

LIQUOR CODE

Act of Apr. 12, 1951, P.L. 90, No. 21

Cl. 47

(Reenacted and amended June 29, 1987, P.L.32, No.14)

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.
(Title reenacted June 29, 1987, P.L.32, No.14)

TABLE OF CONTENTS

ARTICLE I. PRELIMINARY PROVISIONS.

Section 101. Short Title.
Section 102. Definitions.
Section 103. Saving Clause.
Section 104. Interpretation of Act.

ARTICLE II. PENNSYLVANIA LIQUOR CONTROL BOARD.

Section 201. Appointment of Members; Terms; Salaries.
Section 202. Qualifications of Members.
Section 203. Chairman of Board.
Section 204. Secretary of Board.
Section 205. Bonds Required of Members and Secretary
(Deleted by amendment).
Section 206. Board Subject to Administrative Code.
Section 206.1. Board and Enforcement Bureau Subject to State
Ethics and Adverse Interest Acts.
Section 207. General Powers of Board.
Section 208. Specific Subjects on Which Board May Adopt
Regulations.
Section 209. Officers and Investigators of the Board to be
Peace Officers; Powers (Repealed).
Section 210. Restrictions on Members of the Board and
Certain Employees of Commonwealth.
Section 211. Enforcement.
Section 211.1. Legal Opinions.
Section 212. Office of Administrative Law Judge.
Section 213. Bureau of Consumer Relations.
Section 214. Prohibitions.
Section 215. Wine and Spirits Marketing.
Section 216. Investigative Unit.
Section 217. Biennial Reports.
Section 218. Stop-and-Go Legislative Task Force.

ARTICLE III. PENNSYLVANIA LIQUOR STORES.

Section 301. Board to Establish State Liquor Stores.

Section 302. Selection of Personnel.
Section 303. Management of Pennsylvania Liquor Stores.
Section 304. When Sales May Be Made at Pennsylvania Liquor Stores.
Section 305. Sales by Pennsylvania Liquor Stores.
Section 305.1. Confectionery Containing Alcohol or Liquor.
Section 306. Audits by Auditor General.

ARTICLE IV. LICENSES AND REGULATIONS; LIQUOR, ALCOHOL AND MALT AND BREWED BEVERAGES.

(A) Liquor and Alcohol (Not Including Manufacturers).

Section 401. Authority to Issue Liquor Licenses to Hotels, Restaurants and Clubs.
Section 402. License Districts; License Period; Hearings.
Section 403. Applications for Hotel, Restaurant and Club Liquor Licenses.
Section 404. Issuance, Transfer or Extension of Hotel, Restaurant and Club Liquor Licenses.
Section 405. License Fees.
Section 406. Sales by Liquor Licensees; Restrictions.
Section 406.1. Secondary Service Area.
Section 407. Sale of Malt or Brewed Beverages by Liquor Licensees.
Section 408. Public Service Liquor Licenses.
Section 408.1. Trade Show and Convention Licenses (Repealed).
Section 408.2. City-Owned Stadia (Repealed).
Section 408.3. Performing Arts Facilities (Repealed).
Section 408.4. Special Occasion Permits.
Section 408.5. Licenses for City-owned Art Museums, Cities First Class; Art Museums Maintained by Certain Non-profit Corporations in Cities of the Second Class; Non-profit Science and Technology Museums in Cities of the First Class and in Cities of the Second Class; and Regional History Centers in Cities of the Second Class (Repealed).
Section 408.6. Performing Arts Facilities in Certain Municipalities (Repealed).
Section 408.7. Performing Arts Facilities in First and Second Class Cities (Repealed).
Section 408.8. Trade Shows and Convention Licenses; Cities of the Third Class (Repealed).
Section 408.9. Stadium and Restaurant Licenses in Third Class Cities (Repealed).
Section 408.10. Recreation Facilities (Repealed).
Section 408.11. Seasonal Outdoor Cafe (Repealed).
Section 408.12. Wine and Spirits Auction Permits.
Section 408.13. Transfer of Restaurant Licenses to Deteriorated Areas (Repealed).
Section 408.14. Multipurpose Cultural and Science Facilities Licenses (Repealed).
Section 408.15. Multipurpose County-owned Arena and Convention Center License (Repealed).
Section 408.16. National Event Permit (Expired).
Section 409. Sacramental Wine Licenses; Fees; Privileges; Restrictions.
Section 410. Liquor Importers' Licenses; Fees; Privileges; Restrictions.
Section 411. Interlocking Business Prohibited.
Section 412. Public Venue License.

Section 413. Performing Arts Facility License.
Section 414. Continuing Care Retirement Community Retail
Licenses.
Section 415. Wine Expanded Permits.
Section 416. Casino Liquor License.
Section 417. Extension of Licensed Service Area and Issuance
of Off-premises Catering Permits.

(B) Malt and Brewed Beverages (Including Manufacturers).

Section 431. Malt and Brewed Beverages Manufacturers',
Distributors' and Importing Distributors'
Licenses.
Section 431.1. Malt and Brewed Beverages Alternating Brewers'
Licenses.
Section 432. Malt and Brewed Beverages Retail Licenses.
Section 433. Public Service Licenses.
Section 433.1. Stadium or Arena Permits (Repealed).
Section 434. License Period.
Section 435. Filing of Applications for Distributors',
Importing Distributors' and Retail
Dispensers' Licenses; Filing Fee.
Section 436. Application for Distributors', Importing
Distributors' and Retail Dispensers'
Licenses.
Section 437. Prohibitions Against the Grant of Licenses.
Section 438. Number and Kinds of Licenses Allowed Same
Licensee.
Section 439. Malt or Brewed Beverage License Fees.
Section 440. Sales by Manufacturers of Malt or Brewed
Beverages; Minimum Quantities.
Section 441. Distributors' and Importing Distributors'
Restrictions on Sales, Storage, Etc.
Section 442. Retail Dispensers' Restrictions on Purchases
and Sales.
Section 443. Interlocking Business Prohibited.
Section 444. Malt or Brewed Beverages Manufactured Outside
This Commonwealth.
Section 445. Brand Registration.
Section 446. Breweries.
Section 446.1. Pennsylvania Malt and Brewed Beverages Industry
Promotion Board.
Section 447. Price Changes of Malt and Brewed Beverages.
Section 448. Monthly Shipment of Malt or Brewed Beverages.

(C) General Provisions Applying to Both Liquor and Malt
and Brewed Beverages.

Section 461. Limiting Number of Retail Licenses To Be Issued
In Each County.
Section 461.1. Incorporated Units of National Veterans'
Organizations.
Section 462. Licensed Places May Be Closed During Period
of
Emergency.
Section 462.1. Safekeeping.
Section 463. Places of Amusement Not To Be Licensed; Penalty
(Deleted by amendment).
Section 464. Hearings Upon Refusal of Licenses, Renewals
or Transfers; Appeals.
Section 465. All Licensees to Furnish Bond (Deleted by
amendment).

Section 466. Disposition of Cash and Securities Upon Forfeiture of Bond (Deleted by amendment).
Section 467. Display of License.
Section 468. Licenses Not Assignable; Transfers.
Section 469. Applications for Transfers; Fees.
Section 470. Renewal of Licenses; Temporary Provisions for Licensees in Armed Service.
Section 470.1. Renewal of Hotel Liquor Licenses; Special Provisions (Repealed).
Section 470.2. Exchange of Hotel Liquor License; Special Provisions (Repealed).
Section 470.3. License Auction.
Section 471. Revocation and Suspension of Licenses; Fines.
Section 471.1. Responsible Alcohol Management.
Section 472. Local Option.
Section 472.1. Clubs.
Section 472.2. Granting of Liquor Licenses in Certain Municipalities.
Section 472.3. Exchange of Certain Licenses.
Section 472.4. Privately-Owned Public Golf Courses (Deleted by amendment).
Section 472.5. Privately Owned Golf Courses Located in More Than One County; Equine Centers.
Section 473. Public Record.
Section 474. Surrender of Club Licenses for Benefit of Licensees.
Section 474.1. Surrender of Restaurant, Eating Place Retail Dispenser, Hotel, Importing Distributor and Distributor License for Benefit of Licensee.
Section 475. Establishments Proximate to Interstate Highways Not To Be Licensed (Deleted by amendment).
Section 477. Applicants to Provide State Tax Identification Numbers and Statement of State Tax Status; Waiver of Confidentiality of Information in the Possession of the Department of Revenue and Other Departments; Review of State Tax Status.
Section 478. Renewal of Amusement Permit; Renewal of Permit for Sales for Off-Premises Consumption in Cities of the First Class.
Section 479. Point System for Certain Licensees (Expired).
Section 480. Removal of Points (Expired).
Section 481. School, Mandatory Safekeeping or Revocation of License Privilege on Accumulation of Points (Expired).
Section 482. Points Follow Transfer of License (Expired).
Section 483. Expiration of Point System.

(C.1) Shipment of Wine.

Section 488. Shipment of Wine.
Section 488.1. Pennsylvania Wine Marketing and Research Program Board.

(D) Unlawful Acts; Penalties.

Section 491. Unlawful Acts Relative to Liquor, Alcohol and Liquor Licensees.
Section 492. Unlawful Acts Relative to Malt or Brewed Beverages and Licensees.
Section 492.1. Hours of Operation Relative to Manufacturers, Importing Distributors and Distributors.

Section 493. Unlawful Acts Relative to Liquor, Malt and Brewed Beverages and Licensees.
Section 493.1. Rights of Municipalities Preserved.
Section 494. Penalties.
Section 495. Identification Cards; Licensees and State Liquor Store Employees Saved From Prosecution.
Section 496. Reporting of Worthless Checks.
Section 497. Liability of Licensees.
Section 498. Unlawful Advertising.
Section 499. Premises to be Vacated by Patrons.

ARTICLE V. DISTILLERIES, WINERIES, BONDED WAREHOUSES, BAILEES FOR HIRE AND TRANSPORTERS FOR HIRE.

Section 501. License Required.
Section 502. Exemptions.
Section 502.1. Production of Denatured Ethyl Alcohol (Repealed).
Section 503. Qualifications for License.
Section 504. Applications; Filing Fees.
Section 505. Licenses Issued.
Section 505.1. Bonded Warehouse License Privilege Restrictions.
Section 505.2. Limited Wineries.
Section 505.3. Distilleries (Deleted by amendment).
Section 505.4. Limited Distilleries and Distilleries.
Section 506. Bonds Required (Deleted by amendment).
Section 507. Hearings on Licenses and Refusals.
Section 508. License Fees.
Section 509. License Must Be Posted; Business Hours.
Section 510. Containers To Be Labeled.
Section 511. License To Specify Each Place Authorized For Use.
Section 512. Records To Be Kept.
Section 513. Premises and Records Subject To Inspection.
Section 514. Suspension and Revocation of Licenses.
Section 515. Appeals.
Section 516. Compromise Penalty In Lieu of Suspension.
Section 517. Expiration of Licenses; Renewals.
Section 518. Unlawful Acts.
Section 519. Penalties.

ARTICLE VI. PROPERTY ILLEGALLY POSSESSED OR USED; FORFEITURES; NUISANCES.

(A) Forfeitures.

Section 601. Forfeiture of Property Illegally Possessed or Used.
Section 602. Forfeiture Proceedings.
Section 603. Disposition of Forfeited Property.
Section 604. Motor Vehicle Licenses To Be Revoked.
Section 605. Application of Subdivision.

(B) Nuisances.

Section 611. Nuisances; Actions To Enjoin.

ARTICLE VII. DEALING IN DISTILLERY BONDED WAREHOUSE CERTIFICATES.

(A) Preliminary Provisions.

Section 701. Definitions and Interpretation.

(B) Permits.

- Section 702. Unlawful to Act as a Distillery Certificate Broker or to Buy or Sell Distillery Bonded Warehouse Certificate Without a Permit.
Section 703. Authority to Issue Permits to Distillery Certificate Brokers.
Section 704. Application for Permit; Filing Fee.
Section 705. Issuance of Permits.
Section 706. Office or Place of Business to be Maintained.
Section 707. Permit Fee; Permits Not Assignable or Transferable; Display of Permit; Term of Permit.
Section 708. Records to be Kept.
Section 709. Renewal of Permits.
Section 710. Permit Hearings; Appeals From Refusal of the Board to Issue or Renew Permits.
Section 712. Revocation and Suspension of Permit.

(C) Permittees' Registered Agents.

- Section 721. Unlawful to Act as Agent or to Employ Agents Without Registration.
Section 722. Registered Agents.
Section 723. Registration Fee.
Section 724. Registration and Issuance of Identification Card.
Section 725. Hearings Upon Refusal of the Board; Appeals.
Section 726. Revocation and Suspension of Agents' Registrations.
Section 727. Identification Cards.

(D) Exemptions.

- Section 731. Bank and Trust Companies and Other Persons.
Section 732. Distillers, Rectifiers and Importers.
Section 733. Certificates Owned Since July 24, 1939.

(E) Administration and Enforcement.

- Section 741. Duties of the Board.

(F) Fines and Penalties.

- Section 751. Penalties.

ARTICLE VIII. DISPOSITION OF MONEYS COLLECTED UNDER PROVISIONS OF ACT.

- Section 801. Moneys Paid Into Liquor License Fund and Returned to Municipalities.
Section 802. Moneys Paid Into The State Stores Fund for Use of the Commonwealth.
Section 803. Alcohol Tax Moneys Paid Into General Fund.

ARTICLE IX. REPEALS (Repealed).

- Section 901. Acts and Parts of Acts Repealed (Repealed).
Section 902. General Repeal Clause (Repealed).

ARTICLE X. MISCELLANEOUS PROVISIONS.

Section 1001. Construction and Applicability.

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

ARTICLE I. PRELIMINARY PROVISIONS.

Section 101. Short Title.--This act shall be known and may be cited as the "Liquor Code."

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

"Alcohol" shall mean ethyl alcohol of any degree of proof originally produced by the distillation of any fermented liquid, whether rectified or diluted with or without water, whatever may be the origin thereof, and shall include powdered alcohol and synthetic ethyl alcohol, but shall not mean or include ethyl alcohol, whether or not diluted, that has been denatured or otherwise rendered unfit for beverage purposes. (Def. amended June 8, 2016, P.L.273, No.39)

"Alcoholic cider" shall mean a beverage which may contain carbonation in an amount not to exceed six and four tenths grams per liter, produced through alcoholic fermentation, which is primarily derived from apples, apple juice concentrate and water or pears, pear juice concentrate and water, consisting of at least one-half of one per centum, but not greater than eight and one-half per centum, alcohol by volume and sold or offered for sale as alcoholic cider and not as a wine or as a substitute for wine, in bottles, cases, kegs, cans or other suitable containers of the type used for the sale of malt or brewed beverages in this Commonwealth. (Def. amended Nov. 25, 2020, P.L.1222, No.125)

"Alcohol service personnel" shall mean any employe of a licensee such as a bartender, waiter or, in the case of a distributor or importing distributor, a salesperson whose primary responsibility includes the resale, furnishing or serving of liquor or malt or brewed beverages. It shall also mean any employe, such as a doorperson, whose primary responsibility is to ascertain the age of individuals who are attempting to enter the licensed premises. (Def. added Dec. 20, 2000, P.L.992, No.141)

"Alcohol vaporizing device" shall mean any device, machine or process which mixes spirits, liquors or other alcoholic products with oxygen or any other gas to produce a vaporized product for consumption by inhalation. (Def. added July 7, 2006, P.L.584, No.84)

"Alternating brewer" shall mean any person, association, corporation or other business entity licensed by the board to produce malt or brewed beverages at premises that are licensed by another entity under a Pennsylvania manufacturer's license. (Def. added Feb. 21, 2002, P.L.103, No.10)

"Arts council" shall mean a tax-exempt organization which promotes the visual arts, performing arts or both and which receives funding under the Local Arts Services Program administered by the Pennsylvania Council on the Arts. (Def. added Dec. 9, 2002, P.L.1653, No.212)

"Association" shall mean a partnership, limited partnership or any form of unincorporated enterprise owned by two or more persons.

"Automobile racetrack" shall mean a track used principally for holding automobile races which has a seating capacity in excess of ten thousand. (Def. amended July 7, 2006, P.L.584, No.84)

"Board" shall mean the Pennsylvania Liquor Control Board.

"Bonded warehouse" shall mean and include all places and warehouses legally established under the provisions of the acts of Congress and the administrative provisions of the internal revenue laws of the Government of the United States of America, for the storage, concentration, distribution and holding in bond, (a) of whiskey and any other potable distilled spirits, except ethyl alcohol, when used in Article VII entitled "Distillery Bonded Warehouse Certificates" and, (b) of alcohol or liquor when otherwise used.

"Case" shall mean a package prepared by the manufacturer for sale or distribution of twelve or more original containers totaling two hundred sixty-four or more fluid ounces of malt or brewed beverages excepting those packages containing twenty-four or more original containers each holding seven fluid ounces or more. (Def. amended July 7, 2006, P.L.584, No.84)

"Catered function" shall mean the furnishing of food prepared on the premises or brought onto the premises already prepared in conjunction with alcoholic beverages for the accommodation of a person or an identifiable group of people, not the general public, who made arrangements for the function at least thirty days in advance. (Def. amended July 5, 2012, P.L.1007, No.116)

"Club" shall mean any reputable group of individuals associated together not for profit for legitimate purposes of mutual benefit, entertainment, fellowship or lawful convenience, having some primary interest and activity to which the sale of liquor or malt and brewed beverages shall be only secondary, which, if incorporated, has been in continuous existence and operation for at least one year, and if first licensed after June sixteenth, one thousand nine hundred thirty-seven, shall have been incorporated in this Commonwealth, and, if unincorporated, for at least ten years, immediately preceding the date of its application for a license under this act, and which regularly occupies, as owner or lessee, a clubhouse or quarters for the use of its members. Continuous existence must be proven by satisfactory evidence. The board shall refuse to issue a license if it appears that the charter is not in possession of the original incorporators or their direct or legitimate successors. The club shall hold regular meetings, conduct its business through officers regularly elected, admit members by written application, investigation and ballot, and charge and collect dues from elected members, and maintain such records as the board shall from time to time prescribe, but any such club may waive or reduce in amount, or pay from its club funds, the dues of any person who was a member at the time he was inducted into the military service of the United States or was enrolled in the armed forces of the United States pursuant to any selective service act during the time of the member's actual service or enrollment. The term includes a privately-owned private golf course.

"Combination package" shall mean a package consisting of liquor or alcohol and a nonliquor or nonalcohol item as packaged by the manufacturer or its representative. (Def. added Feb. 21, 2002, P.L.103, No.10)

"Commercial and mixed-use overlay project" shall mean a planned development:

- (1) situated on at least twenty-five acres;
- (2) constructed since January 1, 2019;
- (3) with at least two hundred seventy-five thousand square feet of actual or proposed development;
- (4) with a mix of commercial and residential uses; and
- (5) that is adjacent to an existing hotel property with at least ninety rooms.

(Def. added Nov. 21, 2019, P.L.635, No.86)

"Container" shall mean and include any receptacle, vessel or form of package, tank, vat, cask, barrel, drum, keg, can, bottle or conduit used or capable of use for holding, storing, transferring or shipment of alcohol, liquor or malt or brewed beverages.

"Continuing care retirement community" shall mean the building or complex operated by a nonprofit entity incorporated under 15 Pa.C.S. Pt. II Subpt. C (relating to nonprofit corporations) which primarily houses persons over the age of sixty-two. At least one hundred persons residing in the building or complex must be over the age of sixty-two. (Def. added Feb. 21, 2002, P.L.103, No.10)

"Corporation" shall mean a corporation or joint-stock association organized under the laws of this Commonwealth, the United States, or any other state, territory, or foreign country or dependency.

"Denatured alcohol" shall mean and include all alcohol or any compound thereof which by the admixture of such denaturing material or materials is rendered unfit for use as a beverage. The term shall not include powdered alcohol. (Def. amended June 8, 2016, P.L.273, No.39)

"Denaturing plant" shall mean and include the premises of a distillery used exclusively for the denaturization of alcohol, either specially or completely, by the admixture of such denaturing materials as shall render the alcohol or any compound in which it is authorized to be used unfit for use as a beverage.

"Direct wine shipper" shall mean a person licensed as a producer of wine by the board or by another state or country that accepts orders placed for wine from within this Commonwealth. The term includes a limited winery. (Def. amended June 8, 2016, P.L.273, No.39)

"Distillery" shall mean and include any premises or plant wherein alcohol or liquor is manufactured, made and distilled from raw materials, blended or rectified, or any place wherein alcohol or liquor is produced by any method suitable for the production of alcohol. The term shall not include a "winery" where alcohol is derived from by-products of wine production by distillation for the sole purpose of adding to the fermented products to fortify the same.

"Distillery Bonded Warehouse Certificate" shall mean a certificate, receipt, contract or other document given upon the storage of whiskey or any other potable distilled spirits, except ethyl alcohol, in a bonded warehouse, and evidencing the ownership of such whiskey or other potable distilled spirits.

"Distillery certificate broker" shall mean and include every person who engages directly or through an agent in selling, purchasing, exchanging, offering for sale or delivery, or entering into agreements for the purchase, sale or exchange, or soliciting subscriptions to or orders for, or undertaking to dispose of, or dealing in any manner in, distillery bonded warehouse certificates.

"Distributor" shall mean any person licensed by the board to engage in the purchase only from Pennsylvania manufacturers and from importing distributors and the resale of malt or brewed beverages, except to importing distributors and distributors. (Def. amended Nov. 15, 2016, P.L.1286, No.166)

"Eating place" shall mean a premise where food is regularly and customarily prepared and sold, having a total area of not less than three hundred square feet available to the public in one or more rooms, other than living quarters, and equipped with tables and chairs, including bar seats, accommodating thirty persons at one time. The board shall, by regulation, set forth what constitutes tables and chairs sufficient to accommodate thirty persons at one time. (Def. amended Feb. 21, 2002, P.L.103, No.10 and Dec. 9, 2002, P.L.1653, No.212)

"Eligible entity" shall mean a city of the third class, a hospital, a church, a synagogue, a volunteer fire company, a volunteer ambulance company, a volunteer rescue squad, a unit of a nationally chartered club which has been issued a club liquor license, a club which has been issued a club liquor license and which, as of December 31, 2002, has been in existence for at least 100 years, a library, a nationally accredited Pennsylvania nonprofit zoological institution licensed by the United States Department of Agriculture, a nonprofit agricultural association in existence for at least ten years, a bona fide sportsmen's club in existence for at least ten years, a nationally chartered veterans' organization and any affiliated lodge or subdivision of such organization, a fraternal benefit society that is licensed to do business in this Commonwealth and any affiliated lodge or subdivision of such fraternal benefit society, any nationally recognized community-based voluntary health organization committed to fighting cancer, which has been in existence for at least 100 years, a museum operated by a nonprofit corporation, a nonprofit corporation engaged in the performing arts, an arts council, a nonprofit corporation that operates an arts facility or museum, a nonprofit organization as defined under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)) whose purpose is to protect the architectural heritage of a municipality and which has been recognized as such by a resolution of the municipality, a nonprofit organization as defined under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)) conducting a regatta in a city of the second class with the permit to be used on State park grounds or conducting a family-oriented celebration as part of Welcome America in a city of the first class on property leased from that city for more than fifty years, a nonprofit organization as defined under section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. § 501(c)(3)) whose purpose is to raise funds for the research and treatment of cystic fibrosis, a nonprofit organization as defined under section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. § 501(c)(3)) whose purpose is to educate the public on issues dealing with watershed conservation, a nonprofit organization as defined under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)) whose purpose is to provide equine assisted activities for children and adults with special needs, a nonprofit economic development agency in a city of the second class with the primary function to serve as an economic generator for the greater southwestern Pennsylvania region by attracting and supporting film, television and related media industry projects and coordinating government and business

offices in support of a production, a county tourist promotion agency as defined in section 2 of the act of July 4, 2008 (P.L.621, No.50), known as the "Tourism Promotion Act," a junior league that is a nonprofit organization as defined under section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. § 501(c)(3)) that is comprised of women whose purpose is exclusively educational and charitable in promoting the volunteerism of women and developing and participating in community projects and that has been in existence for over seventy years, a nonprofit organization as defined under section 501(c)(3) of the Internal Revenue Code of 1986 and whose purpose is the education and promotion of American history, a nonprofit organization as defined under section 501(c)(6) of the Internal Revenue Code of 1986 whose purpose is to support business and industry, a brewery which has been issued a license to manufacture malt or brewed beverages and has been in existence for at least 100 years or a club recognized by Rotary International and whose purpose is to provide service to others, to promote high ethical standards and to advance world understanding, goodwill and peace through its fellowship of business, professional and community leaders or a nonprofit organization as defined under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)) whose purpose is to promote mushrooms while supporting local and regional charities, a museum operated by a not-for-profit corporation in a city of the second class A, a nonprofit organization as defined under section 501(c)(3) of the Internal Revenue Code of 1986 which is located in a city of the second class A and has as its purpose economic and community development, a nonprofit organization as defined under section 501(c)(3) or (6) of the Internal Revenue Code of 1986 that is located in a city of the third class in a county of the fifth class, a nonprofit social service organization defined under section 501(c)(3) of the Internal Revenue Code of 1986 located in a county of the third class whose purpose is to serve individuals and families in that county of the third class, a nonprofit organization as defined under section 501(c)(3) of the Internal Revenue Code of 1986 whose main purpose is to temporarily foster stray and unwanted animals and match them to suitable permanent homes or a nonprofit organization as defined under section 501(c)(3) of the Internal Revenue Code of 1986 who operates either a Main Street Program or Elm Street Program recognized by the Commonwealth, the National Trust for Historic Preservation or both, a nonprofit radio station that is a member of the National Public Radio network, a nonprofit public television station that is a member of the Pennsylvania Public Television Network or a nonprofit organization as defined under section 501(c)(3) of the Internal Revenue Code of 1986 whose purpose is to promote awareness, education and research and to provide a support system for patients with neutropenia and their families through a national resource network, a nonprofit organization as defined under section 501(c)(3) of the Internal Revenue Code of 1986 whose main purpose is to stimulate community development by facilitating residential and retail growth in a city of the second class located in a county of the second class or a nonprofit community development corporation organized under section 501(c)(3) of the Internal Revenue Code of 1986 that serves an adjoining borough and township in a county of the second class and whose main purpose is to facilitate commercial development and foster neighborhood stabilization, a nonprofit organization as defined under section 501(c)(3) of the Internal Revenue Code of 1986 whose purpose

is to provide young people with a program to build character, to teach the responsibilities of citizenship and to develop personal fitness with a goal of creating future leaders, a nonprofit as defined in section 501(c)(3) of the Internal Revenue Code of 1986 whose main purpose is to assist children and their families who are facing financial hardship due to the death of a parent, a nonprofit as defined under section 501(c)(3) of the Internal Revenue Code of 1986 whose purpose is to allocate funds for research to expedite a cure achromatopsia, a nonprofit organization as defined under section 501(c)(3) of the Internal Revenue Code of 1986 that is located in a city of the first class, was organized as a community development organization to promote health, safety and welfare of the residents, businesses and institutions of a neighborhood of a city of the first class, and whose works include public promotions, neighborhood improvement projects and commercial corridor improvements, including a business improvement district, or a nonprofit organization as defined under section 501(c)(3) of the Internal Revenue Code of 1986 that is responsible for providing services to members of the armed forces of the United States and relief to disaster victims in the United States and abroad, or any neighborhood improvement district management association as defined in section 3 of the act of December 20, 2000 (P.L.949, No.130), known as the "Neighborhood Improvement District Act," that has been established as a 501(c)(3) nonprofit organization under section 501(c)(3) of the Internal Revenue Code of 1986, a nonprofit organization as defined under section 501(c)(3) of the Internal Revenue Code of 1986 located in a city of the first class whose purpose is to support initiatives to enrich the lives of children, teens and families especially those in need, to reach their full potential as productive and responsible citizens and has been in existence for at least seventy-five years, or a nonprofit organization as defined under section 501(c)(3) of the Internal Revenue Code of 1986 located in a city of the second class and incorporated as a nonprofit in 1982 that offers adult education and family literacy, or a nonprofit organization as defined under section 501(c)(3) of the Internal Revenue Code of 1986 located in a city of the third class and county of the sixth class, whose purpose is primary and secondary education and educational ministry of the Diocese of Erie, a nonprofit organization as defined under section 501(c)(3) of the Internal Revenue Code located in a county of the fourth class that had a population between 142,000 and 144,000 based on the 2010 Decennial Census of the Bureau of the Census and provides rewards for information that leads to the arrest of individuals that may have committed a crime or a nonprofit organization as defined under section 501(c)(3) of the Internal Revenue Code of 1986 which is located in a city of the third class in a county of the fifth class whose mission is to improve the quality of life for individuals with developmental disabilities and the families of the individuals through advocacy, education, support and socialization and that has been in existence for over sixty years. (Def. amended Dec. 27, 2019, P.L.822, No.116)

"Enforcement bureau" shall mean the Bureau of Liquor Control Enforcement of the Pennsylvania State Police.

"Equine center" shall mean a facility of at least two hundred fifty acres in size which hosts equestrian shows and which has a primary building with permanent seating for at least six thousand (6,000) people. (Def. added Dec. 8, 2004, P.L.1810, No.239)

"Fermented fruit beverage" shall mean a beverage which may contain carbonation in an amount not to exceed six and four tenths grams per liter, produced through alcoholic fermentation of fruit, fruit juice, fruit juice concentrate and water with or without flavorings, consisting of at least one-half of one per centum, but not greater than eight and one-half per centum, alcohol by volume and sold or offered for sale not as a wine or a substitute for wine, in bottles, cases, kegs, cans or other suitable containers of the type used for the sale of malt or brewed beverages in this Commonwealth. (Def. amended Nov. 25, 2020, P.L.1222, No.125)

"Fraternal benefit society" shall mean a society as defined in the act of December 14, 1992 (P.L.835, No.134), known as the "Fraternal Benefit Societies Code." (Def. added July 2, 1993, P.L.429, No.61)

"Golf course" shall mean a course having a minimum of nine holes and a total length of at least twenty-five hundred yards. The term includes a privately-owned private golf course.

"Growler" shall mean a refillable container for malt or brewed beverages that can be resealed. (Def. added Nov. 15, 2016, P.L.1286, No.166)

"Happy hour" shall mean the period of time during which a licensee discounts alcoholic beverages. (Def. added June 28, 2011, P.L.55, No.11)

"Holiday" (Def. deleted by amendment June 8, 2016, P.L.273, No.39)

"Hotel" shall mean any reputable place operated by responsible persons of good reputation where the public may, for a consideration, obtain sleeping accommodations and meals and which, in a city, has at least ten, and in any other place at least six, permanent bedrooms for the use of guests, a public dining room or rooms operated by the same management accommodating at least thirty persons at one time, and a kitchen, apart from the public dining room or rooms, in which food is regularly prepared for the public.

"Importing distributor" shall mean any person licensed by the board to engage in the purchase from manufacturers and other persons located outside this Commonwealth and from persons licensed as manufacturers of malt or brewed beverages and importing distributors under this act, and the resale of malt or brewed beverages. (Def. amended Nov. 15, 2016, P.L.1286, No.166)

"Institution of higher education" shall mean any of the following:

(1) A community college operating under Article XIX-A of the act of March 10, 1949 (P.L.30, No.14), known as the "Public School Code of 1949."

(2) A university within the State System of Higher Education.

(3) The Pennsylvania State University.

(4) The University of Pittsburgh.

(5) Temple University.

(6) Lincoln University.

(7) Any other institution that is designated as State-related by the Commonwealth.

(8) Any accredited private or independent college or university.

(Def. added June 8, 2016, P.L.273, No.39)

"License period" shall mean the term for which the licenses and permits under the authority of this act are issued. License periods for hotel, restaurant, club and eating place licenses shall be established for a period of up to two years and, for

the purpose of efficient and expedient processing, may be staggered. License periods for all other licenses and permits may be set by the board up to a maximum of four years and, for the purpose of efficient and expedient processing, may be staggered. The board shall collect the license/permit fees as authorized for each license/permit on an annual basis and shall prorate the annual license fee when required. The board shall extend and validate license privileges for each one-year portion of the license term upon timely receipt of proper fees, provided that no objection is received from the Department of Revenue or the Department of Labor and Industry. If at any time the licensee/permittee is not in compliance with the provisions of this act or any other laws of this Commonwealth, the licensee/permittee shall be subject to citation by the Pennsylvania State Police's Bureau of Liquor Control Enforcement. (Def. added Apr. 29, 1994, P.L.212, No.30)

"Limited Winery" shall mean a winery with a maximum output of two hundred thousand (200,000) gallons per year.

"Liquor" shall mean and include any alcoholic, spirituous, vinous, fermented or other alcoholic beverage, powdered alcohol, or combination of liquors and mixed liquor a part of which is spirituous, vinous, fermented or otherwise alcoholic, including all drinks or drinkable liquids, preparations or mixtures, and reused, recovered or redistilled denatured alcohol usable or taxable for beverage purposes which contain more than one-half of one per cent of alcohol by volume, except pure ethyl alcohol and malt or brewed beverages. (Def. amended June 8, 2016, P.L.273, No.39)

"Malt or Brewed Beverages" shall mean any beer, lager beer, ale, porter or similar fermented malt beverage containing one-half of one per centum or more of alcohol by volume, by whatever name such beverage may be called, and shall mean alcoholic cider, fermented fruit beverage and mead. (Def. amended Nov. 25, 2020, P.L.1222, No.125)

"Management company" shall mean any entity employed or otherwise contracted by a licensee to operate, manage or supervise all or part of the operation of the licensed premises. (Def. added Feb. 21, 2002, P.L.103, No.10)

"Manufacture", when the term is applied to malt or brewed beverages, shall mean and include all means, methods and processes used, employed and made use of, to produce, make and manufacture for commercial purposes, malt or brewed beverages from raw materials; when applied otherwise, it shall mean and include all means, methods and processes used, employed and made use of, to produce and make alcohol or liquor from raw materials, and shall mean and include rectification and blending of alcohol and liquor, the production, recovery or reuse of alcohol in the making, developing, using in the process of manufacture, denaturing, redistilling or recovering of any alcohol or liquor in distilleries, denaturing plants and wineries.

"Manufacturer" shall mean any person, association or corporation engaged in the producing, manufacturing, distilling, rectifying or compounding of liquor, alcohol or malt or brewed beverages in this Commonwealth or elsewhere.

"Manufacturer of malt or brewed beverages" shall mean any person holding a license issued by the board to engage in the manufacture, transportation and sale of malt or brewed beverages; also, any person engaged in the legal manufacture of malt or brewed beverages within the territorial limits of the United States, outside the Commonwealth of Pennsylvania.

"Mead" shall mean an alcoholic beverage produced by fermenting a solution of at least fifty-one per centum honey, water and other agricultural products and containing not more than eight and one-half per centum alcohol by volume and sold or offered for sale as mead and not as a wine or as a substitute for wine, in bottles, cases, kegs, cans or other suitable containers of the type used for the sale of malt or brewed beverages in this Commonwealth. (Def. amended Nov. 25, 2020, P.L.1222, No.125)

"Mixed-use town center development project" shall mean a planned development, with no building construction commenced prior to July 1, 2006, situated on no fewer than one hundred contiguous acres, with at least one million square feet of actual or proposed development, with a mix of retail, hospitality, commercial and residential uses, with community facilities and which has been designated as a mixed-use town center development project by the municipality in which it is located. A mixed-use town center development project may have one or multiple owners and may be developed in one or more phases, all of which shall be included in determining the actual or proposed development. If the site meets additional criteria stated in section 461(b.4)(5), a project comprising ninety-five contiguous acres will meet the size requirement in this definition. (Def. amended July 16, 2007, P.L.107, No.34)

"Mug club" shall mean a group organized by a retail licensee or a brewery whose members are entitled to discounted malt or brewed beverages. Membership shall be by written application and the licensee must maintain a written list of active members as part of its records. Licensees may charge an annual fee as well as a renewal fee. No discounted malt or brewed beverages may be provided between midnight and seven o' clock antemeridian. (Def. added June 8, 2016, P.L.273, No.39 and amended Nov. 15, 2016, P.L.1286, No.166)

"Municipality" shall mean any city, borough, incorporated town, or township of this Commonwealth.

"Nonprimary pari-mutuel wagering location" shall mean a nonprimary location for pari-mutuel wagering as designated by the State Horse Racing Commission or State Harness Racing Commission pursuant to the act of December 17, 1981 (P.L.435, No.135), known as the "Race Horse Industry Reform Act." (Def. added May 31, 1990, P.L.224, No.48)

"Original container" shall mean all bottles, casks, kegs or other suitable containers that have been securely capped, sealed or corked by the manufacturer of malt or brewed beverages at the place of manufacture, with the name and address of the manufacturer of the malt or brewed beverages contained or to be contained therein permanently affixed to the bottle, cask, keg or other container, or in the case of a bottle or can, to the cap or cork used in sealing the same or to a label securely affixed to a bottle or can.

"Package" shall mean any container or containers or receptacle or receptacles used for holding liquor or alcohol as marketed by the manufacturer.

"Patron" shall mean an individual who purchases food, nonalcoholic beverages, liquor, alcohol or malt or brewed beverages for a consideration from a licensee or any person on the licensed premises except those actually engaged in an employment related activity. (Def. added Oct. 5, 1994, P.L.522, No.77)

"Performing arts facilities" shall mean those halls or theaters in which live musical, concert, dance, ballet and legitimate play book-length productions are performed.

Performing arts facilities shall not mean those halls or theaters in which burlesque shows or reviews are performed. If the operator of the performing arts facility is a nonprofit entity, the facility must have seating for at least one hundred fifty (150) people; otherwise, the facility must have seating for at least twenty-five hundred (2,500) people. (Def. amended June 8, 2016, P.L.273, No.39)

"Person" shall mean a natural person, association or corporation. Whenever used in a clause prescribing or imposing a fine or imprisonment or both, the term "person", as applied to "association", shall mean the partners or members thereof, and as applied to "corporation", shall mean the officers thereof, except, as to incorporated clubs, the term "person" shall mean such individual or individuals who, under the by-laws of such club, shall have jurisdiction over the possession and sale of liquor therein.

"Population" shall mean the number of inhabitants as determined by the last preceding decennial census of the United States, or by any other census subsequently taken by the census bureau of the United States and so certified by it: Provided, however, That such other census shall not be a basis for the fixing of license fees as provided in article IV. sections 405 and 439.

"Potable distilled spirits" shall mean and include any distillate from grains, wine, fruits, vegetables or molasses, except ethyl alcohol, capable of being used for beverage purposes.

"Powdered alcohol" shall mean alcohol sold in a powder form for either direct use or reconstitution. (Def. added June 8, 2016, P.L.273, No.39)

"Prepared beverage and mixed drink" shall mean a sealed container of no less than four fluid ounces and no greater than sixty-four fluid ounces in a single transaction that holds spirits and mixers that are combined on a licensed premises. (Def. added May 21, 2020, P.L.149, No.21)

"Private label" shall mean a product made under contract by a manufacturer or the manufacturer's agent for the exclusive right of a retailer. (Def. added June 8, 2016, P.L.273, No.39)

"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. (Def. added May 8, 2003, P.L.1, No.1)

"Public hearing" shall mean a hearing held pursuant to public notice. (Def. added July 7, 2006, P.L.591, No.85)

"Public notice" shall mean notice published once each week for two successive weeks in a newspaper of general circulation in the municipality. Such notice shall state the time and the place of the hearing and the particular matter to be considered at the hearing. The first publication shall not be more than 30 days, and the second publication shall not be less than seven days, from the date of the hearing. (Def. added July 7, 2006, P.L.591, No.85)

"Public venue" shall mean a stadium, arena, convention center, museum, zoo, amphitheater or amusement park as defined in section 2 of the act of June 18, 1984 (P.L.384, No.81), known as the "Amusement Ride Inspection Act," situated on at least forty (40) acres of land regardless of seating capacity, or

similar structure. If the public venue is a cruise terminal owned or leased by a port authority created under the act of June 12, 1931 (P.L.575, No.200), entitled "An act providing for joint action by Pennsylvania and New Jersey in the development of the ports on the lower Delaware River, and the improvement of the facilities for transportation across the river; authorizing the Governor, for these purposes, to enter into an agreement with New Jersey; creating The Delaware River Joint Commission and specifying the powers and duties thereof, including the power to finance projects by the issuance of revenue bonds; transferring to the new commission all the powers of the Delaware River Bridge Joint Commission; and making an appropriation," it shall have no permanent seating requirement. If the public venue is an open-air amphitheater owned by a port authority created under the act of December 6, 1972 (P.L.1392, No.298), known as the "Third Class City Port Authority Act," it shall have no permanent seating requirement. If the public venue is owned by a political subdivision, a municipal authority, the Commonwealth, an authority created under the act of July 29, 1953 (P.L.1034, No.270), known as the "Public Auditorium Authorities Law," an authority created under Article XXV-A of the act of July 28, 1953 (P.L.723, No.230), known as the "Second Class County Code," an art museum established under the authority of the act of April 6, 1791 (3 Sm.L.20, No.1536), entitled "An act to confer on certain associations of the citizens of this commonwealth the powers and immunities of corporations, or bodies politic in law," or an authority created under Article XXIII (n) or (o) of the act of August 9, 1955 (P.L.323, No.130), known as "The County Code," it shall have permanent seating for at least one thousand (1,000) people; otherwise, it shall have permanent seating for at least two thousand (2,000) people. The term shall also mean any regional history center, multipurpose cultural and science facility, museum or convention or trade show center, regardless of owner and seating capacity, that has a floor area of at least sixty thousand (60,000) square feet in one building or is comprised of no less than three hundred fifty (350) acres and is a member of the American Public Garden Association. The term shall also mean a convention or conference center owned by a city of the third class or a university which is a member of the Pennsylvania State System of Higher Education which is operated by a university foundation or alumni association, regardless of seating capacity, that has a floor area of at least fifteen thousand (15,000) square feet in one building. The term shall also mean a visitor center, regardless of floor area or seating capacity, that was established under the authority of the Gateway Visitor Center Authorization Act of 1999 (Public Law 106-131, 113 Stat. 1678, 16 U.S.C. § 407m). (Def. amended Dec. 14, 2023, P.L.414, No.49)

"Purchase" shall mean obtaining food, nonalcoholic beverages, liquor, alcohol or malt or brewed beverages for a consideration. (Def. added Oct. 5, 1994, P.L.522, No.77)

"Racetrack" shall mean a primary location for pari-mutuel wagering as designated by the State Horse Racing Commission or State Harness Racing Commission pursuant to the act of December 17, 1981 (P.L.435, No.135), known as the "Race Horse Industry Reform Act." (Def. added May 31, 1990, P.L.224, No.48)

"Regulation" shall mean any regulation prescribed by the board for carrying out the provisions of this act.

"Restaurant" shall mean a reputable place operated by responsible persons of good reputation and habitually and principally used for the purpose of providing food for the

public, the place to have an area within a building of not less than four hundred square feet, equipped with tables and chairs, including bar seats, accommodating at least thirty persons at one time. The board shall, by regulation, set forth what constitutes tables and chairs sufficient to accommodate thirty persons at one time. (Def. amended Feb. 21, 2002, P.L.103, No.10 and Dec. 9, 2002, P.L.1653, No.212)

"Retail dispenser" shall mean any person licensed to engage in the retail sale of malt or brewed beverages for consumption on the premises of such licensee, with the privilege of selling malt or brewed beverages in quantities not in excess of one hundred ninety-two fluid ounces in a single sale to one person, to be carried from the premises by the purchaser thereof.

"Sale" or "Sell" shall include any transfer of liquor, alcohol or malt or brewed beverages for a consideration.

"Saturated county" shall mean a county with more than one restaurant liquor license per three thousand (3,000) inhabitants in the top twenty-five highest ratios of restaurant liquor licenses to county population in this Commonwealth. (Def. added July 2, 2019, P.L.371, No.57)

"Sealed container" shall mean a packaged container with a secure lid or cap designed to prevent consumption without removal of the lid or cap. A lid with sipping holes or opening for straws must be covered or affixed with an additional seal before sale. (Def. added May 21, 2020, P.L.149, No.21)

"Service" shall mean the act of providing food, nonalcoholic beverages, liquor, alcohol or malt or brewed beverages to a patron. (Def. added Oct. 5, 1994, P.L.522, No.77)

"Ski resort" shall mean a resort where downhill skiing occurs, having a minimum of six ski trails and an elevation of at least four hundred feet. (Def. added Oct. 24, 2012, P.L.1203, No.149)

"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. (Def. added May 8, 2003, P.L.1, No.1)

"Tourist development project" shall mean a planned development situated on at least ninety (90) acres of land, constructed since January 1, 2019, that is dedicated primarily to tourism with at least five hundred thousand (500,000) square feet of actual or proposed development, with a mix of entertainment and retail uses. (Def. added July 2, 2019, P.L.371, No.57)

"Tract" shall mean a contiguous expanse of land under the control of one person. (Def. added Dec. 9, 2002, P.L.1653, No.212)

"Vacate" shall mean to physically leave a licensed premises. (Def. added Oct. 5, 1994, P.L.522, No.77)

"Whiskey" shall mean and include any alcoholic distillate from a fermented mash of grain, capable of being used for beverage purposes.

"Wine" shall mean liquor which is fermented from grapes and other fruits, having alcoholic content of twenty-four per centum or less. The term "wine" shall not include any products containing alcohol derived from malt, grain, cereal, molasses or cactus. (Def. added Dec. 8, 2004, P.L.1810, No.239)

"Winery" shall mean and include any premises and plants where any alcohol or liquor is produced by the process by which wine is produced, or premises and plants wherein liquid such as wine is produced; and shall include the manufacture by distillation

of alcohol from the by-products of wine fermentation when the alcohol so derived is used solely to fortify the fermented products, under such regulations as are or may be promulgated by the proper agency of the United States Government, and such alcohol, for that purpose only, may be sold or exchanged between wineries holding permits in this Commonwealth, without restriction.

"Zoo" shall mean an accredited member of the Association of Zoos and Aquariums or the Zoological Association of America and for purposes of section 412 shall have no square footage or permanent seating requirements. (Def. amended Nov. 15, 2016, P.L.1286, No.166)

Compiler's Note: See section 28 of Act 39 of 2016, which amended the defs. of "alcohol," "alcoholic cider," "denatured alcohol," "direct shipper," "eligible entity," "liquor" and "performing arts facilities," added the defs. of "institution of higher education," "mug club," "powdered alcohol" and "private label," and deleted the def. of "holiday," in the appendix to this act, for special provisions relating to the establishment of a Wine and Spirits Wholesale and Retail Privatization Commission.

Compiler's Note: The act of April 28, 1961 (P.L.111, No.50), known as the "Tourist Promotion Law," referred to in the def. of "eligible entity," was repealed by the act of July 4, 2008 (P.L.651, No.50), known as the Tourist Promotion Act. The subject matter is now contained in the Tourist Promotion Act.

Section 103. Saving Clause.--The provisions of this act, so far as they are the same as those of existing laws, are intended as a continuation of such laws and not as new enactments. The repeal by this act of any act of Assembly or part thereof shall not revive any act or part thereof heretofore repealed or superseded. The provisions of this act shall not affect any act done, liability incurred or right accrued or vested, or affect any suit or prosecution pending or to be instituted to enforce any right or penalty or punish any offense under the authority of such repeal laws. All regulations and rules made and all licenses and permits issued pursuant to any act repealed by this act shall continue with the same force and effect as if such act had not been repealed.

Section 104. Interpretation of Act.--(a) This act shall be deemed an exercise of the police power of the Commonwealth for the protection of the public welfare, health, peace and morals of the people of the Commonwealth and to prohibit forever the open saloon, and all of the provisions of this act shall be liberally construed for the accomplishment of this purpose.

(b) The provisions of this act are severable and if any of its provisions shall be held unconstitutional the decision of the court shall not affect or impair any of the remaining provisions of this act. It is hereby declared to be the legislative intent that this act would have been adopted had such unconstitutional provisions not been included herein.

(c) Except as otherwise expressly provided, the purpose of this act is to prohibit the manufacture of and transactions in liquor, alcohol and malt or brewed beverages which take place in this Commonwealth, except by and under the control of the board as herein specifically provided, and every section and provision of the act shall be construed accordingly; to provide a structure in this Commonwealth for a distribution system, including the establishment of Pennsylvania liquor stores and

licensing of importing distributors and distributors; and to preserve manufacturers of liquor and alcohol and malt and brewed beverages selling those products within this Commonwealth. The provisions of this act dealing with the manufacture, importation, sale, distribution and disposition of liquor, alcohol and malt or brewed beverages within the Commonwealth through the instrumentality of the board, licensees and otherwise, provide the means by which such control shall be made effective. This act shall not be construed as forbidding, affecting or regulating any transaction which is not subject to the legislative authority of this Commonwealth. ((c) amended Dec. 7, 1990, P.L.622, No.160)

(d) The provisions of this act are intended to create a system for distribution that shall include the fixing of prices for liquor and alcohol and controls placed on prices for malt and brewed beverages, and each of which shall be construed as integral to the preservation of the system, without which system the Commonwealth's control of the sale of liquor and alcohol and malt and brewed beverages and the Commonwealth's promotion of its policy of temperance and responsible conduct with respect to alcoholic beverages would not be possible. ((d) amended Dec. 20, 1996, P.L.1513, No.196)

(e) Any reference in this act to the provisions of law on any subject shall apply to statutes becoming effective after the effective date of this act as well as to those then in existence. ((e) amended Dec. 7, 1990, P.L.622, No.160)

(f) Section headings shall not be taken to govern or limit the scope of the sections of this act. The singular shall include the plural and the masculine shall include the feminine and the neuter. ((f) amended Dec. 7, 1990, P.L.622, No.160)

ARTICLE II. PENNSYLVANIA LIQUOR CONTROL BOARD.

Section 201. Appointment of Members; Terms; Salaries.--An independent administrative board to be known as the "Pennsylvania Liquor Control Board" is hereby created. The board shall consist of three members to be appointed by the Governor by and with the advice and consent of two-thirds of all the members of the Senate, not more than two of whom shall be from the same political party as the Governor. Of the members first appointed after the effective date of this amendatory act, one member shall serve a term of three years, one member shall serve a term of four years, and one member shall serve a term of five years. Subsequent terms shall be for four years, ending on the third Tuesday in May. A member may continue to hold office for a period not to exceed six months beyond the expiration of that member's term if a successor to that member has not been duly appointed and qualified according to law. Each of the members shall receive an annual salary pursuant to the provisions of the act of September 30, 1983 (P.L.160, No.39), known as the "Public Official Compensation Law."

(201 amended Feb. 21, 2002, P.L.103, No.10)

Compiler's Note: Section 25 of Act 10 of 2002, which amended section 201, provided that the amendment of section 201 relating to a member's term of office shall apply to all members of the board appointed on or after the effective date of Act 10.

Section 202. Qualifications of Members.--(a) Each member of the board at the time of his appointment and qualification shall be a citizen of the United States and a resident of the

Commonwealth of Pennsylvania, shall have been a qualified elector in the Commonwealth for a period of at least one year next preceding his appointment, and shall be not less than twenty-one years of age.

(b) No member of the board during his period of service as such shall hold any other office under the laws of this Commonwealth or of the United States.

(c) Board members shall devote full time to their official duties. No board member shall hold any office or position the duties of which are incompatible with his board duties.

Section 203. Chairman of Board.--(a) The Governor shall designate one of the board members as chairman who shall serve in that position at the pleasure of the Governor. The chairman shall, when present, preside at all meetings, and in his absence a member designated by the chairman shall preside.

(b) Two members of the board shall constitute a quorum, and any action or order of the board shall require the approval of at least two members.

Section 204. Secretary of Board.--The board may appoint a secretary to hold office at its pleasure. The secretary, if appointed, shall have such powers and shall perform such duties not contrary to law as the board shall prescribe, and shall receive such compensation as the board, with the approval of the Governor, shall determine. The secretary shall have power and authority to designate, from time to time, one of the clerks appointed by the board to perform the duties of the secretary during his absence and the clerk so appointed shall exercise, for the time so designated, the powers of the secretary of the board.

Section 205. Bonds Required of Members and Secretary.--(205 deleted by amendment Dec. 9, 2002, P.L.1653, No.212)

Section 206. Board Subject to Administrative Code.--Except as otherwise expressly provided by law, the board shall be subject to all the provisions of The Administrative Code of one thousand nine hundred twenty-nine, as amended, which apply generally to independent administrative boards and commissions.

Section 206.1. Board and Enforcement Bureau Subject to State Ethics and Adverse Interest Acts.--(a) Except to the extent that the penalties provided in section 210 of this act for violations are more stringent, the board, its members and all of its employees and employees of the enforcement bureau shall be subject to the act of October 4, 1978 (P.L.883, No.170), referred to as the Public Official and Employee Ethics Law, and the act of July 19, 1957 (P.L.1017, No.451), known as the "State Adverse Interest Act."

(b) Membership on the board and employment or continued employment as an employee of the board or enforcement bureau is conditioned upon compliance with all of the provisions of the acts specified in subsection (a), including, but not limited to, the filing of statements of financial interests required by section 5 of the Public Official and Employee Ethics Law. Acceptance or retention of employment shall be deemed as voluntary consent to submit to the financial reporting requirements of the Public Official and Employee Ethics Law as a condition of employment. Failure to timely comply with the requirements shall result in immediate termination of employment. Both the board and the enforcement bureau are subject to the provisions of 65 Pa.C.S. Ch. 11 (relating to ethics standards and financial disclosure).

(206.1 amended Dec. 9, 2002, P.L.1653, No.212)

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

(a) To buy, import or have in its possession for sale and sell liquor, alcohol, corkscrews, wine and liquor accessories, trade publications, gift cards, gift certificates, wine- or liquor-scented candles and wine glasses in the manner set forth in this act: Provided, however, That all purchases shall be made subject to the approval of the State Treasurer, or his designated deputy. The board shall buy liquor and alcohol at the lowest price and in the greatest variety reasonably obtainable. ((a) amended Nov. 30, 2004, P.L.1727, No.221 and Dec. 8, 2004, P.L.1810, No.239)

(b) The following shall apply:

(1) To control the manufacture, possession, sale, consumption, importation, use, storage, transportation and delivery of liquor, alcohol and malt or brewed beverages in accordance with the provisions of this act, and to fix the wholesale and retail prices at which liquors and alcohol shall be sold at Pennsylvania Liquor Stores.

(2) Except as provided in paragraphs (3) and (4), prices shall be proportional with prices paid by the board to its suppliers and may include a handling fee. This proportional pricing provision shall not apply to special liquor orders authorized under section 305(a).

(3) The board may price its best-selling items and limited purchase items in a manner that maximizes the return on the sale of those items.

(4) The board may discount the price of discontinued items.

(5) All prices of a particular product identification number shall be uniform throughout the Commonwealth. The board may establish a preferential price structure for wines produced within this Commonwealth for the promotion of such wines, as long as the price structure is uniform within each class of wine purchased by the board.

(6) On a quarterly basis the board shall publish a listing of the wholesale and Pennsylvania Liquor Store retail prices on its publicly accessible Internet website.

(7) No later than April 1st of each year the board shall submit an annual written report to the Law and Justice Committee of the Senate and the Liquor Control Committee of the House of Representatives. The report shall contain information related to the method and rationale for pricing products.

(8) No later than June 1st of each year, the board shall appear before the Law and Justice Committee of the Senate and the Liquor Control Committee of the House of Representatives to provide testimony in relation to its annual written report under paragraph (7).

(9) The board shall require each Pennsylvania manufacturer and each nonresident manufacturer of liquors, other than wine, selling such liquors to the board, which are not manufactured in this Commonwealth, to make application for and be granted a permit by the board before such liquors not manufactured in this Commonwealth shall be purchased from such manufacturer. Each such manufacturer shall pay for such permit a fee which, in the case of a manufacturer of this Commonwealth, shall be equal to that required to be paid, if any, by a manufacturer or wholesaler of the state, territory or country of origin of the liquors, for selling liquors manufactured in Pennsylvania, and in the case of a nonresident manufacturer, shall be equal to that required to be paid, if any, in such state, territory or country by Pennsylvania manufacturers doing business in such state, territory or country. In the event that any such manufacturer shall, in the opinion of the board, sell or attempt to sell liquors to the board through another person for the

purpose of evading this provision relating to permits, the board shall require such person, before purchasing liquors from him or it, to take out a permit and pay the same fee as hereinbefore required to be paid by such manufacturer. All permit fees so collected shall be paid into the State Stores Fund. The board shall not purchase any alcohol or liquor fermented, distilled, rectified, compounded or bottled in any state, territory or country, the laws of which result in prohibiting the importation therein of alcohol or liquor, fermented, distilled, rectified, compounded or bottled in Pennsylvania. The board may not sell private label products. A Pennsylvania Liquor Store may continue to sell private label products within its inventory after the effective date of this section until the private label products within its current inventory are depleted.

(10) The proportional pricing under paragraph (2) shall not apply to special liquor orders authorized under section 305(a).

(11) As used in this subsection, the following words and phrases shall have the meanings given to them in this paragraph:

"Best-selling items" shall mean the one hundred fifty (150) most sold product identification numbers of wine and the one hundred fifty (150) most sold product identification numbers of liquor as measured by the total number of units sold on a six-month basis calculated every January 1 and July 1.

"Discontinued items" shall mean those product identification numbers that the board has voted to delist at a public meeting.

"Limited purchase items" shall mean those product identification numbers that the board purchases on either a one-time or nonrecurring basis due to the product's limited availability or finite allocation.

"Product identification number" shall mean the stock keeping unit (SKU) or a successor method of identifying specific products.

((b) amended June 8, 2016, P.L.273, No.39)

(c) To determine the municipalities within which Pennsylvania Liquor Stores shall be established and the locations of the stores within such municipalities.

(d) To grant and issue all licenses and to grant, issue, suspend and revoke all permits authorized to be issued under this act.

(e) Through the Department of General Services as agent, to lease and furnish and equip such buildings, rooms and other accommodations as shall be required for the operation of this act.

(f) To appoint, fix the compensation and define the powers and duties of such managers, officers, inspectors, examiners, clerks and other employes as shall be required for the operation of this act, subject to the provisions of The Administrative Code of 1929 and the Civil Service Act.

(g) To determine the nature, form and capacity of all packages and original containers to be used for containing liquor, alcohol or malt or brewed beverages.

(h) Without in any way limiting or being limited by the foregoing, to do all such things and perform all such acts as are deemed necessary or advisable for the purpose of carrying into effect the provisions of this act and the regulations made thereunder.

(i) From time to time, to make such regulations not inconsistent with this act as it may deem necessary for the efficient administration of this act. The board shall cause such regulations to be published and disseminated throughout the Commonwealth in such manner as it shall deem necessary and advisable or as may be provided by law. Such regulations adopted

by the board shall have the same force as if they formed a part of this act.

(j) By regulation, to provide for the use of a computerized referral system to assist consumers in locating special items at Pennsylvania Liquor Stores and for the use of electronic transfer of funds and credit cards for the purchase of liquor and alcohol at Pennsylvania Liquor Stores.

(k) To issue grants to various entities for alcohol education and prevention efforts. ((k) added Feb. 21, 2002, P.L.103, No.10)

(l) To be licensed as a Lottery Sales Agent as set forth in section 305 of the act of August 26, 1971 (P.L.351, No.91), known as the State Lottery Law, and to take any actions authorized by such designation except that no bond, insurance or indemnification may be required from the board. Notwithstanding any other provision of law to the contrary, the board may pay the holder of a winning ticket up to an amount that shall be established jointly by the board and the Department of Revenue. All proceeds retained by the board as compensation for the sale of tickets, including incentive awards or bonuses, as well as credit for direct payment of prizes, shall be deposited into the General Fund. ((l) added June 8, 2016, P.L.273, No.39)

(m) The following shall apply:

(1) Notwithstanding subsection (b), the board may establish and implement a customer relations management program for the purpose of offering incentives, such as coupons or discounts on certain products, to unlicensed customers of the board.

