

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1069 Session of
2001

INTRODUCED BY TILGHMAN, THOMPSON, STOUT, BODACK, GERLACH,
MOWERY, ERICKSON, MUSTO AND LEMMOND, AUGUST 31, 2001

REFERRED TO LAW AND JUSTICE, AUGUST 31, 2001

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 a definition of "continuing care retirement
18 community"; providing for a continuing care retirement
19 community retail license not subject to the quota system; and
20 providing for a local option ballot question.

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

23 Section 1. Section 102 of the act of April 12, 1951 (P.L.90,
24 No.21), known as the Liquor Code, reenacted and amended June 29,
25 1987 (P.L.32, No.14), is amended by adding a definition to read:

26 Section 102. Definitions.--The following words or phrases,

1 unless the context clearly indicates otherwise, shall have the
2 meanings ascribed to them in this section:

3 * * *

4 "Continuing care retirement community" shall mean the
5 building or complex operated by a non-profit entity incorporated
6 under 15 Pa.C.S. Subpt. C (relating to nonprofit corporations)
7 which primarily houses persons over the age of sixty-two. At
8 least one hundred persons residing in the building or complex
9 must be over the age of sixty-two.

10 * * *

11 Section 2. The act is amended by adding a section to read:

12 Section 414. Continuing Care Retirement Community Retail
13 Licenses.--(a) The board is authorized to issue a restaurant
14 liquor license to a continuing care retirement community as that
15 term is defined in this act, or its designated concessionaire.
16 The licensing period shall be established under section 402. The
17 application and issuance of the license is subject to sections
18 403 and 404 unless otherwise stated. The application, renewal,
19 and filing fee, shall be as prescribed in section 614-A(1) of
20 the act of April 9, 1929 (P.L.177, No.175), known as "The
21 Administrative Code of 1929."

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

25 (1) Licenses issued under this section are not subject to
26 the quota restrictions of section 461.

27 (2) Sales of liquor and malt or brewed beverages may not
28 occur from two o'clock antemeridian to seven o'clock
29 antemeridian. In addition, sales may not occur prior to one
30 o'clock postmeridian or after ten o'clock postmeridian on

1 Sunday.

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

8 (4) Sales of liquor or malt or brewed beverages may occur in
9 those portions of the premises licensed by the board as well as
10 in rooms that are lived in or used by residents of the
11 continuing care retirement community.

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

14 (c) Licenses issued under this section are non-transferable
15 and if issued to a concessionaire shall expire upon the
16 termination of the contract between the continuing care
17 retirement community and the concessionaire.

18 (d) The board may issue an eating place retail dispenser
19 license to a continuing care retirement community located in a
20 municipality that has voted to allow the issuance of eating
21 place retail dispenser licenses but has not voted to allow the
22 issuance of restaurant liquor licenses.

23 Section 3. Section 461(a) of the act, amended December 20,
24 2000 (P.L.992, No.141), is amended to read:

25 Section 461. Limiting Number of Retail Licenses To Be Issued
26 In Each County.--(a) No additional restaurant, eating place
27 retail dispenser or club licenses shall be issued within a
28 county if the total number of restaurant and eating place retail
29 dispenser licenses is greater than one license for each three
30 thousand inhabitants in the county, except the board may issue

1 licenses to public venues, performing arts facilities,
2 continuing care retirement communities, airport restaurants,
3 municipal golf courses, hotels, privately-owned private golf
4 courses, privately-owned public golf courses and to any other
5 entity which this act specifically exempts from the limitations
6 provided in this section, and the board may issue a license to a
7 club situated in a borough having a population less than eight
8 thousand inhabitants which is located in a county of the second
9 class A whose application is filed on or before February 28,
10 2001. When determining the number of restaurant and eating place
11 retail dispenser licenses issued in a county for the purposes of
12 this section, licenses exempted from this limitation and club
13 licenses shall not be considered. Inhabitants of dry
14 municipalities shall be considered when determining the
15 population in a county. Licenses shall not be issued or
16 transferred into municipalities where such licenses are
17 prohibited pursuant to local referendum in accordance with
18 section 472. Licenses approved for intermunicipal transfer may
19 not be transferred from the receiving municipality for a period
20 of five years after the date that the licensed premises are
21 operational in the receiving municipality.

