a license for economic development under subsection (b.1)(2)(i)  
11 must first be approved by the governing body of the receiving  
12 municipality when the total number of existing restaurant liquor  
13 licenses and eating place retail dispenser licenses in the  
14 receiving municipality exceed one license per three thousand  
15 inhabitants. Upon request for approval of an intermunicipal  
16 transfer of a license or issuance of an economic development  
17 license by an applicant, at least one public hearing shall be  
18 held by the municipal governing body for the purpose of  
19 receiving comments and recommendations of interested individuals  
20 residing within the municipality concerning the applicant's  
21 intent to transfer a license into the municipality or acquire an  
22 economic development license from the Pennsylvania Liquor  
23 Control Board. The governing body shall, within forty-five days  
24 of a request for approval, render a decision by ordinance or  
25 resolution to approve or disapprove the applicant's request for  
26 an intermunicipal transfer of a license or issuance of an  
27 economic development license. The municipality must approve the  
28 request unless it finds that doing so would adversely affect the  
29 welfare, health, peace and morals of the municipality or its  
30 residents. A decision by the governing body of the municipality

1 to deny the request may be appealed to the court of common pleas  
2 in the county in which the municipality is located. A copy of  
3 the approval must be submitted with the license application.

4 \* \* \*

5 (e.1) "Privately-owned public golf course" as used in this  
6 section shall mean the restaurant facilities at any privately-  
7 owned golf course open for public accommodation. The license may  
8 be issued to the operator of the privately-owned public golf  
9 course. The license holder may designate a concessionaire to  
10 provide food, alcoholic beverage and non-alcoholic beverage  
11 service at the restaurant facility.

12 \* \* \*

13 Section 10. Section 463 of the act, amended May 31, 1990  
14 (P.L.224, No.48) and December 20, 2000 (P.L.992, No.141), is  
15 amended to read:

16 [Section 463. Places of Amusement Not To Be Licensed;  
17 Penalty.--(a) No license for the sale of liquor or malt or  
18 brewed beverages in any quantity shall be granted to the  
19 proprietors, lessees, keepers or managers of any theater,  
20 circus, museum or other place of amusement, nor shall any house  
21 be licensed for the sale of liquor or malt or brewed beverages  
22 which has passage or communication to or with any theater,  
23 circus, museum or other place of amusement, and any license  
24 granted contrary to this act shall be null and void. Nothing  
25 contained in this section shall be construed as denying to the  
26 board the right to grant a restaurant liquor license regardless  
27 of quota restrictions to the owner or operator of:

28 (1) a racetrack as defined in section 102 of this act;

29 (2) a nonprimary pari-mutuel wagering location as defined in  
30 section 102 of this act; or

1 (3) a restaurant in a building on a plot of ground owned or  
2 possessed under lease by a corporation incorporated under the  
3 laws of this Commonwealth and used principally by such  
4 corporation for holding outdoor sport events wherein such events  
5 are held under a license issued as provided by law to such  
6 corporation by a department, board or commission of the  
7 Commonwealth of Pennsylvania.

8 The restaurant liquor license aforementioned shall be subject to  
9 all the conditions and restrictions herein applicable to  
10 restaurant liquor licenses, except the above prohibition against  
11 any passageway or communication between such licensed premises  
12 and the place of amusement, and except that nothing contained in  
13 this act shall be construed to prohibit the licensed nonprimary  
14 pari-mutuel wagering location or the racetrack from providing  
15 wagering within the entire licensed premises of the nonprimary  
16 pari-mutuel wagering location or the racetrack, and a restaurant  
17 liquor license issued for a nonprimary pari-mutuel wagering  
18 location or a restaurant liquor license issued for a racetrack  
19 issued subsequent to the enactment of this amendment shall not  
20 be transferable.

21 Nothing contained in this act shall be construed as denying  
22 to the board the right to grant a new restaurant liquor license,  
23 regardless of quota restrictions, at any time, to the owner or  
24 operator of a restaurant in a building or plot of ground having  
25 a seating capacity in excess of twenty-five thousand, used  
26 principally for holding automobile races.

27 (a.1) Nothing contained in subsection (a) of this section or  
28 in section 102 of this act shall be construed as denying to the  
29 board the right to grant a club or restaurant liquor or malt and  
30 brewed beverage license to a club incorporated in this



1 Commonwealth which has been in existence less than one year  
2 prior to making application under this section or to a  
3 restaurant either of which has a clubhouse or restaurant located  
4 in a stadium or arena having an available seating capacity of  
5 twelve thousand or more and owned and operated by or pursuant to  
6 an agreement with any city of the first class or created and  
7 operated under and in compliance with the act of July 29, 1953  
8 (P.L.1034), known as the "Public Auditorium Authorities Law,"  
9 and used principally for events at which athletes compete or  
10 other types of performers entertain. The club or restaurant  
11 liquor or malt and brewed beverage license aforementioned shall  
12 be subject to all the conditions and restrictions applicable to  
13 such licenses and licenses for places of amusement, except the  
14 above prohibition against any passageway or communication  
15 between such licensed premises and the place of amusement.

16 (a.2) Nothing contained in this act shall be construed to  
17 prevent the holder of a hotel, restaurant liquor or malt and  
18 brewed beverage license from selling liquor and malt or brewed  
19 beverages in a bowling alley, or other recreational areas  
20 including, but no limited to, game rooms and video arcade areas  
21 of hotels, when no minors are present, unless minors who are  
22 present are under proper supervision as defined in section 493,  
23 where the restaurant, bowling alley, or other recreational areas  
24 including, but not limited to, game rooms and video arcade areas  
25 of hotels are immediately adjacent and under the same roof. The  
26 restaurant liquor or malt and brewed beverage licensee  
27 aforementioned shall be subject to all the conditions and  
28 restrictions applicable to such restaurant licenses except the  
29 above prohibition against any passageway or communication  
30 between a licensed premise and a place of amusement.

1 (a.3) Nothing contained in subsection (a) or in section 102  
2 shall be construed as denying to the board the right to grant a  
3 new retail dispenser license for on-premises sales only,  
4 regardless of quota restrictions, to the owner or operator of a  
5 facility having a minimum of a one-half mile asphalt track and  
6 having a permanent seating capacity of at least six thousand  
7 used principally for holding automobile races.