(2) The names and addresses of individual consumers who participate in a customer relations management program or purchase products from the board, as well as any records or information that would disclose the personal purchase choices of individual consumers, shall not be sold or otherwise made available to the public under any circumstances, including in response to a request made in accordance with the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

((m) added June 8, 2016, P.L.273, No.39 and amended Nov. 15, 2016, P.L.1286, No.166)

(n) Notwithstanding the act of December 20, 2015 (P.L.497, No.90), known as the Taxpayer-Funded Advertising Transparency Act, any expenditure for media advertising made by the board shall not be subject to any requirement that the media advertising include any statement identifying the fund from which the expenditure was made, nor any statement that the media advertising was paid for with Pennsylvania taxpayer dollars. ((n) added June 8, 2016, P.L.273, No.39 and amended Nov. 15, 2016, P.L.1286, No.166)

Compiler's Note: See section 28 of Act 39 of 2016, which amended subsection (b) and added subsections (l), (m) and (n), in the appendix to this act, for special provisions relating to the establishment of a Wine and Spirits Wholesale and Retail Privatization Commission.

Section 208. Specific Subjects on Which Board May Adopt Regulations.--Subject to the provisions of this act and without limiting the general power conferred by the preceding section, the board may make regulations regarding:

(a) The equipment and management of Pennsylvania Liquor Stores and warehouses in which liquor and alcohol are kept or sold, and the books and records to be kept therein.

(b) The duties and conduct of the officers and employees of the board.

(c) The purchase, as provided in this act, of liquor and alcohol, and its supply to Pennsylvania Liquor Stores.

(d) The classes, varieties and brands of liquor and alcohol to be kept and sold in Pennsylvania Liquor Stores. In making this determination the board shall meet not less than twice a year.

(e) The issuing and distribution of price lists for the various classes, varieties or brands of liquor and alcohol kept for sale by the board under this act.

(f) The labeling of liquor and alcohol sold under this act and of liquor and alcohol lawfully acquired by any person prior to January first, one thousand nine hundred thirty-four.

(g) Forms to be used for the purposes of this act.

(h) The issuance of licenses and permits and the conduct, management, sanitation and equipment of places licensed or included in permits.

(i) The place and manner of depositing the receipts of Pennsylvania Liquor Stores and the transmission of balances to the Treasury Department through the Department of Revenue.

(j) The solicitation by resident or nonresident vendors of liquor from Pennsylvania licensees and other persons of orders for liquor to be sold through the Pennsylvania Liquor Stores and, in the case of nonresident vendors, the collection therefrom of license fees for such privilege at the same rate as provided herein for importers' licenses.

Section 209. Officers and Investigators of the Board to be Peace Officers; Powers.--(209 repealed June 29, 1987, P.L.32, No.14)

Section 210. Restrictions on Members of the Board and Certain Employees of Commonwealth.--(a) A member or employee of the board or enforcement bureau or a member of the immediate family of a member or employee of the board or enforcement bureau shall not be directly or indirectly interested or engaged in any other business or undertaking within the Commonwealth dealing in liquor, alcohol, or malt or brewed beverages, whether as owner, part owner, partner, member of syndicate, holder of stock exceeding five percent (5%) of the equity at fair market value of the business, independent contractor or manager of a licensed establishment required under 40 Pa. Code § 5.23 (relating to appointment of managers), and whether for his own benefit or in a fiduciary capacity for some other person. For the purpose of this subsection only, "employee of the board or Enforcement Bureau" shall mean any individual employed by the board or Enforcement Bureau who is responsible for taking or recommending official action of a nonministerial nature with regard to:

- (1) contracting or procurement;
- (2) administering or monitoring grants or subsidies;
- (3) planning or zoning;
- (4) inspecting, licensing, regulating or auditing any person; or

(5) any other activity where the official action has an economic impact of greater than a de minimis nature on the interests of any person.

((a) amended Dec. 21, 1988, P.L.1879, No.183)

(b) No member or employee of the board or enforcement bureau or a member of the immediate family of a member or employee of the board or enforcement bureau nor any employee of the Commonwealth shall solicit or receive, directly or indirectly, any commission, remuneration or gift whatsoever, from any person

having sold, selling or offering liquor or alcohol for sale to the board for use in Pennsylvania Liquor Stores.

(c) No person convicted of an infamous crime may be employed as a member or employe by the board or enforcement bureau.

(d) No member or employe of the board or enforcement bureau may use his position with the board or enforcement bureau, or any confidential information received through his position with the board or enforcement bureau, to obtain financial gain, other than compensation provided by law, for himself, a member of his immediate family or a business with which he is associated.

(e) No person may offer or give to a member or employe of the board or enforcement bureau or a member of his immediate family or a business with which he is associated, and no member or employe of the board or enforcement bureau may solicit or accept anything of value, including a gift, loan, political contribution, reward or promise of future employment, based on an understanding that the vote, official action or judgment of the member or employe of the board or enforcement bureau would be influenced thereby.

(f) No member or employe of the board or enforcement bureau or a member of his immediate family or any business in which the member or employe or a member of his immediate family is a director, officer or owner or holder of stock exceeding five percent (5%) of the equity at fair market value of the business may enter into any contract valued at five hundred dollars (\$500) or more to provide goods or services to the board or enforcement bureau unless the contract has been awarded to the lowest responsible bidder through an open and public process, including prior public notice and subsequent public disclosure of all proposals considered and contracts awarded.

(g) No former member or employe of the board or enforcement bureau may represent a person, with or without compensation, on any matter before the board or enforcement bureau for one year after leaving the board or enforcement bureau.

(h) No member or employe of the board or enforcement bureau or an advisor or consultant thereto having recommended to the board or enforcement bureau either the making of a contract or a course of action of which the making of a contract is an express or implied part, may, at any time thereafter, have an adverse interest in that contract.

(i) No member or employe of the board or enforcement bureau may influence or attempt to influence the making of, or supervise or deal with, a contract with the board or enforcement bureau in which he has an adverse interest.

(j) No member or employe of the board or enforcement bureau may have an adverse interest in a contract with the board or enforcement bureau.

(k) No person having an adverse interest in a contract with the board or enforcement bureau may become an employe of the board or enforcement bureau until the adverse interest has been wholly divested.

(l) No member or employe of the board or enforcement bureau, except in the performance of his duties as such employe, may, for remuneration, directly or indirectly, represent a person upon a matter pending before the board or enforcement bureau.

(m) (1) Any person who violates the provisions of this section shall have his employment by the board or enforcement bureau immediately terminated by the appropriate person having the power to terminate and shall be liable to the board or enforcement bureau to reimburse the board or enforcement bureau for all compensation received by him from the board or

enforcement bureau while employed in violation of subsection (c).

(2) Any person who violates the provisions of subsections (b), (d) or (e) shall be guilty of a felony and, upon conviction thereof, shall be sentenced to pay a fine of not more than ten thousand dollars (\$10,000) or to undergo imprisonment for not more than five (5) years, or both.

(3) Any person who violates the provisions of subsections (a) or (f) through (l) shall be guilty of a misdemeanor and, upon conviction thereof, shall be sentenced to pay a fine of not more than one thousand dollars (\$1,000) or to undergo imprisonment for not more than one (1) year, or both.

(4) Any person who obtains financial gain from violating any provisions of this section, in addition to any other penalty provided by law, shall pay into the accounts of the board a sum of money equal to three (3) times the financial gain resulting from the violation.

(5) Any person who violates the provisions of this section shall be barred for a period of five (5) years from engaging in any business or contract with the board or enforcement bureau.

(6) The penalties and sanctions provided by this subsection shall supersede any similar penalties and sanctions provided by the act of July 19, 1957 (P.L.1017, No.451), known as the "State Adverse Interest Act," and the act of October 4, 1978 (P.L.883, No.170), referred to as the Public Official and Employee Ethics Law.

(n) As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Business" shall mean a corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint-stock company, receivership, trust or legal entity organized for profit or as a not-for-profit corporation or organization.

"Immediate family" shall mean a spouse residing in the person's household and minor dependent children.

"Infamous crime" shall mean a violation and conviction for an offense which would disqualify an individual from holding public office pursuant to section 6 of Article II of the Constitution of Pennsylvania; a conviction within the preceding ten (10) years for a violation of this section or of 18 Pa.C.S. § 4113 (relating to misapplication of entrusted property and property of government or financial institutions), Ch. 47 (relating to bribery and corrupt influence), Ch. 49 (relating to falsification and intimidation), Ch. 51 (relating to obstructing governmental operations) or Ch. 53 (relating to abuse of office); or a violation of the laws of this Commonwealth or another state or the Federal Government for which an individual has been convicted within the preceding ten (10) years and which is classified as a felony.

((n) amended Dec. 21, 1988, P.L.1879, No.183)

Section 211. Enforcement.--(a) There is created within the Pennsylvania State Police a Bureau of Liquor Control Enforcement which shall be responsible for enforcing this act and any regulations promulgated pursuant thereto. Officers and investigators assigned to the bureau shall have the power and their duty shall be:

(1) To investigate whenever there are reasonable grounds to believe liquor, alcohol or malt or brewed beverages are being sold on premises not licensed under the provisions of this act. If the investigation produces evidence of the unlawful sale of

liquor or malt or brewed beverages or any other violation of the provisions of this act, the officer involved in the investigation shall institute criminal proceedings against the person or persons believed to have been criminally liable, as otherwise provided by law or rule of court.

(2) To arrest on view, except in private homes, without warrant, any person actually engaged in the unlawful sale, importation, manufacture or transportation or having unlawful possession of liquor, alcohol or malt or brewed beverages contrary to the provisions of this act or any other law of this Commonwealth or any person whom the officer/investigator, while in the performance of his assigned duties under and pursuant to this act and any regulations promulgated under this act, observes to be in violation of any of the following provisions:

18 Pa.C.S. § 3302 (relating to causing or risking catastrophe).

18 Pa.C.S. § 3304 (relating to criminal mischief).

18 Pa.C.S. § 4101 (relating to forgery).

18 Pa.C.S. § 5503 (relating to disorderly conduct).

18 Pa.C.S. § 5505 (relating to public drunkenness).

18 Pa.C.S. § 5512 (relating to lotteries, etc.).

18 Pa.C.S. § 5513 (relating to gambling devices, gambling, etc.).

18 Pa.C.S. § 5514 (relating to pool selling and bookmaking).

18 Pa.C.S. § 6307 (relating to misrepresentation of age to secure liquor or malt or brewed beverages).

18 Pa.C.S. § 6308 (relating to purchase, consumption, possession or transportation of liquor or malt or brewed beverages).

18 Pa.C.S. § 6309 (relating to representing that minor is of age).

18 Pa.C.S. § 6310.1 (relating to selling or furnishing liquor or malt or brewed beverages to minors).

18 Pa.C.S. § 6310.3 (relating to carrying a false identification card).

(3) Upon reasonable and probable cause, to search for and to seize, without warrant or process, except in private homes, any liquor, alcohol or malt or brewed beverages unlawfully possessed, manufactured, sold, imported or transported and any stills, equipment, materials, utensils, vehicles, boats, vessels, animals, aircraft, or any of them, which are or have been used in the unlawful manufacture, sale, importation or transportation of the same. Such liquor, alcohol, malt or brewed beverages, stills, equipment, materials, utensils, vehicles, boats, vessels, animals or aircraft so seized shall be disposed of as hereinafter provided.

(4) To investigate and issue citations for any violations of this act or any laws of this Commonwealth relating to liquor, alcohol or malt or brewed beverages, or any regulations of the board adopted pursuant to such laws or any violation of any laws of this Commonwealth or of the Federal Government, relating to the payment of taxes on liquor, alcohol or malt or brewed beverages by any licensee, his officers, servants, agents or employees.

(5) To arrest any person who engages in the following offenses when the said offenses are committed against the officer/investigator or any person accompanying and assisting the officer/investigator while the said officer/investigator is performing assigned duties under and pursuant to this act and any regulations promulgated under this act:

18 Pa.C.S. § 2701 (relating to simple assault).

18 Pa.C.S. § 2702 (relating to aggravated assault).
18 Pa.C.S. § 2705 (relating to recklessly endangering
another person).
18 Pa.C.S. § 2706 (relating to terroristic threats).
18 Pa.C.S. § 2709 (relating to harassment and stalking).
18 Pa.C.S. § 5104 (relating to resisting arrest or other
law enforcement).
18 Pa.C.S. § 5501 (relating to riot).

(6) To serve and execute warrants issued by the proper authorities for offenses referred to in this subsection and to serve subpoenas.

(7) To arrange for the administration of chemical tests of breath, blood or urine, including preliminary breath tests, to persons for the purpose of determining the alcoholic content of blood or the presence of a controlled substance by qualified personnel of a State or local police department or qualified personnel of a clinical laboratory licensed and approved by the Department of Health.

(b) Any equipment or appurtenance actually used in the commission of the unlawful acts may be confiscated. The confiscation shall not, in any manner, divest or impair the rights or interest of any bona fide lienholder in the equipment or appurtenance.

(c) The Pennsylvania State Police Commissioner shall assign State Police Officers to such supervisory and other capacities in the enforcement bureau as he deems necessary. All other personnel of the enforcement bureau shall be civilians.

(d) The Office of Chief Counsel for the Pennsylvania State Police shall represent the enforcement bureau in all enforcement proceedings brought before the Office of Administrative Law Judge or any other adjudicatory body.

(e) Nothing in this act shall be construed to change the status of civilian enforcement agents for the purposes of the act of July 23, 1970 (P.L.563, No.195), known as the "Public Employe Relations Act," or cause civilian enforcement agents to be considered policemen for the purposes of the act of June 24, 1968 (P.L.237, No.111), referred to as the Policemen and Firemen Collective Bargaining Act.

(f) In addition to the information provided to the General Assembly and the Legislative Data Processing Center under sections 613 and 614 of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929," respectively, the Pennsylvania State Police shall provide to the chairman and minority chairman of the Appropriations Committee of the Senate and the chairman and minority chairman of the Appropriations Committee of the House of Representatives any other information as requested. The Pennsylvania State Police shall also provide:

(1) a copy of the most recently completed audit of expenditures of the enforcement bureau; and

(2) a report detailing the demographic characteristics of the bureau's complement of civilian officers. Such report shall include information relating to workplace diversity as contained in section two of the Governor's Annual Workforce Report relating to equal employment.

((f) added July 17, 2003, P.L.63, No.15)

(g) ((g) expired December 31, 2022. See Act 75 of 2017.)

(211 amended Oct. 5, 1994, P.L.537, No.80)

Section 211.1. Legal Opinions.--Upon written request by a licensee, the board or its counsel shall issue a legal opinion regarding any subject matter relating to this act or any

regulation promulgated pursuant to it. This legal opinion shall be binding on the enforcement bureau.

(211.1 added July 2, 1993, P.L.429, No.61)

Section 212. Office of Administrative Law Judge.--(a) There is hereby created within the board an autonomous office to be known as the Office of Administrative Law Judge.

(b) The Governor shall appoint from a list of qualified candidates submitted by the Civil Service Commission after appropriate examination under the act of August 5, 1941 (P.L.752, No.286), known as the "Civil Service Act," as many administrative law judges as the board, with the approval of the Governor, deems necessary for the holding of hearings required or permitted under this act. The Governor shall designate one of the civil service appointees as the chief administrative law judge.

(c) Administrative law judges shall preside at all citation and other enforcement hearings required or permitted under this act. ((c) amended June 30, 1992, P.L.327, No.66)

(d) Administrative law judges appointed under this section shall be learned in the law and shall be members in good standing of the bar of the Supreme Court of Pennsylvania.

(e) Compensation for the administrative law judges shall be established by the Executive Board.

(f) Administrative law judges shall devote full time to their official duties and shall perform no duties inconsistent with their duties and responsibilities as administrative law judges.

(g) Administrative law judges appointed under this section shall be afforded employment security as provided by the "Civil Service Act."

(h) The board shall select five hearing examiners from the complement of hearing examiners, who have been appointed by the Governor and who are employed by the board on the effective date of this subsection, to conduct the licensing hearings required by this act. The selection of the five hearing examiners shall be at the board's discretion. ((h) added June 30, 1992, P.L.327, No.66)

(i) Nothing in this section or this act shall be construed or intended to change the terms and conditions of employment of the five hearing examiners selected by the board pursuant to subsection (h). ((i) added June 30, 1992, P.L.327, No.66)

Section 213. Bureau of Consumer Relations.--The board shall establish a Bureau of Consumer Relations which shall be responsible for handling all consumer complaints and suggestions. The bureau shall develop a system-wide program for investigating all complaints and suggestions and implementing improvements into the State store system. The management of the bureau shall be vested in a director, who shall be assisted by such other personnel as the board deems necessary.

(213 amended Apr. 29, 1994, P.L.212, No.30)

Section 214. Prohibitions.--(a) The board may not make a contract or otherwise do business with a corporation, vendor or service contractor that has not complied with the regulatory and statutory requirements of any other administrative agency.

(b) The board may not make a contract or otherwise do business with a transportation carrier for hire of liquor, wine or malt or brewed beverages which (carrier) has not obtained the proper permits from the Pennsylvania Public Utility Commission under 66 Pa.C.S. Ch. 25 (relating to contract carrier by motor vehicle and broker).

Section 215. Wine and Spirits Marketing.--(a) ((a) deleted by amendment Dec. 30, 2003, P.L.423, No.59)

(b) ((b) deleted by amendment Dec. 30, 2003, P.L.423, No.59)
(c) ((c) deleted by amendment Dec. 9, 2002, P.L.1653,
No.212)
(d) (1) ((1) deleted by amendment Dec. 9, 2002, P.L.1653,
No.212)

(2) ((2) deleted by amendment Dec. 30, 2003, P.L.423, No.59)
(e) The board is authorized to participate in or sponsor wine and spirits events for the purpose of educating consumers as to the wines and spirits available in this Commonwealth. The wine and spirits to be used for the event may be acquired through the State store system or may be donated from outside this Commonwealth. Participation in the tastings may be conditioned on the purchase of a ticket to the event. The event may include events occurring on premises licensed by the board, and the board may sell wine and spirits for off-premises consumption in an area designated by the board for such sale.

(215 amended June 25, 2010, P.L.217, No.35)

Section 216. Investigative Unit.--(a) The board shall establish an investigative unit that shall be responsible for implementing and monitoring compliance with the provisions of and regulations made under this act relating to malt or brewed beverages and the malt or brewed beverage industry.

(b) The investigative unit shall, among other things:

(1) handle notifications concerning price introductions and changes;

(2) receive and make recommendations to the board concerning applications to rescind price discounts;

(3) provide assistance to the board concerning reports and investigations the board desires or is required to provide;

(4) handle applications for brand registration; and

(5) handle copies of franchise or territorial agreements submitted by importing distributors.

(c) Management of the unit shall be vested in a director, who shall be assisted by other personnel as the board deems necessary. The director shall report to the board secretary.

(216 added Dec. 20, 1996, P.L.1513, No.196)

Section 217. Biennial Reports.--(a) The board's Bureau of Alcohol Education shall prepare a report on underage alcohol drinking and high-risk college alcohol drinking in this Commonwealth.

(b) A report shall be prepared biennially and shall address the following:

(1) Current levels and trends of underage alcohol drinking and high-risk college alcohol drinking in this Commonwealth.

(2) Current programs conducted by State agencies to prevent underage alcohol drinking and high-risk college alcohol drinking.

(3) Current science that better defines and suggests proven prevention strategies for underage alcohol drinking and high-risk college alcohol drinking.

(c) The first report to the General Assembly shall be presented prior to February 1, 2007. Additional reports shall be presented every two years thereafter. A copy of the report shall be sent to the chairman and the minority chairman of the Law and Justice Committee of the Senate and the chairman and the minority chairman of the Liquor Control Committee of the House of Representatives.

(217 added July 7, 2006, P.L.591, No.85)

Section 218. Stop-and-Go Legislative Task Force.--(a) The Stop-and-Go Legislative Task Force is established.

(b) The task force shall:

(1) Review and analyze the law, procedures, practices, processes and rules relating to the issues involving stop-and-go establishments.

(2) Hold public hearings for the taking of testimony and the requesting of documents.

(3) Through the chair, administer oaths and affirmations to witnesses appearing before the task force.

(4) Accept and review written comments from individuals and organizations.

(5) Issue the report under subsection (f) no later than four months after the task force's initial meeting. In addition to any information that the task force deems appropriate, the report shall:

(i) Define and create a liquor license category for stop-and-go establishments located and operating within a city of the first class.

(ii) Provide recommendations for regulating stop-and-go establishments that are located and operating within a city of the first class.

(c) The task force shall consist of the following members who shall be appointed within twenty-five days after the effective date of this subsection:

(1) One member appointed by the Governor.

(2) One member appointed by the President pro tempore of the Senate.

(3) One member appointed by the Minority Leader of the Senate.

(4) One member appointed by the Speaker of the House of Representatives.

(5) One member appointed by the Minority Leader of the House of Representatives.

(6) An ex officio member from the board who shall not have voting rights.

(d) A chair of the task force shall be elected by a majority vote of the members of the task force.

(e) The task force shall conduct business as follows:

(1) The physical presence of a majority of the members shall constitute a quorum. The ex officio member of the task force shall not be considered for purposes of a quorum.

(2) Action of the task force must be authorized or ratified by a majority vote of the members.

(3) A member not physically present may participate by teleconference or video conference.

(4) The first public meeting of the task force shall be convened within forty-five days of the effective date of this paragraph. Additional public meetings may be called by the chair as necessary.

(5) The chair shall schedule a meeting upon written request of a two-thirds majority of the members.

(6) The task force shall hold public hearings as necessary.

(7) All meetings and hearings held by the task force shall be subject to 65 Pa.C.S. Ch. 7 (relating to open meetings).

(8) The board shall provide administrative or other assistance to the task force.

(9) Members may not receive compensation but shall be reimbursed for reasonable and necessary expenses incurred in service.

(f) The task force shall compile a report of recommendations under subsection (b) within four months after the task force's initial meeting and deliver the report to each member of the General Assembly who represents residents of a city of the first class, the board, the chairman and minority chairman of the Law

and Justice Committee of the Senate and the chairman and minority chairman of the Liquor Control Committee of the House of Representatives.

(g) The task force shall expire thirty days after delivery of the final report under subsection (f).

(h) As used in this section:

(1) The term "stop-and-go establishment" means establishments that are:

(i) legal holders of restaurant or R-licenses; and

(ii) a convenience store or deli that sells beer and liquor, sometimes in quantities as low as a single shot, that may be consumed on premises or immediately outside the establishment.

(2) The term "task force" means the Stop-and-Go Legislative Task Force established under this section.

(218 added Dec. 14, 2023, P.L.414, No.49)

ARTICLE III. PENNSYLVANIA LIQUOR STORES.

Section 301. Board to Establish State Liquor Stores.--(a) The board shall establish, operate and maintain at such places throughout the Commonwealth as it shall deem essential and advisable, stores to be known as "Pennsylvania Liquor Stores," for the sale of liquor and alcohol in accordance with the provisions of and the regulations made under this act; except that no store not so already located shall be located within three hundred feet of any elementary or secondary school, nor within a dry municipality without there first having been a referendum approving such location. When the board shall have determined upon the location of a liquor store in any municipality, it shall give notice of such location by public advertisement in two newspapers of general circulation. In cities of the first class, the location shall also be posted for a period of at least fifteen days following its determination by the board as required in section 403(g) of this act. The notice shall be posted in a conspicuous place on the outside of the premises in which the proposed store is to operate or, in the event that a new structure is to be built in a similarly visible location. If, within five days after the appearance of such advertisement, or of the last day upon which the notice was posted, fifteen or more taxpayers residing within a quarter of a mile of such location, or the City Solicitor of the city of the first class, shall file a protest with the court of common pleas of the county averring that the location is objectionable because of its proximity to a church, a school, or to private residences, the court shall forthwith hold a hearing affording an opportunity to the protestants and to the board to present evidence. The court shall render its decision immediately upon the conclusion of the testimony and from the decision there shall be no appeal. If the court shall determine that the proposed location is undesirable for the reasons set forth in the protest, the board shall abandon it and find another location. The board may establish, operate and maintain such establishments for storing and testing liquors as it shall deem expedient to carry out its powers and duties under this act.

(b) The board may lease the necessary premises for such stores or establishments, but all such leases shall be made through the Department of General Services as agent of the board. The board, through the Department of General Services, shall have authority to purchase such equipment and appointments

as may be required in the operation of such stores or establishments.

Section 302. Selection of Personnel.--Officers and employees of the board, except as herein otherwise provided, shall be appointed and employed subject to the provisions of the Civil Service Act.

Section 303. Management of Pennsylvania Liquor Stores.--Every Pennsylvania Liquor Store shall be conducted by a person appointed in the manner provided in the Civil Service Act who shall be known as the "manager" and who shall, under the directions of the board, be responsible for carrying out the provisions of this act and the regulations adopted by the board under this act as far as they relate to the conduct of such stores.

Section 304. When Sales May Be Made at Pennsylvania Liquor Stores.--Pennsylvania Liquor Stores, including online stores, shall be open on the hours and days that the board deems appropriate.

(a) (Deleted by amendment).

(b) (Deleted by amendment).

(304 amended June 8, 2016, P.L.273, No.39)

Compiler's Note: See section 28 of Act 39 of 2016, which amended section 304, in the appendix to this act, for special provisions relating to the establishment of a Wine and Spirits Wholesale and Retail Privatization Commission.

Section 305. Sales by Pennsylvania Liquor Stores.--(a) 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. A supplier of a special order may not refuse an order from a customer placing an order for one bottle of the item and may assess a surcharge on the order if the supplier otherwise requires a minimum quantity purchase. 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 a mark-up that is equal to ten per centum of the cost of the product and taxes but shall add the freight or shipping charges to the price after the mark-up and taxes have been applied. In addition to the ten per centum mark-up, the board shall impose handling fees on special orders which come to rest at a store, in the same manner that it imposes them on the other alcohol that it sells.

A licensed importer or a licensed vendor may place special orders on behalf of customers and may deliver the orders to customers. The orders do not need to come to rest at a store, but delivery may not occur until payment for the order has been forwarded to the board and the board has authorized the delivery of the order. A handling fee may not be assessed by the board on an order delivered directly to a customer. Liability for special orders that do not come to rest at a store, shall, until the order is delivered to the customer, remain with the licensed importer or licensed vendor that placed the order on behalf of the customer. The board shall, by January 1, 2017, implement a

procedure for processing special orders which do not come to rest at a store. The board may continue to accept special orders at its stores even after the procedure is implemented.

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.

((a) amended June 8, 2016, P.L.273, No.39 and Nov. 15, 2016, P.L.1286, No.166)

(a.1) The board may refuse to process a special order and preclude a vendor or importer from processing a special order, if it appears that the special order is for an item substantially similar to an item that is on the monthly list the board publishes under section 488(c) or if the board believes that demand for the item is such that it should be made available generally. If the processing of a special order is refused or precluded under this subsection, the item shall be made available through the board in the amount and manner the board deems appropriate. ((a.1) added June 8, 2016, P.L.273, No.39)

(b) Every Pennsylvania Liquor Store shall sell liquors at wholesale to hotels, restaurants, clubs, and railroad, pullman and steamship companies licensed under this act; and, under the regulations of the board, to pharmacists duly licensed and registered under the laws of the Commonwealth, and to manufacturing pharmacists, and to reputable hospitals approved by the board, or chemists. Sales to licensees shall be made at a price that includes a discount of ten per centum from the retail price; except that special order sales to licensees authorized in subsection (a) shall not be subject to the ten per centum discount. The board may sell to registered pharmacists only such liquors as conform to the Pharmacopoeia of the United States, the National Formulary, or the American Homeopathic Pharmacopoeia. The board may sell at special prices under the regulations of the board, to United States Armed Forces facilities which are located on United States Armed Forces installations and are conducted pursuant to the authority and regulations of the United States Armed Forces. All other sales by such stores shall be at retail , except that incentives, such as coupons or discounts on certain products, may be offered to unlicensed customers of the board as provided under sections 207(m) and 493(24)(ii)(B). A person entitled to purchase liquor at wholesale prices may purchase the liquor at any Pennsylvania Liquor Store upon tendering cash, check or credit card for the full amount of the purchase. For this purpose, the board shall issue a discount card to each licensee identifying such licensee as a person authorized to purchase liquor at wholesale prices. Such discount card shall be retained by the licensee. The board may contract through the Commonwealth bidding process for delivery to wholesale licensees at the expense of the licensee receiving the delivery. ((b) amended June 8, 2016, P.L.273, No.39)

(b.1) The board may contract with a licensed transporter for hire through the Commonwealth bidding process for delivery to retail licensees and permit holders at the expense of the licensee or permit holder receiving delivery. Payment shall be by credit card or electronic fund transfer only and may occur no later than the time of delivery. ((b.1) added June 8, 2016, P.L.273, No.39)

(c) Whenever any checks issued in payment of liquor or alcohol purchased from State Liquor Stores by persons holding wholesale purchase permit cards issued by the board shall be

returned to the board as dishonored, the board shall charge a fee of five dollars per hundred dollars or fractional part thereof, plus all protest fees, to the maker of such check submitted to the board. Failure to pay the face amount of the check in full and all charges thereon as herein required within ten days after demand has been made by the board upon the maker of the check shall be cause for revocation or suspension of any license issued by the board to the person who issued such check and the cancellation of the wholesale purchase permit card held by such person.

(d) No liquor or alcohol package shall be opened on the premises of a Pennsylvania Liquor Store. No manager or other employe of the board employed in a Pennsylvania Liquor Store shall allow any liquor or alcohol to be consumed on the store premises, nor shall any person consume any liquor or alcohol on such premises, except liquor and alcohol which is part of a tasting conducted pursuant to the board's regulations. Such tastings may also be conducted in the board's headquarters or regional offices. ((d) amended July 17, 2003, P.L.63, No.15)

(e) The board may sell tax exempt alcohol to the Commonwealth of Pennsylvania and to persons to whom the board shall, by regulation to be promulgated by it, issue special permits for the purchase of such tax exempt alcohol.

Such permits may be issued to the United States or any governmental agency thereof, to any university or college of learning, any laboratory for use exclusively in scientific research, any hospital, sanitorium, eleemosynary institution or dispensary; to physicians, dentists, veterinarians and pharmacists duly licensed and registered under the laws of the Commonwealth of Pennsylvania; to manufacturing chemists and pharmacists or other persons for use in the manufacture or compounding of preparations unfit for beverage purposes.

(f) Every purchaser of liquor, alcohol, corkscrews, wine or liquor accessories, trade publications, gift cards, gift certificates, wine- or liquor-scented candles or wine glasses from a Pennsylvania Liquor Store shall receive a numbered receipt which shall show the price paid therefor and such other information as the board may prescribe. Copies of all receipts issued by a Pennsylvania Liquor Store shall be retained by and shall form part of the records of such store. ((f) amended Dec. 8, 2004, P.L.1810, No.239)

(g) The board is hereby authorized and empowered to adopt and enforce appropriate rules and regulations to insure the equitable wholesale and retail sale and distribution, through the Pennsylvania Liquor Stores, of available liquor and alcohol at any time when the demand therefor is greater than the supply.

(h) Every Pennsylvania Liquor Store shall sell gift certificates and gift cards which may be redeemed for any product sold by the board. In addition, the board may sell corkscrews, wine and liquor accessories, wine- or liquor-scented candles, trade publications and wine sleeves at Pennsylvania Liquor Stores. ((h) amended Nov. 30, 2004, P.L.1727, No.221 and Dec. 8, 2004, P.L.1810, No.239)

(i) Notwithstanding any other provision of law to the contrary, the board may sell wine in containers having a capacity of sixty liters or less. ((i) amended July 5, 2012, P.L.1007, No.116)

(j) A Pennsylvania Liquor Store may continue to sell alcoholic cider and mead within the Pennsylvania Liquor Store's inventory after the effective date of this section until the alcoholic cider and mead within the Pennsylvania Liquor Store's current inventory is depleted. The board may not purchase

additional alcoholic cider and mead after the effective date of this section. ((j) added June 8, 2016, P.L.273, No.39 and amended Nov. 15, 2016, P.L.1286, No.166)

(k) Notwithstanding the provisions of the act of August 26, 1971 (P.L.351, No.91), known as the State Lottery Law, the following shall apply if the board becomes a licensed lottery sales agent, as set forth in section 305 of the State Lottery Law:

(1) The Secretary of Revenue shall permit the board to operate and maintain Pennsylvania lottery instant ticket vending machines, player-activated terminals and technologies or systems subsequently approved by the Department of Revenue for the self-service sale of lottery tickets and games in Pennsylvania Liquor Stores. The board and the Secretary of Revenue shall mutually agree upon the number and location of the stores authorized to conduct self-service sales of lottery tickets and games.

(2) The board shall not be required to post any type of bond prior to conducting self-service sales of lottery tickets and games.

(3) Any commissions, compensation or any type of incentive award based upon the sale of lottery tickets and games shall be deposited by the board into the General Fund.

((k) added June 8, 2016, P.L.273, No.39)

Compiler's Note: See section 28 of Act 39 of 2016, which amended subsections (a) and (b) and added subsections (a.1), (b.1), (j) and (k), in the appendix to this act, for special provisions relating to the establishment of a Wine and Spirits Wholesale and Retail Privatization Commission.

Section 305.1. Confectionery Containing Alcohol or Liquor.--(a) Notwithstanding the prohibition against the manufacture of confectionery containing alcohol as set forth in the fifth clause of subsection (a) of section 3 of the act of May 13, 1909 (P.L.520, No.292), referred to as the Pure Food Law, the manufacture, storage, transportation and delivery to points out-of-State by manufacturers of confectionery containing alcohol or liquor is permitted.

(b) The sale of confectionery containing alcohol or liquor is prohibited within this Commonwealth.

(c) This section is not intended to cover, govern, nor control the sale of confectionery containing tinctures or extracts used for flavoring purposes or solvents for glazes.

(305.1 added July 13, 1987, P.L.331, No.61)

Section 306. Audits by Auditor General.--(a) It shall be the duty of the Department of the Auditor General to make all audits which may be necessary in connection with the administration of the financial affairs of the board and the Pennsylvania Liquor Stores operated and maintained by the board. Such audits shall be conducted in accordance with generally accepted accounting principles. Nothing herein shall be construed to require the Auditor General to conduct biannual inventories.

(b) At least one audit shall be made each year of the affairs of the board, and all collections made by the Pennsylvania Liquor Stores shall be audited quarterly. A copy of the annual audit of the affairs of the board shall be submitted to each member of the General Assembly.

(c) Special audits of the affairs of the board and the Pennsylvania Liquor Stores maintained and operated by the board may be made whenever they may, in the judgment of the Auditor

General, appear necessary, and shall be made whenever the Governor shall call upon the Auditor General to make them.

(d) Copies of all audits made by the Department of the Auditor General shall be promptly submitted to the board and to the Governor.

(e) Unless the Department of the Auditor General shall neglect or refuse to make annual, quarterly or special Audits, as hereinabove required, it shall be unlawful for the board to expend any money appropriated to it by the General Assembly for any audit of its affairs, except for the payment of the compensation and expenses of such auditors as are regularly employed as part of the administrative staff of the board.

ARTICLE IV.
LICENSES AND REGULATIONS; LIQUOR, ALCOHOL AND
MALT AND BREWED BEVERAGES.

(A) Liquor and Alcohol (Not Including Manufacturers).

Section 401. Authority to Issue Liquor Licenses to Hotels, Restaurants and Clubs.--(a) Subject to the provisions of this act and regulations promulgated under this act, the board shall have authority to issue a retail liquor license for any premises kept or operated by a hotel, restaurant or club and specified in the license entitling the hotel, restaurant or club to purchase liquor from a Pennsylvania Liquor Store and to keep on the premises such liquor and, subject to the provisions of this act and the regulations made thereunder, to sell the same and also malt or brewed beverages to guests, patrons or members for consumption on the hotel, restaurant or club premises. Such licensees, other than clubs, shall be permitted to sell malt or brewed beverages for consumption off the premises where sold in quantities of not more than one hundred ninety-two fluid ounces in a single sale to one person as provided for in section 407. Such licenses shall be known as hotel liquor licenses, restaurant liquor licenses and club liquor licenses, respectively. No person who holds any public office that involves the duty to enforce any of the penal laws of the United States, this Commonwealth or of any political subdivision of this Commonwealth may have any interest in a hotel or restaurant liquor license. This prohibition applies to anyone with arrest authority, including, but not limited to, United States attorneys, State attorneys general, district attorneys, sheriffs and police officers. This prohibition shall also apply to magisterial district judges, judges or any other individuals who can impose a criminal sentence. This prohibition does not apply to members of the General Assembly, township supervisors, city councilpersons, mayors without arrest authority and any other public official who does not have the ability to arrest or the ability to impose a criminal sentence. This section does not apply if the proposed premises are located outside the jurisdiction of the individual in question. ((a) amended Dec. 22, 2011, P.L.530, No.113)

(b) The board may issue to any club which caters to groups of non-members, either privately or for functions, a catering license, and the board shall, by its rules and regulations, define what constitutes catering under this subsection except that any club which is issued a catering license shall not be prohibited from catering on Sundays during the hours which the club may lawfully serve liquor, malt or brewed beverages.

Section 402. License Districts; License Period; Hearings. (Hdg. amended Apr. 29, 1994, P.L.212, No.30)--(a) The board

shall hold hearings on applications for licenses and renewals thereof, as it deems necessary, at such times as it shall fix for the purpose of hearing testimony for and against applications for new licenses and renewals thereof. The board shall hold a hearing on any application for a new hotel, club or restaurant liquor license or the transfer of any such license to a new location, upon the request of any person with standing to testify under subsection (b) if the request is filed with the board within the first fifteen days of posting of the notice of application pursuant to section 403(g). The board may provide for the holding of such hearings by hearing examiners learned in the law, to be appointed by the Governor, who shall not be subject to the act of August 5, 1941 (P.L.752, No.286), known as the "Civil Service Act." Such hearing examiners shall make a report to the board in each case with their recommendations. The board may fix the license period for each separate license so that the expiration dates shall be staggered as to the State. ((a) amended Apr. 29, 1994, P.L.212, No.30)

(b) Where a hearing is held in the case of an application for a new hotel, club or restaurant liquor license or an application for the transfer of a hotel, club or restaurant liquor license to a new location, the board shall permit residents residing within a radius of five hundred feet of the premises to testify at the hearing. The board and any hearing examiner thereof shall give appropriate evidentiary weight to any testimony of such residents given at the hearing.

(c) This section shall not be construed so as to grant standing to residents residing within five hundred (500) feet of a public venue or performing arts facility. ((c) added Dec. 20, 2000, P.L.992, No.141)

(d) This section shall not apply to licensees applying for a valid wine expanded permit under section 415. ((d) added June 8, 2016, P.L.273, No.39)

(402 amended June 30, 1992, P.L.327, No.66)

Compiler's Note: See section 28 of Act 39 of 2016, which added subsection (d), in the appendix to this act, for special provisions relating to the establishment of a Wine and Spirits Wholesale and Retail Privatization Commission.

Section 403. Applications for Hotel, Restaurant and Club Liquor Licenses.--(a) Every applicant for a hotel liquor license, restaurant liquor license or club liquor license or for the transfer of an existing license to another premises not then licensed or to another person shall file a written application with the board in such form and containing such information as the board shall from time to time prescribe, which shall be accompanied by a filing fee and an annual license fee as prescribed in section 614-A of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929." Every such application shall contain a description of that part of the hotel, restaurant or club for which the applicant desires a license and shall set forth such other material information, description or plan of that part of the hotel, restaurant or club where it is proposed to keep and sell liquor as may be required by the regulations of the board. The descriptions, information and plans referred to in this subsection shall show the hotel, restaurant, club, or the proposed location for the construction of a hotel, restaurant or club, at the time the application is made, and shall show any alterations proposed to be made thereto, or the new building proposed to be constructed after the approval by the board of the application

for a license or for the transfer of an existing license to another premises not then licensed or to another person. No physical alterations, improvements or changes shall be required to be made to any hotel, restaurant or club, nor shall any new building for any such purpose, be required to be constructed until approval of the application for license or for the transfer of an existing license to another premises not then licensed or to another person by the board. After approval of the application, the licensee shall make the physical alterations, improvements and changes to the licensed premises, or shall construct the new building in the manner specified by the board at the time of approval, and the licensee shall not transact any business under the license until the board has approved the completed physical alterations, improvements and changes to the licensed premises, or the completed construction of the new building as conforming to the specifications required by the board at the time of issuance or transfer of the license, and is satisfied that the establishment is a restaurant, hotel or club as defined by this act. The board may require that all such alterations or construction or conformity to definition be completed within six months from the time of issuance or transfer of the license. The time between the approval of the initial application and issuance of operating authority to the licensee shall be considered as time in safekeeping. Failure to comply with these requirements shall be considered cause for revocation of the license. No such licenses shall be transferable between the time of issuance or transfer of the license and the approval of the completed alterations or construction by the board and full compliance by the licensee with the requirements of this act, unless the transfer application is accompanied by a surcharge. The surcharge shall be fifteen thousand dollars (\$15,000) if the license is located in a county of the first through third class. The surcharge shall be five thousand dollars (\$5,000) if the license is located in a county of the fourth through eighth class. ((a) amended Dec. 14, 2023, P.L.392, No.45)

(b) If the applicant is a natural person, his application must show that he is a citizen of the United States and has been a resident of this Commonwealth for at least two years immediately preceding his application.

(c) If the applicant is a corporation, the application must show that the corporation was created under the laws of Pennsylvania or holds a certificate of authority to transact business in Pennsylvania, that all officers, directors and stockholders are citizens of the United States, and that the manager of the hotel, restaurant or club is a citizen of the United States.

(d) Each application shall be signed and verified by oath or affirmation by the owner, if a natural person, or, in the case of an association, by a member or partner thereof, or, in the case of a corporation, by an executive officer thereof or any person specifically authorized by the corporation to sign the application, to which shall be attached written evidence of his authority.

(e) If the applicant is an association, the application shall set forth the names and addresses of the persons constituting the association, and if a corporation, the names and addresses of the principal officers thereof. Every club applicant shall file with and as a part of its application a list of the names and addresses of its members, directors, officers, agents and employees, together with the dates of their

admission, election or employment, and such other information with respect to its affairs as the board shall require.

(f) The board shall refuse to issue licenses to clubs when it appears that the operation of the licensed business would inure to the benefit of individual members, officers, agents or employees of the club, rather than to the benefit of the entire membership of the club.

(g) Every applicant for a new license or for the transfer of an existing license shall post, for a period of at least thirty days beginning with the day the application is filed with the board, in a conspicuous place on the outside of the premises or at the proposed new location for which the license is applied, a notice of such application. The notice shall indicate whether the applicant is applying for the amusement permit required by section 493(10). The notice shall be in such form, be of such size, and contain such provisions as the board may require by its regulations. Proof of the posting of such notice shall be filed with the board. The posting requirement imposed by this subsection shall not apply to license applications submitted for public venues. ((g) amended Dec. 9, 2002, P.L.1653, No.212)

(h) If any false statement is intentionally made in any part of the application, the affiant shall be deemed guilty of a misdemeanor and, upon conviction, shall be subject to the penalties provided by this article.

(i) Upon receipt of an application for a new license or transfer of an existing license to a new location, the board shall immediately notify, in writing, the municipality in which the premises proposed to be licensed are located.

Section 404. Issuance, Transfer or Extension of Hotel, Restaurant and Club Liquor Licenses.--(a) Upon receipt of the application and the proper fees, and upon being satisfied of the truth of the statements in the application that the applicant and management company or companies, if any, are the only persons in any manner pecuniarily interested in the business so asked to be licensed and that no other person will be in any manner pecuniarily interested therein during the continuance of the license, except as hereinafter permitted, and that the applicant is a person of good repute, that the premises applied for meet all the requirements of this act and the regulations of the board, that the applicant seeks a license for a hotel, restaurant or club, as defined in this act, and that the issuance of such license is not prohibited by any of the provisions of this act, the board shall, in the case of a hotel or restaurant, grant and issue to the applicant a liquor license, and in the case of a club may, in its discretion, issue or refuse a license: Provided, however, That in the case of any new license or the transfer of any license to a new location or the extension of an existing license to cover an additional area the board may, in its discretion, grant or refuse such new license, transfer or extension if such place proposed to be licensed is within three hundred feet of any church, hospital, charitable institution, school, or public playground, or if such new license, transfer or extension is applied for a place which is within two hundred feet of any other premises which is licensed by the board: And provided further, That the board's authority to refuse to grant a license because of its proximity to a church, hospital, charitable institution, public playground or other licensed premises shall not be applicable to license applications submitted for public venues or performing arts facilities: And provided further, That the board shall refuse any application for a new license, the transfer of any license

to a new location or the extension of an existing license to cover an additional area if, in the board's opinion, such new license, transfer or extension would be detrimental to the welfare, health, peace and morals of the inhabitants of the neighborhood within a radius of five hundred feet of the place proposed to be licensed: And provided further, That the board shall have the discretion to refuse a license to any person or to any corporation, partnership or association if such person, or any officer or director of such corporation, or any member or partner of such partnership or association shall have been convicted or found guilty of a felony within a period of five years immediately preceding the date of application for the said license. The board may enter into an agreement with the applicant concerning additional restrictions on the license in question. If the board and the applicant enter into such an agreement, such agreement shall be binding on the applicant. Failure by the applicant to adhere to the agreement will be sufficient cause to form the basis for a citation under section 471 and for the nonrenewal of the license under section 470. If the board enters into an agreement with an applicant concerning additional restrictions, those restrictions shall be binding on subsequent holders of the license until the license is transferred to a new location or until the board enters into a subsequent agreement removing those restrictions. If the application in question involves a location previously licensed by the board, then any restrictions imposed by the board on the previous license at that location shall be binding on the applicant unless the board enters into a new agreement rescinding those restrictions. The board may, in its discretion, refuse an application for an economic development license under section 461(b.1) or an application for an intermunicipal transfer of a license if the board receives a protest from the governing body of the receiving municipality. The receiving municipality of an intermunicipal transfer or an economic development license under section 461(b.1) may file a protest against the transfer of a license into its municipality, and the receiving municipality shall have standing in a hearing to present testimony in support of or against the issuance or transfer of a license. Upon any opening in any quota, an application for a new license shall only be filed with the board for a period of six months following said opening. ((a) amended June 5, 2020, P.L.213, No.29)

(b) If the applicant intends to use a management company to operate, manage or supervise all or part of the operation of the licensed premises, the licensee must file a written application with the board on a form or forms as the board shall from time to time prescribe. The application shall be accompanied by a fee in an amount determined by the board. The board shall refuse the application if the management company or any person involved with the management company would be precluded from holding an interest in the underlying license. (404 amended June 8, 2016, P.L.273, No.39)

Compiler's Note: See section 28 of Act 39 of 2016, which amended section 404, in the appendix to this act, for special provisions relating to the establishment of a Wine and Spirits Wholesale and Retail Privatization Commission.

Section 405. License Fees.--(a) License fees for hotel and restaurant liquor licenses shall be graduated according to the population of the municipality as determined by the last preceding decennial census of the United States in which the

hotel or restaurant is located, as prescribed in section 614-A of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929."

(b) Every applicant for a club liquor license shall pay to the board a license fee, as prescribed in section 614-A of "The Administrative Code of 1929," except clubs to which catering licenses are issued, in which cases the license fees shall be the same as for hotels and restaurants located in the same municipality.

(c) All license fees authorized under this section shall be collected by the board for the use of the municipalities in which such fees were collected.

(d) Whenever any checks issued in payment of filing and/or license fees shall be returned to the board as dishonored, the board shall charge a fee of five dollars (\$5.00) per hundred dollars, or fractional part thereof, plus all protest fees, to the maker of such check submitted to the board. Failure to make full payment or pay the face amount of the check in full and all charges thereon as herein required within ten days after demand has been made by the board upon the maker of the check, or upon notification to the board by the Department of Revenue or the Department of Labor and Industry of its objection, the license of such person shall immediately become invalid and shall remain invalid until payment and all charges are received by the board.

(e) Every application for a restaurant liquor license for a nonprimary pari-mutuel wagering location or a racetrack shall be accompanied by an applicant's fee of five thousand dollars (\$5,000) for the first year of a licensing period. Thereafter, the nonprimary pari-mutuel wagering location or the racetrack shall be subject to the above stated fees for restaurant licenses for each year of a licensing period. ((e) amended Dec. 21, 1998, P.L.1202, No.155)

(405 amended Apr. 29, 1994, P.L.212, No.30)

Section 406. Sales by Liquor Licensees; Restrictions.--(a)

(1) Every hotel, restaurant or club liquor licensee may sell liquor and malt or brewed beverages by the glass, open bottle or other container, and in any mixture, for consumption only in that part of the hotel or restaurant habitually used for the serving of food to guests or patrons, or in a bowling alley that is immediately adjacent to and under the same roof as a restaurant, and in the case of hotels, to guests, and in the case of clubs, to members, in their private rooms in the hotel or club. No club licensee nor its officers, servants, agents or employees, other than one holding a catering license, shall sell any liquor or malt or brewed beverages to any person except a member of the club. The holder of a restaurant license located in a hotel may sell liquor or malt or brewed beverages for consumption in that part of the restaurant habitually used for the serving of meals to patrons and also to guests in private guest rooms in the hotel. For the purpose of this paragraph, any person who is an active member of another club which is chartered by the same state or national organization shall have the same rights and privileges as members of the particular club. For the purpose of this paragraph, any person who is an active member of any volunteer firefighting company, association or group of this Commonwealth, whether incorporated or unincorporated, shall upon the approval of any club composed of volunteer firemen licensed under this act, have the same social rights and privileges as members of such licensed club. For the purposes of this paragraph, the term "active member" shall not include a social member. Any club licensee which is

either an incorporated unit of a national veterans' organization or an affiliated organization as defined in section 461.1 shall be permitted to sell liquor or malt or brewed beverages to any active member of another unit which is chartered by the same national veterans' organization or to any member of a nationally chartered auxiliary associated with the same national veterans' organization.

(2) Hotel and restaurant liquor licensees, municipal golf course restaurant liquor licensees and privately-owned public golf course restaurant licensees may sell liquor and malt or brewed beverages only after seven o'clock antemeridian of any day until two o'clock antemeridian of the following day, except Sunday, and except as hereinafter provided, may sell liquor and malt or brewed beverages on Sunday between the hours of twelve o'clock midnight and two o'clock antemeridian.

(2.1) Airport restaurant liquor licensees may sell liquor and malt or brewed beverages only after five o'clock antemeridian of any day and until two o'clock antemeridian of the following day.

(3) Hotel and restaurant liquor licensees, municipal golf course restaurant liquor licensees and privately-owned public golf course restaurant licensees may sell liquor and malt or brewed beverages on Sunday between the hours of nine o'clock antemeridian and two o'clock antemeridian Monday upon purchase of a special permit from the board at an annual fee as prescribed in section 614-A of the act of April 9, 1929

(P.L.177, No.175), known as "The Administrative Code of 1929." Airport restaurant liquor licensees may sell liquor and malt or brewed beverages on Sunday between the hours of five o'clock antemeridian and two o'clock antemeridian Monday upon purchase of a special permit from the board at an annual fee as prescribed in section 614-A of the act of April 9, 1929

(P.L.177, No.175), known as "The Administrative Code of 1929." ((3) amended Nov. 15, 2016, P.L.1286, No.166)

(3.1) ((3.1) deleted by amendment Nov. 29, 2006, P.L.1421, No.155)

(4) Hotel and restaurant liquor licensees, municipal golf course restaurant liquor licensees and privately-owned public golf course restaurant licensees which do not qualify for and purchase such special permit, their servants, agents or employes may sell liquor and malt or brewed beverages only after seven o'clock antemeridian of any day and until two o'clock antemeridian of the following day, and shall not sell after two o'clock antemeridian on Sunday. No club licensee or its servants, agents or employes may sell liquor or malt or brewed beverages between the hours of three o'clock antemeridian and seven o'clock antemeridian on any day. No public service liquor licensee or its servants, agents, or employes may sell liquor or malt or brewed beverages between the hours of two o'clock antemeridian and seven o'clock antemeridian on any day.

(5) ((5) deleted by amendment May 31, 1996, P.L.312, No.49)

(6) Notwithstanding any provisions to the contrary, whenever the thirty-first day of December falls on a Sunday, every hotel or restaurant liquor licensee, their servants, agents or employes may sell liquor and malt or brewed beverages on any such day after one o'clock postmeridian and until two o'clock antemeridian of the following day.

(6.1) Notwithstanding any provisions to the contrary, whenever Saint Patrick's Day falls on a Sunday, every hotel or restaurant liquor licensee, their servants, agents or employes may sell liquor and malt or brewed beverages on any such day

after seven o'clock antemeridian and until two o'clock antemeridian of the following day.

(7) Notwithstanding any other provision of this act, if Groundhog Day falls on a Sunday, a hotel or restaurant licensee or the hotel or restaurant licensee's servants, agents or employes may sell liquor and malt or brewed beverages on that day after seven o'clock antemeridian and until two o'clock antemeridian of the following day.

((a) amended June 8, 2016, P.L.273, No.39)

(b) Such Sunday sales by hotel and restaurant liquor licensees which qualify for and purchase such special permit, their servants, agents and employes, shall be made subject to the restrictions imposed by the act on sales by hotels and restaurants for sales on weekdays as well as those restrictions set forth in this section. ((b) amended Apr. 29, 1994, P.L.212, No.30)

(c) Notwithstanding any provision of this act, on the Sunday on which the sporting event commonly referred to as the "Super Bowl" is conducted, licensees who do not possess the special annual permit provided for in subsection (a)(3), their servants, agents or employes may sell liquor and malt or brewed beverages on such Sunday after one o'clock postmeridian and until two o'clock antemeridian of the following day. ((c) added Dec. 20, 2000, P.L.992, No.141)

(d) Subject to section 412, licensed public venues may sell liquor and malt or brewed beverages on Sundays from eleven o'clock antemeridian until midnight without the need to acquire or qualify for a special permit. In addition, subject to section 413, licensed performing arts facilities may sell liquor and malt or brewed beverages on Sundays from ten o'clock antemeridian until ten o'clock postmeridian without the need to acquire or qualify for a special permit. ((d) amended Nov. 21, 2019, P.L.635, No.86)

(e) (1) 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. In addition, the holder of a hotel license or a restaurant license may allow persons who have purchased but only partially consumed a bottle of wine on the premises to remove the bottle from the premises so long as the bottle was purchased in conjunction with a meal which was consumed on the premises and so long as the bottle is resealed. For purposes of this subsection, "wine" shall have the meaning given to it under section 488(i). For purposes of this section and section 432, "meal" shall mean food prepared on the premises, sufficient to constitute breakfast, lunch or dinner; it shall not mean a snack, such as pretzels, popcorn, chips or similar food.

(2) A holder of a restaurant or club license located on a golf course may store liquor or malt or brewed beverages in a

permanent facility 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 without regard to whether there is any intervening public thoroughfare.

((e) amended Dec. 22, 2011, P.L.530, No.113)

(f) The holder of a hotel or restaurant liquor license may obtain an off-premises catering permit subject to section 493(33) to hold a catered function off the licensed premises and on otherwise unlicensed premises where the licensee may sell wine, liquor and malt or brewed beverages by the glass, open bottle or other container, and in any mixture together with food, for consumption on those premises. Functions conducted under the authority of the permit shall be subject to the following:

(1) alcohol may be provided only during the days and hours that the license holder may otherwise sell alcohol;

(2) all servers at the off premises catered function shall be in compliance with the responsible alcohol management provisions under section 471.1;

(3) each catered function shall last no longer than one day and an unlimited number of catered functions may be held each calendar year by each license holder for use with a particular license; ((3) amended Dec. 14, 2023, P.L.421, No.51)

(4) a catered function shall not be held at a location that is already subject to the applicant's or another licensee's license;

(5) a permit shall not be issued to an applicant whose license is in safekeeping;

(6) a permit shall not be issued to a location that is subject to a pending objection by the director of the Bureau of Licensing or the board under section 470(a.1);

(7) a permit shall not be issued to a location that is subject to a pending license suspension under section 471 or the one-year prohibition on the issuance or transfer of a license under section 471(b);

(8) no alcohol may be taken from the permitted location by any patron, but the applicant may transport alcohol to and from its licensed premises to the proposed premises;

(9) written notice of the catered function as enumerated in paragraph (10) shall be provided to the local police and the enforcement bureau at least seven days in advance of the event;

(10) written notice shall be provided to the board at least fourteen days prior to a catered function. Written notice must include the location of the function, time of the function, host of the function, general information regarding the guests expected at the function as well as any information the board shall from time to time prescribe. The board may, in its discretion, accept notice in an electronic format. The board may, in its discretion, waive the fourteen-day notice period for a catered function if:

(i) the applicant has previously conducted functions that meet the requirements of this act;

(ii) the applicant is a licensee in good standing with the board;

(iii) notification was received at least seven days prior to the catered function; and

(iv) the applicant pays a late fee of one hundred dollars (\$100);

(11) the board shall, in its discretion, approve or disapprove a catered function if the applicant fails to provide timely notice of the catered function, does not intend to conduct a function that meets the requirements of this act or

has previously conducted a function that did not meet the requirements of this act;

(12) if a catered function is scheduled to occur on private property, the owner of that property is deemed to have submitted to the jurisdiction of the enforcement bureau, and the warrant required by section 211(a)(2) of this act shall not be necessary for the enforcement bureau to enter and search the premises during the function or any activities related to the function;

(13) no catered function may be held for more than six hours per day and must end by midnight unless the catered function occurs on December 31 of any calendar year on which date the catered function must end by two o'clock antemeridian; ((13) amended Dec. 14, 2023, P.L.421, No.51)

(14) neither the owner of the property nor the applicant may sell tickets to a catered function unless one of the following conditions is met:

(i) the applicant has contracted with an eligible entity for the function, and the function is being used to raise money for the eligible entity's organization;

(ii) the applicant has contracted with a nonprofit organization as defined under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)), for an event which has the sole purpose of raising funds for that nonprofit organization; or

(iii) the applicant has contracted with an organization that holds tax-exempt status under section 527 of the Internal Revenue Code of 1986;

(15) the catered function location shall be subject to section 493(34) of this act;

(16) catered functions may not be held in locations that are subject to a pending, protested transfer application;

(17) a permit may not be issued to a license holder whose license is subject to a pending objection by the director of the Bureau of Licensing or the board under section 470(a.1);

(18) a permit shall not be issued to a licensee for use in any location that is mobile; and

(19) a permit shall not be issued for use on any location used for parking at a sports event or concert event.

((f) amended June 8, 2016, P.L.273, No.39)

(g) Notwithstanding any other provision of law or regulation, the holder of a retail license may hold happy hours up to four consecutive or nonconsecutive hours per day and up to fourteen hours per week during which the holder discounts the price of alcoholic beverages. No discounts may be given between the hours of midnight and the legal closing time. Notice of all happy hours shall be visibly posted on the licensed premises seven days prior to the happy hour. Except as provided in this subsection, a licensee shall comply with the provisions of 40 Pa. Code § 13.102 (relating to discount pricing practices). Neither events conducted under the authority of 40 Pa. Code § 13.102(b) nor discounts provided to mug club members shall be counted against the four-hour per day or fourteen-hour per week limit. ((g) amended June 8, 2016, P.L.237, No.39)

(h) Notwithstanding any other provision of law or regulation, a catering club licensee may cater a self-sponsored event no more than twenty-four occasions during its licensed term with no more than two events in any calendar month. ((h) amended Dec. 14, 2023, P.L.421, No.51)

(i) Notwithstanding any other provision of law or regulation, a club that sanctions or sponsors an event between participants of its bona fide membership and the participants

from any licensed entity may sell alcohol to those nonmembers provided the following:

(1) the event is scheduled more than twenty-four hours in advance; and

(2) the nonmember participants are listed on a roster or registration list provided by a league, organization or licensed entity prior to the beginning of the event.

((i) added June 8, 2016, P.L.237, No.39)

(j) Liquor and wine in the possession of a licensee at the time the licensed business closes permanently may be sold to another licensee qualified to sell such products. The licensee shall notify the board in writing advising the board of the name of the licensee and identifying any product sold to that licensee, as well as the description of the liquor, including brand names, sizes and numbers of containers sold to another licensee. ((j) added Nov. 5, 2021, P.L.424, No.81)

Compiler's Note: See section 28 of Act 39 of 2016, which amended subsections (a), (f) and (g) and added subsections (h) and (i), in the appendix to this act, for special provisions relating to the establishment of a Wine and Spirits Wholesale and Retail Privatization Commission.

