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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 48

Session of  
2009

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INTRODUCED BY M. O'BRIEN, JANUARY 26, 2009

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AMENDMENTS TO SENATE AMENDMENTS, HOUSE OF REPRESENTATIVES, APRIL  
20, 2010

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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 further providing for definitions, for sacramental wine  
18 licenses, fees, privileges and restrictions and, for  
19 interlocking businesses prohibited; ~~providing for an enhanced~~  
20 ~~restaurant license; and further providing for number and~~  
21 ~~kinds of licenses allowed same licensee~~ and for limited  
22 number of retail licenses to be issued in each county.



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

25 Section 1. The definitions of "eligible entity," "performing  
26 arts facilities" and "public venue" in section 102 of the act of  
27 April 12, 1951 (P.L.90, No.21), known as the Liquor Code,

1 reenacted and amended June 29, 1987 (P.L.32, No.14) and amended  
2 December 20, 2000 (P.L.992, No.41), November 29, 2006 (P.L.1421,  
3 No. 155) and July 16, 2007 (P.L.107, No.34), are amended to  
4 read:

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

8 \* \* \*

9 "Eligible entity" shall mean a city of the third class, a  
10 hospital, a church, a synagogue, a volunteer fire company, a  
11 volunteer ambulance company, a volunteer rescue squad, a unit of  
12 a nationally chartered club which has been issued a club liquor  
13 license, a club in a city of the third class which has been  
14 issued a club liquor license and which, as of December 31, 2002,  
15 has been in existence for at least 100 years, a library, a  
16 nationally accredited Pennsylvania nonprofit zoological  
17 institution licensed by the United States Department of  
18 Agriculture, a nonprofit agricultural association in existence  
19 for at least ten years, a bona fide sportsmen's club in  
20 existence for at least ten years, a nationally chartered  
21 veterans' organization and any affiliated lodge or subdivision  
22 of such organization, a fraternal benefit society that is  
23 licensed to do business in this Commonwealth and any affiliated  
24 lodge or subdivision of such fraternal benefit society, a museum  
25 operated by a nonprofit corporation in a city of the third class  
26 or township of the first class, a nonprofit corporation engaged  
27 in the performing arts in a city of the third class, borough or  
28 in an incorporated town, an arts council, a nonprofit  
29 corporation that operates an arts facility or museum in a city  
30 of the third class in the county of the fourth class, a

1 nonprofit organization as defined under section 501(c)(3) of the  
2 Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. §  
3 501(c)(3)) whose purpose is to protect the architectural  
4 heritage of boroughs and which has been recognized as such by a  
5 municipal resolution, a nonprofit organization as defined under  
6 section 501(c)(3) of the Internal Revenue Code of 1986 (Public  
7 Law 99-514, 26 U.S.C. § 501(c)(3)) conducting a regatta in a  
8 city of the second class with the permit to be used on State  
9 park grounds or conducting a family-oriented celebration as part  
10 of Welcome America in a city of the first class on property  
11 leased from that city for more than fifty years, a nonprofit  
12 organization as defined under section 501(c)(3) of the Internal  
13 Revenue Code of 1986 (26 U.S.C. § 501(c)(3)) whose purpose is to  
14 raise funds for the research and treatment of cystic fibrosis, a  
15 nonprofit organization as defined under section 501(c)(3) of the  
16 Internal Revenue Code of 1986 (26 U.S.C. § 501(c)(3)) whose  
17 purpose is to educate the public on issues dealing with  
18 watershed conservation, a nonprofit organization as defined  
19 under section 501(c)(3) of the Internal Revenue Code of 1986  
20 (Public Law 99-514, 26 U.S.C. § 501(c)(3)) whose purpose is to  
21 provide equine assisted activities for children and adults with  
22 special needs, a nonprofit economic development agency in a city  
23 of the second class with the primary function to serve as an  
24 economic generator for the greater southwestern Pennsylvania  
25 region by attracting and supporting film, television and related  
26 media industry projects and coordinating government and business  
27 offices in support of a production, a county tourist promotion  
28 agency as defined in section 3(1) of the act of April 28, 1961  
29 (P.L.111, No.50), known as the "Tourist Promotion Law," and  
30 located in a city of the third class in a county of the fourth

