

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1365 Session of
2002INTRODUCED BY CONTI, BODACK, THOMPSON AND TARTAGLIONE,
MARCH 20, 2002

AS AMENDED ON THIRD CONSIDERATION, 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," "eligible entity" and "pecuniary
18 interest"; and further providing for the definitions of
19 "eating place" and "restaurant," for bonds required of
20 members and secretary, for board and enforcement bureau
21 subject to State ethics and adverse interest acts, ~~for~~ <—
22 ~~restrictions on members of the board and on certain employees~~
23 ~~of the Commonwealth~~ for wine marketing, FOR WHEN SALES MAY BE <—
24 MADE AT PENNSYLVANIA LIQUOR STORES, for sales by Pennsylvania
25 liquor stores, ~~for authority to issue liquor licenses to~~ <—
26 ~~hotels, restaurants and clubs,~~ for applications for hotel,
27 restaurant and club liquor licenses, for issuance of hotel,
28 restaurant and club liquor licenses, for sales by liquor
29 licensees, for secondary service area, for special occasion
30 permits, for sacramental wine licenses, for liquor importers'
31 licenses, for malt and brewed beverages (excluding
32 manufacturers), for malt and brewed beverages retail
33 licenses, for application for distributors', importing

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

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

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

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

27 * * *

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

32 * * *

33 "Eating place" shall mean a premise where food is regularly
34 and customarily prepared and sold, having a total area of not
35 less than three hundred square feet available to the public in
36 one or more rooms, other than living quarters, and equipped with
37 tables and chairs, including bar seats, accommodating thirty

1 persons at one time. The board shall, by regulation, set forth
2 what constitutes tables and chairs sufficient to accommodate
3 thirty persons at one time.

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

1 family-oriented celebration as part of Welcome America in a city
2 of the first class on property leased from that city for more
3 than fifty years.

4 * * *

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

14 * * *

15 "Tract" shall mean a contiguous expanse of land under the
16 control of one person.

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

19 [Section 205. Bonds Required of Members and Secretary.--
20 Before entering upon the duties of their respective offices or
21 positions, each member of the board and the secretary shall
22 execute and file with the State Treasurer a bond in such penal
23 sum as shall be fixed by the Executive Board of this
24 Commonwealth upon recommendation of the Governor, but the amount
25 of any such bond shall not be less than ten thousand dollars
26 (\$10,000). Bonds in such penal sums as shall be fixed by the
27 Executive Board likewise shall be executed and filed with the
28 State Treasurer by such employees of the board as the head of
29 such board shall, with the approval of the Executive Board,
30 prescribe. Such bonds shall be payable to the Commonwealth of

1 Pennsylvania and shall be conditioned for the faithful
2 performance of the members', secretary's or employees' duties
3 imposed by law or by lawful authority and that the person bonded
4 will not knowingly violate the provisions of this act. All bonds
5 required to be given under this section shall, before being
6 accepted by the State Treasurer, be approved by the Attorney
7 General, and unless the Commonwealth shall establish its own
8 indemnity fund, all such bonds shall be given with security
9 approved by the Attorney General. If the Commonwealth shall
10 establish its own indemnity fund, the Executive Board may,
11 nevertheless, require any bond given hereunder to be executed by
12 a surety or sureties satisfactory to the Attorney General. The
13 cost of such bonds required to be executed by a surety or
14 sureties shall be borne by the board as part of its operating
15 expense.]

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

25 (b) Membership on the board and employment or continued
26 employment as an employee of the board or enforcement bureau is
27 conditioned upon compliance with all of the provisions of the
28 acts specified in subsection (a), including, but not limited to,
29 the filing of statements of financial interests required by
30 section 5 of the Public Official and Employee Ethics Law.

1 Acceptance or retention of employment shall be deemed as
2 voluntary consent to submit to the financial reporting
3 requirements of the Public Official and Employee Ethics Law as a
4 condition of employment. Failure to timely comply with the
5 requirements shall result in immediate termination of
6 employment. Both the board and the enforcement bureau are
7 subject to the provisions of 65 Pa.C.S. Ch. 11 (relating to
8 ethics standards and financial disclosure).

9 ~~Section 4. Section 210 of the act, amended December 21, 1988~~ <—
10 ~~(P.L.1879, No.183), is amended to read:~~

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

28 ~~(1) contracting or procurement;~~

29 ~~(2) administering or monitoring grants or subsidies;~~

30 ~~(3) planning or zoning;~~

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

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

~~(b) No member or employe of the board or enforcement bureau or a member of the immediate family of a member or employe of the board or enforcement bureau nor any employe of the Commonwealth shall solicit or receive, directly or indirectly, any commission, remuneration or gift whatsoever, from any person having sold, selling or offering liquor or alcohol for sale to the board for use in Pennsylvania Liquor Stores.~~

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

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

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

~~(f) No member or employe of the board or enforcement bureau~~

1 ~~or a member of his immediate family or any business in which the~~
2 ~~member or employe or a member of his immediate family is a~~
3 ~~director, officer or owner or holder of stock exceeding five~~
4 ~~percent (5%) of the equity at fair market value of the business~~
5 ~~may enter into any contract valued at five hundred dollars~~
6 ~~(\$500) or more to provide goods or services to the board or~~
7 ~~enforcement bureau unless the contract has been awarded to the~~
8 ~~lowest responsible bidder through an open and public process,~~
9 ~~including prior public notice and subsequent public disclosure~~
10 ~~of all proposals considered and contracts awarded.~~

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

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

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

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

28 ~~(k) No person having an adverse interest in a contract with~~
29 ~~the board or enforcement bureau may become an employe of the~~
30 ~~board or enforcement bureau until the adverse interest has been~~

1 wholly divested.

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

6 ~~(m) (1) Any person who violates the provisions of this~~
7 ~~section shall have his employment by the board or enforcement~~
8 ~~bureau immediately terminated by the appropriate person having~~
9 ~~the power to terminate and shall be liable to the board or~~
10 ~~enforcement bureau to reimburse the board or enforcement bureau~~
11 ~~for all compensation received by him from the board or~~
12 ~~enforcement bureau while employed in violation of subsection~~
13 ~~(c).~~

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

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

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

29 ~~(5) Any person who violates the provisions of this section~~
30 ~~shall be barred for a period of five (5) years from engaging in~~

1 ~~any business or contract with the board or enforcement bureau.~~

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

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

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

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

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

1 ~~Section 5. Sections 215(c) and (d) and 305(d) and (h) of the~~

2 SECTION 4. SECTIONS 215(C) AND (D), 304 AND 305(D) AND (H) <—

3 OF THE act are amended to read:

4 Section 215. Wine Marketing.--* * *

5 [(c) The board shall establish that at least five per centum
6 of all State stores within a metropolitan area are wine
7 specialty stores, at which premium wine shall be sold. These
8 stores shall not sell any distilled product. The board may
9 establish the wine specialty stores in locations which provide
10 the greatest customer traffic and the greatest gross profit to
11 the board. These locations may include established retail
12 establishments. Board employes shall staff these locations. The
13 board shall have the option of closing stores which are
14 unprofitable for two consecutive fiscal years.]

