

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1365 Session of
2002INTRODUCED BY CONTI, BODACK, THOMPSON AND TARTAGLIONE,
MARCH 20, 2002SENATOR THOMPSON, APPROPRIATIONS, RE-REPORTED AS AMENDED,
NOVEMBER 20, 2002

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 defining "arts council," ~~"confectionery,"~~ "eligible entity" <—
18 and "pecuniary interest"; and further providing for the
19 definitions of "eating place" and "restaurant," ~~for salaries,~~ <—
20 ~~for appointment of members,~~ for bonds required of members and
21 secretary, for board and enforcement bureau subject to State
22 ethics and adverse interest acts, ~~for restrictions on members~~ <—
23 ~~of the board and on certain employees of the Commonwealth,~~
24 for wine marketing, for sales by Pennsylvania liquor stores,
25 ~~for confectionery containing alcohol or liquor, for authority~~ <—
26 ~~to issue liquor licenses to hotels, restaurants and clubs,~~
27 for applications for hotel, restaurant and club liquor
28 licenses, for issuance of hotel, restaurant and club liquor
29 licenses, for sales by liquor licensees, for secondary
30 service area, for special occasion permits, for sacramental
31 wine licenses, for liquor importers' licenses, for malt and
32 brewed beverages (excluding manufacturers), for malt and

1 brewed beverages retail licenses, for application for
2 distributors', importing distributors' and retail dispensers'
3 licenses, for prohibitions against the grant of licenses, for
4 retail dispensers' restrictions on purchases and sales, for
5 hearings upon refusal of licenses, renewals or transfers, for
6 renewal of licenses, for revocation and suspension of
7 licenses, for local option and for exchange of certain
8 licenses; providing for surrender of restaurant, eating place
9 retail dispenser, hotel, importing distributor and
10 distributor license for benefit of licensee; further
11 providing for renewal of amusement permit, for unlawful acts
12 relative to liquor, alcohol and liquor licensees, for
13 unlawful acts relative to malt or brewed beverages and
14 licensees, for unlawful acts relative to liquor, malt and
15 brewed beverages and licensees, for unlawful advertising, for
16 limited wineries, for distilleries and for business hours.

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

19 Section 1. The definitions of "eating place" and
20 "restaurant" in section 102 of the act of April 12, 1951
21 (P.L.90, No.21), known as the Liquor Code, reenacted and amended
22 June 29, 1987 (P.L.32, No.14), and amended February 21, 2002
23 (P.L.103, No.10), are amended and the section is amended by
24 adding definitions to read:

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

28 * * *

29 "Arts council" shall mean a tax-exempt organization which
30 promotes the visual arts, performing arts, or both, and which
31 receives funding under the Local Arts Services Program
32 administered by the Pennsylvania Council of the Arts.

33 * * *

34 ~~"Confectionery" shall mean sweets, such as ice cream,~~
35 ~~candies, pastries, preserves and similar items.~~

36 * * *

37 "Eating place" shall mean a premise where food is regularly

1 and customarily prepared and sold, having a total area of not
2 less than three hundred square feet available to the public in
3 one or more rooms, other than living quarters, and equipped with
4 tables and chairs, including bar seats, accommodating thirty
5 persons at one time. The board shall, by regulation, set forth
6 what constitutes tables and chairs sufficient to accommodate
7 thirty persons at one time.

8 "Eligible entity" shall mean a city of the third class, a
9 hospital, a church, a synagogue, a volunteer fire company, a
10 volunteer ambulance company, a volunteer rescue squad, a unit of
11 a nationally chartered club which has been issued a club liquor
12 license, a library, a nationally accredited Pennsylvania
13 nonprofit zoological institution licensed by the United States
14 Department of Agriculture, a nonprofit agricultural association
15 in existence for at least ten years, a bona fide sportsmen's
16 club in existence for at least ten years, a nationally chartered
17 veterans' organization and any affiliated lodge or subdivision
18 of such organization, a fraternal benefit society that is
19 licensed to do business in this Commonwealth and any affiliated
20 lodge or subdivision of such fraternal benefit society, a museum
21 operated by a nonprofit corporation in a city of the third class
22 or township of the first class, a nonprofit corporation engaged
23 in the performing arts in a city of the third class or in an
24 incorporated town, an arts council, a nonprofit corporation that
25 operates an arts facility or museum in a city of the third class
26 in the county of the fourth class, a nonprofit organization as
27 defined under section 501(c)(3) of the Internal Revenue Code of
28 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)) whose purpose is
29 to protect the architectural heritage of boroughs and which has
30 been recognized as such by a municipal resolution, or a

1 nonprofit organization as defined under section 501(c)(3) of the
2 Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. §
3 501(c)(3)) conducting a regatta in a city of the second class
4 with the permit to be used on State park grounds or conducting a
5 family-oriented celebration as part of Welcome America in a city
6 of the first class on property leased from that city for more
7 than fifty years.

8 * * *

9 "Restaurant" shall mean a reputable place operated by
10 responsible persons of good reputation and habitually and
11 principally used for the purpose of providing food for the
12 public, the place to have an area within a building of not less
13 than four hundred square feet, equipped with tables and chairs,
14 including bar seats, accommodating at least thirty persons at
15 one time. The board shall, by regulation, set forth what
16 constitutes tables and chairs sufficient to accommodate thirty
17 persons at one time.

18 * * *

19 "Tract" shall mean a contiguous expanse of land under the
20 control of one person.

21 ~~Section 2. Section 201 of the act, amended February 21, 2002~~ <—
22 ~~(P.L.103, No. 10), is amended to read:~~

23 ~~Section 201. Appointment of Members; Terms[; Salaries]. An~~
24 ~~independent administrative board to be known as the~~
25 ~~"Pennsylvania Liquor Control Board" is hereby created. The board~~
26 ~~shall consist of three members to be appointed by the Governor~~
27 ~~by and with the advice and consent of two thirds of all the~~
28 ~~members of the Senate, not more than two of whom shall be from~~
29 ~~the same political party as the Governor. [Of the members first~~
30 ~~appointed after the effective date of this amendatory act, one~~

1 ~~member shall serve a term of three years, one member shall serve~~
2 ~~a term of four years, and one member shall serve a term of five~~
3 ~~years. Subsequent terms] Each term shall be for four years,~~
4 ~~ending on the third Tuesday in May. A member may continue to~~
5 ~~hold office for a period not to exceed six months beyond the~~
6 ~~expiration of that member's term if a successor to that member~~
7 ~~has not been duly appointed and qualified according to law.~~
8 ~~[Each of the members shall receive an annual salary pursuant to~~
9 ~~the provisions of the act of September 30, 1983 (P.L.160,~~
10 ~~No.39), known as the "Public Official Compensation Law."]~~

11 Section 3. Sections 205 and 206.1(a) and (b) of the act are
12 amended to read:

13 [Section 205. Bonds Required of Members and Secretary.--
14 Before entering upon the duties of their respective offices or
15 positions, each member of the board and the secretary shall
16 execute and file with the State Treasurer a bond in such penal
17 sum as shall be fixed by the Executive Board of this
18 Commonwealth upon recommendation of the Governor, but the amount
19 of any such bond shall not be less than ten thousand dollars
20 (\$10,000). Bonds in such penal sums as shall be fixed by the
21 Executive Board likewise shall be executed and filed with the
22 State Treasurer by such employees of the board as the head of
23 such board shall, with the approval of the Executive Board,
24 prescribe. Such bonds shall be payable to the Commonwealth of
25 Pennsylvania and shall be conditioned for the faithful
26 performance of the members', secretary's or employees' duties
27 imposed by law or by lawful authority and that the person bonded
28 will not knowingly violate the provisions of this act. All bonds
29 required to be given under this section shall, before being
30 accepted by the State Treasurer, be approved by the Attorney

1 General, and unless the Commonwealth shall establish its own
2 indemnity fund, all such bonds shall be given with security
3 approved by the Attorney General. If the Commonwealth shall
4 establish its own indemnity fund, the Executive Board may,
5 nevertheless, require any bond given hereunder to be executed by
6 a surety or sureties satisfactory to the Attorney General. The
7 cost of such bonds required to be executed by a surety or
8 sureties shall be borne by the board as part of its operating
9 expense.]

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

19 (b) Membership on the board and employment or continued
20 employment as an employee of the board or enforcement bureau is
21 conditioned upon compliance with all of the provisions of the
22 acts specified in subsection (a), including, but not limited to,
23 the filing of statements of financial interests required by
24 section 5 of the Public Official and Employee Ethics Law.
25 Acceptance or retention of employment shall be deemed as
26 voluntary consent to submit to the financial reporting
27 requirements of the Public Official and Employee Ethics Law as a
28 condition of employment. Failure to timely comply with the
29 requirements shall result in immediate termination of
30 employment.] ~~Act.~~ Both the board and the enforcement bureau are <—

1 subject to the provisions of 65 Pa.C.S. Ch. 11 (relating to
2 ethics standards and financial disclosure).

3 Section 4. Section 210 of the act, amended December 21, 1988
4 (P.L.1879, No.183), is amended to read:

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

22 (1) contracting or procurement;

23 (2) administering or monitoring grants or subsidies;

24 (3) planning or zoning;

25 (4) inspecting, licensing, regulating or auditing any
26 person; or

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

30 (b) No member or employe of the board or enforcement bureau

1 or a member of the immediate family of a member or employe of
2 the board or enforcement bureau nor any employe of the
3 Commonwealth shall solicit or receive, directly or indirectly,
4 any commission, remuneration or gift whatsoever, from any person
5 having sold, selling or offering liquor or alcohol for sale to
6 the board for use in Pennsylvania Liquor Stores.

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

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

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

24 (f) No member or employe of the board or enforcement bureau
25 or a member of his immediate family or any business in which the
26 member or employe or a member of his immediate family is a
27 director, officer or owner or holder of stock exceeding five
28 percent (5%) of the equity at fair market value of the business
29 may enter into any contract valued at five hundred dollars
30 (\$500) or more to provide goods or services to the board or

1 enforcement bureau unless the contract has been awarded to the
2 lowest responsible bidder through an open and public process,
3 including prior public notice and subsequent public disclosure
4 of all proposals considered and contracts awarded.

