

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1886 Session of
2007

INTRODUCED BY CLYMER, BOYD, CREIGHTON, DENLINGER, HELM,
HENNESSEY, HERSHEY, KOTIK, ROHRER AND TRUE, OCTOBER 3, 2007

REFERRED TO COMMITTEE ON LIQUOR CONTROL, OCTOBER 3, 2007

AN ACT

1 Amending the act of April 12, 1951 (P.L.90, No.21), entitled, as
2 reenacted, "An act relating to alcoholic liquors, alcohol and
3 malt and brewed beverages; amending, revising, consolidating
4 and changing the laws relating thereto; regulating and
5 restricting the manufacture, purchase, sale, possession,
6 consumption, importation, transportation, furnishing, holding
7 in bond, holding in storage, traffic in and use of alcoholic
8 liquors, alcohol and malt and brewed beverages and the
9 persons engaged or employed therein; defining the powers and
10 duties of the Pennsylvania Liquor Control Board; providing
11 for the establishment and operation of State liquor stores,
12 for the payment of certain license fees to the respective
13 municipalities and townships, for the abatement of certain
14 nuisances and, in certain cases, for search and seizure
15 without warrant; prescribing penalties and forfeitures;
16 providing for local option, and repealing existing laws,"
17 further providing for issuance, transfer or extension of
18 hotel, restaurant and club liquor licenses, for sale of malt
19 or brewed beverages by liquor licensees, for malt and brewed
20 beverages manufacturers', distributors' and importing
21 distributors' licenses and for malt and brewed beverages
22 retail licenses.

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

25 Section 1. Section 404 of the act of April 12, 1951 (P.L.90,
26 No.21), known as the Liquor Code, reenacted and amended June 29,
27 1987 (P.L.32, No.14) and amended January 6, 2006 (P.L.1, No.1),

1 is amended to read:

2 Section 404. Issuance, Transfer or Extension of Hotel,
3 Restaurant and Club Liquor Licenses.--Upon receipt of the
4 application and the proper fees, and upon being satisfied of the
5 truth of the statements in the application that the applicant is
6 the only person in any manner pecuniarily interested in the
7 business so asked to be licensed and that no other person will
8 be in any manner pecuniarily interested therein during the
9 continuance of the license, except as hereinafter permitted, and
10 that the applicant is a person of good repute, that the premises
11 applied for meet all the requirements of this act and the
12 regulations of the board, that the applicant seeks a license for
13 a hotel, restaurant or club, as defined in this act, and that
14 the issuance of such license is not prohibited by any of the
15 provisions of this act, the board shall, in the case of a hotel
16 or restaurant, grant and issue to the applicant a liquor
17 license, and in the case of a club may, in its discretion, issue
18 or refuse a license: Provided, however, That in the case of any
19 new license or the transfer of any license to a new location or
20 the extension of an existing license to cover an additional area
21 the board may, in its discretion, grant or refuse such new
22 license, transfer or extension if such place proposed to be
23 licensed is within three hundred feet of any church, hospital,
24 charitable institution, school, or public playground, or if such
25 new license, transfer or extension is applied for a place which
26 is within two hundred feet of any other premises which is
27 licensed by the board: And provided further, That the board's
28 authority to refuse to grant a license because of its proximity
29 to a church, hospital, charitable institution, public playground
30 or other licensed premises shall not be applicable to license

1 applications submitted for public venues or performing arts
2 facilities: And provided further, That the board shall refuse
3 any application for a new license, the transfer of any license
4 to a new location or the extension of an existing license to
5 cover an additional area if, in the board's opinion, such new
6 license, transfer or extension would be detrimental to the
7 welfare, health, peace and morals of the inhabitants of the
8 neighborhood within a radius of five hundred feet of the place
9 proposed to be licensed: And provided further, That the board
10 shall have the discretion to refuse a license to any person or
11 to any corporation, partnership or association if such person,
12 or any officer or director of such corporation, or any member or
13 partner of such partnership or association shall have been
14 convicted or found guilty of a felony within a period of five
15 years immediately preceding the date of application for the said
16 license. The board shall refuse any application for a new
17 license, the transfer of any license to a new location or the
18 extension of any license to cover an additional area where the
19 sale of liquid fuels or oil is conducted[.], it being the
20 legislative intent of this provision that no alcoholic beverages
21 may be sold from the same location as liquid fuels or oils. The
22 board may enter into an agreement with the applicant concerning
23 additional restrictions on the license in question. If the board
24 and the applicant enter into such an agreement, such agreement
25 shall be binding on the applicant. Failure by the applicant to
26 adhere to the agreement will be sufficient cause to form the
27 basis for a citation under section 471 and for the nonrenewal of
28 the license under section 470. If the board enters into an
29 agreement with an applicant concerning additional restrictions,
30 those restrictions shall be binding on subsequent holders of the

