
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1164 Session of
1997

INTRODUCED BY THOMPSON, WAGNER, EARLL, STOUT, SALVATORE,
WOZNIAK, HART AND MURPHY, OCTOBER 20, 1997

AS REPORTED FROM COMMITTEE ON LIQUOR CONTROL, HOUSE OF
REPRESENTATIVES, AS AMENDED, MAY 5, 1998

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 breweries; and authorizing the~~ <—
18 ~~production of beer or malt or brewed beverages in limited~~
19 ~~quantities for personal or family use.~~ FURTHER PROVIDING FOR <—
20 SECONDARY SERVICE AREAS OF CERTAIN LICENSEES, FOR CERTAIN
21 PERFORMING ARTS FACILITIES, FOR EXCEPTIONS TO LIMITING THE
22 NUMBER OF RETAIL LICENSES ISSUED IN EACH MUNICIPALITY, FOR
23 APPLICATION FILING DATES, FOR THE FILING OF LICENSE RENEWAL
24 APPLICATIONS, FOR DISPLAY OF PRICES OF ALCOHOLIC BEVERAGES,
25 FOR LICENSEE'S OUTSIDE ADVERTISEMENTS, FOR SPECIAL OCCASION
26 PERMITS AND FOR LICENSEES EMPLOYED BY OTHERS.

27 The General Assembly of the Commonwealth of Pennsylvania

28 hereby enacts as follows:

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1 Section 1. ~~Sections 446(2) and 492(1) of the act of April~~
2 ~~12, 1951 (P.L.90, No.21), known as the Liquor Code, reenacted~~
3 ~~and amended June 29, 1987 (P.L.32, No.14), are amended to read:~~

4 Section 446. ~~Breweries. Holders of a brewery license may:~~

5 * * *

6 ~~(2) Operate a restaurant or brewery pub on the licensed~~
7 ~~premises under such conditions and regulations as the board may~~
8 ~~enforce[.]: Provided, however, That sales on Sunday may be made~~
9 ~~irrespective of the volume of food sales if the licensed~~
10 ~~premises are at a stadium or arena location.~~

11 * * *

12 Section 492. ~~Unlawful Acts Relative to Malt or Brewed~~
13 ~~Beverages and Licensees.—~~

14 ~~It shall be unlawful—~~

15 ~~(1) Manufacturing Without License. [For] Except as provided~~
16 ~~herein, for any person, to manufacture malt or brewed beverages,~~
17 ~~unless such person holds a valid manufacturer's license for such~~
18 ~~purpose issued by the board. Malt or brewed beverages may be~~
19 ~~produced by any person without a license, if such malt or brewed~~
20 ~~beverages are produced not for sale and total production does~~
21 ~~not exceed two hundred gallons per calendar year. Malt or brewed~~
22 ~~beverages produced in accordance with this paragraph may be used~~
23 ~~at organized affairs, exhibitions, competitions, contests,~~
24 ~~tastings or judging, provided it is not sold or offered for~~
25 ~~sale.~~

26 * * *

27 Section 2. ~~This act shall take effect immediately.~~

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28 SECTION 1. SECTION 406.1 OF THE ACT OF APRIL 12, 1951
29 (P.L.90, NO.21), KNOWN AS THE LIQUOR CODE, REENACTED AND AMENDED
30 JUNE 29, 1987 (P.L.32, NO.14) AND AMENDED JULY 1, 1994 (P.L.402,

