

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 782 Session of 2003

INTRODUCED BY RAYMOND, DONATUCCI, ALLEN, BARRAR, CASORIO, DERMODY, FABRIZIO, GEIST, HARRIS, HENNESSEY, HERMAN, HORSEY, LEDERER, MCGEEHAN, R. MILLER, O'NEILL, PAYNE, RUBLEY, SCRIMENTI, SOLOBAY, THOMAS, TIGUE, WASHINGTON, TURZAI, YOUNGBLOOD, CIVERA, REICHLEY, JAMES, MELIO AND SAYLOR, MARCH 10, 2003

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES, MAY 6, 2003

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 ~~adding definitions of "proper supervision" and "social~~
18 ~~gathering"; and further providing FOR DEFINITIONS, for~~
19 enforcement, for sales by Pennsylvania Liquor Stores, FOR
20 SALES BY LIQUOR LICENSEES AND RESTRICTIONS, FOR RETAIL
21 DISPENSER'S RESTRICTIONS ON PURCHASES AND SALES, FOR UNLAWFUL
22 ACTS RELATIVE TO LIQUOR, ALCOHOL AND LIQUOR LICENSEES and for
23 permitting undesirable persons or minors to frequent
24 premises.

<—
<—
<—

25 The General Assembly of the Commonwealth of Pennsylvania
26 hereby enacts as follows:

1 Section 1. ~~Section~~ THE DEFINITION OF "ELIGIBLE ENTITY" IN ←
2 SECTION 102 of the act of April 12, 1951 (P.L.90, No.21), known
3 as the Liquor Code, reenacted and amended June 29, 1987 (P.L.32,
4 No.14), DEFINITION ADDED DECEMBER 9, 2002 (P.L.1653, NO.212), IS ←
5 AMENDED AND THE SECTION is amended by adding definitions to
6 read:

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

10 * * * ←

11 "ELIGIBLE ENTITY" SHALL MEAN A CITY OF THE THIRD CLASS, A
12 HOSPITAL, A CHURCH, A SYNAGOGUE, A VOLUNTEER FIRE COMPANY, A
13 VOLUNTEER AMBULANCE COMPANY, A VOLUNTEER RESCUE SQUAD, A UNIT OF
14 A NATIONALLY CHARTERED CLUB WHICH HAS BEEN ISSUED A CLUB LIQUOR
15 LICENSE, A CLUB IN A CITY OF THE THIRD CLASS WHICH HAS BEEN
16 ISSUED A CLUB LIQUOR LICENSE AND WHICH, AS OF DECEMBER 31, 2002,
17 HAS BEEN IN EXISTENCE FOR AT LEAST 100 YEARS, A LIBRARY, A
18 NATIONALLY ACCREDITED PENNSYLVANIA NONPROFIT ZOOLOGICAL
19 INSTITUTION LICENSED BY THE UNITED STATES DEPARTMENT OF
20 AGRICULTURE, A NONPROFIT AGRICULTURAL ASSOCIATION IN EXISTENCE
21 FOR AT LEAST TEN YEARS, A BONA FIDE SPORTSMEN'S CLUB IN
22 EXISTENCE FOR AT LEAST TEN YEARS, A NATIONALLY CHARTERED
23 VETERANS' ORGANIZATION AND ANY AFFILIATED LODGE OR SUBDIVISION
24 OF SUCH ORGANIZATION, A FRATERNAL BENEFIT SOCIETY THAT IS
25 LICENSED TO DO BUSINESS IN THIS COMMONWEALTH AND ANY AFFILIATED
26 LODGE OR SUBDIVISION OF SUCH FRATERNAL BENEFIT SOCIETY, A MUSEUM
27 OPERATED BY A NONPROFIT CORPORATION IN A CITY OF THE THIRD CLASS
28 OR TOWNSHIP OF THE FIRST CLASS, A NONPROFIT CORPORATION ENGAGED
29 IN THE PERFORMING ARTS IN A CITY OF THE THIRD CLASS OR IN AN
30 INCORPORATED TOWN, AN ARTS COUNCIL, A NONPROFIT CORPORATION THAT