Section 406.1. Secondary Service Area.--(a) Upon application of any restaurant, hotel, club, municipal golf course liquor licensee or manufacturer of malt or brewed beverages, and payment of the appropriate fee, the board may approve a secondary service area by extending the licensed premises to include one additional permanent structure with dimensions of at least one hundred seventy-five square feet, enclosed on three sides and having adequate seating. Such secondary service area must be located on property having a minimum area of one (1) acre, and must be on land which is immediate, abutting, adjacent or contiguous to the licensed premises with no intervening public thoroughfare; however, the original licensed premises and the secondary service area must be located on the same tract of land. The board shall have discretion to refuse the application for a secondary service area in the same manner it has discretion to refuse an application for transfer of the license to a new location as set forth in section 404. There shall be no requirement that the secondary service area be physically connected to the original licensed premises. In addition, there shall be no requirement that the secondary service area be located in the same municipality as the original licensed premises, provided, however, that the board shall not approve a secondary service area in this case if that secondary service area is located in any municipality where the granting of liquor licenses has been prohibited as provided in this article. Notwithstanding 40 Pa. Code § 7.21, the licensee shall be permitted to store, serve, sell or dispense food, liquor and malt or brewed beverages at the board approved secondary service area.

(b) If the applicant is a manufacturer of malt or brewed beverages, the board may approve a secondary service area for use as a brewery pub pursuant to section 446, notwithstanding any intervening public thoroughfare, so long as the proposed secondary service area is within one thousand feet of the licensed premises. Notwithstanding any other provision of this act, the licensed premises and the secondary service area may be located on different tracts of lands.

(406.1 amended Jan. 6, 2006, P.L.1, No.1)

Section 407. Sale of Malt or Brewed Beverages by Liquor Licensees.--(a) (1) Every liquor license issued to a hotel,

restaurant, club, or a railroad, pullman or steamship company under this subdivision (A) for the sale of liquor shall authorize the licensee to sell malt or brewed beverages at the same places but subject to the same restrictions and penalties as apply to sales of liquor, except that licensees other than clubs may sell malt or brewed beverages for consumption off the premises where sold in quantities of not more than one hundred ninety-two fluid ounces in a single sale to one person. The sales may be made in either open or closed containers, Provided, however, That a municipality may adopt an ordinance restricting open containers in public places. No licensee under this subdivision (A) shall at the same time be the holder of any other class of license, except a retail dispenser's license authorizing the sale of malt or brewed beverages only. Sales of malt or brewed beverages must occur on the licensed premises.

(2) If a restaurant liquor license holder has an interior connection to another business that it operates, the restaurant liquor license holder may use one or more of the registers in the other business to sell malt or brewed beverages for off-premises consumption under the following conditions:

(i) the building is eleven thousand square feet or less;

(ii) the registers are located in the same building as the licensed premises;

(iii) the registers comply with the signage, staffing, training, carding, scanning and prohibition on the sharing of data provisions of section 415(a)(8) and (9); and

(iv) the board has been provided notice of compliance with this paragraph by the restaurant liquor license holder, including square footage of the building and the location of the specific registers to be used prior to their use.

(3) The registers used under paragraph (2) shall be deemed to be licensed areas but no formal application beyond notice to the board shall be required. The registers may be used by the other business.

((a) amended June 5, 2020, P.L.213, No.29)

(b) (1) Notwithstanding any other provision of law or any existing permit authorizing the sale of malt or brewed beverages for consumption off the premises, a restaurant licensee located in a city of the first class who is otherwise permitted to sell malt or brewed beverages for consumption off the premises may not do so after October 31, 2007, unless it acquires a permit from the board.

(2) The application for a permit to sell malt or brewed beverages for consumption off the premises shall be on forms designated by the board and contain such information as the board may require. The application and renewal fee shall be as prescribed in section 614-A(27) of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929." However, no applicant who currently has a permit shall be required to pay any additional fees under section 614-A(27) of "The Administrative Code of 1929" in order to continue selling malt or brewed beverages for consumption off the premises at its currently licensed location for the licensing term beginning November 1, 2007, and ending October 31, 2008.

(3) The application for a permit to sell malt or brewed beverages for consumption off the premises must be accompanied by a copy of the approval of such request by the hearing board authorized by this section.

(4) A city of the first class shall create a hearing board within its Department of Licenses and Inspections to hear requests from licensees who are seeking a permit from the hearing board authorizing the licensee to sell malt or brewed

beverages for consumption off the premises. Each hearing board shall consist of three persons appointed by the mayor of the city of the first class, who are subject to approval by the city council of the city of the first class. Each person so appointed shall serve at the pleasure of the appointing authority. The hearing board may, in its discretion, hold hearings to adduce testimony regarding a request. The hearing board must render a decision within ninety days of receipt of a request for approval of a permit to sell malt or brewed beverages for consumption off the premises. The hearing board must approve the request unless it finds that doing so would adversely affect the welfare, health, peace and morals of the city or its residents. A decision by the hearing board to deny a request may be appealed to the court of common pleas in the county in which the city is located. The failure to render a decision by the hearing board within the required time period shall be deemed approval of the permit.

(5) Upon being satisfied that the applicant has fulfilled all the requirements of this act and the board's regulations, the board shall approve the application. Such permits shall expire upon the transfer of the license to a new entity or to a new location, or both; otherwise, such permits shall expire at the same time as the expiration of the underlying license.

((b) amended Nov. 29, 2006, P.L.1421, No.155)

(407 amended July 7, 2006, P.L.584, No.84)

Section 408. Public Service Liquor Licenses.--(a) Subject to the provisions of this act and regulations promulgated under this act, the board, upon application, shall issue retail liquor licenses to railroad or pullman companies permitting liquor and malt or brewed beverages to be sold in dining, club or buffet cars to passengers for consumption while enroute on such railroad, and may issue retail liquor licenses to steamship companies permitting liquor or malt or brewed beverages to be sold in the dining compartments of steamships or vessels wherever operated in the Commonwealth, except when standing or moored in stations, terminals or docks within a municipality wherein sales of liquor for consumption on the premises are prohibited, and may further issue retail liquor licenses to airline companies permitting liquor or malt or brewed beverages to be sold to passengers for consumption while enroute on such airline. Such licenses shall be known as public service liquor licenses. The board may issue a master license to railroad or pullman companies to cover the maximum number of cars which the company shall estimate that it will operate within the Commonwealth on any one day. Such licensees shall file monthly reports with the board showing the maximum number of cars operated in any one day during the preceding month, and if it appears that more cars have been operated than covered by its license it shall forthwith remit to the board the sum of twenty dollars for each extra car so operated.

(b) For the purpose of considering an application by a steamship or airline company for a public service liquor license, the board may cause an inspection of the steamship or vessel or aircraft for which a license is desired. The board may, in its discretion, grant or refuse the license applied for and there shall be no appeal from its decision, except that an action of mandamus may be brought against the board in the manner provided by law.

(c) Every applicant for a public service liquor license shall pay to the board for each of the maximum number of dining, club or buffet cars which the applicant estimates it will have in operation on any one day an annual fee as prescribed in

section 614-A of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929." ((c) amended Dec. 21, 1998, P.L.1202, No.155)

(d) Unless previously revoked, every license issued by the board under this section shall expire if the annual fee is not timely paid or on the last day of the license period for which the license is issued. Licenses issued under the provisions of this section shall be renewed as herein provided, upon the filing of applications in such form as the board shall prescribe, but no license shall be renewed until the applicant shall pay the requisite license fee. ((d) amended Dec. 21, 1998, P.L.1202, No.155)

(e) Except as otherwise specifically provided, sales of liquor and malt or brewed beverages by the aforesaid public service company licensees shall be made in accordance with, and shall be subject to, the provisions of this act relating to the sale of liquors by restaurant licensees.

Section 408.1. Trade Show and Convention Licenses.--(408.1 repealed Dec. 20, 2000, P.L.992, No.141)

Section 408.2. City-Owned Stadia.--(408.2 repealed Dec. 20, 2000, P.L.992, No.141)

Section 408.3. Performing Arts Facilities.--(408.3 repealed Dec. 20, 2000, P.L.992, No.141)

Section 408.4. Special Occasion Permits.--

(a) ((a) deleted by amendment Dec. 9, 2002, P.L.1653, No.212)

(a.1) ((a.1) deleted by amendment Dec. 9, 2002, P.L.1653, No.212)

(b) ((b) deleted by amendment Dec. 9, 2002, P.L.1653, No.212)

(c) ((c) deleted by amendment Dec. 9, 2002, P.L.1653, No.212)

(d) ((d) deleted by amendment Dec. 9, 2002, P.L.1653, No.212)

(d.1) ((d.1) deleted by amendment Dec. 9, 2002, P.L.1653, No.212)

(d.2) ((d.2) deleted by amendment Dec. 9, 2002, P.L.1653, No.212)

(e) ((e) deleted by amendment Dec. 9, 2002, P.L.1653, No.212)

(e.1) ((e.1) deleted by amendment Dec. 9, 2002, P.L.1653, No.212)

(f) ((f) deleted by amendment Dec. 9, 2002, P.L.1653, No.212)

(g) ((g) deleted by amendment Dec. 9, 2002, P.L.1653, No.212)

(h) The board may issue a special occasion permit to an eligible entity. The board may also issue a special occasion permit to one auxiliary of any eligible entity. Any eligible entity that wishes to acquire a special occasion permit must submit a written application to the board in such form and containing such information as the board shall from time to time prescribe. The fee for special occasion permits shall be as set forth under section 614-A(24) of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929."

(i) Only one special occasion permit shall be issued to each eligible entity per calendar year. Each permit may only be used for nine consecutive or nonconsecutive days and an additional ten consecutive days. ((i) amended Dec. 27, 2019, P.L.822, No.116)

(j) The eligible entity shall give the local police department or the Pennsylvania State Police if there is no local police department written notice at least forty-eight hours prior to each use of the special occasion permit. Written notice consists of notifying the police of the date, time and place of the impending sale of alcoholic beverages.

(k) Special occasion permit holders may sell alcoholic beverages during the same hours as restaurant liquor license holders. In addition, special occasion permit holders may sell any type of alcohol for consumption off the licensed premises.

(l) The issuance of a special occasion permit does not preclude the eligible entity from acquiring and retaining any other liquor license to which it may be entitled; however, the board shall not issue a special occasion permit for premises already licensed by the board unless the applicant owns the premises and is a volunteer fire company, volunteer rescue company or volunteer ambulance squad.

(m) The following apply:

(1) The purpose of a special occasion permit is to provide the eligible entity with a means of raising funds for itself. The permit may be used in conjunction with activities and events involving other entities; however, no one other than the holder of the special occasion permit may acquire a pecuniary interest in the permit.

(2) An entity operating in conjunction with a special occasion permit holder may collect and manage funds raised using a special occasion permit if:

(i) the special occasion permit holder is the primary host of the activity or event; and

(ii) the funds raised are used for the benefit of the special occasion permit holder.

((m) amended Dec. 27, 2019, P.L.822, No.116)

(n) The board may refuse to issue a special occasion permit if it finds that the applicant is not reputable or does not otherwise meet the requirements of this act. The right to refuse to issue a special occasion permit may be based in whole or in part on the applicant's prior operational history with either a special occasion permit or a license issued by the board.

(o) The holder of a special occasion permit is subject to the provisions of section 493(1).

(p) Notwithstanding any provision of law to the contrary, if the eligible entity is a regatta in a city of the second class held on the grounds of a State park, the regatta may install a security fence or similar enclosure around the boundary of the State park or a portion of the State park during the regatta and may charge an admittance fee not to exceed five dollars (\$5) per day.

(q) ((q) expired January 1, 2007. See Act 85 of 2006.)

(r) Notwithstanding any provision of law to the contrary, the board may issue a special occasion permit to an eligible entity located in a dry municipality if the board is provided with a copy of a resolution adopted by the municipality's governing body confirming support for the issuance of the special occasion permit. ((r) added July 16, 2007, P.L.107, No.34)

(408.4 amended Dec. 9, 2002, P.L.1653, No.212)

Compiler's Note: See section 28 of Act 39 of 2016, which amended subsection (i), in the appendix to this act, for special provisions relating to the establishment of a Wine and Spirits Wholesale and Retail Privatization Commission.

Compiler's Note: Section 25 of Act 155 of 1998, which amended subsections (a) and (c), provided that the amendment shall apply to arts facilities or museums existing on the effective date Act 155.

Section 408.5. Licenses for City-owned Art Museums, Cities First Class; Art Museums Maintained by Certain Non-profit Corporations in Cities of the Second Class; Non-profit Science and Technology Museums in Cities of the First Class and in Cities of the Second Class; and Regional History Centers in Cities of the Second Class.--(408.5 repealed Dec. 20, 2000, P.L.992, No.141)

Section 408.6. Performing Arts Facilities in Certain Municipalities.--(408.6 repealed Dec. 20, 2000, P.L.992, No.141)

Section 408.7. Performing Arts Facilities in First and Second Class Cities.--(408.7 repealed Dec. 20, 2000, P.L.992, No.141)

Section 408.8. Trade Shows and Convention Licenses; Cities of the Third Class.--(408.8 repealed Dec. 20, 2000, P.L.992, No.141)

Section 408.9. Stadium and Restaurant Licenses in Third Class Cities.--(408.9 repealed Dec. 20, 2000, P.L.992, No.141)

Section 408.10. Recreation Facilities.--(408.10 repealed Dec. 20, 2000, P.L.992, No.141)

Section 408.11. Seasonal Outdoor Cafe.--(408.11 repealed Dec. 20, 2000, P.L.992, No.141)

Section 408.12. Wine and Spirits Auction Permits.--(a) Upon application of:

- (1) any nonprofit hospital;
- (2) any nonprofit public television station which is a member of the Pennsylvania Public Television Network;
- (3) any orchestra located in a county of the first, second or third class which is operated by a nonprofit corporation;
- (4) any museum located in a county of the first, second, third or fourth class which is operated by a nonprofit corporation;
- (5) any nonprofit corporation located in any county of the third class which trains and places dogs for people who are physically handicapped;
- (6) any nationally recognized community-based voluntary health organization committed to fighting cancer which has been in existence for at least ninety years;
- (7) any nationally recognized emergency response organization that offers humanitarian care to victims of war or natural disaster and has been in existence for at least one hundred twenty-five years;
- (8) any nationally recognized organization whose purpose is to serve as an agent to collect funds for local charities, as well as to coordinate relief services, counsel and refer clients to cooperating agencies and make emergency assistance grants and has been in existence for at least one hundred twenty years;
- (9) any hospice as defined under section 802.1 of the act of July 19, 1979 (P.L.130, No.48), known as the "Health Care Facilities Act";
- (10) institution of higher education;
- (11) any nationally recognized community-based health organization committed to funding Type 1 Diabetes research;
- (12) any nationally recognized community-based voluntary health organization committed to fighting cancer which has been in existence for at least twenty years;
- (13) any nonprofit organization as defined in section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law

99-514, 26 U.S.C. § 501(c)(3)) and that is registered with the Bureau of Corporations and Charitable Organizations of the Department of State, recognized as a community-based voluntary organization committed to fighting cancer and has been in existence for at least five years; or

(14) any community-based voluntary health organization in a county of the second class which enriches the lives of children and young adults with disabilities and chronic illnesses;

and upon payment of a fee of thirty dollars (\$30) per day, the board shall issue a wine and spirits auction permit good for a period of not more than four consecutive or nonconsecutive days per calendar year.

((a) amended Dec. 27, 2019, P.L.822, No.116)

(b) Subject to clause (1) of section 493 of this act, such wine and spirits auction permit shall authorize the permittee to sell, by auction, wine and spirits by the bottle or case to any person on any day for which the permit is issued, provided, however, that such permit shall only be issued in any city, borough, incorporated town or township in which the sale of liquor and/or malt or brewed beverages has been approved by the electorate. Any wine and spirits purchased under this section shall not be consumed at the place of purchase.

(c) The wine and spirits auction permit shall only be valid for the number of days stated in the permit.

(d) Wine and spirits auction permits shall only be issued for use at an event which is used by the permittee as a means of raising funds for its operation.

(e) The hours during which the holder of a wine and spirits auction permit may sell wine and spirits shall be limited to the hours set forth in section 406 of this act which are applicable to hotel and restaurant licensees, provided, however, that wine and spirits auction permittees may sell wine and spirits on Sunday between the hours of seven o'clock antemeridian and until two o'clock antemeridian Monday.

(f) Wine and spirits auction permits may be issued for sales on premises which are either licensed or unlicensed under this act.

(g) Any wine and spirits sold under this section shall be purchased from a Pennsylvania Liquor Store, a Pennsylvania limited winery, limited distillery or any seller authorized to sell wine or spirits by the bottle or case in this Commonwealth or shall be donated by a person who has legally acquired the wine or spirits and legally possesses it in this Commonwealth. If the donated wine or spirits is from a location outside of this Commonwealth, the wine or spirits may be imported as a gift and subject to the procedures and fees imposed by the board. ((g) amended July 2, 2019, P.L.324, No.45)

(h) If any wine or spirits sold under this section is purchased from a seller other than a Pennsylvania Liquor Store or a Pennsylvania limited winery or limited distillery, the permittee shall provide thirty days' notice to the board of its intent to purchase such wine or spirits. The notice shall include a description of the wine or spirits to be purchased, the quantity to be purchased, the name of the seller and any other information which the board may require. The permittee shall comply with all board regulations regarding taxes and fees.

(i) If the wine or spirits is purchased from an entity other than the board, the permittee shall be responsible for paying to the board an amount equal to all taxes which would have been paid on such wine or spirits if it had been purchased from a

Pennsylvania Liquor Store, together with a processing fee to be determined by the board. ((i) amended July 2, 2019, P.L.324, No.45)

(j) As a condition of the permit, the permittee shall not broadcast by way of radio or television or disseminate by print media nor cause the broadcast by way of radio, television or dissemination by the print media of the price of any wine or spirits sold or to be sold under this section.

(k) Any person selling wine or spirits in violation of this section shall, upon summary conviction, be sentenced to pay a fine of two hundred fifty dollars (\$250) for the first offense and a fine of five hundred dollars (\$500) for each subsequent offense. This fine shall be in addition to any other penalty imposed by law for the illegal sale of liquor or malt or brewed beverages.

(l) "Auction," as used in this section, shall mean the offer to sell wine and spirits by the permittee to the members of an audience congregated for the purpose of making bids for the purchase of the wine and spirits in an effort by the permittee to advance the amount of the bids to obtain the highest or most favorable offer.

(408.12 amended Nov. 15, 2016, P.L.1286, No.166)

Compiler's Note: See section 28 of Act 39 of 2016, which amended subsection (a), in the appendix to this act, for special provisions relating to the establishment of a Wine and Spirits Wholesale and Retail Privatization Commission.

Section 408.13. Transfer of Restaurant Licenses to Deteriorated Areas.--(408.13 repealed Dec. 20, 2000, P.L.992, No.141)

Section 408.14. Multipurpose Cultural and Science Facilities Licenses.--(408.14 repealed Dec. 20, 2000, P.L.992, No.141)

Section 408.15. Multipurpose County-owned Arena and Convention Center License.--(408.15 repealed Dec. 20, 2000, P.L.992, No.141)

Section 408.16. National Event Permit.--(408.16 expired August 31, 2000. See Act 47 of 1999)

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

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

(c) If the applicant is a natural person, his application must show that he is a citizen of the United States or a resident alien and a resident of this Commonwealth. If the applicant is an association or partnership, each and every member of the association or partnership must be a citizen of the United States or a resident alien and a resident of this Commonwealth. If the applicant is a corporation, the application must show that the corporation was created under the laws of Pennsylvania or holds a certificate of authority to transact business in Pennsylvania, and that all officers, directors and

stockholders are citizens of the United States or resident aliens.

(d) Except as otherwise provided under subsection (d.1), holders of such licenses may purchase from manufacturers or bring or import into this Commonwealth wine to be used for sacramental or religious purposes only, and bottle and sell the same to priests, clergymen and rabbis for use in the cathedral, church, synagogue or temple, or for sustaining members of the congregation or members of the faith who attend religious services, duly certified by such priests, clergymen or rabbis. The sale and use of wine for sacramental or religious purposes shall be subject to and in accordance with the regulations of the board.

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

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

(f) Every sacramental wine licensee shall maintain on the licensed premises such records as the board may prescribe. No deliveries of sacramental wine shall be made unless and until an order therefor is on file at the principal place of business in Pennsylvania. All shipments into Pennsylvania of wine to be used as prescribed in this section shall be consigned to the principal place of business maintained by the licensee.

(g) Any such license may be suspended or revoked by the board upon proof satisfactory to it that the licensee has violated any law of this Commonwealth or any regulation of the board relating to liquor and alcohol. The procedure in such cases shall be the same as for the revocation and suspension of hotel, restaurant and club licenses.

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

(409 amended June 25, 2010, P.L.217, No.35)

Section 410. Liquor Importers' Licenses; Fees; Privileges; Restrictions.--(a) Subject to the provisions of this act in general and more particularly to the following provisions of this section, the board shall issue liquor importers' licenses to qualified applicants.

(b) Every applicant for an importer's license shall file a written application with the board in such form as the board shall from time to time prescribe. The filing and license fees shall be as prescribed in section 614-A of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929." Every such application shall contain a description of the principal place of business for which the applicant desires a license and shall set forth such other material information as may be required by the board. ((b) amended Dec. 21, 1998, P.L.1202, No.155)

(c) The holder of an importer's license may have included in such license one warehouse wherein only his liquor may be kept and stored, located in the same municipality in which his licensed premises is situate, and not elsewhere, unless such licensee secures from the board a license for each additional storage warehouse desired. The board is authorized and empowered to issue to a holder of an importer's license a license for an additional storage warehouse or warehouses located in this Commonwealth, provided such licensed importer files with the board a separate application for each warehouse in such form and containing such information as the board may from time to time require. The filing and license fees shall be as prescribed in section 614-A of "The Administrative Code of 1929." ((c) amended Dec. 21, 1998, P.L.1202, No.155)

(d) If the applicant is a natural person, his application must show that he is a citizen of the United States or a resident alien and a resident of this Commonwealth. If the applicant is an association or partnership, each and every member of the association or partnership must be a citizen of the United States or a resident alien and a resident of this Commonwealth. If the applicant is a corporation, the application must show that the corporation was created under the laws of Pennsylvania or holds a certificate of authority to transact business in Pennsylvania, and that all officers, directors and stockholders are citizens of the United States or resident aliens. ((d) amended Dec. 9, 2002, P.L.1653, No.212)

(e) Importers' licenses shall permit the holders thereof to bring or import liquor from other states, foreign countries, or insular possessions of the United States, and purchase liquor from manufacturers located within this Commonwealth, to be sold outside of this Commonwealth or to Pennsylvania Liquor Stores within this Commonwealth, or when in original containers of ten gallons or greater capacity, to licensed manufacturers within this Commonwealth.

All importations of liquor into Pennsylvania by the licensed importer shall be consigned to the board or the principal place of business or authorized place of storage maintained by the licensee.

(f) Every importer shall maintain on the licensed premises such records as the board may prescribe. Any such license may be suspended or revoked by the board upon proof satisfactory to it that the licensee has violated any law of this Commonwealth or any regulation of the board relating to liquor and alcohol. The procedure in such cases shall be the same as for the revocation and suspension of hotel, restaurant and club licenses.

(g) The holder of an importer's license or a vendor's permit under section 208 may deliver liquor purchased from the board to a licensee as follows:

(1) The liquor may be stored at the licensed importer's or vendor's place of business or its authorized place of storage.

(2) The licensee must place a purchase order with the board and the order must be paid in full prior to delivery.

(3) The holder of an importer's license or vendor's permit may charge a fee for delivery.

((g) added June 8, 2016, P.L.273, No.39)

(h) The board may release liquor to the holder of an importer's license or the holder of a vendor's permit for delivery to a licensee as follows:

(1) The licensee must place a purchase order with the board and the order must be paid in full prior to delivery.

(2) The holder of an importer's license or vendor's permit may charge a fee for delivery.

((h) added June 8, 2016, P.L.273, No.39)

Compiler's Note: See section 28 of Act 39 of 2016, which added subsections (g) and (h), in the appendix to this act, for special provisions relating to the establishment of a Wine and Spirits Wholesale and Retail Privatization Commission.

Section 411. Interlocking Business Prohibited.--(a) No manufacturer and no officer or director of any manufacturer shall at the same time be a holder of a hotel, restaurant or club liquor license, nor be the owner, proprietor or lessor of any place covered by any hotel, restaurant or club liquor license.

(b) No manufacturer, importer or sacramental wine licensee, and no officer or director of a manufacturer, importer or sacramental wine licensee shall own any stock or have any financial interest in any hotel or restaurant licensed under this act.

(c) Excepting as herein provided, no manufacturer, or officer, director, stockholder, agent or employe of a manufacturer shall in any wise be interested, either directly or indirectly, in the ownership or leasehold of any property or the equipment of any property or any mortgage lien against the same, for which a hotel, restaurant or club license is granted; nor shall a manufacturer, importer or sacramental wine licensee, or officer, director, stockholder, agent or employe of a manufacturer, importer or sacramental wine licensee, either directly or indirectly, lend any moneys, credit, or give anything of value or the equivalent thereof to, or guarantee the payment of any bond, mortgage, note or other obligation of, any hotel, restaurant or club licensee, his servant, agent or employe, for equipping, fitting out, or maintaining and conducting, either in whole or in part, a hotel, restaurant or club licensed for the selling of liquor for use and consumption upon the premises.

(d) Excepting as herein provided, no hotel licensee, restaurant licensee or club licensee, and no officer, director, stockholder, agent or employe of any such licensee shall, either directly or indirectly, lend any moneys, credit, or give anything of value or the equivalent thereof, to any manufacturer for equipping, fitting out, or maintaining and conducting, either in whole or in part, an establishment used for the manufacture of liquor or malt or brewed beverages. ((d) amended Dec. 22, 2017, P.L.1237, No.75)

(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 and had a conflicting interest in such place for a period of at least five years prior to July eighteenth, one thousand nine hundred thirty-five: Provided, however, That this clause shall not prohibit any hotel, restaurant or club liquor licensee, or any officer, director or stockholder of any such licensee, from owning land or buildings which are leased to a holder of a retail dispenser's license or a manufacturer's license: And, provided further, That nothing contained in this section shall be construed to prohibit any hotel, restaurant, retail dispenser or club licensee or any officer, director or stockholder, agent or employe of any such licensee from having a financial or other interest, directly or indirectly in the ownership or leasehold of any property or the equipment of any property or any mortgage lien against same, used, leased by an importer or sacramental wine licensee for the exclusive purpose of maintaining commercial offices and on the condition that said property is not used for the storage or sale of liquor or malt or brewed beverages in any quantity: And, provided further, That nothing contained in this section shall prohibit an officer or member of a licensed privately owned private golf course catering club from having an interest in a limited winery 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: And, provided further, That, nothing in this section may prohibit an employe of a hotel or restaurant licensee from guaranteeing any loans, or lending any moneys, providing credit or giving anything of value to a limited winery licensee or its officers, directors and shareholders, provided that the person also is not an officer of or does not have any interest in or exercise any control over any other licensed entity that engages in any sales to or from the licensee: And, provided further, That, notwithstanding any other provision of this section, an entity may acquire both a manufacturer's license or a limited winery license and a hotel, restaurant or retail dispenser license for use at the same location and more than one location may be so licensed. And, provided further, That, notwithstanding any other provision of this section, an entity licensed as a limited winery may hold and operate a restaurant liquor license at one of its additional, board-approved locations instead of at its primary location where manufacturing occurs. The licenses and a person's interest in the licenses or in the entity holding the licenses shall not be subject to this section. Provided further, That, a person who is a holder of ten per centum (10%) or less of securities or other interests in a publicly or privately held domestic or foreign corporation, partnership, limited liability company or

other form of legal entity owning a retail license shall not be deemed to possess a financial interest and is not subject to the provisions of this section, provided that the person is not an officer of, employe of or does not have any interest in or exercise any control over any other licensed entity that engages in any sales to or from the retail licensee in which the person holds the ten per centum (10%) or less interest.

((e) amended Nov. 25, 2020, P.L.1222, No.125)

(e.1) Nothing in subsection (e) shall prohibit any of the following:

(1) A person who has an ownership interest in a limited winery license from being employed by an entity that holds a hotel, restaurant, eating place or club license if the person is not employed as alcohol service personnel or as manager.

(2) A person who has an ownership interest in a brewery license from being employed by an entity that holds a hotel, restaurant, eating place or club license if the person has no job duties or responsibilities on, or connected with, the licensed premises in any capacity.

((e.1) added Nov. 25, 2020, P.L.1222, No.125)

(f) The following shall apply:

(1) Notwithstanding any other provision of law to the contrary, a manufacturer or licensee and its officers, directors, shareholders, servants, agents or employes may contribute, and a manufacturer or licensee and its officers, directors, shareholders, servants, agents or employes may accept money or other things of value solely for the administration of a responsible alcohol management training program for alcohol service personnel as provided for under this section. The money or other things of value may be provided by or to a manufacturer or licensee and its officers, directors, shareholders, servants, agents or employes directly or by or to a trade organization consisting, in whole or part, of a group of licensees.

(2) The manufacturer, licensee and trade organization associated with the person providing the money or other things of value must keep a record of the value of the money or other things of value provided, the date provided and the entity to whom it was provided, as part of the records required under section 493(12) of this act.

(3) The manufacturer, licensee and trade organization associated with the person receiving money or other things of value must keep a record of the value of the money or other things of value used, as part of the records required under section 493(12) of this act.

((f) added June 8, 2016, P.L.273, No.39)

Compiler's Note: See section 28 of Act 39 of 2016, which amended subsection (e) and added subsection (f), in the appendix to this act, for special provisions relating to the establishment of a Wine and Spirits Wholesale and Retail Privatization Commission.

Section 412. Public Venue License.--(a) The board is authorized to issue a restaurant liquor license to public venues. Any facility licensed under former sections 408.1, 408.2, 408.5, 408.8, 408.9, 408.10, 408.11, 408.14, 408.15 and 433.1 as well as any facility that meets the definition of a public venue may apply for and receive a restaurant liquor license under this section. Facilities used primarily for interscholastic athletic events shall not be eligible for a license under this section. Racetracks and premises used primarily for holding automobile races shall also not be eligible for a license under this section.

(b) An application for a restaurant liquor license under this section may be made by the owner of the public venue, the operator of the public venue or by a concessionaire designated by the governing body of either the owner of the public venue or the operator. The application and issuance of the license is subject to sections 403 and 404 unless otherwise stated. The licensing period shall be as set forth by the board under section 402. The application, renewal and filing fees shall be as prescribed in section 614-A(25) of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929." ((b) amended Feb. 21, 2002, P.L.103, No.10)

(c) Licenses issued under this section are nontransferable.

(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; (4) termination of the contract between the owner of the public venue and its concessionaire; or (5) termination of the contract between an operator and its concessionaire. ((d) amended Feb. 21, 2002, P.L.103, No.10)

(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; (4) expired because of the termination of the contract between the owner of the public venue and its concessionaire; or (5) expired because of the termination of the contract between an operator and its concessionaire. ((e) amended Feb. 21, 2002, P.L.103, No.10)

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

(1) Sales may only be made one hour before, during and one hour after any athletic performance, performing arts event, trade show, convention, banquet or any other performance at the facility; however, sales may not be made from two o'clock antemeridian to seven o'clock antemeridian. In addition, sales may not occur prior to eleven o'clock antemeridian on Sundays or seven o'clock antemeridian on Mondays. Notwithstanding this section:

(i) Facilities that had been licensed under former sections 408.9 and 408.14 may sell liquor and/or malt or brewed beverages anytime except from two o'clock antemeridian to seven o'clock antemeridian or prior to eleven o'clock antemeridian on Sundays or seven o'clock antemeridian on Mondays, regardless of whether there is a performance at the facility.

(ii) Amusement parks may sell liquor and malt or brewed beverages from eleven o'clock antemeridian to eleven o'clock postmeridian.

((1) amended Dec. 14, 2023, P.L.414, No.49)

(2) Sales of alcoholic beverages before, during and after professional and amateur athletic events, performing arts events or other entertainment events may consist of liquor or malt or brewed beverages in shatterproof containers. Sales during trade shows, conventions, banquets or at other events, or sales made in the club seats or at a restaurant facility, may consist of liquor or malt or brewed beverages in any type of container; however, any liquor or malt or brewed beverages sold in the club seats or restaurant facility must remain in the club seating level or restaurant facility. For purposes of this section, a club seat is any seating located on the designated club seating level and partitioned from general seating by a

wall, divider, partial wall or railing. The club seating level must not be accessible by the general public. Sales at zoos during private banquets and other events may be at any site within zoo property and may consist of any type of alcohol in any type of container. The board's records shall clearly delineate where the sale of liquor or malt or brewed beverages in any type of container may occur.

(3) Sales of malt or brewed beverages for off-premises 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; (iv) the provisions of section 493(10) except as they relate to lewd, immoral or improper entertainment; (v) the prohibition against minors frequenting as described in section 493(14) and (vi) the cost and total display area limitations of section 493(20)(i). In addition, licenses issued under this section shall not be subject to the provisions defining "restaurant" in section 102.

((f) amended Nov. 15, 2016, P.L.1286, No.166)

(g) The board may issue multiple licenses under this section for use in a public venue with permanent seating of at least thirty-five thousand people. If the board does issue more than one license for a specific public venue, written notice of the event must be provided to the enforcement bureau at least forty-eight hours in advance of the dispensing of any liquor or malt or brewed beverages. The notice shall include the date, time and specific licensed areas to be used. No more than one license issued under this section shall be in effect at any location at any time of day at the same time. ((g) added Dec. 9, 2002, P.L.1653, No.212)

(h) An amusement park that holds a restaurant license before January 1, 2022, and seeks to obtain a public venue license shall exchange one existing restaurant license to the board in return for a public venue license at no cost. A restaurant license exchanged under this subsection shall be subject to a license auction under section 470.3. ((h) added Dec. 14, 2023, P.L.414, No.49)

(i) An amusement park that holds a public venue license shall utilize a transaction scan device to verify the age of an individual who appears to be under thirty-five years of age before making a sale of liquor and malt or brewed beverages, however, an acceptable form of identification under section 495(a) that cannot be scanned may be accepted by the licensee. An amusement park may not sell or share data from the use of a transaction scan device, provided that the licensee may use the data to show the enforcement bureau of the board that the licensee is in compliance with this act. As used in this subsection, the term "transaction scan device" means a device capable of deciphering, in an electronically readable format, the information encoded on the magnetic strip or bar code of an identification card under section 495(a). ((i) added Dec. 14, 2023, P.L.414, No.49)

(j) As used in this section, the term "amusement park" shall have the same meaning as defined in section 2 of the act of June 18, 1984 (P.L.384, No.81), known as the "Amusement Ride Inspection Act." ((j) added Dec. 14, 2023, P.L.414, No.49)

Section 413. Performing Arts Facility License.--(a) The board is authorized to issue a restaurant liquor license to performing arts facilities. Any facility which previously had been licensed under former sections 408.3, 408.6 and 408.7 as well as any facility that meets the definition of a performing arts facility as set forth in section 102 may apply for and

receive a restaurant liquor license under this section. Facilities eligible to be licensed under section 412 and which are used primarily for athletic events shall not be eligible for a license under this section unless those facilities had previously been licensed under former sections 408.3, 408.6 and 408.7. Facilities used primarily for interscholastic athletic events shall not be eligible for a license under this section.

(b) An application for a restaurant liquor license under this section may be made by the operator of the performing arts facility or by a concessionaire designated by the governing body of the operator of the performing arts facility. The licensing period shall be as set forth by the board under section 402. The application and issuance of the license are subject to sections 403 and 404 unless otherwise stated. The application, renewal and filing fees shall be as prescribed in section 614-A(19) of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929."

(c) Licenses issued under this section are nontransferable.

(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 operator of the performing arts facilities and its concessionaire. ((d) amended Feb. 21, 2002, P.L.103, No.10)

(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 operator of the performing arts facilities and its concessionaire. ((e) amended Feb. 21, 2002, P.L.103, No.10)

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

(1) Sales of liquor and malt or brewed beverages may be made two hours before, during and one hour after any performance at the facility; however, sales may not be made from two o'clock antemeridian to seven o'clock antemeridian. In addition, sales may not occur prior to ten o'clock antemeridian or after ten o'clock postmeridian on Sundays. However, facilities that had been licensed under former section 408.3(a) and 408.3(a.2) may sell liquor and malt or brewed beverages anytime except from two o'clock antemeridian to seven o'clock antemeridian or prior to one o'clock postmeridian or after ten o'clock postmeridian on Sundays, regardless of whether there is a performance at the facility. ((1) amended Nov. 21, 2019, P.L.635, No.86)

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

(g) Licenses issued under this section shall not be subject to: (1) the proximity provisions of sections 402 and 404; (2) the quota restrictions of section 461; (4) the provisions of section 493(10) except as they relate to lewd, immoral or improper entertainment; and (5) the prohibitions 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. ((g) amended Feb. 21, 2002, P.L.103, No.10)

(h) For the purpose of this section, a facility is used primarily for athletic events if the majority of the events

that occur at the facility are athletic events or if the facility is the home facility of a professional sports team.

(413 added Dec. 20, 2000, P.L.992, No.141)

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

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

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

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

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

(4) Sales of liquor or malt or brewed beverages may occur in those portions of the premises licensed by the board as well as in rooms that are lived in or used by residents of the continuing care retirement community. Sales of liquor and malt or brewed beverages are limited to residents of the continuing care retirement community and the guests of residents in conjunction with the normal, regularly scheduled dining, entertainment or social activities of the continuing care retirement community.

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

(6) Licenses issued under this section are subject to section 493(13) relating to employment of minors, with the exception that the minimum age threshold for employment on licensed premises shall be reduced from sixteen (16) to fourteen (14) years of age. The prohibition against minors under the age of eighteen (18) dispensing or serving alcoholic beverages shall remain in effect.

((b) amended Dec. 8, 2004, P.L.1810, No.239)

(c) Licenses issued under this section are nontransferable and if issued to a concessionaire shall expire upon the termination of the contract between the continuing care retirement community and the concessionaire.

(d) The board may issue an eating place retail dispenser license to a continuing care retirement community located in a municipality that has voted to allow the issuance of eating place retail dispenser licenses but has not voted to allow the issuance of restaurant liquor licenses. Eating place retail dispenser licenses issued under this subsection shall be subject to the restrictions and privileges contained in subsections (b) and (c).

(414 added Feb. 21, 2002, P.L.103, No.10)

Section 415. Wine Expanded Permits.--(a) (1) The board shall issue a wine expanded permit to a person holding and possessing a valid restaurant liquor license or hotel liquor license.

(2) Nothing in this section may affect the ability of an existing licensee to operate within the scope of its current license as authorized by this act, except that no sales of wine for off-premises consumption may take place by a wine expanded permit holder after eleven o'clock postmeridian of any day until the licensee's permitted hours of operation under section 406 of the next day, including Sundays if the licensee has a permit authorized under section 406(a)(3). ((2) amended Nov. 15, 2016, P.L.1286, No.166)

(3) A wine expanded permit may not be issued to a license holder whose underlying license is subject to a pending objection by the director of the Bureau of Licensing or the board under section 470(a.1), until the matter is decided, so long as the underlying license is authorized to operate. Notwithstanding any other provision of law, a holder of a wine expanded permit may continue to operate under the permit if its underlying license is objected to by the director of the Bureau of Licensing or the board under section 470(a.1), until the matter is decided.

(4) If the board has approved the operation of another business which has an inside passage or communication to or with the licensed premises, the sale and purchase of wine shall be confined strictly to the premises, in a specifically designated area covered by the license. The purchase of goods obtained from the unlicensed area of the premises shall be permitted in the licensed area.

(5) For purposes of selling wine for off-premises consumption, a holder of a wine expanded permit is not subject to section 493(14).

(6) A wine expanded permit holder shall comply with the responsible alcohol management provisions under section 471.1.

(7) A wine expanded permit holder may store wine in a noncontiguous area that is not accessible to the public and is:

(i) locked at all times when not being accessed by the licensees' employees;

(ii) not accessible to employees under eighteen years of age; and

(iii) identified by dimensions and locations on forms submitted to the board.

(8) A wine expanded permit holder shall utilize a transaction scan device to verify the age of an individual who appears to be under thirty-five years of age before making a sale of wine. A wine expanded permit holder may not sell or share data from the use of a transaction scan device, provided that the licensee may use the data to show the enforcement bureau of the board that the licensee is in compliance with this act. As used in this paragraph, the term "transaction scan device" means a device capable of deciphering, in an electronically readable format, the information encoded on the magnetic strip or bar code of an identification card under section 495(a).

(9) A sale of wine by a wine expanded permit holder shall be made through a register, which malt or brewed beverages and restaurant foods sales are made on the licensed premises, which is well designated with signage, which is staffed at all times when patrons are on the licensed premises. The actual sale shall be conducted by a sales clerk who is at least eighteen years of age and has been trained under section 471.1 and which

utilizes a transaction scan device for the sale as set forth in paragraph (8). The sale of wine may not occur at a point of sale where the customer scans the customer's own purchases. Sales of wine must occur on the licensed premises. ((9) amended June 5, 2020, P.L.213, No.29)

(10) If a wine expanded permit holder has an interior connection to another business that it operates, the wine expanded permit holder may use one or more of the registers in the other business to sell wine for off-premises consumption under the following conditions:

(i) the building is eleven thousand (11,000) square feet or less;

(ii) the registers are located in the same building as the licensed premises;

(iii) the registers comply with the signage, staffing, training, carding, scanning and prohibition on the sharing of data provisions of paragraphs (8) and (9); and

(iv) the board has been provided notice of compliance with this paragraph by the wine expanded permit holder, including square footage of the building and the location of the specific registers to be used prior to their use.

((10) added June 5, 2020, P.L.213, No.29)

(11) The registers used under paragraph (10) shall be deemed to be licensed areas but no formal application beyond notice to the board shall be required. The registers may be used by the other business. ((11) added June 5, 2020, P.L.213, No.29)

(b) The application and renewal fee for a wine expanded permit shall be as follows:

(1) For a wine expanded permit issued to licensees, an initial application fee of two thousand dollars (\$2,000).

(2) An annual renewal fee equal to two per centum of the total cost of wine purchased from the board for off-premises consumption.

((b) amended Nov. 15, 2016, P.L.1286, No.166)

(c) Notwithstanding the provisions of section 802, all fees paid to the board under this section shall be paid into the State Treasury for deposit as follows:

(1) All moneys shall be deposited in the State Stores Fund.

(2) Every June 1, all moneys deposited under paragraph (1) shall be transferred to the General Fund.

(d) A wine expanded permit holder may sell for off-premises consumption, in a single transaction, up to three thousand (3,000) milliliters of wine.

(e) (1) Wine expanded permit holders shall comply with the provisions of section 201(f), (k) and (o) of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, regarding the purchase of wine from a Pennsylvania Liquor Store.

(2) The sale of wine by a wine expanded permit holder for off-premises consumption shall be considered a "purchase at retail" under section 201(f) of the Tax Reform Code of 1971, a "sale at retail" under section 201(k) of the Tax Reform Code of 1971 or a "use" under section 201(o) of the Tax Reform Code of 1971.

(3) A wine expanded permit holder may, when filing its required returns under Article II of the Tax Reform Code of 1971, request a credit of any taxes paid in accordance with paragraph (1) for wine sold for off-premises consumption and for which taxes were remitted to the department under paragraph (2). The department may promulgate rules or regulations and prescribe forms as may be necessary to implement the provisions of this subsection. ((3) amended Nov. 15, 2016, P.L.1286, No.166)

(4) ((4) deleted by amendment Nov. 15, 2016, P.L.1286, No.166)

(f) A wine expanded permit holder may not sell a wine product for off-premises consumption at a price less than the licensee's purchase price from the board of the wine product.

(g) A wine expanded permit holder may not sell a private label product.

(415 added June 8, 2016, P.L.273, No.39)

Compiler's Note: See section 28 of Act 39 of 2016, which added section 415, for special provisions relating to the establishment of a Wine and Spirits Wholesale and Retail Privatization Commission.

Section 416. Casino Liquor License.--(a) Notwithstanding any provision of law or regulation, a slot machine licensee or an affiliated designee holding a restaurant liquor or eating place retail dispenser license and which sells liquor or malt or brewed beverages at or adjacent to a gaming facility under this act may apply to the board for a casino liquor license. The board may issue a casino liquor license to a slot machine licensee for use at the casino liquor licensee's licensed facility in accordance with this section.

(b) Each application for a casino license under this section shall be accompanied by a fee of one million dollars (\$1,000,000).

(b.1) Each restaurant licensee that does not hold a slot machine license but operates within or adjacent to the gaming facility must pay a one-time fee of ten thousand dollars (\$10,000).

(c) The following shall apply to renewals:

(1) A casino liquor license must be renewed on an annual basis.

(2) For the first four years after the initial issue of the casino liquor license, the casino liquor license shall be subject to an annual renewal fee of one million dollars (\$1,000,000).

(3) After the period under paragraph (2), the casino liquor license shall be subject to an annual renewal fee of two hundred and fifty thousand dollars (\$250,000).

(4) Notwithstanding the provisions of section 802, all fees collected or received by the board under this subsection shall be paid into the State Treasury through the Department of Revenue for deposit into the General Fund.

(d) The following shall apply to disposition of restaurant liquor or eating place retail dispenser licenses:

(1) An applicant under this section that currently holds a restaurant liquor or eating place retail dispenser license may continue to utilize the license until the casino liquor license is issued by the board. Upon issuance of a casino liquor license, the applicant must surrender the restaurant liquor or eating place retail dispenser license to the board.

(2) An applicant under this section that currently holds a restaurant liquor or eating place retail dispenser license that is subject to the quota restrictions under section 461(a) may continue to utilize that license until the casino liquor license is issued by the board. Upon issuance of a casino liquor license, the applicant may sell the restaurant liquor or eating place retail dispenser license.

(e) Notwithstanding any other provision of law, a holder of a casino liquor license may sell or serve liquor and malt or brewed beverages twenty-four (24) hours a day, seven (7) days a week.

(f) A casino liquor license shall be nontransferable, except that nothing in this subsection shall preclude a transfer of ownership of a casino liquor license to another eligible person to be used at the same licensed facility.

(g) A casino liquor license shall expire under the following circumstances:

(1) revocation by an administrative law judge under section 471;

(2) nonrenewal by the board under section 470;

(3) nonrenewal of the license by a slot machine licensee or its designee; or

(4) upon request by the slot machine licensee.

(h) The board may issue a casino liquor license 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 slot machine licensee; or

(4) expired upon request by the slot machine licensee.

(i) In addition to any other restrictions and privileges, a casino liquor license shall be subject to the following:

(1) Sales may be made at any time the facility is open to the public.

(2) Liquor or malt or brewed beverages may be transported and consumed off the gaming floor if the liquor or malt or brewed beverage remains within the premises of the licensed facility.

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

(4) In addition to the provisions of section 493(24)(ii), the holder of a casino liquor license may give liquor and malt or brewed beverages free of charge to any person attending an invitation-only event held anywhere on the premises of the licensed facility.

(5) Licenses issued under this section shall not be subject to:

(i) the proximity provisions of sections 402 and 404;

(ii) the restrictions on discount pricing practices set forth in sections 406(g) and 442(g);

(iii) the quota restrictions under section 461;

(iv) the provisions of section 493(10);

(v) the prohibition against minors frequenting as described in section 493(14);

(vi) the cost and total display area limitations of section 493(20)(i);

(vii) the restrictions on events, tournaments or contests in 40 Pa. Code § 5.32 (relating to restrictions/exceptions) or any successor regulation; and

(viii) the restrictions on the awarding of trophies, prizes or premiums set forth in 40 Pa. Code § 5.32 or any successor regulation.

(j) More than one casino liquor license issued by the board may be in effect at a licensed facility at any one time, except that no more than one casino liquor license shall be in effect at a specific location within the premises of a licensed facility at the same time.

(416 added June 8, 2016, P.L.273, No.39)

Compiler's Note: See section 28 of Act 39 of 2016, which added section 416, for special provisions relating to the establishment of a Wine and Spirits Wholesale and Retail Privatization Commission.

Section 417. Extension of Licensed Service Area and Issuance of Off-premises Catering Permits. (Hdg. amended Nov. 5, 2021, P.L.424, No.81)--(a) The following shall apply:

(1) Notwithstanding any provision of this act, a person holding and possessing a valid restaurant or hotel liquor license that lost more than twenty-five per centum (25%) of the person's average monthly total sales, including alcohol sales, as a result of restrictions imposed during the COVID-19 disaster emergency, may sell prepared beverages and mixed drinks for off-premises consumption where meals prepared for pickup or curbside pickup are also available.

(2) Except as provided in this paragraph and paragraph (4), nothing in this section shall affect the ability of a licensee to operate within the scope of its current license as authorized by this act, provided, however, that no sales of prepared beverages and mixed drinks for off-premises consumption shall take place after eleven o'clock postmeridian of any day until the licensee's permitted hours of operation under section 406 of the next day, including Sundays if the licensee has a permit authorized under sections 406(a)(3) and 432(f).

(3) The following licensees are prohibited from selling prepared beverages and mixed drinks for off-premises consumption under this section:

(i) A licensee whose underlying license is subject to a pending objection by the director of the Bureau of Licensing or the board under section 470(a.1), until the matter is decided.

(ii) A licensee whose underlying license has been suspended under section 1799.6-E of the act of April 9, 1929 (P.L.343, No.176), known as "The Fiscal Code."

(4) For purposes of selling prepared beverages and mixed drinks for off-premises consumption, a licensed premises shall not be subject to section 493(14).

(5) Within sixty (60) days of the effective date of this section, a licensee selling prepared beverages and mixed drinks for off-premises consumption shall begin utilizing a transaction scan device to verify the age of an individual who appears to be under thirty-five (35) years of age before making a sale of prepared beverages and mixed drinks for off-premises consumption. A licensee may not sell or share consumers' personal data from the use of a transaction scan device, provided that the licensee may share the data with the enforcement bureau of the board as evidence that the licensee is in compliance with this paragraph.

(6) A licensee selling prepared beverages or mixed drinks for off-premises consumption shall prominently post a warning sign in a manner that puts consumers on notice of the restrictions on alcoholic beverages under 75 Pa.C.S. § 3809 (relating to restriction on alcoholic beverages), and that the prepared beverages and mixed drinks packaged for sale by the licensee are open containers and may only be transported by the driver of a motor vehicle in the vehicle's trunk or in some other area of the vehicle that is not occupied by the driver or passengers.

(a.1) Notwithstanding any other provision of this act, the following shall apply to the temporary extension of the licensed premises:

(1) Upon receipt of a request from a licensed club, catering club, restaurant, retail dispenser, hotel, limited distillery, distillery, brewery or limited winery, the board may temporarily extend the licensed premises of the applicant to include any outside serving area that is:

(i) immediately adjacent to the existing licensed areas;
or

(ii) within one thousand feet of the main licensed building, notwithstanding that the area to be temporarily licensed and the main licensed building are separated by a public thoroughfare.

(2) The board shall grant immediate operating authority to the applicant to use the outside area subject to the request while the board processes the request.

(3) The operating authority under this subsection shall be terminated if:

(i) a valid protest is received; or

(ii) the board determines that the proposed area does not meet the requirements of this act and board regulations for the licensing of the area in question.

(4) A filing fee may not be required from an applicant under this subsection.

(5) The board may require the applicant to provide any information that the board deems relevant.

((a.1) added Nov. 5, 2021, P.L.424, No.81)

(a.2) The following shall apply to the issuance of off-premises catering permits:

(1) The board may authorize an unlimited number of off-premises catered functions to entities that qualify for the permits under this act.

(2) An application fee may not be required from an entity requesting a catering permit under this subsection.

(3) An application for a catering permit under this subsection shall not need to be submitted prior to March 1 of that calendar year.

(4) A five-hour limit on catered functions shall not apply to a catering permit under this subsection.

(5) Each requirement under this act applicable to a catered function that is not specifically waived under this subsection shall apply.

((a.2) added Nov. 5, 2021, P.L.424, No.81)

(a.3) Subsections (a.1) and (a.2) shall expire December 31, 2024. ((a.3) added Nov. 5, 2021, P.L.424, No.81)

(b) Notwithstanding any other provision of this section or provision of law to the contrary, a licensee selling prepared beverages and mixed drinks for off-premises consumption may only do so during the COVID-19 disaster emergency and during the mitigation period after the termination of the disaster emergency in which a licensee is operating at less than sixty per centum (60%) capacity.

(c) A licensee may sell liquor to another licensee qualified to sell prepared beverages and mixed drinks under this section. The licensee shall notify the board in writing advising it of the name of the licensee and identifying any product sold to that licensee, as well as the description of the liquor, including brand names, sizes and numbers of containers sold to another licensee. The sales may only occur during the COVID-19 disaster emergency and during the mitigation period after the termination of the disaster emergency in which a licensee is operating at less than sixty per centum (60%) capacity.

(d) As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"COVID-19 disaster emergency" shall mean the proclamation of disaster emergency issued by the Governor on March 6, 2020, published at 50 Pa.B. 1644 (March 21, 2020), and any renewal of the state of disaster emergency.

"Licensee" shall mean a person holding and possessing a valid restaurant or hotel liquor license authorized to sell prepared beverages or mixed drinks for off-premise consumption under subsection (a) (1).

"Transaction scan device" shall mean a device capable of deciphering, in an electronically readable format, the information encoded on the magnetic strip, chip or bar code of an identification card under section 495(a).

(417 added May 21, 2020, P.L.149, No.21)

(B) Malt and Brewed Beverages (Including Manufacturers).

Section 431. Malt and Brewed Beverages Manufacturers', Distributors' and Importing Distributors' Licenses.--(a) The board shall issue to any person a resident of this Commonwealth of good repute who applies therefor, and pays the license fee hereinafter prescribed, a manufacturer's license to produce and manufacture malt or brewed beverages, and to transport, sell and deliver malt or brewed beverages from the place of manufacture only in original containers, in quantities of not less than a case or original containers containing one hundred twenty-eight ounces or more which may be sold separately anywhere within the Commonwealth. The application for such license shall be in such form and contain such information as the board shall require. All such licenses shall be granted for a license period to be determined by the board. Every manufacturer shall keep at his or its principal place of business, within the Commonwealth daily permanent records which shall show, (1) the quantities of raw materials received and used in the manufacture of malt or brewed beverages and the quantities of malt or brewed beverages manufactured and stored, (2) the sales of malt or brewed beverages, (3) the quantities of malt or brewed beverages stored for hire or transported for hire by or for the licensee, and (4) the names and addresses of the purchasers or other recipients thereof. Every place licensed as a manufacturer shall be subject to inspection by members of the board or by persons duly authorized and designated by the board, at any and all times of the day or night, as they may deem necessary, for the detection of violations of this act or of the rules and regulations of the board, or for the purpose of ascertaining the correctness of the records required to be kept by licensees. The books and records of such licensees shall at all times be open to inspection by members of the board or by persons duly authorized and designated by the board. Members of the board and its duly authorized agents shall have the right, without hindrance, to enter any place which is subject to inspection hereunder or any place where such records are kept for the purpose of making such inspections and making transcripts thereof. Whenever any checks issued in payment of filing and/or license fees shall be returned to the board as dishonored, the board shall charge a fee of five dollars (\$5.00) per hundred dollars or fractional part thereof, plus all protest fees, to the maker of such check submitted to the board. Failure to make full payment or pay the face amount of the check in full and all charges thereon as herein required within ten days after demand has been made by the board upon the maker of the check or upon notification to the board by the Department of Revenue or the Department of Labor and Industry of its objection, the license of such person shall immediately become invalid and shall remain invalid until payment and all charges are received by the board. ((a) amended Dec. 21, 1998, P.L.1202, No.155)

(a.1) Any out of State manufacturer whose products are sold and delivered within this Commonwealth shall be authorized: to rent, lease or otherwise acquire space from an importing distributor or bailee for hire authorized by this act at no more than two locations per manufacturer for use of a segregated portion of a warehouse or other storage facility owned or operated by the importing distributor or bailee for hire at which the out of State manufacturer may store, repackage and sell malt or brewed beverages to any importing distributor to whom the out of State manufacturer has granted distribution rights pursuant to subsection (b) or to any purchaser outside this Commonwealth for delivery outside this Commonwealth; or to ship to its storage facility outside this Commonwealth. Such manufacturer may compensate the importing distributor or bailee for hire for any related storage, repackaging or delivery services. The out of State manufacturer must file with the Liquor Control Board the rate of compensation to be paid. A separate written application must be filed to acquire storage licenses, and the board may establish the information that must be provided on the application. The initial filing must be made prior to any payments being made, and any subsequent changes in the rate of compensation must be filed within thirty days of any such change. Nothing in this act authorizing storage facilities for out of State manufacturers is intended to make any change in the manner malt or brewed beverages are distributed through the three-tier system. ((a.1) amended Dec. 8, 2004, P.L.1810, No.239)

(a.2) The board shall issue to a holder of a manufacturer's license no more than two storage licenses per manufacturer to cover storage facilities separate from the location of the manufacturing facility. A manufacturer may use its storage facilities to receive, store, repackage, sell and distribute malt or brewed beverages in the same manner as it can at its place of manufacture or it may rent, lease or otherwise acquire space from an importing distributor or bailee for hire authorized by this act in the same manner as an out of State manufacturer as set forth in subsection (a.1). A separate written application must be filed to acquire storage licenses, and the board is empowered to establish what information must be provided on that application. Nothing in this act authorizing off-site storage facilities for manufacturers is intended to make any change in the manner malt or brewed beverages are distributed through the three-tier system. ((a.2) amended Dec. 8, 2004, P.L.1810, No.239)

(b) The board shall issue to any reputable person who applies therefor, and pays the license fee hereinafter prescribed, a distributor's or importing distributor's license for the place which such person desires to maintain for the sale of malt or brewed beverages, not for consumption on the premises where sold, and in quantities of not less than a case or original containers containing one hundred twenty-eight ounces or more which may be sold separately as prepared for the market by the manufacturer at the place of manufacture. In addition, a distributor license holder may sell malt or brewed beverages in any amount to a person not licensed by the board for off-premises consumption. The sales shall not be required to be in the package configuration designated by the manufacturer and may be sold in refillable growlers. The board shall have the discretion to refuse a license to any person or to any corporation, partnership or association if such person, or any officer or director of such corporation, or any member or partner of such partnership or association shall have been

convicted or found guilty of a felony within a period of five years immediately preceding the date of application for the said license: And provided further, That, in the case of any new license or the transfer of any license to a new location, the board may, in its discretion, grant or refuse such new license or transfer if such place proposed to be licensed is within three hundred feet of any church, hospital, charitable institution, school or public playground, or if such new license or transfer is applied for a place which is within two hundred feet of any other premises which is licensed by the board: And provided further, That the board shall refuse any application for a new license or the transfer of any license to a new location if, in the board's opinion, such new license or transfer would be detrimental to the welfare, health, peace and morals of the inhabitants of the neighborhood within a radius of five hundred feet of the place proposed to be licensed. The board may enter into an agreement with the applicant concerning additional restrictions on the license in question. If the board and the applicant enter into such an agreement, such agreement shall be binding on the applicant. Failure by the applicant to adhere to the agreement will be sufficient cause to form the basis for a citation under section 471 and for the nonrenewal of the license under section 470. If the board enters into an agreement with an applicant concerning additional restrictions, those restrictions shall be binding on subsequent holders of the license until the license is transferred to a new location or until the board enters into a subsequent agreement removing those restrictions. If the application in question involves a location previously licensed by the board, then any restrictions imposed by the board on the previous license at that location shall be binding on the applicant unless the board enters into a new agreement rescinding those restrictions. The board shall require notice to be posted on the property or premises upon which the licensee or proposed licensee will engage in sales of malt or brewed beverages. This notice shall be similar to the notice required of hotel, restaurant and club liquor licensees.