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

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

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

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

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

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

30 (m) (1) Any person who violates the provisions of this

1 section shall have his employment by the board or enforcement
2 bureau immediately terminated by the appropriate person having
3 the power to terminate and shall be liable to the board or
4 enforcement bureau to reimburse the board or enforcement bureau
5 for all compensation received by him from the board or
6 enforcement bureau while employed in violation of subsection
7 (c).

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

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

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

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

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

1 Law.

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

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

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

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

25 Section 5. Sections 215(c) and (d) and 305(d) and (h) of the
26 act are amended to read:

27 Section 215. Wine Marketing.--* * *

28 [(c) The board shall establish that at least five per centum
29 of all State stores within a metropolitan area are wine
30 specialty stores, at which premium wine shall be sold. These

1 stores shall not sell any distilled product. The board may
2 establish the wine specialty stores in locations which provide
3 the greatest customer traffic and the greatest gross profit to
4 the board. These locations may include established retail
5 establishments. Board employes shall staff these locations. The
6 board shall have the option of closing stores which are
7 unprofitable for two consecutive fiscal years.]

8 (d) [(1) The term "metropolitan area," as used in this
9 section, shall mean any one county or any combination of two,
10 three or four counties contiguous and adjacent with a total
11 population of fifty thousand or more.]

12 (2) The term "wine," as used in this section, shall mean
13 liquor which is fermented from grapes and other fruits, having
14 alcoholic content of twenty-four per centum or less. The term
15 "wine" shall not include malt or brewed beverages, nor shall
16 wine include any products containing alcohol derived from malt,
17 grain, cereal, molasses or cactus.

18 Section 305. Sales by Pennsylvania Liquor Stores.--* * *

19 (d) No liquor or alcohol package shall be opened on the
20 premises of a Pennsylvania Liquor Store. No manager or other
21 employe of the board employed in a Pennsylvania Liquor Store
22 shall allow any liquor or alcohol to be consumed on the store
23 premises, nor shall any person consume any liquor or alcohol on
24 such premises, except liquor and alcohol which is part of a
25 tasting conducted pursuant to the board's regulations.

26 * * *

27 (h) Every Pennsylvania Liquor Store shall sell gift
28 certificates which may be redeemed for liquor. In addition, the
29 board may sell corkscrews and wine sleeves at Pennsylvania
30 liquor stores.

Section 6. ~~Section 305.1 of the act, added July 13, 1987~~
~~(P.L.331, No.61), is amended to read:~~

~~Section 305.1. Confectionery Containing Alcohol or Liquor.~~

~~(a) Notwithstanding the prohibition against the manufacture of~~
~~confectionery containing alcohol as set forth in [the fifth~~
~~clause of subsection (a) of section 3 of the act of May 13, 1909~~
~~(P.L.520, No.292), referred to as the Pure Food Law,] section 3~~
~~of the act of July 7, 1994 (P.L.421, No.70), known as the "Food~~
~~Act," the manufacture, storage, transportation and delivery to~~
~~points out of State by manufacturers of confectionery containing~~
~~alcohol or liquor is permitted.~~

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

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

~~(d) This section is not intended to cover confectioneries in~~
~~which the alcohol or liquor substantially evaporates during the~~
~~creation of the confectionery. In addition, notwithstanding~~
~~section 3 of the "Food Act," it shall be lawful to sell~~
~~confectioneries which contain one ounce of alcohol or less by~~
~~volume to individuals twenty one years of age or older. Such~~
~~items may be sold by nonlicensed entities.~~

Section 7. Section 401 of the act is amended to read:

Section 401. Authority to Issue Liquor Licenses to Hotels,
Restaurants and Clubs.--(a) Subject to the provisions of this
act and regulations promulgated under this act, the board shall
have authority to issue a retail liquor license for any premises
kept or operated by a hotel, restaurant or club and specified in
the license entitling the hotel, restaurant or club to purchase

1 liquor from a Pennsylvania Liquor Store and to keep on the
2 premises such liquor and, subject to the provisions of this act
3 and the regulations made thereunder, to sell the same and also
4 malt or brewed beverages to guests, patrons or members for
5 consumption on the hotel, restaurant or club premises. Such
6 licensees, other than clubs, shall be permitted to sell malt or
7 brewed beverages for consumption off the premises where sold in
8 quantities of not more than one hundred ninety-two fluid ounces
9 in a single sale to one person. Such licenses shall be known as
10 hotel liquor licenses, restaurant liquor licenses and club
11 liquor licenses, respectively. [No person who holds, either by
12 appointment or election, any public office which involves the
13 duty to enforce any of the penal laws of the United States of
14 America or the penal laws of the Commonwealth of Pennsylvania or
15 any penal ordinance or resolution of any political subdivision
16 of this Commonwealth shall be issued any hotel or restaurant
17 liquor license, nor shall such a person have any interest,
18 directly or indirectly, in any such license.] No person who
19 holds any office which involves the duty to enforce any of the
20 penal laws of the United States of America, this Commonwealth or
21 of any political subdivision of this Commonwealth shall have any
22 interest in any hotel or restaurant liquor license. This
23 prohibition applies to anyone with arrest authority, including,
24 but not limited to, police officers, sheriffs, district
25 attorneys, state attorneys general and United States attorneys.
26 This prohibition shall also apply to district justices, judges
27 or any other individuals who can impose a criminal sentence.
28 This prohibition does not apply to members of the legislature,
29 township supervisors, city councilpersons, mayors without arrest
30 authority and any other office that does not involve the ability

to arrest or the ability to impose a criminal sentence. This prohibition does not apply if the proposed premises are located outside the jurisdiction of the individual in question.

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

Section 8. Section 403(a) and (g) of the act, amended February 21, 2002 (P.L.103, No.10), are amended to read:

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

1 construction of a hotel, restaurant or club, at the time the
2 application is made, and shall show any alterations proposed to
3 be made thereto, or the new building proposed to be constructed
4 after the approval by the board of the application for a license
5 or for the transfer of an existing license to another premises
6 not then licensed or to another person. No physical alterations,
7 improvements or changes shall be required to be made to any
8 hotel, restaurant or club, nor shall any new building for any
9 such purpose, be required to be constructed until approval of
10 the application for license or for the transfer of an existing
11 license to another premises not then licensed or to another
12 person by the board. After approval of the application, the
13 licensee shall make the physical alterations, improvements and
14 changes to the licensed premises, or shall construct the new
15 building in the manner specified by the board at the time of
16 approval, and the licensee shall not transact any business under
17 the license until the board has approved the completed physical
18 alterations, improvements and changes to the licensed premises,
19 or the completed construction of the new building as conforming
20 to the specifications required by the board at the time of
21 issuance or transfer of the license, and is satisfied that the
22 establishment is a restaurant, hotel or club as defined by this
23 act. The board may require that all such alterations or
24 construction or conformity to definition be completed within six
25 months from the time of issuance or transfer of the license.
26 Failure to comply with these requirements shall be considered
27 cause for revocation of the license. No such license shall be
28 transferable between the time of issuance or transfer of the
29 license and the approval of the completed alterations or
30 construction by the board and full compliance by the licensee

1 with the requirements of this act, except in the case of death
2 of the licensee prior to full compliance with all of the
3 aforementioned requirements[,] or unless full compliance is
4 impossible for reasons beyond the licensee's control, in which
5 event, the license may be transferred by the board as provided
6 in this act.

7 * * *

8 (g) Every applicant for a new license or for the transfer of
9 an existing license shall post, for a period of at least
10 [fifteen] thirty days beginning with the day the application is
11 filed with the board, in a conspicuous place on the outside of
12 the premises or at the proposed new location for which the
13 license is applied, a notice of such application[,]. The notice
14 shall indicate whether the applicant is applying for the
15 amusement permit required by section 493(10). The notice shall
16 be in such form, be of such size, and [containing] contain such
17 provisions as the board may require by its regulations. Proof of
18 the posting of such notice shall be filed with the board. The
19 posting requirement imposed by this subsection shall not apply
20 to license applications submitted for public venues.

21 * * *

22 Section 9. Section 404 of the act, amended December 20, 2000
23 (P.L.992, No.141), is amended to read:

24 Section 404. Issuance of Hotel, Restaurant and Club Liquor
25 Licenses.--Upon receipt of the application and the proper fees,
26 and upon being satisfied of the truth of the statements in the
27 application that the applicant is the only person in any manner
28 pecuniarily interested in the business so asked to be licensed
29 and that no other person will be in any manner pecuniarily
30 interested therein during the continuance of the license, except

1 as hereinafter permitted, and that the applicant is a person of
2 good repute, that the premises applied for meet all the
3 requirements of this act and the regulations of the board, that
4 the applicant seeks a license for a hotel, restaurant or club,
5 as defined in this act, and that the issuance of such license is
6 not prohibited by any of the provisions of this act, the board
7 shall, in the case of a hotel or restaurant, grant and issue to
8 the applicant a liquor license, and in the case of a club may,
9 in its discretion, issue or refuse a license: Provided, however,
10 That in the case of any new license or the transfer of any
11 license to a new location the board may, in its discretion,
12 grant or refuse such new license or transfer if such place
13 proposed to be licensed is within three hundred feet of any
14 church, hospital, charitable institution, school, or public
15 playground, or if such new license or transfer is applied for a
16 place which is within two hundred feet of any other premises
17 which is licensed by the board: And provided further, That the
18 board's authority to refuse to grant a license because of its
19 proximity to a church, hospital, charitable institution, public
20 playground or other licensed premises shall not be applicable to
21 license applications submitted for public venues or performing
22 arts facilities: And provided further, That the board shall
23 refuse any application for a new license or the transfer of any
24 license to a new location if, in the board's opinion, such new
25 license or transfer would be detrimental to the welfare, health,
26 peace and morals of the inhabitants of the neighborhood within a
27 radius of five hundred feet of the place proposed to be
28 licensed: [And provided further, That prior to July 1, 1996, in
29 any license district in a city of the first class, the board
30 may, in its opinion, refuse any application for a new license or