1 NO.61), IS AMENDED TO READ:

2 SECTION 406.1. SECONDARY SERVICE AREA.--[UPON APPLICATION OF
3 ANY RESTAURANT, HOTEL, CLUB, ANY STADIUM AS DESCRIBED IN SECTION
4 408.9 OR MUNICIPAL GOLF COURSE LIQUOR LICENSEE, AND PAYMENT OF
5 THE APPROPRIATE FEE,] UPON APPLICATION AND PAYMENT OF THE
6 APPROPRIATE FEE BY ANY GOLF COURSE LICENSEE PRESCRIBED IN
7 SECTION 461, ANY CLASS OF RETAIL LICENSEE OPERATING AT AND IN
8 CONJUNCTION WITH A GOLF COURSE AS DEFINED IN SECTION 102 OR SKI
9 FACILITY, OR ANY STADIUM AS PRESCRIBED IN SECTION 408.9, THE
10 BOARD MAY APPROVE A SECONDARY SERVICE AREA BY EXTENDING THE
11 LICENSED PREMISES TO INCLUDE ONE ADDITIONAL PERMANENT STRUCTURE
12 WITH DIMENSIONS OF AT LEAST ONE HUNDRED SEVENTY-FIVE SQUARE
13 FEET, ENCLOSED ON AT LEAST THREE SIDES [AND HAVING ADEQUATE
14 SEATING]. SUCH SECONDARY SERVICE AREA MUST BE LOCATED ON
15 PROPERTY HAVING A MINIMUM AREA OF ONE (1) ACRE, AND MUST BE ON
16 LAND WHICH IS IMMEDIATE, ABUTTING, ADJACENT OR CONTIGUOUS TO THE
17 LICENSED PREMISES [WITH NO INTERVENING PUBLIC THOROUGHFARE]. IN
18 ANY STADIUM AS DESCRIBED IN SECTION 408.9, ONLY MALT OR BREWED
19 BEVERAGES MAY BE SERVED AND THERE SHALL BE NO INTERVENING PUBLIC
20 THOROUGHFARE BETWEEN THE LICENSED PREMISES AND A SECONDARY
21 SERVICE AREA. THERE SHALL BE NO REQUIREMENT THAT THE SECONDARY
22 SERVICE AREA BE PHYSICALLY CONNECTED TO THE ORIGINAL LICENSED
23 PREMISES. IN ADDITION, THERE SHALL BE NO REQUIREMENT THAT THE
24 SECONDARY SERVICE AREA BE LOCATED IN THE SAME MUNICIPALITY AS
25 THE ORIGINAL LICENSED PREMISES, PROVIDED, HOWEVER, THAT THE
26 BOARD SHALL NOT APPROVE A SECONDARY SERVICE AREA IN THIS CASE IF
27 THAT SECONDARY SERVICE AREA IS LOCATED IN ANY MUNICIPALITY WHERE
28 THE GRANTING OF LIQUOR LICENSES HAS BEEN PROHIBITED AS PROVIDED
29 IN THIS ARTICLE. NOTWITHSTANDING 40 PA. CODE § 7.21(C)(3), THE
30 LICENSEE SHALL BE PERMITTED TO STORE, SERVE, SELL OR DISPENSE

1 FOOD, LIQUOR AND MALT OR BREWED BEVERAGES AT THE BOARD APPROVED
2 SECONDARY SERVICE AREA.

3 SECTION 2. SECTION 408.4(E) OF THE ACT, AMENDED OCTOBER 5,
4 1994 (P.L.522, NO.77), IS AMENDED TO READ:

5 SECTION 408.4. SPECIAL OCCASION PERMITS.--* * *

6 (E) THE PROVISIONS OF THIS SECTION SHALL NOT BE APPLICABLE
7 TO ANY OF THE FOLLOWING:

8 (1) A LICENSEE NOW OR HEREAFTER POSSESSING A CATERER'S
9 LICENSE, [NOR TO ANY] OTHER THAN A VOLUNTEER FIRE COMPANY,
10 VOLUNTEER AMBULANCE COMPANY OR VOLUNTEER RESCUE SQUAD, WHICH
11 OWNS ITS OWN FACILITY.

12 (2) A PROFESSIONAL FUND RAISER.

