

AMENDMENTS TO HOUSE BILL NO. 1497

Sponsor: SENATOR McILHINNEY

Printer's No. 2185

1 Amend Bill, page 1, lines 1 through 26, by striking out all
2 of said lines and inserting
3 Amending the act of April 12, 1951 (P.L.90, No.21), entitled "An
4 act relating to alcoholic liquors, alcohol and malt and
5 brewed beverages; amending, revising, consolidating and
6 changing the laws relating thereto; regulating and
7 restricting the manufacture, purchase, sale, possession,
8 consumption, importation, transportation, furnishing, holding
9 in bond, holding in storage, traffic in and use of alcoholic
10 liquors, alcohol and malt and brewed beverages and the
11 persons engaged or employed therein; defining the powers and
12 duties of the Pennsylvania Liquor Control Board; providing
13 for the establishment and operation of State liquor stores,
14 for the payment of certain license fees to the respective
15 municipalities and townships, for the abatement of certain
16 nuisances and, in certain cases, for search and seizure
17 without warrant; prescribing penalties and forfeitures;
18 providing for local option, and repealing existing laws," in
19 preliminary provisions, further providing for definitions; in
20 licenses and regulations and liquor, alcohol and malt and
21 brewed beverages, further providing for applications for
22 hotel, restaurant and club liquor licenses, for sales by
23 liquor licensees and restrictions, for wine and spirits
24 auction permits, for public venue license, for performing
25 arts facility license, for wine expanded permits, for casino
26 liquor license, for application for distributors', importing
27 distributors' and retail dispensers' licenses and for
28 breweries, providing for taxes due on sales made by a holder
29 of a manufacturer's license, further providing for limiting
30 number of retail licenses to be issued in each county,
31 providing for liquor code suspension for deficiency, further
32 providing for local option and for unlawful acts relative to
33 liquor, malt and brewed beverages and licensees; in
34 distilleries, wineries, bonded warehouses, bailees for hire
35 and transporters for hire, further providing for limited
36 wineries and for distilleries; and, in miscellaneous
37 provisions, further providing for construction and
38 applicability.

Amend Bill, page 1, line 29; pages 2 through 24, lines 1 through 30; page 25, lines 1 through 16; by striking out all of said lines on said pages and inserting

Section 1. The definitions of "alcoholic cider," "mixed-use town center development project" and "public venue" in section 102 of the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code, are amended and the section is amended by adding a definition to read:

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

* * *

"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 [of any fruit or fruit juice] which is primarily derived from apples, apple juice concentrate and water, pears or 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, a wine product 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.

* * *

"Fermented fruit beverage" shall mean a beverage which may contain carbonation in an amount not to exceed six and four tenths gram 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, a wine product 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.

* * *

"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] or 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

1 stated in section 461(b.4)(5), a project comprising ninety-five
2 contiguous acres will meet the size requirement in this
3 definition.

4 * * *

5 "Public venue" shall mean a stadium, arena, convention
6 center, museum, zoo, amphitheater or similar structure. If the
7 public venue is a cruise terminal owned or leased by a port
8 authority created under the act of June 12, 1931 (P.L.575,
9 No.200), entitled "An act providing for joint action by
10 Pennsylvania and New Jersey in the development of the ports on
11 the lower Delaware River, and the improvement of the facilities
12 for transportation across the river; authorizing the Governor,
13 for these purposes, to enter into an agreement with New Jersey;
14 creating The Delaware River Joint Commission and specifying the
15 powers and duties thereof, including the power to finance
16 projects by the issuance of revenue bonds; transferring to the
17 new commission all the powers of the Delaware River Bridge Joint
18 Commission; and making an appropriation," it shall have no
19 permanent seating requirement. If the public venue is an open-
20 air amphitheater owned by a port authority created under the act
21 of December 6, 1972 (P.L.1392, No.298), known as the "Third
22 Class City Port Authority Act," it shall have no permanent
23 seating requirement. If the public venue is owned by a political
24 subdivision, a municipal authority, the Commonwealth, an
25 authority created under the act of July 29, 1953 (P.L.1034,
26 No.270), known as the "Public Auditorium Authorities Law," an
27 authority created under Article XXV-A of the act of July 28,
28 1953 (P.L.723, No.230), known as the "Second Class County Code,"
29 an art museum established under the authority of the act of
30 April 6, 1791 (3 Sm.L.20, No.1536), entitled "An act to confer
31 on certain associations of the citizens of this commonwealth the
32 powers and immunities of corporations, or bodies politic in
33 law," [or] an authority created under Article XXIII (n) or (o)
34 of the act of August 9, 1955 (P.L.323, No.130), known as "The
35 County Code," or it is located in a neighborhood improvement
36 zone created under Article XIX-B of the act of March 4, 1971
37 (P.L.6, No.2), known as the Tax Reform Code of 1971, located in
38 a city of the third class, it shall have permanent seating for
39 at least one thousand (1,000) people; otherwise, it shall have
40 permanent seating for at least two thousand (2,000) people. The
41 term shall also mean any regional history center, multipurpose
42 cultural and science facility, museum or convention or trade
43 show center, regardless of owner and seating capacity, that has
44 a floor area of at least sixty thousand (60,000) square feet in
45 one building. The term shall also mean a convention or
46 conference center owned by a city of the third class or a
47 university which is a member of the Pennsylvania State System of
48 Higher Education which is operated by a university foundation or
49 alumni association, regardless of seating capacity, that has a
50 floor area of at least fifteen thousand (15,000) square feet in
51 one building. The term shall also mean a visitor center,

1 regardless of floor area or seating capacity, that was
2 established under the authority of the Gateway Visitor Center
3 Authorization Act of 1999 (Public Law 106-131, 113 Stat. 1678,
4 16 U.S.C. § 407m).

5 * * *

6 Section 2. Sections 403(a), 406(d), 408.12(a), 412(f)(1),
7 413(f)(1), 415(f), 416, 436(b) and 446(a) introductory paragraph
8 and (2) of the act are amended to read:

9 Section 403. Applications for Hotel, Restaurant and Club
10 Liquor Licenses.--(a) Every applicant for a hotel liquor
11 license, restaurant liquor license or club liquor license or for
12 the transfer of an existing license to another premises not then
13 licensed or to another person shall file a written application
14 with the board in such form and containing such information as
15 the board shall from time to time prescribe, which shall be
16 accompanied by a filing fee and an annual license fee as
17 prescribed in section 614-A of the act of April 9, 1929
18 (P.L.177, No.175), known as "The Administrative Code of 1929."
19 Every such application shall contain a description of that part
20 of the hotel, restaurant or club for which the applicant desires
21 a license and shall set forth such other material information,
22 description or plan of that part of the hotel, restaurant or
23 club where it is proposed to keep and sell liquor as may be
24 required by the regulations of the board. The descriptions,
25 information and plans referred to in this subsection shall show
26 the hotel, restaurant, club, or the proposed location for the
27 construction of a hotel, restaurant or club, at the time the
28 application is made, and shall show any alterations proposed to
29 be made thereto, or the new building proposed to be constructed
30 after the approval by the board of the application for a license
31 or for the transfer of an existing license to another premises
32 not then licensed or to another person. No physical alterations,
33 improvements or changes shall be required to be made to any
34 hotel, restaurant or club, nor shall any new building for any
35 such purpose, be required to be constructed until approval of
36 the application for license or for the transfer of an existing
37 license to another premises not then licensed or to another
38 person by the board. After approval of the application, the
39 licensee shall make the physical alterations, improvements and
40 changes to the licensed premises, or shall construct the new
41 building in the manner specified by the board at the time of
42 approval, and the licensee shall not transact any business under
43 the license until the board has approved the completed physical
44 alterations, improvements and changes to the licensed premises,
45 or the completed construction of the new building as conforming
46 to the specifications required by the board at the time of
47 issuance or transfer of the license, and is satisfied that the
48 establishment is a restaurant, hotel or club as defined by this
49 act. The board may require that all such alterations or
50 construction or conformity to definition be completed within six
51 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, except in the case of death of the licensee prior to full compliance [with all of the aforementioned requirements or unless full compliance is impossible for reasons beyond the licensee's control, in which event, the license may be transferred by the board as provided in this act.], unless the transfer application is accompanied by a surcharge. The surcharge shall be twenty thousand dollars (\$20,000) if the license is located in a county of the first through fourth class, and the surcharge shall be five thousand dollars (\$5,000) if the license is located in a county of the fifth through eighth class.