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

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

25 SECTION 304. WHEN SALES MAY BE MADE AT PENNSYLVANIA LIQUOR <—
26 STORES.--[EVERY] (A) EXCEPT AS PROVIDED FOR IN SUBSECTION (B),
27 EVERY PENNSYLVANIA LIQUOR STORE SHALL BE OPEN FOR BUSINESS WEEK
28 DAYS, EXCEPT LEGAL HOLIDAYS OR ANY DAY ON WHICH A GENERAL,
29 MUNICIPAL, SPECIAL OR PRIMARY ELECTION IS BEING HELD, DURING
30 SUCH HOURS AS THE BOARD, IN ITS DISCRETION, SHALL DETERMINE:

1 PROVIDED, THAT THE PENNSYLVANIA LIQUOR STORES IN THE CASE OF A
2 SPECIAL ELECTION FOR MEMBERS OF THE GENERAL ASSEMBLY OR MEMBERS
3 OF THE CONGRESS OF THE UNITED STATES, WHEN SUCH SPECIAL ELECTION
4 IS HELD ON OTHER THAN A PRIMARY, MUNICIPAL OR GENERAL ELECTION
5 DAY, SHALL BE OPEN IN THOSE LEGISLATIVE OR CONGRESSIONAL
6 DISTRICTS AS THOUGH THE DAY WERE NOT A SPECIAL ELECTION DAY. THE
7 BOARD MAY, WITH THE APPROVAL OF THE GOVERNOR, TEMPORARILY CLOSE
8 ANY STORE IN ANY MUNICIPALITY.

9 (B) CERTAIN PENNSYLVANIA LIQUOR STORES OPERATED BY THE BOARD
10 SHALL BE OPEN FOR SUNDAY RETAIL SALES BETWEEN THE HOURS OF NOON
11 AND FIVE O'CLOCK POSTMERIDIAN, EXCEPT THAT NO SUNDAY SALES SHALL
12 OCCUR ON EASTER SUNDAY OR CHRISTMAS DAY. FOR A TWO-YEAR TIME
13 PERIOD FOLLOWING THE EFFECTIVE DATE OF THIS SUBSECTION, THE
14 BOARD SHALL OPEN UP TO TEN PER CENTUM OF THE TOTAL NUMBER OF
15 PENNSYLVANIA LIQUOR STORES AT ITS DISCRETION FOR SUNDAY SALES AS
16 PROVIDED FOR IN THIS SUBSECTION. AT THE EXPIRATION OF THE TWO-
17 YEAR TIME PERIOD, THE BOARD SHALL CONDUCT A REVIEW AND DETERMINE
18 WHETHER THE STORES SHALL BE CLOSED OR WHETHER ADDITIONAL STORES
19 SHALL BE OPENED FOR THESE SUNDAY SALES. THE BOARD SHALL SUBMIT
20 YEARLY REPORTS TO THE APPROPRIATIONS AND THE LAW AND JUSTICE
21 COMMITTEES OF THE SENATE AND THE APPROPRIATIONS AND THE LIQUOR
22 CONTROL COMMITTEES OF THE HOUSE OF REPRESENTATIVES SUMMARIZING
23 THE TOTAL DOLLAR VALUE OF SALES UNDER THIS SECTION.

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

25 (d) No liquor or alcohol package shall be opened on the
26 premises of a Pennsylvania Liquor Store. No manager or other
27 employe of the board employed in a Pennsylvania Liquor Store
28 shall allow any liquor or alcohol to be consumed on the store
29 premises, nor shall any person consume any liquor or alcohol on
30 such premises, except liquor and alcohol which is part of a

1 tasting conducted pursuant to the board's regulations.

2 * * *

3 (h) Every Pennsylvania Liquor Store shall sell gift
4 certificates which may be redeemed for liquor. In addition, the
5 board may sell corkscrews and wine sleeves at Pennsylvania
6 liquor stores.

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

8 ~~Section 401. Authority to Issue Liquor Licenses to Hotels,~~
9 ~~Restaurants and Clubs. (a) Subject to the provisions of this~~
10 ~~act and regulations promulgated under this act, the board shall~~
11 ~~have authority to issue a retail liquor license for any premises~~
12 ~~kept or operated by a hotel, restaurant or club and specified in~~
13 ~~the license entitling the hotel, restaurant or club to purchase~~
14 ~~liquor from a Pennsylvania Liquor Store and to keep on the~~
15 ~~premises such liquor and, subject to the provisions of this act~~
16 ~~and the regulations made thereunder, to sell the same and also~~
17 ~~malt or brewed beverages to guests, patrons or members for~~
18 ~~consumption on the hotel, restaurant or club premises. Such~~
19 ~~licensees, other than clubs, shall be permitted to sell malt or~~
20 ~~brewed beverages for consumption off the premises where sold in~~
21 ~~quantities of not more than one hundred ninety two fluid ounces~~
22 ~~in a single sale to one person. Such licenses shall be known as~~
23 ~~hotel liquor licenses, restaurant liquor licenses and club~~
24 ~~liquor licenses, respectively. [No person who holds, either by~~
25 ~~appointment or election, any public office which involves the~~
26 ~~duty to enforce any of the penal laws of the United States of~~
27 ~~America or the penal laws of the Commonwealth of Pennsylvania or~~
28 ~~any penal ordinance or resolution of any political subdivision~~
29 ~~of this Commonwealth shall be issued any hotel or restaurant~~
30 ~~liquor license, nor shall such a person have any interest,~~

1 ~~directly or indirectly, in any such license.] No person who~~
2 ~~holds any office which involves the duty to enforce any of the~~
3 ~~penal laws of the United States of America, this Commonwealth or~~
4 ~~of any political subdivision of this Commonwealth shall have any~~
5 ~~interest in any hotel or restaurant liquor license. This~~
6 ~~prohibition applies to anyone with arrest authority, including,~~
7 ~~but not limited to, police officers, sheriffs, district~~
8 ~~attorneys, state attorneys general and United States attorneys.~~
9 ~~This prohibition shall also apply to district justices, judges~~
10 ~~or any other individuals who can impose a criminal sentence.~~
11 ~~This prohibition does not apply to members of the legislature,~~
12 ~~township supervisors, city councilpersons, mayors without arrest~~
13 ~~authority and any other office that does not involve the ability~~
14 ~~to arrest or the ability to impose a criminal sentence. This~~
15 ~~prohibition does not apply if the proposed premises are located~~
16 ~~outside the jurisdiction of the individual in question.~~

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

24 Section & 5. Section 403(a) and (g) of the act, amended <—
25 February 21, 2002 (P.L.103, No.10), are amended to read:

26 Section 403. Applications for Hotel, Restaurant and Club
27 Liquor Licenses.--(a) Every applicant for a hotel liquor
28 license, restaurant liquor license or club liquor license or for
29 the transfer of an existing license to another premises not then
30 licensed or to another person shall file a written application