1 for any person-to-person transfer which shall include a change
2 in stockholders involving ten per centum or more of all
3 outstanding voting stock and/or less than ten per centum of all
4 outstanding voting stock when such change involves a majority or
5 controlling interest, of any license if the licensed premises is
6 or would be within three hundred feet of any church, hospital,
7 charitable institution, school or public playground or within
8 two hundred feet of any other premises licensed by the board and
9 if, in the opinion of the board, the licensed premises is or
10 would be detrimental to the welfare, health, peace and morals of
11 such church, hospital, school, public playground and/or the
12 inhabitants of the neighborhood within a radius of five hundred
13 feet of the licensed premises. This authority to refuse a
14 person-to-person transfer in a city of the first class is in
15 addition to and not in derogation of the authority of the board
16 generally stated for all areas of this Commonwealth:] And
17 provided further, That the board shall have the discretion to
18 refuse a license to any person or to any corporation,
19 partnership or association if such person, or any officer or
20 director of such corporation, or any member or partner of such
21 partnership or association shall have been convicted or found
22 guilty of a felony within a period of five years immediately
23 preceding the date of application for the said license. The
24 board shall refuse any application for a new license or the
25 transfer of any license to a location where the sale of liquid
26 fuels or oil is conducted. The board may enter into an agreement
27 with the applicant concerning additional restrictions on the
28 license in question. If the board and the applicant enter into
29 such an agreement, such agreement shall be binding on the
30 applicant. Failure by the applicant to adhere to the agreement

1 will be sufficient cause to form the basis for a citation under
2 section 471 and for the nonrenewal of the license under section
3 470. If the board enters into an agreement with an applicant
4 concerning additional restrictions, those restrictions shall be
5 binding on subsequent holders of the license until the license
6 is transferred to a new location or until the board enters into
7 a subsequent agreement removing those restrictions. If the
8 application in question involves a location previously licensed
9 by the board, then any restrictions imposed by the board on the
10 previous license at that location shall be binding on the
11 applicant unless the board enters into a new agreement
12 rescinding those restrictions. The board may, in its discretion,
13 refuse an application for an economic development license under
14 section 461(b.1) or an application for an intermunicipal
15 transfer of a license if the board receives a protest from the
16 governing body of the receiving municipality. The receiving
17 municipality of an intermunicipal transfer or an economic
18 development license under section 461(b.1) may file a protest
19 against the transfer of a license into its municipality, and the
20 receiving municipality shall have standing in a hearing to
21 present testimony in support of or against the issuance or
22 transfer of a license. Upon any opening in any quota, an
23 application for a new license shall only be filed with the board
24 for a period of six months following said opening.

25 Section 10. Section 406(a)(1) of the act, amended November
26 10, 1999 (P.L.514, No.47), is amended and the section is amended
27 by adding a subsection to read:

28 Section 406. Sales by Liquor Licensees; Restrictions.--(a)
29 (1) Every hotel, restaurant or club liquor licensee may sell
30 liquor and malt or brewed beverages by the glass, open bottle or

1 other container, and in any mixture, for consumption only in
2 that part of the hotel or restaurant habitually used for the
3 serving of food to guests or patrons, or in a bowling alley that
4 is immediately adjacent to and under the same roof as a
5 restaurant when no minors are present, unless minors who are
6 present are under proper supervision as defined in section 493,
7 in the bowling alley, and in the case of hotels, to guests, and
8 in the case of clubs, to members, in their private rooms in the
9 hotel or club. No club licensee nor its officers, servants,
10 agents or employees, other than one holding a catering license,
11 shall sell any liquor or malt or brewed beverages to any person
12 except a member of the club. [In the case of a restaurant
13 located in a hotel which is not operated by the owner of the
14 hotel and which is licensed to sell liquor under this act,
15 liquor and malt or brewed beverages may be sold] The holder of a
16 restaurant license located in a hotel may sell liquor or malt or
17 brewed beverages for consumption in that part of the restaurant
18 habitually used for the serving of meals to patrons and also to
19 guests in private guest rooms in the hotel. For the purpose of
20 this paragraph, any person who is an active member of another
21 club which is chartered by the same state or national
22 organization shall have the same rights and privileges as
23 members of the particular club. For the purpose of this
24 paragraph, any person who is an active member of any volunteer
25 firefighting company, association or group of this Commonwealth,
26 whether incorporated or unincorporated, shall upon the approval
27 of any club composed of volunteer firemen licensed under this
28 act, have the same social rights and privileges as members of
29 such licensed club. For the purposes of this paragraph, the term
30 "active member" shall not include a social member. Any club

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

8 * * *

9 (e) The holder of a hotel license or the holder of a
10 restaurant license located in a hotel may allow persons to
11 transport liquor or malt or brewed beverages from the licensed
12 portion of the premises to the unlicensed portion of the
13 premises, so long as the liquor or malt or brewed beverages
14 remain on the hotel property. In addition, a holder of a
15 restaurant license located on a golf course may sell, furnish or
16 give liquor or malt or brewed beverages on the unlicensed
17 portion of the golf course so long as the liquor or malt or
18 brewed beverages remain on the restaurant or golf course. The
19 holder of a restaurant license located immediately adjacent to
20 and under the same roof of a bowling center may allow persons to
21 transport liquor or malt or brewed beverages from the licensed
22 portion of the premises to the unlicensed portion of the
23 premises, so long as the liquor or malt or brewed beverages
24 remain within the bowling center.

25 Section 11. Section 406.1 of the act, amended July 1, 1994
26 (P.L.402, No.61), is amended to read:

27 Section 406.1. Secondary Service Area.--(a) Upon
28 application of any restaurant, hotel, club[, any stadium as
29 described in section 408.9 or], municipal golf course liquor
30 licensee or manufacturer of malt or brewed beverages, and

1 payment of the appropriate fee, the board may approve a
2 secondary service area by extending the licensed premises to
3 include one additional permanent structure with dimensions of at
4 least one hundred seventy-five square feet, enclosed on three
5 sides and having adequate seating. Such secondary service area
6 must be located on property having a minimum area of one (1)
7 acre, and must be on land which is immediate, abutting, adjacent
8 or contiguous to the licensed premises with no intervening
9 public thoroughfare, however, the original licensed premises and
10 the secondary service area must be located on the same tract of
11 land. [In any stadium as described in section 408.9, only malt
12 or brewed beverages may be served.] There shall be no
13 requirement that the secondary service area be physically
14 connected to the original licensed premises. In addition, there
15 shall be no requirement that the secondary service area be
16 located in the same municipality as the original licensed
17 premises, provided, however, that the board shall not approve a
18 secondary service area in this case if that secondary service
19 area is located in any municipality where the granting of liquor
20 licenses has been prohibited as provided in this article.
21 Notwithstanding 40 Pa. Code § 7.21(c)(3), the licensee shall be
22 permitted to store, serve, sell or dispense food, liquor and
23 malt or brewed beverages at the board approved secondary service
24 area.

25 (b) If the applicant is a manufacturer of malt or brewed
26 beverages, the board may approve a secondary service area for
27 use as a brewery pub pursuant to section 446, notwithstanding
28 any intervening public thoroughfare, so long as the proposed
29 secondary service area is within one thousand feet of the
30 licensed premises. Notwithstanding any other provision of this

1 act, the licensed premises and the secondary service area may be
2 located on different tracts of lands.

3 Section 12. Section 408.4 of the act, amended or added April
4 29, 1994 (P.L.212, No.30), October 5, 1994 (P.L.522, No.77),
5 June 18, 1998 (P.L.664, No.86), December 21, 1998 (P.L.1202,
6 No.155), November 10, 1999 (P.L.514, No.47) and February 10,
7 2002 (P.L.103, No.10), is amended to read:

8 Section 408.4. Special Occasion Permits.--[(a) Upon
9 application of any hospital, church, synagogue, volunteer fire
10 company, volunteer ambulance company, volunteer rescue squad,
11 unit of a nationally chartered club which has been issued a club
12 liquor license, nonprofit agricultural association in existence
13 for at least ten years, bona fide sportsmen's club in existence
14 for at least ten years, nationally chartered veterans'
15 organization and any affiliated lodge or subdivision of such
16 organization, fraternal benefit society that is licensed to do
17 business in this Commonwealth and any affiliated lodge or
18 subdivision of such fraternal benefit society, or one auxiliary
19 of any of the foregoing, and upon payment of the prescribed fee
20 for special occasion permits under section 614-A of the act of
21 April 9, 1929 (P.L.177, No.175), known as "The Administrative
22 Code of 1929," the board shall issue a special occasion permit
23 good for a period of not more than six consecutive or
24 nonconsecutive days during a calendar year. Special occasion
25 permits may also be issued to a museum operated by a nonprofit
26 corporation in a city of the third class or township of the
27 first class or a nonprofit corporation engaged in the performing
28 arts in a city of the third class or in an incorporated town or
29 to an arts council or to a nonprofit corporation that operates
30 an arts facility or museum in a city of the third class in a

1 county of the fourth class for a period of not more than six
2 nonconsecutive or ten consecutive days at the prescribed fee for
3 special occasion permits under section 614-A of "The
4 Administrative Code of 1929."

5 (a.1) Upon application by a nationally accredited
6 Pennsylvania nonprofit zoological institution licensed by the
7 United States Department of Agriculture, the board shall issue a
8 special occasion permit in accordance with subsection (a) for
9 six nonconsecutive days or ten consecutive days in a calendar
10 year.

11 (b) In any city, borough, incorporated town or township in
12 which the sale of liquor and/or malt or brewed beverages has
13 been approved by the electorate, such special occasion permit
14 shall authorize the permittee to sell liquor and/or malt or
15 brewed beverages as the case may be to any adult person on any
16 day for which the permit is issued.

17 (c) Such special occasion permit shall only be valid for the
18 number of days stated in the permit. Only one permit may be
19 issued to any permittee during the year. Provided, that a museum
20 operated by a nonprofit corporation in a city of the third class
21 or township of the first class, and a nonprofit corporation
22 engaged in the performing arts in a city of the third class, or
23 an arts council or a nonprofit corporation that operates an arts
24 facility or museum in a city of the third class in a county of
25 the fourth class may be issued no more than six permits during
26 the year, each permit being valid for only one day, or in the
27 alternative, one permit valid for no more than a total of ten
28 consecutive days per year, which may be issued only during the
29 month of August.

30 (d) Such permits shall only be issued for use at a special

1 event including, but not limited to bazaars, picnics and
2 clambakes. The special event must be one which is used by the
3 permittee as a means of raising funds for itself.

4 (d.1) The hours during which the holder of a special
5 occasion permit may sell liquor or malt or brewed beverages
6 shall be limited to the hours set forth in section 406 which are
7 applicable to hotel and restaurant licensees. The hours during
8 which a nonprofit corporation engaged in the performing arts in
9 a city of the third class may sell liquor or malt or brewed
10 beverages pursuant to a special occasion permit shall be limited
11 to those hours set forth in section 408.3(g.1).