* * *

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

(d) Subject to section 412, licensed public venues may sell liquor and malt or brewed beverages on Sundays from [eleven] ten 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 [one o'clock postmeridian] ten o'clock antemeridian until ten o'clock postmeridian without the need to acquire or qualify for a special permit.

* * *

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;

1 (8) any nationally recognized organization whose purpose is
2 to serve as an agent to collect funds for local charities, as
3 well as to coordinate relief services, counsel and refer clients
4 to cooperating agencies and make emergency assistance grants and
5 has been in existence for at least one hundred twenty years;

6 (9) any hospice as defined under section 802.1 of the act of
7 July 19, 1979 (P.L.130, No.48), known as the "Health Care
8 Facilities Act";

9 (10) institution of higher education;

10 (11) any nationally recognized community-based health
11 organization committed to funding Type 1 Diabetes research; [or

12 (12) any nationally recognized community-based voluntary
13 health organization committed to fighting cancer which has been
14 in existence for at least twenty years;]

15 (13) any community-based voluntary health organization in a
16 county of the second class which enriches the lives of children
17 and adults with disabilities and chronic illnesses; or

18 (14) any nonprofit organization located in any county of the
19 third class established to provide general support and food
20 assistance for students in pre-kindergarten through twelfth
21 grade;

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

26 * * *

27 Section 412. Public Venue License.--* * *

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

31 (1) Sales may only be made one hour before, during and one
32 hour after any athletic performance, performing arts event,
33 trade show, convention, banquet or any other performance at the
34 facility; however, sales may not be made from two o'clock
35 antemeridian to seven o'clock antemeridian. In addition, sales
36 may not occur prior to [eleven] ten o'clock antemeridian on
37 Sundays or seven o'clock antemeridian on Mondays.

38 Notwithstanding this section, facilities that had been licensed
39 under former sections 408.9 and 408.14 may sell liquor and/or
40 malt or brewed beverages anytime except from two o'clock
41 antemeridian to seven o'clock antemeridian or prior to eleven
42 o'clock antemeridian on Sundays or seven o'clock antemeridian on
43 Mondays, regardless of whether there is a performance at the
44 facility.

45 * * *

46 Section 413. Performing Arts Facility License.--* * *

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

50 (1) Sales of liquor and malt or brewed beverages may be made
51 two hours before, during and one hour after any performance at

1 the facility; however, sales may not be made from two o'clock
2 antemeridian to seven o'clock antemeridian. In addition, sales
3 may not occur prior to [one o'clock postmeridian] ten o'clock
4 antemeridian or after ten o'clock postmeridian on Sundays.
5 However, facilities that had been licensed under former section
6 408.3(a) and 408.3(a.2) may sell liquor and malt or brewed
7 beverages anytime except from two o'clock antemeridian to seven
8 o'clock antemeridian or prior to one o'clock postmeridian or
9 after ten o'clock postmeridian on Sundays, regardless of whether
10 there is a performance at the facility.

11 * * *

12 Section 415. Wine Expanded Permits.--* * *

13 (f) A wine expanded permit holder may sell a wine product
14 for off-premises consumption at a price that is different than
15 the price it charges for the wine product for on-premises
16 consumption; however, it may not sell a wine product for off-
17 premises consumption at a price less than the licensee's
18 purchase price from the board of the wine product.

19 * * *

20 Section 416. Casino Liquor License.--(a) Notwithstanding
21 any provision of law or regulation, [a slot machine licensee or
22 an affiliated designee holding a restaurant liquor or eating
23 place retail dispenser license and which sells liquor or malt or
24 brewed beverages at or adjacent to a gaming facility under this
25 act may apply to the board for a casino liquor license. The
26 board may issue a casino liquor license to a slot machine
27 licensee for use at the casino liquor licensee's licensed
28 facility in accordance with this section.] the board may issue a
29 casino liquor license to a slot machine licensee in accordance
30 with this section. A casino liquor license shall authorize the
31 holder to sell liquor or malt or brewed beverages as provided
32 for in this section.

33 (a.1) A slot machine licensee may apply to the board for a
34 casino liquor license to sell liquor or malt or brewed beverages
35 as provided for in this section. A slot machine licensee shall
36 file a separate application and pay a separate fee for each
37 casino liquor license that is sought for each licensed facility.
38 Upon issuance of each casino liquor license to a slot machine
39 licensee under this section, the slot machine licensee shall pay
40 a fee of one million dollars (\$1,000,000), which shall be paid
41 to the board in nonrefundable, equal installments of two hundred
42 fifty thousand dollars (\$250,000) for a period of four years
43 immediately following the issuance of the license. The first
44 payment shall be made at the time the casino liquor license is
45 issued. Notwithstanding the provisions of section 802, all fees
46 collected or received by the board under this subsection shall
47 be paid into the State Treasury through the Department of
48 Revenue for deposit into the General Fund.

49 (b) [Each application for a casino license under this
50 section shall be accompanied by a fee of one million dollars
51 (\$1,000,000).] (Reserved).

1 (b.1) [Each restaurant licensee that does not hold a slot
2 machine license but operates within or adjacent to the gaming
3 facility must pay a one-time fee of ten thousand dollars
4 (\$10,000).] (Reserved).

5 (c) The following shall apply to renewals:

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

8 (2) [For the first four years after the initial issue of the
9 casino liquor license, the casino liquor license shall be
10 subject to an annual renewal fee of one million dollars
11 (\$1,000,000).] (Reserved).

12 (3) After the [period under paragraph (2), the] installment
13 payment period under subsection (a.1), a casino liquor license
14 shall be subject to an annual renewal fee of [two hundred and
15 fifty thousand dollars (\$250,000)] two thousand five hundred
16 dollars (\$2,500).

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

21 (d) The following shall apply to the disposition of a
22 restaurant liquor or eating place retail dispenser [licenses]
23 license held by a slot machine licensee that receives a casino
24 liquor license:

25 (1) [An applicant] A slot machine licensee seeking a casino
26 liquor license under this section that currently holds a
27 restaurant liquor or eating place retail dispenser license may
28 continue to utilize the license until the casino liquor license
29 is issued by the board. Upon issuance of a casino liquor
30 license, the [applicant] slot machine licensee must surrender
31 the restaurant liquor or eating place retail dispenser license
32 to the board.

33 (2) [An applicant] A slot machine licensee seeking a casino
34 liquor license under this section that currently holds a
35 restaurant liquor or eating place retail dispenser license that
36 is subject to the quota restrictions under section 461(a) may
37 continue to utilize that license until the casino liquor license
38 is issued by the board. Upon issuance of a casino liquor
39 license, the applicant may sell the restaurant liquor or eating
40 place retail dispenser license.

41 (e) Notwithstanding any other provision of law, a holder of
42 a casino liquor license may sell or serve liquor and malt or
43 brewed beverages twenty-four (24) hours a day, seven (7) days a
44 week anywhere within the licensed facility that is not subject
45 to a different license issued by the board.

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

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

1 (1) revocation by an administrative law judge under section
2 471;

3 (2) nonrenewal by the board under section 470;

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

6 (4) upon request by the slot machine licensee[.]; or

7 (5) the casino liquor licensee fails to pay the appropriate
8 fee under subsections (a.1) and (c).

9 (h) The board may issue a casino liquor license at any time
10 to a new applicant even if the previous license had:

11 (1) been revoked by an administrative law judge under
12 section 471;

13 (2) not been renewed by the board under section 470;

14 (3) not been renewed by the slot machine licensee; or

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

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

18 (1) [Sales may be made at any time the facility is open to
19 the public.] Except as provided under this section and subject
20 to section 472, a casino liquor license shall be treated as a
21 restaurant liquor license or, if restaurant liquor licenses may
22 not be issued in the municipality, as an eating place retailer
23 dispenser license.

24 (1.1) A casino liquor licensee may sell, furnish or give
25 liquor or malt or brewed beverages after seven o'clock
26 antemeridian of any day until two o'clock antemeridian of the
27 following day on the unlicensed portion of the licensed facility
28 if the liquor or malt or brewed beverages remain on the licensed
29 facility.

30 (2) Liquor or malt or brewed beverages may be transported
31 and consumed [off the gaming floor] anywhere on the property on
32 which the licensed facility is located if the liquor or malt or
33 brewed beverage remains [within the premises] on the property of
34 the licensed facility[.], except that it may not be transported
35 to and consumed within another restaurant liquor or eating place
36 retail dispenser licensee location within the licensed facility.

37 (3) Sales of malt or brewed beverages for off-premises
38 consumption are prohibited, nor shall the license be eligible
39 for a wine expanded permit.