Except as hereinafter provided, such license shall authorize the holder thereof to sell or deliver malt or brewed beverages in quantities above specified anywhere within the Commonwealth of Pennsylvania, which, in the case of distributors, have been purchased only from persons licensed under this act as manufacturers or importing distributors, and in the case of importing distributors, have been purchased from manufacturers or persons outside this Commonwealth engaged in the legal sale of malt or brewed beverages or from manufacturers or importing distributors licensed under this article. In the case of an importing distributor, the holder of such a license shall be authorized to store and repackage malt or brewed beverages owned by a manufacturer at a segregated portion of a warehouse or other storage facility authorized by section 441(d) and operated by the importing distributor within its appointed territory and deliver such beverages to another importing distributor who has been granted distribution rights by the manufacturer as provided herein. The importing distributor shall be permitted to receive a fee from the manufacturer for any related storage, repackaging or delivery services. In the case of a bailee for hire hired by a manufacturer, the holder of such a permit shall be authorized: to receive, store and repackage malt or brewed beverages produced by that manufacturer for sale by that manufacturer to importing distributors to whom that manufacturer has given distribution rights pursuant to this subsection or

to purchasers outside this Commonwealth for delivery outside this Commonwealth; or to ship to that manufacturer's storage facilities outside this Commonwealth. The bailee for hire shall be permitted to receive a fee from the manufacturer for any related storage, repackaging or delivery services. The bailee for hire shall, as required in Article V of this act, keep complete and accurate records of all transactions, inventory, receipts and shipments and make all records and the licensed areas available for inspection by the board and for the Pennsylvania State Police, Bureau of Liquor Control Enforcement, during normal business hours.

Each out of State manufacturer of malt or brewed beverages whose products are sold and delivered in this Commonwealth shall give distributing rights for such products in designated geographical areas to specific importing distributors, and such importing distributor shall not sell or deliver malt or brewed beverages manufactured by the out of State manufacturer to any person issued a license under the provisions of this act whose licensed premises are not located within the geographical area for which he has been given distributing rights by such manufacturer. In addition, the holder of a distributor license may not sell or deliver malt or brewed beverages to any licensee whose licensed premises is located within the designated geographical area granted to an importing distributor other than the importing distributor that sold the malt or brewed beverages to the distributor. If the licensee purchasing the malt or brewed beverages from the distributor license holder holds multiple licenses or operates at more than one location, then the malt or brewed beverages may not be consumed or sold at licensed premises located within the designated geographical area granted to an importing distributor other than the importing distributor that sold the malt or brewed beverages to the distributor. Should a licensee accept the delivery of malt or brewed beverages or transfer malt or brewed beverages in violation of this section, said licensee shall be subject to a suspension of his license for at least thirty days: Provided, That the importing distributor holding such distributing rights for such product shall not sell or deliver the same to another importing distributor without first having entered into a written agreement with the said secondary importing distributor setting forth the terms and conditions under which such products are to be resold within the territory granted to the primary importing distributor by the manufacturer.

When a Pennsylvania manufacturer of malt or brewed beverages licensed under this article names or constitutes a distributor or importing distributor as the primary or original supplier of his product, he shall also designate the specific geographical area for which the said distributor or importing distributor is given distributing rights, and such distributor or importing distributor shall not sell or deliver the products of such manufacturer to any person issued a license under the provisions of this act whose licensed premises are not located within the geographical area for which distributing rights have been given to the distributor and importing distributor by the said manufacturer. In addition, the holder of a distributor license may not sell or deliver malt or brewed beverages to a licensee whose licensed premises is located within the designated geographical area granted to an importing distributor other than the importing distributor that sold the malt or brewed beverages to the distributor. If the licensee purchasing the malt or brewed beverages from the distributor license holder

holds multiple licenses or operates at more than one location, the malt or brewed beverages may not be consumed or sold at licensed premises located within the designated geographical area granted to an importing distributor other than the importing distributor that sold the malt or brewed beverages to the distributor. If a licensee accepts the delivery of malt or brewed beverages or transfers malt or brewed beverages in violation of this section, the licensee shall be subject to suspension of his license for at least thirty days: Provided, That the importing distributor holding such distributing rights for such product shall not sell or deliver the same to another importing distributor without first having entered into a written agreement with the said secondary importing distributor setting forth the terms and conditions under which such products are to be resold within the territory granted to the primary importing distributor by the manufacturer. Nothing herein contained shall be construed to prevent any manufacturer from authorizing the importing distributor holding the distributing rights for a designated geographical area from selling the products of such manufacturer to another importing distributor also holding distributing rights from the same manufacturer for another geographical area, providing such authority be contained in writing and a copy thereof be given to each of the importing distributors so affected.

((b) amended June 5, 2020, P.L.213, No.29)

(b.1) (1) Any person in this Commonwealth or elsewhere who shall purchase or in any manner whatsoever acquire or otherwise succeed to the business of a manufacturer, assets or rights to import, market, ship into this Commonwealth or distribute a brand of beer, or to use and exploit any trademark incorporated as part of a brand of beer produced by such a manufacturer shall be obligated to all terms of the manufacturer's franchise agreements in effect on the effective date of the purchase, acquisition or succession, or, if earlier, at the time the agreement contemplating the purchase, acquisition or succession is actually made.

(2) "Purchase" or "acquisition," for purposes of this section, includes, but is not limited to, a purchase, acquisition, lease, license or assignment of all or a controlling interest in the capital stock or operating assets, including brand trademarks rights; merger; any corporate reorganization or consolidation; and also, without limitation, any license, cross-license, joint venture or other agreement or arrangement, directly or indirectly, transferring, substituting or materially changing the person or persons authorized by the one owning or controlling a brand or any trademark as part of a brand, to produce, import, ship, market or distribute the brand of beer into or within this Commonwealth.

(3) "Manufacturer," as used in this subsection, shall mean any person, including any agent of such person, who (i) is licensed as a manufacturer of malt or brewed beverages located within the Commonwealth of Pennsylvania, (ii) holds a distributor or importing distributor license, or (iii) manufactures any malt beverage, has title to any malt beverage products or has the contractual right to distribute any malt beverage product, whether licensed in this Commonwealth or not, who enters into an "agreement" with any importing distributor licensed to do business in this Commonwealth.

(c) The aforesaid licenses shall be issued only to reputable individuals, partnerships and associations who are, or whose members are, citizens of the United States and are residents

of the Commonwealth of Pennsylvania or to reputable corporations organized or duly registered under the laws of the Commonwealth of Pennsylvania. Such licenses shall be issued to corporations duly organized or registered under the laws of the Commonwealth of Pennsylvania only when it appears that all of the officers and directors of the corporation are citizens of the United States and are residents of the Commonwealth of Pennsylvania, and that at least fifty-one per centum of the capital stock of such corporation is actually owned by individuals who are citizens of the United States and are residents of the Commonwealth of Pennsylvania: Provided, That the provisions of this subsection with respect to residence requirements shall not apply to individuals, partners, officers, directors and owners of capital stock, of corporations licensed or applying for licenses as manufacturers of malt or brewed beverages, nor shall the provisions of this subsection with respect to stockholder requirements apply to corporations licensed or applying for licenses as manufacturers of malt or brewed beverages. ((c) amended June 28, 2011, P.L.55, No.11)

(d) (1) All distributing rights as hereinabove required shall be in writing, shall be equitable in their provisions and shall be substantially similar as to terms and conditions with all other distributing rights agreements between the manufacturer giving such agreement and its other importing distributors and distributors shall not be modified, cancelled, terminated or rescinded by the manufacturer without good cause, and shall contain a provision in substance or effect as follows:

"The manufacturer recognizes that the importing distributor and distributor are free to manage their business in the manner the importing distributor and distributor deem best and that this prerogative vests in the importing distributor and distributor the exclusive right to establish a selling price, to select the brands of malt or brewed beverages they wish to handle and to determine the efforts and resources which the importing distributor and distributor will exert to develop and promote the same of the manufacturer's products handled by the importing distributor and distributor. However, the manufacturer expects that the importing distributor and distributor will price competitively the products handled by them, devote reasonable effort and resources to the sale of such products and maintain a reasonable sales level." "Good cause" shall mean the failure by any party to an agreement, without reasonable excuse or justification, to comply substantially with an essential, reasonable and commercially acceptable requirement imposed by the other party under the terms of an agreement.

(2) After January 1, 1980, no manufacturer shall enter into any agreement with more than one distributor or importing distributor for the purpose of establishing more than one agreement for designated brand or brands of malt or brewed beverages in any one territory. Each franchise territory which is granted by a manufacturer shall be geographically contiguous or in counties which are contiguous with one another. All importing distributors shall maintain sufficient records to evidence compliance of this section. With regard to any territorial distribution authority granted to an importing distributor by a manufacturer of malt or brewed beverages after January 1, 1996, the records shall establish that each and every case of a brand of malt or brewed beverages for which the importing distributor is assigned was sold, resold, stored, delivered or transported by the importing distributor, either from a point or to a point with the assigned geographically contiguous territory or in counties which are contiguous with

one another, to any person or persons, whether such person or persons are licensed by this act or not licensed by this act. ((2) amended June 8, 2016, P.L.273, No.39 and reenacted and carried without amendment Nov. 15, 2016, P.L.1286, No.166)

(3) Except for discontinuance of a brand or a valid termination for good cause, the purchaser of the assets of the manufacturer as defined in this act shall become obligated to all the territorial and brand designations of the agreement in effect on the date of purchase. Purchase of assets as defined for the purposes of this act shall include, but not be limited to, the sale of stock, sale of assets, merger, lease, transfer or consolidation.

(4) The court of common pleas of the county wherein the licensed premises of the importing distributor or distributor are located is hereby vested with jurisdiction and power to enjoin the modification, rescission, cancellation or termination of a franchise or agreement between a manufacturer and an importing distributor or distributor at the instance of such importing distributor or distributor who is or might be adversely affected by such modification, rescission, cancellation or termination, and in granting an injunction the court shall provide that no manufacturer shall supply the customers or territory of the importing distributor or distributor by servicing the territory or customers through other importing distributors or distributors or any other means while the injunction is in effect: Provided, however, That any injunction issued under this subsection shall require the posting of sufficient bond against damages arising from an injunction improvidently granted and a showing that the danger of irrevocable loss or damage is immediate and that during the pendency of such injunction the importing distributor or distributor shall continue to service the accounts of the manufacturer in good faith.

(5) The provisions of this subsection shall not apply to Pennsylvania manufacturers whose principal place of business is located in Pennsylvania unless they name or constitute a distributor or importing distributor as a primary or original supplier of their products subsequent to the effective date of this act, or unless such Pennsylvania manufacturers have named or constituted a distributor or importing distributor as a primary or original supplier of their products prior to the effective date of this act, and which status is continuing when this act becomes effective.

(e) In addition to the fees under section 614-A of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929," the board shall assess a fee surcharge of ninety-five dollars (\$95.00) for a distributor's license and a fee surcharge of four hundred seventy dollars (\$470.00) for an importing distributor's license and a fee surcharge of seventy-five dollars (\$75.00) for brand registration. Money collected under this subsection shall be placed in a restricted account in The State Stores Fund. The board may use the money in this account to implement section 216. In the event the provisions of section 447(a)(2) and/or (c) are held invalid, then this subsection shall be void and shall not apply. ((e) amended December 21, 1998, P.L.1202, No.155)

(f) (1) Any malt or brewed beverage produced outside this Commonwealth that is repackaged by a bailee for hire or importing distributor on behalf of an out of State manufacturer must be returned to the out of State manufacturer and come to rest out of State before it may reenter this Commonwealth. Such repackaged malt or brewed beverages must be distributed through

the three-tier system. Any malt or brewed beverage that is repackaged by a bailee for hire or importing distributor on behalf of an in State manufacturer must be returned to the in State manufacturer and come to rest at the in State manufacturer's licensed facility.

(2) For purposes of this section, "repackage" shall mean any change or alteration to the containers or container configuration of a case.

((f) added Dec. 8, 2004, P.L.1810, No.239)

(g) (1) Any nonalcoholic malt or brewed beverage produced by an out-of-State manufacturer of malt or brewed beverages or a Pennsylvania manufacturer of malt or brewed beverages which has designated an importing distributor pursuant to this section shall be distributed in accordance with the provisions of this section notwithstanding that it is not a malt or brewed beverage as defined in section 102.

(2) For the purposes of this subsection, "nonalcoholic malt or brewed beverage" means any beverage intended to be marketed or sold as nonalcoholic beer having at least a trace amount of alcohol content but which does not contain one-half of one per centum (0.5%) or more alcohol by volume.

((g) added July 2, 2019, P.L.324, No.45)

Compiler's Note: See section 28 of Act 39 of 2016, which amended subsections (b) and (d) (2), for special provisions relating to the establishment of a Wine and Spirits Wholesale and Retail Privatization Commission.

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

(431.1 added Feb. 21, 2002, P.L.103, No.10)

Section 432. Malt and Brewed Beverages Retail Licenses.--(a)

Subject to the restrictions hereinafter provided in this act, and upon being satisfied of the truth of the statements in the application, that the premises and the applicant meet all the requirements of this act and the regulations of the board, that the applicant seeks a license for a reputable hotel, eating place or club, as defined in this act, the board shall, in the case of a hotel or eating place, grant and issue, and in the case of a club may, in its discretion, issue or refuse the applicant a retail dispenser's license.

(b) In the case of hotels and eating places, licenses shall be issued only to reputable persons who are citizens of the United States and have for two years been residents of the Commonwealth of Pennsylvania at the date of their application, or to reputable corporations organized or duly registered under the laws of the Commonwealth of Pennsylvania, all of whose officers and directors are citizens of the United States. In the case of incorporated clubs, licenses shall be issued only to those incorporated under the laws of Pennsylvania.

(c) No retail dispenser's licenses shall be granted or renewed upon their expiration in any municipality in which the electors shall vote, as hereinafter provided, against the licensing therein of places where malt or brewed beverages may be sold for consumption on the premises where sold.

(d) The board shall, in its discretion, grant or refuse any new license, the transfer of any license to a new location or the extension of an existing license to cover an additional area if such place proposed to be licensed is within three hundred feet of any church, hospital, charitable institution, school, or public playground, or if such new license, transfer or extension is applied for a place which is within two hundred feet of any other premises which is licensed by the board. The board shall refuse any application for a new license, the transfer of any license to a new location or the extension of an existing license to cover an additional area if, in the board's opinion, such new license, transfer or extension would be detrimental to the welfare, health, peace and morals of the inhabitants of the neighborhood within a radius of five hundred feet of the place to be licensed. The board may enter into an agreement with the applicant concerning additional restrictions on the license in question. If the board and the applicant enter into such an agreement, such agreement shall be binding on the applicant. Failure by the applicant to adhere to the agreement will be sufficient cause to form the basis for a citation under section 471 and for the nonrenewal of the license under section 470. If the board enters into an agreement with an applicant concerning additional restrictions, those restrictions shall be binding on subsequent holders of the license until the license is transferred to a new location or until the board enters into a subsequent agreement removing those restrictions. If the application in question involves a location previously licensed by the board, then any restrictions imposed by the board on the previous license at that location shall be binding on the applicant unless the board enters into a new agreement rescinding those restrictions. The board shall have the discretion to refuse a license to any person or to any corporation, partnership or association if such person, or any officer or director of such corporation, or any member or partner of such partnership or association shall have been convicted or found guilty of a felony within a period of five years immediately preceding the date of application for the said license. The board may, in its discretion, refuse an

application for an economic development license under section 461(b.1) or an application for an intermunicipal transfer or a license if the board receives a protest from the governing body of the receiving municipality. The receiving municipality of an intermunicipal transfer or an economic development license under section 461(b.1) may file a protest against the approval for issuance of a license for economic development or an intermunicipal transfer of a license into its municipality, and such municipality shall have standing in a hearing to present testimony in support of or against the issuance or transfer of a license. Upon any opening in any quota, an application for a new license shall only be filed with the board for a period of six months following said opening. ((d) amended June 5, 2020, P.L.213, No.29)

(e) Every applicant for a new or for the transfer of an existing license to another premises not then licensed shall post, for a period of at least thirty days beginning with the day the application is filed with the board, in a conspicuous place on the outside of the premises or in a window plainly visible from the outside of the premises for which the license is applied or at the proposed new location, a notice of such application. The notice shall indicate whether the applicant is applying for the amusement permit required by section 493(10). The notice shall be in such form, be of such size, and contain such provisions as the board may require by its regulations. Proof of the posting of such notice shall be filed with the board. ((e) amended Dec. 9, 2002, P.L.1653, No.212)

(f) Hotel, eating places, or municipal golf course retail dispenser licensees may sell malt or brewed beverages between the hours of eleven o'clock antemeridian on Sunday and two o'clock antemeridian on Monday upon purchase of a special permit from the board at an annual fee as prescribed in section 614-A of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929," which shall be in addition to any other license fees. Notwithstanding this provision, a licensee holding such a special permit may begin selling malt or brewed beverages on Sunday between the hours of nine o'clock antemeridian and eleven o'clock antemeridian provided that the licensee offers a meal, as that term is defined in section 406, beginning at nine o'clock antemeridian. ((f) amended Dec. 22, 2011, P.L.530, No.113)

(g) ((g) deleted by amendment Nov. 29, 2006, P.L.1421, No.155)

(h) In a municipality which has approved the granting of liquor licenses and upon application to the board and payment of a fee of thirty thousand dollars (\$30,000), the board shall convert an eating place retail dispensing license to a restaurant license without regard to the quota restrictions set forth in section 461(a). The converted restaurant license shall be subject to the provisions of this act governing restaurant liquor licenses. The provisions of this subsection allowing a holder of an eating place retail dispensing license to convert the license to a restaurant liquor license shall only apply to a license holder whose license is not subject to a pending objection by the director of the Bureau of Licensing or the board under section 470(a.1), until the matter is decided. A conversion under this subsection shall be considered a transfer or issuance of a new license for the purposes of section 402. This subsection does not apply to licenses in a city of the first class. ((h) added June 8, 2016, P.L.273, No.39)

Compiler's Note: See section 28 of Act 39 of 2016, which amended subsection (d) and added subsection (h), for special provisions relating to the establishment of a Wine and Spirits Wholesale and Retail Privatization Commission.

Section 433. Public Service Licenses.--The board may issue public service malt and brewed beverage licenses to a railroad, pullman or steamship company permitting malt or brewed beverages to be sold at retail in dining, club or buffet cars, or the dining compartments of steamships or vessels, for consumption on the trains, steamships or vessels wherever operated in the State, except when standing in stations or terminals within a municipality wherein retail sales are prohibited. Such licenses shall only be granted to reputable persons and for fit places. The board may issue a master license to railroad or pullman companies to cover the maximum number of cars which the company shall estimate that it will operate within the Commonwealth on any one day. Such licensees shall file monthly reports with the board showing the maximum number of cars operated at any time on any day during the preceding month, and if it appears that more cars have been operated than covered by its license it shall forthwith remit to the board the sum of ten dollars for each extra car so operated. The board shall have the power to suspend or revoke any such licenses for cause after granting to the licensee a hearing before a hearing examiner. Any person aggrieved by the decision of the board in refusing, suspending or revoking any such license may appeal to the Commonwealth Court in the same manner as provided in this article for appeals from refusals of licenses.

(433 amended June 30, 1992, P.L.327, No.66)

Section 433.1. Stadium or Arena Permits.--(433.1 repealed Dec. 20, 2000, P.L.992, No.141)

Section 434. License Period.--(a) Licenses issued under this article to distributors, importing distributors and retail dispensers shall, unless revoked in the manner provided in this act, be valid for the license period which may be established by the board for each particular license.

(b) Malt or brewed beverage licenses issued under this article to manufacturers and public service companies shall, unless revoked in the manner herein provided, be valid for the license period for which they are issued.

(c) Whenever any checks issued in payment of filing and/or license fees shall be returned to the board as dishonored, the board shall charge a fee of five dollars (\$5.00) per hundred dollars or fractional part thereof, plus all protest fees, to the maker of such check submitted to the board. Failure to make full payment or pay the face amount of the check in full and all charges thereon as herein required within ten days after demand has been made by the board upon the maker of the check or upon notification to the board by the Department of Revenue or the Department of Labor and Industry of its objection, the license of such person shall immediately become invalid and shall remain invalid until payment and all charges are received by the board.

(434 amended Apr. 29, 1994, P.L.212. No.30)

Section 435. Filing of Applications for Distributors', Importing Distributors' and Retail Dispensers' Licenses; Filing Fee.--Every person intending to apply for a distributor's, importing distributor's or retail dispenser's license, as aforesaid, in any municipality of this Commonwealth, shall file with the board his or its application. All such applications shall be filed at a time to be fixed by the board. The applicant

shall file with the board fees as prescribed in section 614-A of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929."

(435 amended Dec. 21, 1998, P.L.1202, No.155)

Section 436. Application for Distributors', Importing Distributors' and Retail Dispensers' Licenses.--Application for distributors', importing distributors' and retail dispensers' licenses, or for the transfer of an existing license to another premises not then licensed or to another person, shall contain or have attached thereto the following information and statements: (Intro. par amended Feb. 21, 2002, P.L.103, No.10)

(a) The name and residence of the applicant and how long he has resided there, and if an association, partnership or corporation, the residences of the members, officers and directors for the period of two years next preceding the date of such application.

(b) The particular place for which the license is desired and a detailed description thereof. The description, information and plans referred to in this subsection shall show the premises or the proposed location for the construction of the premises at the time the application is made, and shall show any alterations proposed to be made thereto, or the new building proposed to be constructed after the approval by the board of the application for a license, or for the transfer of an existing license to another premises not then licensed or to another person. No physical alterations, improvements or changes shall be required to be made to any hotel, eating place or club, nor shall any new building for any such purpose be required to be constructed until approval of the application for license or for the transfer of an existing license to another premises not then licensed or to another person by the board. After approval of the application, the licensee shall make the physical alterations, improvements and changes to the licensed premises, or shall construct the new building in the manner specified by the board at the time of approval. The licensee shall not transact any business under the license until the board has approved the completed physical alterations, improvements and changes of the licensed premises or the completed construction of the new building as conforming to the specifications required by the board at the time of issuance or transfer of the license and is satisfied that the premises meet the requirements for a distributor's or importing distributor's license as set forth in this act or that the establishment is an eating place, hotel or club as defined by this act. The board may require that all such alterations or construction or conformity to definition be completed within six months from the time of issuance or transfer of the license. The time between the approval of the initial application and issuance of operating authority to the licensee shall be considered as time in safekeeping. Failure to comply with these requirements shall be considered cause for revocation of the license. No such license shall be transferable between the time of issuance or transfer of the license and the approval of the completed alterations or construction by the board and full compliance by the licensee with the requirements of this act, unless the transfer application is accompanied by a surcharge. The surcharge shall be fifteen thousand dollars (\$15,000) if the license is located in a county of the first through third class. The surcharge shall be five thousand dollars (\$5,000) if the license is located in a county of the fourth through eighth class. ((b) amended Dec. 14, 2023, P.L.392, No.45)

(c) Place of birth of applicant, and if a naturalized citizen, where and when naturalized, and if a corporation organized or registered under the laws of the Commonwealth, when and where incorporated, with the names and addresses of each officer and director, all of whom shall be citizens of the United States; if the application is for a distributor's or importing distributor's license and the applicant therefor is a corporation, the application shall also contain a statement of facts showing the qualifications of the corporation, as hereinbefore required, together with the names and addresses of all stockholders.

(d) Name of owner of premises and his residence.

(e) That the applicant is not, or in case of a partnership or association, that the members or partners are not, and in the case of a corporation, that the officers and directors are not, in any manner pecuniarily interested, either directly or indirectly, in the profits of any other class of business regulated under this article, except as hereinafter permitted.

(f) That applicant and management company or companies, if any, are the only persons in any manner pecuniarily interested in the business so asked to be licensed, and that no other person shall be in any manner pecuniarily interested therein during the continuance of the license, except as hereinafter permitted. ((f) amended June 8, 2016, P.L.273, No.39)

(g) Whether applicant, or in case of a partnership or association, any member or partner thereof, or in case of a corporation, any officer or director thereof, has during the three years immediately preceding the date of said application had a license for the sale of malt or brewed beverages or spirituous and vinous liquors revoked, or has during the same period been convicted of any criminal offense, and if so, a detailed history thereof.

(h) A full description of that portion of the premises for which license is asked, and if any other business is to be conducted concurrently with the sale and distribution of malt or brewed beverages, a full history of such business, relating the nature thereof, the length of time it has so previously been conducted by the applicant or his predecessor at such location, and such additional information as the board may require.

(i) Every club applicant shall file with and as a part of its application a list of the names and addresses of its members, directors, officers, agents and employees, together with the dates of their admission, election or employment, and such other information with respect to its affairs as the board shall require.

(j) The application must be verified by affidavit of applicant, and if any false statement is intentionally made in any part of the application, the affiant shall be deemed guilty of a misdemeanor and, upon conviction, shall be subject to the penalties provided by this article.

(k) If the licensee in question has a retail dispenser license, and the applicant intends to use a management company to operate, manage or supervise all or part of the operation of the licensed premises, the applicant must file a written application with the board on the form or forms as the board shall, from time to time, prescribe. The application shall be accompanied by a fee in an amount to be determined by the board. The board shall refuse the application if the management company or any person involved with the management would be precluded from holding an interest in the underlying license. ((k) added June 8, 2016, P.L.273, No.39)

Compiler's Note: See section 28 of Act 39 of 2016, which amended subsection (f) and added subsection (k), for special provisions relating to the establishment of a Wine and Spirits Wholesale and Retail Privatization Commission.

Section 437. Prohibitions Against the Grant of Licenses.--(a) The board shall refuse to grant any licenses unless the application therefor contains the information required by this act, and the premises meet such reasonable sanitary requirements as the board, by regulation, shall prescribe.

(b) The board shall refuse to grant a license to any club when it appears that the operation of such license would inure to the benefit of individual members, officers, agents or employes of the club, rather than to the benefit of the entire membership of the club.

(c) Licenses shall be granted by the board only to reputable individuals, or to associations, partnerships and corporations whose members or officers and directors are reputable individuals.

(d) No person who holds any public office that involves the duty to enforce any of the penal laws of the United States, this Commonwealth or of any political subdivision of this Commonwealth may have any interest in a manufacturer's, importing distributor's, distributor's or retail dispenser's license. This prohibition applies to anyone with arrest authority, including, but not limited to, United States attorneys, State attorneys general, district attorneys, sheriffs and police officers. This prohibition shall also apply to magisterial district judges, judges or any other individuals who can impose a criminal sentence. This prohibition does not apply to members of the General Assembly, township supervisors, city councilpersons, mayors without arrest authority and any other public official who does not have the ability to arrest or the ability to impose a criminal sentence. This section does not apply if the proposed premises are located outside the jurisdiction of the individual in question. ((d) amended Dec. 22, 2011, P.L.530, No.113)

(e) No distributor's or importing distributor's license shall be issued for any premises in any part of which there is operated any retail license for the sale of liquor or malt or brewed beverages.

(f) No new distributor's or importing distributor's license shall hereafter be granted by the board in any county of the Commonwealth where the combined number of distributor and importing distributor licenses exceeds one license for each thirty thousand inhabitants of the county in which the license is to be issued: Provided, That a combined total of five such licenses may be granted in any county of the Commonwealth.

Nothing in this subsection shall be construed as denying the right of the board to renew or to transfer existing distributors' or importing distributors' licenses or to exchange a distributor's license for an importing distributor's license or to exchange an importing distributor's license for a distributor's license, upon adjustment of the applicable fee, notwithstanding that the number of such licensed places in the county shall exceed the limitation hereinbefore prescribed: Provided, That no distributor's license or importing distributor's license shall be transferred from one county to another county so long as the quota is filled in the county to which the license is proposed to be transferred.

((f) amended Dec. 7, 1990, P.L.622, No.160)

Section 438. Number and Kinds of Licenses Allowed Same Licensee.--(a) Any retail dispenser may be granted licenses to maintain, operate or conduct any number of places for the sale of malt or brewed beverages, but a separate license must be secured for each place where malt or brewed beverages are sold.

(b) No person shall possess or be issued more than one distributor's or importing distributor's license.

(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: And, provided further, That, notwithstanding any other provision of this section, an entity may acquire both a manufacturer's license or a limited winery license and a hotel, restaurant or retail dispenser license for use at the same location and more than one location may be so licensed. The licenses and a person's interest in the licenses or in the entity holding the licenses shall not be subject to this section. ((c) amended June 25, 2010, P.L.217, No.35)

Section 439. Malt or Brewed Beverage License Fees.--No public service license and no license to any manufacturer, distributor, importing distributor or retail dispenser shall be issued, renewed or validated under the provisions of this subdivision (B) until the licensee shall have first paid an annual license fee, as prescribed in section 614-A of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929." Whenever any checks issued in payment of filing and/or license fees shall be returned to the board as dishonored, the board shall charge a fee of five dollars (\$5.00) per hundred dollars or fractional part thereof, plus all protest fees, to the maker of such check submitted to the board. Failure to make full payment or pay the face amount of the check in full and all charges thereon as herein required within ten days after demand has been made by the board upon the maker of the check or upon notification to the board by the Department of Revenue or the Department of Labor and Industry of its objection, the license of such person shall immediately become invalid and shall remain invalid until payment and all charges are received by the board.

(439 amended Apr. 29, 1994, P.L.212, No.30)

Section 440. Sales by Manufacturers of Malt or Brewed Beverages; Minimum Quantities.--A manufacturer may sell malt or brewed beverages produced and owned by the manufacturer to individuals on the licensed premises for consumption on the licensed premises where sold only if it complies with the conditions and regulations placed upon holders of brewery licenses under section 446(a)(1). A manufacturer also may sell any malt or brewed beverages produced and owned by the manufacturer to individuals on the licensed premises for consumption off the licensed premises in containers or packages of unlimited quantity and of any volume. No manufacturer may maintain or operate within the Commonwealth any place or places other than the place or places covered by his or its license

where malt or brewed beverages are sold or where orders are taken.

(440 amended July 5, 2012, P.L.1007, No.116)

Section 441. Distributors' and Importing Distributors' Restrictions on Sales, Storage, Etc.--(a) No distributor or importing distributor shall purchase, receive or resell any malt or brewed beverages except:

(1) in the original containers as prepared for the market by the manufacturer at the place of manufacture;

(2) in the case of identical containers repackaged in the manner described by subsection (f); or

(3) as provided in section 431(b).

((a) amended June 18, 1998, P.L.664, No.86)

(b) No distributor or importing distributor shall sell any malt or brewed beverages in quantities of less than a case or original containers containing one hundred twenty-eight ounces or more which may be sold separately: Provided, That no malt or brewed beverages sold or delivered shall be consumed upon the premises of the distributor or importing distributor, or in any place provided for such purpose by such distributor or importing distributor. Notwithstanding any other provision of this section or act, malt or brewed beverages which are part of a tasting conducted pursuant to the board's regulations may be consumed on licensed premises. ((b) amended Dec. 9, 2002, P.L.1653, No.212)

(c) No distributor or importing distributor shall maintain or operate any place where sales are made other than that for which the license is granted.

(d) (1) No distributor shall maintain any place for the storage of malt or brewed beverages except in the same municipality in which the licensed premises is located and unless the same has been approved by the board. In the event there is no place of cold storage in the same municipality, the board may approve a place of cold storage in the nearest municipality.

(2) No importing distributor shall maintain any place for the storage of malt or brewed beverages except in the franchise territory in which the licensed premises is located and unless the same has been approved by the board. The board shall issue no more than four storage facilities license to an importing distributor. The storage location shall be designated solely as a storage facility, from which only sales to other licensees are permitted. Retail sales may be made at the licensed location pursuant to subsection (c). If the importing distributor maintains a storage location for cold storage in the same municipality in which the importing distributor is licensed or a nearby municipality, the importing distributor may continue to maintain that cold storage location in addition to another storage location within their franchise territory. ((2) amended June 8, 2016, P.L.273, No.39)

((d) amended June 28, 2011, P.L.55, No.11)

(e) No distributor or importing distributor shall purchase, sell, resell, receive or deliver any malt or brewed beverages, except in strict compliance with the provisions of subsection (b) of section 431 of this act.

(f) (1) To salvage one or more salable cases from one or more damaged cases, cartons or packages of malt or brewed beverages, a distributor or importing distributor may repack consequent to inadvertent damage and sell a case, carton or package of identical units of malt or brewed beverages.

(2) Repackaging is permissible only to the extent made necessary by inadvertent damage. Repackaging not consequent to damage is prohibited.

(3) The term "identical units" as used in this subsection means undamaged bottles or cans of identical brand, package and volume.

((f) added May 31, 1996, P.L.312, No.49)

(g) All malt or brewed beverages purchased by an importing distributor from a Pennsylvania manufacturer of malt or brewed beverages or from any person located outside this Commonwealth for resale shall be invoiced to the importing distributor, shall come physically into the possession of such importing distributor and shall be unloaded into and distributed from the licensed premises of such importing distributor. The board may act to further define and control the storage and distribution of malt or brewed beverages in conformity with this section and this act. ((g) added Dec. 20, 1996, P.L.1513, No.196)

(h) As used in this section, the term "franchise territory" shall mean the geographically contiguous area in which an importing distributor has been given rights for the sale or resale of malt or brewed beverages. ((h) added June 28, 2011, P.L.55, No.11)

(i) Notwithstanding any other provision to the contrary, when making a sale of malt or brewed beverages to a private individual, no distributor or importing distributor may be required to collect the name, address or any other identifying information of the private individual for the purpose of keeping a record of the quantity of cases or volume of malt or brewed beverages purchased. ((i) added Dec. 22, 2011, P.L.530, No.113)

Compiler's Note: See section 28 of Act 39 of 2016, which amended subsection (d) (2), for special provisions relating to the establishment of a Wine and Spirits Wholesale and Retail Privatization Commission.

Section 442. Retail Dispensers' Restrictions on Purchases and Sales.--(a) (1) (i) No retail dispenser shall purchase or receive any malt or brewed beverages except in original containers as prepared for the market by the manufacturer at the place of manufacture. The retail dispenser may thereafter break the bulk upon the licensed premises and sell or dispense the same for consumption on or off the premises so licensed. No retail dispenser may sell malt or brewed beverages for consumption off the premises in quantities in excess of one hundred ninety-two fluid ounces. Sales may be made in open or closed containers, Provided, however, That a municipality may adopt an ordinance restricting open containers in public places. No club licensee may sell any malt or brewed beverages for consumption off the premises where sold or to persons not members of the club. Sales of malt or brewed beverages must occur on the licensed premises.

(ii) If a retail dispenser license holder has an interior connection to another business that it operates, the retail dispenser license holder may use one or more of the registers in the other business to sell malt or brewed beverages for off-premises consumption under the following conditions:

(A) the building is eleven thousand square feet or less;

(B) the registers are located in the same building as the licensed premises;

(C) the registers comply with the signage, staffing, training, carding, scanning and prohibition on the sharing of data provisions of section 415(a)(8) and (9); and

(D) the board has been provided notice of compliance with this subparagraph by the retail dispenser license holder, including square footage of the building and the location of the specific registers to be used prior to their use.

(iii) The registers used under subparagraph (ii) shall be deemed to be licensed areas but no formal application beyond notice to the board shall be required. The registers may be used by the other business.

((1) amended June 5, 2020, P.L.213, No.29)

(2) Notwithstanding any other provision of law or any existing permit authorizing the sale of malt or brewed beverages for consumption off the premises, a retail dispenser licensee located in a city of the first class who is otherwise permitted to sell malt or brewed beverages for consumption off the premises may not do so after October 31, 2007, unless it acquires a permit from the board.

(3) The application for a permit to sell malt or brewed beverages for consumption off the premises shall be on forms designated by the board and contain such information as the board may require. The application and renewal fee shall be as prescribed in section 614-A(28) of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929." However, no applicant who currently has a permit shall be required to pay any additional fees under section 614-A(28) of "The Administrative Code of 1929" in order to continue selling malt or brewed beverages for consumption off the premises at its currently licensed location for the licensing term beginning November 1, 2007, and ending October 31, 2008.

(4) The application for a permit to sell malt or brewed beverages for consumption off the premises must be accompanied by a copy of the approval of such request by the hearing board authorized by this section.

(5) A city of the first class shall create a hearing board within its Department of Licenses and Inspections to hear requests from licensees who are seeking a permit from the hearing board authorizing the licensee to sell malt or brewed beverages for consumption off the premises. Each hearing board shall consist of three persons appointed by the mayor of the city of the first class, who are subject to approval by the city council of the city of the first class. Each person so appointed shall serve at the pleasure of the appointing authority. The hearing board may, in its discretion, hold hearings to adduce testimony regarding a request. The hearing board must render a decision within ninety days of receipt of a request for approval of a permit to sell malt or brewed beverages for consumption off the premises. The hearing board must approve the request unless it finds that doing so would adversely affect the welfare, health, peace and morals of the city or its residents. A decision by the hearing board to deny a request may be appealed to the court of common pleas in the county in which the city is located. The failure to render a decision by the hearing board within the required time period shall be deemed approval of the permit.

(6) Upon being satisfied that the applicant has fulfilled all the requirements of this act and the board's regulations, the board shall approve the application. Such permits shall expire upon the transfer of the license to a new entity or to a new location, or both; otherwise, such permits shall expire at the same time as the expiration of the underlying license.

((a) amended Nov. 29, 2006, P.L.1421, No.155)

(b) No retail dispenser shall sell any malt or brewed beverages for consumption on the licensed premises except in a

room or rooms or place on the licensed premises at all times accessible to the use and accommodation of the general public, but this section shall not be interpreted to prohibit a retail dispenser from selling malt or brewed beverages in a hotel or club house in any room of such hotel or club house occupied by a bona fide registered guest or member entitled to purchase the same or to prohibit a retail dispenser from selling malt or brewed beverages in a bowling alley where the licensed premises and bowling alley are immediately adjacent and under the same roof. ((b) amended July 17, 2003, P.L.63, No.15)

(c) For the purpose of this section any person who is an active member of another club which is chartered by the same state or national organization shall have the same rights and privileges as members of the particular club.

(d) For the purposes of this section, any person who is an active member of any volunteer firefighting company, association or group of this Commonwealth, whether incorporated or unincorporated, shall upon the approval of any club composed of volunteer firemen licensed under this act, have the same social rights and privileges as members of such licensed club.

(e) (1) The holder of a retail dispenser license located in a hotel may allow persons to transport malt or brewed beverages from the licensed portion of the premises to the unlicensed portion of the premises so long as the malt or brewed beverages remain on the hotel property.

(2) In addition, the holder of a retail dispenser license located on a golf course may allow its patrons to order malt or brewed beverages on licensed premises for subsequent delivery by the licensee on nonlicensed portions of the premises, including the golf course.

(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. ((3) amended May 8, 2003, P.L.1, No.1)

(4) 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.

((e) added Dec. 9, 2002, P.L.1653, No.212 and Dec. 16, 2002, P.L.1806, No.221)

(f) The holder of an eating place retail dispenser license may obtain an off-premises catering permit under section 493(33) to hold a catered function off of the licensed premises and on otherwise unlicensed premises where the licensee may sell malt or brewed beverages by the glass, open bottle or any other container, together with food, for consumption on those premises solely used for catering premises. Functions conducted under the authority of the permit shall be subject to the following:

(1) malt or brewed beverages may only be provided during the days and hours that the license holder may otherwise sell malt or brewed beverages;

(2) each catered function shall last no longer than one day and an unlimited number of catered functions may be held each calendar year by each license holder for use with a particular license; ((2) amended Dec. 14, 2023, P.L.421, No.51)

(3) a catered function shall not be held at a location that is already subject to the applicant's or another licensee's license;

(4) a permit shall not be issued to an applicant whose license is in safekeeping;

(5) a permit shall not be issued to a location that is subject to a pending objection by the director of the Bureau of Licensing or the board under section 470(a.1);

(6) a permit shall not be issued to a location that is subject to a pending license suspension under section 471 or the one-year prohibition on the issuance or transfer of a license under section 471(b);

(7) no malt or brewed beverages may be taken from the permitted location by a patron, but the applicant may transport malt or brewed beverages to and from its licensed premises to the proposed premises;

(8) written notice of the catered function as enumerated in paragraph (9) shall be provided to the local police and the enforcement bureau at least seven days in advance of the event;

(9) written notice shall be provided to the board at least fourteen days prior to a catered function. Written notice must include the location of the function, time of the function, host of the function, general information regarding the guests expected at the function as well as any information the board shall from time to time prescribe. The board may, in its discretion, accept notice in an electronic format. The board may, in its discretion, waive the fourteen-day notice period for a catered function if:

(i) the applicant has previously conducted functions that meet the requirements of this act;

(ii) the applicant is a licensee in good standing with the board; or

(iii) notification was received at least seven days prior to the catered function; and

(iv) the applicant pays a late fee of one hundred dollars (\$100);

(10) the board shall, in its discretion, approve or disapprove a catered function if the applicant fails to provide timely notice of the catered function, does not intend to conduct a function that meets the requirements of this act or has previously conducted a function that did not meet the requirements of this act;

(11) if a catered function is scheduled to occur on private property, the owner of that property is deemed to have submitted to the jurisdiction of the enforcement bureau, and the warrant required by section 211(a)(2) of this act shall not be necessary for the enforcement bureau to enter and search the premises during the function or any activities related to the function;

(12) all servers at the off-premises catered function shall be in compliance with the responsible alcohol management provisions under section 471.1 of this act;

(13) no catered function may be held for more than six hours per day and must end by midnight unless the catered function occurs on December 31 of any calendar year on which the date the catered function must end by two o'clock antemeridian; ((13) amended Dec. 14, 2023, P.L.421, No.51)

(14) neither the owner of the property nor the applicant may sell tickets to a catered function unless one of the following conditions is met:

(i) the applicant has contracted with an eligible entity for the function, and the function is being used to raise money for the eligible entity's organization;

(ii) the applicant has contracted with a nonprofit organization as defined under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)),

for an event which has the sole purpose of raising funds for that nonprofit organization;

(iii) the applicant has contracted with an organization that holds tax-exempt status under section 527 of the Internal Revenue Code of 1986;

(15) catered functions held on unlicensed premises shall be subject to section 493(34) of this act;

(16) catered functions may not be held in locations that are subject to a pending, protested transfer application;

(17) a permit may not be issued to a licensee who is subject to objection under the board's nuisance bar program;

(18) a permit shall not be issued to a licensee for use in any location that is mobile; and

(19) a permit shall not be issued for use on any location used for parking at a sports event or concert event.

((f) amended June 8, 2016, P.L.273, No.39)

(g) Notwithstanding any other provision of law or regulation, the holder of a retail dispenser license may hold happy hours up to four consecutive or nonconsecutive hours per day and up to fourteen hours per week during which the holder discounts the price of alcoholic beverages. No discounts may be given between the hours of midnight and the legal closing time. Notice of all happy hours shall be visibly posted on the licensed premises seven days prior to the happy hour. Except as provided in this subsection, a licensee shall comply with the provisions of 40 Pa. Code § 13.102 (relating to discount pricing practices). Neither events conducted under the authority of 40 Pa. Code § 13.102(b) nor discounts provided to mug club members shall be counted against the four-hours per day or fourteen-hours per week. ((g) amended June 8, 2016, P.L.273, No.39)

Compiler's Note: See section 28 of Act 39 of 2016, which amended subsections (f) and (g), in the appendix to this act, for special provisions relating to the establishment of a Wine and Spirits Wholesale and Retail Privatization Commission.

Compiler's Note: Acts 212 and 221 of 2002 added subsec. (e). Act 221 overlooked the amendment by Act 212, but the amendments do not conflict in substance and have both been given effect in setting forth the text of subsec. (e). Pars. (1), (3) and (4) took effect on December 16, 2002. Par. (2) took effect on February 7, 2003.

Section 443. Interlocking Business Prohibited.--(a) No manufacturer of malt or brewed beverages and no officer or director of any such manufacturer shall at the same time be a distributor, importing distributor or retail dispenser, or an officer, director or stockholder or creditor of any distributor, importing distributor or retail dispenser, nor, except as hereinafter provided, be the owner, proprietor or lessor of any place for which a license has been issued for any importing distributor, distributor or retail dispenser, or for which a hotel, restaurant or club liquor license has been issued: 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.

(b) No distributor or importing distributor and no officer or director of any distributor or importing distributor shall at the same time be a manufacturer, a retail dispenser or a liquor licensee, or be an officer, director, stockholder or creditor of a manufacturer, a retail dispenser or a liquor licensee, or, directly or indirectly, own any stock of, or have any financial interest in, or be the owner, proprietor or lessor of, any place covered by any other malt or brewed beverage or liquor license.

(c) No licensee licensed under this subdivision (B) of Article IV and no officer or director of such licensee shall, directly or indirectly, own any stock of, or have any financial interest in, any other class of business licensed under this subdivision: 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.

(d) Excepting as hereinafter provided, no malt or brewed beverage manufacturer, importing distributor or distributor shall in any wise be interested, either directly or indirectly, in the ownership or leasehold of any property or in any mortgage against the same, for which a liquor or retail dispenser's license is granted; nor shall any such manufacturer, importing distributor or distributor, either directly or indirectly, lend any moneys, credit or equivalent thereof to, or guarantee the payment of any bond, mortgage, note or other obligation of, any liquor licensee or retail dispenser, in equipping, fitting out, or maintaining and conducting, either in whole or in part, an establishment or business operated under a liquor or retail dispenser's license, excepting only the usual and customary credits allowed for returning original containers in which malt or brewed beverages were packaged for market by the manufacturer at the place of manufacture: 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.

(e) Excepting as hereinafter provided, no manufacturer of malt or brewed beverages shall in any wise be interested, either directly or indirectly, in the ownership or leasehold of any property or any mortgage lien against the same, for which a distributor's or importing distributor's license is granted; nor shall any such manufacturer, either directly or indirectly, lend any moneys, credit, or their equivalent to, or guarantee the payment of any bond, mortgage, note or other obligation of, any distributor or importing distributor, in equipping, fitting out, or maintaining and conducting, either in whole or in part,

an establishment or business where malt or brewed beverages are licensed for sale by a distributor or importing distributor, excepting only the usual credits allowed for the return of original containers in which malt or brewed beverages were originally packaged for the market by the manufacturer at the place of manufacture: 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. Nothing in this section shall be construed to prohibit an out of State manufacturer from engaging in a transaction or making payments authorized by section 431(a.1). ((e) amended June 18, 1998, P.L.664, No.86)

(f) No distributor, importing distributor or retail dispenser shall in anywise receive, either directly or indirectly, any credit, loan, moneys or the equivalent thereof from any other licensee, or from any officer, director or firm member of any other licensee, or from or through a subsidiary or affiliate of another licensee, or from any firm, association or corporation, except banking institutions, in which another licensee or any officer, director or firm member of another licensee has a substantial interest or exercises a control of its business policy, for equipping, fitting out, payment of license fee, maintaining and conducting, either in whole or in part, an establishment or business operated under a distributor's, importing distributor's or retail dispenser's license, excepting only the usual and customary credits allowed for the return of original containers in which malt or brewed beverages were packaged for the market by the manufacturer at the place of manufacture: 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. Nothing in this section shall be construed to prohibit an importing distributor from receiving payment from an out of State manufacturer for engaging in a transaction or performing services authorized by section 431(b) or 444(a.1). ((f) amended June 18, 1998, P.L.664, No.86)

(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.

A person who is a holder of five per centum (5%) or less of securities or other interests in a publicly or privately held domestic or foreign corporation, partnership, limited liability company or other form of legal entity owning a restaurant liquor license or retail dispenser's license shall not be deemed to possess a financial interest and is not subject to the provisions of this section, provided that the person is not an officer of, employee of or does not have any interest in or exercise any control over any other licensed entity that engages in any sales to or from the restaurant liquor or retail dispenser licensee in which the person holds the five per centum (5%) or less interest.

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.

((g) amended Dec. 22, 2011, P.L.530, No.113)

(h) The following shall apply:

(1) Notwithstanding any other provision of law to the contrary, a manufacturer or licensee and its officers, directors, shareholders, servants, agents or employees may contribute, and a manufacturer or licensee and its officers, directors, shareholders, servants, agents or employees may accept money or other things of value solely for the administration of a responsible alcohol management training program for alcohol service personnel as provided for under this section. The money or other things of value may be provided by or to a manufacturer or licensee and its officers, directors, shareholders, servants, agents or employees directly or by or to a trade organization consisting, in whole or part, of a group of licensees.

(2) The manufacturer, licensee and trade organization associated with the person providing the money or other things of value must keep a record of the value of the money or other things of value provided, the date provided and the entity to whom it was provided, as part of the records required under section 493(12).

(3) The manufacturer, licensee and trade organization associated with the person receiving money or other things of value must keep a record of the value of the money or other things of value used, as part of the records required under section 493(12).

((h) added June 8, 2016, P.L.273, No.39)
(443 amended May 31, 1996, P.L.312, No.49)

Compiler's Note: See section 28 of Act 39 of 2016, which added subsection (h), for special provisions relating to the establishment of a Wine and Spirits Wholesale and Retail Privatization Commission.

Section 444. Malt or Brewed Beverages Manufactured Outside This Commonwealth.--(a) In addition to compliance with all other provisions of this act, the board shall require each person desiring to sell any malt or brewed beverages manufactured outside this Commonwealth to Pennsylvania licensees, and shall require each Pennsylvania licensee who desires to purchase and resell any such malt or brewed beverages, to pay to the board the same fees as are required to be paid by Pennsylvania licensees or by persons or licensees in any state, territory or country outside of Pennsylvania who desires to sell malt or brewed beverages manufactured in Pennsylvania to licensees in such other state, territory or country of origin of such malt or brewed beverages not manufactured in Pennsylvania, and to observe and comply with the same regulations, prohibitions and restrictions as are required of or enforced against Pennsylvania licensees or persons who desire to purchase and resell malt or brewed beverages manufactured in Pennsylvania in such other state, territory or country of origin.

(a.1) Any out of State manufacturer of malt or brewed beverages may appoint an importing distributor or bailee for hire to perform the services prescribed in section 431(b) and provide a fee to an importing distributor or bailee for hire who performs such services. ((a.1) added June 18, 1998, P.L.664, No.86)

(b) In all cases where the board shall have issued any reciprocal regulations or orders concerning malt or brewed beverages manufactured in any state, territory or country other than Pennsylvania, no Pennsylvania licensee shall purchase any such malt or brewed beverages if their importation has been prohibited, or if not entirely prohibited, unless such regulations or orders have been observed and complied with by the Pennsylvania licensee and by the person from or through whom the Pennsylvania licensee desires to purchase.

(c) Any malt or brewed beverages manufactured outside of Pennsylvania which are sold, transported or possessed in Pennsylvania contrary to any such regulations or orders of the board, or without the payment of the fees herein required, shall be considered contraband and shall be confiscated by the board and disposed of in the same manner as any other illegal liquor or malt or brewed beverages, provided that, if the potential violation is of section 445 or any associated regulation, such malt or brewed beverages shall be left on the licensed premises where found under orders not to sell such contraband until such time as the malt or brewed beverage manufacturer comes into compliance with Pennsylvania's regulations or until the licensee holding the contraband can return it to the manufacturer and be fully reimbursed. ((c) amended June 28, 2011, P.L.55, No.11)

(d) Upon learning of the commission by a manufacturer of malt or brewed beverages whose principal place of business is outside this Commonwealth, or by any servant, agent, employee or representative of such manufacturer, within or partly within and partly outside this Commonwealth, of any violation of this act or any laws of this Commonwealth relating to liquor, alcohol or malt or brewed beverages, or of any regulation of the board

adopted pursuant thereto, or of any violation of any laws of this Commonwealth or of the United States of America relating to the tax payment of liquor or malt or brewed beverages, the board shall cite such manufacturer to appear before it or an administrative law judge not less than ten nor more than fifteen days from the date of mailing such manufacturer at his principal place of business, wherever located, by registered mail, a notice to show cause why the further importation into this Commonwealth of malt or brewed beverages manufactured by him should not be prohibited.

(e) Upon such hearing, whether or not an appearance was made by such outside manufacturer, if satisfied that any such violation has occurred, the board is specifically empowered and directed to issue an order imposing a fine upon such outside manufacturer of not less than five hundred dollars (\$500) or more than ten thousand dollars (\$10,000), or prohibiting the importation of malt or brewed beverages manufactured by such out of State manufacturer into this Commonwealth for a period not exceeding three years, or both. Such fine or prohibition shall not go into effect until twenty days have elapsed from the date of notice of issuance of the board's order. ((e) amended June 18, 1998, P.L.664, No.86)

(f) If, after hearing, the board prohibits the importation of malt or brewed beverages manufactured by such outside manufacturer into this Commonwealth, notice of such board action shall be given immediately to such manufacturer and to all persons licensed to import malt or brewed beverages within this Commonwealth by mailing a copy of such order to such manufacturer at its principal place of business, wherever located, and to such licensees at their licensed premises. Thereafter, it shall be unlawful for any person licensed to import malt or brewed beverages within this Commonwealth to purchase any malt or brewed beverages manufactured by such outside manufacturer during the term of such prohibition.

(g) Any violation of such prohibitory order shall be a misdemeanor and shall be punished in the same manner as herein provided for any other violation of this act, and shall also constitute grounds for revocation or suspension of a license to import malt or brewed beverages.

(h) In all such cases, the board shall file of record at least a brief statement in the form of an opinion of the reasons for the ruling or order.

Section 445. Brand Registration.--(a) No brand or brands of malt or brewed beverages shall be offered, sold or delivered to any trade buyer within this Commonwealth unless the manufacturer thereof shall first submit an application in the form and manner prescribed by the board for the registration of the said brand or brands of malt beverages, together with an annual filing fee not to exceed seventy-five dollars (\$75) for each brand registration requested as set forth in section 614-A(35) of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929." Notwithstanding section 614-A(35) of that act, up to twenty brands may be registered for a single annual fee of one hundred fifty dollars (\$150.00), so long as one hundred barrels or less of each brand is produced on an annual basis. Any brand or brands of malt or brewed beverages that are produced by a manufacturer but not offered for sale because of additional aging of the beverages shall only be registered at the time the brand or brands are offered for sale. In the event an out-of-State or foreign manufacturer of malt or brewed beverages has granted franchise rights to any person for the sale and distribution of its brand products but

which person is not licensed to sell and distribute the same in this Commonwealth, said such person shall nevertheless be required to register the involved brand before offering the same for sale in Pennsylvania. It is further conditioned that the person holding such franchise rights shall, together with its application for brand registration, file with the board copies of all agreements between it and the Pennsylvania importing distributor appointed by such person to sell and distribute the brands of malt or brewed beverages as provided by sections 431 and 492. Such agreement shall contain the manufacturer's consent and approval to the appointment of the Pennsylvania importing distributor and the rights conferred thereunder.

(b) The board shall employ a malt beverage compliance officer whose duties shall include reviewing label registration to ensure compliance with this act and investigating reports of unregistered brands of malt or brewed beverages being sold by licensees and reports of worthless checks and any other duties the board shall assign the officer. If the malt beverage compliance officer finds that a licensee is selling malt or brewed beverages that are unregistered in this Commonwealth, he shall give the manufacturer of the malt or brewed beverages written notice that the manufacturer has ten days to register the malt or brewed beverages with the board. During that ten-day period in which the manufacturer has to come into compliance with brand registration, the unregistered malt or brewed beverages shall remain on the licensee's premises but may not be sold. Should the manufacturer fail to register the malt or brewed beverages with the board within ten days, the manufacturer shall be required to remove the unregistered malt or brewed beverages from the licensee's premises and reimburse the licensee for all unregistered products that cannot be sold in this Commonwealth. If a malt beverage compliance officer receives notification that a licensee issued a worthless check, the officer shall give the licensee written notice that the licensee has ten days from the date the notice was mailed to honor that check. Should the licensee fail to honor the check within ten days from the date the notice was mailed, the matter shall be turned over to the enforcement bureau for citation. ((b) amended Dec. 22, 2011, P.L.530, No.113)

(c) Any person selling malt or brewed beverages at wholesale, and any person selling at retail malt or brewed beverages that were not sold at wholesale, shall report to the Pennsylvania Liquor Control Board the volume of such packaged and draft malt or brewed beverages sold. The report, in the form and manner determined by the board, shall be made for each calendar month no later than sixty days after the end of each calendar month and shall show product volumes, broken down by brewer. All volumes shall be reported in thirty-one-gallon barrel equivalents, regardless of package size. The board shall, within fourteen days of the receipt of the report, place the reports on the Internet in a manner accessible to the general public. The board shall maintain the reports on the Internet in a manner accessible to the general public for a period of at least two years and shall archive the reports for a period of at least ten years. ((c) added Nov. 15, 2016, P.L.1286, No.166)

(d) The label, product packaging and marketing materials for alcoholic cider, fermented fruit beverage and mead that are used in connection with the sale and distribution of alcoholic cider, fermented fruit beverage and mead may refer to the product as "wine-based," a "wine product" or in a similar manner

or by a similar name with the product still treated as a malt or brewed beverage provided that the product is registered with the board as a malt or brewed beverage as provided under this section. No product that was sold in any Pennsylvania Liquor Store after January 1, 2018, may be designated as a malt or brewed beverage. ((d) added Nov. 25, 2020, P.L.1222, No.125)

(445 amended June 28, 2011, P.L.55, No.11)

Section 446. Breweries.--(a) Holders of a brewery license may:

(1) Sell malt or brewed beverages as provided in this section under such conditions and regulations as the board may enforce as follows:

(i) Malt or brewed beverages produced by a brewery at the brewery location or under a contract brewing agreement or alternating proprietorship with an in-State manufacturer may be sold by the brewery to nonlicensees for on-premises or off-premises consumption and to licensees who are authorized to resell malt or brewed beverages. Sales to licensees under this paragraph shall comply with the provisions of this act. Malt or brewed beverages produced for the brewery under a contract brewing agreement or alternating proprietorship with an out-of-State manufacturer may only be distributed as provided under paragraph (3).

(ii) A brewery with a contract brewing agreement with an out-of-State manufacturer prior to the effective date of this paragraph may sell malt or brewed beverages to nonlicensees for on-premises or off-premises consumption. These sales are in addition to the sales authorized by this paragraph and are not subject to the distribution requirements set forth in paragraph (3). If the brewery uses storage locations granted to the brewery under section 431(a.2) for distribution or retail sales beyond those storage locations already used for distribution or retail sales prior to the effective date of this paragraph, the brewery may only sell malt or brewed beverages as provided under paragraph (3).

((1) amended July 11, 2022, P.L.747, No.67)

(2) Operate a restaurant or brewery pub on the licensed premises under such conditions and regulations as the board may enforce: Provided, however, That sales on Sunday may be made irrespective of the volume of food sales if the licensed premises are at a public venue location. In addition to the sales authorized under paragraph (1), the holder of a brewery license may sell wines, alcoholic cider and fermented fruit beverages produced by the holder of a limited winery license, malt or brewed beverages produced by a manufacturer licensed by the board and liquor produced by a limited distillery or distillery licensed by the board: Provided, however, That said wines, malt or brewed beverages produced by another manufacturer and liquor must be consumed at the licensed premises. In addition, the combined sales of wine, malt or brewed beverages produced by another manufacturer and liquor may not, on a yearly basis, exceed fifty per centum (50%) of the on-premises sales of the brewery's own malt or brewed beverages for the preceding calendar year: however, if a brewery did not operate for an entire calendar year during the preceding year, then its combined sales of wine, malt or brewed beverages produced by another manufacturer and liquor may not, on a yearly basis, exceed fifty per centum (50%) of the on-premises sales of the brewery's own malt or brewed beverages for that year. ((2) amended July 11, 2022, P.L.747, No.67)

(3) Use brewery storage and distribution facilities for the purpose of receiving, storing and distributing malt or brewed

beverages manufactured outside this Commonwealth, including malt or brewed beverages produced for the brewery under a contract brewing agreement or alternating proprietorship with an out-of-State manufacturer, so long as the beverages are distributed in this Commonwealth only through specific importing distributors who shall have first been given distributing rights for such products in designated geographical areas through the distribution system required for out-of-State manufacturers under section 431 as well as all other pertinent sections of this act. The manufacturer of the beverages must comply with section 444. ((3) amended July 11, 2022, P.L.747, No.67)

(4) Apply for and hold a hotel liquor license, a restaurant liquor license or a malt and brewed beverages retail license to sell for consumption at the restaurant or brewery pub on the licensed brewery premises, liquor, wine and malt or brewed beverages regardless of the place of manufacture, under the same conditions and regulations as any other hotel liquor license, restaurant liquor license or malt and brewed beverages retail license, but must brew at least two hundred fifty barrels per year. Each holder of a brewery license who receives a hotel liquor license, a restaurant liquor license or a malt or brewed beverages retail license to operate a brew pub shall not sell directly to any person licensed by this act, except if any malt or brewed beverage is to be distributed in this Commonwealth it shall be only through specific importing distributors who shall have first been given distributing 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.