13 * * *

14 SECTION 3. SECTION 408.6(A) OF THE ACT, AMENDED FEBRUARY 18,
15 1998 (P.L.162, NO.25), IS AMENDED TO READ:

16 SECTION 408.6. PERFORMING ARTS FACILITIES IN SECOND CLASS A
17 CITIES, THIRD CLASS CITIES, BOROUGH AND TOWNSHIPS OF THE SECOND
18 CLASS LOCATED IN FOURTH CLASS COUNTIES.--(A) THE BOARD IS
19 AUTHORIZED TO ISSUE A RESTAURANT LIQUOR LICENSE TO A NONPROFIT
20 CORPORATION OR TO A CONCESSIONAIRE SELECTED BY SUCH NONPROFIT
21 CORPORATION IN ANY CITY OF THE SECOND CLASS A, ANY CITY OF THE
22 THIRD CLASS OR ANY BOROUGH FOR THE RETAIL SALE OF LIQUOR AND
23 MALT OR BREWED BEVERAGES BY THE GLASS, OPEN BOTTLES OR OTHER
24 CONTAINER OR IN ANY MIXTURE FOR CONSUMPTION ON ANY CITY-OWNED
25 PREMISES UTILIZED AS A NONPROFIT PERFORMING ARTS FACILITY OR ANY
26 OTHER PREMISES UTILIZED AS A NONPROFIT PERFORMING ARTS FACILITY
27 WHERE THERE IS AN AVAILABLE SEATING CAPACITY WITHIN THE PREMISES
28 OF [SIX HUNDRED FIFTY] FIVE HUNDRED OR MORE: PROVIDED, HOWEVER,
29 THAT NO SALE OR CONSUMPTION OF SUCH BEVERAGES SHALL TAKE PLACE
30 ON ANY PORTIONS OF SUCH PREMISES OTHER THAN SERVICE AREAS

1 APPROVED BY THE BOARD.

2 * * *

3 SECTION 4. SECTION 461(A) OF THE ACT, AMENDED OCTOBER 5,
4 1994 (P.L.522, NO.77), IS AMENDED TO READ:

5 SECTION 461. LIMITING NUMBER OF RETAIL LICENSES TO BE ISSUED
6 IN EACH MUNICIPALITY.--(A) NO LICENSES SHALL HEREAFTER BE
7 GRANTED BY THE BOARD FOR THE RETAIL SALE OF MALT OR BREWED
8 BEVERAGES OR THE RETAIL SALE OF LIQUOR AND MALT OR BREWED
9 BEVERAGES IN EXCESS OF ONE OF SUCH LICENSES OF ANY CLASS FOR
10 EACH THREE THOUSAND INHABITANTS IN ANY MUNICIPALITY, EXCLUSIVE
11 OF LICENSES GRANTED TO AIRPORT RESTAURANTS, MUNICIPAL GOLF
12 COURSES, HOTELS, PRIVATELY-OWNED PUBLIC GOLF COURSES AND UNITS
13 OF NONPROFIT NATIONALLY CHARTERED CLUBS, AS DEFINED IN THIS
14 SECTION, WHOSE APPLICATIONS ARE FILED ON OR BEFORE DECEMBER 31,
15 [1994] 1998, AND EXCEPT THOSE UNITS FALLING UNDER SECTION 461.1,
16 AND CLUBS; BUT AT LEAST ONE SUCH LICENSE MAY BE GRANTED IN EACH
17 MUNICIPALITY AND IN EACH PART OF A MUNICIPALITY WHERE SUCH
18 MUNICIPALITY IS SPLIT SO THAT EACH PART THEREOF IS SEPARATED BY
19 ANOTHER MUNICIPALITY, EXCEPT IN MUNICIPALITIES WHERE THE
20 ELECTORS HAVE VOTED AGAINST THE GRANTING OF ANY RETAIL LICENSES
21 AND EXCEPT IN THAT PART OF A SPLIT MUNICIPALITY WHERE THE
22 ELECTORS HAVE VOTED AGAINST THE GRANTING OF ANY RETAIL LICENSES.
23 NOTHING CONTAINED IN THIS SECTION SHALL BE CONSTRUED AS DENYING
24 THE RIGHT TO THE BOARD TO RENEW OR TO TRANSFER EXISTING RETAIL
25 LICENSES OF ANY CLASS NOTWITHSTANDING THAT THE NUMBER OF SUCH
26 LICENSED PLACES IN A MUNICIPALITY SHALL EXCEED THE LIMITATION
27 HEREINBEFORE PRESCRIBED; BUT WHERE SUCH NUMBER EXCEEDS THE
28 LIMITATION PRESCRIBED BY THIS SECTION, NO NEW LICENSE, EXCEPT
29 FOR HOTELS, MUNICIPAL GOLF COURSES, AIRPORT RESTAURANTS,
30 PRIVATELY-OWNED PUBLIC GOLF COURSES, PRIVATELY-OWNED PRIVATE