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

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

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

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

50 (iii) the quota restrictions under section 461;

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

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

3 (vi) the cost and total display area limitations of section
4 493(20)(i);

5 (vii) the restrictions on events, tournaments or contests in
6 40 Pa. Code § 5.32 (relating to restrictions/exceptions) or any
7 successor regulation; and

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

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

16 (k) If a casino liquor license is revoked or nonrenewed but
17 the slot machine licensee continues to operate the licensed
18 facility, the slot machine licensee may apply for a new
19 restaurant liquor or eating place retail dispenser license under
20 4 Pa.C.S. § 1521 (relating to liquor licenses at licensed
21 facilities), or if the slot machine licensee had previously
22 surrendered its restaurant liquor or eating place retail
23 dispenser license to the board under subsection (d)(1), the
24 board may reissue the previously surrendered license.

25 (l) The additional restrictions and privileges granted to a
26 casino liquor license issued under this section shall not affect
27 the restrictions and privileges of any other licenses or permits
28 issued for use at locations within the licensed facility.

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

31 "Licensed facility" shall have the meaning given the term
32 under 4 Pa.C.S. § 1103 and that is operated by a slot machine
33 licensee. The term shall not include a category 4 licensed
34 facility.

35 "Slot machine licensee" shall mean the holder of any of the
36 following:

37 (1) A Category 1 slot machine license as provided for under
38 4 Pa.C.S. § 1302 (relating to Category 1 slot machine license);

39 (2) A Category 2 slot machine license as provided for under
40 4 Pa.C.S. § 1304 (relating to Category 2 slot machine license);
41 or

42 (3) A Category 3 slot machine license as provided for under
43 4 Pa.C.S. § 1305 (relating to Category 3 slot machine license).
44 The term shall not include a Category 4 slot machine license as
45 provided for in 4 Pa.C.S. § 1305.1 (relating to Category 4 slot
46 machine license).

47 Section 436. Application for Distributors', Importing
48 Distributors' and Retail Dispensers' Licenses.--Application for
49 distributors', importing distributors' and retail dispensers'
50 licenses, or for the transfer of an existing license to another
51 premises not then licensed or to another person, shall contain

1 or have attached thereto the following information and
2 statements:

3 * * *

4 (b) The particular place for which the license is desired
5 and a detailed description thereof. The description, information
6 and plans referred to in this subsection shall show the premises
7 or the proposed location for the construction of the premises at
8 the time the application is made, and shall show any alterations
9 proposed to be made thereto, or the new building proposed to be
10 constructed after the approval by the board of the application
11 for a license, or for the transfer of an existing license to
12 another premises not then licensed or to another person. No
13 physical alterations, improvements or changes shall be required
14 to be made to any hotel, eating place or club, nor shall any new
15 building for any such purpose be required to be constructed
16 until approval of the application for license or for the
17 transfer of an existing license to another premises not then
18 licensed or to another person by the board. After approval of
19 the application, the licensee shall make the physical
20 alterations, improvements and changes to the licensed premises,
21 or shall construct the new building in the manner specified by
22 the board at the time of approval. The licensee shall not
23 transact any business under the license until the board has
24 approved the completed physical alterations, improvements and
25 changes of the licensed premises or the completed construction
26 of the new building as conforming to the specifications required
27 by the board at the time of issuance or transfer of the license
28 and is satisfied that the premises meet the requirements for a
29 distributor's or importing distributor's license as set forth in
30 this act or that the establishment is an eating place, hotel or
31 club as defined by this act. The board may require that all such
32 alterations or construction or conformity to definition be
33 completed within six months from the time of issuance or
34 transfer of the license. The time between the approval of the
35 initial application and issuance of operating authority to the
36 licensee shall be considered as time in safekeeping. Failure to
37 comply with these requirements shall be considered cause for
38 revocation of the license. No such license shall be transferable
39 between the time of issuance or transfer of the license and the
40 approval of the completed alterations or construction by the
41 board and full compliance by the licensee with the requirements
42 of this act, except in the case of death of the licensee prior
43 to full compliance [with all of the aforementioned requirements
44 or unless full compliance is impossible for reasons beyond the
45 licensee's control, in which event the license may be
46 transferred by the board as provided in this act.], unless the
47 transfer application is accompanied by a surcharge. The
48 surcharge shall be twenty thousand dollars (\$20,000) if the
49 license is located in a county of the first through fourth
50 class, and the surcharge shall be five thousand dollars (\$5,000)
51 if the license is located in a county of the fifth through

1 eighth class.

2 * * *

3 Section 446. Breweries.--(a) [Holders] Subject to the
4 restrictions applicable to on-premise consumption set forth in
5 section 472, holders of a brewery license may:

6 * * *

7 (2) Operate a restaurant or brewery pub on the licensed
8 premises under such conditions and regulations as the board may
9 enforce: Provided, however, That sales on Sunday may be made
10 irrespective of the volume of food sales if the licensed
11 premises are at a public venue location. The holder of a brewery
12 license may sell wines [and], alcoholic cider and fermented
13 fruit beverages produced by the holder of a limited winery
14 license, malt or brewed beverages produced by a manufacturer
15 licensed by the board and liquor produced by a limited
16 distillery or distillery licensed by the board: Provided,
17 however, That said wines, malt or brewed beverages produced by
18 another manufacturer and liquor must be consumed at the licensed
19 premises. In addition, the combined sales of wine, malt or
20 brewed beverages produced by another manufacturer and liquor may
21 not, on a yearly basis, exceed fifty per centum (50%) of the on-
22 premises sales of the brewery's own malt or brewed beverages for
23 the preceding calendar year: however, if a brewery did not
24 operate for an entire calendar year during the preceding year,
25 then its combined sales of wine, malt or brewed beverages
26 produced by another manufacturer and liquor may not, on a yearly
27 basis, exceed fifty per centum (50%) of the on-premises sales of
28 the brewery's own malt or brewed beverages for that year.

29 * * *

30 Section 3. The act is amended by adding a section to read:

31 Section 449. Taxes Due on Sales Made by a Holder of a
32 Manufacturer's License.--(a) Notwithstanding any law to the
33 contrary, sales made by a holder of a manufacturer's license
34 issued under this article who sells the license holder's own
35 malt and brewed beverages under the license to the public for
36 consumption on-premises or off-premises shall be responsible for
37 paying and remitting the sales and use tax imposed by section
38 202 of the act of March 4, 1971 (P.L.6, No.2), known as the "Tax
39 Reform Code of 1971," in the following manner:

40 (1) The purchase price of malt or brewed beverages sold by a
41 manufacturer directly to the ultimate consumer for consumption
42 on premises shall be the wholesale price. As used in this
43 paragraph, the term "wholesale price" shall be the price at
44 which the manufacturer sells the same product to a distributor
45 or importing distributor.

46 (2) If the manufacturer does not sell the product to a
47 distributor or importing distributor, then the manufacturer
48 shall determine a constructive purchase price for the
49 manufacturer's own products in a manner consistent with section
50 201(g) (3) of the "Tax Reform Code of 1971." In determining a
51 constructive purchase price under this subsection, a holder of a

1 manufacturer's license making sales under this subsection shall
2 determine a purchase price which would naturally and fairly be
3 charged in an arms-length transaction to purchase malt and
4 brewed beverages from another manufacturer in which no common
5 interest exists and any other element causing a distortion of
6 the price or value is absent.

7 (b) Nothing in this section shall prohibit a holder of a
8 manufacturer's license making sales under subsection (a) from
9 using the actual retail price of the malt or brewed beverages
10 sold to consumers as the purchase price upon which the sales and
11 use tax imposed by section 202 of the "Tax Reform Code of 1971"
12 must be paid to the Commonwealth.

13 (c) The Department of Revenue may require information
14 necessary to document that a holder of a manufacturer's license
15 making sales under subsection (a) is in compliance with this
16 section.

17 (d) Within 180 days from the effective date of this section,
18 the Department of Revenue shall promulgate written guidelines
19 for the implementation of this section.