12 (d.2) At least forty-eight hours prior to the sale of any
13 liquor or malt or brewed beverages, the holder of a special
14 occasion permit shall notify the local police department, or in
15 the absence of a local police department, the Pennsylvania State
16 Police, of the times when and place where the sale of liquor or
17 malt or brewed beverages shall occur.

18 (e) The provisions of this section shall not be applicable
19 to any of the following:

20 (1) A licensee now or hereafter possessing a caterer's
21 license, other than a volunteer fire company, volunteer
22 ambulance company or volunteer rescue squad, which owns its own
23 facility and wishes to use its special occasion permit at that
24 facility.

25 (2) A professional fund raiser.

26 (e.1) Notwithstanding any provisions of law to the contrary,
27 a permittee who is a nonprofit organization as defined under
28 section 501(c)(4) of the Internal Revenue Code of 1986 (Public
29 Law 99-514, 26 U.S.C. § 501(c)(4)) may do any of the following:

30 (1) If the permittee is conducting a regatta, sell for

1 consumption liquor and malt or brewed beverages in or on the
2 grounds of a State park located within a city of the second
3 class for a period not to exceed ten consecutive days per
4 calendar year.

5 (2) If the permittee is conducting a family-oriented
6 celebration as part of Welcome America in a city of the first
7 class on property leased from that city for a period of more
8 than fifty years, sell for consumption liquor and malt or brewed
9 beverages on such leased property for a period not to exceed ten
10 consecutive days per calendar year.

11 (3) If the permittee is a nonprofit corporation designated
12 by a city of the first class to conduct a millennium celebration
13 on behalf of the city on property located at four sites approved
14 by the board, sell for consumption champagne for a period not to
15 exceed two consecutive days between December 31, 1999, and
16 January 1, 2000.

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

24 (g) For the purposes of this section, "arts council" means a
25 tax-exempt organization which promotes the visual arts,
26 performing arts, or both, and which receives funding under the
27 Local Arts Services Program administered by the Pennsylvania
28 Council on the Arts.]

29 (h) The board may issue a special occasion permit to an
30 eligible entity. The board may also issue a special occasion

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

(i) Only one special occasion permit shall be issued to each eligible entity per calendar year. Each permit may only be used for six consecutive or nonconsecutive days; however, if the eligible entity is a museum operated by a nonprofit corporation in a city of the third class or township of the first class, a nonprofit corporation engaged in the performing arts in a city of the third class or in an incorporated town, or an arts council, then the special occasion permit may be used for six nonconsecutive or ten consecutive days.

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

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

(l) The issuance of a special occasion permit does not preclude the eligible entity from acquiring and retaining any other liquor license to which it may be entitled; however, the board shall not issue a special occasion permit for premises

1 already licensed by the board unless the applicant owns the
2 premises and is a volunteer fire company, volunteer rescue
3 company or volunteer ambulance squad.

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

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

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

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

25 Section 13. Sections 409(c) and 410(d) of the act are
26 amended to read:

27 Section 409. Sacramental Wine Licenses; Fees; Privileges;
28 Restrictions.--* * *

29 (c) If the applicant is a natural person, his application
30 must show that he is a citizen of the United States or a

1 resident alien and a resident of this Commonwealth. If the
2 applicant is an association or partnership, each and every
3 member of the association or partnership must be a citizen of
4 the United States or a resident alien and a resident of this
5 Commonwealth. If the applicant is a corporation, the application
6 must show that the corporation was created under the laws of
7 Pennsylvania or holds a certificate of authority to transact
8 business in Pennsylvania, and that all officers, directors and
9 stockholders are citizens of the United States or resident
10 aliens.

11 * * *

12 Section 410. Liquor Importers' Licenses; Fees; Privileges;
13 Restrictions.--* * *

14 (d) If the applicant is a natural person, his application
15 must show that he is a citizen of the United States or a
16 resident alien and a resident of this Commonwealth. If the
17 applicant is an association or partnership, each and every
18 member of the association or partnership must be a citizen of
19 the United States or a resident alien and a resident of this
20 Commonwealth. If the applicant is a corporation, the application
21 must show that the corporation was created under the laws of
22 Pennsylvania or holds a certificate of authority to transact
23 business in Pennsylvania, and that all officers, directors and
24 stockholders are citizens of the United States or resident
25 aliens.

26 * * *

27 Section 14. Section 412(f)(4) of the act, amended February
28 21, 2002 (P.L.103, No.10), is amended and the section is amended
29 by adding a subsection to read:

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

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

* * *

(4) Licenses issued under this section shall not be subject to: (i) the proximity provisions of sections 402 and 404; (ii) the quota restrictions of section 461; (iv) the provisions of section 493(10) except as they relate to lewd, immoral or improper entertainment; [and] (v) the prohibition against minors frequenting as described in section 493(14) and (vi) the cost and total display area limitations of section 493(20)(i). In addition, licenses issued under this section shall not be subject to the provisions defining "restaurant" in section 102.

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

Section 15. Section 431(b) of the act, amended June 18, 1998 (P.L.664, No.86) and December 21, 1998 (P.L.1202, No.155), is amended to read:

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

(b) The board shall issue to any reputable person who applies therefor, and pays the license fee hereinafter

1 prescribed, a distributor's or importing distributor's license
2 for the place which such person desires to maintain for the sale
3 of malt or brewed beverages, not for consumption on the premises
4 where sold, and in quantities of not less than a case or
5 original containers containing one hundred twenty-eight ounces
6 or more which may be sold separately as prepared for the market
7 by the manufacturer at the place of manufacture. The board shall
8 have the discretion to refuse a license to any person or to any
9 corporation, partnership or association if such person, or any
10 officer or director of such corporation, or any member or
11 partner of such partnership or association shall have been
12 convicted or found guilty of a felony within a period of five
13 years immediately preceding the date of application for the said
14 license: And provided further, That, in the case of any new
15 license or the transfer of any license to a new location, the
16 board may, in its discretion, grant or refuse such new license
17 or transfer if such place proposed to be licensed is within
18 three hundred feet of any church, hospital, charitable
19 institution, school or public playground, or if such new license
20 or transfer is applied for a place which is within two hundred
21 feet of any other premises which is licensed by the board: And
22 provided further, That the board shall refuse any application
23 for a new license or the transfer of any license to a new
24 location if, in the board's opinion, such new license or
25 transfer would be detrimental to the welfare, health, peace and
26 morals of the inhabitants of the neighborhood within a radius of
27 five hundred feet of the place proposed to be licensed. The
28 board shall refuse any application for a new license or the
29 transfer of any license to a location where the sale of liquid
30 fuels or oil is conducted. The board may enter into an agreement

1 with the applicant concerning additional restrictions on the
2 license in question. If the board and the applicant enter into
3 such an agreement, such agreement shall be binding on the
4 applicant. Failure by the applicant to adhere to the agreement
5 will be sufficient cause to form the basis for a citation under
6 section 471 and for the nonrenewal of the license under section
7 470. If the board enters into an agreement with an applicant
8 concerning additional restrictions, those restrictions shall be
9 binding on subsequent holders of the license until the license
10 is transferred to a new location or until the board enters into
11 a subsequent agreement removing those restrictions. If the
12 application in question involves a location previously licensed
13 by the board, then any restrictions imposed by the board on the
14 previous license at that location shall be binding on the
15 applicant unless the board enters into a new agreement
16 rescinding those restrictions. The board shall require notice to
17 be posted on the property or premises upon which the licensee or
18 proposed licensee will engage in sales of malt or brewed
19 beverages. This notice shall be similar to the notice required
20 of hotel, restaurant and club liquor licensees.

21 Except as hereinafter provided, such license shall authorize
22 the holder thereof to sell or deliver malt or brewed beverages
23 in quantities above specified anywhere within the Commonwealth
24 of Pennsylvania, which, in the case of distributors, have been
25 purchased only from persons licensed under this act as
26 manufacturers or importing distributors, and in the case of
27 importing distributors, have been purchased from manufacturers
28 or persons outside this Commonwealth engaged in the legal sale
29 of malt or brewed beverages or from manufacturers or importing
30 distributors licensed under this article. In the case of an

1 importing distributor, the holder of such a license shall be
2 authorized to store malt or brewed beverages owned by an out of
3 State manufacturer at a segregated portion of a warehouse or
4 other storage facility authorized by section 441(d) and operated
5 by the importing distributor within its appointed territory and
6 deliver such beverages to another importing distributor who has
7 been granted distribution rights by the out of State
8 manufacturer as provided herein. The importing distributor shall
9 be permitted to receive a fee from the out of State manufacturer
10 for any related storage or delivery services. In the case of a
11 bailee for hire hired by an out of State manufacturer, the
12 holder of such a permit shall be authorized: to receive or store
13 malt or brewed beverages under the same conditions as permitted
14 for a distributor or importing distributor under section 441(f)
15 produced by that out of State manufacturer for sale by that
16 manufacturer to importing distributors to whom that out of State
17 manufacturer has given distribution rights pursuant to this
18 subsection or to purchasers outside this Commonwealth for
19 delivery outside this Commonwealth; or to ship to that out of
20 State manufacturer's storage facilities outside this
21 Commonwealth. The bailee for hire shall be permitted to receive
22 a fee from the out of State manufacturer for any related storage
23 or delivery services. The bailee for hire shall, as required in
24 Article V of this act, keep complete and accurate records of all
25 transactions, inventory, receipts and shipments and make all
26 records and the licensed areas available for inspection by the
27 board and for the Pennsylvania State Police, Bureau of Liquor
28 Control Enforcement, during normal business hours.

29 Each out of State manufacturer of malt or brewed beverages
30 whose products are sold and delivered in this Commonwealth shall

1 give distributing rights for such products in designated
2 geographical areas to specific importing distributors, and such
3 importing distributor shall not sell or deliver malt or brewed
4 beverages manufactured by the out of State manufacturer to any
5 person issued a license under the provisions of this act whose
6 licensed premises are not located within the geographical area
7 for which he has been given distributing rights by such
8 manufacturer. Should a licensee accept the delivery of such malt
9 or brewed beverages in violation of this section, said licensee
10 shall be subject to a suspension of his license for at least
11 thirty days: Provided, That the importing distributor holding
12 such distributing rights for such product shall not sell or
13 deliver the same to another importing distributor without first
14 having entered into a written agreement with the said secondary
15 importing distributor setting forth the terms and conditions
16 under which such products are to be resold within the territory
17 granted to the primary importing distributor by the
18 manufacturer.