1 OPERATES AN ARTS FACILITY OR MUSEUM IN A CITY OF THE THIRD CLASS
2 IN THE COUNTY OF THE FOURTH CLASS, A NONPROFIT ORGANIZATION AS
3 DEFINED UNDER SECTION 501(C)(3) OF THE INTERNAL REVENUE CODE OF
4 1986 (PUBLIC LAW 99-514, 26 U.S.C. § 501(C)(3)) WHOSE PURPOSE IS
5 TO PROTECT THE ARCHITECTURAL HERITAGE OF BOROUGHS AND WHICH HAS
6 BEEN RECOGNIZED AS SUCH BY A MUNICIPAL RESOLUTION, OR A
7 NONPROFIT ORGANIZATION AS DEFINED UNDER SECTION 501(C)(3) OF THE
8 INTERNAL REVENUE CODE OF 1986 (PUBLIC LAW 99-514, 26 U.S.C. §
9 501(C)(3)) CONDUCTING A REGATTA IN A CITY OF THE SECOND CLASS
10 WITH THE PERMIT TO BE USED ON STATE PARK GROUNDS OR CONDUCTING A
11 FAMILY-ORIENTED CELEBRATION AS PART OF WELCOME AMERICA IN A CITY
12 OF THE FIRST CLASS ON PROPERTY LEASED FROM THAT CITY FOR MORE
13 THAN FIFTY YEARS.

14 * * *

15 "Proper supervision" shall mean a person twenty-five years of
16 age or older, who is directly responsible for the care and
17 conduct of a minor or minors while on the licensed premises, and
18 who keeps the minor or minors within his or her sight or
19 hearing. If the licensee, an employe of a licensee or anyone
20 else paid by the licensee is performing as proper supervisor
21 then that person may not perform any other employment-related
22 duties; otherwise proper supervision shall consist of unpaid
23 volunteers.

24 * * *

25 "Social gathering" shall mean events marketed to or catering
26 to minors in whole or in part for which proper notice has been
27 provided to the Bureau of Enforcement and at which time no
28 alcohol is served and all alcohol is removed or secured by lock
29 and key at the licensed premises.

30 * * *

1 Section 2. Section 211 of the act is amended by adding a
2 subsection to read:

3 Section 211. Enforcement.--* * *

4 ~~(f) Funding for the enforcement bureau shall be provided by~~ <—
5 ~~the board. Each year, the Pennsylvania State Police shall~~

6 (F) EACH YEAR, THE PENNSYLVANIA STATE POLICE SHALL include <—
7 with its application to the board GENERAL ASSEMBLY for annual <—
8 funding for the enforcement bureau, the following:

9 (1) A complete audit of all expenditures of the enforcement
10 bureau for the period of one year prior to the request for
11 funds.

12 (2) A projected budget of expenses for the coming one-year
13 period.

14 (3) A review of the content of the enforcement bureau's
15 force of civilian officers, as it relates to its multiracial and
16 bilingual characteristics.

17 Section 3. Section 305(a) and (h) of the act, amended
18 February 21, 2002 (P.L.103, No.10) and December 9, 2002
19 (P.L.1653, No.212), are amended to read:

20 Section 305. Sales by Pennsylvania Liquor Stores.--(a)
21 [Every Pennsylvania Liquor Store shall keep in stock for sale
22 such classes, varieties and brands of liquor and alcohol as the
23 board shall prescribe. Every Pennsylvania Liquor Store shall be
24 authorized to sell combination packages. If any person shall
25 desire to purchase any class, variety or brand of liquor or
26 alcohol which any such store does not have in stock, it shall be
27 the duty of such store immediately to order the same upon the
28 payment of a reasonable deposit by the purchaser in such
29 proportion of the approximate cost of the order as shall be
30 prescribed by the regulations of the board. No purchaser may be

1 required to purchase more than two bottles or containers of the
2 product, provided that such product is available through the
3 State store system.] The board shall in its discretion determine
4 where and what classes, varieties and brands of liquor and
5 alcohol it shall make available to the public and where such
6 liquor and alcohol will be sold. If a person desires to purchase
7 a class, variety or brand of liquor or alcohol not currently
8 available from the board, he or she may place a special order
9 for such item so long as the order is for two or more bottles.
10 The board may require a reasonable deposit from the purchaser as
11 a condition for accepting the order. The customer shall be
12 notified immediately upon the arrival of the goods.

13 In computing the retail price of such special orders for
14 liquor or alcohol, the board shall not include the cost of
15 freight or shipping before applying the mark-up and taxes but
16 shall add the freight or shipping charges to the price after the
17 mark-up and taxes have been applied.

18 Unless the customer pays for and accepts delivery of any such
19 special order within ten days after notice of arrival, the store
20 may place it in stock for general sale and the customer's
21 deposit shall be forfeited.

22 * * *

23 (h) Every Pennsylvania Liquor Store shall sell gift
24 certificates which may be redeemed for liquor. In addition, the
25 board may sell corkscrews, wine accessories, trade publications
26 and wine sleeves at Pennsylvania Liquor Stores.