20 Section 4. Section 461(b.3) and (b.4) of the act are amended
21 to read:

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

24 (b.3) An intermunicipal transfer of a license [or], issuance
25 of a license for economic development under subsection (b.1) (2)

26 (i) or issuance of a license for use at a mixed-use town center
27 development project under subsection (b.4) must first be

28 approved by the governing body of the receiving municipality
29 when the total number of existing restaurant liquor licenses and
30 eating place retail dispenser licenses in the receiving

31 municipality equal or exceed one license per three thousand
32 inhabitants. Upon request for approval of an intermunicipal
33 transfer of a license [or], issuance of an economic development
34 license or issuance of a license for use at a mixed-use town

35 center development project by an applicant, at least one public
36 hearing shall be held by the municipal governing body for the

37 purpose of receiving comments and recommendations of interested
38 individuals residing within the municipality concerning the

39 applicant's intent to transfer a license into the municipality
40 [or], acquire an economic development license or acquire a

41 license for use at a mixed-use town center development project
42 from the Pennsylvania Liquor Control Board. The governing body

43 shall, within forty-five days of a request for approval, render
44 a decision by ordinance or resolution to approve or disapprove

45 the applicant's request [for an intermunicipal transfer of a
46 license or issuance of an economic development license]. The

47 municipality may approve the request. A decision by the
48 governing body of the municipality to deny the request may not

49 be appealed. A copy of the approval must be submitted with the
50 license application. The approval requirement shall not apply to

51 licenses transferred into a tax increment district created

1 pursuant to the act of July 11, 1990 (P.L.465, No.113), known as
2 the "Tax Increment Financing Act," located in a township of the
3 second class that is located within a county of the second class
4 if the district was created prior to December 31, 2002, and the
5 governing body of the township has adopted an agreement at a
6 public meeting that consents to the transfer of licenses into
7 the tax increment district. Failure by the governing body of the
8 municipality to render a decision within forty-five days of the
9 applicant's request for approval shall be deemed an approval of
10 the application in terms as presented unless the governing body
11 has notified the applicant in writing of their election for an
12 extension of time not to exceed sixty days. Failure by the
13 governing body of the municipality to render a decision within
14 the extended time period shall be deemed an approval of the
15 application in terms as presented.

16 (b.4) (1) Notwithstanding any other provision of this act
17 to the contrary, the board may [approve the transfer of a
18 restaurant liquor or eating place retail dispenser license from
19 a city of the first class to a county designated as a second
20 class A county or a county of the third class for the purpose of
21 economic development,] issue a restaurant liquor license or
22 eating place retail dispenser license for use at a mixed-use
23 town center development project that is located in a county of
24 the fourth class. The board may also issue a restaurant liquor
25 license or eating place retail dispenser license for use at a
26 mixed-use town center development project located in a county of
27 the second class A that is part of a mixed-use town center
28 development project previously acknowledged as such by the
29 board, so long as a petition and fee is filed in accordance with
30 this section. Prior to issuing any licenses, an interested party
31 must first petition the board to have a specific area designated
32 as a mixed-use town center development project. The board shall
33 determine what information must be contained in the petition and
34 the petition must be accompanied by a fee of one million dollars
35 (\$1,000,000), with said fee to be placed in The State Stores
36 Fund. The board shall grant the petition unless the proposed
37 location does not meet the definition of a mixed-use town center
38 development project, the applicant fails to provide the
39 information required in the petition or the board finds that
40 granting the petition would be detrimental to the welfare,
41 health, peace and morals of the inhabitants of the proposed
42 location. Licenses applied for under this section are not
43 limited to the person who petitioned the board and are subject
44 to the following conditions:

45 (i) The application to the board is accompanied by municipal
46 approval as set forth in subsection [(b.1) (2) (ii)] (b.3).

47 (ii) The proposed location is located within a mixed-use
48 town center development project as the term is defined in
49 section 102.

50 (iii) The application to the board is accompanied by a
51 resolution or ordinance indicating that the municipality has

1 designated the location in question as being within the confines
2 of a designated mixed-use town center development project.

3 (iv) The issuance or transfer of a restaurant liquor or
4 eating place retail dispenser license is permissible under
5 section 472.

6 (v) The application is accompanied by an application
7 surcharge of fifty thousand dollars (\$50,000), which shall be
8 placed in The State Stores Fund.

9 [(vi) The applicant has demonstrated to the board that it
10 has exhausted reasonable means for obtaining a suitable license
11 within the county. This requirement shall be deemed satisfied if
12 the applicant submits an Intra-County Affirmation as provided in
13 subclause (vii).

14 (vii) The application to the board is accompanied by the
15 applicant's written Intra-County Affirmation that demonstrates
16 that the applicant, its agents, employees or brokers are unable
17 to secure, at a price that is, to the best of the applicant's
18 knowledge, information and belief, the relative market price, as
19 defined in this section, an existing license in the county in
20 which the applicant's proposed premises are to be located. Said
21 affirmation shall be accompanied by an affidavit from a real
22 estate agent, license broker or other similar professional
23 attesting to the unavailability of a liquor license to the
24 applicant at a price that is comparable to prices paid by bona
25 fide purchasers for value for liquor licenses in the respective
26 county immediately prior to obtaining municipal approval under
27 subclause (iii), such comparable price being referred to as the
28 "relative market price" for the respective county. Said
29 affirmation shall set forth any measures taken to secure an
30 existing license, including the time period during which the
31 applicant attempted to secure a license, as well as any other
32 pertinent information. The board shall not approve the issuance
33 of a license under this section where it reasonably determines
34 an existing license was available to the applicant at the
35 relative market price prior to the applicant filing a request
36 for a license under this section.]

37 (viii) A transfer application submitted under this
38 subsection must be filed with the board prior to the effective
39 date of this subclause.

40 (2) A restaurant liquor or eating place retail dispenser
41 license that has been transferred from a city of the first class
42 to a county designated as a second class A county or a county of
43 the third class under this section may not be subsequently
44 transferred to any location outside of the mixed-use town center
45 development project. A restaurant liquor or eating place retail
46 dispenser license that has been issued under this subsection may
47 not be subsequently transferred to any location outside of the
48 mixed-use town center development project.

49 [(3) No more than one license for each fifty thousand square
50 feet of proposed or actual construction may be transferred into
51 a mixed-use town center development project under the provisions

1 of this section. The applicant shall demonstrate that this
2 requirement has been met by providing documentation on its
3 application to the board that the development has sufficient
4 proposed or actual square footage to support the transfer of
5 licenses under this section.]

6 (4) The board may approve licensure of exterior serving
7 areas for premises to be located within a mixed-use town center
8 development project where such exterior serving areas are
9 situated on municipal-owned or private-owned property,
10 regardless of whether such exterior serving areas are located
11 immediately adjacent, abutting or contiguous to the building to
12 be licensed, provided that the employees of licensees in a
13 qualified mixed-use town center development project may traverse
14 unlicensed areas in order to deliver alcohol to patrons who are
15 seated in any such licensed serving area that is not immediate,
16 adjacent, abutting and contiguous to the licensee's primary
17 licensed premises; and provided further that any such licensed
18 serving area is delineated from all adjacent public areas by a
19 railing, barrier or other partition for the purpose of table
20 service only; and provided further that the entirety of such
21 noncontiguous licensed exterior serving area or areas is not
22 located more than thirty-five feet from the nearest point of the
23 licensed structure; and provided further that such noncontiguous
24 licensed exterior serving areas shall not include any additional
25 enclosed structure with four walls and a roof other than the
26 primary licensed building; and provided further that any and all
27 public thoroughfare or thoroughfares situated between the
28 licensed building and the noncontiguous exterior licensed
29 serving area is or are used primarily for pedestrian foot
30 traffic and not vehicular traffic; and provided further that the
31 local municipality has approved, by ordinance or resolution, the
32 use of such areas by the applicant; and provided further that,
33 in the case of municipal-owned property, a sidewalk cafe or
34 similar permit, as applicable, is first obtained by the
35 applicant; and provided further that the applicant complies with
36 any regulation issued by the board pursuant hereto or in
37 furtherance hereof. Any restaurant ("R"), eating place ("E") or
38 hotel ("H") license transferred to or issued for premises
39 located within a mixed-use town center development shall have
40 the privileges of this subsection so long as such license
41 remains within the mixed-use town center development.

42 Notwithstanding any other provision of law, licenses issued by
43 the board under this subsection shall not have the authority to
44 sell alcohol for off-premises consumption, nor shall the license
45 be eligible for wine expanded permits. Patrons may take wine and
46 malt or brewed beverages off of the licensed premises so long as
47 the wine and malt or brewed beverages remain in the area
48 previously designated by the board as part of the mixed-use town
49 center development project.