19 When a Pennsylvania manufacturer of malt or brewed beverages
20 licensed under this article names or constitutes a distributor
21 or importing distributor as the primary or original supplier of
22 his product, he shall also designate the specific geographical
23 area for which the said distributor or importing distributor is
24 given distributing rights, and such distributor or importing
25 distributor shall not sell or deliver the products of such
26 manufacturer to any person issued a license under the provisions
27 of this act whose licensed premises are not located within the
28 geographical area for which distributing rights have been given
29 to the distributor and importing distributor by the said
30 manufacturer: Provided, That the importing distributor holding

1 such distributing rights for such product shall not sell or
2 deliver the same to another importing distributor without first
3 having entered into a written agreement with the said secondary
4 importing distributor setting forth the terms and conditions
5 under which such products are to be resold within the territory
6 granted to the primary importing distributor by the
7 manufacturer. Nothing herein contained shall be construed to
8 prevent any manufacturer from authorizing the importing
9 distributor holding the distributing rights for a designated
10 geographical area from selling the products of such manufacturer
11 to another importing distributor also holding distributing
12 rights from the same manufacturer for another geographical area,
13 providing such authority be contained in writing and a copy
14 thereof be given to each of the importing distributors so
15 affected.

16 * * *

17 Section 16. Section 432(d) and (e) of the act, amended
18 December 20, 2000 (P.L.992, No.141), are amended to read:

19 Section 432. Malt and Brewed Beverages Retail Licenses.--* *
20 *

21 (d) The board shall, in its discretion, grant or refuse any
22 new license or the transfer of any license to a new location if
23 such place proposed to be licensed is within three hundred feet
24 of any church, hospital, charitable institution, school, or
25 public playground, or if such new license or transfer is applied
26 for a place which is within two hundred feet of any other
27 premises which is licensed by the board. The board shall refuse
28 any application for a new license or the transfer of any license
29 to a new location if, in the board's opinion, such new license
30 or transfer would be detrimental to the welfare, health, peace

1 and morals of the inhabitants of the neighborhood within a
2 radius of five hundred feet of the place to be licensed. The
3 board may enter into an agreement with the applicant concerning
4 additional restrictions on the license in question. If the board
5 and the applicant enter into such an agreement, such agreement
6 shall be binding on the applicant. Failure by the applicant to
7 adhere to the agreement will be sufficient cause to form the
8 basis for a citation under section 471 and for the nonrenewal of
9 the license under section 470. If the board enters into an
10 agreement with an applicant concerning additional restrictions,
11 those restrictions shall be binding on subsequent holders of the
12 license until the license is transferred to a new location or
13 until the board enters into a subsequent agreement removing
14 those restrictions. If the application in question involves a
15 location previously licensed by the board, then any restrictions
16 imposed by the board on the previous license at that location
17 shall be binding on the applicant unless the board enters into a
18 new agreement rescinding those restrictions. The board shall
19 refuse any application for a new license or the transfer of any
20 license to a location where the sale of liquid fuels or oil is
21 conducted: And provided further, That the board shall have the
22 discretion to refuse a license to any person or to any
23 corporation, partnership or association if such person, or any
24 officer or director of such corporation, or any member or
25 partner of such partnership or association shall have been
26 convicted or found guilty of a felony within a period of five
27 years immediately preceding the date of application for the said
28 license. The board may, in its discretion, refuse an application
29 for an economic development license under section 461(b.1) or an
30 application for an intermunicipal transfer or a license if the

1 board receives a protest from the governing body of the
2 receiving municipality. The receiving municipality of an
3 intermunicipal transfer or an economic development license under
4 section 461(b.1) may file a protest against the approval for
5 issuance of a license for economic development or an
6 intermunicipal transfer of a license into its municipality, and
7 such municipality shall have standing in a hearing to present
8 testimony in support of or against the issuance or transfer of a
9 license. Upon any opening in any quota, an application for a new
10 license shall only be filed with the board for a period of six
11 months following said opening.

12 (e) Every applicant for a new or for the transfer of an
13 existing license to another premises not then licensed shall
14 post, for a period of at least [fifteen] thirty days beginning
15 with the day the application is filed with the board, in a
16 conspicuous place on the outside of the premises or in a window
17 plainly visible from the outside of the premises for which the
18 license is applied or at the proposed new location, a notice of
19 such application[,]. The notice shall indicate whether the
20 applicant is applying for the amusement permit required by
21 section 493(10). The notice shall be in such form, be of such
22 size, and [containing] contain such provisions as the board may
23 require by its regulations. Proof of the posting of such notice
24 shall be filed with the board.

25 * * *

26 Section 17. Section 436(b) of the act, amended February 21,
27 2002 (P.L.103, No.10), is amended to read:

28 Section 436. Application for Distributors', Importing
29 Distributors' and Retail Dispensers' Licenses.--Application for
30 distributors', importing distributors' and retail dispensers'

1 licenses, or for the transfer of an existing license to another
2 premises not then licensed, or to another person, shall contain
3 or have attached thereto the following information and
4 statements:

5 * * *

6 (b) The particular place for which the license is desired
7 and a detailed description thereof. The description, information
8 and plans referred to in this subsection shall show the premises
9 or the proposed location for the construction of the premises at
10 the time the application is made, and shall show any alterations
11 proposed to be made thereto, or the new building proposed to be
12 constructed after the approval by the board of the application
13 for a license, or for the transfer of an existing license to
14 another premises not then licensed or to another person. No
15 physical alterations, improvements or changes shall be required
16 to be made to any hotel, eating place or club, nor shall any new
17 building for any such purpose be required to be constructed
18 until approval of the application for license or for the
19 transfer of an existing license to another premises not then
20 licensed or to another person by the board. After approval of
21 the application, the licensee shall make the physical
22 alterations, improvements and changes to the licensed premises,
23 or shall construct the new building in the manner specified by
24 the board at the time of approval. The licensee shall not
25 transact any business under the license until the board has
26 approved the completed physical alterations, improvements and
27 changes of the licensed premises or the completed construction
28 of the new building as conforming to the specifications required
29 by the board at the time of issuance or transfer of the license
30 and is satisfied that the premises meet the requirements for a

1 distributor's or importing distributor's license as set forth in
2 this act or that the establishment is an eating place, hotel or
3 club as defined by this act. The board may require that all such
4 alterations or construction or conformity to definition be
5 completed within six months from the time of issuance or
6 transfer of the license. Failure to comply with these
7 requirements shall be considered cause for revocation of the
8 license. No such license shall be transferable between the time
9 of issuance or transfer of the license and the approval of the
10 completed alterations or construction by the board and full
11 compliance by the licensee with the requirements of this act,
12 except in the case of death of the licensee prior to full
13 compliance with all of the aforementioned requirements[,] or
14 unless full compliance is impossible for reasons beyond the
15 licensee's control, in which event the license may be
16 transferred by the board as provided in this act.

17 * * *

18 ~~Section 18. Section 437(d) of the act is amended to read:~~ <—

19 ~~Section 437. Prohibitions Against the Grant of Licenses. *~~

20 ~~**~~

21 ~~(d) [No person who holds, either by appointment or election,~~
22 ~~any public office which involves the duty to enforce any of the~~
23 ~~penal laws of the United States of America or any of the penal~~
24 ~~laws of this Commonwealth or any penal ordinance or resolution~~
25 ~~of any political subdivision of this Commonwealth shall be~~
26 ~~issued any manufacturer's, importing distributor's,~~
27 ~~distributor's or retail dispenser's license, nor shall such a~~
28 ~~person have any interest, directly or indirectly, in any such~~
29 ~~license.] No person who holds any office which involves the duty~~
30 ~~to enforce any of the penal laws of the United States of~~

1 ~~America, this Commonwealth or of any political subdivision of~~
2 ~~this Commonwealth shall have any interest in any manufacturer,~~
3 ~~distributor, importing distributor, or eating place retail~~
4 ~~dispenser license. This prohibition applies to anyone with~~
5 ~~arrest authority, including, but not limited to, police~~
6 ~~officers, sheriffs, district attorneys, state attorneys general~~
7 ~~and United States attorneys. This prohibition shall also apply~~
8 ~~to district justices, judges, or any other individuals who can~~
9 ~~impose a criminal penalty. This prohibition does not apply to~~
10 ~~members of the legislature, township supervisors, city council~~
11 ~~persons, mayors without arrest authority, and any other office~~
12 ~~that does not involve the ability to arrest or the ability to~~
13 ~~impose a criminal sentence. This prohibition also does not apply~~
14 ~~if the proposed premises are located outside the jurisdiction of~~
15 ~~the individual in question.~~

16 * * *

17 Section 19. Section 441(b) of the act, amended May 31, 1996
18 (P.L.312, No.49), is amended to read:

19 Section 441. Distributors' and Importing Distributors'
20 Restrictions on Sales, Storage, Etc.--* * *

21 (b) No distributor or importing distributor shall sell any
22 malt or brewed beverages in quantities of less than a case or
23 original containers containing one hundred twenty-eight ounces
24 or more which may be sold separately: Provided, That no malt or
25 brewed beverages sold or delivered shall be consumed upon the
26 premises of the distributor or importing distributor, or in any
27 place provided for such purpose by such distributor or importing
28 distributor. Notwithstanding any other provision of this section
29 or act, malt or brewed beverages which are part of a tasting
30 conducted pursuant to the board's regulations may be consumed on

1 licensed premises.

2 Section 20. Section 442 of the act is amended by adding a
3 subsection to read:

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

6 (e) The holder of a retail dispenser license located in a
7 hotel may allow persons to transport malt or brewed beverages
8 from the licensed portion of the premises to the unlicensed
9 portion of the premises so long as the malt or brewed beverages
10 remain on the hotel property. In addition, the holder of a
11 retail dispenser license located on a golf course may allow its
12 patrons to order malt or brewed beverages on licensed premises
13 for subsequent delivery by the licensee on nonlicensed portions
14 of the premises, including the golf course.