27 SECTION 4. SECTION 406(A)(1) OF THE ACT, AMENDED DECEMBER 9, <—
28 2002 (P.L.1653, NO.212), IS AMENDED TO READ:

29 SECTION 406. SALES BY LIQUOR LICENSEES; RESTRICTIONS.--(A)
30 (1) EVERY HOTEL, RESTAURANT OR CLUB LIQUOR LICENSEE MAY SELL

1 LIQUOR AND MALT OR BREWED BEVERAGES BY THE GLASS, OPEN BOTTLE OR
2 OTHER CONTAINER, AND IN ANY MIXTURE, FOR CONSUMPTION ONLY IN
3 THAT PART OF THE HOTEL OR RESTAURANT HABITUALLY USED FOR THE
4 SERVING OF FOOD TO GUESTS OR PATRONS, OR IN A BOWLING ALLEY THAT
5 IS IMMEDIATELY ADJACENT TO AND UNDER THE SAME ROOF AS A
6 RESTAURANT [WHEN NO MINORS ARE PRESENT, UNLESS MINORS WHO ARE
7 PRESENT ARE UNDER PROPER SUPERVISION AS DEFINED IN SECTION 493,
8 IN THE BOWLING ALLEY], AND IN THE CASE OF HOTELS, TO GUESTS, AND
9 IN THE CASE OF CLUBS, TO MEMBERS, IN THEIR PRIVATE ROOMS IN THE
10 HOTEL OR CLUB. NO CLUB LICENSEE NOR ITS OFFICERS, SERVANTS,
11 AGENTS OR EMPLOYES, OTHER THAN ONE HOLDING A CATERING LICENSE,
12 SHALL SELL ANY LIQUOR OR MALT OR BREWED BEVERAGES TO ANY PERSON
13 EXCEPT A MEMBER OF THE CLUB. THE HOLDER OF A RESTAURANT LICENSE
14 LOCATED IN A HOTEL MAY SELL LIQUOR OR MALT OR BREWED BEVERAGES
15 FOR CONSUMPTION IN THAT PART OF THE RESTAURANT HABITUALLY USED
16 FOR THE SERVING OF MEALS TO PATRONS AND ALSO TO GUESTS IN
17 PRIVATE GUEST ROOMS IN THE HOTEL. FOR THE PURPOSE OF THIS
18 PARAGRAPH, ANY PERSON WHO IS AN ACTIVE MEMBER OF ANOTHER CLUB
19 WHICH IS CHARTERED BY THE SAME STATE OR NATIONAL ORGANIZATION
20 SHALL HAVE THE SAME RIGHTS AND PRIVILEGES AS MEMBERS OF THE
21 PARTICULAR CLUB. FOR THE PURPOSE OF THIS PARAGRAPH, ANY PERSON
22 WHO IS AN ACTIVE MEMBER OF ANY VOLUNTEER FIREFIGHTING COMPANY,
23 ASSOCIATION OR GROUP OF THIS COMMONWEALTH, WHETHER INCORPORATED
24 OR UNINCORPORATED, SHALL UPON THE APPROVAL OF ANY CLUB COMPOSED
25 OF VOLUNTEER FIREMEN LICENSED UNDER THIS ACT, HAVE THE SAME
26 SOCIAL RIGHTS AND PRIVILEGES AS MEMBERS OF SUCH LICENSED CLUB.
27 FOR THE PURPOSES OF THIS PARAGRAPH, THE TERM "ACTIVE MEMBER"
28 SHALL NOT INCLUDE A SOCIAL MEMBER. ANY CLUB LICENSEE WHICH IS
29 EITHER AN INCORPORATED UNIT OF A NATIONAL VETERANS' ORGANIZATION
30 OR AN AFFILIATED ORGANIZATION AS DEFINED IN SECTION 461.1 SHALL

1 BE PERMITTED TO SELL LIQUOR OR MALT OR BREWED BEVERAGES TO ANY
2 ACTIVE MEMBER OF ANOTHER UNIT WHICH IS CHARTERED BY THE SAME
3 NATIONAL VETERANS' ORGANIZATION OR TO ANY MEMBER OF A NATIONALLY
4 CHARTERED AUXILIARY ASSOCIATED WITH THE SAME NATIONAL VETERANS'
5 ORGANIZATION.