1 with the board in such form and containing such information as
2 the board shall from time to time prescribe, which shall be
3 accompanied by a filing fee and an annual license fee as
4 prescribed in section 614-A of the act of April 9, 1929
5 (P.L.177, No.175), known as "The Administrative Code of 1929."
6 Every such application shall contain a description of that part
7 of the hotel, restaurant or club for which the applicant desires
8 a license and shall set forth such other material information,
9 description or plan of that part of the hotel, restaurant or
10 club where it is proposed to keep and sell liquor as may be
11 required by the regulations of the board. The descriptions,
12 information and plans referred to in this subsection shall show
13 the hotel, restaurant, club, or the proposed location for the
14 construction of a hotel, restaurant or club, at the time the
15 application is made, and shall show any alterations proposed to
16 be made thereto, or the new building proposed to be constructed
17 after the approval by the board of the application for a license
18 or for the transfer of an existing license to another premises
19 not then licensed or to another person. No physical alterations,
20 improvements or changes shall be required to be made to any
21 hotel, restaurant or club, nor shall any new building for any
22 such purpose, be required to be constructed until approval of
23 the application for license or for the transfer of an existing
24 license to another premises not then licensed or to another
25 person by the board. After approval of the application, the
26 licensee shall make the physical alterations, improvements and
27 changes to the licensed premises, or shall construct the new
28 building in the manner specified by the board at the time of
29 approval, and the licensee shall not transact any business under
30 the license until the board has approved the completed physical

1 alterations, improvements and changes to the licensed premises,
2 or the completed construction of the new building as conforming
3 to the specifications required by the board at the time of
4 issuance or transfer of the license, and is satisfied that the
5 establishment is a restaurant, hotel or club as defined by this
6 act. The board may require that all such alterations or
7 construction or conformity to definition be completed within six
8 months from the time of issuance or transfer of the license.
9 Failure to comply with these requirements shall be considered
10 cause for revocation of the license. No such license shall be
11 transferable between the time of issuance or transfer of the
12 license and the approval of the completed alterations or
13 construction by the board and full compliance by the licensee
14 with the requirements of this act, except in the case of death
15 of the licensee prior to full compliance with all of the
16 aforementioned requirements[,] or unless full compliance is
17 impossible for reasons beyond the licensee's control, in which
18 event, the license may be transferred by the board as provided
19 in this act.

20 * * *

21 (g) Every applicant for a new license or for the transfer of
22 an existing license shall post, for a period of at least
23 [fifteen] thirty days beginning with the day the application is
24 filed with the board, in a conspicuous place on the outside of
25 the premises or at the proposed new location for which the
26 license is applied, a notice of such application[,]. The notice
27 shall indicate whether the applicant is applying for the
28 amusement permit required by section 493(10). The notice shall
29 be in such form, be of such size, and [containing] contain such
30 provisions as the board may require by its regulations. Proof of

1 the posting of such notice shall be filed with the board. The
2 posting requirement imposed by this subsection shall not apply
3 to license applications submitted for public venues.

4 * * *

5 Section ~~9~~ 6. Section 404 of the act, amended December 20, <—
6 2000 (P.L.992, No.141), is amended to read:

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

1 board's authority to refuse to grant a license because of its
2 proximity to a church, hospital, charitable institution, public
3 playground or other licensed premises shall not be applicable to
4 license applications submitted for public venues or performing
5 arts facilities: And provided further, That the board shall
6 refuse any application for a new license or the transfer of any
7 license to a new location if, in the board's opinion, such new
8 license or transfer would be detrimental to the welfare, health,
9 peace and morals of the inhabitants of the neighborhood within a
10 radius of five hundred feet of the place proposed to be
11 licensed: [And provided further, That prior to July 1, 1996, in
12 any license district in a city of the first class, the board
13 may, in its opinion, refuse any application for a new license or
14 for any person-to-person transfer which shall include a change
15 in stockholders involving ten per centum or more of all
16 outstanding voting stock and/or less than ten per centum of all
17 outstanding voting stock when such change involves a majority or
18 controlling interest, of any license if the licensed premises is
19 or would be within three hundred feet of any church, hospital,
20 charitable institution, school or public playground or within
21 two hundred feet of any other premises licensed by the board and
22 if, in the opinion of the board, the licensed premises is or
23 would be detrimental to the welfare, health, peace and morals of
24 such church, hospital, school, public playground and/or the
25 inhabitants of the neighborhood within a radius of five hundred
26 feet of the licensed premises. This authority to refuse a
27 person-to-person transfer in a city of the first class is in
28 addition to and not in derogation of the authority of the board
29 generally stated for all areas of this Commonwealth:] And
30 provided further, That the board shall have the discretion to

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

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

8 Section ~~40~~ 7. Section 406(a)(1) of the act, amended November <—
9 10, 1999 (P.L.514, No.47), is amended and the section is amended
10 by adding a subsection to read:

11 Section 406. Sales by Liquor Licensees; Restrictions.--(a)
12 (1) Every hotel, restaurant or club liquor licensee may sell
13 liquor and malt or brewed beverages by the glass, open bottle or
14 other container, and in any mixture, for consumption only in
15 that part of the hotel or restaurant habitually used for the
16 serving of food to guests or patrons, or in a bowling alley that
17 is immediately adjacent to and under the same roof as a
18 restaurant when no minors are present, unless minors who are
19 present are under proper supervision as defined in section 493,
20 in the bowling alley, and in the case of hotels, to guests, and
21 in the case of clubs, to members, in their private rooms in the
22 hotel or club. No club licensee nor its officers, servants,
23 agents or employes, other than one holding a catering license,
24 shall sell any liquor or malt or brewed beverages to any person
25 except a member of the club. [In the case of a restaurant
26 located in a hotel which is not operated by the owner of the
27 hotel and which is licensed to sell liquor under this act,
28 liquor and malt or brewed beverages may be sold] The holder of a
29 restaurant license located in a hotel may sell liquor or malt or
30 brewed beverages for consumption in that part of the restaurant

1 habitually used for the serving of meals to patrons and also to
2 guests in private guest rooms in the hotel. For the purpose of
3 this paragraph, any person who is an active member of another
4 club which is chartered by the same state or national
5 organization shall have the same rights and privileges as
6 members of the particular club. For the purpose of this
7 paragraph, any person who is an active member of any volunteer
8 firefighting company, association or group of this Commonwealth,
9 whether incorporated or unincorporated, shall upon the approval
10 of any club composed of volunteer firemen licensed under this
11 act, have the same social rights and privileges as members of
12 such licensed club. For the purposes of this paragraph, the term
13 "active member" shall not include a social member. Any club
14 licensee which is either an incorporated unit of a national
15 veterans' organization or an affiliated organization as defined
16 in section 461.1 shall be permitted to sell liquor or malt or
17 brewed beverages to any active member of another unit which is
18 chartered by the same national veterans' organization or to any
19 member of a nationally chartered auxiliary associated with the
20 same national veterans' organization.

21 * * *

22 (e) The holder of a hotel license or the holder of a
23 restaurant license located in a hotel may allow persons to
24 transport liquor or malt or brewed beverages from the licensed
25 portion of the premises to the unlicensed portion of the
26 premises, so long as the liquor or malt or brewed beverages
27 remain on the hotel property. In addition, a holder of a
28 restaurant license located on a golf course may sell, furnish or
29 give liquor or malt or brewed beverages on the unlicensed
30 portion of the golf course so long as the liquor or malt or

1 brewed beverages remain on the restaurant or golf course. The
2 holder of a restaurant license located immediately adjacent to
3 and under the same roof of a bowling center may allow persons to
4 transport liquor or malt or brewed beverages from the licensed
5 portion of the premises to the unlicensed portion of the
6 premises, so long as the liquor or malt or brewed beverages
7 remain within the bowling center.