(5) Nothing in paragraphs (2) and (3) shall be construed to impact the status of existing or future distribution contracts or rights under this act. ((5) added July 11, 2022, P.L.747, No.67)

((a) amended Nov. 15, 2016, P.L.1286, No.166)

(b) The holder of a brew pub license may obtain an off-premises catering permit subject to section 493(33) to hold a catered function off the licensed premises and on otherwise unlicensed premises where the licensee may sell wine produced by a licensed limited winery and malt or brewed beverages produced by the brewery by the glass, open bottle or other container together with food, and in any mixture, for consumption on those premises. Functions conducted under the authority of the permit shall be subject to the following:

(1) alcohol may be provided only during the days and hours that the license holder may otherwise sell alcohol;

(2) all servers at the off premises catered function shall be in compliance with the responsible alcohol management provisions under section 471.1;

(3) each catered function shall last no longer than one day and an unlimited number of catered functions may be held each calendar year by each license holder for use with a particular license; ((3) amended Dec. 14, 2023, P.L.421, No.51)

(4) a catered function shall not be held at a location that is already subject to the applicant's or another licensee's license;

(5) a permit shall not be issued to an applicant whose license is in safekeeping;

(6) a permit shall not be issued to a location that is subject to a pending objection by the director of the Bureau of Licensing or the board under section 470(a.1);

(7) a permit shall not be issued to a location that is subject to a pending license suspension under section 471 or the one-year prohibition on the issuance or transfer of a license under section 471(b);

(8) no alcohol may be taken from the permitted location by any patron, but the applicant may transport alcohol to and from its licensed premises to the proposed premises;

(9) written notice of the catered function as enumerated in paragraph (10) shall be provided to the local police and the enforcement bureau at least seven days in advance of the event;

(10) written notice shall be provided to the board at least fourteen days prior to a catered function. Written notice must include the location of the function, time of the function, host of the function, general information regarding the guests expected at the function as well as any information the board shall from time to time prescribe. The board may, in its discretion, waive the fourteen-day notice period for a catered function if:

(i) the applicant has previously conducted functions that meet the requirements of this act;

(ii) the applicant is a licensee in good standing with the board;

(iii) notification was received at least seven days prior to the catered function; and

(iv) the applicant pays a late fee of one hundred dollars (\$100);

(11) the board shall, in its discretion, approve or disapprove a catered function if the applicant fails to provide timely notice of the catered function, does not intend to conduct a function that meets the requirements of this act or has previously conducted a function that did not meet the requirements of this act;

(12) if a catered function is scheduled to occur on private property, the owner of that property is deemed to have submitted to the jurisdiction of the enforcement bureau, and the warrant required by section 211(a)(2) of this act shall not be necessary for the enforcement bureau to enter and search the premises during the function or any activities related to the function;

(13) no catered function may be held for more than six hours per day and must end by midnight unless the catered function occurs on December 31 of any calendar year on which date the catered function must end by two o'clock antemeridian; ((13) amended Dec. 14, 2023, P.L.421, No.51)

(14) neither the owner of the property nor the applicant may sell tickets to a catered function unless one of the following conditions is met:

(i) the applicant has contracted with an eligible entity for the function, and the function is being used to raise money for the eligible entity's organization;

(ii) the applicant has contracted with a nonprofit organization as defined under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)), for an event which has the sole purpose of raising funds for that nonprofit organization; or

(iii) the applicant has contracted with an organization that holds tax-exempt status under section 527 of the Internal Revenue Code of 1986;

(15) the catered function location shall be subject to section 493(34) of this act;

(16) catered functions may not be held in locations that are subject to a pending, protested transfer application;

(17) a permit may not be issued to a license holder whose license is subject to a pending objection by the director of the Bureau of Licensing or the board under section 470(a.1);

(18) a permit shall not be issued to a licensee for use in any location that is mobile; and

(19) a permit shall not be issued for use on any location used for parking at a sports event or concert event.

(c) (1) Holders of a brewery license may obtain a special permit to participate in malt or brewed beverages and food expositions off the licensed premises. A special permit shall be issued upon proper application and payment of a fee of thirty dollars (\$30) per day for each day of permitted use, not to exceed thirty consecutive days. The total number of days for all the special permits may not exceed one hundred days in any calendar year. A special permit shall entitle the holder to engage in the sale by the glass, growler, bottle or package not to exceed one hundred ninety-two fluid ounces in a single sale of malt or brewed beverages produced by the permittee under the authority of its brewery license. Holders of special permits may provide tasting samples of malt or brewed beverages in individual portions not to exceed four fluid ounces. Samples at malt or brewed beverages and food expositions may be sold or offered free of charge. Except as provided herein, breweries utilizing special permits shall be governed by all applicable provisions of this act as well as by all applicable regulations or conditions adopted by the board. For purposes of this paragraph, "malt or brewed beverages and food expositions" are defined as affairs held indoors or outdoors with the intent of educating those in attendance of the availability, nature and quality of malt or brewed beverages in conjunction with suitable food displays, demonstrations and sales. Malt or brewed beverages and food expositions may also include activities other than malt or brewed beverages and food displays, including arts and crafts, musical activities, cultural exhibits, agricultural exhibits and farmers markets.

(2) The holder of a brewery license may, at the discretion of the board, obtain a farmers market permit. The permit shall entitle the holder to participate in more than one farmers market at any given time and an unlimited number throughout the year and sell malt or brewed beverages produced under the authority of the underlying brewery license by the growler, bottle or package not to exceed one hundred ninety-two fluid ounces in a single sale. Samples not to exceed four fluid ounces per brand of malt or brewed beverages may be offered free of charge. A farmers market permit shall be issued upon proper application and payment of an annual fee of two hundred fifty dollars (\$250). A permit holder may participate in more than one farmers market at any given time. Sales by permit holders shall take place during the standard hours of operation of the farmers market. Written notice of the date, times and location the permit is to be used shall be provided by the permit holder to the enforcement bureau at least two (2) weeks prior to the event. Except as provided in this subsection, breweries utilizing farmers market permits shall be governed by all applicable provisions of this act as well as by all applicable regulations adopted by the board.

The term "farmers market" as used in this section shall include any building, structure or other place:

(i) owned, leased or otherwise in the possession of a person, municipal corporation or public or private organization;

(ii) used or intended to be used by two or more farmers or an association of farmers, who are certified by the Department

of Agriculture to participate in the Farmers Market Nutrition Program subject to 7 CFR Pt. 249 (relating to Senior Farmers' Market Nutrition Program (SFMNP)), for the purpose of selling agricultural commodities produced in this Commonwealth directly to consumers;

(iii) which is physically located within this Commonwealth; and

(iv) which is not open for business more than twelve hours each day.

(3) These permits shall only be available to a brewery that qualifies as a manufacturer as authorized under section 431(a) and may be used anywhere in Pennsylvania regardless of whether the manufacturer has named or constituted a distributor or importing distributor as a primary or original supplier of the product under section 431(b). Only malt or brewed beverages for which the brewery is responsible for paying the malt beverage tax shall be considered in calculating the total number of barrels produced each year. All brands of malt or brewed beverages sold or provided under the authority of the special permit as well as the farmers market permit must be registered as set forth by this act.

The term "growler" as used in this section shall mean a refillable container that holds a minimum of sixty-four fluid ounces of malt or brewed beverages.

(446 amended June 8, 2016, P.L.273, No.39)

Compiler's Note: See section 28 of Act 39 of 2016, which amended section 446, for special provisions relating to the establishment of a Wine and Spirits Wholesale and Retail Privatization Commission.

Section 446.1. Pennsylvania Malt and Brewed Beverages Industry Promotion Board.--(a) There is established the Pennsylvania Malt and Brewed Beverages Industry Promotion Board.

(b) The Pennsylvania Malt and Brewed Beverages Industry Promotion Board shall be composed of the following members:

(1) One member appointed by the Governor.

(2) Four members appointed by the General Assembly as follows:

(i) One individual appointed by the President pro tempore of the Senate.

(ii) One individual appointed by the Minority Leader of the Senate.

(iii) One individual appointed by the Speaker of the House of Representatives.

(iv) One individual appointed by the Minority Leader of the House of Representatives.

(c) Each member must be a resident of this Commonwealth and have substantial experience or expertise in the Pennsylvania malt and brewed beverage industry.

(d) Each member shall serve at the pleasure of the appointing authority.

(e) The Pennsylvania Malt and Brewed Beverages Industry Promotion Board has the following powers and duties:

(1) Make recommendations to the board to award grants to entities for the purpose of increasing the production of Pennsylvania-made malt and brewed beverages and enhancing the Pennsylvania malt and brewed beverages industry through promotion, marketing and research-based programs and projects. Grants shall be awarded through a competitive grant review process. The application for a grant shall include the following information:

(i) Purpose for which the grant will be utilized.

- (ii) Need for the grant.
 - (iii) Estimated budget.
 - (iv) Method for measuring outcome.
 - (v) Other criteria required by the Pennsylvania Malt and Brewed Beverages Industry Promotion Board.
 - (2) Require each grant recipient to provide full and complete access to all records relating to the performance of the grant and to submit accurate information.
 - (3) Conduct a thorough annual evaluation of each program for which a grant under this section is made.
 - (4) Seek repayment of money upon a determination that the money was not utilized for the original stated purpose.
 - (5) Submit an annual report to the General Assembly detailing all grants and other actions.
 - (f) The Department of Agriculture shall provide assistance to assist the Pennsylvania Malt and Brewed Beverages Industry Promotion Board in carrying out its powers and duties.
 - (g) Annually, the board shall allocate the amount of one million dollars (\$1,000,000) for the purpose of awarding grants under subsection (e)(1).
- (446.1 added June 8, 2016, P.L.273, No.39)

Compiler's Note: See section 28 of Act 39 of 2016, which added section 446.1, for special provisions relating to the establishment of a Wine and Spirits Wholesale and Retail Privatization Commission.

Section 447. Price Changes of Malt and Brewed Beverages.--(a) (1) The purpose of this section is to effect and promote the intent of the General Assembly, expressed in section 104 of this act and in this section, by regulating the manner in which wholesale prices of malt or brewed beverages are changed by a manufacturer, importing distributor and distributor and by providing for the retention and the furnishing of records of price changes by such manufacturers, importing distributors and distributors. By forbidding manufacturers, importing distributors and distributors from providing short-term price wholesale discounts, it is the intent of the General Assembly to discourage increased consumption and irresponsible conduct resulting from impulse buying, price promotion or the natural elasticity of demand relative to price.

(2) Any manufacturer, importing distributor or distributor which reduces the price on any package of any brand of malt or brewed beverage sold for resale within this Commonwealth may further reduce the price at any time, but any reduction shall continue in full force and effect for at least one hundred twenty days from the date on which the last such reduced price becomes effective, except that price may be increased earlier:

- (i) to reflect any tax increase on malt or brewed beverages;
- (ii) in the manner described in subsection (b) if the increase was effected to meet competition; or
- (iii) with permission of the board granted in the manner described in subsection (c).

(3) If an importing distributor or distributor of malt or brewed beverages lowers the wholesale price on any package of any brand of malt or brewed beverages to one importing distributor or distributor or retail licensee within the geographic area for which he possesses distribution rights for that product, the importing distributor or distributor shall lower the wholesale price on such package of such brand offered or sold to all other importing distributors or distributors or retail licensees within the geographic area by a like amount. Any importing distributor or distributor who lowers the

wholesale price on any package of any brand of malt or brewed beverages shall file a notice of the lowered price with the Commonwealth no later than seven days of such change and retain a record of the lowered price for at least two years from the date of filing. If such importing distributor or distributor, having lowered the wholesale price on a package of a brand pursuant to this section, subsequently raises the wholesale price on such package of such brand to one importing distributor or distributor or retail licensee within the geographic area for which he possesses distribution rights for that product, the importing distributor or distributor shall raise the wholesale price on such package of such brand offered or sold to all other importing distributors or distributors or retail licensees within the geographic area by a like amount.

(4) No importing distributor or distributor shall be required by any manufacturer or importing distributor to reduce the resale price of any package of any brand of malt or brewed beverages by an amount greater than the amount by which such manufacturer or importing distributor has reduced the wholesale price on such package of such brand to such importing distributor or distributor.

(5) ((5) Deleted by amendment Dec. 21, 1998, P.L.1202, No.155)

(6) Manufacturers shall notify importing distributors and distributors, in writing, of any:

(i) price reduction with respect to any malt or brewed beverage;

(ii) price of a new brand or package of a malt or brewed beverage; or

(iii) price increase subsequent to a price reduction at least fifteen days before such reduced, new or increased price becomes effective.

(b) If any manufacturer, importing distributor or distributor has reduced the wholesale price of any package of any brand of malt or brewed beverages, any other manufacturer, importing distributor or distributor may reduce the wholesale price on the same or similar package or competing brand to meet competition, which reduction shall:

(1) not exceed the reduction to which it responds; and

(2) continue in full force and effect until the earlier of:

(i) the one hundred twentieth day after the date on which the reduction to which it responds became effective; or

(ii) the lawful rescission of the reduction to which it responds.

(c) A manufacturer, importing distributor or distributor may change the price within a time period of less than one hundred twenty days from when the price went into effect if market conditions or any other good cause support the change. The manufacturer, importing distributor or distributor shall notify the board within forty-eight hours of the change of such price. The board shall set a hearing date as soon as practicable and shall rule on whether the manufacturer, importing distributor or distributor has made an appropriate showing which supports the price change. If the manufacturer, importing distributor or distributor fails to show good cause, it shall reimburse the difference between the original and increased price to those who purchased the malt or brewed beverage.

(d) The board shall monitor the filings deriving from subsection (a) (3) and the applications deriving from subsection (c). The board shall, no less frequently than four times each year, consider at a regularly or specially scheduled meeting the issue of whether the Commonwealth's policy of temperance

and responsible conduct with respect to alcoholic beverages is being effected and promoted by this act, including, without limitation, this section and sections 492(18), 493(8) and (22) and 498 of this article, and by the board's regulations, including, without limitation, to those regulations restricting retail licensees' discount pricing practices. The board shall, no less frequently than once each year, provide to the General Assembly a report with respect to the board's findings, which report shall contain a summary of the filing and applications deriving from this section.

(447 amended Dec. 20, 1996, P.L.1513, No.196)

Section 448. Monthly Shipment of Malt or Brewed Beverages.--(a) The out-of-State shipment of malt or brewed beverages to residents of this Commonwealth shall be governed by this section.

(b) Notwithstanding any other provision of this act or law, a person licensed by another state or country as a wholesaler or retailer of malt or brewed beverages and who obtains a malt or brewed beverage shipper license as provided for in this section may ship up to one hundred ninety-two ounces in a month of any malt or brewed beverage on the order of any resident of this Commonwealth who is at least twenty-one (21) years of age for the resident's personal use and not for resale. No more than ninety-six ounces of a specific registered or unregistered brand of malt or brewed beverages may be shipped to any one (1) resident during a calendar year.

(c) Prior to issuing a direct malt or brewed beverage shipper license, the board shall require an applicant to:

(1) File an application with the board.

(2) Pay a registration fee of two hundred fifty dollars (\$250).

(3) Provide to the board a true copy of the applicant's current alcoholic beverage license issued by another state or country.

(4) Provide documentation which evidences that the applicant has obtained a sales tax license from the Department of Revenue.

(5) Provide the board with any other information that the board deems necessary and appropriate.

(d) A direct malt or brewed beverage shipper shall do all of the following:

(1) Report to the board each year the total of malt or brewed beverages shipped to residents of this Commonwealth in the preceding calendar year.

(2) Permit the board, the enforcement bureau or the Secretary of Revenue, or their designated representatives, to perform an audit of the malt or brewed beverage shipper's records upon request.

(3) Be deemed to have submitted to the jurisdiction of the board, any other State agency and the courts of this Commonwealth for purposes of enforcement of this section and any related laws, rules or regulations.

(4) Require proof of age of the recipient, in a manner or format approved by the board, before malt or brewed beverages are shipped to a resident of this Commonwealth.

(5) Ensure that all boxes or exterior containers of malt or brewed beverages shipped directly to a resident of this Commonwealth are conspicuously labeled with the words "CONTAINS ALCOHOL: SIGNATURE OF PERSON 21 YEARS OF AGE OR OLDER REQUIRED FOR DELIVERY."

(6) Pay to the Department of Revenue all taxes due on sales to residents of this Commonwealth. The amount of the taxes shall be calculated as if the sales were in this Commonwealth at the

locations where delivery was made. The malt or brewed beverages delivered under this subsection shall be subject to only the following:

(i) The sales and use tax imposed by section 202 and Article II-B of the act of March 4, 1971 (P.L.6, No.2), known as the "Tax Reform Code of 1971."

(ii) The sales and use tax imposed by Article XXXI-B of the act of July 28, 1953 (P.L.723, No.230), known as the "Second Class County Code."

(iii) The sales and use tax imposed by the act of June 5, 1991 (P.L.9, No.6), known as the "Pennsylvania Intergovernmental Cooperation Authority Act for Cities of the First Class."

(iv) The malt beverage tax imposed by Article XX of the "Tax Reform Code of 1971."

(7) Annually renew its license by paying a renewal fee of two hundred fifty dollars (\$250).

(e) Any person who resells malt or brewed beverages obtained under this section commits a misdemeanor of the second degree. A person convicted of selling or offering to sell any malt or brewed beverage in violation of this section shall, in addition to any other penalty prescribed by law, be sentenced to pay a fine of four dollars (\$4) per fluid ounce for each container of malt or brewed beverage found on the premises where the sale was made or attempted. The amount of fine per container shall be based on the capacity of the container when full, whether or not the container is full at the time of sale or attempted sale. Each malt or brewed beverage found on the premises shall be confiscated.

(f) The board may promulgate rules and regulations as are necessary to implement and enforce the provisions of this section.

(g) The board shall submit annual reports to the Appropriations Committee and the Law and Justice Committee of the Senate and to the Appropriations Committee and the Liquor Control Committee of the House of Representatives summarizing the number of direct shipper licenses issued by the board and the quantity of malt or brewed beverages sold under this section.

(h) Delivery shall be by a licensed transporter for hire. The licensed transporter for hire shall:

(1) keep records as required under section 512 pertaining to the direct shipment of malt or brewed beverages; and

(2) permit the board and the enforcement bureau, or their designated representatives, to inspect the records under section 513.

(i) Malt or brewed beverages sold under this section shall not be subject to:

(1) the provisions of section 431 that require a manufacturer to grant distribution rights to an importing distributor for each brand of malt or brewed beverages that it sells; or

(2) the brand registration requirements of section 445.

(j) Except for a shipment expressly authorized under subsection (b), nothing under this section may be construed as altering any existing or future distributing rights agreement between a manufacturer and an importing distributor or distributor.

(448 added Nov. 15, 2016, P.L.1286, No.166)

(C) General Provisions Applying to Both Liquor and Malt and Brewed Beverages.

Section 461. Limiting Number of Retail Licenses To Be Issued In Each County.--(a) No additional restaurant, eating place retail dispenser or club licenses shall be issued within a county if the total number of restaurant and eating place retail dispenser licenses is greater than one license for each three thousand inhabitants in the county, except the board may issue licenses to public venues, performing arts facilities, continuing care retirement communities, airport restaurants, municipal golf courses, hotels, privately-owned private golf courses, privately-owned public golf courses, racetracks, automobile racetracks, nonprimary pari-mutuel wagering locations, privately-owned ski resorts and to any other entity which this act specifically exempts from the limitations provided in this section, and the board may issue a license to a club situated in a borough having a population less than eight thousand inhabitants which is located in a county of the second class A whose application is filed on or before February 28, 2001. In addition, the board may issue an eating place retail dispenser license for on-premises sales only to the owner or operator of a facility having a minimum of a one-half mile asphalt track and having a permanent seating capacity of at least six thousand people used principally for holding automobile races, regardless of the number of restaurant and eating place retail dispenser licenses already issued in that county. When determining the number of restaurant and eating place retail dispenser licenses issued in a county for the purposes of this section, licenses exempted from this limitation, licenses subject to the mixed-use town development project provisions of this act, licenses subject to the commercial and mixed-use overlay project provisions of this act, licenses subject to the tourist development project provisions of this act and club licenses shall not be considered. Inhabitants of dry municipalities shall be considered when determining the population in a county. Licenses shall not be issued or transferred into municipalities where such licenses are prohibited pursuant to local referendum in accordance with section 472. Licenses approved for intermunicipal transfer may not be transferred from the receiving municipality for a period of five years after the date that the licensed premises are operational in the receiving municipality. ((a) amended July 2, 2019, P.L.371, No.57 and Nov. 21, 2019, P.L.635, No.86)

(b) ((b) deleted by amendment Dec. 20, 2000, P.L.992, No.141)

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

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

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

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

(ii) A municipality in which the issuance of a restaurant or eating place retail dispenser license has been approved by the governing body of the municipality for the purpose of local

economic development. Upon request for approval of an economic development license by an applicant, at least one public hearing shall be held by the municipal governing body for the purpose of receiving comments and recommendations of interested individuals residing within the municipality concerning the applicant's intent to acquire an economic development license from the Pennsylvania Liquor Control Board. The governing body shall, within forty-five days of a request for approval, render a decision by ordinance or resolution to approve or disapprove the applicant's request for an economic development license. If the municipality finds that the issuance of the license would promote economic development, it may approve the request. A decision by the governing body of the municipality to deny the request may not be appealed to the court of common pleas in the county in which the municipality is located. A copy of the approval must be submitted with the license application. Failure by the governing body of the municipality to render a decision within forty-five days of the applicant's request for approval shall be deemed an approval of the application in terms as presented unless the governing body has notified the applicant in writing of their election for an extension of time not to exceed sixty days. Failure by the governing body of the municipality to render a decision within the extended time period shall be deemed an approval of the application in terms as presented.

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

(4) An applicant under this subsection shall be required to sell food and nonalcoholic beverages equal to fifty per centum (50%) or more of its combined gross sales of food and alcoholic beverages. ((4) amended June 8, 2016, P.L.273, No.39)

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

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

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

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

(6) A license issued under this subsection and a provisional license issued under subsection (b.2) shall be nontransferable with regard to ownership or location.

(7) An appeal of the board's decision refusing to grant or renew a license under this subsection shall not act as a supersedeas of the decision of the board if the decision is based, in whole or in part, on the licensee's failure to demonstrate that its food and nonalcoholic beverages were at least fifty per centum (50%) of its combined gross sales of food and alcoholic beverages. ((7) amended June 8, 2016, P.L.273, No.39)

(8) A license issued under this subsection may not be validated or renewed unless the licensee can establish that its sale of food and nonalcoholic beverages during the license year immediately preceding application for validation or renewal is equal to fifty per centum (50%) or more of its food and alcoholic beverage sales. ((8) amended June 8, 2016, P.L.273, No.39)

((b.1) amended Nov. 29, 2006, P.L.1421, No.155)

(b.2) Qualified applicants under subsection (b.1) shall receive a provisional license for one hundred twenty days, exclusive of periods of safekeeping. After ninety days from the date of issuance, the licensee may file an application for a permanent license. A license shall be issued if the licensee establishes that for ninety consecutive days from the date of initial issue its sales of food and nonalcoholic beverages is equal to at least fifty per centum (50%) of its combined gross sales of food and alcoholic beverages. Licensees shall not be subject to citation by the Enforcement Bureau for a violation of the requirement that food and nonalcoholic beverages equal at least fifty per centum (50%) of the combined gross sales of food and alcoholic beverages during the provisional licensing period. ((b.2) amended June 8, 2016, P.L.273, No.39)

(b.3) An intermunicipal transfer of a license or issuance of a license for economic development under subsection (b.1)(2)(i) must first be approved by the governing body of the receiving municipality when the total number of existing restaurant liquor licenses and eating place retail dispenser licenses in the receiving municipality equal or exceed one license per three thousand inhabitants. Upon request for approval of an intermunicipal transfer of a license or issuance of an economic development license by an applicant, at least one public hearing shall be held by the municipal governing body for the purpose of receiving comments and recommendations of interested individuals residing within the municipality concerning the applicant's intent to transfer a license into the municipality or acquire an economic development license from the Pennsylvania Liquor Control Board. The governing body shall, within forty-five days of a request for approval, render a decision by ordinance or resolution to approve or disapprove the applicant's request for an intermunicipal transfer of a license or issuance of an economic development license. The municipality may approve the request. A decision by the governing body of the municipality to deny the request may not be appealed. A copy of the approval must be submitted with the license application. The approval requirement shall not apply to licenses transferred into a tax increment district created pursuant to the act of July 11, 1990 (P.L.465, No.113), known as the "Tax Increment Financing Act," located in a township of the second class that is located within a county of the second class if the district was created prior to December 31, 2002, and the governing body of the township has adopted an agreement at a public meeting that consents to the transfer of licenses into the tax increment district. Failure by the governing body of the municipality to render a decision within forty-five days of the applicant's request for approval shall be deemed an approval of the application in terms as presented unless the governing body has notified the applicant in writing of their election for an extension of time not to exceed sixty days. Failure by the governing body of the municipality to render a decision within the extended time period shall be deemed an approval of the application in terms as presented. ((b.3) amended Nov. 29, 2006, P.L.1421, No.155)

(b.4) (1) Notwithstanding any other provision of this act to the contrary, the board may approve the transfer of a restaurant liquor or eating place retail dispenser license from a city of the first class to a county designated as a second class A county or a county of the third class for the purpose of economic development, subject to the following conditions:

(i) The application to the board is accompanied by municipal approval as set forth in subsection (b.1)(2)(ii).

(ii) The proposed location is located within a mixed-use town center development project as the term is defined in section 102.

(iii) The application to the board is accompanied by a resolution or ordinance indicating that the municipality has designated the location in question as being within the confines of a designated mixed-use town center development project.

(iv) The issuance or transfer of a restaurant liquor or eating place retail dispenser license is permissible under section 472.

(v) The application is accompanied by an application surcharge of fifty thousand dollars (\$50,000).

(vi) The applicant has demonstrated to the board that it has exhausted reasonable means for obtaining a suitable license within the county. This requirement shall be deemed satisfied if the applicant submits an Intra-County Affirmation as provided in subclause (vii).

(vii) The application to the board is accompanied by the applicant's written Intra-County Affirmation that demonstrates that the applicant, its agents, employees or brokers are unable to secure, at a price that is, to the best of the applicant's knowledge, information and belief, the relative market price, as defined in this section, an existing license in the county in which the applicant's proposed premises are to be located. Said affirmation shall be accompanied by an affidavit from a real estate agent, license broker or other similar professional attesting to the unavailability of a liquor license to the applicant at a price that is comparable to prices paid by bona fide purchasers for value for liquor licenses in the respective county immediately prior to obtaining municipal approval under subclause (iii), such comparable price being referred to as the "relative market price" for the respective county. Said affirmation shall set forth any measures taken to secure an existing license, including the time period during which the applicant attempted to secure a license, as well as any other pertinent information. The board shall not approve the issuance of a license under this section where it reasonably determines an existing license was available to the applicant at the relative market price prior to the applicant filing a request for a license under this section.

(2) A restaurant liquor or eating place retail dispenser license that has been transferred from a city of the first class to a county designated as a second class A county or a county of the third class under this section may not be subsequently transferred to any location outside of the mixed-use town center development project.

(3) No more than one license for each fifty thousand square feet of proposed or actual construction may be transferred into a mixed-use town center development project under the provisions of this section. The applicant shall demonstrate that this requirement has been met by providing documentation on its application to the board that the development has sufficient proposed or actual square footage to support the transfer of licenses under this section.

(4) The board may approve licensure of exterior serving areas for premises to be located within a mixed-use town center development project or tourist development project where such exterior serving areas are situated on municipal-owned or private-owned property, regardless of whether such exterior serving areas are located immediately adjacent, abutting or contiguous to the building to be licensed, provided that the employees of licensees in a qualified mixed-use town center development project or tourist development project may traverse unlicensed areas in order to deliver alcohol to patrons who are seated in any such licensed serving area that is not immediate, adjacent, abutting and contiguous to the licensee's primary licensed premises; and provided further that any such licensed serving area is delineated from all adjacent public areas by a railing, barrier or other partition for the purpose of table service only; and provided further that the entirety of such noncontiguous licensed exterior serving area or areas is not located more than thirty-five feet from the nearest point of the licensed structure; and provided further that such noncontiguous licensed exterior serving areas shall not include any additional enclosed structure with four walls and a roof other than the primary licensed building; and provided further that any and all public thoroughfare or thoroughfares situated between the licensed building and the noncontiguous exterior licensed serving area is or are used primarily for pedestrian foot traffic and not vehicular traffic; and provided further that the local municipality has approved, by ordinance or resolution, the use of such areas by the applicant; and provided further that, in the case of municipal-owned property, a sidewalk cafe or similar permit, as applicable, is first obtained by the applicant; and provided further that the applicant complies with any regulation issued by the board pursuant hereto or in furtherance hereof. Any restaurant ("R"), eating place ("E") or hotel ("H") license transferred to or issued for premises located within a mixed-use town center development or tourist development project shall have the privileges of this subsection so long as such license remains within the mixed-use town center development or tourist development project. ((4) amended July 2, 2019, P.L.371, No.57)

(5) A development site of at least ninety-five acres that meets the following additional criteria shall satisfy the size requirement to qualify as a mixed-use town center development project:

(i) at least seventy-five acres of the project were secured, whether by purchase or lease, by the developer prior to July 1, 2004;

(ii) at least sixty acres of the project have been entered into the program of the Department of Environmental Protection relating to land recycling and environmental remediation standards;

(iii) at least thirty-five acres of the project have been designated as a Brownfield Action Team site by the Department of Environmental Protection and overlap, in whole or part, between the areas in subclauses (ii) and (iii); and

(iv) the project site is bounded by a township road and a State road.

((5) added July 16, 2007, P.L.107, No.34)

((b.4) added Nov. 29, 2006, P.L.1421, No.155)

(b.5) (1) Notwithstanding any other provision of this act to the contrary, the board may approve the transfer of a restaurant liquor license available for auction under section

470.3 for the purpose of economic development through increased tourism, subject to the conditions of this subsection.

(2) A tourist development project restaurant liquor license application may be submitted by any interested party at any time. The application to the board shall be accompanied by a resolution or ordinance indicating that the municipality has approved the request to have the area designated as a tourist development project by the board, a map of the area proposed to be designated and any additional information the board may require. The application fee shall be one million dollars (\$1,000,000).

(3) The proposed location must be within a tourist development project as the term is defined in section 102 and within a municipality that allows for the issuance and transfer of restaurant liquor licenses under section 472.

(4) A tourist development project restaurant liquor license application must indicate the number of restaurant liquor licenses that the applicant is seeking, but the applicant may not seek more than seventy-five licenses for the tourist development project. The applicant must submit a surcharge of sixty-five thousand dollars (\$65,000) for each restaurant liquor license upon board approval of the transfer of the applicable restaurant liquor license.

(5) On receiving a tourist development project restaurant license application as well as any additional documents and fees, and following satisfaction that the applicant's request meets all board requirements, the board shall approve the application request and place the surcharge under clause (4) into The State Stores Fund. The restaurant liquor license shall then be held in safekeeping for the benefit of the applicant until the applicant or the applicant's assignee files a formal transfer application. The applicant may assignee the rights to file a formal transfer application to a third party.

(6) The board may choose which specific restaurant liquor licenses will be made available for transfer but shall choose licenses from a saturated county, if they are available, up to the maximum number of licenses that can be accepted from that saturated county. For purposes of this subsection, the maximum number of licenses that can be accepted from a county shall be calculated by subtracting from the total number of restaurant liquor licenses in the county, a number equal to 2.64 times the county population divided by three thousand.

(7) A license held in safekeeping under clause (5) may remain in safekeeping for up to four years without having to pay the additional safekeeping fees in section 474.1. The restaurant liquor license shall be subject to all other fees such as renewal fees and the application surcharge under section 470. After the four-year period, measured from the date the board approves the application request for making the license available for transfer, the license shall be revoked unless the applicant has submitted a transfer application prior to that date. If a license is revoked, the applicant may not receive any refund. A license revoked under this clause shall be reassigned to the county in which the license was located before the license was transferred under this subsection and be available for auction under section 470.3.

(8) A restaurant liquor license transferred under this subsection may not be transferred to a location outside of the designated tourist development project.

(9) A license transferred under this subsection is ineligible for a wine expanded permit under section 415. A licensee under this subsection may not sell malt and brewed

beverages for off-premises consumption except patrons may take wine, spirits and malt and brewed beverages off the licensed premises if the wine, spirits and malt and brewed beverages remain in the area previously designated as a tourist development project.

(10) A license transferred into a new county under this subsection may not be counted toward or subject to the county quota under subsection (a).

(11) The renewal and validation dates of a license transferred into a new county under this subsection shall be amended to match the renewal and validation date of the licenses in the county.

((b.5) added July 2, 2019, P.L.371, No.57)

(b.6) Notwithstanding any other provision of this act, the board may approve the transfer of a restaurant liquor license, available for auction under section 470.3, to any county for the purposes of a commercial and mixed-use overlay project, subject to the following conditions:

(1) The proposed project must be a commercial and mixed-use overlay project and must be located within a municipality that allows for the issuance and transfer of restaurant liquor licenses under section 472.

(2) The initial application may be submitted to the board by an interested party. The application shall be accompanied by a resolution or ordinance indicating that the municipality where the proposed project is located has approved the request to have the area designated as a commercial and mixed-use overlay project by the board, a map of the area proposed to be so designated and any additional information the board may require.

(3) The application shall indicate the number of licenses that the applicant is seeking to transfer, up to twenty licenses. In addition to the normal application and license fees for a restaurant liquor license, the application shall be accompanied by a twenty-five thousand dollar (\$25,000) surcharge for each license.

(4) Upon receipt of a completed application that satisfies board requirements, the board shall approve the request and deposit the twenty-five thousand dollar (\$25,000) surcharge per license into the State Stores Fund. Each license shall be held in safekeeping for the benefit of the applicant until the applicant files a formal transfer application. The applicant may assign the applicant's rights to file a formal transfer application to a third party.

(5) The board may choose the specific licenses that will be made available for transfer but preference shall be given to licenses from a saturated county, if they are available, up to the maximum number of licenses that may be accepted from that county.

(6) For purposes of this subsection, the maximum number of licenses that may be accepted from a county shall be calculated by subtracting from the total number of restaurant liquor licenses in the county, a number equal to 2.64 times the county population divided by three thousand (3,000).

(7) A license placed in safekeeping under paragraph (4) may be held for up to four years from the date the board approves the application and shall be exempt from the additional safekeeping fees imposed under section 474.1. The license shall be subject to all other fees, including renewal fees and the application surcharge imposed under section 470. Upon expiration of the four-year period, the license shall be revoked unless the applicant has submitted a transfer application prior to

expiration. If a license is revoked, the applicant is not entitled to a refund.

(8) A license transferred under this subsection is subject to all of the following:

(i) The license may not be transferred to a location outside of the commercial and mixed-use overlay project.

(ii) The license is ineligible for a wine expanded permit under section 415.

(iii) The licensee may not sell malt and brewed beverages for off-premises consumption.

(9) A license transferred into a new county under this subsection is subject to all of the following:

(i) The license shall not be counted toward, nor be subject to, the county quota set forth in this section.

(ii) The license shall have its renewal and validation dates amended to match the renewal and validation date of the licenses in the county.

((b.6) added Nov. 21, 2019, P.L.635, No.86)

(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) In municipalities having a population of less than three thousand, at least twelve permanent bedrooms for the use of guests.

(2) In municipalities having a population of three thousand and more but less than ten thousand inhabitants, at least sixteen permanent bedrooms for the use of guests.

(3) In municipalities having a population of ten thousand and more but less than twenty-five thousand inhabitants, at least thirty permanent bedrooms for the use of guests.

(4) In municipalities having a population of twenty-five thousand and more but less than one hundred thousand inhabitants, at least forty permanent bedrooms for the use of guests.

(5) In municipalities having a population of one hundred thousand and more inhabitants, at least fifty permanent bedrooms for the use of guests.

(6) A public dining room or rooms operated by the same management accommodating at least thirty persons at one time and a kitchen, apart from the dining room or rooms, in which food is regularly prepared for the public.

(7) Each room to be considered a bedroom under the requirements of this section shall have an area of not less than eighty square feet and an outside window.

(8) The provisions of this subsection (c) shall not apply to hotel licenses granted prior to the first day of September, one thousand nine hundred forty-nine, or that have been granted on any application made and pending prior to said date, nor to any renewal or transfer thereof, or hotels under construction or for which a bona fide contract had been entered into for construction prior to said date. In such cases, the provisions of section one of the act, approved the twenty-fourth day of

June, one thousand nine hundred thirty-nine (Pamphlet Laws 806), shall continue to apply.

(8.1) The provisions of this subsection (c) shall not apply to hotel licenses that were granted prior to the first day of January, one thousand nine hundred sixty-five, in municipalities having a population of less than ten thousand during the two thousand Federal Decennial Census. Further, the provisions of this subsection (c) shall not apply to hotel licenses that were granted prior to the first day of September, one thousand nine hundred forty-nine, and that lapsed not more than once, provided that the board issued the hotel a new hotel license prior to the first day of January, one thousand nine hundred seventy-one. In such cases, the provisions of section one of the act, approved the twenty-fourth day of June, one thousand nine hundred thirty-nine (Pamphlet Laws 806), shall continue to apply.

(9) Upon application to and subject to inspection by the board, hotel licensees under clause (8) of this subsection shall no longer be required to maintain bedrooms for public accommodation. Such area may be used as licensed storage area or serving area consistent with this act and existing regulations. ((9) amended June 25, 2010, P.L.217, No.35)

(9.1) Upon application to and subject to inspection by the board, hotel licensees under clause (8.1) of this subsection shall no longer be required to maintain bedrooms for public accommodation. However, areas required and designated as bedrooms for public accommodation prior to the effective date of this clause may not subsequently be used as licensed serving areas. Such areas may be used as licensed storage area consistent with this act and existing regulations.

(9.2) Upon application filed with the board by February 27, 2026, and payment of a fee of thirty thousand dollars (\$30,000) by a hotel licensee, the board shall convert a hotel license referenced under clause (8) or (8.1) of this subsection to a restaurant license without regard to the quota restrictions set forth in subsection (a). This clause shall not apply to a hotel license with a pending objection by the director of the Bureau of Licensing or the board under section 470(a.1) until the application for renewal of the hotel license is approved. This clause shall not apply to hotel licenses in a city of the first class. An application to transfer a restaurant license that was converted from a hotel license under this clause in accordance with section 404 within five years after the board received the application for the restaurant license shall be subject to a fee of twenty-five per centum (25%) or thirty thousand dollars (\$30,000), whichever is greater, of the transactional cost for the transfer of the restaurant license to be paid by the seller of the license. As used in this paragraph, the term "transactional cost" shall mean the cost of the restaurant license. ((9.2) amended Dec. 14, 2023, P.L.414, No.49)

(10) Notwithstanding any other provision of law, the holder of a hotel liquor or hotel retail dispenser license shall be deemed a holder of a restaurant liquor license for the purposes of the act of June 13, 2008 (P.L.182, No.27), known as the "Clean Indoor Air Act." ((10) added June 8, 2016, P.L.273, No.39)

((c) amended June 7, 2007, P.L.107, No.34)

(d) "Airport restaurant," as used in this section, shall mean restaurant facilities at any airport for public accommodation, which are owned or operated directly or through lessees by the Commonwealth of Pennsylvania, by any municipal authority, county or city, either severally or jointly, with

any other municipal authority, county or city, but shall not include any such restaurant facilities at any airport situated in a municipality where by vote of the electors the retail sale of liquor and malt or brewed beverages is not permitted. An airport restaurant is not subject to the seating requirements nor to the square footage requirements of the definition of restaurant in section 102. An airport restaurant may have unlimited extensions of service areas providing all extended service areas are inside the airport terminal building or buildings, notwithstanding any intervening thoroughfares. In addition to the privileges granted under sections 406 and 407 relative to malt or brewed beverages, airport restaurant liquor licensees may also sell liquor by the glass, open bottle or other container for consumption within the airport terminal building. Notwithstanding any provision to the contrary, an airport restaurant licensee that has acquired a Sunday sales permit may commence sales at five o'clock antemeridian. ((d) amended June 8, 2016, P.L.273, No.39)

(e) "Municipal golf course" as used in this section shall mean the restaurant facilities at any municipal golf course open for public accommodation, which are owned or operated directly or through lessees by a county, municipality or a municipal authority, severally or jointly with any other county, municipality or municipal authority, including any such restaurant facilities at any municipal golf course situate in a municipality where by vote of the electors the retail sale of liquor and malt and brewed beverages is not permitted.

(e.1) "Privately-owned public golf course" as used in this section shall mean the restaurant facilities at any privately-owned golf course open for public accommodation. The license may be issued to the operator of the privately-owned public golf course. The license holder may designate a concessionaire to provide food, alcoholic beverage and nonalcoholic beverage service at the restaurant facility. ((e.1) amended Feb. 21, 2002, P.L.103, No.10)

(e.2) "Privately-owned private golf course" as used in this section shall mean the clubhouse at any privately-owned golf course as defined in section 102 open for private membership accommodations only as a club as defined in section 102. The license to be issued in this instance shall be a club license.

(f) The provisions of subsection (a) which apply to privately-owned public golf courses or privately-owned ski resorts shall not apply to the owner of such course or resort who has, within three years prior to the effective date of this amendatory act or at any time after the effective date of this amendatory act, sold or transferred a regularly issued license for such course or resort. ((f) amended Oct. 24, 2012, P.L.1203, No.149)

(g) "Nonprofit nationally chartered club" as used in this section shall mean any club which does not contemplate pecuniary gain or profit, incidental or otherwise, having a national charter. ((g) added Apr. 29, 1994, P.L.212, No.30)

(h) "Unit of a nonprofit nationally chartered club" as used in this section shall mean any post, branch, lodge or other subordinate unit of a nonprofit nationally chartered club. ((h) added Apr. 29, 1994, P.L.212, No.30)

Compiler's Note: See section 28 of Act 39 of 2016, which amended subsections (b.1)(4), (7) and (8), (b.2) and (d) and added subsection (c)(10), in the appendix to this act, for special provisions relating to the establishment

of a Wine and Spirits Wholesale and Retail Privatization Commission.

Compiler's Note: Section 2 of Act 15 of 2006, which amended section 461(c), provided that all applications filed under section 461(c)(9) must be filed within one year of the effective date of section 2 of Act 15.

Section 461.1. Incorporated Units of National Veterans' Organizations.--(a) The board shall have the authority to issue new licenses to incorporated units of national veterans' organizations, as defined herein, in counties where the number of licenses exceeds the limitation prescribed by section 461. ((a) amended Dec. 20, 2000, P.L.992, No.141)

(b) The term "national veterans' organization" shall mean any veterans' organization having a national charter.

The term "incorporated unit of a national veterans' organization" shall mean any incorporated post, branch, camp, detachment, lodge or other subordinate unit of a national veterans' organization having fifty or more paid up members and organized for a period of at least one year prior to filing the application for a license. The term does not include auxiliaries, "sons of" or other similar organization.

The term "affiliated organization" shall mean home associations, home corporations, auxiliaries, "sons of" or similar organizations which are directly affiliated with an incorporated unit or a national veterans' organization. An affiliated organization must meet the definition of a club set forth in section 102, except that:

(1) if incorporated, the affiliated organization need not have been in continuous existence for at least one year prior to its application; or

(2) if unincorporated, the affiliated organization need not have been in continuous existence for at least ten years prior to its application.

((b) amended June 8, 2016, P.L.273, No.39)

(c) When the charter of an incorporated unit of a national veterans' organization is suspended or revoked, the club license of the organization shall also be suspended or rescinded. The club license of an incorporated unit of a national veterans' organization is not transferable to any other organization or person, except as provided in this section.

(d) An incorporated unit of a national veterans' organization may transfer its club license to its affiliated organization as long as, in addition to fulfilling all the requirements pertaining to the transfer of club licenses, the state department of the national veterans' organization provides the board with written approval for such a transfer. The license shall be suspended or rescinded upon the suspension or revocation of the charter of the affiliated incorporated unit of the national veterans' organization. The license shall also be rescinded upon request of the state department of the national veterans' organization or if the affiliated organization's affiliation with the incorporated unit of the national veterans' organization is severed.

(e) Only one club license may be issued to the incorporated unit of the national veterans' organization, and the board may not issue a license to an incorporated unit of a national veterans' organization if any of the unit's affiliated organizations holds a club license.

(f) For purposes of this section, a municipality which permits the issuance of club liquor licenses to incorporated units of national veterans' organizations also permits the

transfer of such licenses to an affiliated organization of the incorporated unit of the national veterans' organization.

(g) An incorporated unit of a national veterans' association or an affiliated organization which has its license suspended or rescinded or its request for transfer denied under this section may request a hearing before a hearing examiner under section 464. The board may not consider the propriety of the state department of the national veterans' organization's decision to suspend the charter, revoke the charter or refuse to approve the transfer. The written request from the state department of the national veterans' organization, standing alone, is admissible evidence at the board hearing. An appeal of the board's decision may be taken under section 464, except that the appeal shall not act as a supersedeas of the board's decision.

(461.1 amended June 18, 1998, P.L.664, No.86)

Compiler's Note: See section 28 of Act 39 of 2016, which amended subsection (b), for special provisions relating to the establishment of a Wine and Spirits Wholesale and Retail Privatization Commission.

Section 462. Licensed Places May Be Closed During Period of Emergency.--The board may, with the approval of the Governor,

(a) Temporarily close all licensed places within any municipality during any period of emergency proclaimed to be such by the Governor.

(b) Advance by one hour the hours prescribed in this act as the hours during which liquor and malt or brewed beverages may be sold in any municipality during such part of the year when daylight saving time may be observed generally in such municipality.

Section 462.1. Safekeeping.--In addition to the authority under section 462 and notwithstanding any other provision of this act, the board shall do the following:

(1) Provide an additional year of safekeeping for a club or catering club license that was in safekeeping during the proclamation of disaster emergency. A license under this paragraph may not be subject to a renewal, validation or late fee that would be due during the additional year, except that the licensee must file a renewal or validation that becomes due. An additional year of safekeeping under this paragraph shall start on the date of a renewal or validation of the license that occurs after December 31, 2021, and shall be in addition to the two years authorized under section 474.

(2) Provide an additional year of safekeeping for a restaurant, eating place retail dispenser, hotel, importing distributor and distributor license that was in safekeeping during the proclamation of disaster emergency. A license under this paragraph may not be subject to a renewal, validation, late or safekeeping fee that would be due during the additional year, except that the licensee must file a renewal or validation that becomes due. An additional year of safekeeping under this paragraph shall start on the date of a renewal or validation of the license that occurs after December 31, 2021.

(462.1 added Nov. 5, 2021, P.L.424, No.81)

Section 463. Places of Amusement Not To Be Licensed; Penalty.--(463 deleted by amendment Feb. 21, 2002, P.L.103, No.10)

Section 464. Hearings Upon Refusal of Licenses, Renewals or Transfers; Appeals.--The board may of its own motion, and shall upon the written request of any applicant for club, hotel or restaurant liquor license, or any applicant for any malt or

brewed beverage license other than a public service license, or for renewal or transfer thereof, or for the renewal of an amusement permit, whose application for such license, renewal or transfer, or the renewal of an amusement permit, has been refused, fix a time and place for hearing of such application for license or for renewal or transfer thereof, or the renewal of an amusement permit, notice of which hearing shall be mailed to the applicant at the address given in his application. Such hearing shall be before a hearing examiner designated by the board. At such hearing, the board shall present its reasons for its refusal or withholding of license, renewal or transfer thereof, or its refusal for renewal of an amusement permit. The applicant may appear in person or by counsel, may cross-examine the witnesses for the board and may present evidence which shall likewise be subject to cross-examination by the board. Such hearing shall be stenographically recorded. The hearing examiner shall thereafter report, with the examiner's recommendation, to the board in each case. The board shall thereupon grant or refuse the license, renewal or transfer thereof or the renewal of an amusement permit. In considering the renewal of a license or amusement permit, the board shall not refuse any such renewal on the basis of the propriety of the original issuance or any prior renewal of such license or amusement permit. If the board shall refuse such license, renewal or transfer or the renewal of an amusement permit, following such hearing, notice in writing of such refusal shall be mailed to the applicant at the address given in his application. In all such cases, the board shall file of record at least a brief statement in the form of an opinion of the reasons for the ruling or order and furnish a copy thereof to the applicant. Any applicant who has appeared at any hearing, as above provided, who is aggrieved by the refusal of the board to issue any such license or to renew or transfer any such license or to issue or renew any amusement permit may appeal, or any church, hospital, charitable institution, school or public playground located within three hundred feet of the premises applied for, aggrieved by the action of the board in granting the issuance of any such license or the transfer of any such license, may take an appeal limited to the question of such grievance, within twenty days from date of refusal or grant, to the court of common pleas of the county in which the premises or permit applied for is located. If the application is for an economic development license under section 461(b.1) or the intermunicipal transfer of a license, the governing body of the municipality receiving the new license or the transferred license may file an appeal of the board decision granting the license, within twenty days of the date of the board's decision, to the court of common pleas of the county in which the proposed premises is located. Such appeal shall be upon petition of the aggrieved party, who shall serve a copy thereof upon the board, whereupon a hearing shall be held upon the petition by the court upon ten days' notice to the board. The said appeal shall act as a supersedeas unless upon sufficient cause shown the court shall determine otherwise. The court shall hear the application de novo on questions of fact, administrative discretion and such other matters as are involved, at such time as it shall fix, of which notice shall be given to the board. The court shall either sustain or over-rule the action of the board and either order or deny the issuance of a new license or the renewal or transfer of the license or the renewal of an amusement permit to the applicant.

(464 amended Dec. 9, 2002, P.L.1653, No.212)

Section 465. All Licensees to Furnish Bond.--(465 deleted by amendment Dec. 21, 1998, P.L.1202, No.155)

Section 466. Disposition of Cash and Securities Upon Forfeiture of Bond.--(466 deleted by amendment Dec. 21, 1998, P.L.1202, No.155)

Section 467. Display of License.--Every license issued under this article shall be constantly and conspicuously exposed under transparent substance on the licensed premises and no license shall authorize sales until this section has been complied with.

Section 468. Licenses Not Assignable; Transfers.--(a) (1) Licenses issued under this article may not be assigned. The board, upon payment of the transfer filing fee, is hereby authorized to transfer any license issued by it under the provisions of this article from one person to another or from one place to another, or both. Except for restaurant liquor and eating place retail dispenser licenses transferred under section 461(b.4) and restaurant liquor licenses transferred under section 461(b.5) and (b.6), if the license is a retail license, the new location must be within the same county as the existing location or, if the municipality is located in more than one county, within the same municipality as the existing location. ((1) amended July 2, 2019, P.L.371, No.57 and Nov. 21, 2019, P.L.635, No.86)

(2) In the case of distributor and importing distributor licenses, the board may transfer any such license from its place in a municipality to a place in any other municipality within the same county, or from one place to another place within the same municipality, or exchange a distributor license for an importing distributor license or an importing distributor license for a distributor license, if the building for which the license is to be issued has, in the case of an importing distributor license, an area under one roof of two thousand five hundred square feet and, in the case of a distributor license, an area under one roof of one thousand square feet: And provided, That, in the case of all transfers of distributor or importing distributor licenses, whether from a place within the same municipality to another place within the same municipality or from a place in a municipality to a place in any other municipality within the same county, and, in the case of an exchange of a distributor license for an importing distributor license or an importing distributor license for a distributor license, the premises to be affected by the transfer or exchange shall contain an office separate and apart from the remainder of the premises to be licensed for the purpose of keeping records, required by the board, adequate toilet facilities for employees of the licensee and an entrance on a public thoroughfare: Provided, however, That in the event that the majority of the voting electors of a municipality, at an election held under the provisions of any law so empowering them to do, shall vote against the issuance of distributor or importing distributor licenses in such municipality, the board is hereby authorized to transfer any such distributor or importing distributor license from its place in such municipality to a place in any other municipality within the same county, upon application prior to the expiration of any such license and upon payment of the transfer filing fee and the execution of a new bond; but no transfer shall be made to a person who would not have been eligible to receive the license originally nor for the transaction of business at a place for which the license could not lawfully have been issued originally, nor, except as herein provided, to a place as to which a license has been revoked.

(3) From any refusal to grant a transfer or upon the grant of any transfer, the party aggrieved shall have the right of appeal to the proper court in the manner hereinbefore provided. ((3) amended June 8, 2016, P.L.273, No.39)

(4) In the event the license to be transferred has been ordered to serve a suspension under section 471 and has not served the suspension at the time the board considers the application and all appeals regarding the suspension have been exhausted, the board may require the transferee to serve the suspension as a condition for approval of the transfer. Further, the board may convert the outstanding suspension into a fine and require the transferee to pay the fine as a condition for approval of the transfer. If the board converts the outstanding suspension to a fine, the fine need not comply with the minimum and maximum amounts set forth in section 471 for the underlying citation. ((4) added Feb. 21, 2002, P.L.103, No.10)

((a) amended Dec. 20, 2000, P.L.992, No.141)

(b) ((b) repealed Nov. 26, 1978, P.L.1389, No.326)

(b.1) In the event that any person to whom a license shall have been issued under the provisions of this article shall become insolvent, make an assignment for the benefit of creditors, become bankrupt by either voluntary or involuntary action, the license of such person shall be immediately placed in safekeeping with the board for the balance of the term of the license and for an additional period of one year upon application to the board by the trustee, receiver, or assignee. The trustee, receiver, or assignee shall have, during said period of safekeeping, the same rights, benefits and obligations as to the license as the person to whom the license had been issued, including the right to transfer the license subject to the approval of the board. The license shall continue as a personal privilege granted by the board and nothing herein shall constitute the license as property.

(c) (1) The term "nonprofit nationally chartered club" shall mean any club which does not contemplate pecuniary gain or profit, incidental or otherwise, having a national charter.

(2) The term "unit of a nonprofit nationally chartered club" shall mean any post, branch, lodge or other subordinate unit of a nonprofit nationally chartered club.

(3) The term "indoor bowling center" shall mean an enclosed facility of at least twelve thousand square feet with a minimum of sixteen bowling lanes and which has as its primary focus the offering of bowling as a recreational activity to the general public.

((c) amended Nov. 10, 1999, P.L.514, No.47)

(d) The license shall constitute a privilege between the board and the licensee. As between the licensee and third parties, the license shall constitute property.

(e) Notwithstanding any other provision of law, directive or regulation to the contrary, the following shall apply:

(1) The board may not approve an interior connection that is greater than ten feet wide between a licensed business and another business.

(2) The board shall have no authority to require an exterior entrance to a licensed premises as a condition for approving a license or approving a renewal application of a license in instances when hours of operation for the licensed premises do not exceed the hours of operation for the unlicensed premises for which the board has approved an interior connection.

(3) This subsection shall not prohibit the board from approving a renewal application of a license, even if the licensed business has an interior connection that is greater

than ten feet wide to an unlicensed business, if the board had approved the interior connection prior to the effective date of this subsection.

((e) amended Nov. 15, 2016, P.L.1286, No.166)

Compiler's Note: See section 28 of Act 39 of 2016, which amended subsection (a) (3), for special provisions relating to the establishment of a Wine and Spirits Wholesale and Retail Privatization Commission.

Section 469. Applications for Transfers; Fees.--(a) Every applicant for a transfer of a license under the provisions of this article shall file a written application with the board, together with a filing fee as prescribed in section 614-A of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929."

(b) Whenever any license is transferred, no license or other fees shall be required from the persons to whom such transfer is made for the portion of the license period for which the license fee has been paid by the transferor, except for transfer fees provided in section 614-A of "The Administrative Code of 1929."

(469 amended Dec. 21, 1998, P.L.1202, No.155)

Section 470. Renewal of Licenses; Temporary Provisions for Licensees in Armed Service.--(a) (1) All applications for validation or renewal of licenses under the provisions of this article shall be filed at least sixty days before the expiration date of same, along with tax clearance from the Department of Revenue and the Department of Labor and Industry, the requisite license and filing fees, and, except as provided under paragraph (2), shall include an application surcharge of seven hundred dollars (\$700.00): Provided, however, That the board, in its discretion, may accept nunc pro tunc a renewal application filed less than sixty days before the expiration date of the license with the required fees, upon reasonable cause shown and the payment of an additional filing fee of one hundred dollars (\$100.00) for late filing: And provided further, That except where the failure to file a renewal application on or before the expiration date has created a license quota vacancy after said expiration date which has been filled by the issuance of a new license, after such expiration date, but before the board has received a renewal application nunc pro tunc within the time prescribed herein the board, in its discretion, may, after hearing, accept a renewal application filed within two years after the expiration date of the license with the required fees upon the payment of an additional filing fee of two hundred fifty dollars (\$250.00) for late filing. Where any such renewal application is filed less than sixty days before the expiration date, or subsequent to the expiration date, no license shall issue upon the filing of the renewal application until the matter is finally determined by the board and if an appeal is taken from the board's action the courts shall not order the issuance of the renewal license until final determination of the matter by the courts. The board may enter into an agreement with the applicant concerning additional restrictions on the license in question. If the board and the applicant enter into such an agreement, such agreement shall be binding on the applicant. Failure by the applicant to adhere to the agreement will be sufficient cause to form the basis for a citation under section 471 and for the nonrenewal of the license under this section. A renewal application will not be considered filed unless accompanied by the requisite filing and license fees and any additional filing fee required by this section. Unless the

board shall have given ten days' previous notice to the applicant of objections to the renewal of his license, based upon violation by the licensee or his servants, agents or employes of any of the laws of the Commonwealth or regulations of the board relating to the manufacture, transportation, use, storage, importation, possession or sale of liquors, alcohol or malt or brewed beverages, or the conduct of a licensed establishment, or unless the applicant has by his own act become a person of ill repute, or unless the premises do not meet the requirements of this act or the regulations of the board, the license of a licensee shall be renewed. Notwithstanding any other provision of this act, a noise violation shall not be the sole basis for objection by the board to the renewal of a license unless the licensee has received three prior adjudicated noise citations within a twenty-four-month period. ((1) amended July 11, 2022, P.L.747, No.67)

(2) An application for validation or renewal of a restaurant, club or catering club license held by a volunteer fire company, incorporated unit of a national veterans' organization or an affiliated organization of an incorporated unit of a national veterans' organization, affiliated organization of an incorporated unit of a national veterans' organization or affiliated organization of a national veterans' association shall not be subject to the seven hundred dollar (\$700.00) surcharge under paragraph (1).

((a) amended June 5, 2020, P.L.213, No.29)

(a.1) The Director of the Bureau of Licensing may object to and the board may refuse a properly filed license application:

(1) if the licensee, its shareholders, directors, officers, association members, servants, agents or employes have violated any of the laws of this Commonwealth or any of the regulations of the board;

(2) if the licensee, its shareholders, directors, officers, association members, servants, agents or employes have one or more adjudicated citations under this or any other license issued by the board or were involved in a license whose renewal was objected to by the Bureau of Licensing under this section;

(3) if the licensed premises no longer meets the requirements of this act or the board's regulations; or

(4) due to the manner in which this or another licensed premises was operated while the licensee, its shareholders, directors, officers, association members, servants, agents or employes were involved with that license. When considering the manner in which this or another licensed premises was being operated, the board may consider activity that occurred on or about the licensed premises or in areas under the licensee's control if the activity occurred when the premises was open for operation and if there was a relationship between the activity outside the premises and the manner in which the licensed premises was operated. The board may take into consideration whether any substantial steps were taken to address the activity occurring on or about the premises.

((a.1) amended Dec. 8, 2004, P.L.1810, No.239)

(a.2) The board shall only refuse to renew a license application if the Bureau of Licensing gives the applicant at least ten days' notice, stating the basis for the objection; otherwise, the board must renew the license after receiving a properly filed renewal application.

(a.3) If the objection to the application is based on the reputation, criminal history, citation history or activity of one or more of the applicant's shareholders, directors,

officers, association members, servants, agents or employees and not on the reputation, criminal history, citation history or activity attributable to the applicant, the board shall order the divestiture of the shareholders, directors, officers, association members, servants, agents or employees in question in lieu of refusing the application. If such divestiture does not occur within thirty (30) days of the board's order, then the board may refuse the application. ((a.3) added Dec. 8, 2004, P.L.1810, No.239)

(b) In cases where a licensee or its servants, agents or employees are arrested or charged with violating any of the laws of this Commonwealth or if a licensee has one or more unadjudicated citations pending against the licensee at the time a renewal application for the license is pending before the board, the board may, in its discretion, renew the license; however, the renewed license may be subsequently revoked by the board if and when the licensee or its servants, agents or employees are convicted of the pending criminal charges or when the citation issued against the license is adjudicated by the Office of Administrative Law Judge.