6 * * *

7 SECTION 5. SECTION 440 OF THE ACT, AMENDED MAY 31, 1996
8 (P.L.312, NO.49), IS AMENDED TO READ:

9 SECTION 440. SALES BY MANUFACTURERS OF MALT OR BREWED
10 BEVERAGES; MINIMUM QUANTITIES.--NO MANUFACTURER SHALL SELL ANY
11 MALT OR BREWED BEVERAGES FOR CONSUMPTION ON THE PREMISES WHERE
12 SOLD, NOR SELL OR DELIVER ANY SUCH MALT OR BREWED BEVERAGES IN
13 OTHER THAN ORIGINAL CONTAINERS APPROVED AS TO CAPACITY BY THE
14 BOARD, NOR IN QUANTITIES OF LESS THAN A CASE OR ORIGINAL
15 CONTAINERS CONTAINING [ONE HUNDRED TWENTY-EIGHT] SIXTY-FOUR
16 OUNCES OR MORE WHICH MAY BE SOLD SEPARATELY; NOR SHALL ANY
17 MANUFACTURER MAINTAIN OR OPERATE WITHIN THE COMMONWEALTH ANY
18 PLACE OR PLACES OTHER THAN THE PLACE OR PLACES COVERED BY HIS OR
19 ITS LICENSE WHERE MALT OR BREWED BEVERAGES ARE SOLD OR WHERE
20 ORDERS ARE TAKEN.

21 SECTION 6. SECTIONS 442(B) AND 491(6) OF THE ACT ARE AMENDED
22 TO READ:

23 SECTION 442. RETAIL DISPENSERS' RESTRICTIONS ON PURCHASES
24 AND SALES.--* * *

25 (B) NO RETAIL DISPENSER SHALL SELL ANY MALT OR BREWED
26 BEVERAGES FOR CONSUMPTION ON THE LICENSED PREMISES EXCEPT IN A
27 ROOM OR ROOMS OR PLACE ON THE LICENSED PREMISES AT ALL TIMES
28 ACCESSIBLE TO THE USE AND ACCOMMODATION OF THE GENERAL PUBLIC,
29 BUT THIS SECTION SHALL NOT BE INTERPRETED TO PROHIBIT A RETAIL
30 DISPENSER FROM SELLING MALT OR BREWED BEVERAGES IN A HOTEL OR

1 CLUB HOUSE IN ANY ROOM OF SUCH HOTEL OR CLUB HOUSE OCCUPIED BY A
2 BONA FIDE REGISTERED GUEST OR MEMBER ENTITLED TO PURCHASE THE
3 SAME OR TO PROHIBIT A RETAIL DISPENSER FROM SELLING MALT OR
4 BREWED BEVERAGES IN A BOWLING ALLEY [WHEN NO MINORS ARE PRESENT,
5 UNLESS MINORS WHO ARE PRESENT ARE UNDER PROPER SUPERVISION AS
6 DEFINED IN SECTION 493,] WHERE THE LICENSED PREMISES AND BOWLING
7 ALLEY ARE IMMEDIATELY ADJACENT AND UNDER THE SAME ROOF.

8 * * *

9 SECTION 491. UNLAWFUL ACTS RELATIVE TO LIQUOR, ALCOHOL AND
10 LIQUOR LICENSEES.--

11 IT SHALL BE UNLAWFUL--

12 * * *

13 (6) SALES BY RESTAURANT AND HOTEL LIQUOR LICENSEES. FOR ANY
14 RESTAURANT OR HOTEL LICENSEE, HIS SERVANTS, AGENTS OR EMPLOYES,
15 TO SELL ANY LIQUOR OR MALT OR BREWED BEVERAGES FOR CONSUMPTION
16 ON THE LICENSED PREMISES EXCEPT IN A ROOM OR ROOMS OR PLACE ON
17 THE LICENSED PREMISES AT ALL TIMES ACCESSIBLE TO THE USE AND
18 ACCOMMODATION OF THE GENERAL PUBLIC, BUT THIS SECTION SHALL NOT
19 BE INTERPRETED TO PROHIBIT A RESTAURANT LIQUOR LICENSEE FROM
20 PROVIDING PRIVATE AFFAIRS THE PRIMARY FUNCTION OF WHICH IS FOR
21 CATERING ONLY TO WEDDINGS OR SPECIAL OCCASIONS ARRANGED TWENTY-
22 FOUR HOURS IN ADVANCE, NOR TO PROHIBIT A HOTEL LICENSEE, OR A
23 RESTAURANT LICENSEE WHEN THE RESTAURANT IS LOCATED IN A HOTEL,
24 FROM SELLING LIQUOR OR MALT OR BREWED BEVERAGES IN ANY ROOM OF
25 SUCH HOTEL OCCUPIED BY A BONA FIDE GUEST OR TO PROHIBIT A
26 RESTAURANT LICENSEE FROM SELLING LIQUOR OR MALT OR BREWED
27 BEVERAGES IN A BOWLING ALLEY [WHEN NO MINORS ARE PRESENT] WHERE
28 THE RESTAURANT AND BOWLING ALLEY ARE IMMEDIATELY ADJACENT AND
29 UNDER THE SAME ROOF.