50 (5) A development site of at least ninety-five acres that
51 meets the following additional criteria shall satisfy the size

1 requirement to qualify as a mixed-use town center development
2 project:

3 (i) at least seventy-five acres of the project were secured,
4 whether by purchase or lease, by the developer prior to July 1,
5 2004;

6 (ii) at least sixty acres of the project have been entered
7 into the program of the Department of Environmental Protection
8 relating to land recycling and environmental remediation
9 standards;

10 (iii) at least thirty-five acres of the project have been
11 designated as a Brownfield Action Team site by the Department of
12 Environmental Protection and overlap, in whole or part, between
13 the areas in subclauses (ii) and (iii); and

14 (iv) the project site is bounded by a township road and a
15 State road.

16 * * *

17 Section 5. The act is amended by adding a section to read:

18 Section 470.4. Liquor Code Suspension for Deficiency.--(a)

19 (1) If the board finds, through an inspection by a board
20 employe, that a licensee does not meet a requirement under this
21 act or the board's regulations that renders the licensee
22 ineligible for the license, including instances when the
23 licensee no longer meets the seating, square footage, food,
24 health license or room requirements for the license, the board
25 may immediately impose an administrative suspension of the
26 operating privileges of the licensee and shall give written
27 notice to the licensee as to the exact deficiency observed. The
28 operating privileges shall remain suspended until the licensee
29 can establish to the board's satisfaction that the licensee is
30 again eligible for the license.

31 (2) If an employe of the enforcement bureau, a county
32 department of public health or a county department of licenses
33 and inspections or a similar employe of the Commonwealth or a
34 municipality finds that a licensee does not meet the
35 requirements of either this act or the board's regulations as
36 provided under paragraph (1), the employe may inform the board
37 of the deficiency so that the board may proceed under paragraph
38 (1).

39 (b) Section 464 and 42 Pa.C.S. § 933(a)(1)(v) (relating to
40 appeals from government agencies) shall not apply to an
41 administrative suspension under subsection (a)(1). If the board
42 refuses to reinstate a suspended licensee's operating
43 privileges, the suspended licensee may request a hearing before
44 Commonwealth Court under 42 Pa.C.S. § 761(a)(4) (relating to
45 original jurisdiction) solely on the issue of whether the
46 suspended licensee is eligible for reinstatement of operating
47 privileges. The Commonwealth Court shall hold a hearing within
48 ten days of the filing of the request for a hearing under this
49 subsection.

50 (c) An administrative suspension under subsection (a)(1)
51 shall be in addition to any other penalty provided by law.

1 (d) Other violations of this act or questions as to the
2 continued fitness of a licensee, which are currently addressed
3 through the citation process under section 471 or the board's
4 nonrenewal process under section 470(a.1) shall continue to be
5 addressed in that manner and not through the administrative
6 suspension process under subsections (a)(1) and (b).

7 (e) In addition to the enforcement powers and duties under
8 section 211(a) of this act, the enforcement bureau shall
9 establish an inspection schedule which provides for the
10 inspection of a premises licensed as a restaurant liquor
11 establishment or licensed as an eating place establishment for
12 compliance and issue citations for violations of this act
13 discovered during the inspection.

14 Section 6. Section 472(a) of the act is amended and the
15 section is amended by adding a subsection to read:

16 Section 472. Local Option.--(a) In any municipality or any
17 part of a municipality where such municipality is split so that
18 each part thereof is separated by another municipality, an
19 election may be held, subject to subsection (c), not oftener
20 than once in four years, to determine the will of the electors
21 with respect to the granting of liquor licenses to hotels,
22 restaurants, resort facilities and clubs, not oftener than once
23 in four years, to determine the will of the electors with
24 respect to the granting of liquor licenses to public venues, to
25 performing arts facilities, to continuing care retirement
26 communities, to hotels located on property owned by an
27 accredited college or university, to privately-owned private
28 golf courses or to privately-owned public golf courses, not
29 oftener than once in four years, to determine the will of the
30 electors with respect to the granting of licenses to retail
31 dispensers of malt and brewed beverages, not oftener than once
32 in four years, to determine the will of the electors with
33 respect to granting of licenses to wholesale distributors and
34 importing distributors, not more than once in two years, to
35 determine the will of the electors with respect to the granting
36 of club liquor licenses or club retail dispenser licenses to
37 incorporated units of national veterans' organizations, not
38 oftener than once in two years to determine the will of the
39 electors with respect to the granting of special occasion
40 permits to qualified organizations, not oftener than once in two
41 years to determine the will of the electors with respect to
42 allowing manufacturers to sell for on-premises consumption, not
43 more than once in four years, to determine the will of the
44 electors with respect to the establishment, operation and
45 maintenance by the board of Pennsylvania liquor stores, within
46 the limits of such municipality or part of a split municipality,
47 or not more than once in two years, to determine the will of the
48 electors with respect to the granting of liquor licenses to ski
49 resort facilities, under the provisions of this act: Provided,
50 That an election on the question of establishing and operating a
51 State liquor store shall be initiated only in those

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

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

30 Do you favor the granting of liquor licenses for the
31 sale of liquor in..... Yes
32 of.....? No

33 When the question is in respect to the granting of liquor
34 licenses to resort facilities in those municipalities that do
35 not already allow the retail sale of liquor, it shall be in the
36 following form:

37 Do you favor the granting of liquor licenses to resort
38 facilities for the sale of liquor in the..... Yes
39 of.....? No

40 When the question is in respect to the granting of liquor
41 licenses to ski resorts in those municipalities that do not
42 already allow the retail sale of liquor, it shall be in the
43 following form:

44 Do you favor the granting of liquor licenses to ski
45 resort facilities for the sale of liquor in the Yes
46of? No

47 When the question is in respect to the granting of restaurant
48 liquor licenses for use at public venues in those municipalities
49 that do not already allow the retail sale of liquor, it shall be
50 in the following form:

51 Do you favor the granting of liquor licenses to public

1 venues for the sale of liquor in the..... Yes
2 of.....? No
3 When the question is in respect to the granting of restaurant
4 liquor licenses for use at performing arts facilities in those
5 municipalities that do not already allow the retail sale of
6 alcohol, it shall be in the following form:
7 Do you favor the granting of liquor licenses to
8 performing arts facilities for the sale of liquor in
9 the..... Yes
10 of.....? No
11 When the question is in respect to the granting of liquor
12 licenses for hotels located on property owned by an accredited
13 college or university in those municipalities that do not
14 already allow the granting of liquor licenses, it shall be in
15 the following form:
16 Do you favor the granting of liquor licenses to hotels
17 on property owned by an accredited college or university
18 in the..... Yes
19 of.....? No
20 When the question is in respect to the granting of liquor
21 licenses, for privately-owned private golf courses, it shall be
22 in the following form:
23 Do you favor the granting of liquor licenses for
24 privately-owned private golf courses for the sale of
25 liquor in.....by..... Yes
26 of.....? No
27 When the question is in respect to the granting of liquor
28 licenses, for privately-owned public golf courses, it shall be
29 in the following form:
30 Do you favor the granting of liquor licenses for
31 privately-owned public golf courses for the sale of
32 liquor in.....by..... Yes
33 of.....? No
34 When the question is in respect to the granting of liquor
35 licenses to continuing care retirement communities in those
36 municipalities that have not already approved the granting of
37 liquor licenses, it shall be in the following form:
38 Do you favor the granting of liquor licenses for
39 continuing care retirement communities
40 in.....by..... Yes
41 of.....? No
42 When the question is in respect to the granting of licenses
43 to retail dispensers of malt and brewed beverages, it shall be
44 in the following form:
45 Do you favor the granting of malt and brewed beverage
46 retail dispenser licenses for consumption on premises
47 where sold in the..... Yes
48 of.....? No
49 When the question is in respect to the granting of licenses
50 to wholesale distributors of malt or brewed beverages and
51 importing distributors, it shall be in the following form:

1 Do you favor the granting of malt and brewed beverage
 2 wholesale distributor's and importing distributor's
 3 licenses not for consumption on premises where sold in
 4 the..... Yes
 5 of.....? No
 6 When the question is in respect to the granting of club
 7 liquor licenses to incorporated units of national veterans'
 8 organizations, it shall be in the following form:
 9 Do you favor the granting of club liquor licenses to
 10 incorporated units of national veterans' organizations
 11 in the..... Yes
 12 of.....? No
 13 When the question is in respect to the granting of club
 14 retail dispenser licenses to incorporated units of national
 15 veterans' organizations, it shall be in the following form:
 16 Do you favor the granting of club retail dispenser
 17 licenses to incorporated units of national veterans'
 18 organizations in the..... Yes
 19 of.....? No
 20 When the question is in respect to the granting of special
 21 occasion permits allowing the sale of liquor by qualified
 22 organizations in municipalities that do not already allow the
 23 retail sale of liquor, it shall be in the following form:
 24 Do you favor the granting of special occasion permits to
 25 allow the sale of liquor by qualified organizations in
 26 the..... Yes
 27 of.....? No
 28 When the question is in respect to the granting of special
 29 occasion permits allowing the sale of malt or brewed beverages
 30 only by qualified organizations in municipalities that do not
 31 already allow the retail sale of malt or brewed beverages, it
 32 shall be in the following form:
 33 Do you favor the granting of special occasion permits to
 34 allow the sale of malt or brewed beverages only by
 35 qualified organizations in the..... Yes
 36 of.....? No
 37 When the question is in respect to the establishment,
 38 operation and maintenance of Pennsylvania liquor stores it shall
 39 be in the following form:
 40 Do you favor the establishment, operation and
 41 maintenance of Pennsylvania liquor stores in
 42 the..... Yes
 43 of.....? No
 44 When the question is in respect to the granting of liquor
 45 licenses to an airport authority in those municipalities that do
 46 not already allow the retail sale of liquor, it shall be in the
 47 following form:
 48 Do you favor the granting of liquor licenses to an
 49 airport authority for the sale of liquor in
 50 the..... Yes
 51 of.....? No

1 When the question is in respect to allowing the sale by
2 manufacturers of alcohol for on-premises consumption in
3 municipalities that do not already allow the retail sale of
4 liquor, it shall be in the following form:

| | | |
|---|---------------------------------------------------------------|-----|
| 5 | <u>Do you favor allowing manufacturers of alcohol to sell</u> | |
| 6 | <u>alcohol for on-premises</u> | |
| 7 | <u>consumption.....</u> | |
| 8 | <u>in the.....</u> | Yes |
| 9 | <u>of.....?</u> | No |

10 In case of a tie vote, the status quo shall obtain. If a
11 majority of the voting electors on any such question vote "yes,"
12 then liquor licenses shall be granted by the board to hotels,
13 restaurants, ski resorts, resort facilities and clubs, or liquor
14 licenses shall be granted by the board to public venues, to
15 performing arts facilities, to continuing care retirement
16 communities, to hotels located on property owned by an
17 accredited college or university, to privately-owned private
18 golf courses or to privately-owned public golf courses, or malt
19 and brewed beverage retail dispenser licenses or wholesale
20 distributor's and importing distributor's license for the sale
21 of malt or brewed beverages shall be granted by the board, or
22 club liquor licenses or club retail dispenser licenses shall be
23 granted by the board to incorporated units of national veterans'
24 organizations, or special occasion permits may be issued to
25 qualified organizations, or the board may establish, operate and
26 maintain Pennsylvania liquor stores, as the case may be, in such
27 municipality or part of a split municipality, as provided by
28 this act; but if a majority of the electors voting on any such
29 question vote "no," then the board shall have no power to grant
30 or to renew upon their expiration any licenses of the class so
31 voted upon in such municipality or part of a split municipality;
32 or if the negative vote is on the question in respect to the
33 establishment, operation and maintenance of Pennsylvania liquor
34 stores, the board shall not open and operate a Pennsylvania
35 liquor store in such municipality or part of a split
36 municipality, nor continue to operate a then existing
37 Pennsylvania liquor store in the municipality or part of a split
38 municipality for more than two years thereafter or after the
39 expiration of the term of the lease on the premises occupied by
40 such store, whichever period is less, unless and until at a
41 later election a majority of the voting electors vote "yes" on
42 such question.

43 * * *

44 (g) If the electors of a municipality have voted against the
45 granting of retail liquor licenses, then manufacturers who would
46 otherwise be authorized to sell alcohol for on-premises
47 consumption may not do so unless electors of a municipality vote
48 to allow manufacturers to do so. A manufacturer that began
49 selling alcohol for on-premises consumption prior to the
50 effective date of this act, may continue to do so and its
51 authority to continue to do so shall not be subject to any votes

1 taken under this section.

2 Section 7. Sections 493(2) and 505.2(a) and (b) of the act
3 are amended to read:

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

9 It shall be unlawful--

10 * * *

11 (2) Purchase or Sale of Liquor or Malt or Brewed Beverages
12 on Credit; Importing Distributors or Distributors Accepting
13 Cash. For any licensee, his agent, servant or employe, to sell
14 or offer to sell or purchase or receive any liquor or malt or
15 brewed beverages except for cash, excepting credit extended by a
16 hotel or club to a bona fide guest or member, or by railroad or
17 pullman companies in dining, club or buffet cars to passengers,
18 for consumption while enroute, holding authorized credit cards
19 issued by railroad or railroad credit bureaus or by hotel,
20 restaurant, retail dispenser eating place, club and public
21 service licensees, importing distributors or distributors to
22 customers not possessing a license under this article and
23 holding credit cards issued in accordance with regulations of
24 the board or credit cards issued by banking institutions subject
25 to State or Federal regulation: Provided further, That nothing
26 herein contained shall be construed to prohibit the use of
27 checks or drafts drawn on a bank, banking institution, trust
28 company or similar depository, organized and existing under the
29 laws of the United States of America or the laws of any state,
30 territory or possession thereof, in payment for any liquor or
31 malt or brewed beverages if the purchaser is the payor of the
32 check or draft and the licensee is the payee: Provided further,
33 That notwithstanding any other provision of this act to the
34 contrary, it shall be unlawful for an importing distributor or
35 distributor to accept cash for payment of any malt or brewed
36 beverages from anyone possessing a license issued under this
37 article, except it shall be permissible for the importing
38 distributor or distributor to accept credit cards, money orders
39 or cashiers' checks for payment of any malt or brewed beverages
40 in addition to any other type of payment authorized by the board
41 from anyone possessing a license under this article.
42 Notwithstanding any other provision of law to the contrary,
43 distributors and importing distributors may accept credit cards
44 for payment of malt or brewed beverages, but they are not
45 required to accept credit cards. A manufacturer, importing
46 distributor or distributor that is authorized to deliver alcohol
47 or malt or brewed beverages may accept a credit card for payment
48 upon delivery of the alcohol or malt or brewed beverage so long
49 as the purchaser holds a license issued by the board; the terms
50 of the sale between the parties must be finalized before the
51 alcohol or malt or brewed beverages leaves the seller's licensed

1 premises. No right of action shall exist to collect any claim
2 for credit extended contrary to the provisions of this clause.
3 Nothing herein contained shall prohibit a licensee from
4 crediting to a purchaser the actual price charged for original
5 containers returned by the original purchaser as a credit on any
6 sale, or from refunding to any purchaser the amount paid by such
7 purchaser for such containers or as a deposit on containers when
8 title is retained by the vendor, if such original containers
9 have been returned to the licensee. Nothing herein contained
10 shall prohibit a manufacturer from extending usual and customary
11 credit for liquor or malt or brewed beverages sold to customers
12 or purchasers who live or maintain places of business outside of
13 the Commonwealth of Pennsylvania, when the liquor or malt or
14 brewed beverages so sold are actually transported and delivered
15 to points outside of the Commonwealth: Provided, however, That
16 as to all transactions affecting malt or brewed beverages to be
17 resold or consumed within this Commonwealth, every licensee
18 shall pay and shall require cash deposits on all returnable
19 original containers and all such cash deposits shall be refunded
20 upon return of the original containers.

21 Section 505.2. Limited Wineries.--(a) In the interest of
22 promoting tourism and recreational development in Pennsylvania,
23 holders of a limited winery license may:

24 (1) Produce and sell alcoholic ciders, fermented fruit
25 beverages, mead, wines and wine coolers, subject to the
26 exceptions provided under this section, only from an
27 agricultural commodity grown in Pennsylvania[.], and the
28 restrictions applicable to on-premise consumption set forth in
29 section 472.

30 (2) Sell alcoholic cider, fermented fruit beverages, mead,
31 wine and wine coolers produced by the limited winery or
32 purchased in bulk in bond from another Pennsylvania limited
33 winery on the licensed premises, under such conditions and
34 regulations as the board may enforce, to the board, to
35 individuals and to brewery, importing distributor, distributor,
36 hotel, restaurant, club and public service liquor licensees, and
37 to Pennsylvania winery licensees: Provided, That a limited
38 winery shall not, in any calendar year, purchase alcoholic
39 cider, fermented fruit beverages, mead or wine produced by other
40 limited wineries in an amount in excess of fifty per centum of
41 the alcoholic cider, fermented fruit beverage, mead or wine
42 produced by the purchasing limited winery in the preceding
43 calendar year. In addition, the holder of a limited winery
44 license may purchase wine in bottles from another Pennsylvania
45 limited winery if these wines undergo a second fermentation
46 process. Such wine may be sold in bottles bearing the purchasing
47 limited winery's label or the producing limited winery's label.
48 Such wines, if sold by the board, may be sold by the producing
49 limited winery to the purchasing limited winery at a price lower
50 than the price charged by the board.