8 Section ~~44~~ 8. Section 406.1 of the act, amended July 1, 1994 <—
9 (P.L.402, No.61), is amended to read:

10 Section 406.1. Secondary Service Area.--(a) Upon
11 application of any restaurant, hotel, club[, any stadium as
12 described in section 408.9 or], municipal golf course liquor
13 licensee or manufacturer of malt or brewed beverages, and
14 payment of the appropriate fee, the board may approve a
15 secondary service area by extending the licensed premises to
16 include one additional permanent structure with dimensions of at
17 least one hundred seventy-five square feet, enclosed on three
18 sides and having adequate seating. Such secondary service area
19 must be located on property having a minimum area of one (1)
20 acre, and must be on land which is immediate, abutting, adjacent
21 or contiguous to the licensed premises with no intervening
22 public thoroughfare, however, the original licensed premises and
23 the secondary service area must be located on the same tract of
24 land. [In any stadium as described in section 408.9, only malt
25 or brewed beverages may be served.] There shall be no
26 requirement that the secondary service area be physically
27 connected to the original licensed premises. In addition, there
28 shall be no requirement that the secondary service area be
29 located in the same municipality as the original licensed
30 premises, provided, however, that the board shall not approve a

1 secondary service area in this case if that secondary service
2 area is located in any municipality where the granting of liquor
3 licenses has been prohibited as provided in this article.
4 Notwithstanding 40 Pa. Code § 7.21(c)(3), the licensee shall be
5 permitted to store, serve, sell or dispense food, liquor and
6 malt or brewed beverages at the board approved secondary service
7 area.

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

16 Section ~~12~~ 9. Section 408.4 of the act, amended or added <—
17 April 29, 1994 (P.L.212, No.30), October 5, 1994 (P.L.522,
18 No.77), June 18, 1998 (P.L.664, No.86), December 21, 1998
19 (P.L.1202, No.155), November 10, 1999 (P.L.514, No.47) and
20 February 10, 2002 (P.L.103, No.10), is amended to read:

21 Section 408.4. Special Occasion Permits.--[(a) Upon
22 application of any hospital, church, synagogue, volunteer fire
23 company, volunteer ambulance company, volunteer rescue squad,
24 unit of a nationally chartered club which has been issued a club
25 liquor license, nonprofit agricultural association in existence
26 for at least ten years, bona fide sportsmen's club in existence
27 for at least ten years, nationally chartered veterans'
28 organization and any affiliated lodge or subdivision of such
29 organization, fraternal benefit society that is licensed to do
30 business in this Commonwealth and any affiliated lodge or

1 subdivision of such fraternal benefit society, or one auxiliary
2 of any of the foregoing, and upon payment of the prescribed fee
3 for special occasion permits under section 614-A of the act of
4 April 9, 1929 (P.L.177, No.175), known as "The Administrative
5 Code of 1929," the board shall issue a special occasion permit
6 good for a period of not more than six consecutive or
7 nonconsecutive days during a calendar year. Special occasion
8 permits may also be issued to a museum operated by a nonprofit
9 corporation in a city of the third class or township of the
10 first class or a nonprofit corporation engaged in the performing
11 arts in a city of the third class or in an incorporated town or
12 to an arts council or to a nonprofit corporation that operates
13 an arts facility or museum in a city of the third class in a
14 county of the fourth class for a period of not more than six
15 nonconsecutive or ten consecutive days at the prescribed fee for
16 special occasion permits under section 614-A of "The
17 Administrative Code of 1929."

18 (a.1) Upon application by a nationally accredited
19 Pennsylvania nonprofit zoological institution licensed by the
20 United States Department of Agriculture, the board shall issue a
21 special occasion permit in accordance with subsection (a) for
22 six nonconsecutive days or ten consecutive days in a calendar
23 year.

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

30 (c) Such special occasion permit shall only be valid for the

1 number of days stated in the permit. Only one permit may be
2 issued to any permittee during the year. Provided, that a museum
3 operated by a nonprofit corporation in a city of the third class
4 or township of the first class, and a nonprofit corporation
5 engaged in the performing arts in a city of the third class, or
6 an arts council or a nonprofit corporation that operates an arts
7 facility or museum in a city of the third class in a county of
8 the fourth class may be issued no more than six permits during
9 the year, each permit being valid for only one day, or in the
10 alternative, one permit valid for no more than a total of ten
11 consecutive days per year, which may be issued only during the
12 month of August.

13 (d) Such permits shall only be issued for use at a special
14 event including, but not limited to bazaars, picnics and
15 clambakes. The special event must be one which is used by the
16 permittee as a means of raising funds for itself.

17 (d.1) The hours during which the holder of a special
18 occasion permit may sell liquor or malt or brewed beverages
19 shall be limited to the hours set forth in section 406 which are
20 applicable to hotel and restaurant licensees. The hours during
21 which a nonprofit corporation engaged in the performing arts in
22 a city of the third class may sell liquor or malt or brewed
23 beverages pursuant to a special occasion permit shall be limited
24 to those hours set forth in section 408.3(g.1).

25 (d.2) At least forty-eight hours prior to the sale of any
26 liquor or malt or brewed beverages, the holder of a special
27 occasion permit shall notify the local police department, or in
28 the absence of a local police department, the Pennsylvania State
29 Police, of the times when and place where the sale of liquor or
30 malt or brewed beverages shall occur.

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

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

(2) A professional fund raiser.

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

(1) If the permittee is conducting a regatta, sell for consumption liquor and malt or brewed beverages in or on the grounds of a State park located within a city of the second class for a period not to exceed ten consecutive days per calendar year.

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

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

(f) Any person selling liquor or malt or brewed beverages in

1 violation of this section shall, upon summary conviction, be
2 sentenced to pay a fine of two hundred fifty dollars (\$250) for
3 the first offense and a fine of five hundred dollars (\$500) for
4 each subsequent offense. This fine shall be in addition to any
5 other penalty imposed by law for the illegal sale of malt or
6 brewed beverages.

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

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

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

30 (j) The eligible entity shall give the local police

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

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

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

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

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

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

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

8 Section ~~13~~ 10. Sections 409(c) and 410(d) of the act are <—
9 amended to read:

10 Section 409. Sacramental Wine Licenses; Fees; Privileges;
11 Restrictions.--* * *

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

24 * * *

25 Section 410. Liquor Importers' Licenses; Fees; Privileges;
26 Restrictions.--* * *

27 (d) If the applicant is a natural person, his application
28 must show that he is a citizen of the United States or a
29 resident alien and a resident of this Commonwealth. If the
30 applicant is an association or partnership, each and every

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

9 * * *

10 Section ~~14~~ 11. Section 412(f)(4) of the act, amended <—
11 February 21, 2002 (P.L.103, No.10), is amended and the section
12 is amended by adding a subsection to read:

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

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

17 * * *

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

27 (g) The board may issue multiple licenses under this section
28 for use in a public venue with permanent seating of at least
29 thirty-five thousand people. If the board does issue more than
30 one license for a specific public venue, written notice of the

1 event must be provided to the enforcement bureau at least forty-
2 eight hours in advance of the dispensing of any liquor or malt
3 or brewed beverages. The notice shall include the date, time and
4 specific licensed areas to be used. No more than one license
5 issued under this section shall be in effect at any location at
6 any time of day at the same time.