In the event the renewal license is revoked by the board, neither the license fee paid for the license nor any part thereof shall be returned to the licensee.

((b) amended Dec. 8, 2004, P.L.1810, No.239)

(c) If the application for renewal of a license is for a license or permit issued under former section 408.1, 408.2, 408.3, 408.5, 408.6, 408.7, 408.8, 408.9, 408.10, 408.11, 408.14, 408.15 or 433.1 and if the applicant has met all requirements that would have been necessary to renew the license or permit, the board shall issue either a public venue restaurant liquor license or a performing arts facility restaurant liquor license to replace the expired license or permit. ((c) added Dec. 20, 2000, P.L.992, No.141)

(470 amended Dec. 21, 1998, P.L.1202, No.155)

Compiler's Note: See section 28 of Act 39 of 2016, which amended subsection (a), for special provisions relating to the establishment of a Wine and Spirits Wholesale and Retail Privatization Commission.

Section 470.1. Renewal of Hotel Liquor Licenses; Special Provisions.--(470.1 repealed June 29, 1987, P.L.32, No.14)

Section 470.2. Exchange of Hotel Liquor License; Special Provisions.--(470.2 repealed June 29, 1987, P.L.32, No.14)

Section 470.3. License Auction.--(a) A restaurant liquor license shall become available for auction by the board under the following conditions:

- (1) the license has not been renewed under section 470;
- (2) the license has been revoked under section 471; or
- (3) the licensee has failed to meet the requirements under 474.1.

(a.1) (1) Subsection (a) shall apply to all restaurant liquor licenses that became available after December 31, 1999.

(2) Any licenses not sold shall be available for sale at future auctions, provided, however, that no more than fifty licenses shall be auctioned in any county per year.

(b) A license becomes available for auction by the board the day after the deadline has passed for appealing a decision revoking or not renewing the license or the day after the two-year window to file a renewal application nunc pro tunc under section 470 has passed.

(c) ((c) repealed July 13, P.L.664, No.85)

(d) ((d) repealed July 13, P.L.664, No.85)

(e) ((e) repealed July 13, P.L.664, No.85)

(f) A person who would be precluded from acquiring a license under sections 411 or 443 or who, in the board's opinion is not of good repute, may not apply for a license under this section and the board shall refuse any applications submitted by the person.

(g) The auction shall be conducted in the manner set forth by the board and at the date and time appointed by the board. After the auction, the board shall provisionally award to the person making the highest bid for the license, the right to file an application for the license. The board shall not accept a bid lower than twenty-five thousand dollars (\$25,000).

(h) The winning bidder shall pay to the board the bid amount within two weeks. Payment shall be by cashier's check, certified check or any other method acceptable to the board. If the winning bidder does not pay the bid amount within two weeks, the second highest bidder shall be awarded the right to file an application for the license, so long as the bid amount is in accordance with subsection (g). The board shall hold the bid amount in escrow until the license is approved.

(i) Within six months of being awarded the license, the bidder or its assignee shall file an application to transfer the license. The application shall be processed in the same manner as any other transfer application and shall be subject to the same restrictions as any other transfer application, including any conditional licensing agreements and county quota restrictions under section 461. The board shall only approve the transfer of a license under this section to a municipality, other than the municipality it last operated in, upon approval by the governing body of the municipality.

(j) Once a license has become available as set forth in this section, it may no longer be subject to any unpaid fines, unserved suspensions, liens or judgments accrued by the previous license holder. A winning bidder under this section shall not be required to supply any information about or secure any information from the previous license holder during the application process.

(k) A license acquired under this section may subsequently be transferred subject to any restrictions that would otherwise be applicable to the transfer of the license.

(470.3 added June 8, 2016, P.L.273, No.39)

Compiler's Note: See section 28 of Act 39 of 2016, which added section 470.3, for special provisions relating to the establishment of a Wine and Spirits Wholesale and Retail Privatization Commission.

Section 471. Revocation and Suspension of Licenses;

Fines.--(a) Upon learning of any violation of this act or any laws of this Commonwealth relating to liquor, alcohol or malt or brewed beverages, or of any regulations of the board adopted pursuant to such laws, or any violation of any laws of this Commonwealth or of the Federal Government relating to the payment of taxes on liquor, alcohol or malt or brewed beverages by any licensee within the scope of this article, his officers, servants, agents or employes, or upon any other sufficient cause shown, the enforcement bureau may, within one year from the date of such violation or cause appearing, cite such licensee to appear before an administrative law judge, not less than ten nor more than sixty days from the date of sending such licensee, by registered mail, a notice addressed to him at his licensed premises, to show cause why such license should not be suspended or revoked or a fine imposed, or both. The bureau shall also

send a copy of the hearing notice to the municipality in which the premises is located.

(b) Hearing on such citations shall be held in the same manner as provided herein for hearings on applications for license. Upon such hearing, if satisfied that any such violation has occurred or for other sufficient cause, the administrative law judge shall immediately suspend or revoke the license, or impose a fine of not less than fifty dollars (\$50) nor more than one thousand dollars (\$1,000), or both, notifying the licensee by registered letter addressed to his licensed premises. If the licensee has been cited and found to have violated section 493(1) insofar as it relates to sales to minors or sales to a visibly intoxicated person, section 493(10) insofar as it relates to lewd, immoral or improper entertainment or section 493(14), (16) or (21), or has been found to be a public nuisance pursuant to section 611, or if the owner or operator of the licensed premises or any authorized agent of the owner or operator has been convicted of any violation of the act of April 14, 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug, Device and Cosmetic Act," or of 18 Pa.C.S. § 5902 (relating to prostitution and related offenses) or 6301 (relating to corruption of minors), at or relating to the licensed premises, the administrative law judge shall immediately suspend or revoke the license, or impose a fine of not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000), or both. However, if a licensee has been cited and found to have violated section 493(1) as it relates to sales to minors or sales to a visibly intoxicated person but at the time of the sale the licensee was in compliance with the requirements set forth in section 471.1 and the licensee had not sold to minors or visibly intoxicated persons in the previous four years, then the administrative law judge shall immediately suspend or revoke the license, or impose a fine of not less than fifty dollars (\$50) nor more than one thousand dollars (\$1,000), or both. The administrative law judge shall notify the licensee by registered mail, addressed to the licensed premises, of such suspension, revocation or fine. In the event the fine is not paid within twenty days of the adjudication, the administrative law judge shall suspend or revoke the license, notifying the licensee by registered mail addressed to the licensed premises. Suspensions and revocations shall not go into effect until thirty days have elapsed from the date of the adjudication during which time the licensee may take an appeal as provided for in this act, except that revocations mandated in section 481(c) shall go into effect immediately. Any licensee whose license is revoked shall be ineligible to have a license under this act until the expiration of three years from the date such license was revoked. In the event a license is revoked, no license shall be granted for the premises or transferred to the premises in which the said license was conducted for a period of at least one year after the date of the revocation of the license conducted in the said premises, except in cases where the licensee or a member of his immediate family is not the owner of the premises, in which case the board may, in its discretion, issue or transfer a license within the said year. In the event the bureau or the person who was fined or whose license was suspended or revoked shall feel aggrieved by the adjudication of the administrative law judge, there shall be a right to appeal to the board. The appeal shall be based solely on the record before the administrative law judge. The board shall only reverse the decision of the administrative law judge if the administrative

law judge committed an error of law, abused its discretion or if its decision is not based on substantial evidence. In the event the bureau or the person who was fined or whose license was suspended or revoked shall feel aggrieved by the decision of the board, there shall be a right to appeal to the court of common pleas in the same manner as herein provided for appeals from refusals to grant licenses. Each of the appeals shall act as a supersedeas unless, upon sufficient cause shown, the reviewing authority shall determine otherwise; however, if the licensee has been cited and found to have violated section 493(1) insofar as it relates to sales to minors or sales to a visibly intoxicated person, section 493(10) insofar as it relates to lewd, immoral or improper entertainment or section 493(14), (16) or (21), or has been found to be a public nuisance pursuant to section 611, or if the owner or operator of the licensed premises or any authorized agent of the owner or operator has been convicted of any violation of "The Controlled Substance, Drug, Device and Cosmetic Act," or of 18 Pa.C.S. § 5902 or 6301, at or relating to the licensed premises, or if the license has been revoked under section 481(c), its appeal shall not act as a supersedeas unless the reviewing authority determines otherwise upon sufficient cause shown. In any hearing on an application for a supersedeas under this section, the reviewing authority may consider, in addition to other relevant evidence, documentary evidence, including records of the bureau, showing the prior history of citations, fines, suspensions or revocations against the licensee; and the reviewing authority may also consider, in addition to other relevant evidence, evidence of any recurrence of the unlawful activity occurring between the date of the citation which is the subject of the appeal and the date of the hearing. If the reviewing authority is the board, no hearing shall be held on the application for a supersedeas; however, a decision shall be made based on the application, answer and documentary evidence under this subsection. If the application for a supersedeas is for a license that has been revoked under section 481(c), the reviewing authority shall grant the supersedeas only if it finds that the licensee will likely prevail on the merits. No penalty provided by this section shall be imposed for any violations provided for in this act unless the bureau notifies the licensee of its nature within thirty days of the completion of the investigation. ((b) amended July 6, 2005, P.L.135, No.39)

(c) The administrative law judge may consider the licensee's prior citation history when imposing a penalty. If the violation in question is a third or subsequent violation of any offense referred to in subsection (b) or Title 18 of the Pennsylvania Consolidated Statutes (relating to crimes and offenses), occurring within a period of four years, the administrative law judge shall impose a suspension or revocation. ((c) amended Feb. 21, 2002, P.L.103, No.10 and Dec. 9, 2002, P.L.1653, No.212)

(d) If a licensee has been cited and found to have violated section 493(1) as a first offense as it relates to sales to minors or sales to a visibly intoxicated person, the administrative law judge, in addition to the penalties set forth in subsection (b), shall require the licensee to comply with the requirements set forth in section 471.1 pertaining to responsible alcohol management. Such compliance may be required for a period of up to one year. Failure to adhere with such an order is sufficient cause for the issuance of a citation under subsection (a). ((d) amended Apr. 13, 2006, P.L.78, No.26)

(e) If a licensee has been cited and found to have violated section 493(1) for a second or subsequent offense as it relates to sales to minors or sales to a visibly intoxicated person, the administrative law judge, in addition to the penalties set forth in subsection (b), may require the licensee to comply with the requirements set forth in section 471.1 pertaining to responsible alcohol management. Such compliance may be required for a period of up to one year. Failure to adhere with such an order is sufficient cause for the issuance of a citation under subsection (a). ((e) added Apr. 13, 2006, P.L.78, No.26)

(f) Upon becoming aware of a potential violation of section 445 or any associated regulation, the enforcement bureau shall give written notice to each licensee who might be in violation of this section or its corresponding regulation. If the potential violation has been cured within ten days of receipt of the written notice, the enforcement bureau shall take no further action against the licensee. If the potential violation has not been cured within ten days of receipt of the notice, the enforcement bureau shall proceed in accordance with subsection (a). ((f) added June 28, 2011, P.L.55, No.11)

Section 471.1. Responsible Alcohol Management.--(a) The board is authorized to offer a responsible alcohol service program to licensees. The program shall consist of four parts: new employee orientation, training for alcohol service personnel, manager/owner training and the displaying of responsible alcohol service signage. New employee orientation shall consist of orienting newly hired alcohol service personnel as to Pennsylvania law relating to the sale, furnishing or serving of alcoholic beverages to minors and visibly intoxicated persons. It shall also mean orienting newly hired alcohol service personnel to responsible server practices, as the term is defined by the board, through regulation. Training for alcohol service personnel shall be as set forth by the board, but at minimum it shall consist of training to prevent service of alcohol to minors and to visibly intoxicated persons. Manager/owner training shall be as set forth by the board, but at a minimum it shall consist of training on how to monitor employees, proper service of alcohol and how to develop an appropriate alcohol service policy. The responsible alcohol service signage shall be as set forth by the board and shall consist of signage dealing with the licensee's policy against sales to minors and visibly intoxicated persons. Alcohol service personnel training may be conducted by the board or by an entity certified by the board to conduct such training.

(b) The board shall be authorized to certify and decertify entities that wish to offer training for alcohol service personnel. The training entity and the board shall maintain records establishing the names of individuals who have successfully undergone alcohol service personnel training.

(c) Training for managers and owners must be conducted by the board or its employees. The board shall maintain records establishing the names of individuals who have successfully undergone manager/owner training.

(d) In order to be considered in compliance with this section for purposes of section 471, a restaurant, retail dispenser, eating place, hotel, club, catering club, distributor and importing distributor licensee shall:

(1) have at least fifty per centum of its alcohol service personnel certified as having successfully completed an alcohol beverage servers training;

(2) have its manager or owner certified as having successfully completed manager/owner training;

(3) have all alcohol service personnel undergo new employee orientation; and

(4) have appropriate responsible alcohol service signage posted on the licensed premises.

For purposes of this section, an owner is an individual who owns at least twenty-five per centum of the licensed entity.

(e) Licensees ordered to comply with this act pursuant to section 471 who change managers shall have sixty calendar days to have the new manager trained as required by this section. If a licensee ordered to comply with this act pursuant to section 471 hires additional alcohol service personnel, those additional employees shall be deemed to have been certified from their date of hire if they successfully complete an alcohol serving program within sixty days of their date of hire.

(f) Upon completion of a certified alcohol service personnel program or the board's owner/manager training program, the participant will be certified by the training entity or the board as having successfully completed the program. Said certification will be valid for two years. The licensee shall keep records of the certification status of its employees, managers and owners, including the name of the employee, manager or owner and the date of that individual's certification, in the same manner as it keeps other business records pursuant to section 493(12). The licensee shall also keep records of its new employee orientation program and records of its responsible alcohol service signage as set forth by the board by regulation.

(g) Unless successfully completed prior to appointment, a manager appointed by any restaurant, eating place retail dispenser, hotel, club, limited distillery licensee or distributor licensee shall be required to complete the manager/owner training under subsection (c) within one hundred eighty days of approval of appointment by the board. ((g) added Dec. 22, 2011, P.L.530, No.113)

(h) Unless successfully completed prior to being hired, all alcohol service personnel shall be required to complete the training for alcohol service personnel under subsection (b) within six months of being hired by a licensed establishment.

((h) added June 8, 2016, P.L.273, No.39)

(471.1 added Dec. 20, 2000, P.L.992, No.141)

Compiler's Note: See section 28 of Act 39 of 2016, which added subsection (h), for special provisions relating to the establishment of a Wine and Spirits Wholesale and Retail Privatization Commission.

Section 472. Local Option.--(a) In any municipality or any part of a municipality where such municipality is split so that each part thereof is separated by another municipality, an election may be held, subject to subsection (c), not oftener than once in four years, to determine the will of the electors with respect to the granting of liquor licenses to hotels, restaurants, resort facilities and clubs, not oftener than once in four years, to determine the will of the electors with respect to the granting of liquor licenses to public venues, to performing arts facilities, to continuing care retirement communities, to hotels located on property owned by an accredited college or university, to privately-owned private golf courses or to privately-owned public golf courses, not oftener than once in four years, to determine the will of the electors with respect to the granting of licenses to retail dispensers of malt and brewed beverages, not oftener than once in four years, to determine the will of the electors with respect to granting of licenses to wholesale distributors and

importing distributors, not more than once in two years, to determine the will of the electors with respect to the granting of club liquor licenses or club retail dispenser licenses to incorporated units of national veterans' organizations, not oftener than once in two years to determine the will of the electors with respect to the granting of special occasion permits to qualified organizations, not more than once in four years, to determine the will of the electors with respect to the establishment, operation and maintenance by the board of Pennsylvania liquor stores, within the limits of such municipality or part of a split municipality, or not more than once in two years, to determine the will of the electors with respect to the granting of liquor licenses to ski resort facilities, under the provisions of this act: Provided, That an election on the question of establishing and operating a State liquor store shall be initiated only in those municipalities, or that part of a split municipality that shall have voted against the granting of liquor licenses; and that an election on the question of granting wholesale distributor and importing distributor licenses shall be initiated only in those municipalities or parts of split municipalities that shall have at a previous election voted against the granting of dispenser's licenses. Except for a municipality or part of a split municipality located in a county of the second class A, whenever electors equal to at least twenty-five per centum of the highest vote cast for any office in the municipality or part of a split municipality at the last preceding general election shall file a petition with the county board of elections of the county for a referendum on the question of granting any of said classes of licenses or the establishment of Pennsylvania liquor stores, the said county board of elections shall cause a question to be placed on the ballots or on the voting machine board and submitted at any election. In a county of the second class A, whenever electors equal to at least twenty-five per centum of the highest vote cast for any office in a municipality or part of a split municipality at the last preceding general election, or whenever five hundred electors of a municipality or part of a split municipality, whichever is less, sign a petition for a referendum on the question of granting any of the said classes of licenses or the establishment of Pennsylvania liquor stores and file the petition with the county board of elections, the said county board of elections shall cause a question to be placed on the ballots or on the voting machine board and submitted at any election. Separate petitions must be filed for each question to be voted on. Said proceedings shall be in the manner and subject to the provisions of the election laws which relate to the signing, filing and adjudication of nomination petitions, insofar as such provisions are applicable.

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

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

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

Do you favor the granting of liquor licenses to resort
facilities for the sale of liquor in the..... Yes
of.....? No

When the question is in respect to the granting of liquor licenses to ski resorts in those municipalities that do not already allow the retail sale of liquor, it shall be in the following form:

Do you favor the granting of liquor licenses to ski resort facilities for the sale of liquor in theof? Yes No

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

When the question is in respect to the granting of liquor licenses to an airport authority in those municipalities that do not already allow the retail sale of liquor, it shall be in the following form:

Do you favor the granting of liquor licenses to an airport authority for the sale of liquor in the..... Yes
of.....? No

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

Do you favor the granting of brewery licenses for the sale of malt or brewed beverages by the case, by the keg and by the glass for consumption on premises, plus the sale of wine and spirits by the glass for consumption on premises, in..... Yes

by.....? No
When the question is in respect to the granting of brewery storage licenses, it shall be in the following form:
Do you favor the granting of brewery storage licenses for the sale of malt or brewed beverages by the case, by the keg and by the glass for consumption on premises, plus the sale of wine and spirits by the glass for consumption on premises, in..... Yes
by.....? No
When the question is in respect to the granting of limited distillery licenses, it shall be in the following form:
Do you favor the granting of limited distillery licenses for the sale of spirits by the bottle to go and by the glass for consumption on premises, plus the sale of wine and malt or brewed beverages for consumption on premises, in..... Yes
by.....? No
When the question is in respect to the granting of additional licenses for board-approved limited distillery locations, it shall be in the following form:
Do you favor the granting of additional licenses for board-approved limited distillery locations for the sale of spirits by the bottle to go and by the glass for consumption on premises, plus the sale of wine and malt or brewed beverages for consumption on premises, in..... Yes
by.....? No
When the question is in respect to the granting of limited winery licenses, it shall be in the following form:
Do you favor the granting of limited winery licenses for the sale of wine by the bottle to go and by the glass for consumption on premises, plus the sale of spirits and malt or brewed beverages for consumption on premises, in..... Yes
by.....? No
When the question is in respect to the granting of additional licenses for board-approved limited winery locations, it shall be in the following form:
Do you favor the granting of additional licenses for board-approved limited winery locations for the sale of wine by the bottle to go and by the glass for consumption on premises, plus the sale of spirits and malt or brewed beverages for consumption on premises, in..... Yes
by.....? No
In case of a tie vote, the status quo shall obtain. If a majority of the voting electors on any such question vote "yes," then liquor licenses shall be granted by the board to hotels, restaurants, ski resorts, resort facilities and clubs, or liquor licenses shall be granted by the board to public venues, to performing arts facilities, to continuing care retirement communities, to hotels located on property owned by an accredited college or university, to privately-owned private golf courses or to privately-owned public golf courses, or malt and brewed beverage retail dispenser licenses or wholesale distributor's and importing distributor's license for the sale of malt or brewed beverages shall be granted by the board, or club liquor licenses or club retail dispenser licenses shall be granted by the board to incorporated units of national veterans' organizations, or special occasion permits may be issued to qualified organizations, or the board may establish,

operate and maintain Pennsylvania liquor stores, as the case may be, in such municipality or part of a split municipality, as provided by this act; but if a majority of the electors voting on any such question vote "no," then the board shall have no power to grant or to renew upon their expiration any licenses of the class so voted upon in such municipality or part of a split municipality; or if the negative vote is on the question in respect to the establishment, operation and maintenance of Pennsylvania liquor stores, the board shall not open and operate a Pennsylvania liquor store in such municipality or part of a split municipality, nor continue to operate a then existing Pennsylvania liquor store in the municipality or part of a split municipality for more than two years thereafter or after the expiration of the term of the lease on the premises occupied by such store, whichever period is less, unless and until at a later election a majority of the voting electors vote "yes" on such question.

((a) reenacted May 21, 2020, P.L.149, No.21)

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

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

(d) Nothing in this section shall prohibit the board from approving:

(1) The transfer of a retail license from a municipality which has voted to prohibit the issuance of such a license to a location in another municipality in the same county that allows the issuance of that type of license.

(2) The renewal or transfer of a restaurant liquor license in a municipality which has voted to prohibit the issuance of such a license if:

(i) the license is located in a township of the second class within a county of the third class;

(ii) the license was originally issued prior to 1950; and

(iii) the premises have been licensed for at least fifty years.

(3) The renewal or transfer of a restaurant liquor license, an eating place retail dispenser license, a hotel license, a club license or a distributor license in a location in which two or more municipalities have merged and the resulting municipality prohibits the issuance of such licenses. ((3) added July 5, 2012, P.L.1007, No.116)

((d) amended June 28, 2011, P.L.55, No.11)

(e) An election may be held on the question of granting liquor licenses to resort facilities in municipalities that do not already allow the retail sale of liquor in subsection (a) at the primary election immediately following the effective date of this subsection and at each subsequent primary election, notwithstanding any referendum frequency restriction in this act to the contrary. ((e) added Feb. 21, 2002, P.L.103, No.10)

(e.1) A vote on the ballot question regarding the granting of liquor licenses that changes the municipality's status on that issue supersedes any earlier contrary votes on the granting of liquor licenses to public venues, performing arts facilities,

hotels, golf courses, incorporated units of national veterans' clubs and special occasion permits. In addition, a vote on the ballot question regarding the granting of liquor licenses that changes the municipality's status on that issue supersedes any earlier contrary votes on the issuance of granting licenses to retail dispensers of malt and brewed beverages. ((e.1) added Dec. 9, 2002, P.L.1653, No.212)

(f) For purposes of this section, "resort facilities" shall mean any hotel, restaurant or club located on property owned by or contiguous to a convention center that offers skiing, golf, hiking and horseback riding. The convention center itself must be located on property at least two thousand acres in size. The property may be located in more than one municipality or county. ((f) added Feb. 21, 2002, P.L.103, No.10)

(472 amended May 31, 1996, P.L.312, No.49)

Compiler's Note: Section 2 of Act 48 of 2019 provided that the amendment of subsection (a) shall not apply to brewery licenses, brewery storage licenses, limited distillery licenses, board-approved limited distillery locations, limited winery licenses and board-approved limited winery locations granted before the effective date of Act 48.

Compiler's Note: See section 28 of Act 39 of 2016, which amended subsection (a), for special provisions relating to the establishment of a Wine and Spirits Wholesale and Retail Privatization Commission.

Section 472.1. Clubs.--(a) Whenever any club in existence at least five years prior to the time of application for license owns a contiguous plot of land in more than two municipalities in one or more but less than all of which the granting of liquor licenses has not been prohibited and at least one acre of the plot of land owned by the club is situated in each municipality in which the granting of liquor licenses has not been prohibited, the club may be issued a club liquor license or a catering license by the board if the board finds that the license will not be detrimental to any residential neighborhood. This section shall not be construed to prohibit the issuance of club liquor licenses or catering licenses which may otherwise be issued under the provisions of this act.

(b) Any club which holds a liquor license or a catering license under this section on the effective date of this subsection may, for a period of six months from the effective date of this subsection, exchange such license for a restaurant liquor license. The restaurant liquor license shall be nontransferable and shall be issued to the club or concessionaire chosen by the club to operate the restaurant. A restaurant liquor license issued to a concessionaire under this section shall be immediately rescinded upon the termination of the contract between the club and the concessionaire. Notwithstanding any other provisions of the law, if a restaurant liquor license issued under this subsection is rescinded because of the termination of the agreement between the club and the concessionaire, the board may issue a new restaurant license to the club or its newly designated concessionaire at any time.

(472.1 amended Feb. 21, 2002, P.L.103, No.10)

Section 472.2. Granting of Liquor Licenses in Certain Municipalities.--The board may issue a restaurant liquor license to an applicant holding an eating place retail dispenser's license in a municipality which by referendum approved the granting of eating place retail dispenser licenses and in a subsequent referendum approved the granting of restaurant liquor licenses. This section applies to eating place retail dispenser

licenses which were issued in the municipality prior to the referendum that allowed the issuance of restaurant liquor licenses. If the board grants the restaurant liquor license, the applicant must immediately surrender for cancellation its eating place retail dispenser license.

(472.2 amended Dec. 20, 2000, P.L.992, No.141)

Section 472.3. Exchange of Certain Licenses.--(a) The board may issue to a club as defined in this act, a club liquor license in exchange for a club retail dispenser license in any municipality which has approved the granting of liquor licenses. ((a) amended Dec. 9, 2002, P.L.1653, No.212)

(b) An applicant under this section shall surrender his club retail dispenser license for cancellation prior to the issuance of the new club liquor license.

(c) The applicant for such exchange of license shall file an application for a club liquor license and shall post a notice of such application in the manner provided in section 403. In determining whether the exchange shall be granted the board shall have the same discretion as provided in section 404 in the case of any new license.

(d) The provisions of section 461 pertaining to quota shall not pertain to this section for exchange purposes.

Section 472.4. Privately-Owned Public Golf Courses.--(472.4 deleted by amendment Feb. 21, 2002, P.L.103, No.10)

Section 472.5. Privately Owned Golf Courses Located in More than One County; Equine Centers.--(a) The board may issue to a nonprofit corporation a club liquor license or club catering license if all of the following apply:

(1) The nonprofit corporation is incorporated in this Commonwealth.

(2) The nonprofit corporation operates a privately owned private golf course:

(i) having contiguous land situate in two or more municipalities;

(ii) in which one or more of the municipalities, but less than all, the granting of a liquor license has not been prohibited; and

(iii) in which at least one acre of the contiguous land is situate in more than one county and one or more municipalities.

(3) The board finds that the license will not be detrimental to any residential neighborhood.

(b) Subsection (a) shall not be construed to prohibit the issuance of club liquor licenses or club catering licenses which may otherwise be issued under the provisions of this act.

(c) The board may issue public venue, hotel and restaurant liquor licenses to qualifying facilities at an equine center notwithstanding a vote by electors which prohibits the issuance of licenses for the retail sale of liquor and malt or brewed beverages.

(472.5 amended Dec. 8, 2004, P.L.1810, No.239)

Section 473. Public Record.--(a) Any person having a pecuniary interest in the conduct of business on licensed premises whether that interest is direct or indirect, legal or equitable, individual, corporate, or mutual, including any management company, shall file his name and address with the board on forms provided by the board. In the case of corporate ownership, the secretary of the corporation shall file with the board the names and addresses of all persons having such a corporate pecuniary interest.

(b) The names and addresses required by this section shall be recorded by the board and made available to the public as a public record.

Compiler's Note: See section 28 of Act 39 of 2016, which amended section 473, for special provisions relating to the establishment of a Wine and Spirits Wholesale and Retail Privatization Commission.

Section 474. Surrender of Club Licenses for Benefit of Licensees.--Whenever a club license has been returned to the board for the benefit of the licensee due to the licensed establishment not having been in operation for any reason whatsoever for a period of time not exceeding fifteen days, the license shall be held by the board for the benefit of the licensee for a period of time not exceeding one year, or, upon proper application to the board, for an additional year, and the license shall be revoked at the termination of the period, and transfer of the license shall not be permitted after the termination of the period.

Section 474.1. Surrender of Restaurant, Eating Place Retail Dispenser, Hotel, Importing Distributor and Distributor License for Benefit of Licensee.--(a) A restaurant, eating place retail dispenser, hotel, importing distributor and distributor licensee whose licensed establishment is not in operation for fifteen consecutive days shall return its license for safekeeping with the board no later than at the expiration of the fifteen-day period. The license may only be reissued from safekeeping in the manner set forth by the board through regulation.

(b) The board may hold the license in safekeeping for a period not to exceed two consecutive years. Any license remaining in safekeeping for more than two consecutive years shall be immediately revoked by the Bureau of Licensing unless a transfer application or request for reissue from safekeeping has been filed prior to the expiration of the two-year period or unless the board has approved a request to extend the safekeeping for an additional year as set forth in subsection (g). In addition, the board shall extend the period for an additional year if, at the end of the two-year period, the licensed premises are unavailable due to fire, flood or other similar natural disaster; no further extension beyond one additional year shall be granted by the board regardless of whether the licensed premises are unavailable due to fire, flood or other similar natural disaster unless an application is made as set forth in subsection (g). ((b) amended June 8, 2016, P.L.273, No.39)

(c) In the event a transfer application filed prior to the expiration of the two-year period is disapproved by the board, then the license may remain in safekeeping so long as the licensee has submitted and the board has approved a request to extend the safekeeping for an additional year as set forth in subsection (g). Such request must be submitted within thirty days of the board's decision notwithstanding any appeal filed in the matter; however, the fee set forth in subsection (g) shall be refunded if the board's decision is overturned. ((c) amended June 8, 2016, P.L.273, No.39)

(d) Any period of time in which the licensee allows the license to lapse by not filing a timely license renewal or license validation shall be considered time in which the license was held in safekeeping for purposes of this section.

(e) For purposes of this section, any license placed in safekeeping prior to February 7, 2004, shall be deemed to have been placed in safekeeping on February 7, 2004.

(f) ((f) deleted by amendment Nov. 29, 2006, P.L.1421, No.155).

(g) (1) A licensee whose license is subject to this section may, upon written request, apply to the board to allow the license to remain in safekeeping for an additional one year. The written request must be accompanied by a ten thousand dollar (\$10,000) fee for licenses placed in safekeeping from counties of the first class, second class, second class A, third class and fourth class and a fee of five thousand dollars (\$5,000) for licenses placed in safekeeping from counties of the fifth through eighth classes. For each subsequent year in safekeeping, the fees set forth in this paragraph shall be doubled over the amount charged for the previous year's fee. No fee shall be required if the licensee can prove that he or she is unable to use the license through no fault of his or her own, including a fire, flood or other event, which includes the inability to obtain an occupancy permit for the licensed premises from a municipality, that renders the licensed premises unusable. Factors such as another business operating at the licensed premises, the licensed business being no longer viable or other similar circumstances shall not justify a fee waiver. The board shall approve the request unless the license or licensee no longer meets the requirements of this act or the board's regulations. The fee collected shall be paid into the State Treasury through the Department of Revenue into the State Store Fund.

(2) (Reserved).

((g) amended June 8, 2016, P.L.273, No.39)

(474.1 amended Jan. 6, 2006, P.L.1, No.1 and Nov. 29, 2006, P.L.1421, No.155)

Compiler's Note: See section 28 of Act 39 of 2016, which amended subsections (b), (c) and (g), for special provisions relating to the establishment of a Wine and Spirits Wholesale and Retail Privatization Commission.

Section 475. Establishments Proximate to Interstate Highways Not To Be Licensed.--(475 deleted by amendment Feb. 21, 2002, P.L.103, No.10)

Section 477. Applicants to Provide State Tax Identification Numbers and Statement of State Tax Status; Waiver of Confidentiality of Information in the Possession of the Department of Revenue and Other Departments; Review of State Tax Status.--(a) An applicant for the grant, renewal or transfer of any license issued pursuant to this article shall provide to the board, upon forms approved by the Department of Revenue, the following:

(1) the applicant's State personal income tax identification number;

(2) the applicant's State sales tax number;

(3) the applicant's State corporation tax number;

(4) the applicant's State employer withholding tax number;

(5) the applicant's unemployment compensation account number; and

(6) a statement that:

(i) all State tax reports have been filed and all State taxes paid;

(ii) all State taxes are subject to a timely administrative or judicial appeal; or

(iii) all State taxes are subject to a duly approved deferred payment plan.

(b) An applicant for the grant, renewal or transfer of any license issued pursuant to this article shall, by the filing of an application insofar as it relates to the board, waive any confidentiality with respect to State tax information regarding

said applicant in the possession of the Department of Revenue, the Office of Attorney General or the Department of Labor and Industry, regardless of the source of that information and shall consent to the providing of that information to the board by the Department of Revenue, the Office of Attorney General or the Department of Labor and Industry.

(c) Upon receipt of any application for the grant, renewal or transfer of any license issued pursuant to this article, the board shall review the State tax status of the applicant. The board shall request State tax information regarding the applicant from the Department of Revenue, the Office of Attorney General or the Department of Labor and Industry and said information shall be provided.

(d) The board shall not approve any application for the grant, renewal or transfer of any license issued pursuant to this article where the applicant has failed to:

- (1) provide any of the information required by subsection (a);
- (2) file required State tax reports; or
- (3) pay any State taxes not subject to a timely administrative or judicial appeal or subject to a duly authorized deferred payment plan.

(e) For the purpose of this section, the term "applicant" shall include the transferor and transferee of any license issued under this act.

(f) Upon the required submission of the annual licensing fee or upon renewal, issuance or transfer of any license, if the Department of Revenue or the Department of Labor and Industry notifies the board of noncompliance with the aforementioned provisions, the board shall not renew, issue, transfer or validate the license. Any appeal filed therefrom shall not act as a supersedeas. ((f) added Apr. 29, 1994, P.L.212, No.30)

(g) This section shall also be applicable to any management company utilized by the applicant. ((g) added Feb. 21, 2002, P.L.103, No.10)

Section 478. Renewal of Amusement Permit; Renewal of Permit for Sales for Off-Premises Consumption in Cities of the First Class.--(a) Upon the annual review of the operating history of a licensee prior to the validation period or the periodic renewal of the license, the Director of the Bureau of Licensing shall have the authority to state objection to the renewal of the amusement permit as required by section 493(10). Such objection shall be based upon the operating history, and notice shall be provided to the licensee in writing, by certified mail, at the address listed on the license. Upon the completion of any hearing conducted concerning the renewal of the amusement permit pursuant to section 464, the board may, in its discretion, refuse to renew the amusement permit.

(b) In cases where the board refuses to renew the amusement permit of any licensee, the licensee or the applicant or manager or person with a majority or controlling interest of either in the operation of this or any other license may not again be eligible to receive a new permit from the board until the expiration of a period of up to two years from the final adjudication.

(c) Upon the biennial review of the operating history of a licensee prior to the validation period or the periodic renewal of the license, the Director of the Bureau of Licensing shall have the authority to state objection to the renewal of the permit for sale of malt or brewed beverages required under section 407 or 442. Any objection shall be based upon the

operating history, and notice shall be provided to the licensee in writing, by certified mail, at the address listed on the license. Upon the completion of any hearing conducted concerning the renewal of the permit pursuant to section 464, the board may, in its discretion, refuse to renew the permit.

(d) In cases where the board refuses to renew the permit for sale of malt or brewed beverages required under section 407 or 442 of any licensee, the licensee or the applicant or manager or person with a majority or controlling interest, of either in the operation of this or any other license, may not again be eligible to receive a new permit from the board until the expiration of a period of up to two years from the final adjudication.

(478 amended July 7, 2006, P.L.584, No.84)

Section 479. Point System for Certain Licensees.--(479 expired June 30, 2007. See Act 155 of 2006.)

Section 480. Removal of Points.--(480 expired June 30, 2007. See Act 155 of 2006.)

Section 481. School, Mandatory Safekeeping or Revocation of License Privilege on Accumulation of Points.--(481 expired June 30, 2007. See Act 155 of 2006.)

Section 482. Points Follow Transfer of License.--(482 expired June 30, 2007. See Act 155 of 2006.)

Section 483. Expiration of Point System.--Sections 479, 480, 481 and 482 of the act shall expire June 30, 2007.

(483 added Nov. 29, 2006, P.L.1421, No.155)

(C.1) Shipment of Wine.

(Subdiv. added Feb. 21, 2002, P.L.103, No.10)

Section 488. Shipment of Wine.--(a) The shipment of wine to residents of this Commonwealth shall be governed by this section.

(b) Notwithstanding any other provision of this act or law, a person licensed by the board or another state or country as a producer of wine and who obtains a direct wine shipper license as provided for in this section may ship up to thirty-six cases of up to nine liters per case in a calendar year of any wine on the order of any resident of this Commonwealth who is at least twenty-one (21) years of age for such resident's personal use and not for resale.

(c) Each month, the board shall publish on the Internet a list of all classes, varieties and brands of wine available for sale in the Pennsylvania Liquor Stores.

(c.1) Prior to issuing a direct wine shipper license, the board shall require an applicant to:

(1) File an application with the board.

(2) Pay a registration fee of two hundred fifty dollars (\$250).

(3) Provide to the board a true copy of the applicant's current alcoholic beverage license issued by the board or another state or country.

(4) Provide documentation which evidences that the applicant has obtained a sales tax license from the Department of Revenue.

(5) Provide the board with any other information that the board deems necessary and appropriate.

(d) A direct wine shipper shall do all of the following:

(1) (Deleted by amendment).

(2) Report to the board each year the total of wine shipped to residents of this Commonwealth in the preceding calendar year.

(3) Permit the board, the enforcement bureau or the Secretary of Revenue, or their designated representatives, to

perform an audit of the direct wine shipper's records upon request.

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

(5) Require proof of age of the recipient, in a manner or format approved by the board, before wine is shipped to a resident of this Commonwealth.

(6) Ensure that all boxes or exterior containers of wine shipped directly to a resident of this Commonwealth are conspicuously labeled with the words "CONTAINS ALCOHOL: SIGNATURE OF PERSON 21 YEARS OF AGE OR OLDER REQUIRED FOR DELIVERY."

(7) Pay to the Department of Revenue all taxes due on sales to residents of this Commonwealth. The amount of the taxes shall be calculated as if the sales were in this Commonwealth at the locations where delivery was made. The wine delivered under this subsection shall be subject to only the following:

(i) The sales and use tax imposed by section 202 and Article II-B of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

(ii) The sales and use tax imposed by Article XXXI-B of the act of July 28, 1953 (P.L.723, No.230), known as the Second Class County Code.

(iii) The sales and use tax imposed by the act of June 5, 1991 (P.L.9, No.6), known as the Pennsylvania Intergovernmental Cooperation Authority Act for Cities of the First Class.

(iv) The wine excise tax imposed under subsection (j).

(8) Annually renew its license by paying a renewal fee of two hundred fifty dollars (\$250).

(e) (Deleted by amendment).

(f) Any person who resells wine obtained under this section commits a misdemeanor of the second degree. A person convicted of selling or offering to sell any wine in violation of this section shall, in addition to any other penalty prescribed by law, be sentenced to pay a fine of four dollars (\$4) per fluid ounce for each container of wine found on the premises where the sale was made or attempted. The amount of fine per container shall be based on the capacity of the container when full, whether or not it is full at the time of sale or attempted sale. All wine found on the premises shall be confiscated. The prohibition on reselling wine shall not apply to any entity who is licensed to resell wine and who acquires the wine from a limited winery licensed under section 505.2.

(g) The board may promulgate such rules and regulations as are necessary to implement and enforce the provisions of this section.

(h) The board shall submit annual reports to the Appropriations Committee and the Law and Justice Committee of the Senate and to the Appropriations Committee and the Liquor Control Committee of the House of Representatives summarizing the number of direct shipper licenses issued by the board and the quantity of wine sold by direct wine shippers pursuant to this section.

(i) (Deleted by amendment).

(j) A wine excise tax is imposed and assessed at the rate of two dollars and fifty cents (\$2.50) per gallon on all wine sold and delivered under this section. The tax shall be collected by the direct wine shipper from the purchaser and shall be paid to the department as provided under this section. Unless otherwise specified, the tax shall be assessed, collected

and enforced by the department in the same manner as the tax under Article II of the Tax Reform Code of 1971.

(k) Receipts from the tax under subsection (j) shall be deposited into the General Fund. Annually, the board shall allocate the amount of one million dollars (\$1,000,000) for the purpose of awarding grants under section 488.1.

(1) Delivery shall be by a licensed transporter for hire. The licensed transporter for hire shall:

(1) keep records as required under section 512 pertaining to the direct shipment of wine; and

(2) permit the board and the enforcement bureau, or their designated representatives, to inspect the records under section 513.

(488 amended June 8, 2016, P.L.273, No.39)

Compiler's Note: See section 28 of Act 39 of 2016, which amended section 488, for special provisions relating to the establishment of a Wine and Spirits Wholesale and Retail Privatization Commission.

Section 488.1. Pennsylvania Wine Marketing and Research Program Board.--(a) Notwithstanding any other provision of law, the Pennsylvania Wine Marketing and Research Program Board shall, in addition to the members appointed by the Secretary of Agriculture under 3 Pa.C.S. § 4504(a) (relating to commodity marketing board), be composed of four members appointed by the General Assembly as follows:

(1) One individual appointed by the President pro tempore of the Senate.

(2) One individual appointed by the Minority Leader of the Senate.

(3) One individual appointed by the Speaker of the House of Representatives.

(4) One individual appointed by the Minority Leader of the House of Representatives.

(b) The members appointed under subsection (a) shall:

(1) Except as provided under this section, serve on the same terms and conditions as members appointed by the Secretary of Agriculture.

(2) Be residents of this Commonwealth.

(3) Have substantial experience or expertise in the Pennsylvania wine industry.

(4) Serve at the pleasure of the appointing authority.

(c) Appointing authorities under subsection (a) shall appoint initial members within thirty days of the effective date of this section.

(d) In addition to duties imposed under other laws, the Pennsylvania Wine Marketing and Research Program Board shall do all of the following:

(1) Meet as often as necessary but at least annually.

(2) Adopt guidelines establishing the procedure by which an entity may submit an application for grant funding under this section to the Pennsylvania Wine Marketing and Research Program Board.

(3) Have the following duties as to awarding grants:

(i) Make recommendations to the board to award grants to entities for the purpose of increasing the production of Pennsylvania-made wines and enhancing the Pennsylvania wine industry through promotion, marketing and research-based programs and projects.

(ii) Allocate grants through a competitive grant review process established by the Pennsylvania Wine Marketing and

Research Program Board. The application for a grant shall include:

- (A) the purpose for which the grant shall be utilized;
- (B) information indicating need for the grant;
- (C) an estimated budget;
- (D) methods for measuring outcomes; and
- (E) any other criteria as the board may require.

(iii) Require grant recipients to provide the Pennsylvania Wine Marketing and Research Program Board with full and complete access to all records relating to the performance of the grant and to submit at the time and in the form as may be prescribed truthful and accurate information that the Pennsylvania Wine Marketing and Research Program Board may require.

(iv) Conduct a thorough annual evaluation of each program for which a grant under this section is made. The Pennsylvania Wine Marketing and Research Program Board shall seek repayment of funds if the Pennsylvania Wine Marketing and Research Program Board determines that funds are not utilized for the original stated purpose.

(v) Submit an annual report to the General Assembly detailing all actions of the Pennsylvania Wine Marketing and Research Program Board and grants awarded under this section.

(488.1 added June 8, 2016, P.L.273, No.39)

Compiler's Note: See section 28 of Act 39 of 2016, which added section 488.1, for special provisions relating to the establishment of a Wine and Spirits Wholesale and Retail Privatization Commission.

(D) Unlawful Acts; Penalties.

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

It shall be unlawful--

(1) Sales of Liquor. For any person, by himself or by an employe or agent, to expose or keep for sale, or directly or indirectly, or upon any pretense or upon any device, to sell or offer to sell any liquor within this Commonwealth, except in accordance with the provisions of this act and the regulations of the board. This clause shall not be construed to prohibit hospitals, physicians, dentists or veterinarians who are licensed and registered under the laws of this Commonwealth from administering liquor in the regular course of their professional work and taking into account the cost of the liquor so administered in making charges for their professional service, or a pharmacist duly licensed and registered under the laws of this Commonwealth from dispensing liquor on a prescription of a duly licensed physician, dentist or veterinarian, or selling medical preparations containing alcohol, or using liquor in compounding prescriptions or medicines and making a charge for the liquor used in such medicines, or a manufacturing pharmacist or chemist from using liquor in manufacturing preparations unfit for beverage purposes and making a charge for the liquor so used. All such liquors so administered or sold by hospitals, physicians, dentists, veterinarians, pharmacists or chemists shall conform to the Pharmacopoeia of the United States, the National Formulary, or the American Homeopathic Pharmacopoeia. This clause shall not be construed to prohibit an executor or an administrator of a decedent's estate from selling privately or at public auction liquor which was an asset of the decedent. This clause shall not be construed to prohibit the practice by a bed and breakfast

homestead or inn of providing one bottle of wine to its paying guests at check-in while in an overnight status so long as that wine is produced by a licensed limited winery as provided for under section 505.2. For purposes of this paragraph, a "bed and breakfast homestead or inn" shall mean a private residence that contains ten or fewer bedrooms used for providing overnight accommodations to the public and in which breakfast is the only meal served and is included in the charge for the room. This clause shall not be construed to prohibit the practice of a business which is principally engaged in the sale of gift baskets within this Commonwealth to sell a gift basket containing nonliquor items and no more than one bottle of wine which has been lawfully purchased from the board, so long as that wine is produced by a licensed limited winery as provided for under section 505.2 and provided that delivery of the gift basket shall be by a licensed transporter for hire, which shall keep records as required under section 512 pertaining to the direct shipment of wine, and provided that the business complies with the provisions of section 488 relative to requiring proof of age and labeling advising that the package contains alcohol. The board shall establish regulations to ensure that State taxes from the sales will be paid by the estate from the proceeds of the sale. The board may not prohibit a sale of liquor for the reason that it was not lawfully acquired prior to January 1, 1934 or has not been purchased from a Pennsylvania Liquor Store or in compliance with Pennsylvania law. ((1) amended June 8, 2016, P.L.273, No.39)

(2) Possession or Transportation of Liquor or Alcohol. For any person, except a manufacturer or the board or the holder of a sacramental wine license or of an importer's license, to possess or transport any liquor or alcohol within this Commonwealth which was not lawfully acquired prior to January first, one thousand nine hundred and thirty-four, or has not been purchased from a Pennsylvania Liquor Store or a licensed limited winery in Pennsylvania, except in accordance with section 488 or the board's regulations. In addition, it shall be lawful for anyone to possess miniatures totaling less than one gallon purchased in another state or a foreign country. The burden shall be upon the person possessing or transporting such liquor or alcohol to prove that it was so acquired. Notwithstanding this section or any other provision of the law, wine may be produced by any person without a license if the wine is not produced for sale and total production does not exceed two hundred gallons per calendar year. Wine produced in accordance with this clause may be used at organized affairs, exhibitions, competitions, contests, tastings or judgments if it is not sold or offered for sale.

None of the provisions herein contained shall prohibit nor shall it be unlawful for any person to import into Pennsylvania, transport or have in his possession, an amount of liquor not exceeding one gallon in volume upon which a State tax has not been paid, if it can be shown to the satisfaction of the board that such person purchased the liquor in a foreign country or United States territory and was allowed to bring it into the United States. Neither shall the provisions contained herein prohibit nor make it unlawful for (i) any member of the armed forces on active duty, or (ii) any retired member of the armed forces, or (iii) any totally disabled veteran, or (iv) the spouse of any person included in the foregoing classes of persons to import into Pennsylvania, transport or have in his possession an amount of liquor not exceeding one gallon per month in volume upon which the State tax has not been paid, so

long as such liquor has been lawfully purchased from a package store established and maintained under the authority of the United States and is in containers identified in accordance with regulations issued by the Department of Defense. Such liquor shall not be possessed, offered for sale or sold on any licensed premises. The term "package store" as used in this clause shall mean those retail operations located on any of the United States military installations, including an installation of the Army, Navy, Air Force, Marine Corps or Coast Guard.

None of the provisions herein contained shall prohibit nor shall it be unlawful for any consul general, consul or other diplomatic officer of a foreign government to import into Pennsylvania, transport or have in his possession liquor upon which a State tax has not been paid, if it can be shown to the satisfaction of the board that such person acquired the liquor in a foreign country and was allowed to bring it into the United States. Such liquor shall not be possessed, offered for sale or sold on any licensed premises.

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

((2) amended July 5, 2012, P.L.1007, No.116)

(3) Purchase of Liquor or Alcohol. For any person within this Commonwealth, by himself or by an employe or agent, to attempt to purchase, or directly or indirectly, or upon any pretense or device whatsoever, to purchase any liquor or alcohol from any person or source other than a Pennsylvania Liquor Store, except in accordance with the provisions of this act or the regulations of the board.

(4) Possession and Use of Decanters. For any person to use decanters of alcoholic beverages except that the use of decanters or other similar receptacles by licensees shall be permitted in the case of wines and then only in accordance with the regulations of the board, but nothing herein contained shall prohibit the manufacture and possession of wine as provided in clause (2) of this section.

(5) Failure to Properly Dispose of Empty Liquor Containers. For any restaurant, hotel or club licensee, his servants, agents or employes, to fail to break any package in which liquors were contained, except those decanter packages that the board determines to be decorative, within twenty-four hours after the

original contents were removed therefrom, unless the licensee participates in either a municipal recycling program, in accordance with the act of July 28, 1988 (P.L.556, No.101), known as the "Municipal Waste Planning, Recycling and Waste Reduction Act," or a voluntary recycling program. The licensee shall provide proof in writing of the participation in a recycling program upon the demand of the Bureau of Liquor Control Enforcement of the Pennsylvania State Police. The proof of participation shall be provided in a manner as prescribed by the Pennsylvania Liquor Control Board. ((5) amended Oct. 5, 1994, P.L.522, No.77)

(6) Sales by Restaurant and Hotel Liquor Licensees. For any restaurant or hotel licensee, his servants, agents or employes, to sell any liquor or malt or brewed beverages for consumption on the licensed premises except in a room or rooms or place on the licensed premises at all times accessible to the use and accommodation of the general public, but this section shall not be interpreted to prohibit a restaurant liquor licensee from providing private affairs the primary function of which is for catering only to weddings or special occasions arranged twenty-four hours in advance, nor to prohibit a hotel licensee, or a restaurant licensee when the restaurant is located in a hotel, from selling liquor or malt or brewed beverages in any room of such hotel occupied by a bona fide guest or to prohibit a restaurant licensee from selling liquor or malt or brewed beverages in a bowling alley where the restaurant and bowling alley are immediately adjacent and under the same roof. ((6) amended July 17, 2003, P.L.63, No.15)

(7) Sales of Liquor by Manufacturers and Licensed Importers. For any manufacturer or licensed importer of liquor in this Commonwealth, his agents, servants or employes, to sell or offer to sell any liquor in this Commonwealth except to the board for use in Pennsylvania Liquor Stores, and in the case of a manufacturer, to the holder of a sacramental wine license or an importer's license. Notwithstanding any other provision of this act, a manufacturer or licensed importer may sell or offer to sell liquor for delivery outside of this Commonwealth. ((7) amended Dec. 9, 2002, P.L.1653, No.212)

(8) Importation and Sales of Alcohol. For any person, to import alcohol into this Commonwealth, or to sell alcohol to any person, except in accordance with section 488 and the regulations of the board. ((8) amended Feb. 21, 2002, P.L.103, No.10)

(9) Possession of Alcohol. For any person, to have alcohol in his possession, except in accordance with the provisions of this act and the regulations of the board.

(10) Fortifying, Adulterating or Contaminating Liquor. For any licensee or any employe or agent of a licensee or of the board, to fortify, adulterate or contaminate any liquor, except as permitted by the regulations of the board, or to refill wholly or in part, with any liquid or substance whatsoever, any liquor bottle or other liquor container.

(11) Importation of Liquor. For any person, other than the board or the holder of a sacramental wine license, an importer's license or a direct wine shipper's license, to import any liquor whatsoever into this Commonwealth, but this section shall not be construed to prohibit railroad and pullman companies from purchasing and selling liquors purchased outside the Commonwealth in their dining, club and buffet cars which are covered by public service liquor licenses and which are operated in this Commonwealth. ((11) amended June 8, 2016, P.L.273, No.39)

(12) Delivery of Liquor by Certain Licensees. For a liquor licensee permitted to deliver liquor, to make any deliveries except in his own vehicles bearing his name, address and license number on each side in letters not smaller than two inches in height, or in the vehicle of another person duly authorized to transport liquor within this Commonwealth. ((12) amended Dec. 22, 2011, P.L.530, No.113)

(13) Violation of Certain Rules and Regulations of Board. For any person, to violate any rules and regulations adopted by the board to insure the equitable wholesale and retail sale and distribution of liquor and alcohol through the Pennsylvania Liquor Stores.

(14) Offering Commission or Gift to Members of Board or State Employee. For any person selling or offering to sell liquor or alcohol to, or purchasing at wholesale liquor or alcohol from, the board, either directly or indirectly, to pay or offer to pay any commission, profit or remuneration, or to make or offer to make any gift to any member or employee of the board or other employee of the Commonwealth or to anyone on behalf of such member or employee.

(15) Possession or sale of powdered alcohol. For any person to possess, purchase, sell, offer to sell or use powdered alcohol. This clause shall not apply to a hospital that operates primarily for the purpose of conducting scientific research, a State institution conducting bona fide research, a private college or university conducting bona fide research or a pharmaceutical company conducting bona fide research. ((15) added June 8, 2016, P.L.273, No.39)

Compiler's Note: See section 28 of Act 39 of 2016, which amended paragraphs (1) and (11) and added paragraph (16), for special provisions relating to the establishment of a Wine and Spirits Wholesale and Retail Privatization Commission.

Section 492. Unlawful Acts Relative to Malt or Brewed Beverages and Licensees.--

It shall be unlawful--

(1) Manufacturing Without License. Except as provided herein, for any person, to manufacture malt or brewed beverages, unless such person holds a valid manufacturer's license for such purpose issued by the board. Malt or brewed beverages may be produced by any person without a license if such malt or brewed beverages are produced not for sale and total production does not exceed two hundred gallons per calendar year. Malt or brewed beverages produced in accordance with this paragraph may be used at organized affairs, exhibitions, competitions, contests, tastings or judging provided it is not sold or offered for sale. ((1) amended Feb. 18, 1998, P.L.162, No.25)

(2) Sales of Malt or Brewed Beverages for Consumption on the Premises. For any person, to sell to another for consumption upon the premises where sold or to permit another to consume upon the premises where sold, any malt or brewed beverages, unless such person holds a valid retail dispenser license or a valid liquor license issued by the board authorizing the sale of malt or brewed beverages for consumption upon such premises.

(3) Sales of Malt or Brewed Beverages Not for Consumption on the Premises. For any person, to sell to another any malt or brewed beverages not for consumption upon the premises where sold, unless such person holds a valid license permitting such sale.

(4) ((4) deleted by amendment Jan. 6, 2006, P.L.1, No.1)

(5) Sales of Malt or Brewed Beverages by Hotels, Eating Places or Public Service Licensees During Prohibited Hours.--For any hotel or eating place holding a retail dispenser's license, or the servants, agents or employes of such licensees, to sell, trade or barter in malt or brewed beverages between the hours of two o'clock antemeridian Sunday and seven o'clock in the forenoon of the following Monday, or between the hours of two o'clock antemeridian and seven o'clock antemeridian of any week day: Provided, That notwithstanding any provision to the contrary, whenever the thirty-first day of December falls on a Sunday such sales of malt or brewed beverages may be made on such day after one o'clock postmeridian and until two o'clock antemeridian of the following day. For any public service licensee authorized to sell malt or brewed beverages or the servants, agents or employes of such licensees to sell, trade or barter in malt or brewed beverages between the hours of two o'clock antemeridian and seven o'clock antemeridian on any day. ((5) amended Nov. 10, 1999, P.L.514, No.47)

(6) ((6) deleted by amendment Dec. 20, 2000, P.L.992, No.141)

(7) Clubs Selling Between Three O'Clock Antemeridian and Seven O'Clock Antemeridian. For any club retail dispenser, or its servants, agents or employes, to sell malt or brewed beverages between the hours of three o'clock antemeridian and seven o'clock antemeridian on any day.

(8) Transportation and Importation of Malt or Brewed Beverages. For any person, to transport malt or brewed beverages except in the original containers, or to transport malt or brewed beverages for another who is engaged in selling either liquor or malt or brewed beverages, unless such person shall hold (a) a license to transport for hire, alcohol, liquor and malt or brewed beverages, as hereinafter provided in this act, or (b) shall hold a permit issued by the board and shall have paid to the board such permit fee, as prescribed in section 614-A of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929," any other law to the contrary notwithstanding. This clause shall not be construed:

(i) to prohibit transportation of malt or brewed beverages through this Commonwealth and not for delivery in this Commonwealth if such transporting is done in accordance with the rules and regulations of the board; or

(ii) to prohibit railroad and Pullman companies from selling malt or brewed beverages purchased outside this Commonwealth in their dining, club and buffet cars which are covered by public service liquor licenses and which are operated in this Commonwealth.

((8) amended Dec. 9, 2002, P.L.1653, No.212)

(9) Transportation of Malt or Brewed Beverages by Licensee. For a malt or brewed beverage licensee, to deliver or transport any malt or brewed beverages, excepting in vehicles bearing the name and address and license number of such licensee painted or affixed on each side of such vehicle in letters no smaller than two inches in height. ((9) amended Dec. 22, 2011, P.L.530, No.113)

(10) ((10) deleted by amendment Dec. 9, 2002, P.L.1653, No.212)

(11) Delivery of Malt or Brewed Beverages With Other Commodities. For any manufacturer, importing distributor or distributor, or his servants, agents or employes, except with board approval, to deliver or transport any malt or brewed beverages in any vehicle in which any other commodity is being transported.

(12) Distributors and Importing Distributors Engaging in Other Business. For any distributor or importing distributor, or his servants, agents or employes, without the approval of the board, and then only in accordance with board regulations, to engage in any other business whatsoever, except the business of distributing malt or brewed beverages, except that the sale of the following goods shall be permitted on the licensed premises of a distributor or importing distributor:

(i) Any book, magazine or other publication related to malt or brewed beverages.

(ii) Any equipment, ingredients or other supplies necessary for the unlicensed manufacture of malt or brewed beverages as described in paragraph (1), commonly known as "homebrewing."

((12) amended Dec. 22, 2011, P.L.530, No.113)

(13) Possession or Storage of Liquor or Alcohol by Certain Licensees. For any distributor, importing distributor or retail dispenser, or his servants, agents or employes, to have in his possession, or to permit the storage of on the licensed premises or in any place contiguous or adjacent thereto accessible to the public or used in connection with the operation of the licensed premises, any alcohol or liquor.

(14) Malt or Brewed Beverage Licensees Dealing in Liquor or Alcohol. For any malt or brewed beverage licensee, other than a manufacturer, or the servants, agents or employes thereof, to manufacture, import, sell, transport, store, trade or barter in any liquor or alcohol.

(15) Selling to Persons Doing Illegal Business. For any malt or brewed beverage licensee, or his servants, agents or employes, to knowingly sell any malt or brewed beverages to any person engaged in the business of illegally selling liquor or malt or brewed beverages.

(16) Distributors and Importing Distributors Failing to Keep Records. For any importing distributor or distributor engaged in the sale of products, other than malt or brewed beverages, to fail to keep such complete separate records covering in every respect his transactions in malt or brewed beverages as the board shall by regulation require.

(17) Fortifying, Adulterating or Contaminating Malt or Brewed Beverages. For any person, to fortify, adulterate, contaminate, or in any wise to change the character or purity of, the malt or brewed beverages from that as originally marketed by the manufacturer at the place of manufacture.