1 class or located in a township of the second class in a county  
2 of the fifth class, a junior league in a third class county that  
3 is a nonprofit organization as defined under section 501(c)(3)  
4 of the Internal Revenue Code of 1986 (26 U.S.C. § 501(c)(3))  
5 that is comprised of women whose purpose is exclusively  
6 educational and charitable in promoting the volunteerism of  
7 women and developing and participating in community projects and  
8 that has been in existence for over seventy years [or], a  
9 nonprofit organization as defined under section 501(C)(6) of the  
10 Internal Revenue Code of 1986 which is located in a city of the  
11 third class in a county of the third class and whose purpose is  
12 to support business and industry or a club recognized by Rotary  
13 International which is located in a county of the fourth class  
14 and whose purpose is to provide service to others, to promote  
15 high ethical standards and to advance world understanding,  
16 goodwill and peace through its fellowship of business,  
17 professional and community leaders or a nonprofit organization  
18 as defined under section 501(c)(3) of the Internal Revenue Code  
19 of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)) which is  
20 located in a borough in a county of the third class and whose  
21 purpose is to promote mushrooms while supporting local and  
22 regional charities.

23 \* \* \*

24 "Performing arts facilities" shall mean those halls or  
25 theaters in which live musical, concert, dance, ballet and  
26 legitimate play book-length productions are performed.  
27 Performing arts facilities shall not mean those halls or  
28 theaters in which burlesque shows or reviews are performed. If  
29 the operator of the performing arts facility is a nonprofit  
30 entity, the facility must have seating for at least [five

1 hundred (500)] two hundred fifty (250) people; otherwise, the  
2 facility must have seating for at least twenty-five hundred  
3 (2,500) people.

4 \* \* \*

5 "Public venue" shall mean a stadium, arena, convention  
6 center, museum, amphitheater or similar structure. If the public  
7 venue is a cruise terminal owned or leased by a port authority  
8 created under the act of June 12, 1931 (P.L.575, No.200),  
9 entitled "An act providing for joint action by Pennsylvania and  
10 New Jersey in the development of the ports on the lower Delaware  
11 River, and the improvement of the facilities for transportation  
12 across the river; authorizing the Governor, for these purposes,  
13 to enter into an agreement with New Jersey; creating The  
14 Delaware River Joint Commission and specifying the powers and  
15 duties thereof, including the power to finance projects by the  
16 issuance of revenue bonds; transferring to the new commission  
17 all the powers of the Delaware River Bridge Joint Commission;  
18 and making an appropriation," it shall have no permanent seating  
19 requirement. If the public venue is an open-air amphitheater  
20 owned by a port authority created under the act of December 6,  
21 1972 (P.L.1392, No.298), known as the "Third Class City Port  
22 Authority Act," it shall have no permanent seating requirement.  
23 If the public venue is owned by a political subdivision, a  
24 municipal authority, the Commonwealth, an authority created  
25 under the act of July 29, 1953 (P.L.1034, No.270), known as the  
26 "Public Auditorium Authorities Law," an authority created under  
27 Article XXV-A of the act of July 28, 1953 (P.L.723, No.230),  
28 known as the "Second Class County Code," an art museum  
29 established under the authority of the act of April 6, 1791 (3  
30 Sm.L.20, No.1536), entitled "An act to confer on certain

1 associations of the citizens of this commonwealth the powers and  
2 immunities of corporations, or bodies politic in law," or an  
3 authority created under Article XXIII (n) or (o) of the act of  
4 August 9, 1955 (P.L.323, No.130), known as "The County Code," it  
5 shall have permanent seating for at least one thousand (1,000)  
6 people; otherwise, it shall have permanent seating for at least  
7 two thousand (2,000) people. The term shall also mean any  
8 regional history center, multipurpose cultural and science  
9 facility, museum or convention or trade show center, regardless  
10 of owner and seating capacity, that has a floor area of at least  
11 sixty thousand (60,000) square feet in one building. The term  
12 shall also mean a convention or conference center owned by a  
13 city of the third class or a university which is a member of the  
14 Pennsylvania State System of Higher Education which is operated  
15 by a university foundation or alumni association, regardless of  
16 seating capacity, that has a floor area of at least fifteen  
17 thousand (15,000) square feet in one building. The term shall  
18 also mean a visitor center, regardless of floor area or seating  
19 capacity, that was established under the authority of the  
20 Gateway Visitor Center Authorization Act of 1999 (Public Law  
21 106-131, 113 Stat. 1678, 16 U.S.C. § 407m)).