7 Section ~~45~~ 12. Section 431(b) of the act, amended June 18, <—
8 1998 (P.L.664, No.86) and December 21, 1998 (P.L.1202, No.155),
9 is amended to read:

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

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

1 three hundred feet of any church, hospital, charitable
2 institution, school or public playground, or if such new license
3 or transfer is applied for a place which is within two hundred
4 feet of any other premises which is licensed by the board: And
5 provided further, That the board shall refuse any application
6 for a new license or the transfer of any license to a new
7 location if, in the board's opinion, such new license or
8 transfer would be detrimental to the welfare, health, peace and
9 morals of the inhabitants of the neighborhood within a radius of
10 five hundred feet of the place proposed to be licensed. The
11 board shall refuse any application for a new license or the
12 transfer of any license to a location where the sale of liquid
13 fuels or oil is conducted. The board may enter into an agreement
14 with the applicant concerning additional restrictions on the
15 license in question. If the board and the applicant enter into
16 such an agreement, such agreement shall be binding on the
17 applicant. Failure by the applicant to adhere to the agreement
18 will be sufficient cause to form the basis for a citation under
19 section 471 and for the nonrenewal of the license under section
20 470. If the board enters into an agreement with an applicant
21 concerning additional restrictions, those restrictions shall be
22 binding on subsequent holders of the license until the license
23 is transferred to a new location or until the board enters into
24 a subsequent agreement removing those restrictions. If the
25 application in question involves a location previously licensed
26 by the board, then any restrictions imposed by the board on the
27 previous license at that location shall be binding on the
28 applicant unless the board enters into a new agreement
29 rescinding those restrictions. The board shall require notice to
30 be posted on the property or premises upon which the licensee or

1 proposed licensee will engage in sales of malt or brewed
2 beverages. This notice shall be similar to the notice required
3 of hotel, restaurant and club liquor licensees.

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

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

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

1 manufacturer.

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

29 * * *

30 Section ~~16~~ 13. Section 432(d) and (e) of the act, amended

<—

1 December 20, 2000 (P.L.992, No.141), are amended to read:

2 Section 432. Malt and Brewed Beverages Retail Licenses.--* *

3 *

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

1 new agreement rescinding those restrictions. The board shall
2 refuse any application for a new license or the transfer of any
3 license to a location where the sale of liquid fuels or oil is
4 conducted: And provided further, That the board shall have the
5 discretion to refuse a license to any person or to any
6 corporation, partnership or association if such person, or any
7 officer or director of such corporation, or any member or
8 partner of such partnership or association shall have been
9 convicted or found guilty of a felony within a period of five
10 years immediately preceding the date of application for the said
11 license. The board may, in its discretion, refuse an application
12 for an economic development license under section 461(b.1) or an
13 application for an intermunicipal transfer or a license if the
14 board receives a protest from the governing body of the
15 receiving municipality. The receiving municipality of an
16 intermunicipal transfer or an economic development license under
17 section 461(b.1) may file a protest against the approval for
18 issuance of a license for economic development or an
19 intermunicipal transfer of a license into its municipality, and
20 such municipality shall have standing in a hearing to present
21 testimony in support of or against the issuance or transfer of a
22 license. Upon any opening in any quota, an application for a new
23 license shall only be filed with the board for a period of six
24 months following said opening.

25 (e) Every applicant for a new or for the transfer of an
26 existing license to another premises not then licensed shall
27 post, for a period of at least [fifteen] thirty days beginning
28 with the day the application is filed with the board, in a
29 conspicuous place on the outside of the premises or in a window
30 plainly visible from the outside of the premises for which the

1 license is applied or at the proposed new location, a notice of
2 such application[,]. The notice shall indicate whether the
3 applicant is applying for the amusement permit required by
4 section 493(10). The notice shall be in such form, be of such
5 size, and [containing] contain such provisions as the board may
6 require by its regulations. Proof of the posting of such notice
7 shall be filed with the board.

8 * * *

9 Section ~~17~~ 14. Section 436(b) of the act, amended February <—
10 21, 2002 (P.L.103, No.10), is amended to read:

11 Section 436. Application for Distributors', Importing
12 Distributors' and Retail Dispensers' Licenses.--Application for
13 distributors', importing distributors' and retail dispensers'
14 licenses, or for the transfer of an existing license to another
15 premises not then licensed, or to another person, shall contain
16 or have attached thereto the following information and
17 statements:

18 * * *

19 (b) The particular place for which the license is desired
20 and a detailed description thereof. The description, information
21 and plans referred to in this subsection shall show the premises
22 or the proposed location for the construction of the premises at
23 the time the application is made, and shall show any alterations
24 proposed to be made thereto, or the new building proposed to be
25 constructed after the approval by the board of the application
26 for a license, or for the transfer of an existing license to
27 another premises not then licensed or to another person. No
28 physical alterations, improvements or changes shall be required
29 to be made to any hotel, eating place or club, nor shall any new
30 building for any such purpose be required to be constructed

1 until approval of the application for license or for the
2 transfer of an existing license to another premises not then
3 licensed or to another person by the board. After approval of
4 the application, the licensee shall make the physical
5 alterations, improvements and changes to the licensed premises,
6 or shall construct the new building in the manner specified by
7 the board at the time of approval. The licensee shall not
8 transact any business under the license until the board has
9 approved the completed physical alterations, improvements and
10 changes of the licensed premises or the completed construction
11 of the new building as conforming to the specifications required
12 by the board at the time of issuance or transfer of the license
13 and is satisfied that the premises meet the requirements for a
14 distributor's or importing distributor's license as set forth in
15 this act or that the establishment is an eating place, hotel or
16 club as defined by this act. The board may require that all such
17 alterations or construction or conformity to definition be
18 completed within six months from the time of issuance or
19 transfer of the license. Failure to comply with these
20 requirements shall be considered cause for revocation of the
21 license. No such license shall be transferable between the time
22 of issuance or transfer of the license and the approval of the
23 completed alterations or construction by the board and full
24 compliance by the licensee with the requirements of this act,
25 except in the case of death of the licensee prior to full
26 compliance with all of the aforementioned requirements[,] or
27 unless full compliance is impossible for reasons beyond the
28 licensee's control, in which event the license may be
29 transferred by the board as provided in this act.

30 * * *

<—

1 Section ~~19~~ 15. Section 441(b) of the act, amended May 31,
2 1996 (P.L.312, No.49), is amended to read:

3 Section 441. Distributors' and Importing Distributors'
4 Restrictions on Sales, Storage, Etc.--* * *

5 (b) No distributor or importing distributor shall sell any
6 malt or brewed beverages in quantities of less than a case or
7 original containers containing one hundred twenty-eight ounces
8 or more which may be sold separately: Provided, That no malt or
9 brewed beverages sold or delivered shall be consumed upon the
10 premises of the distributor or importing distributor, or in any
11 place provided for such purpose by such distributor or importing
12 distributor. Notwithstanding any other provision of this section
13 or act, malt or brewed beverages which are part of a tasting
14 conducted pursuant to the board's regulations may be consumed on
15 licensed premises.