1 GOLF COURSE LICENSEES AND UNITS OF NONPROFIT NATIONALLY
2 CHARTERED CLUBS, AS DEFINED IN THIS SECTION, WHOSE APPLICATIONS
3 ARE FILED ON OR BEFORE DECEMBER 31, [1994] 1998, AND EXCEPT
4 THOSE UNITS FALLING UNDER SECTION 461.1, SHALL BE GRANTED SO
5 LONG AS SAID LIMITATION IS EXCEEDED.

6 * * *

7 SECTION 5. SECTION 470(A) OF THE ACT, AMENDED APRIL 29, 1994
8 (P.L.212, NO.30), IS AMENDED TO READ:

9 SECTION 470. RENEWAL OF LICENSES; TEMPORARY PROVISIONS FOR
10 LICENSEES IN ARMED SERVICE.--(A) ALL APPLICATIONS FOR RENEWAL
11 OF LICENSES UNDER THE PROVISIONS OF THIS ARTICLE SHALL BE FILED
12 WITH A NEW BOND, TAX CLEARANCE FROM THE DEPARTMENT OF REVENUE
13 AND THE DEPARTMENT OF LABOR AND INDUSTRY AND REQUISITE LICENSE
14 AND FILING FEES AT LEAST SIXTY DAYS BEFORE THE EXPIRATION DATE
15 OF SAME: PROVIDED, HOWEVER, THAT THE BOARD, IN ITS DISCRETION,
16 MAY ACCEPT A RENEWAL APPLICATION FILED LESS THAN SIXTY DAYS
17 BEFORE THE EXPIRATION DATE OF THE LICENSE WITH THE REQUIRED BOND
18 AND FEES, UPON REASONABLE CAUSE SHOWN AND THE PAYMENT OF AN
19 ADDITIONAL FILING FEE OF ONE HUNDRED DOLLARS (\$100.00) FOR LATE
20 FILING: AND PROVIDED FURTHER, THAT EXCEPT WHERE THE FAILURE TO
21 FILE A RENEWAL APPLICATION ON OR BEFORE THE EXPIRATION DATE HAS
22 CREATED A LICENSE QUOTA VACANCY AFTER SAID EXPIRATION DATE WHICH
23 HAS BEEN FILLED BY THE ISSUANCE OF A NEW LICENSE, AFTER SUCH
24 EXPIRATION DATE, BUT BEFORE THE BOARD HAS RECEIVED A RENEWAL
25 APPLICATION WITHIN THE TIME PRESCRIBED HEREIN THE BOARD, IN ITS
26 DISCRETION, MAY, AFTER HEARING, ACCEPT A RENEWAL APPLICATION
27 FILED WITHIN [TEN MONTHS] TWO YEARS AFTER THE EXPIRATION DATE OF
28 THE LICENSE WITH THE REQUIRED BOND AND FEES UPON THE PAYMENT OF
29 AN ADDITIONAL FILING FEE OF TWO HUNDRED FIFTY DOLLARS (\$250.00)
30 FOR LATE FILING. WHERE ANY SUCH RENEWAL APPLICATION IS FILED