15 Section 21. Section 464 of the act, amended December 20,
16 2000 (P.L.992, No.141), is amended to read:

17 Section 464. Hearings Upon Refusal of Licenses, Renewals or
18 Transfers; Appeals.--The board may of its own motion, and shall
19 upon the written request of any applicant for club, hotel or
20 restaurant liquor license, or any applicant for any malt or
21 brewed beverage license other than a public service license, or
22 for renewal or transfer thereof, or for the renewal of an
23 amusement permit, whose application for such license, renewal or
24 transfer, or the renewal of an amusement permit, has been
25 refused, fix a time and place for hearing of such application
26 for license or for renewal or transfer thereof, or the renewal
27 of an amusement permit, notice of which hearing shall be mailed
28 to the applicant at the address given in his application. Such
29 hearing shall be before a hearing examiner designated by the
30 board. At such hearing, the board shall present its reasons for

1 its refusal or withholding of license, renewal or transfer
2 thereof, or its refusal for renewal of an amusement permit. The
3 applicant may appear in person or by counsel, may cross-examine
4 the witnesses for the board and may present evidence which shall
5 likewise be subject to cross-examination by the board. Such
6 hearing shall be stenographically recorded. The hearing examiner
7 shall thereafter report, with the examiner's recommendation, to
8 the board in each case. The board shall thereupon grant or
9 refuse the license, renewal or transfer thereof or the renewal
10 of an amusement permit. In considering the renewal of a license
11 or amusement permit, the board shall not refuse any such renewal
12 on the basis of the propriety of the original issuance or any
13 prior renewal of such license or amusement permit. If the board
14 shall refuse such license, renewal or transfer or the renewal of
15 an amusement permit, following such hearing, notice in writing
16 of such refusal shall be mailed to the applicant at the address
17 given in his application. In all such cases, the board shall
18 file of record at least a brief statement in the form of an
19 opinion of the reasons for the ruling or order and furnish a
20 copy thereof to the applicant. Any applicant who has appeared at
21 any hearing, as above provided, who is aggrieved by the refusal
22 of the board to issue any such license or to renew or transfer
23 any such license or to issue or renew any amusement permit may
24 appeal, or any church, hospital, charitable institution, school
25 or public playground located within three hundred feet of the
26 premises applied for, aggrieved by the action of the board in
27 granting the issuance of any such license or the transfer of any
28 such license, may take an appeal limited to the question of such
29 grievance, within ~~twenty~~ thirty days from date of refusal or
30 grant, to the ~~court~~ of common pleas of the county in which the

<—

<—

1 premises or permit applied for is located.} ~~Commonwealth Court,~~ <—
2 ~~pursuant to 2 Pa.C.S. Ch. 7 Subch. A (relating to judicial~~
3 ~~review of Commonwealth agency action).~~ If the application is for
4 an economic development license under section 461(b.1) or the
5 intermunicipal transfer of a license, the governing body of the
6 municipality receiving the new license or the transferred
7 license may file an appeal of the board decision granting the
8 license, within {twenty} ~~thirty~~ days of the date of the board's <—
9 decision, to the {court of common pleas of the county in which <—
10 the proposed premises is located. Such appeal shall be upon
11 petition of the aggrieved party, who shall serve a copy thereof
12 upon the board, whereupon a hearing shall be held upon the
13 petition by the court upon ten days' notice to the board. The
14 said appeal shall act as a supersedeas unless upon sufficient
15 cause shown the court shall determine otherwise. The court shall
16 hear the application de novo on questions of fact,
17 administrative discretion and such other matters as are
18 involved, at such time as it shall fix, of which notice shall be
19 given to the board. The court shall either sustain or over-rule
20 the action of the board and either order or deny the issuance of
21 a new license or the renewal or transfer of the license or the
22 renewal of an amusement permit to the applicant.} ~~Commonwealth~~ <—
23 ~~Court, pursuant to 2 Pa.C.S. Ch. 7 Subch. A.~~

24 Section 22. Section 470(a) of the act, amended December 21,
25 1998 (P.L.1202, No.155), is amended to read:

26 Section 470. Renewal of Licenses; Temporary Provisions for
27 Licensees in Armed Service.--(a) All applications for renewal
28 of licenses under the provisions of this article shall be filed
29 with tax clearance from the Department of Revenue and the
30 Department of Labor and Industry and requisite license and

1 filing fees at least sixty days before the expiration date of
2 same: Provided, however, That the board, in its discretion, may
3 accept nunc pro tunc a renewal application filed less than sixty
4 days before the expiration date of the license with the required
5 fees, upon reasonable cause shown and the payment of an
6 additional filing fee of one hundred dollars (\$100.00) for late
7 filing: And provided further, That except where the failure to
8 file a renewal application on or before the expiration date has
9 created a license quota vacancy after said expiration date which
10 has been filled by the issuance of a new license, after such
11 expiration date, but before the board has received a renewal
12 application nunc pro tunc within the time prescribed herein the
13 board, in its discretion, may, after hearing, accept a renewal
14 application filed within two years after the expiration date of
15 the license with the required fees upon the payment of an
16 additional filing fee of two hundred fifty dollars (\$250.00) for
17 late filing. Where any such renewal application is filed less
18 than sixty days before the expiration date, or subsequent to the
19 expiration date, no license shall issue upon the filing of the
20 renewal application until the matter is finally determined by
21 the board and if an appeal is taken from the board's action the
22 courts shall not order the issuance of the renewal license until
23 final determination of the matter by the courts. The board may
24 enter into an agreement with the applicant concerning additional
25 restrictions on the license in question. If the board and the
26 applicant enter into such an agreement, such agreement shall be
27 binding on the applicant. Failure by the applicant to adhere to
28 the agreement will be sufficient cause to form the basis for a
29 citation under section 471 and for the nonrenewal of the license
30 under section 470 THIS SECTION. A renewal application will not

<—

1 be considered filed unless accompanied by the requisite filing
2 and license fees and any additional filing fee required by this
3 section. Unless the board shall have given ten days' previous
4 notice to the applicant of objections to the renewal of his
5 license, based upon violation by the licensee or his servants,
6 agents or employees of any of the laws of the Commonwealth or
7 regulations of the board relating to the manufacture,
8 transportation, use, storage, importation, possession or sale of
9 liquors, alcohol or malt or brewed beverages, or the conduct of
10 a licensed establishment, or unless the applicant has by his own
11 act become a person of ill repute, or unless the premises do not
12 meet the requirements of this act or the regulations of the
13 board, the license of a licensee shall be renewed.

14 * * *

15 Section 23. Section ~~471(b) and~~ 471(c) of the act, amended <—
16 February 21, 2002 (P.L.103, No.10), are IS amended to read: <—

17 Section 471. Revocation and Suspension of Licenses; Fines.--

18 * * *

19 ~~(b) Hearing on such citations shall be held in the same~~ <—
20 ~~manner as provided herein for hearings on applications for~~
21 ~~license. Upon such hearing, if satisfied that any such violation~~
22 ~~has occurred or for other sufficient cause, the administrative~~
23 ~~law judge shall immediately suspend or revoke the license, or~~
24 ~~impose a fine of not less than fifty dollars (\$50) nor more than~~
25 ~~one thousand dollars (\$1,000), or both, notifying the licensee~~
26 ~~by registered letter addressed to his licensed premises. If the~~
27 ~~licensee has been cited and found to have violated section~~
28 ~~493(1) insofar as it relates to sales to minors or sales to a~~
29 ~~visibly intoxicated person, section 493(10) insofar as it~~
30 ~~relates to lewd, immoral or improper entertainment or section~~

~~493(14), (16) or (21), or has been found to be a public nuisance pursuant to section 611, or if the owner or operator of the licensed premises or any authorized agent of the owner or operator has been convicted of any violation of the act of April 14, 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug, Device and Cosmetic Act," or of 18 Pa.C.S. § 5902 (relating to prostitution and related offenses) or 6301 (relating to corruption of minors), at or relating to the licensed premises, the administrative law judge shall immediately suspend or revoke the license, or impose a fine of not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000), or both. However, if a licensee has been cited and found to have violated section 493(1) as it relates to sales to minors or sales to a visibly intoxicated person but at the time of the sale the licensee was in compliance with the requirements set forth in section 471.1 and the licensee had not sold to minors or visibly intoxicated persons in the previous four years, then the administrative law judge shall immediately suspend or revoke the license, or impose a fine of not less than fifty dollars (\$50) nor more than one thousand dollars (\$1,000), or both. The administrative law judge shall notify the licensee by registered mail, addressed to the licensed premises, of such suspension, revocation or fine. In the event the fine is not paid within twenty days of the adjudication, the administrative law judge shall suspend or revoke the license, notifying the licensee by registered mail addressed to the licensed premises. Suspensions and revocations shall not go into effect until thirty days have elapsed from the date of the adjudication during which time the licensee may take an appeal as provided for in this act. Any licensee whose~~

~~1 license is revoked shall be ineligible to have a license under
2 this act until the expiration of three years from the date such
3 license was revoked. In the event a license is revoked, no
4 license shall be granted for the premises or transferred to the
5 premises in which the said license was conducted for a period of
6 at least one year after the date of the revocation of the
7 license conducted in the said premises, except in cases where
8 the licensee or a member of his immediate family is not the
9 owner of the premises, in which case the board may, in its
10 discretion, issue or transfer a license within the said year. In
11 the event the bureau or the person who was fined or whose
12 license was suspended or revoked shall feel aggrieved by the
13 adjudication of the administrative law judge, there shall be a
14 right to appeal to the board. The appeal shall be based solely
15 on the record before the administrative law judge. The board
16 shall only reverse the decision of the administrative law judge
17 if the administrative law judge committed an error of law,
18 abused its discretion or if its decision is not based on
19 substantial evidence. In the event the bureau or the person who
20 was fined or whose license was suspended or revoked shall feel
21 aggrieved by the decision of the board, there shall be a right
22 to appeal to [the court of common pleas in the same manner as
23 herein provided for appeals from refusals to grant licenses.]
24 Commonwealth Court under 2 Pa.C.S. Ch. 7 Subch. A (relating to
25 judicial review of Commonwealth agency action. Each of the
26 appeals shall act as a supersedeas unless, upon sufficient cause
27 shown, the reviewing authority shall determine otherwise;
28 however, if the licensee has been cited and found to have
29 violated section 493(1) insofar as it relates to sales to minors
30 or sales to a visibly intoxicated person, section 493(10)~~