1 license until the license is transferred to a new location or
2 until the board enters into a subsequent agreement removing
3 those restrictions. If the application in question involves a
4 location previously licensed by the board, then any restrictions
5 imposed by the board on the previous license at that location
6 shall be binding on the applicant unless the board enters into a
7 new agreement rescinding those restrictions. The board may, in
8 its discretion, refuse an application for an economic
9 development license under section 461(b.1) or an application for
10 an intermunicipal transfer of a license if the board receives a
11 protest from the governing body of the receiving municipality.
12 The receiving municipality of an intermunicipal transfer or an
13 economic development license under section 461(b.1) may file a
14 protest against the transfer of a license into its municipality,
15 and the receiving municipality shall have standing in a hearing
16 to present testimony in support of or against the issuance or
17 transfer of a license. Upon any opening in any quota, an
18 application for a new license shall only be filed with the board
19 for a period of six months following said opening.

20 Section 2. Section 407 of the act is amended by adding a
21 subsection to read:

22 Section 407. Sale of Malt or Brewed Beverages by Liquor
23 Licensees.--* * *

24 (c) A restaurant or hotel licensee who is otherwise
25 permitted to sell malt or brewed beverages for consumption off
26 the licensed premises shall not do so if its licensed premises
27 has an inside passage or connection to or with another business
28 or is operated in conjunction with another business occupying
29 one thousand square feet or more. The existing licensed premises
30 of a restaurant or hotel licensee that has an inside passage or

1 connection to or with another business or is operated in
2 conjunction with another business occupying one thousand square
3 feet or more as of the effective date of this subsection shall
4 not be subject to this restriction, but the board shall refuse
5 any application for a new restaurant or hotel license or the
6 transfer of any restaurant or hotel license to a new location
7 with an inside passage or connection to or with another business
8 or that is operated in conjunction with another business
9 occupying one thousand square feet or more.

10 Section 3. Section 431(b) of the act, amended December 8,
11 2004 (P.L.1810, No.239), is amended to read:

12 Section 431. Malt and Brewed Beverages Manufacturers',
13 Distributors' and Importing Distributors' Licenses.--* * *

14 (b) The board shall issue to any reputable person who
15 applies therefor, and pays the license fee hereinafter
16 prescribed, a distributor's or importing distributor's license
17 for the place which such person desires to maintain for the sale
18 of malt or brewed beverages, not for consumption on the premises
19 where sold, and in quantities of not less than a case or
20 original containers containing one hundred twenty-eight ounces
21 or more which may be sold separately as prepared for the market
22 by the manufacturer at the place of manufacture. The board shall
23 have the discretion to refuse a license to any person or to any
24 corporation, partnership or association if such person, or any
25 officer or director of such corporation, or any member or
26 partner of such partnership or association shall have been
27 convicted or found guilty of a felony within a period of five
28 years immediately preceding the date of application for the said
29 license: And provided further, That, in the case of any new
30 license or the transfer of any license to a new location, the

1 board may, in its discretion, grant or refuse such new license
2 or transfer if such place proposed to be licensed is within
3 three hundred feet of any church, hospital, charitable
4 institution, school or public playground, or if such new license
5 or transfer is applied for a place which is within two hundred
6 feet of any other premises which is licensed by the board: And
7 provided further, That the board shall refuse any application
8 for a new license or the transfer of any license to a new
9 location if, in the board's opinion, such new license or
10 transfer would be detrimental to the welfare, health, peace and
11 morals of the inhabitants of the neighborhood within a radius of
12 five hundred feet of the place proposed to be licensed. The
13 board shall refuse any application for a new license or the
14 transfer of any license to a location where the sale of liquid
15 fuels or oil is conducted[.], it being the legislative intent of
16 this provision that no alcoholic beverages may be sold from the
17 same location as liquid fuels or oils. The board may enter into
18 an agreement with the applicant concerning additional
19 restrictions on the license in question. If the board and the
20 applicant enter into such an agreement, such agreement shall be
21 binding on the applicant. Failure by the applicant to adhere to
22 the agreement will be sufficient cause to form the basis for a
23 citation under section 471 and for the nonrenewal of the license
24 under section 470. If the board enters into an agreement with an
25 applicant concerning additional restrictions, those restrictions
26 shall be binding on subsequent holders of the license until the
27 license is transferred to a new location or until the board
28 enters into a subsequent agreement removing those restrictions.
29 If the application in question involves a location previously
30 licensed by the board, then any restrictions imposed by the