22 \* \* \*

23 Section 2. Section 409 of the act, amended December 21, 1998  
24 (P.L.1202, No.155) and December 9, 2002 (P.L.1653, No.212), is  
25 amended to read:

26 Section 409. Sacramental Wine Licenses; Fees; Privileges;  
27 Restrictions.--(a) Subject to the provisions of this act in  
28 general and more particularly to the following provisions of  
29 this section, the board shall issue sacramental wine licenses to  
30 qualified applicants.

1 (b) Every applicant for a sacramental wine license shall  
2 file a written application with the board in such form as the  
3 board shall from time to time prescribe, which shall be  
4 accompanied by a filing fee and a license fee as prescribed in  
5 section 614-A of the act of April 9, 1929 (P.L.177, No.175),  
6 known as "The Administrative Code of [1929," and a license fee  
7 of one hundred dollars.] 1929." Every such application shall  
8 contain a description of the premises for which the applicant  
9 desires a license and shall set forth such other material  
10 information as may be required by the board.

11 (c) If the applicant is a natural person, his application  
12 must show that he is a citizen of the United States or a  
13 resident alien and a resident of this Commonwealth. If the  
14 applicant is an association or partnership, each and every  
15 member of the association or partnership must be a citizen of  
16 the United States or a resident alien and a resident of this  
17 Commonwealth. If the applicant is a corporation, the application  
18 must show that the corporation was created under the laws of  
19 Pennsylvania or holds a certificate of authority to transact  
20 business in Pennsylvania, and that all officers, directors and  
21 stockholders are citizens of the United States or resident  
22 aliens.

23 (d) [Holders] Except as otherwise provided under subsection  
24 (d.1), holders of such licenses may purchase from manufacturers  
25 or bring or import into this Commonwealth wine to be used for  
26 sacramental or religious purposes only, and bottle and sell the  
27 same to priests, clergymen and rabbis for use in the cathedral,  
28 church, synagogue or temple, or for sustaining members of the  
29 congregation or members of the faith who attend religious  
30 services, duly certified by such priests, clergymen or rabbis.

1 The sale and use of wine for sacramental or religious purposes  
2 shall be subject to and in accordance with the regulations of  
3 the board.

4 (d.1) In addition to the privileges conferred under  
5 subsection (d), the holder of a sacramental wine license who  
6 owns or operates an eating place or a restaurant may sell food  
7 for consumption on or off the premises and sell for consumption  
8 on the premises only the wine that it may acquire and sell  
9 pursuant to its license. In addition, the holder of a  
10 sacramental wine license may allow persons who have purchased  
11 but only partially consumed a bottle of wine on the premises to  
12 remove the bottle from the premises so long as the bottle was  
13 purchased in conjunction with a meal that was consumed on the  
14 premises and so long as the bottle is resealed.

15 (e) [Any] Except as provided under subsection (d.1), any  
16 wine purchased under the authority of this section shall not be  
17 used for any other than sacramental or religious purposes.  
18 Sacramental wine may not be sold by any person except the holder  
19 of a sacramental wine license.

20 (f) Every sacramental wine licensee shall maintain on the  
21 licensed premises such records as the board may prescribe. No  
22 deliveries of sacramental wine shall be made unless and until an  
23 order therefor is on file at the principal place of business in  
24 Pennsylvania. All shipments into Pennsylvania of wine to be used  
25 [for sacramental or religious purposes] as prescribed in this  
26 section shall be consigned to the principal place of business  
27 maintained by the licensee.

28 (g) Any such license may be suspended or revoked by the  
29 board upon proof satisfactory to it that the licensee has  
30 violated any law of this Commonwealth or any regulation of the



1 board relating to liquor and alcohol. The procedure in such  
2 cases shall be the same as for the revocation and suspension of  
3 hotel, restaurant and club licenses.