51 (2.1) Notwithstanding any other provision of this act or law

1 to the contrary, only ship wine to nonlicensees in accordance
2 with the provisions of section 488. Delivery of wine to holders
3 of licenses issued by the board as well as delivery of alcoholic
4 cider, fermented fruit beverages and mead to any purchaser shall
5 be through the use of vehicles properly registered by the
6 limited winery licensee or through properly licensed
7 transporters. A limited winery licensee may accept a credit card
8 for payment upon delivery so long as the purchaser holds a
9 license issued by the board; the terms of the sale between the
10 parties must be finalized before the alcohol leaves the seller's
11 licensed premises.

12 (3) Separately or in conjunction with other limited
13 wineries, sell alcoholic cider, fermented fruit beverages, mead,
14 wine and wine coolers produced by the limited winery on no more
15 than five (5) board-approved locations other than the licensed
16 premises, with no bottling or production requirement at those
17 additional board-approved locations and under such conditions
18 and regulations as the board may enforce, to the board, to
19 individuals and to brewery, hotel, restaurant, club and public
20 service liquor licensees. If two or more limited wineries apply
21 to operate an additional board-approved location in conjunction
22 with each other, the wineries need only have one board-approved
23 manager for the location, need only pay one application fee and
24 need not designate specific or distinct areas for each winery's
25 licensed area. Each limited winery must file an application for
26 such an additional board-approved location, and such location
27 shall count as one of the five permitted for each limited
28 winery. Each limited winery is responsible for keeping only its
29 own complete records. A limited winery may be cited for a
30 violation of the recordkeeping requirements of sections 512 and
31 513 pertaining to its own records only.

32 (4) At the discretion of the board, obtain a special permit
33 to participate in alcoholic cider, fermented fruit beverage,
34 mead, wine and food expositions off the licensed premises. A
35 special permit shall be issued upon proper application and
36 payment of a fee of thirty dollars (\$30) per day for each day of
37 permitted use, not to exceed thirty (30) consecutive days. The
38 total number of days for all the special permits may not exceed
39 one hundred (100) days in any calendar year. A special permit
40 shall entitle the holder to engage in the sale by the glass, by
41 the bottle or in case lots of alcoholic cider, fermented fruit
42 beverage, mead or wine produced by the permittee under the
43 authority of a limited winery license. Holders of special
44 permits may provide tasting samples of wines in individual
45 portions not to exceed one fluid ounce. Samples at alcoholic
46 cider, fermented fruit beverage, mead, wine and food expositions
47 may be sold or offered free of charge. Except as provided
48 herein, limited wineries utilizing special permits shall be
49 governed by all applicable provisions of this act as well as by
50 all applicable regulations or conditions adopted by the board.

51 For the purposes of this clause, "alcoholic cider, fermented

1 fruit beverage, mead, wine and food expositions" are defined as
2 affairs held indoors or outdoors with the intent of promoting
3 Pennsylvania products by educating those in attendance of the
4 availability, nature and quality of Pennsylvania-produced
5 alcoholic ciders, fermented fruit beverages, mead and wines in
6 conjunction with suitable food displays, demonstrations and
7 sales. Alcoholic cider, fermented fruit beverage, mead, wine and
8 food expositions may also include activities other than
9 alcoholic cider, fermented fruit beverage, mead, wine and food
10 displays, including arts and crafts, musical activities,
11 cultural exhibits, agricultural exhibits and farmers markets.

12 (4.1) At the discretion of the board, obtain a farmers
13 market permit. The permit shall entitle the holder to
14 participate in more than one farmers market at any given time
15 and an unlimited number throughout the year and sell alcoholic
16 cider, fermented fruit beverages, mead or wine produced under
17 the authority of the underlying limited winery license by the
18 bottle or in case lots. Samples not to exceed one fluid ounce per
19 brand of mead or wine may be offered free of charge. A farmers
20 market permit shall be issued upon proper application and
21 payment of an annual fee of two hundred fifty dollars (\$250). A
22 permit holder may participate in more than one farmers market at
23 any given time. Sales by permit holders shall take place during
24 the standard hours of operation of the farmers market. Written
25 notice of the date, times and location the permit is to be used
26 shall be provided by the permit holder to the enforcement bureau
27 at least two (2) weeks prior to the event. Except as provided in
28 this subsection, limited wineries utilizing farmers market
29 permits shall be governed by all applicable provisions of this
30 act as well as by all applicable regulations adopted by the
31 board.

32 (5) Do either of the following:

33 (i) Apply for and hold a hotel liquor license, a restaurant
34 liquor license or a malt and brewed beverages retail license to
35 sell for consumption at the restaurant or limited winery on the
36 licensed winery premises, liquor, wine and malt or brewed
37 beverages regardless of the place of manufacture under the same
38 conditions and regulations as any other hotel liquor license,
39 restaurant liquor license or malt and brewed beverages retail
40 license.

41 (ii) Apply for and hold a restaurant liquor license for use
42 at one of the additional board-approved locations referenced
43 under clause (3), as long as such location does not serve as an
44 additional board-approved location for any other manufacturer.

45 (6) (i) Secure a permit from the board to allow the holder
46 of a limited winery license to use up to twenty-five per centum
47 permitted fruit, not wine, in the current year's production.
48 Each permit is valid only for the calendar year in which it is
49 issued.

50 (ii) The fee for a permit to import and use permitted fruit
51 shall be in an amount to be determined by the board.

1 (iii) The purpose of this section is to increase the
2 productivity of limited wineries while at the same time
3 protecting the integrity and unique characteristics of wine
4 produced from fruit primarily grown in this Commonwealth.
5 Prevailing climatic conditions have a significant impact on the
6 character of the fruit. Accordingly, "permitted fruit" shall
7 mean fruit grown or juice derived from fruit grown within three
8 hundred fifty (350) miles of the winery.

9 (iv) The department is authorized to promulgate regulations
10 requiring the filing of periodic reports by limited wineries to
11 ensure compliance with the provisions of this section.

12 (6.1) Sell food for consumption on or off the licensed
13 premises and at the limited winery's additional board-approved
14 locations and sell by the glass, at the licensed premises and at
15 the limited winery's additional board-approved locations, wine,
16 mead [and], alcoholic ciders and fermented fruit beverages that
17 may otherwise be sold by the bottle. In addition, the holder of
18 a limited winery license may sell for consumption on the
19 licensed premises and at the limited winery's additional board-
20 approved locations, liquor produced by a licensed distillery or
21 limited distillery, wine [and], alcoholic cider and fermented
22 fruit beverages produced by another limited winery and malt or
23 brewed beverages produced by a licensed brewery. The combined
24 sales of wine [and], alcoholic cider and fermented fruit
25 beverages produced by another limited winery, malt or brewed
26 beverages and liquor may not, on a yearly basis, exceed fifty
27 per centum of the on-premises sales of the limited winery's own
28 sales of wine [and], alcoholic cider and fermented fruit
29 beverages for the preceding calendar year: however, if a limited
30 winery did not operate for an entire calendar year during the
31 preceding year, then its combined sales of wine and alcohol
32 produced by another limited winery, malt or brewed beverages and
33 liquor may not, on a yearly basis, exceed fifty per centum of
34 the on-premises sales of the limited winery's own wine [and],
35 alcoholic cider and fermented fruit beverages for that year.

36 (6.2) Sell wine- or liquor-scented candles acquired or
37 produced by the limited winery.

38 (6.3) Sell alcoholic cider, fermented fruit beverages, mead,
39 wine and wine coolers only between the hours of nine o'clock
40 antemeridian and eleven o'clock postmeridian. A limited winery
41 also may request approval from the board to extend sales hours
42 in individual locations at other times during the year or beyond
43 the limits set forth in this clause. The request shall be made
44 in writing to the board's Office of the Chief Counsel and shall
45 detail the exact locations where sales hours are proposed to be
46 extended, the proposed hours and dates of extended operation and
47 the reason for the proposed extended hours.