22 * * *

23 Section 4. Section 472 of the act, amended May 31, 1996
24 (P.L.312, No.49) and December 20, 2000 (P.L.992, No.141), is
25 amended to read:

26 Section 472. Local Option.--(a) In any municipality or any
27 part of a municipality where such municipality is split so that
28 each part thereof is separated by another municipality, an
29 election may be held, subject to subsection (c), on the date of
30 the primary election immediately preceding any municipal

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

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

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

26 Do you favor the granting of liquor licenses
27 for the sale of liquor in..... Yes
28 of.....? No

29 When the question is in respect to the granting of restaurant
30 liquor licenses for use at public venues in those municipalities

1 that do not already allow the retail sale of liquor, it shall be
2 in the following form:

3 Do you favor the granting of liquor licenses to public
4 venues for the sale of liquor in the..... Yes
5 of.....? No

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

10 Do you favor the granting of liquor licenses to
11 performing arts facilities for the sale of liquor
12 in the..... Yes
13 of.....? No

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

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

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

26 Do you favor the granting of liquor licenses for
27 privately-owned private golf courses for the sale
28 of liquor in.....by..... Yes
29 of.....? No

30 When the question is in respect to the granting of liquor

1 licenses, for privately-owned public golf courses, it shall be
2 in the following form:

3 Do you favor the granting of liquor licenses for
4 privately-owned public golf courses for the sale
5 of liquor in.....by..... Yes
6 of.....? No

7 When the question is in respect to the granting of liquor
8 licenses to continuing care retirement communities in those
9 municipalities that have not already approved the granting of
10 liquor licenses, it shall be in the following form:

11 Do you favor the granting of liquor licenses for
12 continuing care retirement communities
13 in.....by..... Yes
14 of.....? No

15 When the question is in respect to the granting of licenses
16 to retail dispensers of malt and brewed beverages, it shall be
17 in the following form:

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

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

25 Do you favor the granting of malt and brewed
26 beverage wholesale distributor's and importing
27 distributor's licenses not for consumption on
28 premises where sold in the..... Yes
29 of.....? No

30 When the question is in respect to the granting of club

1 liquor licenses to incorporated units of national veterans'
2 organizations, it shall be in the following form:

3 Do you favor the granting of club liquor licenses
4 to incorporated units of national veterans' organizations
5 in the..... Yes
6 of.....? No

7 When the question is in respect to the granting of club
8 retail dispenser licenses to incorporated units of national
9 veterans' organizations, it shall be in the following form:

10 Do you favor the granting of club retail dispenser
11 licenses to incorporated units of national veterans'
12 organizations in the..... Yes
13 of.....? No

14 When the question is in respect to the granting of special
15 occasion permits allowing the sale of liquor by qualified
16 organizations in municipalities that do not already allow the
17 retail sale of liquor, it shall be in the following form:

18 Do you favor the granting of special occasion permits to
19 allow the sale of liquor by qualified organizations in
20 the..... Yes
21 of.....? No

22 When the question is in respect to the granting of special
23 occasion permits allowing the sale of malt or brewed beverages
24 only by qualified organizations in municipalities that do not
25 already allow the retail sale of malt or brewed beverages, it
26 shall be in the following form:

27 Do you favor the granting of special occasion permits to
28 allow the sale of malt or brewed beverages only by qualified
29 organizations in the..... Yes
30 of.....? No

1 When the question is in respect to the establishment,
2 operation and maintenance of Pennsylvania liquor stores it shall
3 be in the following form:

4 Do you favor the establishment, operation
5 and maintenance of Pennsylvania liquor
6 stores in the..... Yes
7 of.....? No

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

1 stores, the board shall not open and operate a Pennsylvania
2 liquor store in such municipality or part of a split
3 municipality, nor continue to operate a then existing
4 Pennsylvania liquor store in the municipality or part of a split
5 municipality for more than two years thereafter or after the
6 expiration of the term of the lease on the premises occupied by
7 such store, whichever period is less, unless and until at a
8 later election a majority of the voting electors vote "yes" on
9 such question.

10 (b) To be eligible for the local option under this section,
11 the incorporated unit of a national veterans' organization must
12 have been incorporated on or before a date ten years prior to
13 the filing of its application after authorization under local
14 option. In each municipality, licenses approved under the local
15 option for incorporated units of national veterans'
16 organizations may not exceed four.

17 (c) For the first year that the local option is authorized
18 for the incorporated units of national veterans' organizations,
19 the local option election for the incorporated units of national
20 veterans' organizations may be held at the primary election
21 preceding any election.

22 (d) Nothing in this section shall prohibit the board from
23 approving the transfer of a retail license from a municipality
24 which has voted to prohibit the issuance of such a license to a
25 location in another municipality in the same county that allows
26 the issuance of that type of license.

27 Section 5. This act shall take effect immediately.