

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 115 Session of
2009

INTRODUCED BY WATERS, DONATUCCI, YOUNGBLOOD, KIRKLAND, PARKER,
BRENNAN, CALTAGIRONE, M. O'BRIEN, STABACK, PASHINSKI,
VULAKOVICH, KOTIK AND CRUZ, JANUARY 30, 2009

AS REPORTED FROM COMMITTEE ON LIQUOR CONTROL, HOUSE OF
REPRESENTATIVES, AS AMENDED, FEBRUARY 11, 2009

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 PROVIDING FOR AN EXCEPTION TO THE INTERLOCKING BUSINESS
18 PROHIBITION; FURTHER EXEMPTING CERTAIN HOTELS FROM CERTAIN
19 REQUIREMENTS; AND further providing for responsible alcohol
20 management.

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

23 ~~Section 1. Section 471.1 of the act of April 12, 1951 (P.L.~~
24 ~~90, No.21), known as the Liquor Code, reenacted and amended June~~
25 ~~29, 1987 (P.L.32, No.14), is amended by adding a subsection to~~
26 ~~read:~~



SECTION 1. SECTION 411(E) OF THE ACT OF APRIL 12, 1951 (P.L. 90, NO.21), KNOWN AS THE LIQUOR CODE, REENACTED AND AMENDED JUNE 29, 1987 (P.L.32, NO.14), IS AMENDED TO READ:

SECTION 411. INTERLOCKING BUSINESS PROHIBITED.--* * *

(E) EXCEPT AS HEREIN PROVIDED, NO HOTEL, RESTAURANT, RETAIL DISPENSER OR CLUB LICENSEE, AND NO OFFICER, DIRECTOR OR STOCKHOLDER, AGENT OR EMPLOYE OF ANY SUCH LICENSEE SHALL IN ANY WISE BE INTERESTED, DIRECTLY OR INDIRECTLY, IN THE OWNERSHIP OR LEASEHOLD OF ANY PROPERTY OR THE EQUIPMENT OF ANY PROPERTY OR ANY MORTGAGE LIEN AGAINST THE SAME, USED BY A DISTRIBUTOR, IMPORTING DISTRIBUTOR, OR BY AN IMPORTER OR SACRAMENTAL WINE LICENSEE, IN THE CONDUCT OF HIS BUSINESS; NOR SHALL ANY HOTEL, RESTAURANT, RETAIL DISPENSER OR CLUB LICENSEE, OR ANY OFFICER, DIRECTOR, STOCKHOLDER, AGENT OR EMPLOYE OF ANY SUCH LICENSEE, EITHER DIRECTLY OR INDIRECTLY, LEND ANY MONEYS, CREDIT, OR GIVE ANYTHING OF VALUE OR THE EQUIVALENT THEREOF, TO ANY DISTRIBUTOR, IMPORTING DISTRIBUTOR, IMPORTER OR SACRAMENTAL WINE LICENSEE, FOR EQUIPPING, FITTING OUT, OR MAINTAINING AND CONDUCTING, EITHER IN WHOLE OR IN PART, AN ESTABLISHMENT USED IN THE CONDUCT OF HIS BUSINESS.

THE PURPOSE OF THIS SECTION IS TO REQUIRE A SEPARATION OF THE FINANCIAL AND BUSINESS INTERESTS BETWEEN MANUFACTURERS AND HOLDERS OF HOTEL OR RESTAURANT LIQUOR LICENSES AND, AS HEREIN PROVIDED, OF CLUB LICENSES, ISSUED UNDER THIS ARTICLE, AND NO PERSON SHALL, BY ANY DEVICE WHATSOEVER, DIRECTLY OR INDIRECTLY, EVADE THE PROVISIONS OF THE 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 MANUFACTURER OF ANY PLACE OCCUPIED BY A LICENSEE UNDER THIS ARTICLE AFTER THE MANUFACTURER HAS CONTINUOUSLY OWNED