8 (b) Any proprietor, lessee, keeper or manager of any  
9 theater, circus, museum or other place of amusement, or any  
10 other person who shall violate the provisions of this section,  
11 shall be guilty of a misdemeanor and, upon conviction thereof,  
12 shall be sentenced to pay a fine of one hundred dollars and to  
13 undergo an imprisonment of not less than thirty days.

14 (c) This section is not applicable to public venues or  
15 performing arts facilities licensed under sections 412 and 413.]

16 Section 11. Section 468(a) of the act is amended by adding a  
17 clause to read:

18 Section 468. Licenses Not Assignable; Transfers.--(a) \* \* \*

19 (4) In the event the license to be transferred has been  
20 ordered to serve a suspension under section 471, and has not  
21 served the suspension at the time the board considers the  
22 application and all appeals regarding the suspension have been  
23 exhausted, the board may require the transferee to serve the  
24 suspension as a condition for approval of the transfer. Further,  
25 the board may convert the outstanding suspension into a fine and  
26 require the transferee to pay the fine as a condition for  
27 approval of the transfer. If the board converts the outstanding  
28 suspension to a fine, the fine need not comply with the minimum  
29 and maximum amounts set forth in section 471 for the underlying  
30 citation.

1       \* \* \*

2       Section 12. Section 471(b) and (c) of the act, amended  
3 December 20, 2000 (P.L.992, No.141), are amended to read:

4       Section 471. Revocation and Suspension of Licenses; Fines.--

5       \* \* \*

6       (b) Hearing on such citations shall be held in the same  
7 manner as provided herein for hearings on applications for  
8 license. Upon such hearing, if satisfied that any such violation  
9 has occurred or for other sufficient cause, the administrative  
10 law judge shall immediately suspend or revoke the license, or  
11 impose a fine of not less than fifty dollars (\$50) nor more than  
12 one thousand dollars (\$1,000), or both, notifying the licensee  
13 by registered letter addressed to his licensed premises. If the  
14 licensee has been cited and found to have violated section  
15 493(1) insofar as it relates to sales to minors or sales to a  
16 visibly intoxicated person, section 493(10) insofar as it  
17 relates to lewd, immoral or improper entertainment or section  
18 493(14), (16) or (21), or has been found to be a public nuisance  
19 pursuant to section 611, or if the owner or operator of the  
20 licensed premises or any authorized agent of the owner or  
21 operator has been convicted of any violation of the act of April  
22 14, 1972 (P.L.233, No.64), known as "The Controlled Substance,  
23 Drug, Device and Cosmetic Act," or of 18 Pa.C.S. § 5902  
24 (relating to prostitution and related offenses) or 6301  
25 (relating to corruption of minors), at or relating to the  
26 licensed premises, the administrative law judge shall  
27 immediately suspend or revoke the license, or impose a fine of  
28 not less than one thousand dollars (\$1,000) nor more than five  
29 thousand dollars (\$5,000), or both. However, if a licensee has  
30 been cited and found to have violated section 493(1) as it

1 relates to sales to minors or sales to a visibly intoxicated  
2 person but at the time of the sale the licensee was in  
3 compliance with the requirements set forth in section 471.1 and  
4 the licensee had not sold to minors or visibly intoxicated  
5 persons in the previous four years, then the administrative law  
6 judge shall immediately suspend or revoke the license, or impose  
7 a fine of not less than fifty dollars (\$50) nor more than one  
8 thousand dollars (\$1,000), or both. The administrative law judge  
9 shall notify the licensee by registered mail, addressed to the  
10 licensed premises, of such suspension, revocation or fine. In  
11 the event the fine is not paid within twenty days of the  
12 adjudication, the administrative law judge shall suspend or  
13 revoke the license, notifying the licensee by registered mail  
14 addressed to the licensed premises. Suspensions and revocations  
15 shall not go into effect until thirty days have elapsed from the  
16 date of the adjudication during which time the licensee may take  
17 an appeal as provided for in this act. Any licensee whose  
18 license is revoked shall be ineligible to have a license under  
19 this act until the expiration of three years from the date such  
20 license was revoked. In the event a license is revoked, no  
21 license shall be granted for the premises or transferred to the  
22 premises in which the said license was conducted for a period of  
23 at least one year after the date of the revocation of the  
24 license conducted in the said premises, except in cases where  
25 the licensee or a member of his immediate family is not the  
26 owner of the premises, in which case the board may, in its  
27 discretion, issue or transfer a license within the said year. In  
28 the event the bureau or the person who was fined or whose  
29 license was suspended or revoked shall feel aggrieved by the  
30 adjudication of the administrative law judge, there shall be a

1 right to appeal to the board. The appeal shall be based solely  
2 on the record before the administrative law judge. [The board  
3 shall affirm the decision of the administrative law judge if it  
4 is based on substantial evidence; otherwise, the board shall  
5 reverse the decision of the administrative law judge.] The board  
6 shall only reverse the decision of the administrative law judge  
7 if the administrative law judge committed an error of law,  
8 abused its discretion or if its decision is not based on  
9 substantial evidence. In the event the bureau or the person who  
10 was fined or whose license was suspended or revoked shall feel  
11 aggrieved by the decision of the board, there shall be a right  
12 to appeal to the court of common pleas in the same manner as  
13 herein provided for appeals from refusals to grant licenses.  
14 Each of the appeals shall act as a supersedeas unless, upon  
15 sufficient cause shown, the reviewing authority shall determine  
16 otherwise; however, if the licensee has been cited and found to  
17 have violated section 493(1) insofar as it relates to sales to  
18 minors or sales to a visibly intoxicated person, section 493(10)  
19 insofar as it relates to lewd, immoral or improper entertainment  
20 or section 493(14), (16) or (21), or has been found to be a  
21 public nuisance pursuant to section 611, or if the owner or  
22 operator of the licensed premises or any authorized agent of the  
23 owner or operator has been convicted of any violation of "The  
24 Controlled Substance, Drug, Device and Cosmetic Act," or of 18  
25 Pa.C.S. § 5902 or 6301, at or relating to the licensed premises,  
26 its appeal shall not act as a supersedeas unless the reviewing  
27 authority determines otherwise upon sufficient cause shown. In  
28 any hearing on an application for a supersedeas under this  
29 section, the reviewing authority may consider, in addition to  
30 other relevant evidence, documentary evidence, including records

1 of the bureau, showing the prior history of citations, fines,  
2 suspensions or revocations against the licensee; and the  
3 reviewing authority may also consider, in addition to other  
4 relevant evidence, evidence of any recurrence of the unlawful  
5 activity occurring between the date of the citation which is the  
6 subject of the appeal and the date of the hearing. No penalty  
7 provided by this section shall be imposed for any violations  
8 provided for in this act unless the bureau notifies the licensee  
9 of its nature within thirty days of the completion of the  
10 investigation.