(18) Coercing Distributors and Importing Distributors. For any manufacturer or any officer, agent or representative of any manufacturer to coerce or persuade or attempt to coerce or persuade any person licensed to sell or distribute malt or brewed beverages at wholesale or retail to establish selling prices for its products or to enter into any contracts or agreements, whether written or oral, or take any action which will violate or tend to violate any provisions of this act or any of the rules or regulations promulgated by the board pursuant thereto.

(19) Modifying or Terminating Distributing Rights Agreement. For any manufacturer or any officer, agent or representative of any manufacturer to modify, cancel, terminate, rescind or not renew, without good cause, any distributing rights agreement, and in no event shall any modification, cancellation, termination, rescission or nonrenewal of any distributing rights agreement become effective for at least ninety (90) days after written notice of such modification, cancellation, termination, rescission or intention not to renew has been served on the affected party and board by certified mail, return receipt

requested, except by written consent of the parties to the agreement. The notice shall state all the reasons for the intended modification, termination, cancellation, rescission or nonrenewal. The distributor or importing distributor holding such agreement shall have ninety (90) days in which to rectify any claimed deficiency, or challenge the alleged cause.

If the deficiency shall be rectified within ninety (90) days of notice, then the proposed modification, termination, cancellation, rescission or nonrenewal shall be null and void and without legal effect.

If the notice states as one of the reasons for the intended modification, cancellation, termination, rescission or renewal that the importing distributor or distributor's equipment or warehouse requires major changes or additions, then if the distributor or importing distributor shall have taken some positive action to comply with the required changes or additions, the distributor or importing distributor shall have deemed to have complied with the deficiency as set forth in the notice. The notice provisions of this section shall not apply if the reason for termination, cancellation or nonrenewal is insolvency, assignment for the benefit of creditors, bankruptcy, liquidation, fraudulent conduct in its dealings with the manufacturer, revocation or suspension for more than a thirty (30) day period of the importing distributor or distributor license.

(20) Interference with Transfer of License, Business or Franchise. (i) For any manufacturer to interfere with or prevent any distributor or importing distributor from selling or transferring his license, business or franchise, whether before or after notice of modification, cancellation, termination, rescission or nonrenewal has been given, provided the proposed purchaser of the business of the distributor or importing distributor meets the material qualifications and standards required of the manufacturers other distributors or importing distributors; (ii) if the proposed transfer of the distributor or importing distributor's business is to a surviving spouse or adult child, the manufacturer shall not, for any reason, interfere with, or prevent, the transfer of the distributor or importing distributor's license, business or franchise. Any subsequent transfer by surviving spouse or adult child shall thereafter be subject to the provisions of subclause (i) above.

(21) Inducing or Coercing Distributors or Importing Distributors to Accept Unordered Products or Commit Illegal Acts. For any manufacturer to compel or attempt to compel any distributor or importing distributor to accept delivery of any malt or brewed beverages or any other commodity which shall not have been ordered by the distributor or importing distributor, or to do any illegal act by any means whatsoever including, but not limited to, threatening to amend, cancel, terminate, rescind or refuse to renew any agreement existing between manufacturer and the distributor or importing distributor, or to require a distributor or importing distributor to assent to any condition, stipulation or provision limiting the distributor or importing distributor in his right to sell the products of any other manufacturer.

(22) Selling or Distributing of Malt or Brewed Beverages. For the holder of a brewery license to sell or distribute malt or brewed beverages except as provided under section 446(a)(1). ((22) added Dec. 22, 2017, P.L.1237, No.75)

Section 492.1. Hours of Operation Relative to Manufacturers, Importing Distributors and Distributors.--(a) (1)

Manufacturers may sell or deliver malt or brewed beverages

between two o'clock antemeridian of any Monday and twelve o'clock midnight of the following Saturday.

(2) Notwithstanding any other provision of law, manufacturers may sell malt and brewed beverages and alcohol subject to section 446(a)(2) for on-premises consumption between the hours of nine o'clock antemeridian and twelve o'clock antemeridian Monday through Saturday and Sunday between the hours of nine o'clock antemeridian and eleven o'clock postmeridian.

((a) amended Nov. 21, 2019, P.L.635, No.86)

(b) (1) Importing distributors and distributors may sell or deliver malt or brewed beverages between two o'clock antemeridian of any Monday and twelve o'clock midnight of the following Saturday to holders of a liquor or malt and brewed beverage license or permit issued by the board.

(2) Importing distributors and distributors may sell or deliver malt or brewed beverages between eight o'clock antemeridian and eleven o'clock postmeridian of any day, except Sunday, to persons not licensed or permitted by this act.

(c) In addition to the hours authorized under subsections (a) and (b), manufacturers, importing distributors and distributors, upon purchasing a permit from the board at an annual fee of one hundred dollars (\$100), may sell malt or brewed beverages to persons not licensed under this act or to a holder of a special occasion permit on Sunday between the hours of nine o'clock antemeridian and nine o'clock postmeridian. ((c) amended Dec. 22, 2011, P.L.530, No.113)

(d) In addition to the hours authorized under subsections (a) and (b), delivery or receiving of malt or brewed beverages shall be permissible on Sunday after prior arrangement in accordance with the following:

(1) A manufacturer may, at any time, deliver to any importing distributor or distributor to which the manufacturer has granted wholesale distribution rights for the manufacturer's product.

(2) An importing distributor or distributor may deliver to any organization to which a special occasion permit has been issued between the hours of nine o'clock antemeridian and twelve o'clock noon.

(3) An importing distributor or distributor may deliver to persons not licensed under this act between the hours of nine o'clock antemeridian and twelve o'clock noon.

(e) Notwithstanding any provision of this section to the contrary, a brewery pub operating under section 446 shall be subject to the hours of operation set forth by the board through regulation.

(f) The term "prior arrangement" shall mean that malt or brewed beverages having a total sale price, excluding any deposits or credits, exceeding two hundred fifty dollars (\$250) have been ordered, invoiced and paid for in full at the seller's licensed premises before the Sunday of delivery.

(492.1 amended Jan. 6, 2006, P.L.1, No.1)

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--

(1) Furnishing Liquor or Malt or Brewed Beverages to Certain Persons. For any licensee or the board, or any employee, servant or agent of such licensee or of the board, or any other person, to sell, furnish or give any liquor or malt or brewed beverages,

or to permit any liquor or malt or brewed beverages to be sold, furnished or given, to any person visibly intoxicated, or to any minor: Provided further, That notwithstanding any other provision of law, no cause of action will exist against a licensee or the board or any employe, servant or agent of such licensee or the board for selling, furnishing or giving any liquor or malt or brewed beverages or permitting any liquor or malt or brewed beverages to be sold, furnished or given to any insane person, any habitual drunkard or person of known intemperate habits unless the person sold, furnished or given alcohol is visibly intoxicated or is a minor. ((1) amended Dec. 8, 2004, P.L.1810, No.239)

(2) Purchase or Sale of Liquor or Malt or Brewed Beverages on Credit; Importing Distributors or Distributors Accepting Cash. For any licensee, his agent, servant or employe, to sell or offer to sell or purchase or receive any liquor or malt or brewed beverages except for cash, excepting credit extended by a hotel or club to a bona fide guest or member, or by railroad or pullman companies in dining, club or buffet cars to passengers, for consumption while enroute, holding authorized credit cards issued by railroad or railroad credit bureaus or by hotel, restaurant, retail dispenser eating place, club and public service licensees, importing distributors or distributors to customers not possessing a license under this article and holding credit cards issued in accordance with regulations of the board or credit cards issued by banking institutions subject to State or Federal regulation: Provided further, That nothing herein contained shall be construed to prohibit the use of checks or drafts drawn on a bank, banking institution, trust company or similar depository, organized and existing under the laws of the United States of America or the laws of any state, territory or possession thereof, in payment for any liquor or malt or brewed beverages if the purchaser is the payor of the check or draft and the licensee is the payee: Provided further, That notwithstanding any other provision of this act to the contrary, it shall be unlawful for an importing distributor or distributor to accept cash for payment of any malt or brewed beverages from anyone possessing a license issued under this article, except it shall be permissible for the importing distributor or distributor to accept credit cards, money orders or cashiers' checks for payment of any malt or brewed beverages in addition to any other type of payment authorized by the board from anyone possessing a license under this article.

Notwithstanding any other provision of law to the contrary, distributors and importing distributors may accept credit cards for payment of malt or brewed beverages, but they are not required to accept credit cards. No right of action shall exist to collect any claim for credit extended contrary to the provisions of this clause. Nothing herein contained shall prohibit a licensee from crediting to a purchaser the actual price charged for original containers returned by the original purchaser as a credit on any sale, or from refunding to any purchaser the amount paid by such purchaser for such containers or as a deposit on containers when title is retained by the vendor, if such original containers have been returned to the licensee. Nothing herein contained shall prohibit a manufacturer from extending usual and customary credit for liquor or malt or brewed beverages sold to customers or purchasers who live or maintain places of business outside of the Commonwealth of Pennsylvania, when the liquor or malt or brewed beverages so sold are actually transported and delivered to points outside of the Commonwealth: Provided, however, That as to all

transactions affecting malt or brewed beverages to be resold or consumed within this Commonwealth, every licensee shall pay and shall require cash deposits on all returnable original containers and all such cash deposits shall be refunded upon return of the original containers. ((2) amended June 8, 2016, P.L.273, No.39)

(3) Exchange of Liquor or Malt or Brewed Beverages For Merchandise, etc. ((3) deleted by amendment Feb. 21, 2002, P.L.103, No.10)

(4) Peddling Liquor or Malt or Brewed Beverages. For any person, to hawk or peddle any liquor or malt or brewed beverages in this Commonwealth.

(5) Failure to Have Brands as Advertised. For any licensee, his servants, agents or employes, to advertise or hold out for sale any liquor or malt or brewed beverages by trade name or other designation which would indicate the manufacturer or place of production of the said liquor or malt or brewed beverages, unless he shall actually have on hand and for sale a sufficient quantity of the particular liquor or malt or brewed beverages so advertised to meet requirements to be normally expected as a result of such advertisement or offer.

(6) Brand or Trade Name on Spigot. For any licensee, his agents, servants or employes, to furnish or serve any malt or brewed beverages from any faucet, spigot or other dispensing apparatus, unless the trade name or brand of the product served shall appear in full sight of the customer. ((6) reenacted and amended Nov. 15, 2016, P.L.1286, No.166)

(7) Alcoholic Strength on Label of Malt or Brewed Beverages. For any licensee, or his servants, agents or employes, to transport, sell, deliver or purchase any malt or brewed beverages upon which there shall appear a label or other informative data which refers to the alcoholic contents of the malt or brewed beverage in any terms other than as a percentage of alcohol by volume. This clause shall be construed to permit, but not to require, a manufacturer to designate upon the label or descriptive data the alcoholic content of malt or brewed beverages in percentage of alcohol by volume. This clause shall not be construed to prohibit a manufacturer from designating upon the label or descriptive data the alcoholic content of malt or brewed beverages intended for shipment into another state or territory, when the laws of such state or territory require that the alcoholic content of the malt or brewed beverage must be stated upon the package. ((7) amended Oct. 5, 1994, P.L.537, No.80)

(8) Advertisements on Labels Giving Alcoholic Content of Malt or Brewed Beverages. For any manufacturer or other licensee, or his servants, agents or employes, to issue, publish or post, or cause to be issued, published or posted, any advertisement of any malt or brewed beverage including a label which shall refer in any manner to the alcoholic strength of the malt or brewed beverage manufactured, sold or distributed by such licensees, or to use in any advertisement or label such words as "full strength," "extra strength," "high test," "high proof," "pre-war strength," or similar words or phrases, which would lead or induce a consumer to purchase a brand of malt or brewed beverage on the basis of its alcoholic content, or to use in or on any advertisement or label any numeral, unless adequately explained in type of the same size, prominence and color, or for any licensee to purchase, transport, sell or distribute any malt or brewed beverage advertised or labeled contrary to the provisions of this clause.

(9) Retail Licensees Furnishing Free Lunch, etc. ((9) deleted by amendment Feb. 21, 2002, P.L.103, No.10)

(10) Entertainment on Licensed Premises (Except Clubs); Permits; Fees. For any licensee, his servants, agents or employes, except club licensees, public venue licensees or performing arts facility licensees, to permit in any licensed premises or in any place operated in connection therewith, dancing, theatricals or floor shows of any sort, or moving pictures other than television, or such as are exhibited through machines operated by patrons by the deposit of coins, which project pictures on a screen not exceeding in size twenty-four by thirty inches and which forms part of the machine, unless the licensee shall first have obtained from the board a special permit to provide such entertainment, or for any licensee, under any circumstances, to permit in any licensed premises or in any place operated in connection therewith any lewd, immoral or improper entertainment, regardless of whether a permit to provide entertainment has been obtained or not. The special permit may be used only during the hours when the sale of liquor or malt or brewed beverages is permitted, unless the licensee holds an extended hours food license under section 499(b) which license would allow the special permit to be used while the establishment is open, and between eleven o'clock antemeridian on Sunday and two o'clock antemeridian on the following Monday, regardless of whether the licensee possesses a Sunday sales permit. The board shall have power to provide for the issue of such special permits, and to collect an annual fee for such permits as prescribed in section 614-A of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929." All such fees shall be paid into the State Stores Fund. No such permit shall be issued in any municipality which, by ordinance, prohibits amusements in licensed places. Any violation of this clause shall, in addition to the penalty herein provided, subject the licensee to suspension or revocation of his permit and his license. ((10) amended June 28, 2011, P.L.55, No.11)

(11) Licensees Employed by Others. For any hotel, restaurant or club liquor licensee, or any malt or brewed beverage licensee, or any officer, servant, agent or employe of such licensee, to be at the same time employed, directly or indirectly, by any distributor, importing distributor, manufacturer, importer or vendor licensee or any out of State manufacturer. It shall also be unlawful for any distributor or importing distributor, or any officer, servant, agent or employe of such licensee, to be at the same time employed, directly or indirectly, by any other distributor, importing distributor, manufacturer, importer, vendor, out of State manufacturer, hotel restaurant, malt or brewed beverage licensee, or club liquor licensee. It shall also be unlawful for any manufacturer, importer, or vendor licensee, or any out of State manufacturer, or any officer, servant, agent or employe of such licensee or manufacturer, to be at the same time employed, directly or indirectly, by any hotel, restaurant or club liquor licensee or any malt or brewed beverage licensee or any distributor or importing distributor licensee. Nothing in this subsection shall be construed to prohibit a manufacturer or limited winery licensee, or any officer, servant, agent or employe of such licensee, to be employed at the same time by a hotel, restaurant or retail dispenser licensee if the hotel, restaurant or retail dispenser licensee is located at the manufacturer or limited winery premises pursuant to section 443. For the purposes of this subsection, an officer, servant, agent or employe of a

licensee or manufacturer is an individual who has either an ownership interest in the licensee or manufacturer or who receives compensation for his or her work on behalf of the licensee or manufacturer: Provided further, That nothing in this section shall prohibit a person who has an ownership interest in a limited winery license from being employed by an entity that holds a hotel, restaurant, eating place or club license if the person is not employed as alcohol service personnel or as a manager: And, provided further, That nothing in this section shall prohibit a person who has an ownership interest in a brewery license from being employed by an entity that holds a hotel, restaurant, eating place or club license if the person has no job duties or responsibilities on, or connected with, the licensed premises in any capacity. ((11) amended Nov. 25, 2020, P.L.1222, No.125)

(12) Failure to Have Records on Premises. For any liquor licensee, or any importing distributor, distributor or retail dispenser, to fail to keep for a period of at least two years complete and truthful records covering the operation of his licensed business, particularly showing the date of all purchases of liquor and malt or brewed beverages, the actual price paid therefor, and the name of the vendor, including State Store receipts, or for any licensee, his servants, agents or employes, to refuse the board or an authorized employe of the board or the enforcement bureau access thereto or the opportunity to make copies of the same when the request is made during business hours. The records from the most recent six-month period must be maintained on the licensed premises. Records for the remainder of the two-year period may be kept off the licensed premises so long as the records are returned to the licensed premises within twenty-four hours of a request by the board or enforcement bureau. A licensee may remove the records for the most recent six-month period from the licensed premises only for a lawful business purpose provided that they are returned to the premises when that business is completed. ((12) amended Dec. 22, 2011, P.L.530, No.113)

(13) Retail Licensees Employing Minors. For any hotel, restaurant or club liquor licensee, or any retail dispenser, to employ or to permit any minor under the age of eighteen to serve any alcoholic beverages or to employ or permit any minor under the age of sixteen to render any service whatever in the licensed premises, nor shall any entertainer under the age of eighteen be employed or permitted to perform in any licensed premises in violation of the labor laws of this Commonwealth: Provided, That in accordance with board regulations minors between the ages of sixteen and eighteen may be employed to serve food, clear tables and perform other similar duties, not to include the dispensing or serving of alcoholic beverages. A ski resort, golf course or amusement park licensee may employ minors fourteen and fifteen years of age to perform duties in rooms or areas of the licensed premises; however, such minors may not perform duties in rooms or areas in which alcohol is being concurrently dispensed or served or in which alcohol is being concurrently stored in an unsecured manner. Notwithstanding any provisions of law to the contrary, a hotel, restaurant or club liquor licensee or any retail dispenser may allow students receiving instruction in a performing art to perform an exhibition if the students are not compensated and are under proper supervision. Written notice of the performance must be provided to the enforcement bureau prior to the performance. ((13) amended July 16, 2007, P.L.107, No.34)

(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 to frequent his licensed premises or any premises operated in connection therewith. 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, performing arts facilities or ski resorts. ((14) amended June 8, 2016, P.L.273, No.39)

(15) Cashing Pay Roll, Public Assistance, Unemployment Compensation or Any Other Relief Checks. For any licensee or his servants, agents or employes to cash pay roll checks or to cash, receive, handle or negotiate in any way Public Assistance, Unemployment Compensation or any other relief checks.

(16) Furnishing or Delivering Liquor or Malt or Brewed Beverages at Unlawful Hours. For any licensee, his servants, agents or employes, to give, furnish, trade, barter, serve or deliver any liquor or malt or brewed beverages to any person during hours or on days when the licensee is prohibited by this act from selling liquor or malt or brewed beverages.

(17) Licensees, etc., Interested or Employed in Manufacturing or Sale of Equipment or Fixtures. For any licensee, or any officer, director, stockholder, servant, agent or employe of any licensee, to own any interest, directly or indirectly, in or be employed or engaged in any business which involves the manufacture or sale of any equipment, furnishings or fixtures to any hotel, restaurant or club licensees, or to any importing distributors, distributors or retail dispensers. Notwithstanding any other provision of this section or this act, licensees may sell glasses at not less than cost and to provide metal keg connectors and tap knobs to other licensees and to holders of special occasion permits. ((17) amended Dec. 9, 2002, P.L.1653, No.212)

(18) Displaying Price of Liquor or Malt or Brewed Beverages. ((18) repealed June 18, 1998, P.L.664, No.86)

(19) Licensee's Outside Advertisements. ((19) repealed June 18, 1998, P.L.664, No.86)

(20) (i) Retail Liquor and Retail Malt or Brewed Beverages Licensee's Inside Advertisements. For any retail liquor or

retail malt or brewed beverages licensee, to display or permit the display in the show window or doorways of his licensed premises, any placard or sign advertising the brands of liquor or malt or brewed beverages, if the total display area of any such placard or sign advertising the product or products exceeds six hundred square inches. Nothing herein shall prohibit a licensee from displaying inside his licensed premises point of sale displays advertising brand names of products sold by him, other than a window or door display: Provided, That the total cost of all such point of sale advertising matter relating to any one brand shall not exceed the dollar amount set forth by the board through regulation. All such advertising material, including the window and door signs, may be furnished by a manufacturer, distributor or importing distributor. The restrictions on advertising set forth in subclause (ii) and in clauses (20.1) and (20.2) shall also apply to this subclause. ((i) amended Dec. 9, 2002, P.L.1653, No.212)

(ii) Cooperative Advertising. No distributor or importing distributor, directly or indirectly, independent or otherwise, shall, except by prior written agreement, be required to participate with a manufacturer in the purchase of any advertising of a brand name product in any name, in any form, whether it be radio, television, newspaper, magazine or otherwise.

(20.1) Manufacturer Shall Not Require Advertising. For a manufacturer to require a distributor or importing distributor to purchase any type of advertising.

(20.2) Advertising Shall Be Ordered and Authorized in Advance. For any advertising to be done on behalf of a distributor or importing distributor which was not ordered and authorized in advance by the distributor or importing distributor.

(21) Refusing The Right of Inspection. For any licensee, or his servants, agents or employes, to refuse the board or the enforcement bureau or any of their authorized employes the right to inspect completely the entire licensed premises at any time during which the premises are open for the transaction of business, or when patrons, guests or members are in that portion of the licensed premises wherein either liquor or malt or brewed beverages are sold.

(22) Allowance or Rebate to Induce Purchases. For any licensee, or his servants, agents or employes, to offer, pay, make or allow, or for any licensee, or his servants, agents or employes, to solicit or receive any allowance or rebate, refunds or concessions, whether in the form of money or otherwise, to induce directly the purchase of liquor or malt or brewed beverages.

(23) Money or Valuables Given to Employes to Influence Actions of Their Employers. For any licensee, or any agent, employe or representative of any licensee, to give or permit to be given, directly or indirectly, money or anything of substantial value, in an effort to induce agents, employes or representatives of customers or prospective customers to influence their employer or principal to purchase or contract to purchase liquor or malt or brewed beverages from the donor of such gift, or to influence such employers or principals to refrain from dealing or contracting to deal with other licensees.

(24) (i) Things of Value Offered as Inducement. Except as provided in subclauses (ii) and (iii), for any licensee under the provisions of this article, or the board or any manufacturer, or any employe or agent of a manufacturer,

licensee or of the board, to offer to give anything of value or to solicit or receive anything of value as a premium for the return of caps, stoppers, corks, stamps or labels taken from any bottle, case, barrel or package containing liquor or malt or brewed beverage, or to offer or give or solicit or receive anything of value as a premium or present to induce directly the purchase of liquor or malt or brewed beverage, or for any licensee, manufacturer or other person to offer or give to trade or consumer buyers any prize, premium, gift or other inducement to purchase liquor or malt or brewed beverages, except advertising novelties of nominal value which the board shall define. This section shall not prevent any manufacturer or any agent of a manufacturer from offering and honoring coupons which offer monetary rebates on purchases of wines and spirits through State Liquor Stores or purchases of malt or brewed beverages through distributors and importing distributors in accordance with conditions or regulations established by the board. The board may redeem coupons offered by a manufacturer or an agent of a manufacturer at the time of purchase. Coupons offered by a manufacturer or an agent of a manufacturer shall not be redeemed without proof of purchase. This section shall not apply to the return of any monies specifically deposited for the return of the original container to the owners thereof.

(ii) Notwithstanding subclause (i) or any other provision of law:

(A) A holder of a restaurant license that is also approved to hold a slot machine license or a conditional slot machine license under 4 Pa.C.S. Part II (relating to gaming) may give liquor and malt or brewed beverages free of charge to any person actively engaged in playing a slot machine.

(B) The board may establish and implement a customer relations management program for the purpose of offering to unlicensed customers of the board incentives, such as coupons or discounts on certain products, which may be conditioned on the purchase of liquor.

(iii) Notwithstanding subclause (i) or any other provision of law, a retail licensee or a brewery may offer a mug club to its patrons.

((24) amended June 8, 2016, P.L.273, No.39)

(25) Employment in Licensed Places. For any licensee or his agent, to employ or permit the employment of any person at his licensed hotel, restaurant or eating place for the purpose of enticing customers, or to encourage them to drink liquor, or make assignations for improper purposes.

Any person violating the provisions of this clause shall be guilty of a misdemeanor and, upon conviction of the same, shall be sentenced to pay a fine of not less than one hundred dollars (\$100), nor more than five hundred dollars (\$500), for each and every person so employed, or undergo an imprisonment of not less than three (3) months, nor more than one (1) year, or either or both, at the discretion of the court having jurisdiction of the case. The administrative law judge shall have the power to revoke or refuse licenses for violation of this clause.

(26) Worthless Checks. For any retail liquor licensee or any retail dispenser, distributor or importing distributor, to make, draw, utter, issue or deliver, or cause to be made, drawn, uttered, issued or delivered, any check, draft or similar order, for the payment of money in payment for any purchase of malt or brewed beverages, when such retail liquor licensee, retail dispenser, distributor or importing distributor, has not sufficient funds in, or credit with, such bank, banking

institution, trust company or other depository, for the payment of such check. Any person who is a licensee under the provisions of this article, who shall receive in payment for malt or brewed beverages sold by him any check, draft or similar order for the payment of money, which is subsequently dishonored by the bank, banking institution, trust company or other depository, upon which drawn, for any reason whatsoever, shall, within five days of receipt of notice of such dishonor, notify by certified mail the person who presented the said worthless check, draft or similar order and the malt beverage compliance officer for the board. If the violation of this clause involving a check, draft or similar order from the purchaser to the seller is subsequently honored within ten days from the day it was made, drawn, uttered, issued or delivered, then the malt beverage compliance officer shall not turn the matter over to the enforcement bureau for a citation. ((26) amended Dec. 22, 2011, P.L.530, No.113)

(27) Distributors and Importing Distributors Employing Minors. For any distributor or importing distributor to employ minors under the age of eighteen but persons eighteen and over may be employed to sell and deliver malt and brewed beverages.

(28) Consumption of Liquor or Malt or Brewed Beverages While Tending Bar. For any licensee, his servants, agents or employes, to consume liquor or malt or brewed beverages while tending bar or otherwise serving liquor or malt or brewed beverages. No action shall be taken against a licensee under this clause unless the licensee is the individual consuming liquor or malt or brewed beverages in violation of this clause. ((28) added Dec. 7, 1990, P.L.622, No.160)

(29) Furnishing Free Liquor or Malt or Brewed Beverages. ((29) deleted by amendment Nov. 29, 2006, P.L.1421, No.155)

(30) Pyrotechnics Prohibited. For any licensee, his servants, agents or employes, except licensees where pyrotechnic displays are performed by a pyrotechnic operator licensed by the Bureau of Alcohol, Tobacco, Firearms and Explosives and are approved by a municipal fire official, to store, handle, use or display any pyrotechnics within a building on the licensed premises. For purposes of this clause, "pyrotechnics" shall mean any chemical mixture, including pyrotechnic compositions, intended to produce a visible or audible effect by combustion, deflagration or detonation as defined by section 1.5.52 of the National Fire Protection Association Standard 1126 entitled "Standard for the Use of Pyrotechnics before a Proximate Audience," 1992 Edition. ((30) added Dec. 8, 2004, P.L.1810, No.239)

(31) (i) Sale or Purchase of Controlled Substance or Drug Paraphernalia by Licensee. For any licensee to possess, furnish, sell, offer to sell, or purchase or receive, or aid and abet in the sale or purchase of any controlled substance or drug paraphernalia, as defined in the act of April 14, 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug, Device and Cosmetic Act," on the licensed premises unless the actions of the licensee are authorized by law.

(ii) Sale or Purchase of Controlled Substances or Drug Paraphernalia by Servant, Agent or Employee of the Licensee. For any servants, agents or employes of the licensee to possess, furnish, sell, offer to sell or purchase or receive, or aid and abet in the sale or purchase of any controlled substance or drug paraphernalia, as defined in "The Controlled Substance, Drug, Device and Cosmetic Act," on the licensed premises unless the actions of the person are authorized by law. The licensee shall only be cited for a violation of this subclause if the

licensee knew or should have known of the activity and failed to take substantial affirmative steps to prevent the activity on its premises.

((31) amended Jan. 6, 2006, P.L.1, No.1)

(32) Sale or Purchase of Alcohol Vaporizing Devices. For any licensee, his servants or agents or employees to possess or to permit an alcohol vaporizing device on the licensed premises.

((32) added July 7, 2006, P.L.584, No.84)

(33) Off-premises Catering Permit; Fees. For any licensee, his servants, agents or employees to sell alcohol at a location other than its licensed premises, unless the sale is specifically authorized under this act, or unless the licensee receives a special permit from the board to do so. Only those licensees holding a current and valid restaurant, hotel, brew pub or eating place license shall be allowed to apply for such a permit. Any licensee that wishes to obtain an off-premises catering permit must notify the board and pay the permitting fee. If a licensee notifies the board and pays the permitting fee and does not then use the permit throughout the calendar year, the licensee shall not be entitled to a return of the permitting fee. A licensee shall apply for the permit at least sixty days prior to the first catered function. All servers at the off-premises catered function shall be certified under the board's responsible alcohol management program as required under section 471.1. The board may charge a fee of five hundred dollars (\$500) each calendar year, to each applicant for the initial permit associated with a particular license, but no further fee shall be charged for any subsequent permits issued to the applicant for the license during the same calendar year. The applicant shall submit written notice to the board thirty days prior to each catered event, unless this time frame has been waived by the board, and the board may approve or disapprove each event if the applicant fails to provide timely notice of the catered function, does not intend to conduct a function that meets the requirements of this act or has previously conducted a function that did not meet the requirements of this act. The fees shall be paid into the State Stores Fund. Any violation of this act or the board's regulations for governing activity occurring under the authority of this permit may be the basis for the issuance of a citation under section 471, the nonrenewal of the license under section 470 or the refusal by the board to issue subsequent permits or honor subsequent dates on the existing permit. This penalty shall be in addition to any other remedies available to the enforcement bureau or the board. ((33) amended Dec. 14, 2023, P.L.421, No.51)

(34) Noise. Notwithstanding any law or regulation to the contrary, a licensee may not use or permit to be used inside or outside of the licensed premises a loudspeaker or similar device whereby the sound of music or other entertainment, or the advertisement thereof, can be heard beyond the licensee's property line; however, any licensee that is located in an area which is subject to an exemption from the board's regulation regarding amplified music being heard off the licensed premises shall be exempt from compliance with this paragraph until the expiration of the board's order granting the exemption. The board's regulation regarding amplified music being heard off the licensed premises is otherwise superseded by this paragraph. ((34) amended July 5, 2012, P.L.1007, No.116)

Compiler's Note: See section 28 of Act 39 of 2016, which amended paragraphs (2), (14), (24) and (33), for special

provisions relating to the establishment of a Wine and Spirits Wholesale and Retail Privatization Commission.

Section 493.1. Rights of Municipalities Preserved.--(a)

Nothing in this act shall be construed to preempt the right of any municipality to regulate zoning and enforce any other local ordinances and codes dealing with health and welfare issues.

(b) A municipality may file a petition with the board for an exemption from section 493(34) of this act for all the licensees within an identifiable area in the municipality. Prior to submitting a petition, the municipality shall adopt a local noise ordinance and a resolution adopted by its governing body confirming support of the petition, citing the noise ordinance and its intention to enforce the ordinance in place of section 493(34) of this act. Upon receipt of a petition, including a copy of the noise ordinance, a map of the area to be exempted and resolution, the board shall hold at least one (1) public hearing on the petition. The hearing may be held before a hearing examiner. The hearing shall take place within the identified area and must comply with the notice, recording and public participation requirements of 65 Pa.C.S. Ch. 7 (relating to open meetings). Within sixty (60) days after receipt of the petition, the board shall disapprove the petition for an exemption in its entirety or may approve an area more limited for which the exemption will be granted if the board finds that granting the petition shall have an adverse effect on the welfare, health, peace and morals of the residents living in the vicinity of the identified area; otherwise, the board shall approve the petition. The board may place additional conditions on its approval such as limiting the duration of the approval and any other condition the board deems appropriate. There shall be a right to appeal to the court of common pleas in the same manner as provided by this act for appeals from refusals to grant licenses.

(c) A municipality may rescind any existing exemption from section 493(34) of this act by notifying the board of its intent to do so in writing, fifteen (15) days prior to the rescission date. Such notice must be accompanied by an ordinance or resolution authorizing the rescission. A rescission of an existing exemption which does not rescind the entire exempted area shall be treated as a new petition for exemption with the board and shall follow the procedures set forth in subsection (b).

(d) (1) Notwithstanding any other provision of law to the contrary, a restaurant liquor license located on premises owned by a city of the first class, listed on the National Register of Historic Places and which contains a structure that is at least one hundred (100) years old shall not be subject to section 493(34) of this act.

(2) Notwithstanding any other provision of law to the contrary, a limited winery license that is located in a second class township in a class 2A county that has a State historic site owned and operated by the Commonwealth under the direction of the Pennsylvania Historical and Museum Commission and is located on property that also contains a building that is listed on the registry of historic places of a class 2A county shall not be subject to section 493(34) of this act.

(e) (1) Notwithstanding any other provision of law to the contrary except as provided under paragraph (3), the holder of a license under this act that is located in a class 2A through 8 county may use or permit to be used inside or outside of the licensed premises a loudspeaker or similar device whereby the

sound of music or other entertainment, or the advertisement thereof, does not exceed 75 decibels beyond the licensee's property line. ((1) amended July 11, 2022, P.L.747, No.67)

(2) The provisions of paragraph (1) shall only apply:

(i) From ten o'clock antemeridian until nine o'clock postmeridian on every day except Fridays and Saturdays; and

(ii) From ten o'clock antemeridian until twelve o'clock antemeridian on Fridays or Saturdays.

((2) amended July 11, 2022, P.L.747, No.67)

(3) Nothing in this section may be construed to limit the rights of a municipality under subsection (a).

(4) The Bureau of Liquor Control Enforcement of the Pennsylvania State Police shall enforce the provisions of this subsection. ((4) added July 11, 2022, P.L.747, No.67)

((e) added July 2, 2019, P.L.324, No.45)

(493.1 amended July 5, 2012, P.L.1007, No.116)

Section 494. Penalties.--(a) Any person who shall violate any of the provisions of this article, except as otherwise specifically provided, shall be guilty of a misdemeanor and, upon conviction thereof, shall be sentenced to pay a fine of not less than one hundred dollars (\$100), nor more than five hundred dollars (\$500), and on failure to pay such fine, to imprisonment for not less than one month, nor more than three months, and for any subsequent offense, shall be sentenced to pay a fine not less than three hundred dollars (\$300), nor more than five hundred dollars (\$500), and to undergo imprisonment for a period not less than three months, nor more than one year, or both. If the person, at or relating to the licensed premises, violates section 493(1), (10), (14), (16) or (21), or if the owner or operator of the licensed premises or any authorized agent of the owner or operator violates the act of April 14, 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug, Device and Cosmetic Act," or 18 Pa.C.S. § 5902 (relating to prostitution and related offenses) or 6301 (relating to corruption of minors), he shall be sentenced to pay a fine not exceeding five thousand dollars (\$5,000) or to undergo imprisonment for a period not less than three months, nor more than one year, or both.

(b) The right to suspend and revoke licenses granted under this article shall be in addition to the penalty set forth in this section.

(c) A person convicted of selling or offering to sell any liquor or malt or brewed beverage without being licensed is in violation of this article and shall, in addition to any other penalty prescribed by law, be sentenced to pay a fine of two dollars (\$2) per fluid ounce for each container of malt or brewed beverages and four dollars (\$4) per fluid ounce for each container of wine or liquor found on the premises where the sale was made or attempted. The amount of fine per container will be based upon the capacity of the container when full, whether or not it is full at the time of the sale or attempted sale. In addition, all malt or brewed beverages, wine and liquor found on the premises shall be confiscated. If a person fails to pay the full amount of the fine levied under this subsection, the premises on which the malt or brewed beverages, wine or liquor was found shall be subject to a lien in the amount of the unpaid fine if the premises are owned by the person against whom the fine was levied or by any other person who had knowledge of the proscribed activity. The lien shall be superior to any other liens on the premises other than a duly recorded mortgage. ((c) amended Nov. 10, 1999, P.L.514, No.47)

Compiler's Note: Section 15(a) of Act 31 of 1988 provided that the first sentence of subsection (a) is repealed to the extent that the penalty provisions contained therein apply to conduct concurrently prohibited by section 493(1) and 18 Pa.C.S. § 6310.1 (relating to selling or furnishing liquor or malt or brewed beverages to minors).

Section 495. Identification Cards; Licensees and State Liquor Store Employees Saved From Prosecution.--(a) The valid photo driver's license or identification card issued by the Department of Transportation or by any other state, or Canadian driver's license or other bona fide Canadian identification such as a Canadian-issued passport, or a valid armed forces of the United States identification card, a valid passport or a travel visa issued by the United States or a foreign country that contains the holder's photograph shall, for the purpose of this act, be accepted as an identification card. ((a) amended June 8, 2016, P.L.273, No.39)

(b) Such identification card shall be presented by the holder thereof upon request of any State Liquor Store or any licensee, or the servant, agent or employe thereof, for the purpose of aiding such store, licensee, or the servant, agent or employe to determine whether or not such person is twenty-one years of age and upwards, when such person desires alcoholic beverage at a State Liquor Store or licensed establishment.

(c) In addition to the presentation of such identification card, the agent of the State Liquor Store or the licensee, or his servant, agent or employe, may require the person whose age may be in question to fill in and sign a form containing language approved by the board or containing the following:

..... 19
I,.....,herebyrepresent
to a State Store
or licensee of the board, that I am of full age and discretion
and over the age of 21 years, having been born on

..... 19..... at
This statement is made to induce said store or licensee above
named to sell or otherwise furnish alcoholic beverages to the
undersigned.

Serial Number of Identification Card:

I understand that I am subject to a fine
of \$300.00 and sixty days imprisonment for
any misrepresentation herein.

.....
(Name)

.....
(Address)

Witness:

Name.....

Address.....

The forms shall be printed in a manner approved by the board and shall be filed alphabetically by the State Liquor Store or licensee in a file box containing a suitable alphabetical index at or before the close of business on the day that the form is executed, and any such form shall be subject to examination by any officer, agent or employe of the enforcement bureau at any and all times.

((c) amended Dec. 20, 1996, P.L.1523, No.199)

((d) ((d) repealed Mar. 25, 1988, P.L.262, No.31)

(e) No penalty shall be imposed on a licensee, licensee's employe or State Liquor Store employe for serving alcohol to a minor if the licensee or employe can establish that the minor

was required to produce an identification card as set forth in subsection (a), the minor completed and signed the form as set forth in subsection (c) and these documents were relied upon in good faith. This defense shall apply to all civil and criminal prosecutions. ((e) amended Feb. 21, 2002, P.L.103, No.10)

(f) In addition to the defense set forth in subsection (e), no penalty shall be imposed on a licensee, licensee's employe or State Liquor Store employe for serving alcohol to a minor if the licensee or employe can establish that the minor was required to produce an identification card as set forth in subsection (a), a photograph, photocopy or other visual or video presentation of the identification card was made and those documents were relied upon in good faith. This defense shall apply to all civil and criminal prosecutions. ((f) amended Feb. 21, 2002, P.L.103, No.10)

(g) In addition to the defenses set forth in subsections (e) and (f), no penalty shall be imposed on a licensee, licensee's employe or Pennsylvania Liquor Store employe for serving alcohol to a minor if the licensee or employe can establish that the minor was required to produce an identification card as set forth in subsection (a), the identification card is identified as a valid card by a transaction scan device and the identification card and transaction scan results were relied upon in good faith. This defense shall apply to all civil and criminal prosecutions. For purposes of this section, a "transaction scan device" is a device capable of deciphering in an electronically readable format the information encoded on the magnetic strip or bar code of an identification card set forth in subsection (a). ((g) added Dec. 16, 2002, P.L.1806, No.221)

(h) No licensee or licensee's agent or employe shall sell or otherwise disseminate the information derived from a transaction scan to any third party, except to the board, the bureau or other law enforcement official, for any purpose, including, but not limited to, any marketing, advertising or promotional activities, except that a licensee or licensee's agent or employe may release that information pursuant to a court order. Any person who violates this subsection commits a summary offense and shall, upon conviction, be sentenced to pay a fine not exceeding five hundred dollars (\$500) for the first offense and to pay a fine not exceeding one thousand dollars (\$1,000) for subsequent offenses. ((h) added Dec. 16, 2002, P.L.1806, No.221)

Compiler's Note: See section 28 of Act 39 of 2016, which amended subsection (a), for special provisions relating to the establishment of a Wine and Spirits Wholesale and Retail Privatization Commission.

Section 496. Reporting of Worthless Checks.--Any person who is a licensee under the provisions of this article who shall receive in payment for malt or brewed beverages sold by him any check, draft or similar order, for the payment of money, which is subsequently dishonored by the bank, banking institution, trust company or other depository, upon which drawn, for any reason whatsoever, and which violates the provisions of section 493(26), shall, within five days of receipt of notice of such dishonor, notify the malt beverage compliance officer of the board thereof. Such notification to the malt beverage compliance officer shall be in such manner and form as the board shall direct.

(496 amended Dec. 22, 2011, P.L.530, No.113)

Section 497. Liability of Licensees.--No licensee shall be liable to third persons on account of damages inflicted upon them off of the licensed premises by customers of the licensee unless the customer who inflicts the damages was sold, furnished or given liquor or malt or brewed beverages by the said licensee or his agent, servant or employe when the said customer was visibly intoxicated.

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

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

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

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

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

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

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

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

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

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

(4) The use in any advertisement of alcoholic beverages of any subject matter, language or slogan directed to minors to promote consumption of alcoholic beverages is prohibited. Nothing in this section shall be deemed to restrict or prohibit any advertisement of alcoholic beverages to those persons of legal drinking age.

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

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

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

(g) For purposes of this subsection, the term "advertisement" shall mean any advertising of alcoholic beverages through the medium of radio broadcast, television broadcast, newspapers, periodicals or other publication, outdoor advertisement, any form of electronic transmission or any other printed or graphic matter, including booklets, flyers or cards, or on the product label or attachment itself. ((g) amended Dec. 9, 2002, P.L.1653, No.212)

(498 amended Feb. 21, 2002, P.L.103, No.10)

Section 499. Premises to be Vacated by Patrons.--(a) Except as provided for elsewhere in this section, all patrons of a licensee shall be required to leave that part of the premises habitually used for the serving of liquor or malt or brewed beverages to guests or patrons not later than one-half hour after the time the licensee is required by this act to cease serving liquor or malt or brewed beverages and shall not be permitted to have any previously served liquor or malt or brewed beverages in their possession, nor shall they be permitted to remove any previously served liquor or malt or brewed beverages from that part of the premises. Patrons of a licensee shall not be permitted to reenter that portion of the premises habitually used for the serving of liquor or malt or brewed beverages between the time designated by this act for patrons to vacate the licensed premises and the time designated by this act when the serving of liquor or malt or brewed beverages is allowed to begin unless the licensee has been granted a permit for extended hours food service.

(a.1) Subsection (a) shall not apply to sales of malt and brewed beverages for consumption off the premises when the following conditions are met:

(1) no licensee may sell malt or brewed beverages in excess of one hundred ninety-two fluid ounces in any one sale for consumption off the premises;

(2) sales and service of malt and brewed beverages for consumption off the premises are made prior to the designated time the licensee is required by this act to cease serving liquor, malt or brewed beverages;

(3) persons who have purchased malt and brewed beverages for consumption off the premises shall remove the malt and brewed beverages from the premises by the designated time as contained in this act that patrons are required to vacate the premises;

(4) no club licensee may sell any malt or brewed beverage for consumption off the premises where sold or to any persons who are not members of the club.

(b) A licensee may remain open between the hours of two o'clock antemeridian and seven o'clock antemeridian for the purpose of serving food on any day if such licensee either possesses or is eligible to purchase a Sunday sales permit and receives an extended hours food license. The board shall establish an annual fee for the extended hours food license which shall not exceed fifty dollars (\$50).

(b.1) Upon application of any club, the board shall issue a club extended hours food permit for a period of six (6) days during the term of its license. The board shall issue regulations governing terms of the application. The permits shall be used solely for the purpose of serving food between the hours of three o'clock antemeridian and seven o'clock antemeridian. All patrons of a licensee shall be required to leave that part of the premises habitually used for the serving of liquor or malt or brewed beverages to guests or patrons not later than one-half hour after the time the licensee is required by this act to cease serving liquor or malt or brewed beverages and shall not be permitted to have any previously served liquor or malt or brewed beverages in their possession, nor shall they be permitted to remove any previously served liquor or malt or brewed beverages from that part of the premises.

(c) Any licensee who violates this section for the first offense commits a summary offense and shall, upon conviction, be sentenced to pay a fine of not more than three hundred dollars (\$300) or to imprisonment for not more than ninety (90)

days, or both, and for the second or any subsequent offense commits a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine of not more than two thousand five hundred dollars (\$2,500) or to imprisonment for not more than one (1) year, or both.

(d) This section shall not apply to holders of public service licenses. ((d) added Feb. 21, 2002, P.L.103, No.10)

(e) Nothing in this section shall prohibit restaurant liquor, eating place retail dispenser or hotel licenses from being open seven o'clock ante meridian on Sunday until two o'clock ante meridian Monday for the purpose of serving food and nonalcoholic beverages. ((e) added Feb. 21, 2002, P.L.103, No.10)

(499 amended Oct. 5, 1994, P.L.522, No.77)

ARTICLE V.
DISTILLERIES, WINERIES, BONDED WAREHOUSES,
BAILEES FOR HIRE AND TRANSPORTERS FOR HIRE.

Section 501. License Required.--Except as otherwise provided in this article, and except as otherwise provided in article four as to malt and brewed beverages, it shall be unlawful for any person without a license obtained under provisions of this article to hold in storage as bailee for hire, or transport for hire, any malt or brewed beverage, or to manufacture, produce, distill, develop or use in the process of manufacture, denature, redistill, recover, rectify, blend, reuse, hold in bond, hold in storage as bailee for hire, or transport for hire, within this Commonwealth, any alcohol or liquor, except that a person may manufacture wine out of grapes grown in Pennsylvania by fermentation only and with no alcohol or alcoholic product added thereto by way of fortification and sell the same to a licensed winery.

Section 502. Exemptions.--No license hereunder shall be required from any registered pharmacist; or a physician licensed by the State Board of Medicine; or any person who makes and sells vinegar, nonalcoholic cider and fruit juices; or any person who manufactures, stores, sells or transports methanol, propanol, butanol and amanol; or any person who conducts a wholesale drug business; or any person who manufactures alcoholic preparations not fit for use as a beverage, other than denatured alcohol or for beverage purposes; any person engaged in the manufacture; possession or sale of patent, patented or proprietary medicines, toilet, medicinal or antiseptic preparations unfit for beverage purposes, or solutions or flavoring extracts or syrups unfit for beverage purposes; or any person who manufactures or sells paints, varnishes, enamels, lacquers, stains or paint, or varnish removing or reducing compounds, or wood fillers; or any person who manufactures any substance where the alcohol or any liquor is changed into other chemical substances and does not appear in the finished product as alcohol or liquor; or any common carrier by railroad which is subject to regulation by the Pennsylvania Public Utility Commission of the Commonwealth of Pennsylvania, or scheduled common carriers by air of mail and passengers; or any person who sells, stores or transports alcohol or liquor completely denatured, as specified by the board; or any person licensed under Article IV for malt and brewed beverages who manufactures, distills or otherwise produces alcohol as a byproduct of the manufacture of any reduced alcohol or nonalcohol malt or brewed beverage if the

byproduct is not intended nor used as a beverage for human consumption except as part of the malt or brewed beverage.

(502 amended June 30, 1992, P.L.327, No.66)

Section 502.1. Production of Denatured Ethyl Alcohol.--(502.1 repealed Oct. 23, 1988, P.L.1059, No.122)

Section 503. Qualifications for License.--No license shall be issued under the provisions of this article to any person unless (a) in case of individuals, he or she is a citizen of the United States of America, (b) in case of companies or incorporated associations of individuals, each and every one is a citizen of the United States of America, (c) in case of corporations, each and every stockholder thereof is a citizen of the United States of America. This section shall not apply to bailees for hire.

(503 amended July 16, 2007, P.L.107, No.34)

Section 504. Applications; Filing Fees.--(a) Every applicant for a license under this article shall file with the board a written application in such form as the board shall from time to time require. Every such application shall be accompanied by a filing fee of twenty dollars (\$20), the prescribed license fee and shall set forth:

(1) The legal names of the applicant and of the owner of the place where business under the license will be carried on, with their residence addresses by street and number, if a partnership, of each separate partner, and if a corporation, of each individual officer thereof.

(2) The exact location of said place of business and of every place to be occupied or used in connection with such business, the productive capacity of each plant where any alcohol or liquor is to be manufactured, produced, distilled, rectified, blended, developed or used in the process of manufacture, denatured, redistilled, recovered, reused, the capacity of every warehouse or other place where such alcohol or liquor or malt or brewed beverage is to be held in bond or stored for hire or the equipment to be used where a transportation business is to be carried on under the license.

(3) That each and every one of the applicants is a citizen of the United States of America.

(4) Such other relevant information as the board shall from time to time require by rule or regulation.

(b) Each application must be verified by affidavit of the applicant made before any officer legally qualified to administer oaths, and if any false statement is wilfully made in any part of said application, the applicant or applicants shall be deemed guilty of a misdemeanor and, upon conviction, shall be subject to the penalties provided by this article.

(504 amended Dec. 21, 1998, P.L.1202, No.155)

Section 505. Licenses Issued.--Upon receipt of the application in the form herein provided and the proper fees, the board may grant to such applicant a license to engage in, (a) the operation of a limited winery or a winery; or, (b) the manufacturing, producing, distilling, developing, or using in the process of manufacturing, denaturing, redistilling, recovering, rectifying, blending and reusing of alcohol and liquor; or, (c) the holding in bond of alcohol and liquor; or, (d) the holding in storage, as bailee for hire, of alcohol, liquor and malt or brewed beverages; or, (e) the transporting for hire of alcohol, liquor and malt or brewed beverages. Such licenses may be transferred from one person to another or from one location to another, or both. Every applicant for a transfer of such licenses shall file a written application with the board, together with a filing fee of five hundred fifty dollars

(\$550) if the transfer is to a new location, six hundred fifty dollars (\$650) if the transfer is to a new person, or seven hundred dollars (\$700) if the transfer is to a new person for use at a new location. Whenever such a license is transferred, no license or other fees shall be required from the persons to whom such transfer is made for the portion of the license period for which the license fee has been paid by the transferor.

(505 amended June 25, 2010, P.L.217, No.35)

Section 505.1. Bonded Warehouse License Privilege
Restrictions.--(a) Holders of bonded warehouse licenses may:

(1) Receive and store in bond liquor owned by Pennsylvania licensed manufacturers and importers.

(2) Receive and store in bond alcohol owned by Pennsylvania licensed manufacturers.

(3) Receive and store in bond liquor owned by licensees outside this Commonwealth. Such liquor shall be released from the bonded warehouse for delivery within this Commonwealth only to persons holding a liquor importer's license issued by the board authorizing the importation of liquor or to other storage facilities or persons outside this Commonwealth.

(4) Receive and store in bond alcohol owned by licensees outside this Commonwealth. Such alcohol shall be released from the bonded warehouse for delivery within this Commonwealth only to persons holding an alcohol permit issued by the board authorizing the importation of alcohol or to other storage facilities or persons outside this Commonwealth.

(b) All liquor and alcohol received and stored pursuant to this section shall be in original containers of ten gallons or greater capacity. Liquor and alcohol placed in storage in accordance with the foregoing provisions may remain in storage notwithstanding any change in ownership.

Section 505.2. Limited Wineries.--(a) In the interest of promoting tourism and recreational development in Pennsylvania, holders of a limited winery license may:

(1) Produce and sell alcoholic ciders, fermented fruit beverages, mead, wines and wine coolers, subject to the exceptions provided under this section, only from an agricultural commodity grown in Pennsylvania.

(2) Sell alcoholic cider, fermented fruit beverages, mead, wine and wine coolers produced by the limited winery or purchased in bulk in bond from another Pennsylvania limited winery on the licensed premises, under such conditions and regulations as the board may enforce, to the board, to individuals and to brewery, importing distributor, distributor, hotel, restaurant, club and public service liquor licensees, and to Pennsylvania winery licensees: Provided, That a limited winery shall not, in any calendar year, purchase alcoholic cider, fermented fruit beverages, mead or wine produced by other limited wineries in an amount in excess of fifty per centum of the alcoholic cider, fermented fruit beverages, mead or wine produced by the purchasing limited winery in the preceding calendar year. In addition, the holder of a limited winery license may purchase wine in bottles from another Pennsylvania limited winery if these wines undergo a second fermentation process. Such wine may be sold in bottles bearing the purchasing limited winery's label or the producing limited winery's label. Such wines, if sold by the board, may be sold by the producing limited winery to the purchasing limited winery at a price lower than the price charged by the board.

(2.1) Notwithstanding any other provision of this act or law to the contrary, only ship wine in accordance with the provisions of section 488.

(3) Separately or in conjunction with other limited wineries, sell alcoholic cider, fermented fruit beverages, mead, wine and wine coolers produced by the limited winery on no more than five (5) board-approved locations other than the licensed premises, with no bottling or production requirement at those additional board-approved locations and under such conditions and regulations as the board may enforce, to the board, to individuals and to brewery, hotel, restaurant, club and public service liquor licensees. If two or more limited wineries apply to operate an additional board-approved location in conjunction with each other, the wineries need only have one board-approved manager for the location, need only pay one application fee and need not designate specific or distinct areas for each winery's licensed area. Each limited winery must file an application for such an additional board-approved location, and such location shall count as one of the five permitted for each limited winery. Each limited winery is responsible for keeping only its own complete records. A limited winery may be cited for a violation of the recordkeeping requirements of sections 512 and 513 pertaining to its own records only.

(4) At the discretion of the board, obtain a special permit to participate in alcoholic cider, fermented fruit beverage, mead, wine and food expositions off the licensed premises. A special permit shall be issued upon proper application and payment of a fee of thirty dollars (\$30) per day for each day of permitted use, not to exceed thirty (30) consecutive days. The total number of days for all the special permits may not exceed one hundred (100) days in any calendar year. A special permit shall entitle the holder to engage in the sale by the glass, by the bottle or in case lots of alcoholic cider, fermented fruit beverages, mead or wine produced by the permittee under the authority of a limited winery license. Holders of special permits may provide tasting samples of wines in individual portions not to exceed one fluid ounce. Samples at alcoholic cider, fermented fruit beverage, mead, wine and food expositions may be sold or offered free of charge. Except as provided herein, limited wineries utilizing special permits shall be governed by all applicable provisions of this act as well as by all applicable regulations or conditions adopted by the board.

For the purposes of this clause, "alcoholic cider, fermented fruit beverage, mead, wine and food expositions" are defined as affairs held indoors or outdoors with the intent of promoting Pennsylvania products by educating those in attendance of the availability, nature and quality of Pennsylvania-produced alcoholic ciders, fermented fruit beverages, mead and wines in conjunction with suitable food displays, demonstrations and sales. Alcoholic cider, fermented fruit beverage, mead, wine and food expositions may also include activities other than alcoholic cider, fermented fruit beverage, mead, wine and food displays, including arts and crafts, musical activities, cultural exhibits, agricultural exhibits and farmers markets.

(4.1) At the discretion of the board, obtain a farmers market permit. The permit shall entitle the holder to participate in more than one farmers market at any given time and an unlimited number throughout the year and sell alcoholic cider, fermented fruit beverages, mead or wine produced under the authority of the underlying limited winery license by the bottle or in case lots. Samples not to exceed one fluid ounce per brand of mead or wine may be offered free of charge. A farmers market permit shall be issued upon proper application and payment of an annual fee of two hundred fifty dollars

(\$250). A permit holder may participate in more than one farmers market at any given time. Sales by permit holders shall take place during the standard hours of operation of the farmers market. Written notice of the date, times and location the permit is to be used shall be provided by the permit holder to the enforcement bureau at least two (2) weeks prior to the event. Except as provided in this subsection, limited wineries utilizing farmers market permits shall be governed by all applicable provisions of this act as well as by all applicable regulations adopted by the board.

(5) Do either of the following:

(i) Apply for and hold a hotel liquor license, a restaurant liquor license or a malt and brewed beverages retail license to sell for consumption at the restaurant or limited winery on the licensed winery premises, liquor, wine and malt or brewed beverages regardless of the place of manufacture under the same conditions and regulations as any other hotel liquor license, restaurant liquor license or malt and brewed beverages retail license.

(ii) Apply for and hold a restaurant liquor license for use at one of the additional board-approved locations referenced under clause (3), as long as such location does not serve as an additional board-approved location for any other manufacturer.

(6) (i) Secure a permit from the board to allow the holder of a limited winery license to use up to twenty-five per centum permitted fruit, not wine, in the current year's production. Each permit is valid only for the calendar year in which it is issued.

(ii) The fee for a permit to import and use permitted fruit shall be in an amount to be determined by the board.

(iii) The purpose of this section is to increase the productivity of limited wineries while at the same time protecting the integrity and unique characteristics of wine produced from fruit primarily grown in this Commonwealth. Prevailing climatic conditions have a significant impact on the character of the fruit. Accordingly, "permitted fruit" shall mean fruit grown or juice derived from fruit grown within three hundred fifty (350) miles of the winery.

(iv) The department is authorized to promulgate regulations requiring the filing of periodic reports by limited wineries to ensure compliance with the provisions of this section.

(v) ((v) deleted by amendment Dec. 8, 2004, P.L.1810, No.239)

(6.1) Sell food for consumption on or off the licensed premises and at the limited winery's additional board-approved locations and sell by the glass, at the licensed premises and at the limited winery's additional board-approved locations, wine, mead, alcoholic ciders and fermented fruit beverages that may otherwise be sold by the bottle. In addition, the holder of a limited winery license may sell for consumption on the licensed premises and at the limited winery's additional board-approved locations, liquor produced by a licensed distillery or limited distillery, wine, alcoholic cider and fermented fruit beverages produced by another limited winery and malt or brewed beverages produced by a licensed brewery. The combined sales of wine, alcoholic cider and fermented fruit beverages produced by another limited winery, malt or brewed beverages and liquor may not, on a yearly basis, exceed fifty per centum of the on-premises sales of the limited winery's own sales of wine, alcoholic cider and fermented fruit beverages for the preceding calendar year: however, if a limited winery

did not operate for an entire calendar year during the preceding year, then its combined sales of wine and alcohol produced by another limited winery, malt or brewed beverages and liquor may not, on a yearly basis, exceed fifty per centum of the on-premises sales of the limited winery's own wine, alcoholic cider and fermented fruit beverages for that year.

(6.2) Sell wine- or liquor-scented candles acquired or produced by the limited winery.

(6.3) Sell alcoholic cider, fermented fruit beverages, mead, wine and wine coolers only between the hours of nine o'clock antemeridian and eleven o'clock postmeridian. A limited winery also may request approval from the board to extend sales hours in individual locations at other times during the year or beyond the limits set forth in this clause. The request shall be made in writing to the board's Office of the Chief Counsel and shall detail the exact locations where sales hours are proposed to be extended, the proposed hours and dates of extended operation and the reason for the proposed extended hours.

(6.4) Store alcoholic cider, fermented fruit beverages, mead, wine and wine coolers produced by the limited winery at no more than two (2) board-approved locations other than the licensed premises and those premises referenced in clause (3) pertaining to the five (5) board-approved locations for the sale of wine, with no bottling or production requirement at those additional locations and under such conditions and regulations as the board may enforce. If two (2) or more businesses will operate out of the same storage facility, the limited winery must designate specific and distinct areas for its storage. The limited winery's designated storage area must be secured and no one other than the licensee and his employees may be allowed access to the storage area. No board-approved manager will be necessary for the storage facility. The limited winery must fill out an application for such an additional board-approved storage location, and such location shall count as one of the two permitted for each limited winery. The limited winery is responsible for keeping only its own complete records. A limited winery may be cited for a violation of the recordkeeping requirements of sections 512 and 513 pertaining to its own records only.

((a) amended July 2, 2019, P.L.324, No.45)

(b) The total production of alcoholic ciders, fermented fruit beverages, mead, wine and wine coolers by a limited winery may not exceed two hundred thousand (200,000) gallons per year.

((b) amended July 2, 2019, P.L.324, No.45)

(c) As used in this section:

"Agricultural commodity" shall include any of the following: agricultural, apicultural, horticultural, silvicultural and viticultural commodities.

"Farmers market" shall include any building, structure or other place:

(1) owned, leased or otherwise in the possession of a person, municipal corporation or public or private organization;

(2) used or intended to be used by two or more farmers or an association of farmers, who are certified by the Department of Agriculture of the Commonwealth to participate in the Farmers' Market Nutrition Program subject to 7 CFR Pt. 249 (relating to Senior Farmers' Market Nutrition Program (SFMNP)), for the purpose of selling agricultural commodities produced in this Commonwealth directly to consumers;

(3) which is physically located within this Commonwealth; and

(4) which is not open for business more than twelve hours each day.