<—

16 Section ~~20~~ 16. Section 442 of the act is amended by adding a
17 subsection to read:

18 Section 442. Retail Dispensers' Restrictions on Purchases
19 and Sales.--* * *

20 (e) The holder of a retail dispenser license located in a
21 hotel may allow persons to transport malt or brewed beverages
22 from the licensed portion of the premises to the unlicensed
23 portion of the premises so long as the malt or brewed beverages
24 remain on the hotel property. In addition, the holder of a
25 retail dispenser license located on a golf course may allow its
26 patrons to order malt or brewed beverages on licensed premises
27 for subsequent delivery by the licensee on nonlicensed portions
28 of the premises, including the golf course.

<—

29 Section ~~21~~ 17. Section 464 of the act, amended December 20,
30 2000 (P.L.992, No.141), is amended to read:

1 Section 464. Hearings Upon Refusal of Licenses, Renewals or
2 Transfers; Appeals.--The board may of its own motion, and shall
3 upon the written request of any applicant for club, hotel or
4 restaurant liquor license, or any applicant for any malt or
5 brewed beverage license other than a public service license, or
6 for renewal or transfer thereof, or for the renewal of an
7 amusement permit, whose application for such license, renewal or
8 transfer, or the renewal of an amusement permit, has been
9 refused, fix a time and place for hearing of such application
10 for license or for renewal or transfer thereof, or the renewal
11 of an amusement permit, notice of which hearing shall be mailed
12 to the applicant at the address given in his application. Such
13 hearing shall be before a hearing examiner designated by the
14 board. At such hearing, the board shall present its reasons for
15 its refusal or withholding of license, renewal or transfer
16 thereof, or its refusal for renewal of an amusement permit. The
17 applicant may appear in person or by counsel, may cross-examine
18 the witnesses for the board and may present evidence which shall
19 likewise be subject to cross-examination by the board. Such
20 hearing shall be stenographically recorded. The hearing examiner
21 shall thereafter report, with the examiner's recommendation, to
22 the board in each case. The board shall thereupon grant or
23 refuse the license, renewal or transfer thereof or the renewal
24 of an amusement permit. In considering the renewal of a license
25 or amusement permit, the board shall not refuse any such renewal
26 on the basis of the propriety of the original issuance or any
27 prior renewal of such license or amusement permit. If the board
28 shall refuse such license, renewal or transfer or the renewal of
29 an amusement permit, following such hearing, notice in writing
30 of such refusal shall be mailed to the applicant at the address

1 given in his application. In all such cases, the board shall
2 file of record at least a brief statement in the form of an
3 opinion of the reasons for the ruling or order and furnish a
4 copy thereof to the applicant. Any applicant who has appeared at
5 any hearing, as above provided, who is aggrieved by the refusal
6 of the board to issue any such license or to renew or transfer
7 any such license or to issue or renew any amusement permit may
8 appeal, or any church, hospital, charitable institution, school
9 or public playground located within three hundred feet of the
10 premises applied for, aggrieved by the action of the board in
11 granting the issuance of any such license or the transfer of any
12 such license, may take an appeal limited to the question of such
13 grievance, within twenty days from date of refusal or grant, to
14 the court of common pleas of the county in which the premises or
15 permit applied for is located. If the application is for an
16 economic development license under section 461(b.1) or the
17 intermunicipal transfer of a license, the governing body of the
18 municipality receiving the new license or the transferred
19 license may file an appeal of the board decision granting the
20 license, within twenty days of the date of the board's decision,
21 to the court of common pleas of the county in which the proposed
22 premises is located. Such appeal shall be upon petition of the
23 aggrieved party, who shall serve a copy thereof upon the board,
24 whereupon a hearing shall be held upon the petition by the court
25 upon ten days' notice to the board. The said appeal shall act as
26 a supersedeas unless upon sufficient cause shown the court shall
27 determine otherwise. The court shall hear the application de
28 novo on questions of fact, administrative discretion and such
29 other matters as are involved, at such time as it shall fix, of
30 which notice shall be given to the board. The court shall either

1 sustain or over-rule the action of the board and either order or
2 deny the issuance of a new license or the renewal or transfer of
3 the license or the renewal of an amusement permit to the
4 applicant.

5 Section ~~22~~ 18. Section 470(a) of the act, amended December <—
6 21, 1998 (P.L.1202, No.155), is amended to read:

7 Section 470. Renewal of Licenses; Temporary Provisions for
8 Licensees in Armed Service.--(a) All applications for renewal
9 of licenses under the provisions of this article shall be filed
10 with tax clearance from the Department of Revenue and the
11 Department of Labor and Industry and requisite license and
12 filing fees at least sixty days before the expiration date of
13 same: Provided, however, That the board, in its discretion, may
14 accept nunc pro tunc a renewal application filed less than sixty
15 days before the expiration date of the license with the required
16 fees, upon reasonable cause shown and the payment of an
17 additional filing fee of one hundred dollars (\$100.00) for late
18 filing: And provided further, That except where the failure to
19 file a renewal application on or before the expiration date has
20 created a license quota vacancy after said expiration date which
21 has been filled by the issuance of a new license, after such
22 expiration date, but before the board has received a renewal
23 application nunc pro tunc within the time prescribed herein the
24 board, in its discretion, may, after hearing, accept a renewal
25 application filed within two years after the expiration date of
26 the license with the required fees upon the payment of an
27 additional filing fee of two hundred fifty dollars (\$250.00) for
28 late filing. Where any such renewal application is filed less
29 than sixty days before the expiration date, or subsequent to the
30 expiration date, no license shall issue upon the filing of the

1 renewal application until the matter is finally determined by
2 the board and if an appeal is taken from the board's action the
3 courts shall not order the issuance of the renewal license until
4 final determination of the matter by the courts. The board may
5 enter into an agreement with the applicant concerning additional
6 restrictions on the license in question. If the board and the
7 applicant enter into such an agreement, such agreement shall be
8 binding on the applicant. Failure by the applicant to adhere to
9 the agreement will be sufficient cause to form the basis for a
10 citation under section 471 and for the nonrenewal of the license
11 under this section. A renewal application will not be considered
12 filed unless accompanied by the requisite filing and license
13 fees and any additional filing fee required by this section.
14 Unless the board shall have given ten days' previous notice to
15 the applicant of objections to the renewal of his license, based
16 upon violation by the licensee or his servants, agents or
17 employes of any of the laws of the Commonwealth or regulations
18 of the board relating to the manufacture, transportation, use,
19 storage, importation, possession or sale of liquors, alcohol or
20 malt or brewed beverages, or the conduct of a licensed
21 establishment, or unless the applicant has by his own act become
22 a person of ill repute, or unless the premises do not meet the
23 requirements of this act or the regulations of the board, the
24 license of a licensee shall be renewed.

25 * * *

26 Section ~~23~~ 19. Section 471(c) of the act, amended February <—
27 21, 2002 (P.L.103, No.10), is amended to read:

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

29 * * *

30 (c) The administrative law judge may consider the licensee's

1 prior citation history when imposing a penalty. If the violation
2 in question is a third or subsequent violation of [this act] any
3 offense referred to in subsection (b) or Title 18 of the
4 Pennsylvania Consolidated Statutes (relating to crimes and
5 offenses), occurring within a period of four years, the
6 administrative law judge shall impose a suspension or
7 revocation.