11 (c) The administrative law judge may consider the licensee's  
12 prior citation history when imposing a penalty. If the violation  
13 in question is a third or subsequent violation of this act or  
14 Title 18 of the Pennsylvania Consolidated Statutes (relating to  
15 crimes and offenses), occurring within a period of four years,  
16 the administrative law judge shall impose a suspension or  
17 revocation.

18 \* \* \*

19 Section 13. Section 472(a) of the act, amended December 20,  
20 2000 (P.L.992, No.141), is amended and the section is amended by  
21 adding subsections to read:

22 Section 472. Local Option.--(a) In any municipality or any  
23 part of a municipality where such municipality is split so that  
24 each part thereof is separated by another municipality, an  
25 election may be held, subject to subsection (c), on the date of  
26 the primary election immediately preceding any municipal  
27 election, but not oftener than once in four years, to determine  
28 the will of the electors with respect to the granting of liquor  
29 licenses to hotels, restaurants, resort facilities and clubs,  
30 not oftener than once in four years, to determine the will of

1 the electors with respect to the granting of liquor licenses to  
2 public venues, to performing arts facilities, TO CONTINUING CARE <—  
3 RETIREMENT COMMUNITIES, to hotels located on property owned by  
4 an accredited college or university, to privately-owned private  
5 golf courses or to privately-owned public golf courses, not  
6 oftener than once in four years, to determine the will of the  
7 electors with respect to the granting of licenses to retail  
8 dispensers of malt and brewed beverages, not oftener than once  
9 in four years, to determine the will of the electors with  
10 respect to granting of licenses to wholesale distributors and  
11 importing distributors, not more than once in two years, to  
12 determine the will of the electors with respect to the granting  
13 of club liquor licenses or club retail dispenser licenses to  
14 incorporated units of national veterans' organizations, not  
15 oftener than once in two years to determine the will of the  
16 electors with respect to the granting of special occasion  
17 permits to qualified organizations, or not more than once in  
18 four years, to determine the will of the electors with respect  
19 to the establishment, operation and maintenance by the board of  
20 Pennsylvania liquor stores, within the limits of such  
21 municipality or part of a split municipality, under the  
22 provisions of this act: Provided, however, Where an election  
23 shall have been held at the primary preceding a municipal  
24 election in any year, another election may be held under the  
25 provisions of this act at the primary occurring the fourth year  
26 after such prior election: And provided further, That an  
27 election on the question of establishing and operating a State  
28 liquor store shall be initiated only in those municipalities, or  
29 that part of a split municipality that shall have voted against  
30 the granting of liquor licenses; and that an election on the

1 question of granting wholesale distributor and importing  
2 distributor licenses shall be initiated only in those  
3 municipalities or parts of split municipalities that shall have  
4 at a previous election voted against the granting of dispenser's  
5 licenses. Whenever electors equal to at least twenty-five per  
6 centum of the highest vote cast for any office in the  
7 municipality or part of a split municipality at the last  
8 preceding general election shall file a petition with the county  
9 board of elections of the county for a referendum on the  
10 question of granting any of said classes of licenses or the  
11 establishment of Pennsylvania liquor stores, the said county  
12 board of elections shall cause a question to be placed on the  
13 ballots or on the voting machine board and submitted at the  
14 primary immediately preceding the municipal election. Separate  
15 petitions must be filed for each question to be voted on. Said  
16 proceedings shall be in the manner and subject to the provisions  
17 of the election laws which relate to the signing, filing and  
18 adjudication of nomination petitions, insofar as such provisions  
19 are applicable.

20 When the question is in respect to the granting of liquor  
21 licenses, it shall be in the following form:

22 Do you favor the granting of liquor licenses  
23 for the sale of liquor in..... Yes  
24 of.....? No

25 When the question is in respect to the granting of liquor  
26 licenses to resort facilities in those municipalities that do  
27 not already allow the retail sale of liquor, it shall be in the  
28 following form:

29 Do you favor the granting of liquor licenses to resort  
30 facilities for the sale of liquor in the..... Yes



1     of.....? No

2     When the question is in respect to the granting of restaurant  
3     liquor licenses for use at public venues in those municipalities  
4     that do not already allow the retail sale of liquor, it shall be  
5     in the following form:

6     Do you favor the granting of liquor licenses to public  
7     venues for the sale of liquor in the..... Yes  
8     of.....? No

9     When the question is in respect to the granting of restaurant  
10    liquor licenses for use at performing arts facilities in those  
11    municipalities that do not already allow the retail sale of  
12    alcohol, it shall be in the following form:

13    Do you favor the granting of liquor licenses to  
14    performing arts facilities for the sale of liquor  
15    in the..... Yes  
16    of.....? No

17    When the question is in respect to the granting of liquor  
18    licenses for hotels located on property owned by an accredited  
19    college or university in those municipalities that do not  
20    already allow the granting of liquor licenses, it shall be in  
21    the following form:

22    Do you favor the granting of liquor licenses to hotels on  
23    property owned by an accredited college or university  
24    in the..... Yes  
25    of.....? No

26    When the question is in respect to the granting of liquor  
27    licenses, for privately-owned private golf courses, it shall be  
28    in the following form:

29    Do you favor the granting of liquor licenses for  
30    privately-owned private golf courses for the sale

1 of liquor in.....by..... Yes  
2 of.....? No

3 When the question is in respect to the granting of liquor  
4 licenses, for privately-owned public golf courses, it shall be  
5 in the following form:

6 Do you favor the granting of liquor licenses for  
7 privately-owned public golf courses for the sale  
8 of liquor in.....by..... Yes  
9 of.....? No

10 WHEN THE QUESTION IS IN RESPECT TO THE GRANTING OF LIQUOR  
11 LICENSES TO CONTINUING CARE RETIREMENT COMMUNITIES IN THOSE  
12 MUNICIPALITIES THAT HAVE NOT ALREADY APPROVED THE GRANTING OF  
13 LIQUOR LICENSES, IT SHALL BE IN THE FOLLOWING FORM:

<—

14 DO YOU FAVOR THE GRANTING OF LIQUOR LICENSES FOR  
15 CONTINUING CARE RETIREMENT COMMUNITIES  
16 IN.....BY..... YES  
17 OF.....? NO

18 When the question is in respect to the granting of licenses  
19 to retail dispensers of malt and brewed beverages, it shall be  
20 in the following form:

21 Do you favor the granting of malt and brewed  
22 beverage retail dispenser licenses for  
23 consumption on premises where sold in the..... Yes  
24 of.....? No

25 When the question is in respect to the granting of licenses  
26 to wholesale distributors of malt or brewed beverages and  
27 importing distributors, it shall be in the following form:

28 Do you favor the granting of malt and brewed  
29 beverage wholesale distributor's and importing  
30 distributor's licenses not for consumption on

1 premises where sold in the..... Yes  
2 of.....? No  
3 When the question is in respect to the granting of club  
4 liquor licenses to incorporated units of national veterans'  
5 organizations, it shall be in the following form:  
6 Do you favor the granting of club liquor licenses  
7 to incorporated units of national veterans' organizations  
8 in the..... Yes  
9 of.....? No  
10 When the question is in respect to the granting of club  
11 retail dispenser licenses to incorporated units of national  
12 veterans' organizations, it shall be in the following form:  
13 Do you favor the granting of club retail dispenser  
14 licenses to incorporated units of national veterans'  
15 organizations in the..... Yes  
16 of.....? No  
17 When the question is in respect to the granting of special  
18 occasion permits allowing the sale of liquor by qualified  
19 organizations in municipalities that do not already allow the  
20 retail sale of liquor, it shall be in the following form:  
21 Do you favor the granting of special occasion permits to  
22 allow the sale of liquor by qualified organizations in  
23 the..... Yes  
24 of.....? No  
25 When the question is in respect to the granting of special  
26 occasion permits allowing the sale of malt or brewed beverages  
27 only by qualified organizations in municipalities that do not  
28 already allow the retail sale of malt or brewed beverages, it  
29 shall be in the following form:  
30 Do you favor the granting of special occasion permits to

1 allow the sale of malt or brewed beverages only by qualified  
2 organizations in the..... Yes  
3 of.....? No

4 When the question is in respect to the establishment,  
5 operation and maintenance of Pennsylvania liquor stores it shall  
6 be in the following form:

7 Do you favor the establishment, operation  
8 and maintenance of Pennsylvania liquor  
9 stores in the..... Yes  
10 of.....? No

11 In case of a tie vote, the status quo shall obtain. If a  
12 majority of the voting electors on any such question vote "yes,"  
13 then liquor licenses shall be granted by the board to hotels,  
14 restaurants, resort facilities and clubs, or liquor licenses  
15 shall be granted by the board to public venues, to performing  
16 arts facilities, TO CONTINUING CARE RETIREMENT COMMUNITIES, to <—  
17 hotels located on property owned by an accredited college or  
18 university, to privately-owned private golf courses or to  
19 privately-owned public golf courses, or malt and brewed beverage  
20 retail dispenser licenses or wholesale distributor's and  
21 importing distributor's license for the sale of malt or brewed  
22 beverages shall be granted by the board, or club liquor licenses  
23 or club retail dispenser licenses shall be granted by the board  
24 to incorporated units of national veterans' organizations, or  
25 special occasion permits may be issued to qualified  
26 organizations, or the board may establish, operate and maintain  
27 Pennsylvania liquor stores, as the case may be, in such  
28 municipality or part of a split municipality, as provided by  
29 this act; but if a majority of the electors voting on any such  
30 question vote "no," then the board shall have no power to grant

1 or to renew upon their expiration any licenses of the class so  
2 voted upon in such municipality or part of a split municipality;  
3 or if the negative vote is on the question in respect to the  
4 establishment, operation and maintenance of Pennsylvania liquor  
5 stores, the board shall not open and operate a Pennsylvania  
6 liquor store in such municipality or part of a split  
7 municipality, nor continue to operate a then existing  
8 Pennsylvania liquor store in the municipality or part of a split  
9 municipality for more than two years thereafter or after the  
10 expiration of the term of the lease on the premises occupied by  
11 such store, whichever period is less, unless and until at a  
12 later election a majority of the voting electors vote "yes" on  
13 such question.

14 \* \* \*

15 (e) An election may be held on the question of granting  
16 liquor licenses to resort facilities in municipalities that do  
17 not already allow the retail sale of liquor in section 472(a) at  
18 the primary election immediately following the effective date of  
19 this subsection, and at each subsequent primary election,  
20 notwithstanding any referendum frequency restriction in this act  
21 to the contrary.

22 (f) For purposes of this section, "resort facilities" shall  
23 mean any hotel, restaurant or club located on property owned by  
24 or contiguous to a convention center that offers skiing, golf,  
25 hiking and horseback riding. The convention center itself must  
26 be located on property at least two thousand acres in size. The  
27 property may be located in more than one municipality or county.

28 Section 14. Section 472.1 of the act is amended to read:

29 Section 472.1. Clubs.--(a) Whenever any club in existence  
30 at least five years prior to the time of application for license

1 owns a contiguous plot of land in more than two municipalities  
2 in one or more but less than all of which the granting of liquor  
3 licenses has not been prohibited and at least one acre of the  
4 plot of land owned by the club is situated in each municipality  
5 in which the granting of liquor licenses has not been  
6 prohibited, the club may be issued a club liquor license or a  
7 catering license by the board if the board finds that the  
8 license will not be detrimental to any residential neighborhood.  
9 This section shall not be construed to prohibit the issuance of  
10 club liquor licenses or catering licenses which may otherwise be  
11 issued under the provisions of this act.

12 (b) Any club which holds a liquor license or a catering  
13 license under this section on the effective date of this  
14 subsection may, for a period of six (6) months from the  
15 effective date of this subsection, exchange such license for a  
16 restaurant liquor license. The restaurant liquor license shall  
17 be nontransferable and shall be issued to the club or  
18 concessionaire chosen by the club to operate the restaurant. A <—  
19 RESTAURANT LIQUOR LICENSE ISSUED TO A CONCESSIONAIRE UNDER THIS  
20 SECTION SHALL BE IMMEDIATELY RESCINDED UPON THE TERMINATION OF  
21 THE CONTRACT BETWEEN THE CLUB AND THE CONCESSIONAIRE.  
22 NOTWITHSTANDING ANY OTHER PROVISIONS OF THE LAW, IF A RESTAURANT  
23 LIQUOR LICENSE ISSUED UNDER THIS SUBSECTION IS RESCINDED BECAUSE  
24 OF THE TERMINATION OF THE AGREEMENT BETWEEN THE CLUB AND THE  
25 CONCESSIONAIRE, THE BOARD MAY ISSUE A NEW RESTAURANT LICENSE TO  
26 THE CLUB OR ITS NEWLY DESIGNATED CONCESSIONAIRE, AT ANY TIME.