1 ~~insofar as it relates to lewd, immoral or improper entertainment~~
2 ~~or section 493(14), (16) or (21), or has been found to be a~~
3 ~~public nuisance pursuant to section 611, or if the owner or~~
4 ~~operator of the licensed premises or any authorized agent of the~~
5 ~~owner or operator has been convicted of any violation of "The~~
6 ~~Controlled Substance, Drug, Device and Cosmetic Act," or of 18~~
7 ~~Pa.C.S. § 5902 or 6301, at or relating to the licensed premises,~~
8 ~~its appeal shall not act as a supersedeas unless the reviewing~~
9 ~~authority determines otherwise upon sufficient cause shown. In~~
10 ~~any hearing on an application for a supersedeas under this~~
11 ~~section, the reviewing authority may consider, in addition to~~
12 ~~other relevant evidence, documentary evidence, including records~~
13 ~~of the bureau, showing the prior history of citations, fines,~~
14 ~~suspensions or revocations against the licensee; and the~~
15 ~~reviewing authority may also consider, in addition to other~~
16 ~~relevant evidence, evidence of any recurrence of the unlawful~~
17 ~~activity occurring between the date of the citation which is the~~
18 ~~subject of the appeal and the date of the hearing. No penalty~~
19 ~~provided by this section shall be imposed for any violations~~
20 ~~provided for in this act unless the bureau notifies the licensee~~
21 ~~of its nature within thirty days of the completion of the~~
22 ~~investigation.~~

23 (c) The administrative law judge may consider the licensee's
24 prior citation history when imposing a penalty. If the violation
25 in question is a third or subsequent violation of [this act] any
26 offense referred to in subsection (b) or Title 18 of the
27 Pennsylvania Consolidated Statutes (relating to crimes and
28 offenses), occurring within a period of four years, the
29 administrative law judge shall impose a suspension or
30 revocation.

1 * * *

2 Section 24. Section 472 of the act is amended by adding a
3 subsection to read:

4 Section 472. Local Option.--* * *

5 (e) A vote on the ballot question regarding the granting of
6 liquor licenses that changes the municipality's status on that
7 issue supersedes any earlier contrary votes on the granting of
8 liquor licenses to public venues, performing arts facilities,
9 hotels, golf courses, incorporated units of national veterans'
10 clubs and special occasion permits. In addition, a vote on the
11 ballot question regarding the granting of liquor licenses that
12 changes the municipality's status on that issue supersedes any
13 earlier contrary votes on the issuance of granting licenses to
14 retail dispensers of malt and brewed beverages.

15 Section 25. Section 472.3(a) of the act is amended to read:

16 Section 472.3. Exchange of Certain Licenses.--(a) [In any
17 municipality wherein restaurant liquor license issue, the] The
18 board may issue to a club as defined in this act, a club liquor
19 license in exchange for a club retail dispenser license in any
20 municipality which has approved the granting of liquor licenses.

21 * * *

22 Section 26. The act is amended by adding a section to read:

23 Section 474.1. Surrender of Restaurant, Eating Place Retail
24 Dispenser, Hotel, Importing Distributor and Distributor License
25 for Benefit of Licensee.--(a) A restaurant, eating place retail
26 dispenser, hotel, importing distributor and distributor licensee
27 whose licensed establishment is not in operation for fifteen
28 consecutive days shall return its license for safekeeping with
29 the board no later than at the expiration of the fifteen-day
30 period. The license may only be reissued from safekeeping in the

1 manner set forth by the board through regulation.

2 (b) The board may hold the license in safekeeping for a
3 period not to exceed three consecutive years. Any license
4 remaining in safekeeping for more than three consecutive years
5 shall be immediately revoked by the Bureau of Licensing unless a
6 transfer application or request for reissue from safekeeping has
7 been filed prior to the expiration of the three-year period. The
8 board shall extend the period for an additional year if at the
9 end of the three-year period, the licensed premises are
10 unavailable due to fire, flood or other similar natural
11 disaster.

12 (c) In the event a transfer application filed prior to the
13 expiration of the three-year period is disapproved by the board,
14 through its exercise of discretion, then the license may remain
15 in safekeeping for an additional period of three consecutive
16 months after the board's decision to refuse the transfer
17 application. Failure to remove the license from safekeeping or
18 to file another transfer application prior to the expiration of
19 the three-month period of time shall result in revocation of the
20 license.

21 (d) Any period of time in which the licensee allows the
22 license to lapse by not filing a timely license renewal or
23 license validation shall be considered time in which the license
24 was held in safekeeping, for purposes of this section.

25 (e) A license placed in safekeeping prior to the effective
26 date of this act will be deemed to have been placed in
27 safekeeping on the effective date of this act, for purposes of
28 this section.

29 Section 27. Section 478(c) of the act is repealed.

30 Section 28. Section 491(7) and (11) of the act, amended

1 February 21, 2002 (P.L.103, No.10), are amended to read:

2 Section 491. Unlawful Acts Relative to Liquor, Alcohol and
3 Liquor Licensees.--

4 It shall be unlawful--

5 * * *

6 (7) Sales of Liquor by Manufacturers and Licensed Importers.

7 For any manufacturer or licensed importer of liquor in this
8 Commonwealth, his agents, servants or employes, to sell or offer
9 to sell any liquor in this Commonwealth except to the board for
10 use in Pennsylvania Liquor Stores, and in the case of a
11 manufacturer, to the holder of a sacramental wine license or an
12 importer's license[, but a manufacturer or licensed importer may
13 sell or offer to sell liquor to persons outside of this
14 Commonwealth]. Notwithstanding any other provision of this act,
15 a manufacturer or licensed importer may sell or offer to sell
16 liquor for delivery outside of this Commonwealth.

17 * * *

18 (11) Importation of Liquor. For any person, other than the
19 board or the holder of a sacramental wine license, an importer's
20 license or a direct shipper's license, to import any liquor
21 whatsoever into this Commonwealth, but this section shall not be
22 construed to prohibit railroad and pullman companies from
23 purchasing and selling liquors purchased outside the
24 Commonwealth in their dining, club and buffet cars which are
25 covered by public service liquor licenses and which are operated
26 in this Commonwealth.

27 * * *

28 Section 29. Section 492(8) and (10) of the act, amended
29 December 21 1998 (P.L.1202, No.155), are amended to read:

30 Section 492. Unlawful Acts Relative to Malt or Brewed

1 Beverages and Licensees.--

2 It shall be unlawful--

3 * * *

4 (8) Transportation and Importation of Malt or Brewed
5 Beverages. For any person, to transport malt or brewed beverages
6 except in the original containers, or to transport malt or
7 brewed beverages for another who is engaged in selling either
8 liquor or malt or brewed beverages, unless such person shall
9 hold (a) a license to transport for hire, alcohol, liquor and
10 malt or brewed beverages, as hereinafter provided in this act,
11 or (b) shall hold a permit issued by the board and shall have
12 paid to the board such permit fee, as prescribed in section 614-
13 A of the act of April 9, 1929 (P.L.177, No.175), known as "The
14 Administrative Code of 1929," any other law to the contrary
15 notwithstanding. This clause shall not be construed:

16 (i) to prohibit transportation of malt or brewed beverages
17 through this Commonwealth and not for delivery in this
18 Commonwealth if such transporting is done in accordance with the
19 rules and regulations of the board; or

20 (ii) to prohibit railroad and Pullman companies from selling
21 malt or brewed beverages purchased outside this Commonwealth in
22 their dining, club and buffet cars which are covered by public
23 service liquor licenses and which are operated in this
24 Commonwealth.

25 * * *

26 [(10) Importing or Transporting Malt or Brewed Beverages
27 Without Tax Stamps. For any person, to transport within or
28 import any malt or brewed beverages into this Commonwealth,
29 except in accordance with the rules and regulations of the
30 board, or for any person to transport malt or brewed beverages

1 into or within this Commonwealth, unless there shall be affixed
2 to the original containers in which such malt or brewed
3 beverages are transported, stamps or crowns evidencing the
4 payment of the malt liquor tax to the Commonwealth: Provided,
5 however, That this clause shall not be construed to prohibit
6 transportation of malt or brewed beverages through this
7 Commonwealth and not for delivery therein, if such transporting
8 is done in accordance with the rules and regulations of the
9 board.]

10 * * *

11 Section 30. ~~Section 493(17) of the act is~~ SECTION 493(14) <—
12 AND (17) OF THE ACT, AMENDED FEBRUARY 21, 2002 (P.L.103, NO.10),
13 ARE amended to read:

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

19 It shall be unlawful--

20 * * *

21 (14) PERMITTING UNDESIRABLE PERSONS OR MINORS TO FREQUENT <—
22 PREMISES. FOR ANY HOTEL, RESTAURANT OR CLUB LIQUOR LICENSEE, OR
23 ANY RETAIL DISPENSER, HIS SERVANTS, AGENTS OR EMPLOYES, TO
24 PERMIT PERSONS OF ILL REPUTE, PROSTITUTES OR MINORS TO FREQUENT
25 HIS LICENSED PREMISES OR ANY PREMISES OPERATED IN CONNECTION
26 THEREWITH, EXCEPT MINORS ACCOMPANIED BY PARENTS, GUARDIANS, OR
27 UNDER PROPER SUPERVISION OR EXCEPT MINORS WHO FREQUENT ANY
28 RESTAURANT OR RETAIL DISPENSING LICENSEE WHOSE SALES OF FOOD AND
29 NON-ALCOHOLIC BEVERAGES ARE EQUAL TO FIFTY PER CENTUM OR MORE OF
30 THE COMBINED GROSS SALES OF BOTH FOOD AND ALCOHOLIC BEVERAGES ON