4 (h) For purposes of this section the term "sacramental wine"  
5 shall mean any wine that is clearly marked on the bottle by the  
6 manufacturer as being produced or manufactured in accordance  
7 with religious law, practice or custom.

8 Section 3. Section 411(e) of the act is amended to read:

9 Section 411. Interlocking Business Prohibited.--\* \* \*

10 (e) Except as herein provided, no hotel, restaurant, retail  
11 dispenser or club licensee, and no officer, director or  
12 stockholder, agent or employe of any such licensee shall in any  
13 wise be interested, directly or indirectly, in the ownership or  
14 leasehold of any property or the equipment of any property or  
15 any mortgage lien against the same, used by a distributor,  
16 importing distributor, or by an importer or sacramental wine  
17 licensee, in the conduct of his business; nor shall any hotel,  
18 restaurant, retail dispenser or club licensee, or any officer,  
19 director, stockholder, agent or employe of any such licensee,  
20 either directly or indirectly, lend any moneys, credit, or give  
21 anything of value or the equivalent thereof, to any distributor,  
22 importing distributor, importer or sacramental wine licensee,  
23 for equipping, fitting out, or maintaining and conducting,  
24 either in whole or in part, an establishment used in the conduct  
25 of his business.

26 The purpose of this section is to require a separation of the  
27 financial and business interests between manufacturers and  
28 holders of hotel or restaurant liquor licenses and, as herein  
29 provided, of club licenses, issued under this article, and no  
30 person shall, by any device whatsoever, directly or indirectly,

1 evade the provisions of the section. But in view of existing  
2 economic conditions, nothing contained in this section shall be  
3 construed to prohibit the ownership of property or conflicting  
4 interest by a manufacturer of any place occupied by a licensee  
5 under this article after the manufacturer has continuously owned  
6 and had a conflicting interest in such place for a period of at  
7 least five years prior to July eighteenth, one thousand nine  
8 hundred thirty-five: Provided, however, That this clause shall  
9 not prohibit any hotel, restaurant or club liquor licensee from  
10 owning land which is leased to, and the buildings thereon owned  
11 by, a holder of a retail dispenser's license; and nothing in  
12 this clause shall prevent the issuance of a retail dispenser's  
13 license to a lessee of such lands who owns the buildings  
14 thereon: And, provided further, That nothing contained in this  
15 section shall be construed to prohibit any hotel, restaurant,  
16 retail dispenser or club licensee or any officer, director or  
17 stockholder, agent or employe of any such licensee from having a  
18 financial or other interest, directly or indirectly in the  
19 ownership or leasehold of any property or the equipment of any  
20 property or any mortgage lien against same, used, leased by an  
21 importer or sacramental wine licensee for the exclusive purpose  
22 of maintaining commercial offices and on the condition that said  
23 property is not used for the storage or sale of liquor or malt  
24 or brewed beverages in any quantity[.]: And, provided further,  
25 ~~That nothing contained in this section shall be construed to~~  
26 ~~prohibit a member of the governing board of a public authority~~  
27 ~~created under subdivision (n) of Article XXIII of the act of~~  
28 ~~August 9, 1955 (P.L.323, No.130), known as "The County Code,"~~  
29 ~~from having an interest in a distributor or importing~~  
30 ~~distributor license notwithstanding the fact that the public~~



~~authority has an interest in one or more retail licenses or acts as a landlord for one or more retail licenses.~~

~~Section 4. The act is amended by adding a section to read:~~

~~Section 415. Enhanced Restaurant License. (a)~~

~~Notwithstanding any other provision of law, a person holding a slot machine license who also holds a restaurant license issued by the Pennsylvania Liquor Control Board shall be eligible to receive an enhanced restaurant license by registering with the Liquor Control Board and paying an enhanced license fee of \$250,000. The holder of an enhanced restaurant license shall pay an annual fee of \$30,000.~~

~~(b) An enhanced restaurant license shall not be subject to section 471(c).~~

~~(c) If the holder of an enhanced restaurant license is cited and found to have violated a provision of this act, the enhanced restaurant license shall be subject to a fine of not less than \$250 nor more than \$25,000. The prior citation history of the enhanced restaurant licensee shall be considered in determining the amount of the fine.~~