27 Section 15. Section 472.4 of the act, added December 7, 1990  
28 (P.L.622, No.160), is amended to read:

29 [Section 472.4. Privately-Owned Public Golf Courses.--(a)  
30 Any privately-owned public golf course licensee may, upon

1 application to and the approval of the board, contract with a  
2 concessionaire to operate a restaurant or provide food service  
3 and, in the case of a restaurant liquor licensee, sell liquor  
4 and malt and brewed beverages or, in the case of a malt and  
5 brewed beverage dispenser licensee, sell malt and brewed  
6 beverages pursuant to the provisions of this act pertaining to  
7 such licensees.

8 (b) The board shall approve the application of any  
9 privately-owned public golf course licensee to contract with a  
10 concessionaire pursuant to subsection (a) upon being satisfied  
11 that the concessionaire is of good repute and financially  
12 responsible.]

13 Section 16. Section 475 of the act is amended to read:

14 [Section 475. Establishments Proximate to Interstate  
15 Highways Not To Be Licensed.--(a) No license for the sale of  
16 liquor or malt or brewed beverages in any quantity shall be  
17 granted to the proprietor, lessee, keeper or manager of an  
18 establishment the building entrance to which is located within  
19 three hundred feet of the entrance or exit of an interstate  
20 limited access highway.

21 (b) This section shall not apply to existing licenses, nor  
22 be deemed to affect the right of an existing licensee to  
23 reinstatement or renewal of his license.]

24 Section 17. Section 477 of the act is amended by adding a  
25 subsection to read:

26 Section 477. Applicants to Provide State Tax Identification  
27 Numbers and Statement of State Tax Status; Waiver of  
28 Confidentiality of Information in the Possession of the  
29 Department of Revenue and Other Departments; Review of State Tax  
30 Status.--\* \* \*

1     (g) This section shall also be applicable to any management  
2     company utilized by the applicant.

3     Section 18. Article IV of the act is amended by adding a  
4     subdivision to read:

5                     (C.1) Shipment of Wine.

6     Section 488. Shipment of Wine into Commonwealth.--(a) The  
7     shipment of wine from out-of-State to residents of this  
8     Commonwealth is prohibited, except as otherwise provided for in  
9     this section.

10    (b) Notwithstanding any other provision of this act or law  
11    to the contrary, a person licensed by another state as a  
12    producer, supplier, importer, wholesaler, distributor or  
13    retailer of wine and who obtains a direct wine shipper license  
14    as provided for in this section may ship up to nine liters per  
15    month of any wine NOT INCLUDED ON THE LIST PROVIDED FOR IN     <—  
16    SUBSECTION (C) on the Internet order of any resident of this  
17    Commonwealth who is at least twenty-one years of age for such  
18    resident's personal use and not for resale.

19    (C) EACH MONTH, THE BOARD SHALL PUBLISH ON THE INTERNET A     <—  
20    LIST OF ALL CLASSES, VARIETIES AND BRANDS OF WINE AVAILABLE FOR  
21    SALE IN THE PENNSYLVANIA LIQUOR STORES. A PERSON HOLDING A  
22    DIRECT SHIPPER LICENSE MAY SHIP ONLY THOSE CLASSES, VARIETIES  
23    AND BRANDS OF WINE NOT INCLUDED ON THE LIST AT THE TIME AN  
24    INTERNET ORDER IS PLACED.

25    ~~(e)~~ (D) An out-of-State wine shipper shall:     <—

26    (1) Not ship more than nine liters per month on the Internet  
27    order of any person in this Commonwealth.

28    ~~(2) Not ship to any address in a municipality that has~~     <—  
29    ~~adopted a local option referendum under section 472.~~

30    ~~(3)~~ (2) Report to the board each year the total of wine



1 shipped into this Commonwealth in the preceding calendar year.

2 ~~(4)~~ (3) Permit the board or the Secretary of Revenue, or <—  
3 their designated representatives, to perform an audit of the  
4 out-of-State wine shipper's records upon request.

5 ~~(5)~~ (4) Be deemed to have submitted to the jurisdiction of <—  
6 the board, any other State agency and the courts of this  
7 Commonwealth for purposes of enforcement of this section and any  
8 related laws, rules or regulations.

9 ~~(d)~~ (E) A direct shipper may ship wine on the Internet order <—  
10 of a resident into this Commonwealth provided that the wine is  
11 shipped to a Pennsylvania Liquor Store selected by the resident. <—  
12 ~~and the resident pays all taxes due on the wine at the time the~~ <—  
13 ~~wine is picked up.~~ THE WINE WILL BE SUBJECT TO TAXES IN THE SAME <—  
14 MANNER AS WINE SOLD DIRECTLY BY THE BOARD. THE WINE WILL NOT BE  
15 RELEASED BY THE STATE STORE UNTIL ALL MONEYS DUE, INCLUDING ALL  
16 TAXES AND FEES, HAVE BEEN PAID BY THE RESIDENT.

17 ~~(e)~~ (F) A person shall sign an affidavit provided by the <—  
18 Pennsylvania Liquor Store where the wine was delivered to  
19 stating that the wine will only be used for the person's  
20 personal use. Any person who resells wine obtained under this  
21 section commits a misdemeanor of the second degree.

22 ~~(f)~~ (G) The board may promulgate such rules and regulations <—  
23 as are necessary to implement and enforce the provisions of this  
24 section. THE BOARD MAY CHARGE THE RESIDENT A FEE TO COVER THE <—  
25 COST ASSOCIATED WITH PROCESSING THE INTERNET ORDER.