48 (6.4) Store alcoholic cider, fermented fruit beverages,
49 mead, wine and wine coolers produced by the limited winery at no
50 more than two (2) board-approved locations other than the
51 licensed premises and those premises referenced in clause (3)

1 pertaining to the five (5) board-approved locations for the sale
2 of wine, with no bottling or production requirement at those
3 additional locations and under such conditions and regulations
4 as the board may enforce. If two (2) or more businesses will
5 operate out of the same storage facility, the limited winery
6 must designate specific and distinct areas for its storage. The
7 limited winery's designated storage area must be secured and no
8 one other than the licensee and his employees may be allowed
9 access to the storage area. No board-approved manager will be
10 necessary for the storage facility. The limited winery must fill
11 out an application for such an additional board-approved storage
12 location, and such location shall count as one of the two
13 permitted for each limited winery. The limited winery is
14 responsible for keeping only its own complete records. A limited
15 winery may be cited for a violation of the recordkeeping
16 requirements of sections 512 and 513 pertaining to its own
17 records only.

18 (b) The total production of alcoholic ciders, fermented
19 fruit beverages, mead, wine and wine coolers by a limited winery
20 may not exceed two hundred thousand (200,000) gallons per year.

21 * * *

22 Section 8. Section 505.4 heading, (b)(1) and (8) and (c)(1)
23 of the act are amended and the section is amended by adding
24 subsections to read:

25 Section 505.4. Limited Distilleries and Distilleries.--* * *

26 (b) (1) The board may issue a limited distillery license
27 that will allow the holder thereof to operate a distillery that
28 shall not exceed production of one hundred thousand (100,000)
29 gallons of distilled liquor per year. The holder of the license
30 may manufacture and sell bottled liquors produced on the
31 licensed premises to the board, to entities licensed by the
32 board and to the public between the hours of nine o'clock
33 antemeridian and eleven o'clock postmeridian so long as a
34 specific code of distilled liquor which is listed for sale as a
35 stock item by the board in State liquor stores may not be
36 offered for sale at a licensed limited distillery location at a
37 price which is lower than that charged by the board and under
38 such conditions and regulations as the board may enforce. The
39 holder of a limited distillery license may not sell a product or
40 a substantially similar product which is listed for sale as a
41 stock item by the board in State Liquor Stores to a licensee at
42 a price which is lower than that charged by the board and under
43 such conditions and regulations as the board may enforce. The
44 holder of a limited distillery license may also sell wine [and],
45 alcoholic cider and fermented fruit beverages produced by a
46 licensed limited winery, liquor produced by a licensed
47 distillery or limited distillery and malt or brewed beverages
48 produced by a licensed brewery for on-premises consumption. The
49 combined sales of wine, malt or brewed beverages and liquor
50 produced by another licensed distillery or limited distillery
51 may not, on a yearly basis, exceed fifty per centum of the on-

1 premises sales of the limited distillery's own sales of liquor
2 for the preceding calendar year: however, if a limited
3 distillery did not operate for an entire calendar year during
4 the preceding year, then its combined sales of wine, malt or
5 brewed beverages and liquor produced by another licensed
6 distillery or limited distillery may not, on a yearly basis,
7 exceed fifty per centum of the on-premises sales of the limited
8 distillery's own liquor for that year.

9 * * *

10 (8) At the discretion of the board the holder of a limited
11 distillery license may obtain a special permit to participate in
12 [alcoholic cider,] liquor and food expositions off the licensed
13 premises. A special permit shall be issued upon proper
14 application and payment of a fee of thirty dollars (\$30) per day
15 for each day of permitted use, not to exceed thirty (30)
16 consecutive days. The total number of days for all the special
17 permits may not exceed one hundred (100) days in any calendar
18 year. A special permit shall entitle the holder to engage in the
19 sale by the glass, by the bottle or in case lots of liquor
20 produced by the permittee under the authority of a limited
21 distillery license. Holders of special permits may provide
22 tasting samples of liquor in individual portions not to exceed
23 one and one-half (1.5) fluid ounces. Samples at [alcoholic
24 cider,] liquor and food expositions may be sold or offered free
25 of charge. Except as provided in this clause, limited
26 distilleries utilizing special permits shall be governed by all
27 applicable provisions of this act as well as by all applicable
28 regulations or conditions adopted by the board. For the purposes
29 of this clause, ["alcoholic cider, liquor] "liquor and food
30 expositions" are defined as affairs held indoors or outdoors
31 with the intent of promoting Pennsylvania products by educating
32 those in attendance of the availability, nature and quality of
33 Pennsylvania-produced [alcoholic ciders and] liquors in
34 conjunction with suitable food displays, demonstrations and
35 sales. [Alcoholic cider, liquor] Liquor and food expositions may
36 also include activities other than [alcoholic cider,] liquor and
37 food displays, including arts and crafts, musical activities,
38 cultural exhibits, agricultural exhibits and farmers markets.

39 * * *

40 (c) (1) The holder of a distillery license as issued under
41 section 505 may sell bottled liquors produced on the licensed
42 premises to the board, to entities licensed by the board and to
43 the public between the hours of nine o'clock antemeridian and
44 eleven o'clock postmeridian so long as a specific code of
45 distilled liquor which is listed for sale as a stock item by the
46 board in State liquor stores may not be offered for sale at a
47 licensed distillery location at a price which is lower than that
48 charged by the board and under such conditions and regulations
49 as the board may enforce. The holder of a distillery license may
50 not sell a product or a substantially similar product which is
51 listed for sale as a stock item by the board in State Liquor

1 Stores to a licensee at a price which is lower than that charged
2 by the board and under such conditions and regulations as the
3 board may enforce. The holder of a distillery license may also
4 sell its liquor, wine [and], alcoholic cider and fermented fruit
5 beverages produced by a licensed limited winery, liquor produced
6 by a licensed distillery or limited distillery and malt or
7 brewed beverages produced by a licensed brewery for on-premises
8 consumption. The combined sales of wine, malt or brewed
9 beverages and liquor produced by another licensed distillery or
10 limited distillery may not, on a yearly basis, exceed fifty per
11 centum of the on-premises sales of the distillery's own sales of
12 liquor for the preceding calendar year: however, if a distillery
13 did not operate for an entire calendar year during the preceding
14 year, then its combined sales of wine, malt or brewed beverages
15 and liquor produced by another licensed distillery or limited
16 distillery may not, on a yearly basis, exceed fifty per centum
17 of the on-premises sales of the distillery's own liquor for that
18 year.

19 * * *

20 (d) Sales for on-premises consumption by distilleries of
21 historical significance, limited distilleries and distilleries
22 are subject to the restrictions set forth in section 472.

23 (e) Aggregate sales to retail licenses by distilleries of
24 historical significance, limited distilleries and distilleries
25 may not exceed 50,000 gallons during a calendar year. A license
26 or permit holder that wishes to acquire liquor produced by a
27 distillery or limited distillery license holder after the
28 producer has reached its aggregate 50,000-gallon limit may still
29 acquire the product if it is available from the board. If a
30 person holds any interest in more than one distillery of
31 historical significance, distillery or limited distillery
32 license, either directly or indirectly, the sales from all such
33 licenses shall be considered when determining whether the
34 50,000-gallon limit has been reached.

35 (f) Delivery of liquor by distilleries of historical
36 significance, limited distilleries and distilleries shall be
37 through the use of vehicles properly registered by the licensee
38 or through properly licensed transporters. A distillery of
39 historical significance, limited distillery or distillery may
40 accept a credit card for payment upon delivery so long as the
41 purchaser holds a license issued by the board; the terms of the
42 sale between parties must be finalized before the liquor leaves
43 the seller's licensed premises.

44 Section 9. Section 1001 of the act is amended to read:

45 Section 1001. Construction and Applicability.--(a) Except
46 as provided in subsection (b), unless the context clearly
47 indicates otherwise, a reference to "malt or brewed beverages"
48 in a statute shall be construed to include alcoholic cider and
49 fermented fruit beverages.

50 (b) Regardless of context, a reference to "malt or brewed
51 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.

Section 10. Repeals are as follows:

(1) The General Assembly finds and declares that the repeal under paragraph (2) is necessary to effectuate the addition of section 505.4(e) of the act.

(2) Section 1799.5-E of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, is repealed.

(3) The General Assembly finds and declares that the repeal under paragraph (4) is necessary to effectuate the addition of section 470.4 of the act.

(4) Section 1799.6-E of The Fiscal Code is repealed.
Section 11. This act shall take effect as follows:

(1) The following shall take effect immediately:

(i) This section.

(ii) The amendment of sections 406 and 413 of the act.

(2) The remainder of this act shall take effect in 30 days.