1 THE CONDITION THAT ALCOHOLIC BEVERAGES MAY NOT BE SERVED AT THE
2 TABLE OR BOOTH AT WHICH THE SAID MINOR IS SEATED AT THE TIME
3 (UNLESS SAID MINOR IS UNDER PROPER SUPERVISION AS HEREINAFTER
4 DEFINED) AND ON THE FURTHER CONDITION THAT ONLY TABLE SERVICE OF
5 ALCOHOLIC BEVERAGES OR TAKE-OUT SERVICE OF BEER SHALL BE
6 PERMITTED IN THE ROOM WHEREIN THE MINOR IS LOCATED: PROVIDED,
7 HOWEVER, THAT IT SHALL NOT BE UNLAWFUL FOR ANY HOTEL, RESTAURANT
8 OR CLUB LIQUOR LICENSEE OR ANY RETAIL DISPENSER TO PERMIT MINORS
9 UNDER PROPER SUPERVISION UPON THE LICENSED PREMISES OR ANY
10 PREMISES OPERATED IN CONNECTION THEREWITH FOR THE PURPOSE OF A
11 SOCIAL GATHERING, EVEN IF SUCH GATHERING IS EXCLUSIVELY FOR
12 MINORS: AND PROVIDED FURTHER, THAT NO LIQUOR SHALL BE SOLD,
13 FURNISHED OR GIVEN TO SUCH MINORS NOR SHALL THE LICENSEE
14 KNOWINGLY PERMIT ANY LIQUOR OR MALT OR BREWED BEVERAGES TO BE
15 SOLD, FURNISHED OR GIVEN TO OR BE CONSUMED BY ANY MINOR, AND THE
16 AREA OF SUCH GATHERING SHALL BE SEGREGATED FROM THE REMAINDER OF
17 THE LICENSED PREMISES. IN THE EVENT THE AREA OF SUCH GATHERING
18 CANNOT BE SEGREGATED FROM THE REMAINDER OF THE LICENSED
19 PREMISES, ALL ALCOHOLIC BEVERAGES MUST BE EITHER REMOVED FROM
20 THE LICENSED PREMISES OR PLACED UNDER LOCK AND KEY DURING THE
21 TIME THE GATHERING IS TAKING PLACE. WRITTEN NOTICE, AT LEAST
22 FORTY-EIGHT (48) HOURS IN ADVANCE OF SUCH GATHERING, SHALL BE
23 GIVEN TO THE ENFORCEMENT BUREAU. ANY LICENSEE VIOLATING THE
24 PROVISIONS OF THIS CLAUSE SHALL BE SUBJECT TO THE PROVISIONS OF
25 SECTION 471. NOTHING IN THIS CLAUSE SHALL BE CONSTRUED TO MAKE
26 IT UNLAWFUL FOR MINORS TO FREQUENT PUBLIC VENUES OR PERFORMING
27 ARTS FACILITIES.

28 "PROPER SUPERVISION," AS USED IN THIS CLAUSE, MEANS THE
29 PRESENCE, ON THAT PORTION OF THE LICENSED PREMISES WHERE A MINOR
30 OR MINORS ARE PRESENT, OF ONE PERSON TWENTY-FIVE YEARS OF AGE OR

1 OLDER FOR EVERY [FIFTY] FIVE MINORS OR PART THEREOF WHO IS
2 DIRECTLY RESPONSIBLE FOR THE CARE AND CONDUCT OF SUCH MINOR OR
3 MINORS WHILE ON THE LICENSED PREMISES AND IN SUCH PROXIMITY THAT
4 THE MINOR OR MINORS ARE CONSTANTLY WITHIN HIS SIGHT OR HEARING.
5 THE PRESENCE OF THE LICENSEE OR ANY EMPLOYE OR SECURITY OFFICER
6 OF THE LICENSEE SHALL NOT CONSTITUTE PROPER SUPERVISION.

7 * * *

8 (17) Licensees, etc., Interested or Employed in
9 Manufacturing or Sale of Equipment or Fixtures. For any
10 licensee, or any officer, director, stockholder, servant, agent
11 or employe of any licensee, to own any interest, directly or
12 indirectly, in or be employed or engaged in any business which
13 involves the manufacture or sale of any equipment, furnishings
14 or fixtures to any hotel, restaurant or club licensees, or to
15 any importing distributors, distributors or retail dispensers[:
16 Provided, however, That as to malt or brewed beverage licensees,
17 the provisions of this subsection shall not apply to such a
18 conflicting interest if it has existed for a period of not less
19 than three years prior to the first day of January, one thousand
20 nine hundred thirty-seven, and the board shall approve].
21 Notwithstanding any other provision of this section or this act,
22 licensees may sell glasses at not less than cost and to provide
23 metal keg connectors and tap knobs to other licensees and to
24 holders of special occasion permits.

25 * * *

26 Section 31. Section 493(20)(i) of the act, amended May 31,
27 1996 (P.L.312, No.49), is amended to read:

28 Section 493. Unlawful Acts Relative to Liquor, Malt and
29 Brewed Beverages and Licensees.--The term "licensee," when used
30 in this section, shall mean those persons licensed under the

1 provisions of Article IV, unless the context clearly indicates
2 otherwise.

3 It shall be unlawful--

4 * * *

5 (20) (i) Retail Liquor and Retail Malt or Brewed Beverages
6 Licensee's Inside Advertisements. For any retail liquor or
7 retail malt or brewed beverages licensee, to display or permit
8 the display in the show window or doorways of his licensed
9 premises, any placard or sign advertising the brands of liquor
10 or malt or brewed beverages, if the total display area of any
11 such placard or sign advertising the product or products exceeds
12 six hundred square inches. Nothing herein shall prohibit a
13 licensee from displaying inside his licensed premises point of
14 sale displays advertising brand names of products sold by him,
15 other than a window or door display: Provided, That the total
16 cost of all such point of sale advertising matter relating to
17 any one brand shall [not exceed the sum of one hundred forty
18 dollars (\$140) at any one time, and no single piece of
19 advertising shall exceed a cost of seventy dollars (\$70). The
20 board is authorized to make annual adjustments to the cost
21 limitations on point of display advertising to reflect any
22 changes in such limitations by the United States Bureau of
23 Alcohol, Tobacco and Firearms or its successors in accordance
24 with 27 CFR 6.83 (relating to product displays) and 27 CFR 6.85
25 (relating to retailer advertising specialties).] not exceed the
26 dollar amount set forth by the board through regulation. All
27 such advertising material, including the window and door signs,
28 may be furnished by a manufacturer, distributor or importing
29 distributor. The restrictions on advertising set forth in
30 subclause (ii) and in clauses (20.1) and (20.2) shall also apply

1 to this subclause.

2 * * *

3 Section 32. Section 493.1 of the act, added October 5, 1994
4 (P.L.522, No.77), is amended to read:

5 Section 493.1. Rights of Municipalities Preserved.--(a)
6 Nothing in this act shall be construed to preempt the right of
7 any municipality to regulate zoning and enforce any other local
8 ordinances and codes dealing with health and welfare issues.

9 (b) A municipality that wishes to supersede those provisions
10 of the board's regulations pertaining to amplified music being
11 heard off the licensed premises may do so by notifying the board
12 that it wishes THE MUNICIPALITY HAS ADOPTED AN ORDINANCE to <—
13 impose the requirements of its own local noise ordinance in lieu
14 of the board's regulations on licensed premises within its
15 boundaries. If a municipality chooses to give the board such
16 notification, those provisions of the board's regulations
17 pertaining to amplified music being heard off the licensed
18 premises, shall not be applicable to licensed premises located
19 in that municipality until the municipality informs the board
20 that it no longer wishes to WILL NO LONGER supersede the board's <—
21 regulations.

22 Section 33. Section 498(g) of the act, amended February 21,
23 2002 (P.L.103, No.10), is amended to read:

24 Section 498. Unlawful Advertising.-- * * *

25 (g) For purposes of this subsection, the term
26 "advertisement" shall mean any advertising of alcoholic
27 beverages through the medium of radio broadcast, television
28 broadcast, newspapers, periodicals or other publication, outdoor
29 advertisement, any form of electronic transmission or any other
30 printed or graphic matter, including booklets, flyers or cards,

1 or on the product label or attachment itself.

2 Section 34. Section 505.2(2) of the act, amended November
3 10, 1999 (P.L.514, No.49), is amended to read:

4 Section 505.2. Limited Wineries.--In the interest of
5 promoting tourism and recreational development in Pennsylvania,
6 holders of a limited winery license may:

7 * * *

8 (2) Sell alcoholic cider, wine and wine coolers produced by
9 the limited winery or purchased in bulk in bond from another
10 Pennsylvania limited winery on the licensed premises, under such
11 conditions and regulations as the board may enforce, to the
12 board, to individuals and to brewery, hotel, restaurant, club
13 and public service liquor licensees, and to Pennsylvania winery
14 licensees: Provided, That a limited winery shall not, in any
15 calendar year, purchase alcoholic cider or wine produced by
16 other limited wineries in an amount in excess of fifty per
17 centum of the alcoholic cider or wine produced by the purchasing
18 limited winery in the preceding calendar year. In addition, the
19 holder of a limited winery license may purchase wine in bottles
20 from another Pennsylvania limited winery if these wines undergo
21 a second fermentation process. Such wine may be sold in bottles
22 bearing the purchasing limited winery's label or the producing
23 limited winery's label. Such wines, if sold by the board, may be
24 sold by the producing limited winery to the purchasing limited
25 winery at a price lower than the price charged by the board.

26 * * *

27 Section 35. Sections 505.3, 509 and 515 of the act are
28 amended to read:

29 [Section 505.3. Distilleries.--Distilleries of historical
30 significance established more than one hundred years prior to

1 January 1, 1975 which hold a license issued under section 505
2 may sell liquor produced by the distillery on the licensed
3 premises under such conditions and regulations as the board may
4 enforce.]

5 Section 509. License Must Be Posted; Business Hours.--
6 Licenses shall be issued by the board under its official seal.
7 Every license so issued must at all times be posted in a
8 conspicuous place where the business is carried on under it[,
9 and said place of business must be kept open during general
10 business hours of every day in the year except Sundays and legal
11 holidays]. Licenses may be open every day except limited
12 wineries which may be open as set forth by the board through
13 regulations.

14 Section 515. Appeals.--The [board, the] enforcement bureau
15 or any applicant or any licensee aggrieved by any decision
16 refusing, suspending or revoking a license under the provisions
17 of this article may appeal to the [court of the county in which
18 the licensed premises or the premises to be licensed are
19 located. In the event an applicant or a licensee shall have no
20 place of business established within the Commonwealth, his
21 appeal shall be to the] Commonwealth Court. Such appeal shall be
22 in accordance with 2 Pa.C.S. Ch. 7 Subch. A (relating to
23 judicial review of Commonwealth agency action).

24 Section 36. This act shall take effect as follows:

25 (1) The amendment or addition of section 305, 412 and 441(b)
26 of the act shall take effect immediately.

27 (2) This section shall take effect immediately.

28 (3) The remainder of this act shall take effect in 60 days.