~~Section 5. Section 438(c) of the act is amended to read:~~

~~Section 438. Number and Kinds of Licenses Allowed Same Licensee. \* \* \*~~

~~(c) No person shall possess more than one class of license, except that a holder of a retail dispenser's license may also be a holder of a retail liquor license[.]: Provided, however, That nothing contained in this section shall be construed to prohibit a member of the governing board of a public authority created under subdivision (n) of Article XXIII of the act of August 9, 1955 (P.L.323, No.130), known as "The County Code," from having an interest in a distributor or importing distributor license~~

~~notwithstanding the fact that the public authority has an  
interest in one or more retail licenses or acts as a landlord  
for one or more retail licenses.~~

~~Section 6. Section 443(g) of the act, amended May 31, 1996  
(P.L.312, No.49), is amended to read:~~

~~Section 443. Interlocking Business Prohibited. \* \* \*~~

~~(g) The purpose of this section is to require a separation  
of the financial and business interests between the various  
classes of business regulated by subdivision (B) of this  
article, and no person or corporation shall, by any device  
whatsoever, directly or indirectly, evade the provisions of this  
section. But in view of existing economic conditions, nothing  
contained in this section shall be construed to prohibit the  
ownership of property or conflicting interest by a malt or  
brewed beverage manufacturer of any place occupied by a  
distributor, importing distributor or retail dispenser after the  
manufacturer has continuously owned and had a conflicting  
interest in such place for a period of at least five years prior  
to the eighteenth day of July, one thousand nine hundred thirty  
five: Provided, however, That a holder of a manufacturer's  
license under section 431(a) who is eligible to operate a  
brewery pub under section 446(2) or a limited winery as provided  
for under section 505.2 may also hold and operate under a hotel  
liquor license, a restaurant liquor license or a malt and brewed  
beverages retail license on the manufacturer's or limited  
winery's licensed premises. The hotel liquor license or  
restaurant liquor license or the malt and brewed beverages  
retail license shall be acquired by the manufacturer or limited  
winery subject to section 461 and shall satisfy all requirements  
for each respective license[.]: And, provided further, That~~

~~nothing contained in this section shall be construed to prohibit  
a member of the governing board of a public authority created  
under subdivision (n) of Article XXIII of the act of August 9,  
1955 (P.L.323, No.130), known as "The County Code," from having  
an interest in a distributor or importing distributor license  
notwithstanding the fact that the public authority has an  
interest in one or more retail licenses or acts as a landlord  
for one or more retail licenses.~~

~~The term "manufacturer" as used in this section shall include  
manufacturers of malt or brewed beverages as defined in this act  
and any person manufacturing any malt or brewed beverages  
outside of this Commonwealth. PROHIBIT AN OFFICER OR MEMBER OF A  
LICENSED PRIVATELY OWNED PRIVATE GOLF COURSE CATERING CLUB FROM  
HAVING AN INTEREST IN A LIMITED WINERY LICENSE.~~

Section 7 4. Section 461(c)(9) of the act, amended July 16,  
2007 (P.L.107, No.34), is amended to read:

Section 461. Limiting Number of Retail Licenses To Be Issued  
In Each County.--\* \* \*

(c) The word "hotel" as used in this section shall mean any  
reputable place operated by a responsible person of good  
reputation where the public may, for a consideration, obtain  
sleeping accommodations, and which shall have the following  
number of bedrooms and requirements in each case--at least one-  
half of the required number of bedrooms shall be regularly  
available to transient guests seven days weekly, except in  
resort areas; at least one-third of such bedrooms shall be  
equipped with hot and cold water, a lavatory, commode, bathtub  
or shower and a clothes closet; and an additional one-third of  
the total of such required rooms shall be equipped with lavatory  
and commode:

1       \* \* \*

2       (9) Upon application to and subject to inspection by the  
3 board, hotel licensees under clause (8) of this subsection shall  
4 no longer be required to maintain bedrooms for public  
5 accommodation. [However, areas required and designated as  
6 bedrooms for public accommodation prior to the effective date of  
7 this clause may not subsequently be used as licensed serving  
8 area.] Such area may be used as licensed storage area or serving  
9 area consistent with this act and existing regulations.

10       \* \* \*

11       Section 5. This act shall take effect in 60 days.