26 (H) THE BOARD SHALL SUBMIT MONTHLY REPORTS TO THE <—  
27 APPROPRIATIONS COMMITTEE AND THE LAW AND JUSTICE COMMITTEE OF  
28 THE SENATE AND TO THE APPROPRIATIONS COMMITTEE AND THE LIQUOR  
29 CONTROL COMMITTEE OF THE HOUSE OF REPRESENTATIVES SUMMARIZING  
30 THE NUMBER OF DIRECT SHIPPER LICENSES ISSUED BY THE BOARD, THE

1 QUANTITY OF WINE SOLD PURSUANT TO THIS SECTION, AND THE TOTAL  
2 DOLLAR VALUE OF SALES UNDER THIS SECTION.

3 ~~(g)~~ (I) The term "wine" as used in this section shall mean <—  
4 liquor which is fermented from grapes and other fruits, having  
5 alcoholic content of twenty-four per centum or less. The term  
6 "wine" shall not include malt or brewed beverages, nor shall  
7 wine include any products containing alcohol derived from malt,  
8 grain, cereal, molasses or cactus.

9 Section 19. Section 491(2), (8) and (11) of the act are  
10 amended to read:

11 Section 491. Unlawful Acts Relative to Liquor, Alcohol and  
12 Liquor Licensees.--

13 It shall be unlawful--

14 \* \* \*

15 (2) Possession or Transportation of Liquor or Alcohol. For  
16 any person, except a manufacturer or the board or the holder of  
17 a sacramental wine license or of an importer's license, to  
18 possess or transport any liquor or alcohol within this  
19 Commonwealth which was not lawfully acquired prior to January  
20 first, one thousand nine hundred and thirty-four, or has not  
21 been purchased from a Pennsylvania Liquor Store or a licensed  
22 limited winery in Pennsylvania, except [miniatures totalling  
23 less than one gallon purchased by a collector of the same in  
24 another state or foreign country, or] in accordance with section  
25 488 or the board's regulations. IN ADDITION IT SHALL BE LAWFUL <—  
26 FOR ANYONE TO POSSESS MINIATURES TOTALING LESS THAN ONE GALLON  
27 PURCHASED IN ANOTHER STATE OR A FOREIGN COUNTRY. The burden  
28 shall be upon the person possessing or transporting such liquor  
29 or alcohol to prove that it was so acquired. But nothing herein  
30 contained shall prohibit the manufacture or possession of wine

1 by any person in his home for consumption of himself, his family  
2 and guests and not for sale, not exceeding, during any one  
3 calendar year, two hundred gallons, any other law to the  
4 contrary notwithstanding. Such wine shall not be manufactured,  
5 possessed, offered for sale or sold on any licensed premises.

6 None of the provisions herein contained shall prohibit nor  
7 shall it be unlawful for any person to import into Pennsylvania,  
8 transport or have in his possession, an amount of liquor not  
9 exceeding one gallon in volume upon which a State tax has not  
10 been paid, if it can be shown to the satisfaction of the board  
11 that such person purchased the liquor in a foreign country or  
12 United States territory and was allowed to bring it into the  
13 United States. Neither shall the provisions contained herein  
14 prohibit nor make it unlawful for (i) any member of the armed  
15 forces on active duty, or (ii) any retired member of the armed  
16 forces, or (iii) any totally disabled veteran, or (iv) the  
17 spouse of any person included in the foregoing classes of  
18 persons to import into Pennsylvania, transport or have in his  
19 possession an amount of liquor not exceeding one gallon per  
20 month in volume upon which the State tax has not been paid, so  
21 long as such liquor has been lawfully purchased from a package  
22 store established and maintained under the authority of the  
23 United States and is in containers identified in accordance with  
24 regulations issued by the Department of Defense. Such liquor  
25 shall not be possessed, offered for sale or sold on any licensed  
26 premises.

27 None of the provisions herein contained shall prohibit nor  
28 shall it be unlawful for any consul general, consul or other  
29 diplomatic officer of a foreign government to import into  
30 Pennsylvania, transport or have in his possession liquor upon

1 which a State tax has not been paid, if it can be shown to the  
2 satisfaction of the board that such person acquired the liquor  
3 in a foreign country and was allowed to bring it into the United  
4 States. Such liquor shall not be possessed, offered for sale or  
5 sold on any licensed premises.

6 Any person violating the provisions of this clause for a  
7 first offense involving the possession or transportation in  
8 Pennsylvania of any liquor in a package (bottle or other  
9 receptacle) or wine not purchased from a Pennsylvania Liquor  
10 Store or from a licensed limited winery in Pennsylvania, with  
11 respect to which satisfactory proof is produced that the  
12 required Federal tax has been paid and which was purchased,  
13 procured or acquired legally outside of Pennsylvania shall upon  
14 conviction thereof in a summary proceeding be sentenced to pay a  
15 fine of twenty-five dollars (\$25) for each such package, plus  
16 costs of prosecution, or undergo imprisonment for a term not  
17 exceeding ninety (90) days. Each full quart or major fraction  
18 thereof shall be considered a separate package (bottle or other  
19 receptacle) for the purposes of this clause. Such packages of  
20 liquor shall be forfeited to the Commonwealth in the manner  
21 prescribed in Article VI of this act but the vehicle, boat,  
22 vessel, animal or aircraft used in the illegal transportation of  
23 such packages shall not be subject to forfeiture: Provided,  
24 however, That if it is a second or subsequent offense or if it  
25 is established that the illegal possession or transportation was  
26 in connection with a commercial transaction, then the other  
27 provisions of this act providing for prosecution as a  
28 misdemeanor and for the forfeiture of the vehicle, boat, vessel,  
29 animal or aircraft shall apply.

30 \* \* \*

1 (8) Importation and Sales of Alcohol. For any person, to  
2 import alcohol into this Commonwealth, or to sell alcohol to any  
3 person, except in accordance with section 488 and the  
4 regulations of the board.

5 \* \* \*

6 (11) Importation of Liquor. For any person, other than the  
7 board or the holder of a sacramental wine license [or of], an  
8 importer's license or a direct shipper's license, to import any  
9 liquor whatsoever into this Commonwealth, but this section shall  
10 not be construed to prohibit railroad and pullman companies from  
11 selling liquors purchased outside the Commonwealth in their  
12 dining, club and buffet cars which are covered by public service  
13 liquor licenses and which are operated in this Commonwealth.