1 AND HAD A CONFLICTING INTEREST IN SUCH PLACE FOR A PERIOD OF AT
2 LEAST FIVE YEARS PRIOR TO JULY EIGHTEENTH, ONE THOUSAND NINE
3 HUNDRED THIRTY-FIVE: PROVIDED, HOWEVER, THAT THIS CLAUSE SHALL
4 NOT PROHIBIT ANY HOTEL, RESTAURANT OR CLUB LIQUOR LICENSEE FROM
5 OWNING LAND WHICH IS LEASED TO, AND THE BUILDINGS THEREON OWNED
6 BY, A HOLDER OF A RETAIL DISPENSER'S LICENSE; AND NOTHING IN
7 THIS CLAUSE SHALL PREVENT THE ISSUANCE OF A RETAIL DISPENSER'S
8 LICENSE TO A LESSEE OF SUCH LANDS WHO OWNS THE BUILDINGS
9 THEREON: AND, PROVIDED FURTHER, THAT NOTHING CONTAINED IN THIS
10 SECTION SHALL BE CONSTRUED TO PROHIBIT ANY HOTEL, RESTAURANT,
11 RETAIL DISPENSER OR CLUB LICENSEE OR ANY OFFICER, DIRECTOR OR
12 STOCKHOLDER, AGENT OR EMPLOYE OF ANY SUCH LICENSEE FROM HAVING A
13 FINANCIAL OR OTHER INTEREST, DIRECTLY OR INDIRECTLY IN THE
14 OWNERSHIP OR LEASEHOLD OF ANY PROPERTY OR THE EQUIPMENT OF ANY
15 PROPERTY OR ANY MORTGAGE LIEN AGAINST SAME, USED, LEASED BY AN
16 IMPORTER OR SACRAMENTAL WINE LICENSEE FOR THE EXCLUSIVE PURPOSE
17 OF MAINTAINING COMMERCIAL OFFICES AND ON THE CONDITION THAT SAID
18 PROPERTY IS NOT USED FOR THE STORAGE OR SALE OF LIQUOR OR MALT
19 OR BREWED BEVERAGES IN ANY QUANTITY: AND, PROVIDED FURTHER, THAT
20 NOTHING CONTAINED HEREIN SHALL PROHIBIT AN OFFICER OR MEMBER OF
21 THE BOARD OF A LICENSED PRIVATELY OWNED PRIVATE GOLF COURSE
22 CATERING CLUB FROM HAVING AN INTEREST IN A LIMITED WINERY
23 LICENSE.

24 SECTION 2. SECTION 461(C) OF THE ACT, AMENDED JULY 16, 2007
25 (P.L.107, NO.34), IS AMENDED TO READ:

26 SECTION 461. LIMITING NUMBER OF RETAIL LICENSES TO BE ISSUED
27 IN EACH COUNTY.--* * *

28 (C) THE WORD "HOTEL" AS USED IN THIS SECTION SHALL MEAN ANY
29 REPUTABLE PLACE OPERATED BY A RESPONSIBLE PERSON OF GOOD
30 REPUTATION WHERE THE PUBLIC MAY, FOR A CONSIDERATION, OBTAIN

1 SLEEPING ACCOMMODATIONS, AND WHICH SHALL HAVE THE FOLLOWING
2 NUMBER OF BEDROOMS AND REQUIREMENTS IN EACH CASE--AT LEAST ONE-
3 HALF OF THE REQUIRED NUMBER OF BEDROOMS SHALL BE REGULARLY
4 AVAILABLE TO TRANSIENT GUESTS SEVEN DAYS WEEKLY, EXCEPT IN
5 RESORT AREAS; AT LEAST ONE-THIRD OF SUCH BEDROOMS SHALL BE
6 EQUIPPED WITH HOT AND COLD WATER, A LAVATORY, COMMODE, BATHTUB
7 OR SHOWER AND A CLOTHES CLOSET; AND AN ADDITIONAL ONE-THIRD OF
8 THE TOTAL OF SUCH REQUIRED ROOMS SHALL BE EQUIPPED WITH LAVATORY
9 AND COMMODE:

10 (1) IN MUNICIPALITIES HAVING A POPULATION OF LESS THAN THREE
11 THOUSAND, AT LEAST TWELVE PERMANENT BEDROOMS FOR THE USE OF
12 GUESTS.

13 (2) IN MUNICIPALITIES HAVING A POPULATION OF THREE THOUSAND
14 AND MORE BUT LESS THAN TEN THOUSAND INHABITANTS, AT LEAST
15 SIXTEEN PERMANENT BEDROOMS FOR THE USE OF GUESTS.

16 (3) IN MUNICIPALITIES HAVING A POPULATION OF TEN THOUSAND
17 AND MORE BUT LESS THAN TWENTY-FIVE THOUSAND INHABITANTS, AT
18 LEAST THIRTY PERMANENT BEDROOMS FOR THE USE OF GUESTS.

19 (4) IN MUNICIPALITIES HAVING A POPULATION OF TWENTY-FIVE
20 THOUSAND AND MORE BUT LESS THAN ONE HUNDRED THOUSAND
21 INHABITANTS, AT LEAST FORTY PERMANENT BEDROOMS FOR THE USE OF
22 GUESTS.

23 (5) IN MUNICIPALITIES HAVING A POPULATION OF ONE HUNDRED
24 THOUSAND AND MORE INHABITANTS, AT LEAST FIFTY PERMANENT BEDROOMS
25 FOR THE USE OF GUESTS.

26 (6) A PUBLIC DINING ROOM OR ROOMS OPERATED BY THE SAME
27 MANAGEMENT ACCOMMODATING AT LEAST THIRTY PERSONS AT ONE TIME AND
28 A KITCHEN, APART FROM THE DINING ROOM OR ROOMS, IN WHICH FOOD IS
29 REGULARLY PREPARED FOR THE PUBLIC.

