

LIQUOR CODE - AMEND SALES BY PENNSYLVANIA LIQUOR STORES AND
LIQUOR LICENSEES, RETAIL DISPENSERS' RESTRICTIONS AND UNLAWFUL
ACTS

Act of May. 8, 2003, P.L. 1, No. 1
Session of 2003
No. 2003-1

Cl. 47

SB 532

AN ACT

Amending the act of April 12, 1951 (P.L.90, No.21), entitled, as reenacted, "An act relating to alcoholic liquors, alcohol and malt and brewed beverages; amending, revising, consolidating and changing the laws relating thereto; regulating and restricting the manufacture, purchase, sale, possession, consumption, importation, transportation, furnishing, holding in bond, holding in storage, traffic in and use of alcoholic liquors, alcohol and malt and brewed beverages and the persons engaged or employed therein; defining the powers and duties of the Pennsylvania Liquor Control Board; providing for the establishment and operation of State liquor stores, for the payment of certain license fees to the respective municipalities and townships, for the abatement of certain nuisances and, in certain cases, for search and seizure without warrant; prescribing penalties and forfeitures; providing for local option, and repealing existing laws," adding definitions of "proper supervision" and "social gathering"; further providing for sales by Pennsylvania Liquor Stores and for club licenses; and regulating the frequenting of premises by minors and other persons.

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

Section 1. Section 102 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 by adding definitions to read:

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

* * *

"Proper supervision" shall mean a person twenty-five years of age or older who is directly responsible for the care and conduct of a minor or minors while on the licensed premises and who keeps the minor or minors within his or her sight or hearing. If the licensee, an employe of a licensee or anyone else paid by the licensee is performing as proper supervisor, then that person may not perform any other employment-related duties; otherwise, proper supervision shall consist of unpaid volunteers.

* * *

"Social gathering" shall mean events marketed to or catering to minors in whole or in part for which proper notice has been provided to the Bureau of Enforcement and at which time no alcohol is served and all alcohol is removed or secured by lock and key at the licensed premises.

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Section 2. Section 305(a) and (h) of the act, amended February 21, 2002 (P.L.103, No.10) and December 9, 2002 (P.L.1653, No.212), are amended to read:

Section 305. Sales by Pennsylvania Liquor Stores.--(a)

[Every Pennsylvania Liquor Store shall keep in stock for sale such classes, varieties and brands of liquor and alcohol as the board shall prescribe. Every Pennsylvania Liquor Store shall be authorized to sell combination packages. If any person shall desire to purchase any class, variety or brand of liquor or alcohol which any such store does not have in stock, it shall be the duty of such store immediately to order the same upon the payment of a reasonable deposit by the purchaser in such proportion of the approximate cost of the order as shall be prescribed by the regulations of the board. No purchaser may be required to purchase more than two bottles or containers of the product, provided that such product is available through the State store system.] **The board shall in its discretion determine where and what classes, varieties and brands of liquor and alcohol it shall make available to the public and where such liquor and alcohol will be sold. Every Pennsylvania Liquor Store shall be authorized to sell combination packages. If a person desires to purchase a class, variety or brand of liquor or alcohol not currently available from the board, he or she may place a special order for such item so long as the order is for two or more bottles. The board may require a reasonable deposit from the purchaser as a condition for accepting the order.** The customer shall be notified immediately upon the arrival of the goods.

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

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

* * *

(h) Every Pennsylvania Liquor Store shall sell gift certificates which may be redeemed for liquor. In addition, the board may sell corkscrews, **wine accessories, trade publications** and wine sleeves at Pennsylvania Liquor Stores.

Section 3. Sections 406(e) and 442(e)(3) of the act, added December 9, 2002 (P.L.1653, No.212) and December 16, 2002 (P.L.1806, No.221), are amended to read:

Section 406. Sales by Liquor Licensees; Restrictions.--* * *

(e) The holder of a hotel license or the holder of a restaurant license located in a hotel may allow persons to transport liquor or malt or brewed beverages from the licensed portion of the premises to the unlicensed portion of the premises, so long as the liquor or malt or brewed beverages remain on the hotel property. In addition, a holder of a restaurant **or club** license located on a golf course may sell, furnish or give liquor or malt or brewed beverages on the unlicensed portion of the golf course so long as the liquor or malt or brewed beverages remain on the restaurant, **club** or golf course. The holder of a restaurant license located immediately adjacent to and under the same roof of a bowling center may allow persons to transport liquor or malt or brewed beverages from the licensed portion of the premises to the unlicensed

portion of the premises, so long as the liquor or malt or brewed beverages remain within the bowling center.