1 LESS THAN SIXTY DAYS BEFORE THE EXPIRATION DATE, OR SUBSEQUENT
2 TO THE EXPIRATION DATE, NO LICENSE SHALL ISSUE UPON THE FILING
3 OF THE RENEWAL APPLICATION UNTIL THE MATTER IS FINALLY
4 DETERMINED BY THE BOARD AND IF AN APPEAL IS TAKEN FROM THE
5 BOARD'S ACTION THE COURTS SHALL NOT ORDER THE ISSUANCE OF THE
6 RENEWAL LICENSE UNTIL FINAL DETERMINATION OF THE MATTER BY THE
7 COURTS. A RENEWAL APPLICATION WILL NOT BE CONSIDERED FILED
8 UNLESS ACCOMPANIED BY A NEW BOND AND THE REQUISITE FILING AND
9 LICENSE FEES AND ANY ADDITIONAL FILING FEE REQUIRED BY THIS
10 SECTION. UNLESS THE BOARD SHALL HAVE GIVEN TEN DAYS' PREVIOUS
11 NOTICE TO THE APPLICANT OF OBJECTIONS TO THE RENEWAL OF HIS
12 LICENSE, BASED UPON VIOLATION BY THE LICENSEE OR HIS SERVANTS,
13 AGENTS OR EMPLOYES OF ANY OF THE LAWS OF THE COMMONWEALTH OR
14 REGULATIONS OF THE BOARD RELATING TO THE MANUFACTURE,
15 TRANSPORTATION, USE, STORAGE, IMPORTATION, POSSESSION OR SALE OF
16 LIQUORS, ALCOHOL OR MALT OR BREWED BEVERAGES, OR THE CONDUCT OF
17 A LICENSED ESTABLISHMENT, OR UNLESS THE APPLICANT HAS BY HIS OWN
18 ACT BECOME A PERSON OF ILL REPUTE, OR UNLESS THE PREMISES DO NOT
19 MEET THE REQUIREMENTS OF THIS ACT OR THE REGULATIONS OF THE
20 BOARD, THE LICENSE OF A LICENSEE SHALL BE RENEWED.

21 * * *

22 SECTION 6. SECTION 493(11) OF THE ACT IS AMENDED TO READ:

23 SECTION 493. UNLAWFUL ACTS RELATIVE TO LIQUOR, MALT AND
24 BREWED BEVERAGES AND LICENSEES.--THE TERM "LICENSEE," WHEN USED
25 IN THIS SECTION, SHALL MEAN THOSE PERSONS LICENSED UNDER THE
26 PROVISIONS OF ARTICLE IV, UNLESS THE CONTEXT CLEARLY INDICATES
27 OTHERWISE.