30 (7) EACH ROOM TO BE CONSIDERED A BEDROOM UNDER THE

1 REQUIREMENTS OF THIS SECTION SHALL HAVE AN AREA OF NOT LESS THAN
2 EIGHTY SQUARE FEET AND AN OUTSIDE WINDOW.

3 (8) THE PROVISIONS OF THIS SUBSECTION (C) SHALL NOT APPLY TO
4 HOTEL LICENSES GRANTED PRIOR TO THE FIRST DAY OF SEPTEMBER, ONE
5 THOUSAND NINE HUNDRED FORTY-NINE, OR THAT HAVE BEEN GRANTED ON
6 ANY APPLICATION MADE AND PENDING PRIOR TO SAID DATE, NOR TO ANY
7 RENEWAL OR TRANSFER THEREOF, OR HOTELS UNDER CONSTRUCTION OR FOR
8 WHICH A BONA FIDE CONTRACT HAD BEEN ENTERED INTO FOR
9 CONSTRUCTION PRIOR TO SAID DATE. IN SUCH CASES, THE PROVISIONS
10 OF SECTION ONE OF THE ACT, APPROVED THE TWENTY-FOURTH DAY OF
11 JUNE, ONE THOUSAND NINE HUNDRED THIRTY-NINE (PAMPHLET LAWS 806),
12 SHALL CONTINUE TO APPLY.

13 (8.1) THE PROVISIONS OF THIS SUBSECTION (C) SHALL NOT APPLY
14 TO HOTEL LICENSES THAT WERE GRANTED PRIOR TO THE FIRST DAY OF
15 JANUARY, [ONE THOUSAND NINE HUNDRED SIXTY-FIVE]ONE THOUSAND NINE
16 HUNDRED SIXTY-SIX, IN MUNICIPALITIES HAVING A POPULATION OF LESS
17 THAN TEN THOUSAND DURING THE TWO THOUSAND FEDERAL DECENNIAL
18 CENSUS. FURTHER, THE PROVISIONS OF THIS SUBSECTION (C) SHALL NOT
19 APPLY TO HOTEL LICENSES THAT WERE GRANTED PRIOR TO THE FIRST DAY
20 OF SEPTEMBER, ONE THOUSAND NINE HUNDRED FORTY-NINE, AND THAT
21 LAPSED NOT MORE THAN ONCE, PROVIDED THAT THE BOARD ISSUED THE
22 HOTEL A NEW HOTEL LICENSE PRIOR TO THE FIRST DAY OF JANUARY, ONE
23 THOUSAND NINE HUNDRED SEVENTY-ONE. IN SUCH CASES, THE PROVISIONS
24 OF SECTION ONE OF THE ACT, APPROVED THE TWENTY-FOURTH DAY OF
25 JUNE, ONE THOUSAND NINE HUNDRED THIRTY-NINE (PAMPHLET LAWS 806),
26 SHALL CONTINUE TO APPLY.

27 (9) UPON APPLICATION TO AND SUBJECT TO INSPECTION BY THE
28 BOARD, HOTEL LICENSEES UNDER CLAUSE (8) OF THIS SUBSECTION SHALL
29 NO LONGER BE REQUIRED TO MAINTAIN BEDROOMS FOR PUBLIC
30 ACCOMMODATION. HOWEVER, AREAS REQUIRED AND DESIGNATED AS

1 BEDROOMS FOR PUBLIC ACCOMMODATION PRIOR TO THE EFFECTIVE DATE OF
2 THIS CLAUSE MAY NOT SUBSEQUENTLY BE USED AS LICENSED SERVING
3 AREA. SUCH AREA MAY BE USED AS LICENSED STORAGE AREA CONSISTENT
4 WITH THIS ACT AND EXISTING REGULATIONS.

5 (9.1) UPON APPLICATION TO AND SUBJECT TO INSPECTION BY THE
6 BOARD, HOTEL LICENSEES UNDER CLAUSE (8.1) OF THIS SUBSECTION
7 SHALL NO LONGER BE REQUIRED TO MAINTAIN BEDROOMS FOR PUBLIC
8 ACCOMMODATION. HOWEVER, AREAS REQUIRED AND DESIGNATED AS
9 BEDROOMS FOR PUBLIC ACCOMMODATION PRIOR TO THE EFFECTIVE DATE OF
10 THIS CLAUSE MAY NOT SUBSEQUENTLY BE USED AS LICENSED SERVING
11 AREAS. SUCH AREAS MAY BE USED AS LICENSED STORAGE AREA
12 CONSISTENT WITH THIS ACT AND EXISTING REGULATIONS.

13 * * *

14 SECTION 3. SECTION 471.1 OF THE ACT IS AMENDED BY ADDING A
15 SUBSECTION TO READ:

16 Section 471.1. Responsible Alcohol Management.--* * *

17 (g) Unless successfully completed prior to appointment, a
18 manager appointed by any restaurant, eating place retail
19 dispenser, hotel, club or distributor licensee shall be required
20 to complete the manager/owner training under subsection (c)
21 within 180 days of approval of appointment by the board.

22 Section 24. The addition of section 471.1(g) of the act
23 shall apply to the appointment of managers made pursuant to
24 applications for appointment, license transfer and applications
25 for new licenses filed with the Pennsylvania Liquor Control
26 Board after the effective date of this section.

27 Section 35. This act shall take effect in 60 days.