Section 442. Retail Dispensers' Restrictions on Purchases and Sales.--* * *

(e) * * *

(3) In addition, a holder of a restaurant **or club** license located on a golf course may sell, furnish or give liquor or malt or brewed beverages on the unlicensed portion of the golf course so long as the liquor or malt or brewed beverages remain on the restaurant, **club** or golf course.

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Section 4. Section 493(14) of the act, amended December 9, 2002 (P.L.1653, No.212), is amended to read:

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

It shall be unlawful--

* * *

(14) Permitting Undesirable Persons or Minors to Frequent Premises. For any hotel, restaurant or club liquor licensee, or any retail dispenser, his servants, agents or employes, to permit persons of ill repute[,] **or** prostitutes [or minors] to frequent his licensed premises or any premises operated in connection therewith.[, except minors accompanied by parents, guardians, or under proper supervision or except minors who frequent any restaurant or retail dispensing licensee whose sales of food and non-alcoholic beverages are equal to fifty per centum or more of the combined gross sales of both food and alcoholic beverages on the condition that alcoholic beverages may not be served at the table or booth at which the said minor is seated at the time (unless said minor is under proper supervision as hereinafter defined) and on the further condition that only table service of alcoholic beverages or take-out service of beer shall be permitted in the room wherein the minor is located: Provided, however, That it shall not be unlawful for any hotel, restaurant or club liquor licensee or any retail dispenser to permit minors under proper supervision upon the licensed premises or any premises operated in connection therewith for the purpose of a social gathering, even if such gathering is exclusively for minors: And provided further, That no liquor shall be sold, furnished or given to such minors nor shall the licensee knowingly permit any liquor or malt or brewed beverages to be sold, furnished or given to or be consumed by any minor, and the area of such gathering shall be segregated from the remainder of the licensed premises. In the event the area of such gathering cannot be segregated from the remainder of the licensed premises, all alcoholic beverages must be either removed from the licensed premises or placed under lock and key during the time the gathering is taking place. Written notice, at least forty-eight (48) hours in advance of such gathering, shall be given to the enforcement bureau. Any licensee violating the provisions of this clause shall be subject to the provisions of section 471. Nothing in this clause shall be construed to make it unlawful for minors to frequent public venues or performing arts facilities.

"Proper supervision," as used in this clause, means the presence, on that portion of the licensed premises where a minor or minors are present, of one person twenty-five years of age or older for every five minors or part thereof who is directly responsible for the care and conduct of such minor or minors

while on the licensed premises and in such proximity that the minor or minors are constantly within his sight or hearing. The presence of the licensee or any employe or security officer of the licensee shall not constitute proper supervision.] **Minors may only frequent licensed premises if: (a) they are accompanied by a parent; (b) they are accompanied by a legal guardian; (c) they are under proper supervision; (d) they are attending a social gathering; or (e) the hotel, restaurant or retail dispenser licensee has gross sales of food and nonalcoholic beverages equal to fifty per centum or more of its combined gross sale of both food and alcoholic beverages. If a minor is frequenting a hotel, restaurant or retail dispenser licensee under subsection (e), then the minor may not sit at the bar section of the premises, nor may any alcoholic beverages be served at the table or booth at which the said minor is seated unless said minor is with a parent, legal guardian or under proper supervision. Further, if a hotel, restaurant, club liquor licensee or retail dispenser is hosting a social gathering under subsection (d), then written notice at least forty-eight hours in advance of such gathering shall be given to the Bureau of Enforcement. If a minor is frequenting licensed premises with proper supervision under subsection (c), each supervisor can supervise up to twenty minors, except for premises located in cities of the first class, where each supervisor can supervise up to five minors. Notwithstanding any other provisions of this section, if the minors are on the premises as part of a school-endorsed function, then each supervisor can supervise fifty minors. Nothing in this clause shall be construed to make it unlawful for minors to frequent public venues or performing arts facilities.**

Section 5. This act shall take effect immediately.

APPROVED--The 8th day of May, A. D. 2003.

EDWARD G. RENDELL