14 \* \* \*

15 Section 20. Section 493(3), ~~(4)~~, (9), (14) and (26) of the <—  
16 act, amended December 20, 2000 (P.L.992, No.141), are amended to  
17 read:

18 Section 493. Unlawful Acts Relative to Liquor, Malt and  
19 Brewed Beverages and Licensees.--The term "licensee," when used  
20 in this section, shall mean those persons licensed under the  
21 provisions of Article IV, unless the context clearly indicates  
22 otherwise.

23 It shall be unlawful--

24 \* \* \*

25 [(3) Exchange of Liquor or Malt or Brewed Beverages For  
26 Merchandise, etc. For any licensee or the board, or any employe,  
27 servant or agent of a licensee or of the board, to sell, offer  
28 to sell or furnish any liquor or malt or brewed beverages to any  
29 person on a pass book or store order, or to receive from any  
30 person any goods, wares, merchandise or other articles in

1 exchange for liquor or malt or brewed beverages.] <—

2 ~~(4) Peddling Liquor or Malt or Brewed Beverages. For any <—~~

3 ~~person, to hawk or peddle any liquor or malt or brewed beverages~~

4 ~~in this Commonwealth.]~~

5 \* \* \*

6 [(9) Retail Licensees Furnishing Free Lunch, etc. For any

7 retail liquor licensee or any retail dispenser, his agents,

8 servants or employes, to furnish, give or sell below a fair cost

9 any lunch to any consumer, except such articles of food as the

10 board may authorize and approve.]

11 \* \* \*

12 (14) Permitting Undesirable Persons or Minors to Frequent

13 Premises. For any hotel, restaurant or club liquor licensee, or

14 any retail dispenser, his servants, agents or employes, to

15 permit persons of ill repute, [known criminals,] prostitutes or

16 minors to frequent his licensed premises or any premises

17 operated in connection therewith, except minors accompanied by

18 parents, guardians, or under proper supervision or except minors

19 who frequent any restaurant or retail dispensing licensee whose

20 sales of food and non-alcoholic beverages are equal to [seventy]

21 ~~sixty~~ FIFTY per centum or more of the combined gross sales of <—

22 both food and alcoholic beverages on the condition that

23 alcoholic beverages may not be served at the table or booth at

24 which the said minor is seated at the time (unless said minor is

25 under proper supervision as hereinafter defined) and on the

26 further condition that only table service of alcoholic beverages

27 or take-out service of beer shall be permitted in the room

28 wherein the minor is located: Provided, however, That it shall

29 not be unlawful for any hotel, restaurant or club liquor

30 licensee or any retail dispenser to permit minors under proper

1 supervision upon the licensed premises or any premises operated  
2 in connection therewith for the purpose of a social gathering,  
3 even if such gathering is exclusively for minors: And provided  
4 further, That no liquor shall be sold, furnished or given to  
5 such minors nor shall the licensee knowingly permit any liquor  
6 or malt or brewed beverages to be sold, furnished or given to or  
7 be consumed by any minor, and the area of such gathering shall  
8 be segregated from the remainder of the licensed premises. In  
9 the event the area of such gathering cannot be segregated from  
10 the remainder of the licensed premises, all alcoholic beverages  
11 must be either removed from the licensed premises or placed  
12 under lock and key during the time the gathering is taking  
13 place. [Notice of such gathering shall be given the board as it  
14 may, by regulation, require.] Written notice, at least forty-  
15 eight (48) hours in advance of such gathering, shall be given to  
16 the enforcement bureau. Any licensee violating the provisions of  
17 this clause shall be subject to the provisions of section 471.  
18 Nothing in this clause shall be construed to make it unlawful  
19 for minors to frequent public venues or performing arts  
20 facilities.

21 "Proper supervision," as used in this clause, means the  
22 presence, on that portion of the licensed premises where a minor  
23 or minors are present, of one person twenty-five years of age or  
24 older for every fifty minors or part thereof who is directly  
25 responsible for the care and conduct of such minor or minors  
26 while on the licensed premises and in such proximity that the  
27 minor or minors are constantly within his sight or hearing. The  
28 presence of the licensee or any employe or security officer of  
29 the licensee shall not constitute proper supervision.

30 \* \* \*

1 (26) Worthless Checks. For any retail liquor licensee or any  
2 retail dispenser, distributor or importing distributor, to make,  
3 draw, utter, issue or deliver, or cause to be made, drawn,  
4 uttered, issued or delivered, any check, draft or similar order,  
5 for the payment of money in payment for any purchase of malt or  
6 brewed beverages, when such retail liquor licensee, retail  
7 dispenser, distributor or importing distributor, has not  
8 sufficient funds in, or credit with, such bank, banking  
9 institution, trust company or other depository, for the payment  
10 of such check. Any person who is a licensee under the provisions  
11 of this article, who shall receive in payment for malt or brewed  
12 beverages sold by him any check, draft or similar order for the  
13 payment of money, which is subsequently dishonored by the bank,  
14 banking institution, trust company or other depository, upon  
15 which drawn, for any reason whatsoever, shall, within five days  
16 of receipt of notice of such dishonor, notify by certified mail  
17 the person who presented the said worthless check, draft or  
18 similar order. ~~This clause shall not be deemed to have been~~ <—  
19 ~~violated if the check, draft or similar order is honored within~~  
20 ~~twenty days of the date on which it was made, drawn, issued or~~  
21 ~~presented.~~ IF THE VIOLATION OF THIS CLAUSE IS THE FIRST SUCH <—  
22 VIOLATION BY THE LICENSEE THAT CALENDAR YEAR INVOLVING A CHECK,  
23 DRAFT OR SIMILAR ORDER FROM THE PURCHASER TO THE SELLER, AND IF  
24 THE CHECK, DRAFT OR SIMILAR ORDER IS SUBSEQUENTLY HONORED WITHIN  
25 TEN DAYS FROM THE DAY IT WAS MADE, DRAWN, UTTERED, ISSUED OR  
26 DELIVERED, THEN THE ENFORCEMENT BUREAU SHALL ISSUE AN  
27 ADMINISTRATIVE WARNING IN LIEU OF CITATION.

28 Section 21. Section 495(a), (e) and (f) of the act, amended  
29 or added December 21, 1988 (P.L.1879, No.183) and December 20,  
30 1996 (P.L.1523, No.199), are amended to read:



1 Section 495. Identification Cards; Licensees and State  
2 Liquor Store Employees Saved From Prosecution.--(a) The valid  
3 photo driver's license or identification card issued by the  
4 Department of Transportation or by any other state, [an] a valid  
5 armed forces of the United States identification card, a valid  
6 passport or a travel visa issued by the United States or a  
7 foreign country that contains the holder's photograph shall, for  
8 the purpose of this act, be accepted as an identification card.