8 * * *

9 Section ~~24~~ 20. Section 472 of the act is amended by adding a <—
10 subsection to read:

11 Section 472. Local Option.--* * *

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

22 Section ~~25~~ 21. Section 472.3(a) of the act is amended to <—
23 read:

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

29 * * *

30 Section ~~26~~ 22. The act is amended by adding a section to <—

1 read:

2 Section 474.1. Surrender of Restaurant, Eating Place Retail
3 Dispenser, Hotel, Importing Distributor and Distributor License
4 for Benefit of Licensee.--(a) A restaurant, eating place retail
5 dispenser, hotel, importing distributor and distributor licensee
6 whose licensed establishment is not in operation for fifteen
7 consecutive days shall return its license for safekeeping with
8 the board no later than at the expiration of the fifteen-day
9 period. The license may only be reissued from safekeeping in the
10 manner set forth by the board through regulation.

11 (b) The board may hold the license in safekeeping for a
12 period not to exceed three consecutive years. Any license
13 remaining in safekeeping for more than three consecutive years
14 shall be immediately revoked by the Bureau of Licensing unless a
15 transfer application or request for reissue from safekeeping has
16 been filed prior to the expiration of the three-year period. The
17 board shall extend the period for an additional year if at the
18 end of the three-year period, the licensed premises are
19 unavailable due to fire, flood or other similar natural
20 disaster.

21 (c) In the event a transfer application filed prior to the
22 expiration of the three-year period is disapproved by the board,
23 through its exercise of discretion, then the license may remain
24 in safekeeping for an additional period of three consecutive
25 months after the board's decision to refuse the transfer
26 application. Failure to remove the license from safekeeping or
27 to file another transfer application prior to the expiration of
28 the three-month period of time shall result in revocation of the
29 license.

30 (d) Any period of time in which the licensee allows the

1 license to lapse by not filing a timely license renewal or
2 license validation shall be considered time in which the license
3 was held in safekeeping, for purposes of this section.

4 (e) A license placed in safekeeping prior to the effective
5 date of this act will be deemed to have been placed in
6 safekeeping on the effective date of this act, for purposes of
7 this section.

8 Section ~~27~~ 23. Section 478(c) of the act is repealed. <—

9 Section ~~28~~ 24. Section 491(7) and (11) of the act, amended <—
10 February 21, 2002 (P.L.103, No.10), are amended to read:

11 Section 491. Unlawful Acts Relative to Liquor, Alcohol and
12 Liquor Licensees.--

13 It shall be unlawful--

14 * * *

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

16 For any manufacturer or licensed importer of liquor in this
17 Commonwealth, his agents, servants or employees, to sell or offer
18 to sell any liquor in this Commonwealth except to the board for
19 use in Pennsylvania Liquor Stores, and in the case of a
20 manufacturer, to the holder of a sacramental wine license or an
21 importer's license[, but a manufacturer or licensed importer may
22 sell or offer to sell liquor to persons outside of this
23 Commonwealth]. Notwithstanding any other provision of this act,
24 a manufacturer or licensed importer may sell or offer to sell
25 liquor for delivery outside of this Commonwealth.

26 * * *

27 (11) Importation of Liquor. For any person, other than the
28 board or the holder of a sacramental wine license, an importer's
29 license or a direct shipper's license, to import any liquor
30 whatsoever into this Commonwealth, but this section shall not be

1 construed to prohibit railroad and pullman companies from
2 purchasing and selling liquors purchased outside the
3 Commonwealth in their dining, club and buffet cars which are
4 covered by public service liquor licenses and which are operated
5 in this Commonwealth.

6 * * *

7 Section ~~29~~ 25. Section 492(8) and (10) of the act, amended <—
8 December 21 1998 (P.L.1202, No.155), are amended to read:

9 Section 492. Unlawful Acts Relative to Malt or Brewed
10 Beverages and Licensees.--

11 It shall be unlawful--

12 * * *

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

25 (i) to prohibit transportation of malt or brewed beverages
26 through this Commonwealth and not for delivery in this
27 Commonwealth if such transporting is done in accordance with the
28 rules and regulations of the board; or

29 (ii) to prohibit railroad and Pullman companies from selling
30 malt or brewed beverages purchased outside this Commonwealth in

1 their dining, club and buffet cars which are covered by public
2 service liquor licenses and which are operated in this
3 Commonwealth.

4 * * *

5 [(10) Importing or Transporting Malt or Brewed Beverages
6 Without Tax Stamps. For any person, to transport within or
7 import any malt or brewed beverages into this Commonwealth,
8 except in accordance with the rules and regulations of the
9 board, or for any person to transport malt or brewed beverages
10 into or within this Commonwealth, unless there shall be affixed
11 to the original containers in which such malt or brewed
12 beverages are transported, stamps or crowns evidencing the
13 payment of the malt liquor tax to the Commonwealth: Provided,
14 however, That this clause shall not be construed to prohibit
15 transportation of malt or brewed beverages through this
16 Commonwealth and not for delivery therein, if such transporting
17 is done in accordance with the rules and regulations of the
18 board.]

19 * * *

20 Section ~~30~~ 26. Section 493(14) and (17) of the act, amended <—
21 February 21, 2002 (P.L.103, No.10), are amended to read:

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

27 It shall be unlawful--

28 * * *

29 (14) Permitting Undesirable Persons or Minors to Frequent
30 Premises. For any hotel, restaurant or club liquor licensee, or

1 any retail dispenser, his servants, agents or employes, to
2 permit persons of ill repute, prostitutes or minors to frequent
3 his licensed premises or any premises operated in connection
4 therewith, except minors accompanied by parents, guardians, or
5 under proper supervision or except minors who frequent any
6 restaurant or retail dispensing licensee whose sales of food and
7 non-alcoholic beverages are equal to fifty per centum or more of
8 the combined gross sales of both food and alcoholic beverages on
9 the condition that alcoholic beverages may not be served at the
10 table or booth at which the said minor is seated at the time
11 (unless said minor is under proper supervision as hereinafter
12 defined) and on the further condition that only table service of
13 alcoholic beverages or take-out service of beer shall be
14 permitted in the room wherein the minor is located: Provided,
15 however, That it shall not be unlawful for any hotel, restaurant
16 or club liquor licensee or any retail dispenser to permit minors
17 under proper supervision upon the licensed premises or any
18 premises operated in connection therewith for the purpose of a
19 social gathering, even if such gathering is exclusively for
20 minors: And provided further, That no liquor shall be sold,
21 furnished or given to such minors nor shall the licensee
22 knowingly permit any liquor or malt or brewed beverages to be
23 sold, furnished or given to or be consumed by any minor, and the
24 area of such gathering shall be segregated from the remainder of
25 the licensed premises. In the event the area of such gathering
26 cannot be segregated from the remainder of the licensed
27 premises, all alcoholic beverages must be either removed from
28 the licensed premises or placed under lock and key during the
29 time the gathering is taking place. Written notice, at least
30 forty-eight (48) hours in advance of such gathering, shall be

1 given to the enforcement bureau. Any licensee violating the
2 provisions of this clause shall be subject to the provisions of
3 section 471. Nothing in this clause shall be construed to make
4 it unlawful for minors to frequent public venues or performing
5 arts facilities.

6 "Proper supervision," as used in this clause, means the
7 presence, on that portion of the licensed premises where a minor
8 or minors are present, of one person twenty-five years of age or
9 older for every [fifty] five minors or part thereof who is
10 directly responsible for the care and conduct of such minor or
11 minors while on the licensed premises and in such proximity that
12 the minor or minors are constantly within his sight or hearing.
13 The presence of the licensee or any employe or security officer
14 of the licensee shall not constitute proper supervision.