28 IT SHALL BE UNLAWFUL--

29 * * *

30 (11) LICENSEES EMPLOYED BY OTHERS. [FOR ANY HOTEL,

1 RESTAURANT OR CLUB LIQUOR LICENSEE, OR ANY MALT OR BREWED
2 BEVERAGE LICENSEE, OR ANY SERVANT, AGENT OR EMPLOYE OF SUCH
3 LICENSEE, TO BE AT THE SAME TIME EMPLOYED, DIRECTLY OR
4 INDIRECTLY, BY ANY OTHER PERSON ENGAGED IN THE MANUFACTURE,
5 SALE, TRANSPORTATION OR STORAGE OF LIQUOR, MALT OR BREWED
6 BEVERAGES OR ALCOHOL: PROVIDED, THAT ANY PERSON (EXCEPT A
7 LICENSEE OR THE MANAGER, OFFICER OR DIRECTOR OF A LICENSEE) WHO
8 IS EMPLOYED BY A RETAIL LICENSEE TO PREPARE OR SERVE FOOD AND
9 BEVERAGES MAY BE EMPLOYED IN THE SAME CAPACITY BY ANOTHER RETAIL
10 LICENSEE DURING OTHER HOURS OR ON OTHER DAYS.] FOR ANY HOTEL,
11 RESTAURANT OR CLUB LIQUOR LICENSEE, OR ANY MALT OR BREWED
12 BEVERAGE LICENSEE, OR ANY OFFICER, SERVANT, AGENT OR EMPLOYE OF
13 SUCH LICENSEE, TO BE AT THE SAME TIME EMPLOYED, DIRECTLY OR
14 INDIRECTLY, BY ANY DISTRIBUTOR, IMPORTING DISTRIBUTOR,
15 MANUFACTURER, IMPORTER OR VENDOR LICENSEE OR ANY OUT-OF-STATE
16 MANUFACTURER. IT SHALL ALSO BE UNLAWFUL FOR ANY DISTRIBUTOR OR
17 IMPORTING DISTRIBUTOR, OR ANY OFFICER, SERVANT, AGENT OR EMPLOYE
18 OF SUCH LICENSEE TO BE AT THE SAME TIME EMPLOYED, DIRECTLY OR
19 INDIRECTLY, BY ANY OTHER DISTRIBUTOR, IMPORTING DISTRIBUTOR,
20 MANUFACTURER, IMPORTER, VENDOR, OUT-OF-STATE MANUFACTURER, HOTEL
21 RESTAURANT, MALT OR BREWED BEVERAGE LICENSEE, OR CLUB LIQUOR
22 LICENSEE. IT SHALL ALSO BE UNLAWFUL FOR ANY MANUFACTURER,
23 IMPORTER, OR VENDOR LICENSEE, OR ANY OUT-OF-STATE MANUFACTURER
24 OR ANY OFFICER, SERVANT, AGENT OR EMPLOYE OF SUCH LICENSEE, OR
25 MANUFACTURER, TO BE AT THE SAME TIME EMPLOYED, DIRECTLY OR
26 INDIRECTLY, BY ANY HOTEL, RESTAURANT OR CLUB LIQUOR LICENSEE OR
27 ANY MALT OR BREWED BEVERAGE LICENSEE OR ANY DISTRIBUTOR OR
28 IMPORTING DISTRIBUTOR LICENSEE. NOTHING IN THIS SUBSECTION SHALL
29 BE CONSTRUED TO PROHIBIT A MANUFACTURER OR LIMITED WINERY
30 LICENSEE OR ANY OFFICER, SERVANT, AGENT OR EMPLOYE OF SUCH

1 LICENSEE TO BE EMPLOYED AT THE SAME TIME BY A HOTEL, RESTAURANT
2 OR RETAIL DISPENSER LICENSEE, IF THE HOTEL, RESTAURANT OR RETAIL
3 DISPENSER LICENSEE IS LOCATED AT THE MANUFACTURER OR LIMITED
4 WINERY PREMISES PURSUANT TO SECTION 443. FOR THE PURPOSES OF
5 THIS SUBSECTION, AN OFFICER, SERVANT, AGENT OR EMPLOYEE OF A
6 LICENSEE OR MANUFACTURER IS AN INDIVIDUAL WHO HAS EITHER AN
7 OWNERSHIP INTEREST IN THE LICENSEE OR MANUFACTURER OR WHO
8 RECEIVES COMPENSATION FOR HIS OR WORK ON BEHALF OF THE LICENSEE
9 OR MANUFACTURER.

10 * * *

11 SECTION 7. SECTION 493(18) AND (19) OF THE ACT ARE REPEALED.

12 SECTION 8. THE AMENDMENT OF SECTION 406.1 OF THE ACT
13 RELATING TO SECONDARY SERVICE AREAS SHALL ONLY APPLY TO
14 APPLICATIONS ON FILE ON OR AFTER THE EFFECTIVE DATE OF THIS
15 SECTION.

16 SECTION 9. THIS ACT SHALL TAKE EFFECT IN 60 DAYS.

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