1 board on the previous license at that location shall be binding
2 on the applicant unless the board enters into a new agreement
3 rescinding those restrictions. The board shall require notice to
4 be posted on the property or premises upon which the licensee or
5 proposed licensee will engage in sales of malt or brewed
6 beverages. This notice shall be similar to the notice required
7 of hotel, restaurant and club liquor licensees.

8 Except as hereinafter provided, such license shall authorize
9 the holder thereof to sell or deliver malt or brewed beverages
10 in quantities above specified anywhere within the Commonwealth
11 of Pennsylvania, which, in the case of distributors, have been
12 purchased only from persons licensed under this act as
13 manufacturers or importing distributors, and in the case of
14 importing distributors, have been purchased from manufacturers
15 or persons outside this Commonwealth engaged in the legal sale
16 of malt or brewed beverages or from manufacturers or importing
17 distributors licensed under this article. In the case of an
18 importing distributor, the holder of such a license shall be
19 authorized to store and repackage malt or brewed beverages owned
20 by a manufacturer at a segregated portion of a warehouse or
21 other storage facility authorized by section 441(d) and operated
22 by the importing distributor within its appointed territory and
23 deliver such beverages to another importing distributor who has
24 been granted distribution rights by the manufacturer as provided
25 herein. The importing distributor shall be permitted to receive
26 a fee from the manufacturer for any related storage, repackaging
27 or delivery services. In the case of a bailee for hire hired by
28 a manufacturer, the holder of such a permit shall be authorized:
29 to receive, store and repackage malt or brewed beverages
30 produced by that manufacturer for sale by that manufacturer to

1 importing distributors to whom that manufacturer has given
2 distribution rights pursuant to this subsection or to purchasers
3 outside this Commonwealth for delivery outside this
4 Commonwealth; or to ship to that manufacturer's storage
5 facilities outside this Commonwealth. The bailee for hire shall
6 be permitted to receive a fee from the manufacturer for any
7 related storage, repackaging or delivery services. The bailee
8 for hire shall, as required in Article V of this act, keep
9 complete and accurate records of all transactions, inventory,
10 receipts and shipments and make all records and the licensed
11 areas available for inspection by the board and for the
12 Pennsylvania State Police, Bureau of Liquor Control Enforcement,
13 during normal business hours.

14 Each out of State manufacturer of malt or brewed beverages
15 whose products are sold and delivered in this Commonwealth shall
16 give distributing rights for such products in designated
17 geographical areas to specific importing distributors, and such
18 importing distributor shall not sell or deliver malt or brewed
19 beverages manufactured by the out of State manufacturer to any
20 person issued a license under the provisions of this act whose
21 licensed premises are not located within the geographical area
22 for which he has been given distributing rights by such
23 manufacturer. Should a licensee accept the delivery of such malt
24 or brewed beverages in violation of this section, said licensee
25 shall be subject to a suspension of his license for at least
26 thirty days: Provided, That the importing distributor holding
27 such distributing rights for such product shall not sell or
28 deliver the same to another importing distributor without first
29 having entered into a written agreement with the said secondary
30 importing distributor setting forth the terms and conditions

1 under which such products are to be resold within the territory
2 granted to the primary importing distributor by the
3 manufacturer.

4 When a Pennsylvania manufacturer of malt or brewed beverages
5 licensed under this article names or constitutes a distributor
6 or importing distributor as the primary or original supplier of
7 his product, he shall also designate the specific geographical
8 area for which the said distributor or importing distributor is
9 given distributing rights, and such distributor or importing
10 distributor shall not sell or deliver the products of such
11 manufacturer to any person issued a license under the provisions
12 of this act whose licensed premises are not located within the
13 geographical area for which distributing rights have been given
14 to the distributor and importing distributor by the said
15 manufacturer: Provided, That the importing distributor holding
16 such distributing rights for such product shall not sell or
17 deliver the same to another importing distributor without first
18 having entered into a written agreement with the said secondary
19 importing distributor setting forth the terms and conditions
20 under which such products are to be resold within the territory
21 granted to the primary importing distributor by the
22 manufacturer. Nothing herein contained shall be construed to
23 prevent any manufacturer from authorizing the importing
24 distributor holding the distributing rights for a designated
25 geographical area from selling the products of such manufacturer
26 to another importing distributor also holding distributing
27 rights from the same manufacturer for another geographical area,
28 providing such authority be contained in writing and a copy
29 thereof be given to each of the importing distributors so
30 affected.