15 * * *

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

1 metal keg connectors and tap knobs to other licensees and to
2 holders of special occasion permits.

3 * * *

4 Section ~~31~~ 27. Section 493(20)(i) of the act, amended May <—
5 31, 1996 (P.L.312, No.49), is amended to read:

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

11 It shall be unlawful--

12 * * *

13 (20) (i) Retail Liquor and Retail Malt or Brewed Beverages
14 Licensee's Inside Advertisements. For any retail liquor or
15 retail malt or brewed beverages licensee, to display or permit
16 the display in the show window or doorways of his licensed
17 premises, any placard or sign advertising the brands of liquor
18 or malt or brewed beverages, if the total display area of any
19 such placard or sign advertising the product or products exceeds
20 six hundred square inches. Nothing herein shall prohibit a
21 licensee from displaying inside his licensed premises point of
22 sale displays advertising brand names of products sold by him,
23 other than a window or door display: Provided, That the total
24 cost of all such point of sale advertising matter relating to
25 any one brand shall [not exceed the sum of one hundred forty
26 dollars (\$140) at any one time, and no single piece of
27 advertising shall exceed a cost of seventy dollars (\$70). The
28 board is authorized to make annual adjustments to the cost
29 limitations on point of display advertising to reflect any
30 changes in such limitations by the United States Bureau of

1 Alcohol, Tobacco and Firearms or its successors in accordance
2 with 27 CFR 6.83 (relating to product displays) and 27 CFR 6.85
3 (relating to retailer advertising specialties).] not exceed the
4 dollar amount set forth by the board through regulation. All
5 such advertising material, including the window and door signs,
6 may be furnished by a manufacturer, distributor or importing
7 distributor. The restrictions on advertising set forth in
8 subclause (ii) and in clauses (20.1) and (20.2) shall also apply
9 to this subclause.

10 * * *

11 Section ~~32~~ 28. Section 493.1 of the act, added October 5, <—
12 1994 (P.L.522, No.77), is amended to read:

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

17 ~~(b) A municipality that wishes to supersede those provisions~~ <—
18 ~~of the board's regulations pertaining to amplified music being~~
19 ~~heard off the licensed premises may do so by notifying the board~~
20 ~~that the municipality has adopted an ordinance to impose the~~
21 ~~requirements of its own local noise ordinance in lieu of the~~
22 ~~board's regulations on licensed premises within its boundaries.~~
23 ~~If a municipality chooses to give the board such notification,~~
24 ~~those provisions of the board's regulations pertaining to~~
25 ~~amplified music being heard off the licensed premises, shall not~~
26 ~~be applicable to licensed premises located in that municipality~~
27 ~~until the municipality informs the board that it will no longer~~
28 ~~supersede the board's regulations.~~

29 (B) A MUNICIPALITY MAY FILE AN APPLICATION WITH THE BOARD TO <—
30 CONSIDER AN EXEMPTION FROM THE BOARD'S REGULATIONS REGARDING

1 AMPLIFIED MUSIC BEING HEARD OFF THE LICENSED PREMISES FOR ALL
2 THE LICENSEES WITHIN AN IDENTIFIABLE AREA IN THE MUNICIPALITY
3 WITH A CONCENTRATED NUMBER OF LICENSEES. PRIOR TO SUBMITTING AN
4 APPLICATION, THE MUNICIPALITY SHALL ADOPT A LOCAL NOISE
5 ORDINANCE AND A RESOLUTION ADOPTED BY ITS GOVERNING BODY
6 CONFIRMING SUPPORT OF THE APPLICATION, CITING THE NOISE
7 ORDINANCE AND THEIR INTENTION TO ENFORCE THE ORDINANCE IN PLACE
8 OF THE BOARD'S REGULATIONS. UPON RECEIPT OF AN APPLICATION,
9 INCLUDING A COPY OF THE NOISE ORDINANCE AND RESOLUTION, THE
10 BOARD SHALL HOLD AT LEAST ONE PUBLIC HEARING ON THE APPLICATION.
11 THE HEARING MAY BE HELD BEFORE A HEARING EXAMINER. THE HEARING
12 SHALL TAKE PLACE WITHIN THE IDENTIFIED AREA AND MUST COMPLY WITH
13 ALL REQUIREMENTS OF 65 PA.C.S. CH. 7 (RELATING TO OPEN
14 MEETINGS). WITHIN SIXTY DAYS AFTER RECEIPT OF THE APPLICATION,
15 THE BOARD SHALL, IN ITS DISCRETION, APPROVE OR DISAPPROVE THE
16 APPLICATION FOR AN EXEMPTION IN ITS ENTIRETY OR MAY APPROVE AN
17 AREA MORE LIMITED FOR WHICH THE EXEMPTION WILL BE GRANTED. THERE
18 SHALL BE A RIGHT TO APPEAL TO THE COURT OF COMMON PLEAS IN THE
19 SAME MANNER AS PROVIDED BY THIS ACT FOR APPEALS FROM REFUSALS TO
20 GRANT LICENSES.

21 Section ~~33~~ 29. Section 498(g) of the act, amended February <—
22 21, 2002 (P.L.103, No.10), is amended to read:

23 Section 498. Unlawful Advertising.-- * * *

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

1 Section ~~34~~ 30. Section 505.2(2) of the act, amended November <—
2 10, 1999 (P.L.514, No.49), is amended to read:

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

6 * * *

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

25 * * *

26 Section ~~35~~ 31. Sections 505.3, ~~509 and 515~~ AND 509 of the <—
27 act are amended to read:

28 [Section 505.3. Distilleries.--Distilleries of historical
29 significance established more than one hundred years prior to
30 January 1, 1975 which hold a license issued under section 505

1 may sell liquor produced by the distillery on the licensed
2 premises under such conditions and regulations as the board may
3 enforce.]

4 Section 509. License Must Be Posted; Business Hours.--

5 Licenses shall be issued by the board under its official seal.

6 Every license so issued must at all times be posted in a

7 conspicuous place where the business is carried on under it[,

8 and said place of business must be kept open during general

9 business hours of every day in the year except Sundays and legal

10 holidays]. Licenses may be open every day except limited

11 wineries which may be open as set forth by the board through

12 regulations.

13 ~~Section 515. Appeals. The [board, the] enforcement bureau~~ <—

14 ~~or any applicant or any licensee aggrieved by any decision~~

15 ~~refusing, suspending or revoking a license under the provisions~~

16 ~~of this article may appeal to the [court of the county in which~~

17 ~~the licensed premises or the premises to be licensed are~~

18 ~~located. In the event an applicant or a licensee shall have no~~

19 ~~place of business established within the Commonwealth, his~~

20 ~~appeal shall be to the] Commonwealth Court. Such appeal shall be~~

21 ~~in accordance with 2 Pa.C.S. Ch. 7 Subch. A (relating to~~

22 ~~judicial review of Commonwealth agency action).~~

23 Section ~~36~~ 32. This act shall take effect as follows: <—

24 (1) The amendment or addition of section 305, 412 and 441(b)

25 of the act shall take effect immediately.

26 (2) This section shall take effect immediately.

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