30 * * *

1 Section 4 7. Section 493(14) of the act, amended December 9, <—
2 2002 (P.L.1653, No.212), is amended to read:

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

8 It shall be unlawful--

9 * * *

10 (14) Permitting Undesirable Persons or Minors to Frequent
11 Premises. For any hotel, restaurant or club liquor licensee, or
12 any retail dispenser, his servants, agents or employes, to
13 permit persons of ill repute[,] or prostitutes [or minors] to
14 frequent his licensed premises or any premises operated in
15 connection therewith_[, except minors accompanied by parents,
16 guardians, or under proper supervision or except minors who
17 frequent any restaurant or retail dispensing licensee whose
18 sales of food and non-alcoholic beverages are equal to fifty per
19 centum or more of the combined gross sales of both food and
20 alcoholic beverages on the condition that alcoholic beverages
21 may not be served at the table or booth at which the said minor
22 is seated at the time (unless said minor is under proper
23 supervision as hereinafter defined) and on the further condition
24 that only table service of alcoholic beverages or take-out
25 service of beer shall be permitted in the room wherein the minor
26 is located: Provided, however, That it shall not be unlawful for
27 any hotel, restaurant or club liquor licensee or any retail
28 dispenser to permit minors under proper supervision upon the
29 licensed premises or any premises operated in connection
30 therewith for the purpose of a social gathering, even if such

1 gathering is exclusively for minors: And provided further, That
2 no liquor shall be sold, furnished or given to such minors nor
3 shall the licensee knowingly permit any liquor or malt or brewed
4 beverages to be sold, furnished or given to or be consumed by
5 any minor, and the area of such gathering shall be segregated
6 from the remainder of the licensed premises. In the event the
7 area of such gathering cannot be segregated from the remainder
8 of the licensed premises, all alcoholic beverages must be either
9 removed from the licensed premises or placed under lock and key
10 during the time the gathering is taking place. Written notice,
11 at least forty-eight (48) hours in advance of such gathering,
12 shall be given to the enforcement bureau. Any licensee violating
13 the provisions of this clause shall be subject to the provisions
14 of section 471. Nothing in this clause shall be construed to
15 make it unlawful for minors to frequent public venues or
16 performing arts facilities.

17 "Proper supervision," as used in this clause, means the
18 presence, on that portion of the licensed premises where a minor
19 or minors are present, of one person twenty-five years of age or
20 older for every five minors or part thereof who is directly
21 responsible for the care and conduct of such minor or minors
22 while on the licensed premises and in such proximity that the
23 minor or minors are constantly within his sight or hearing. The
24 presence of the licensee or any employe or security officer of
25 the licensee shall not constitute proper supervision.] Minors
26 may only frequent licensed premises if; (a) they are
27 accompanied by a parent; (b) they are accompanied by a legal
28 guardian; (c) they are under proper supervision; (d) they are
29 attending a social gathering; or (e) the hotel, restaurant or
30 retail dispenser licensee has gross sales of food and

1 nonalcoholic beverages equal to fifty per centum or more of its
2 combined gross sale of both food and alcoholic beverages. If a
3 minor is frequenting a hotel, restaurant or retail dispenser
4 licensee under subsection (e), then the minor may not sit at the
5 bar section of the premises, nor may any alcoholic beverages be
6 served at the table or booth at which the said minor is seated,
7 unless said minor is with a parent, legal guardian or under
8 proper supervision. Further, if a hotel, restaurant, club liquor
9 licensee or retail dispenser is hosting a social gathering under
10 subsection (d) then written notice at least forty-eight hours in
11 advance of such gathering shall be given to the Bureau of
12 Enforcement. If a minor is frequenting licensed premises with
13 proper supervision under subsection (c), each supervisor can
14 supervise up to twenty minors, except for premises located in
15 cities of the first class, where each supervisor can supervise
16 up to five minors. Notwithstanding any other provisions of this
17 section, if the minors are on the premises as part of a school-
18 endorsed function, then each supervisor can supervise fifty
19 minors. Nothing in this clause shall be construed to make it
20 unlawful for minors to frequent public venues or performing arts
21 facilities.

22 Section 5 8. This act shall take effect as follows: <—

23 (1) The addition of section 211(f) of the act shall take
24 effect in 60 days.

25 (2) The remainder of this act shall take effect
26 immediately.