9 \* \* \*

10 [(e) Any such signed form in the possession of a licensee or  
11 an employe of a State Liquor Store may be offered as a defense  
12 in all civil and criminal prosecutions for serving a minor, and  
13 no penalty shall be imposed if the administrative law judge or  
14 the courts are satisfied that the licensee or State Liquor Store  
15 employe acted in good faith.

16 (f) A photograph or photocopy or other visual or video  
17 presentation of the identification card set forth in subsection  
18 (a) in the possession of a licensee or an employe of a State  
19 Liquor Store may be offered as a defense in all civil and  
20 criminal prosecutions for serving a minor, and no penalty shall  
21 be imposed if the administrative law judge or the courts are  
22 satisfied that the licensee or State Liquor Store employe acted  
23 in good faith.]

24 (e) No penalty shall be imposed on a licensee, licensee's  
25 employe or State Liquor Store employe for serving alcohol to a  
26 minor if the licensee or employe can establish that the minor  
27 was required to produce an identification card as set forth in  
28 subsection (a), the minor completed and signed the form as set  
29 forth in subsection (c), and these documents were relied upon in  
30 good faith. This defense shall apply to all civil and criminal

1 prosecutions.

2     (f) In addition to the defense set forth in subsection (e),  
3 no penalty shall be imposed on a licensee, licensee's employe or  
4 State Liquor Store employe for serving alcohol to a minor if the  
5 licensee or employe can establish that the minor was required to  
6 produce an identification card as set forth in subsection (a), a  
7 photograph, photocopy or other visual or video presentation of  
8 the identification card was made and those documents were relied  
9 upon in good faith. This defense shall apply to all civil and  
10 criminal prosecutions.

11     Section 22. Section 496 of the act is amended to read:

12     Section 496. Reporting of Worthless Checks.--Any person who  
13 is a licensee under the provisions of this article, who shall  
14 receive in payment for malt or brewed beverages sold by him any  
15 check, draft or similar order, for the payment of money, which  
16 is subsequently dishonored by the bank, banking institution,  
17 trust company or other depository, upon which drawn, for any  
18 reason whatsoever, and which violates the provisions of section  
19 493(26) shall, within ~~twenty~~ days of receipt of notice of such <—  
20 dishonor ~~thirty days of the date on which the check, draft or~~ <—  
21 ~~similar order was made, drawn, issued or presented~~, notify the  
22 board thereof. Such notification to the board shall be in such  
23 manner and form as the board shall direct.

24     Section 23. Section 498 of the act, amended December 20,  
25 1996 (P.L.1523, No.199), is amended to read:

26     Section 498. Unlawful Advertising.--(a) Manufacturers,  
27 wholesalers, retailers and shippers, whether from outside or  
28 inside this Commonwealth, and any licensee under this act are  
29 permitted to advertise their products and prices in this  
30 Commonwealth. All advertisements shall be subject to all Federal

1 and State laws and regulations.

2 (b) No advertisement of price may contain the following:

3 (1) Any statement that is false, deceptive or misleading.

4 (2) Any statement that is disparaging of the products of a  
5 competitor.

6 (3) Any statement referring to monetary comparison between  
7 brands.

8 (c) Prices that are advertised or displayed on the licensed  
9 premises shall be those that are in effect at the time of the  
10 advertisement or display.

11 [(d) No prices, other than the posting of a printed menu or  
12 wine list as expressly provided for in section 493(20)(i), may  
13 be displayed in a window of any licensed establishment.]

14 (e) The following shall apply to all alcoholic beverage and  
15 malt beverage advertising:

16 (1) The entity responsible for the advertisement shall be  
17 clearly identified in the advertisement.

18 (2) No licensee may distribute, by mail, personally or  
19 through servants, agents or employees, price lists, circulars or  
20 handbills off the licensed premises to the general public as a  
21 means of advertising liquor, wine or malt or brewed beverages.

22 (3) No print advertisement of alcoholic beverages of any  
23 type shall be permitted within three hundred feet of any church,  
24 school or public playground. This prohibition shall not preclude  
25 any point of sale advertisement, menus or other print  
26 advertisement regarding alcoholic beverages inside the licensed  
27 premises.

28 (4) The use in any advertisement of alcoholic beverages of  
29 any subject matter, language or slogan directed to minors to  
30 promote consumption of alcoholic beverages is prohibited.

1 Nothing in this section shall be deemed to restrict or prohibit  
2 any advertisement of alcoholic beverages to those persons of  
3 legal drinking age.

4 (5) No advertisement shall be permitted, either directly or  
5 indirectly, in any booklet, program book, yearbook, magazine,  
6 newspaper, periodical, brochure, circular or other similar  
7 publication published by, for or in behalf of any educational  
8 institution.

9 (6) No advertisement that is obscene shall be permitted.

10 (f) Advertisement of alcoholic beverages and malt and brewed  
11 beverages shall not be inconsistent with the spirit of safety or  
12 safe driving programs.

13 (g) For purposes of this subsection, the term  
14 "advertisement" shall mean any advertising of alcoholic  
15 beverages through the medium of radio broadcast, television  
16 broadcast, newspapers, periodicals or other publication, outdoor  
17 advertisement or any other printed or graphic matter, including  
18 booklets, flyers or cards, or on the product label or attachment  
19 itself.

20 Section 24. Section 499 of the act is amended by adding  
21 subsections to read:

22 Section 499. Premises to be Vacated by Patrons.--\* \* \*

23 (d) This section shall not apply to holders of public  
24 service licenses.

25 (e) Nothing in this section shall prohibit restaurant  
26 liquor, eating place retail dispenser or hotel licenses from  
27 being open 7:00 ante meridian on Sunday until 2:00 ante meridian  
28 Monday for the purpose of serving food and non-alcoholic  
29 beverages.

30 ~~Section 25. This act shall take effect in 60 days.~~

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SECTION 25. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

(1) THE AMENDMENT OR ADDITION OF SECTIONS 102, 412, 413, 431.1, 461, 463, 472, 472.1 AND 472.4 OF THE ACT SHALL TAKE EFFECT IMMEDIATELY.

(2) THIS SECTION SHALL TAKE EFFECT IMMEDIATELY.

(3) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN 60 DAYS.