1 * * *

2 Section 4. Section 432(d) of the act, amended January 6,
3 2006 (P.L.1, No.1), is amended and the section is amended by
4 adding a subsection to read:

5 Section 432. Malt and Brewed Beverages Retail Licenses.--* *
6 *

7 (d) The board shall, in its discretion, grant or refuse any
8 new license, the transfer of any license to a new location or
9 the extension of an existing license to cover an additional area
10 if such place proposed to be licensed is within three hundred
11 feet of any church, hospital, charitable institution, school, or
12 public playground, or if such new license, transfer or extension
13 is applied for a place which is within two hundred feet of any
14 other premises which is licensed by the board. The board shall
15 refuse any application for a new license, the transfer of any
16 license to a new location or the extension of an existing
17 license to cover an additional area if, in the board's opinion,
18 such new license, transfer or extension would be detrimental to
19 the welfare, health, peace and morals of the inhabitants of the
20 neighborhood within a radius of five hundred feet of the place
21 to be licensed. The board may enter into an agreement with the
22 applicant concerning additional restrictions on the license in
23 question. If the board and the applicant enter into such an
24 agreement, such agreement shall be binding on the applicant.
25 Failure by the applicant to adhere to the agreement will be
26 sufficient cause to form the basis for a citation under section
27 471 and for the nonrenewal of the license under section 470. If
28 the board enters into an agreement with an applicant concerning
29 additional restrictions, those restrictions shall be binding on
30 subsequent holders of the license until the license is

1 transferred to a new location or until the board enters into a
2 subsequent agreement removing those restrictions. If the
3 application in question involves a location previously licensed
4 by the board, then any restrictions imposed by the board on the
5 previous license at that location shall be binding on the
6 applicant unless the board enters into a new agreement
7 rescinding those restrictions. The board shall refuse any
8 application for a new license, the transfer of any license to a
9 location where the sale of liquid fuels or oil is conducted or
10 the extension of an existing license to cover an additional
11 area[:], it being the legislative intent of this provision that
12 under no circumstances alcoholic beverages may be sold from the
13 same location as liquid fuels or oils: And provided further,
14 That the board shall have the discretion to refuse a license to
15 any person or to any corporation, partnership or association if
16 such person, or any officer or director of such corporation, or
17 any member or partner of such partnership or association shall
18 have been convicted or found guilty of a felony within a period
19 of five years immediately preceding the date of application for
20 the said license. The board may, in its discretion, refuse an
21 application for an economic development license under section
22 461(b.1) or an application for an intermunicipal transfer or a
23 license if the board receives a protest from the governing body
24 of the receiving municipality. The receiving municipality of an
25 intermunicipal transfer or an economic development license under
26 section 461(b.1) may file a protest against the approval for
27 issuance of a license for economic development or an
28 intermunicipal transfer of a license into its municipality, and
29 such municipality shall have standing in a hearing to present
30 testimony in support of or against the issuance or transfer of a

1 license. Upon any opening in any quota, an application for a new
2 license shall only be filed with the board for a period of six
3 months following said opening.

4 (d.1) An eating place retail dispenser licensee who is
5 otherwise permitted to sell malt or brewed beverages for
6 consumption off the licensed premises shall not do so if its
7 licensed premises has an inside passage or connection to or with
8 another business or is operated in conjunction with another
9 business occupying one thousand square feet or more. The
10 existing licensed premises of an eating place retail dispenser
11 licensee that has an inside passage or connection to or with
12 another business or is operated in conjunction with another
13 business occupying one thousand square feet or more as of the
14 effective date of this subsection shall not be subject to this
15 restriction, but the board shall refuse any application for a
16 new eating place retail dispenser license or the transfer of any
17 eating place retail dispenser license to a new location with an
18 inside passage or connection to or with another business or that
19 is operated in conjunction with another business occupying one
20 thousand square feet or more.

21 * * *

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