(505.2 amended Nov. 15, 2016, P.L.1286, No.166)

Compiler's Note: See section 28 of Act 39 of 2016, which amended subsections (a)(5) and (6.1) and added subsection (a)(2.1), in the appendix to this act, for special provisions relating to the establishment of a Wine and Spirits Wholesale and Retail Privatization Commission.

Compiler's Note: Section 19 of Act 86 of 1998, which amended section 505.2, provided that Pennsylvania liquor stores may continue to sell alcoholic cider within its inventory after the effective date of section 19 until the alcoholic cider within its current inventory is depleted. The Pennsylvania Liquor Control Board shall not purchase additional alcoholic cider after the effective date of section 19.

Section 505.3. Distilleries.--(505.3 deleted by amendment Dec. 9, 2002, P.L.1653, No.212)

Section 505.4. Limited Distilleries and Distilleries. (Hdg. amended July 2, 2019, P.L.324, No.45)--(a) The board may issue a distillery of historical significance license to any distillery which was established prior to January 1, 1875. The holder of the license may manufacture and sell liquor produced on the licensed premises to the board, to entities licensed by the board and to the public under such conditions and regulations as the board may enforce. Production at the distillery of historical significance shall be limited to an amount not to exceed twenty thousand (20,000) gallons per year. The distillery does not need to establish continuous operation since January 1, 1875, in order to qualify for a license under this section.

(b) (1) The board may issue a limited distillery license that will allow the holder thereof to operate a distillery that shall not exceed production of one hundred thousand (100,000) gallons of distilled liquor per year. The holder of the license may manufacture and sell bottled liquors produced on the licensed premises to the board, to entities licensed by the board and to the public between the hours of nine o'clock antemeridian and twelve o'clock antemeridian Monday through Saturday and Sunday between the hours of nine o'clock antemeridian through eleven o'clock postmeridian so long as a specific code of distilled liquor which is listed for sale as a stock item by the board in State liquor stores may not be offered for sale at a licensed limited distillery location at a price which is lower than that charged by the board and under such conditions and regulations as the board may enforce. The holder of a limited distillery license may not sell a product or a substantially similar product which is listed for sale as a stock item by the board in State Liquor Stores to a licensee at a price which is lower than that charged by the board and under such conditions and regulations as the board may enforce. The holder of a limited distillery license may also sell wine, alcoholic cider and fermented fruit beverages produced by a licensed limited winery, liquor produced by a licensed distillery or limited distillery and malt or brewed beverages produced by a licensed brewery for on-premises consumption. The combined sales of wine, malt or brewed beverages and liquor produced by another licensed distillery or limited distillery may not, on a yearly basis, exceed fifty per centum of the on-premises sales of the limited distillery's own sales of liquor for the preceding calendar year: however, if a limited

distillery did not operate for an entire calendar year during the preceding year, then its combined sales of wine, malt or brewed beverages and liquor produced by another licensed distillery or limited distillery may not, on a yearly basis, exceed fifty per centum of the on-premises sales of the limited distillery's own liquor for that year. ((1) amended July 2, 2019, P.L.324, No.45 and Nov. 21, 2019, P.L.635, No.86)

(2) (i) The holder of a limited distillery license may, separately or in conjunction with other limited distillery licensees, sell bottled liquors produced by the distillery at no more than five (5) board-approved locations other than the licensed premises, with no bottling or production requirement at those additional board-approved locations and under such conditions and regulations as the board may enforce to the board, to individuals and to entities licensed by the board.

(ii) If two (2) or more limited distilleries apply to operate an additional board-approved location in conjunction with each other, the distilleries need only have one (1) board-approved manager for the location, need only pay one application fee and need not designate specific or distinct areas for each distillery's licensed area. A limited distillery must file an application for the additional board-approved location, and that location shall count as one (1) of the five (5) permitted for each limited distillery. A limited distillery is responsible for keeping only its own complete records. A limited distillery may be cited for a violation of the recordkeeping requirements of sections 512 and 513 pertaining to its own records only.

((2) amended June 8, 2016, P.L.273, No.39)

(3) The holder of a limited distillery license may apply for and hold a hotel liquor license, a restaurant liquor license or a malt and brewed beverages retail license to sell for consumption at the restaurant or limited distillery on the licensed distillery premises liquor, wine and malt or brewed beverages regardless of the place of manufacture under the same conditions and regulations as any other hotel liquor license, restaurant liquor license or malt and brewed beverages retail license.

(4) The holder of a limited distillery license may sell food for consumption on or off the licensed premises and at the limited distillery's additional board-approved locations, and may sell by the glass, at the licensed premises and at the limited distillery's additional board-approved locations, only liquor that may otherwise be sold by the bottle.

(5) The holder of a limited distillery license may provide tasting samples of liquor that in total do not exceed one and one-half (1.5) fluid ounces per person on the licensed premises and at the two (2) board-approved locations. Samples may be sold or provided free of charge and may only be provided between the hours of nine o'clock antemeridian and twelve o'clock antemeridian Monday through Saturday and Sunday between the hours of nine o'clock antemeridian through eleven o'clock postmeridian. ((5) amended Nov. 21, 2019, P.L.635, No.86)

(6) The fee for the limited distillery license shall be in an amount to be determined by the board but shall not exceed one thousand five hundred dollars (\$1,500).

(7) The board may issue to the holder of a distillery license a limited distillery license in exchange for the distillery license provided that the applicant has not manufactured more than one hundred thousand (100,000) gallons of distilled liquor in the prior calendar year. The board may not charge a fee for this exchange. An applicant under this

subsection shall surrender his distillery license for cancellation prior to the issuance of the new limited distillery license. The authority of the board to exchange a distillery license for a limited distillery license under this subsection and this subsection shall expire December 31, 2012.

(8) At the discretion of the board the holder of a limited distillery license may obtain a special permit to participate in liquor and food expositions off the licensed premises. A special permit shall be issued upon proper application and payment of a fee of thirty dollars (\$30) per day for each day of permitted use, not to exceed thirty (30) consecutive days. The total number of days for all the special permits may not exceed one hundred (100) days in any calendar year. A special permit shall entitle the holder to engage in the sale by the glass, by the bottle or in case lots of liquor produced by the permittee under the authority of a limited distillery license. Holders of special permits may provide tasting samples of liquor in individual portions not to exceed one and one-half (1.5) fluid ounces. Samples at liquor and food expositions may be sold or offered free of charge. Except as provided in this clause, limited distilleries utilizing special permits shall be governed by all applicable provisions of this act as well as by all applicable regulations or conditions adopted by the board. For the purposes of this clause, "liquor and food expositions" are defined as affairs held indoors or outdoors with the intent of promoting Pennsylvania products by educating those in attendance of the availability, nature and quality of Pennsylvania-produced liquors in conjunction with suitable food displays, demonstrations and sales. Liquor and food expositions may also include activities other than liquor and food displays, including arts and crafts, musical activities, cultural exhibits, agricultural exhibits and farmers markets. ((8) amended July 2, 2019, P.L.324, No.45)

(9) At the discretion of the board, the holder of a limited distillery license may obtain a farmers market permit. The permit shall entitle the holder to participate in more than one (1) farmers market at any given time and an unlimited number throughout the year and sell liquor produced under the authority of the underlying limited distillery license by the bottle or in case lots. Samples not to exceed one and one-half (1.5) fluid ounces per brand of liquor may be offered free of charge. A farmers market permit shall be issued upon proper application and payment of an annual fee of two hundred fifty dollars (\$250). A permit holder may participate in more than one (1) farmers market at any given time. Sales by permit holders shall take place during the standard hours of operation of the farmers market. Written notice of the date, times and location the permit is to be used shall be provided by the permit holder to the enforcement bureau at least two (2) weeks prior to the event. Except as provided in this subsection, limited distilleries utilizing farmers market permits shall be governed by all applicable provisions of this act as well as by all applicable regulations adopted by the board. ((9) added June 8, 2016, P.L.273, No.39)

(c) (1) The holder of a distillery license as issued under section 505 may sell bottled liquors produced on the licensed premises to the board, to entities licensed by the board and to the public between the hours of nine o'clock antemeridian and twelve o'clock antemeridian Monday through Saturday and Sunday between the hours of nine o'clock antemeridian through eleven o'clock postmeridian so long as a specific code of distilled liquor which is listed for sale as a stock item by

the board in State liquor stores may not be offered for sale at a licensed distillery location at a price which is lower than that charged by the board and under such conditions and regulations as the board may enforce. The holder of a distillery license may not sell a product or a substantially similar product which is listed for sale as a stock item by the board in State Liquor Stores to a licensee at a price which is lower than that charged by the board and under such conditions and regulations as the board may enforce. The holder of a distillery license may also sell its liquor, wine, alcoholic cider and fermented fruit beverages produced by a licensed limited winery, liquor produced by a licensed distillery or limited distillery and malt or brewed beverages produced by a licensed brewery for on-premises consumption. The combined sales of wine, malt or brewed beverages and liquor produced by another licensed distillery or limited distillery may not, on a yearly basis, exceed fifty per centum of the on-premises sales of the distillery's own sales of liquor for the preceding calendar year: however, if a distillery did not operate for an entire calendar year during the preceding year, then its combined sales of wine, malt or brewed beverages and liquor produced by another licensed distillery or limited distillery may not, on a yearly basis, exceed fifty per centum of the on-premises sales of the distillery's own liquor for that year.

(2) The holder of a distillery license as issued under section 505 may provide tasting samples of liquor that in total do not exceed one and one-half (1.5) fluid ounces. Samples may be sold or provided free of charge between the hours of nine o'clock antemeridian and twelve o'clock antemeridian Monday through Saturday and Sunday between the hours of nine o'clock antemeridian through eleven o'clock postmeridian.

((c) amended Nov. 21, 2019, P.L.635, No.86)

(505.4 amended Dec. 22, 2011, P.L.530, No.113)

Compiler's Note: See section 28 of Act 39 of 2016, which amended subsections (b)(1) and (2) and (c) and added subsections (b)(8) and (9), for special provisions relating to the establishment of a Wine and Spirits Wholesale and Retail Privatization Commission.

Section 506. Bonds Required.--(506 deleted by amendment, Dec. 21, 1998, P.L.1202, No.155)

Section 507. Hearings on Licenses and Refusals.--(a) The board may of its own motion, and shall upon the written request of the enforcement bureau or of any applicant for license or for renewal thereof whose application for such license or renewal has been refused, fix a time and place for hearing of such application or renewal, notice of which hearing shall be sent to the bureau and to the applicant, by registered mail, at the address given in his application. Such hearing shall be before a hearing examiner designated by the board. ((a) amended June 30, 1992, P.L.327, No.66)

(b) At such hearing, the board shall present its reasons for its refusal or withholding of such license or renewal thereof or the bureau shall present its objections to the granting or renewal of the license, as the case may be. The applicant may appear in person or by counsel, may cross-examine the witnesses for the board or the bureau, and may present evidence which shall likewise be subject to cross-examination by the board or the bureau. Such hearing shall be stenographically recorded. The hearing examiner shall thereafter make a report, including the examiner's recommendation, to the board in each case. The board shall thereafter grant or refuse

the license or renewal thereof. ((b) amended June 30, 1992, P.L.327, No.66)

(c) Hearings and adjudications pursuant to this section shall be in accordance with 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of Commonwealth agencies).

(507 amended Dec. 7, 1990, P.L.622, No.160)

Section 508. License Fees.--(a) The annual fee for every license issued to a limited winery or a winery shall be as prescribed in section 614-A of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929." The fee for every license issued to a distillery (manufacturer) shall be as prescribed in section 614-A of "The Administrative Code of 1929." The annual fee for all other licenses shall be as prescribed in section 614-A of "The Administrative Code of 1929." Whenever any checks issued in payment of filing and/or license fees shall be returned to the board as dishonored, the board shall charge a fee of five dollars (\$5.00) per hundred dollars or fractional part thereof, plus all protest fees, to the maker of such check submitted to the board. Failure to make full payment or pay the face amount of the check in full and all charges thereon as herein required within ten days after demand has been made by the board upon the maker of the check, the license of such person shall not be renewed for the license period or validated for any interim period for such year.

(b) For the purpose of this section, the term "proof gallon" shall mean a gallon liquid which contains one-half its volume of alcohol of a specific gravity of seven thousand nine hundred thirty-nine ten thousandths (.7939) at sixty degrees Fahrenheit.

(508 amended Apr. 29, 1994, P.L.212, No.30)

Section 509. License Must Be Posted; Business Hours.--Licenses shall be issued by the board under its official seal. Every license so issued must at all times be posted in a conspicuous place where the business is carried on under it. Licensees may be open every day except limited wineries which may be open as set forth by the board through regulations.

(509 amended Dec. 9, 2002, P.L.1653, No.212)

Section 510. Containers To Be Labeled.--All persons, except as exempted by section five hundred two hereof, manufacturing, producing, distilling, developing or using in the process of manufacture, denaturing, redistilling, recovering, rectifying, blending, reusing, holding in bond, holding in storage as bailee for hire, or transporting for hire of alcohol or liquor under the provisions of this article, shall securely and permanently attach to every container ready for shipment thereof as the same is manufactured, produced, distilled, developed, denatured, redistilled, recovered, rectified, blended, reused, a label stating the name of the manufacturer, kind and quantity of alcohol or liquor contained therein, and the date of its manufacture, together with the number of the license authorizing the manufacture thereof, and all persons possessing such alcohol or liquor in wholesale quantities shall securely keep and maintain such label thereon.

Section 511. License To Specify Each Place Authorized For Use.--Every license issued under the provision of this article shall specify by definite location every place to be occupied or used in connection with the business to be conducted thereunder. It shall be unlawful for the holder of any license to occupy or use any place in connection with any business authorized under a license other than the place or places designated therein.

Section 512. Records To Be Kept.--Every person holding a license issued under the provisions of this article shall keep

on the licensed premises daily permanent records which shall show, (a) the quantities of any alcohol or liquor manufactured, produced, distilled, developed, denatured, redistilled, recovered, reused, stored in bond, stored as bailee for hire, received or used in the process of manufacture by him, and of all other material used in manufacturing or developing any alcohol or liquor; (b) the sales or other disposition of any alcohol, liquor or malt or brewed beverages if covered by said license; (c) the quantities thereof, if any, stored in bond, stored for hire, or transported for hire by or for the licensee; and (d) the names and addresses of the purchasers or other recipients thereof: Provided, however, That persons holding licenses issued under the provisions of this article for the transportation for hire of any alcohol, liquor or malt or brewed beverages shall not be required to keep the above records, but shall keep daily permanent records showing the names and addresses of the persons from whom any alcohol, liquor or malt or brewed beverage was received and to whom delivered, and such other permanent records as the board shall prescribe: Provided, however, That a sales invoice may not be required for purchases made at a limited winery by a private individual unless the purchase is for greater than 16 liters in a single transaction.

(512 amended July 2, 2019, P.L.324, No.45)

Compiler's Note: Section 7 of Act 45 of 2019 provided that the provisions of 40 Pa. Code § 5.103(b) are abrogated insofar as they are inconsistent with the amendment of section 512.

Section 513. Premises and Records Subject To Inspection.--Every place operated under license secured under the provisions of this article where any alcohol, liquor or malt or brewed beverage covered by the license is manufactured, produced, distilled, developed or used in the process of manufacture, denatured, redistilled, rectified, blended, recovered, reused, held in bond, stored for hire or in connection with a licensee's business, shall be subject to inspection by members of the board or by persons duly authorized and designated by the board at any and all times of the day or night, as they may deem necessary, (a) for the detection of violations of this act or of the rules and regulations of the board promulgated under the authority of this act, or (b) for the purpose of ascertaining the correctness of the records required by this act to be kept by licensees and the books and records of licensees, and the books and records of their customers, in so far as they relate to purchases from said licensees, shall at all times be open to inspection by the members of the board or by persons duly authorized and designated by the board for the purpose of making inspections as authorized by this section. Members of the board and the persons duly authorized and designated by the board shall have the right, without fee or hindrance, to enter any place which is subject to inspection hereunder, or any place where records subject to inspection hereunder are kept, for the purpose of making such inspections.

Section 514. Suspension and Revocation of Licenses.--(a) Upon learning of any violation of this act or of any rule or regulation promulgated by the board under the authority of this act, or any violation of any laws of this Commonwealth or of the United States of America relating to the tax payment of alcohol, liquor or malt or brewed beverages by the holder of a license issued under the provisions of this article, or upon other sufficient cause, the enforcement bureau

may, within one year from the date of such violation or cause appearing, cite such licensee to appear before an administrative law judge not less than ten (10) nor more than sixty (60) days from the date of sending such licensee, by registered mail, a notice addressed to his licensed premises, to show cause why the license should not be suspended or revoked. Hearings on such citations shall be held in the same manner as provided herein for hearings on applications for license. And upon such hearing, if satisfied that any such violation has occurred or for other sufficient cause, the administrative law judge shall immediately suspend or revoke such license, notifying the licensee thereof by registered letter addressed to his licensed premises, or to the address given in his application where no licensed premises is maintained in Pennsylvania.

(b) Any licensee whose license is revoked shall be ineligible to have a license under this act or under any other act relating to alcohol, liquor or malt or brewed beverages until the expiration of three (3) years from the date such license was revoked. In the event of a revocation, no license shall be granted for the premises or transferred to the premises in which said license was conducted for a period of at least one (1) year after the date of the revocation of the license conducted in the said premises, except in cases where the licensee or a member of his immediate family is not the owner of the premises, in which case the board may, in its discretion, issue or transfer a license within said year. Such hearing before and adjudication by an administrative law judge shall be in accordance with 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of Commonwealth agencies).

(514 amended Dec. 21, 1998 P.L.1202, No.155)

Section 515. Appeals.--The board, the enforcement bureau or any applicant or any licensee aggrieved by any decision refusing, suspending or revoking a license under the provisions of this article may appeal to the court of the county in which the licensed premises or the premises to be licensed are located. In the event an applicant or a licensee shall have no place of business established within the Commonwealth, his appeal shall be to the Commonwealth Court. Such appeal shall be in accordance with 2 Pa.C.S. Ch. 7 Subch. A (relating to judicial review of Commonwealth agency action).

Section 516. Compromise Penalty In Lieu of Suspension.--In those cases where the administrative law judge shall suspend a license, the administrative law judge may accept from the licensee an offer in compromise as a penalty in lieu of such suspension and shall thereupon rescind its order of suspension. In the case of a distillery licensee, the offer in compromise shall be at the rate of one hundred dollars (\$100) for each day of suspension; in the case of a bonded warehouse, bailee for hire and transporter for hire licensees, twenty-five dollars (\$25) for each day; and in the case of a winery licensee, fifty dollars (\$50) for each day. No offer in compromise may be accepted in those cases where the suspension is for a period in excess of one hundred (100) days.

Section 517. Expiration of Licenses; Renewals.--All licenses issued under this article shall expire at the close of the license period, but new licenses for the succeeding license period shall be issued upon written application therefor, duly verified by affidavit, stating that the facts in the original application are unchanged, and upon payment of the fee as hereinafter provided, without the filing of further statements or the furnishing of any further information unless specifically requested by the board: Provided, however, That any such license

issued to a corporation shall expire thirty (30) days after any change in the officers of such corporation, unless the name and address of each such new officer of such corporation shall, within that period, be reported to the board by certificate, duly verified. Applications for renewals must be made not less than thirty (30) nor more than sixty (60) days before the expiration of the license period. All applications for renewal received otherwise shall be treated as original applications.

(517 amended Dec. 21, 1998, P.L.1202, No.155)

Section 518. Unlawful Acts.--(a) It shall be unlawful for any person to transport any illegal alcohol, liquor or malt or brewed beverages.

(b) Whenever any person withdraws or removes any alcohol or liquor which has not been denatured from any distillery, denaturing plant, winery or bonded warehouse for the purpose of denaturing the same, it shall be unlawful for any such person to use, sell or conceal, or attempt to use, sell or conceal, or be concerned in the sale, use or concealment of, any such alcohol or liquor, unless before such sale or use the said alcohol or liquor shall be denatured by adding thereto denaturing material or materials or admixtures thereof which render it unfit for beverage purposes.

(c) It shall be unlawful for any person to recover and reuse or attempt to recover and reuse, by redistillation or by any other process or means whatsoever, any alcohol or liquor from denatured alcohol or from any other liquor from denatured alcohol or from any other liquid, or to knowingly use, sell, conceal, or otherwise dispose of, alcohol or liquor so recovered or redistilled.

Section 519. Penalties.--Any person or persons who knowingly violate any of the provisions of this article, or any person who shall violate any of the conditions of any license issued under the provisions of this article, or who shall falsify any record or report required by this article to be kept, or who shall violate any rule or regulation of the board, or who shall interfere with, hinder or obstruct any inspection authorized by this article, or prevent any member of the board or the enforcement bureau or any person duly authorized and designated by the board or the bureau from entering any place which such member of the board or the bureau or such person is authorized by this article to enter for the purpose of making an inspection, or who shall violate any other provision of this article, shall be guilty of a misdemeanor and, upon conviction thereof, shall be sentenced to pay a fine of not less than one hundred dollars (\$100), nor more than five thousand dollars (\$5000), or undergo imprisonment of not more than three (3) years, or both, at the discretion of the court.

ARTICLE VI.

PROPERTY ILLEGALLY POSSESSED OR USED; FORFEITURES; NUISANCES.

(A) Forfeitures.

Section 601. Forfeiture of Property Illegally Possessed or Used.--No property rights shall exist in any liquor, alcohol or malt or brewed beverage illegally manufactured or possessed, or in any still, equipment, material, utensil, vehicle, boat, vessel, animals or aircraft used in the illegal manufacture or illegal transportation of liquor, alcohol or malt or brewed beverages, and the same shall be deemed contraband and proceedings for its forfeiture to the Commonwealth may be

instituted in the manner hereinafter provided. No such property when in the custody of the law shall be seized or taken therefrom on any writ of replevin or like process.

Section 602. Forfeiture Proceedings.--(a) The proceedings for the forfeiture or condemnation of all property shall be in rem, in which the Commonwealth shall be the plaintiff and the property the defendant. A petition shall be filed in the court of common pleas, verified by oath or affirmation of any officer or citizen, containing the following: (1) a description of the property so seized; (2) a statement of the time and place where seized; (3) the owner, if known; (4) the person or persons in possession, if known; (5) an allegation that the same had been possessed or used or was intended for use in violation of this act; (6) and, a prayer for an order of forfeiture that the same be adjudged forfeited to the Commonwealth, unless cause be shown to the contrary.

(b) A copy of said petition shall be served personally on said owner if he can be found within the jurisdiction of the court, or upon the person or persons in possession at the time of the seizure thereof. Said copy shall have endorsed thereon a notice as follows:

"To the Claimant of Within Described Property: You are required to file an answer to this petition, setting forth your title in and right to possession of said property, within fifteen (15) days from the service hereof; and you are also notified that if you fail to file said answer, a decree of forfeiture and condemnation will be entered against said property."

Said notice shall be signed by petitioner or his attorney, or the district attorney or the Attorney General.

(c) If the owner of said property is unknown or outside the jurisdiction of the court and there was no person in possession of said property when seized, or such person so in possession cannot be found within the jurisdiction of the court, notice of said petition shall be given by an advertisement in only one newspaper of general circulation published in the county where such property shall have been seized, once a week for two (2) successive weeks. No other advertisement of any sort shall be necessary, any other law to the contrary notwithstanding. Said notice shall contain a statement of the seizure of said property, with a description thereof, the place and date of seizure, and shall direct any claimants thereof to file a claim therefor on or before a date given in said notice, which date shall not be less than ten (10) days from the date of the last publication.

(d) Upon the filing of any claim for said property, setting forth a right of possession thereof, the case shall be deemed at issue and a time be fixed for the hearing thereof.

(e) At the time of said hearing, if the Commonwealth shall produce evidence that the property in question was unlawfully possessed or used, the burden shall be upon the claimant to show (1) that he is the owner of said property, (2) that he lawfully acquired the same, and (3) that it was not unlawfully used or possessed.

In the event such claimant shall prove by competent evidence to the satisfaction of the court that said liquor, alcohol or malt or brewed beverage, or still, equipment, material, utensil, vehicle, boat, vessel, container, animal or aircraft was lawfully acquired, possessed and used, then the court may order the same returned or delivered to the claimant; but if it appears that said liquor, alcohol or malt or brewed beverage or still, equipment, material or utensil was unlawfully

possessed or used, the court shall order the same destroyed, delivered to a hospital, or turned over to the board or enforcement bureau, as hereinafter provided, or if it appears that said vehicle, boat, vessel, container, animal or aircraft was unlawfully possessed or used, the court may, in its discretion, adjudge same forfeited and condemned as hereinafter provided.

Compiler's Note: Section 13(2) of Act 13 of 2017 provided that section 602 is repealed to the extent of any inconsistency with Act 13.

Section 603. Disposition of Forfeited Property.--If, upon petition as hereinbefore provided and hearing before the court of common pleas, it appears that any liquor, alcohol, or malt or brewed beverage or still, equipment, material or utensil was so illegally possessed, or used, such liquor, alcohol or malt or brewed beverage or still, equipment, material or utensil shall be adjudged forfeited and condemned, or if it appears that any vehicle, boat, vessel, container, animal or aircraft was so used in the illegal manufacture or transportation of liquor, alcohol or malt or brewed beverage, such property may, in the discretion of the court, be adjudged forfeited and condemned and in such case shall be disposed of as follows:

(a) Upon conviction of any person of a violation of any of the provisions of this act, the court shall order the sheriff to destroy all condemned liquor, alcohol or malt or brewed beverage and property seized or obtained from such defendants, except that the court may order the liquor, alcohol or malt or brewed beverages, or any part thereof, to be delivered to a hospital for its use, and make return to the court of compliance with said order, and any vehicle, container, boat, vessel, animals or aircraft seized under the provisions of this act shall be disposed of as hereinafter provided.

(b) In any case in which the defendant is acquitted of a violation of this act and denies the ownership or possession thereof, or no claimant appears for same, or appearing, is unable to sustain claim thereof, the court shall order all condemned liquor, alcohol and malt or brewed beverages and property (except vehicles, boats, vessels, containers, animals and aircraft) publicly destroyed by the sheriff, except that the court may order the liquor, alcohol or malt or brewed beverages, or any part thereof, to be delivered to a hospital for its use. Return of compliance with said order shall be made by the sheriff to the court.

(c) In the case of any vehicle, boat, vessel, container, animal or aircraft seized under the provisions of this act and condemned, the court shall order the same to be delivered to the enforcement bureau for its use or for sale or disposition by the bureau, in its discretion. Notice of such sale shall be given in such manner as the bureau may prescribe. The proceeds of such sale shall be paid into the State Stores Fund.

Compiler's Note: Section 13(2) of Act 13 of 2017 provided that section 603 is repealed to the extent of any inconsistency with Act 13.

Section 604. Motor Vehicle Licenses To Be Revoked.--In addition to the foregoing provisions, the court may, in its order of condemnation, and in every conviction under this act where it shall appear that liquor, alcohol or malt or brewed beverages were unlawfully transported in a motor vehicle, declare that the license issued by the Department of Transportation for any motor vehicle so forfeited and condemned,

or issued to any defendant convicted of transporting liquor, alcohol or malt or brewed beverages in any motor vehicle, shall be forfeited and revoked, and it shall be the duty of the clerk of the court in which such conviction is had and order of condemnation made to certify such conviction to the Secretary of Transportation, who shall suspend or revoke the license issued for such motor vehicles: Provided, That a license may be issued for such motor vehicle to the board or the enforcement bureau or to any purchaser of the vehicle after the sale thereof, as above provided.

Section 605. Application of Subdivision.--The provisions of this subdivision shall apply to the disposition of any liquor, alcohol or malt or brewed beverage or property in the custody of the law or of any officer at the time of the passage of this act.

(B) Nuisances.

Section 611. Nuisances; Actions To Enjoin.--(a) Any room, house, building, boat, vehicle, structure or place, except a private home, where liquor, alcohol or malt or brewed beverages are manufactured, possessed, sold, transported, offered for sale, bartered or furnished, or stored in bond, or stored for hire, in violation of this act, and all such liquids, beverages and property kept or used in maintaining the same, are hereby declared to be common nuisances, and any person who maintains such a common nuisance shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to the same penalties provided in section four hundred ninety four of this act.

(b) An action to enjoin any nuisance defined in this act may be brought in the name of the Commonwealth of Pennsylvania by the Attorney General, by the Pennsylvania State Police through its Bureau of Liquor Control Enforcement, by the municipality wherein the establishment is located, by the district attorney of the proper county or by a person who resides or has a place of business within five hundred feet of the location of the alleged nuisance. Such action shall be brought and tried as an action in equity and may be brought in any court having jurisdiction to hear and determine equity cases within the county in which the offense occurs. If it is made to appear, by affidavit or otherwise, to the satisfaction of the court that such nuisance exists, a temporary writ of injunction shall forthwith issue, restraining the defendant from conducting or permitting the continuance of such nuisance until the conclusion of the proceedings. If a temporary injunction is prayed for, the court may issue an order restraining the defendant and all other persons from removing or in any way interfering with the liquids, beverages or other things used in connection with the violation of this act constituting such nuisance. No bond shall be required in instituting such proceedings brought in the name of the Commonwealth by the Attorney General, the Pennsylvania State Police through its Bureau of Liquor Control Enforcement, the municipality where the establishment is located or the district attorney of the proper county. Where such proceedings are brought by a person, the court, upon application of the defendant and prior to any injunction being issued, may direct the plaintiff to post bond in such amount as the court may find to be reasonable and sufficient. It shall not be necessary for the court to find the property involved was being unlawfully used, as aforesaid, at the time of the hearing, but on finding that the material allegations of the petition are true, the

court shall order that no liquor, alcohol or malt or brewed beverage shall be manufactured, sold, offered for sale, transported, bartered or furnished, or stored in bond, or stored for hire in such room, house, building, structure, boat, vehicle, or place, or any part thereof. ((b) amended Feb. 18, 1998, P.L.162, No.25)

(c) Upon the decree of the court ordering such nuisance to be abated, the court may, upon proper cause shown, order that the room, house, building, structure, boat, vehicle or place shall not be occupied or used for one year thereafter, but the court may, in its discretion, permit it to be occupied or used if the owner, lessee, tenant or occupant thereof shall give bond with sufficient surety to be approved by the court making the order in the penal and liquidated sum of not less than five thousand dollars (\$5,000.00), payable to the Commonwealth of Pennsylvania, for use of the county in which said proceedings are instituted, and conditioned that neither liquor, alcohol, nor malt or brewed beverages will thereafter be manufactured, sold, transported, offered for sale, bartered or furnished, or stored in bond, or stored for hire therein or thereon in violation of this act, and that he will pay all fines, costs and damages that may be assessed for any violation of this act upon said property. ((c) amended Nov. 10, 1999, P.L.514, No.47)

ARTICLE VII.
DEALING IN DISTILLERY BONDED WAREHOUSE
CERTIFICATES.

(A) Preliminary Provisions.

Section 701. Definitions and Interpretation.--(a) When used in this article, the following words or phrases, unless the context clearly indicates otherwise, shall have the meanings ascribed to them in this section.

"Agent" shall mean and include every person employed by a distillery certificate broker to sell, offer for sale or delivery, to purchase, exchange, or to enter into agreements for the purchase, sale or exchange, or to solicit subscriptions to, or orders for, or to undertake to dispose of, or to deal in any manner in, distillery bonded warehouse certificates.

"Fraud," "fraudulent" and "fraudulent practice" shall include any misrepresentation in any manner of a relevant fact not made honestly and in good faith; any promise or representation or prediction as to the future not made honestly and in good faith, or an intentional failure to disclose a material fact; the gaining, directly or indirectly, through the purchase, sale or exchange of distillery bonded warehouse certificates, of any promotion fee or profit, selling or managing commission or profit, so gross and exorbitant as to be unconscionable and fraudulent; and any scheme, device, artifice or investment plan to obtain such an unconscionable profit: Provided, however, that nothing herein shall limit or diminish the full meaning of the terms "fraud" and "fraudulent" as applied or accepted in courts of law or equity.

(b) Nothing contained in this article shall be construed as permitting the holder or owner of a distillery bonded warehouse certificate, as defined in this act, to secure possession of the whiskey or other potable distilled spirits named or designated in such certificate, except in accordance with the provisions of this act and the laws of this Commonwealth hereafter enacted relating to alcohol or alcoholic

beverages and the regulations of the board adopted and promulgated thereunder.

(B) Permits.

Section 702. Unlawful to Act as a Distillery Certificate Broker or to Buy or Sell Distillery Bonded Warehouse Certificate Without a Permit.--It shall be unlawful for any person, except as hereinafter exempted, directly or through an agent, to sell, purchase, exchange, offer for sale, deliver, enter into agreements for the purchase, sale, exchange, solicit subscriptions to, orders for, undertake to dispose of, deal in any manner in, distillery bonded warehouse certificates, without first having obtained a permit to act as a distillery certificate broker as provided in this article.

Section 703. Authority to Issue Permits to Distillery Certificate Brokers.--Subject to the provisions of this article and regulations promulgated under this act, the board shall have authority to issue to any reputable financially responsible person whose plan of business in dealing in distillery bonded warehouse certificates is not deemed by the board to constitute "fraudulent practice," as defined herein, a permit to act as distillery certificate broker.

Section 704. Application for Permit; Filing Fee.--Every applicant for a distillery certificate broker permit shall file a written application with the board outlining his plan of business in dealing in distillery bonded warehouse certificates, in such form and containing such other information as the board shall from time to time prescribe, which shall be accompanied by a filing fee as prescribed in section 614-A of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929," and the prescribed permit fee. If the applicant is a natural person, his application must show that he is a citizen of the United States, and if a corporation, the application must show that the corporation was created under the laws of Pennsylvania or holds a certificate of authority to transact business in Pennsylvania. The application shall be signed and verified by oath or affirmation of the applicant, if a natural person, or in the case of an association, by a member or partner thereof, or in the case of a corporation, by an executive officer thereof or any person specifically authorized by the corporation to sign the application, to which shall be attached written evidence of his authority. If the applicant is an association, the application shall set forth the names and addresses of the persons constituting the association, and if a corporation, the names and addresses of all the officers thereof. All applications must be verified by affidavit of applicant and if any false statement is intentionally made in any part of the application, the signer shall be guilty of a misdemeanor and upon indictment and conviction, shall be subject to penalties provided by this article.

(704 amended Apr. 29, 1994, P.L.212, No.30)

Section 705. Issuance of Permits.--Upon receipt of the application and proper fees and upon being satisfied of the truth of the statements in the application, and being also satisfied that the applicant's plan of business in dealing in distillery bonded warehouse certificates does not constitute "fraudulent practice," as defined in this article, and that the applicant is a person of good repute and financially responsible, the board may issue to such applicant a permit

authorizing the permittee to sell, purchase, exchange, pledge and deal in distillery bonded warehouse certificates.

Section 706. Office or Place of Business to be Maintained.--Every applicant for a distillery certificate broker permit under this article and every person to whom such a permit is issued shall maintain an office or place of business within the Commonwealth.

Section 707. Permit Fee; Permits Not Assignable or Transferable; Display of Permit; Term of Permit.--Every applicant for distillery certificate broker permit shall, before receiving such permit, pay to the board an annual permit fee as prescribed in section 614-A of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929." Permits issued under this act may not be assigned or transferred and shall be conspicuously displayed at the place of business of the permittee. All permits shall be valid only during the period for which issued and shall automatically expire on the last day of the license period of each calendar year unless suspended, revoked or cancelled prior thereto.

(707 amended Apr. 29, 1994, P.L.212, No.30)

Section 708. Records to be Kept.--Every person holding a permit issued under this act shall keep daily permanent records containing a complete record of all transactions in distillery bonded warehouse certificates within this Commonwealth, in such form and manner as the board may from time to time prescribe. Such records shall be available for examination by the board's officers at the broker's principal place of business or office in Pennsylvania.

Section 709. Renewal of Permits.--Upon the filing of an application and the payment of the prescribed filing fee and permit fee in the same amount as herein required on original applications for permits, the board may renew the permit for the license period as designated by the board, provided that such application for renewal is filed and fee paid on or before fifteen days prior to the expiration of the preceding licensing period, unless the board shall have given previous notice of objections to the renewal of the permit, based upon violation of this article or the board's regulations promulgated thereunder, or unless the applicant has by his own act become a person of ill repute or ceases to be financially responsible.

(709 amended Apr. 29, 1994, P.L.212, No.30)

Section 710. Permit Hearings; Appeals From Refusal of the Board to Issue or Renew Permits.--The board may of its own motion, and shall upon written request of any applicant for distillery certificate broker permit or for renewal thereof whose application for such permit or renewal has been refused, fix a time and place for hearings of such application for permit or for renewal thereof, notice of which hearing shall be sent by registered mail to the applicant at the address given in his application. Such hearing shall be before the board or a member thereof. At such hearing, the board shall present its reasons for its refusal or withholding a permit or renewal thereof. The applicant may appear in person or by counsel, cross-examine the witnesses of the board, and may present evidence which shall be subject to cross-examination by the board. Such hearings shall be stenographically recorded. The board shall thereupon grant or refuse the permit or renewal thereof. If the board shall refuse such permit or renewal following such hearing, notice in writing of such refusal shall be sent by registered mail to the applicant at the address given in his application. In all such cases, the board shall file of record at least a

brief statement in the form of an opinion of the reasons for the ruling or order and furnish a copy thereof to the applicant.

Section 712. Revocation and Suspension of Permit.--Upon learning of any violation of this act or regulations of the board promulgated thereunder, or any violation of any laws of this Commonwealth or of the United States of America by the permittee, his officers, servants, agents or employes, or upon any other sufficient cause shown, the board may cite such permittee to appear before it or a member thereof not less than ten or more than fifteen days from the date of sending such permittee, by registered mail, a notice addressed to him at the address set forth in the application for permit, to show cause why such permit should not be suspended or revoked. When such notice is duly addressed and deposited in the post office, it shall be deemed due and sufficient notice. Hearings on such citations shall be held in the same manner as provided herein for hearing on application for permit. Upon such hearing, if satisfied that any such violation has occurred, or for other sufficient cause, the board shall immediately suspend or revoke the permit, notifying the permittee thereof by registered letter addressed to the address set forth in the application for permit. Any permittee whose permit is revoked shall be ineligible to have a permit under this act until the expiration of three years from the date such permit was revoked. In all such cases, the board shall file of record at least a brief statement in the form of an opinion of the reasons for the ruling or order.

(C) Permittees' Registered Agents.

Section 721. Unlawful to Act as Agent or to Employ Agents Without Registration.--It shall be unlawful for a distillery certificate broker to employ any person to act as agent, or for any person to act as agent for any distillery certificate broker, in purchasing, exchanging, offering for sale, delivering, entering into agreements for the purchase, sale, exchange, soliciting subscriptions to, orders for, undertaking to dispose of, dealing in any manner in, distillery bonded warehouse certificates, without such person first having been registered as an agent as provided in this article.

Section 722. Registered Agents.--Every person holding a distillery certificate broker permit under this article who desires to employ an agent or agents in the operation of his business under the permit shall make application to the board for registration of such agent or agents. Every such permittee's application shall set forth the name of the permittee and the address of his main office or principal place of business in Pennsylvania, and the full address where complete records are maintained covering the permittee's operations in Pennsylvania. With each such permittee's application there shall be filed an agent's application for each agent to be registered. Permittees' applications for agents and agents' applications shall contain such information as the board shall from time to time require, and shall be signed and verified by oath or affirmation of the agent. Each application shall be accompanied by two unmounted photographs of the agent.

Section 723. Registration Fee.--Every application for the registration of agents filed by a permittee shall be accompanied by a registration fee in the amount of ten dollars (\$10) for each agent to be registered, which shall cover the agent's registration from date of approval until December thirty-first of the year in which approved. Registrations may be renewed for

a period of one calendar year upon the filing of a new application and payment of the same registration fee as herein provided for original registration, together with agent's new application and photographs of each agent. Applications for renewal of registration shall be filed not later than December fifteenth of each year.

Section 724. Registration and Issuance of Identification Card.--Upon receipt of the application, the proper fees, and upon being satisfied of the truth of the statements in the application and that the applicant is a person of good reputation and the applicant seeks a registration as defined in this act, the board may register such agent and issue to him an identification card.

Section 725. Hearings Upon Refusal of the Board; Appeals.--In the event that the board shall refuse to issue or to renew an agent's registration, a hearing shall be had.

Section 726. Revocation and Suspension of Agents' Registrations.--Upon learning of any violation of this act or regulation of the board promulgated thereunder, or any violation of any laws of this Commonwealth or of the United States of America by a registered agent, the board may revoke or suspend the agent's registration in the same manner as provided herein for the revocation and suspension of distillery certificate broker permits.

Section 727. Identification Cards.--(a) Upon approval by the board of the application for registration of an agent, there shall be issued to such registered agent an identification card containing the name and address of the distillery certificate broker, the name, address and physical description of the agent. There shall also be affixed to the identification card a photograph of the agent, and no identification card shall be valid until signed by both the distillery certificate broker and the agent and counter-signed by a representative of the board.

(b) Before any agent's registration can be changed from one distillery certificate broker to another, the identification card of such agent shall either be returned to the board by the broker under whom he is registered, or such broker shall file with the board a notice in writing that he has knowledge of and consents to the employment of such agent by the other broker.

(c) When the employment of any agent is terminated, the broker shall immediately notify the board and the identification card issued to the agent shall be surrendered to the board.

(D) Exemptions.

Section 731. Bank and Trust Companies and Other Persons.--Bank and trust companies and other persons duly authorized within this Commonwealth to engage in the business of lending money to licensed distillers, rectifiers, importers and distillery certificate brokers may, without a permit required under the provisions of this act, accept distillery bonded warehouse certificates as security or collateral for any loan made in the regular conduct of their business, and such banks and trust companies and other persons may liquidate such security or collateral by sale only to licensed distillers, rectifiers, importers or distillery certificate brokers.

Section 732. Distillers, Rectifiers and Importers.--Duly licensed distillers, rectifiers and importers may, without a permit required under the provisions of this article, deal in distillery bonded warehouse certificates, but only with other

duly licensed distillers, rectifiers, importers and with distillery certificate brokers.

Section 733. Certificates Owned Since July 24, 1939.--Persons other than licensed distillers, rectifiers, importers and distillery certificate brokers, holding distillery bonded warehouse certificates on and since the twenty-fourth day of July, one thousand nine hundred thirty-nine, may dispose of same without a permit required under the provisions of this act, but only to or through a distillery certificate broker holding a permit from the board.

(E) Administration and Enforcement.

Section 741. Duties of the Board.--It shall be the duty of the board to see that the provisions of this article are at all times properly administered and obeyed, and to take such measures and make such investigations as will detect the violations of any provisions thereof. In the event it shall discover any violation, it shall, in addition to revoking any permit or registration of an agent, take such measures as may be necessary to cause the apprehension and prosecution of all persons deemed guilty thereof.

(F) Fines and Penalties.

Section 751. Penalties.--Any person who shall violate any of the provisions of this article, or who shall engage in any fraud or fraudulent practice, as defined herein, shall be guilty of a misdemeanor and, upon conviction thereof, shall be sentenced to pay the costs of prosecution and a fine of not less than one thousand dollars (\$1000), nor more than five thousand dollars (\$5000), or undergo imprisonment of not less than one year, nor more than five years, or both, at the discretion of the court.

ARTICLE VIII.
DISPOSITION OF MONEYS COLLECTED UNDER
PROVISIONS OF ACT.

Section 801. Moneys Paid Into Liquor License Fund and Returned to Municipalities.--(a) The following fees collected by the board under the provisions of this act shall be paid into the State Treasury through the Department of Revenue into a special fund to be known as the "Liquor License Fund":

(1) License fees for hotel, restaurant and club liquor licenses.

(2) License fees for retail dispensers' (malt and brewed beverages) licenses.

(b) The moneys in the Liquor License Fund shall, on the first days of February and August of each year, be paid by the board to the respective municipalities in which the respective licensed places are situated, in such amounts as represent the aggregate license fees collected from licenses in such municipalities during the preceding period.

(c) The board shall have the power to appropriate moneys in the Liquor License Fund for the payment of claims for refunds allowed and approved by the board for moneys paid into the Liquor License Fund because of the over-payment or overcharge on license fees. In the event that the moneys in the Liquor License Fund have been distributed to the respective municipalities, the board shall have the authority to deduct from the next semi-annual payment to the respective

municipalities the amount of any over-payment previously refunded by the board to any person on account of an overcharge or over-payment on a license fee.

Section 802. Moneys Paid Into The State Stores Fund for Use of the Commonwealth.--(a) All moneys, except fees to be paid into the Liquor License Fund as provided by section 801, collected, received or recovered under the provisions of this act for license fees, permit fees, filing fees and registration fees, from forfeitures, sales of forfeited property, compromise penalties and sales of liquor and alcohol at the Pennsylvania Liquor Stores, shall be paid into the State Treasury through the Department of Revenue into a special fund to be known as "The State Stores Fund."

(b) ((b) deleted by amendment May 28, 1993, P.L.42, No.13)

(c) Two per centum of annual profits from the sale of liquor and alcohol shall be annually transferred to the Department of Health for use by the Office of Drug and Alcohol Programs, or its successor in function, for the following purposes:

(1) Treatment and rehabilitation of persons addicted to the excessive use of alcoholic beverages.

(2) Promotion of education, prevention and early intervention programs designed to eliminate abuse and addiction to alcohol or other mood-altering substances or secure appropriate treatment for the already addicted.

(3) Study of the problem of addiction.

(d) All other moneys in such fund shall be available for the purposes for which they are appropriated by law.

(e) Annually, the General Assembly shall make an appropriation from the State Stores Fund to provide for the operational expenses of the enforcement bureau.

(f) Any moneys in the State Stores Fund, from time to time, which may not be required for any of the purposes specified in this act or in the act of December 20, 1933 (Sp.Sess., P.L.89, No.15), entitled "An act appropriating the moneys in The State Stores Fund," shall be paid over into the General Fund and shall be available for the payment of appropriations made from the General Fund. The Pennsylvania Liquor Control Board, with the approval of the Governor, shall, from time to time, fix the amount of money which may be so paid over into the General Fund and by its requisition shall direct the Department of the Auditor General and the Treasury Department to transfer such moneys from the State Stores Fund to the General Fund. The Pennsylvania Liquor Control Board shall, immediately upon voting to pay over any moneys from the State Stores Fund to the General Fund, notify the chairman and minority chairman of the Appropriations Committee of the Senate and the chairman and minority chairman of the Appropriations Committee of the House of Representatives of such transfer of moneys. ((f) added Apr. 29, 1994, P.L.212, No.30)

(g) The sum of five million dollars (\$5,000,000) shall be transferred from The State Stores Fund in accordance with subsection (f) to the Children's Health Fund for health care for indigent children established by section 1296 of the act of March 4, 1971 (P.L.6, No.2), known as the "Tax Reform Code of 1971," to carry out the provisions of the act of December 2, 1992 (P.L.741, No.113), known as the "Children's Health Care Act," for the fiscal year July 1, 1996, to June 30, 1997. Funds transferred under this subsection shall not be subject to the limitation set forth in section 3101 of the "Children's Health Care Act." ((g) amended July 11, 1996, P.L.654, No.111)

(h) All moneys collected under sections 416, 432(h) and 470.3 of this act shall be transferred from the State Stores

Fund to the General Fund on a quarterly basis. ((h) added Nov. 15, 2016, P.L.1286, No.166)

Compiler's Note: See sections 2 and 3 of Act 13 of 1993, which deleted subsection (b), in the appendix to this act, for special provisions relating to the transfer of funds credited to the Enforcement Officers' Retirement Account which was deleted by Act 13.

Section 803. Alcohol Tax Moneys Paid Into General Fund.--All taxes collected or received by the board on sales of taxable alcohol under the provisions of this act shall be paid into the State Treasury through the Department of Revenue into the General Fund.

ARTICLE IX.

REPEALS.

(Art. repealed June 29, 1987,
P.L.32, No.14)

Section 901. Acts and Parts of Acts Repealed.--(901 repealed June 29, 1987, P.L.32, No.14)

Section 902. General Repeal Clause.--(902 repealed June 29, 1987, P.L.32, No.14)

ARTICLE X.

MISCELLANEOUS PROVISIONS.

(Art. added June 18, 1998, P.L.664, No.86)

Section 1001. Construction and Applicability.--(a) Except as provided in subsection (b), unless the context clearly indicates otherwise, a reference to "malt or brewed beverages" in a statute shall be construed to include alcoholic cider and fermented fruit beverages.

(b) Regardless of context, a reference to "malt or brewed beverages" in Article XX of the act of March 4, 1971 (P.L.6, No.2), known as the "Tax Reform Code of 1971," shall be construed to include alcoholic cider and fermented fruit beverages.

(c) Except as provided in subsection (d), unless the context clearly indicates otherwise, a reference to "wine" in a statute shall be construed to exclude alcoholic cider and fermented fruit beverages.

(d) Regardless of context, a reference to "wine" in the act of December 5, 1933 (Sp.Sess., P.L.38, No.6), known as the "Spirituuous and Vinous Liquor Tax Law," shall be construed to exclude alcoholic cider and fermented fruit beverages.

(1001 amended July 2, 2019, P.L.324, No.45)

Compiler's Note: The act of December 5, 1933 (Sp.Sess. P.L.38, No.6), known as the Spirituous and Vinous Liquor Tax Law, referred to in subsection (d), was repealed.

Compiler's Note: Section 19 of Act 86 of 1998, which added section 1001, provided that Pennsylvania liquor stores may continue to sell alcoholic cider within its inventory after the effective date of section 19 until the alcoholic cider within its current inventory is depleted. The Pennsylvania Liquor Control Board shall not purchase additional alcoholic cider after the effective date of section 19.

APPENDIX

Supplementary Provisions of Amendatory Statutes

1987, JUNE 29, P.L.32, NO.14

Section 141. (a) All personnel, allocations, appropriations, equipment, files, records, contracts, agreements, obligations and other materials which are used, employed or expended in connection with the powers, duties or functions transferred by this act to the Office of Administrative Law Judge are hereby transferred to the Office of Administrative Law Judge with the same force and effect as if the allocations and appropriations had been made to and said items had been the personnel and property of the office in the first instance and if the contracts, agreements and obligations had been incurred or entered into by the office.

(b) All personnel, allocations, appropriations, equipment, files, records, contracts, agreements, obligations and other materials which are used, employed or expended in connection with the powers, duties or functions transferred by this act to the Bureau of Liquor Control Enforcement of the Pennsylvania State Police are hereby transferred to the Pennsylvania State Police with the same force and effect as if the allocations and appropriations had been made to and said items had been the personnel and property of the bureau in the first instance and if the contracts, agreements and obligations had been incurred or entered into by the Pennsylvania State Police.

(c) All present employees of the Pennsylvania Liquor Control Board whose powers, duties or functions are transferred under subsections (a) and (b) shall be transferred to the Office of Administrative Law Judge or the bureau as appropriate. All employees are to continue in their employment with either the board, the Office of Administrative Law Judge or the bureau with the same pay scales, salaries, wages, seniority benefits, pension rights and other incidents of employment, including, but not limited to, civil service status, as if this act had not been effective.

(d) Notwithstanding any provisions of this section, enforcement officers of the Pennsylvania Liquor Control Board shall, in order of seniority, be given the choice of transferring to the Bureau of Liquor Control Enforcement of the Pennsylvania State Police or remaining within the Pennsylvania Liquor Control Board.

(e) Notwithstanding any provisions of this section, attorneys responsible for representation of the Pennsylvania Liquor Control Board in enforcement proceedings shall, in order of seniority, be given the choice of transferring to the Office of Chief Counsel of the Pennsylvania State Police or remaining within the Pennsylvania Liquor Control Board.

Compiler's Note: Act 14 reenacted and amended Act 21.

Section 142. The chief administrative law judge and the Commissioner of the Pennsylvania State Police shall separately by regulation provide for appropriate training of personnel to carry out the responsibilities imposed by this act upon employees of their respective agencies.

Section 143. This act reestablishes the Pennsylvania Liquor Control Board. The board shall be subject to evaluation and review and shall terminate on June 30, 1992, in the manner provided for by the act of December 22, 1981 (P.L.508, No.142), known as the Sunset Act.

Section 144. The presently confirmed members of the Pennsylvania Liquor Control Board as of December 31, 1986, shall continue to serve as members of the board for a term of 180 days beyond the effective date of this act or until the members first appointed after the effective date of this act are appointed and qualified, whichever occurs sooner. The Governor shall submit to the Senate the names of the nominees to the board within 60 days of the effective date of this act.

Section 145. Notwithstanding any provisions of this act to the contrary, citation and enforcement hearings shall temporarily continue to be conducted as heretofore, for a period, which, in the discretion of the board, shall not exceed 120 days beyond the effective date of this act. Prior to the expiration of this 120-day period, the board shall cause notice of the date for implementation of the administrative law judge system established pursuant to this act to be published in the Pennsylvania Bulletin.

Section 146. Each rule, regulation, contract or lease of the Pennsylvania Liquor Control Board in effect on December 31, 1986, shall remain in effect after such date until repealed or amended by the board or until it terminates in accordance with its own terms.

Section 147. Only those members appointed to the Pennsylvania Liquor Control Board after the effective date of this act shall be eligible for the increased salary authorized for board members pursuant to this act.

Section 148. By October 31, 1987, the Pennsylvania Liquor Control Board shall recommend to the General Assembly such fee increases as the board determines are necessary so that revenues are sufficient to cover the costs of licensing and enforcement activities.

Section 149. (a) There is hereby established the Pennsylvania Code Title 40 Review Committee to undertake the review of all regulations pertaining to the liquor, wine and malt and brewed beverage industry. The committee shall be composed of the Chairman and minority chairman of the Senate Law and Justice Committee, the Chairman and minority chairman of the Liquor Control Committee of the House of Representatives, and eight members from throughout the liquor, wine and malt and brewed beverage industry and one member of the general public to be appointed by the board.

(b) The committee shall have the power to:

(1) study all Title 40 regulations; and

(2) prepare a report of the study to be presented to the board and both houses of the General Assembly within one year of the effective date of this amendatory act. This study shall include, but not be limited to, packaging regulations, satellite warehouses for distributors and language governing licensee's fees.

(c) This committee shall terminate after this report has been presented.

Section 150. Notwithstanding any sections of this act to the contrary, Article VI-A of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, shall supersede this act to the extent there are any inconsistencies with regard to fees charged by the Pennsylvania Liquor Control Board.

Section 151. All other acts or parts of acts are repealed insofar as they are inconsistent with this act.

Section 152. The sum of \$17,700,000, or as much thereof as may be necessary, is hereby appropriated from the State Stores Fund for fiscal year July 1, 1987, to June 30, 1988, to the Pennsylvania State Police for the operation of the Bureau of Liquor Control Enforcement.

Section 153. The provisions of this act are severable. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application.

Section 154. Sections 144 and 146 of this act shall be retroactive to December 31, 1986.

Section 155. This act shall take effect July 1, 1987, or immediately, whichever is later.

1990, DECEMBER 7, P.L.622, NO.160

Section 8. By November 13, 1991, the Pennsylvania Liquor Control Board shall deposit with the Legislative Reference Bureau a notice explaining the implementation of this act.

Compiler's Note: Act 160 added or amended sections 104, 212, 402, 433, 437, 447, 461, 464, 472.4, 493, 499 and 507 of Act 21.

Section 9. Upon approval of the Pennsylvania Liquor Control Board, equipment, materials and funds utilized in connection with the functions of hearing examiners are transferred to the Office of Administrative Law Judge.

Section 10. Hearing examiners shall have 30 days following the effective date of this section to complete work on hearings conducted prior to the effective date of this act.

1993, MAY 28, P.L.42, NO.13

Section 2. Any funds credited to the special account in The State Stores Fund designated as the Enforcement Officers' Retirement Account, but not transferred to the State Employees' Retirement Fund as of the effective date of this act, shall be transferred to the General Fund.

Compiler's Note: Act 13 deleted section 802(b) of Act 21 which related to moneys credited to the Enforcement Officers' Retirement Account.

Section 3. All funds not necessary to fund current and future retirement benefits shall be transferred from the Enforcement Officers' Benefit Account in the State Employees' Retirement Fund to the General Fund within 30 days of the effective date of this act. These funds represent funds in excess of those determined by the actuary to be needed to cover the value of benefits for retirees and any Class C benefits payable from the Enforcement Officers' Benefit Account.

2016, JUNE 8, P.L.273, NO.39

Section 28. The following shall apply:

(1) There is established a Wine and Spirits Wholesale and Retail Privatization Commission.

(2) The commission shall research and make recommendations related to privatizing the wholesale and retail wine and spirits operations in this Commonwealth as provided for in this section.

(3) The commission shall consist of the following members:

(i) The chairperson and minority chairperson of the Law and Justice Committee of the Senate and the chairperson and minority chairperson of the Liquor Control Committee of the House of Representatives, or their designees.

(ii) Three legislators from each chamber of the General Assembly appointed as follows:

(A) Two members appointed by the President pro tempore of the Senate.

(B) One member appointed by the Minority Leader of the Senate.

(C) Two members appointed by the Speaker of the House of Representatives.

(D) One member appointed by the Minority Leader of the House of Representatives.

(iii) An individual appointed by the Governor from within the Governor's Administration.

(iv) The chairman of the Liquor Control Board.

(4) The commission shall appoint a member to serve as chairperson of the commission.

(5) The commission shall hold its first meeting within 45 days of the effective date of this section, notwithstanding whether the Governor or all legislative caucuses have actually approved members to the commission.

(6) The commission shall hold meetings at the call of the chairperson.

(7) A member of the commission may not receive compensation for the member's services, but shall be reimbursed for all necessary travel and other reasonable expenses incurred in connection with the performance of the member's duties as a member of the commission.

(8) The General Assembly shall provide administrative support, meeting space and any other assistance required by the commission to carry out its duties under this section in cooperation with the board. The board and the Department of Revenue shall provide the commission with data, research and other information upon request by the commission. The commission may enter into contracts for professional services as may be needed to fulfill the commission's duties.

(9) The board shall pay for all reasonable expenses of the commission from funds made available from the State Stores Fund.

(10) The commission shall:

(i) Analyze the current wholesale system's ability to meet the demand from retailers.

(ii) Evaluate the impact of public sector job losses through the transfer of the wholesale system to private operators.

(iii) Consider best practices in other states related to the operation of a wine and spirits wholesale operation.

(iv) Determine what impact a transition of the wholesale system to private operators would have on the annual fiscal stability of the Commonwealth.

(v) Determine the effectiveness of the provisions contained in this act and provide recommendations to improve the reforms contained in this act.

(vi) Provide a valuation of the wine and spirits wholesale and retail systems.

(vii) Determine the impact of wholesale and retail privatization on the cost of liquor to the consumer.

(viii) Determine whether the current quota system in each individual county is meeting consumer demand.

(ix) Analyze other factors related to wine and spirits wholesale and retail privatization.

(11) The commission shall have all of the following powers and duties:

(i) Review and make findings and recommendations related to wine and spirits wholesale and retail in this Commonwealth.

(ii) Consult with and utilize experts to assist the commission in carrying out the duties under this section.

(iii) Draft proposed regulations and proposed legislation based on the commission's findings.

(iv) Issue a report of the commission's findings and recommendations to the Governor, the President pro tempore of the Senate, the Majority Leader and Minority Leader of the Senate, the Law and Justice Committee of the Senate, the Speaker of the House of Representatives, the Majority Leader and Minority Leader of the House of Representatives, the Liquor Control Committee of the House of Representatives and the Chairperson of the Liquor Control Board not later than six months after the effective date of this section.

(12) Based on the findings and recommendations in the report issued under paragraph (11)(iv), the General Assembly shall consider further reform measures to the Commonwealth's wholesale and retail wine and spirits operations no later than June 30, 2016.

Compiler's Note: Act 39 amended or added sections 102, 207, 304, 305, 402, 404, 406, 408.4, 408.12, 410, 411, 415, 416, 431, 432, 436, 441, 442, 443, 446, 446.1, 461, 461.1, 468, 470, 470.3, 471.1, 472, 473, 474.1, 488, 488.1, 491, 493, 495, 505.2 and 505.4 of Act 21.