

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 965 Session of  
2003

INTRODUCED BY CONTI, LOGAN AND WONDERLING, NOVEMBER 17, 2003

REFERRED TO LAW AND JUSTICE, NOVEMBER 17, 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 further providing for definitions, for when sales may be made  
18 at Pennsylvania Liquor Stores, for sales by Pennsylvania  
19 Liquor Stores, for authority to issue liquor licenses to  
20 hotels, restaurants and clubs, for issuance of hotel,  
21 restaurant and club liquor licenses, for secondary service  
22 area, for malt and brewed beverages manufacturers',  
23 distributors' and importing distributors' licenses, for malt  
24 and brewed beverages retail licenses, for prohibitions  
25 against the grant of licenses, for renewal of licenses, for  
26 temporary provisions for licensees in armed service, unlawful  
27 acts relative to liquor, malt and brewed beverages and  
28 licensees, for prohibitions against the grant of licenses and  
29 for limited wineries.

30 The General Assembly of the Commonwealth of Pennsylvania

31 hereby enacts as follows:

1 Section 1. Section 102 of the act of April 12, 1951 (P.L.90,  
2 No.21), known as the Liquor Code, reenacted and amended June 29,  
3 1987 (P.L.32, No.14), is amended by adding definitions to read:

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

7 \* \* \*

8 "Holiday" shall mean the first day of January, commonly known  
9 as New Year's Day; the third Monday of January, known as Dr.  
10 Martin Luther King, Jr., Day; the third Monday in February,  
11 known as Presidents Day; the last Monday in May, known as  
12 Memorial Day; the fourth day of July, known as Independence Day;  
13 the first Monday of September, known as Labor Day; the eleventh  
14 day of November, known as Veterans Day; the fourth Thursday in  
15 November, known as Thanksgiving Day; and the twenty-fifth day of  
16 December, known as Christmas Day.

17 \* \* \*

18 "Reputable," or "repute" shall mean the character of a  
19 person or the character or status ascribed to a person. When  
20 considering whether a person is reputable or the repute of a  
21 person, the board may consider whether the person has been  
22 convicted of any crimes, including misdemeanors and felonies,  
23 the person's history regarding licenses issued by the board,  
24 including the citation history of the licenses, and any other  
25 factor the board deems appropriate.

26 \* \* \*

27 Section 2. Section 304(a) of the act, amended December 9,  
28 2002 (P.L.1653, No.212), is amended to read:

29 Section 304. When Sales May Be Made at Pennsylvania Liquor  
30 Stores.--(a) Except as provided for in subsection (b), every

1 Pennsylvania Liquor Store shall be open for business week days,  
2 except [legal holidays or any day on which a general, municipal,  
3 special or primary election is being held, during such hours as  
4 the board, in its discretion, shall determine: Provided, That  
5 the Pennsylvania Liquor Stores in the case of a special election  
6 for members of the General Assembly or members of the Congress  
7 of the United States, when such special election is held on  
8 other than a primary, municipal or general election day, shall  
9 be open in those Legislative or Congressional Districts as  
10 though the day were not a special election day.] holidays as  
11 that term is defined in section 102. The board may, with the  
12 approval of the Governor, temporarily close any store in any  
13 municipality.

14 \* \* \*

15 Section 3. Section 305 of the act is amended by adding a  
16 subsection to read:

17 Section 305. Sales by Pennsylvania Liquor Stores.--\* \* \*

18 \* \* \*

19 (i) Notwithstanding any other provision of law to the  
20 contrary, the board may sell wine in containers having a  
21 capacity of six liters or less.

22 Section 4. Section 401(a) of the act is amended to read:

23 Section 401. Authority to Issue Liquor Licenses to Hotels,  
24 Restaurants and Clubs.--(a) Subject to the provisions of this  
25 act and regulations promulgated under this act, the board shall  
26 have authority to issue a retail liquor license for any premises  
27 kept or operated by a hotel, restaurant or club and specified in  
28 the license entitling the hotel, restaurant or club to purchase  
29 liquor from a Pennsylvania Liquor Store and to keep on the  
30 premises such liquor and, subject to the provisions of this act

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

1 the licensed premises is located outside the official  
2 jurisdiction of the individual in question.

3 Section 5. Sections 404, 406.1 and 431(b) of the act,  
4 amended December 9, 2002 (P.L.1653, No.212), are amended to  
5 read:

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

1 licensed by the board: And provided further, That the board's  
2 authority to refuse to grant a license because of its proximity  
3 to a church, hospital, charitable institution, public playground  
4 or other licensed premises shall not be applicable to license  
5 applications submitted for public venues or performing arts  
6 facilities: And provided further, That the board shall refuse  
7 any application for a new license or the transfer of any license  
8 or the extension of an existing license to a new location if, in  
9 the board's opinion, such new license or transfer or extension  
10 would be detrimental to the welfare, health, peace and morals of  
11 the inhabitants of the neighborhood within a radius of five  
12 hundred feet of the place proposed to be licensed: And provided  
13 further, That the board shall have the discretion to refuse a  
14 license to any person or to any corporation, partnership or  
15 association if such person, or any officer or director of such  
16 corporation, or any member or partner of such partnership or  
17 association shall have been convicted or found guilty of a  
18 felony within a period of five years immediately preceding the  
19 date of application for the said license. The board shall refuse  
20 any application for a new license or the transfer or extension  
21 of any license to a location where the sale of liquid fuels or  
22 oil is conducted. The board may enter into an agreement with the  
23 applicant concerning additional restrictions on the license in  
24 question. If the board and the applicant enter into such an  
25 agreement, such agreement shall be binding on the applicant.  
26 Failure by the applicant to adhere to the agreement will be  
27 sufficient cause to form the basis for a citation under section  
28 471 and for the nonrenewal of the license under section 470. If  
29 the board enters into an agreement with an applicant concerning  
30 additional restrictions, those restrictions shall be binding on

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

21 (b) The Director of the Bureau of Licensing may object to  
22 and the board may refuse an application for a hotel, restaurant  
23 and club liquor license:

24 (1) if the applicant, its shareholders, directors, officers,  
25 association members, servants, agents or employees have violated  
26 any laws of this Commonwealth or any of the regulations of the  
27 board;

28 (2) if the applicant, its shareholders, directors, officers,  
29 association members, servants, agents or employees have one (1)  
30 or more adjudicated citations under this or any other license

1 issued by the board;

2 (3) if the applicant, its shareholders, directors, officers,  
3 association members, servants, agents or employees were involved  
4 in a license whose renewal was objected to by the Bureau of  
5 Licensing under section 470; or

6 (4) due to the manner in which this or another licensed  
7 premises was operated while the applicant, its shareholders,  
8 directors, officers, association members, servants, agents or  
9 employees were involved with that license. When considering the  
10 manner in which this or another licensed premises was being  
11 operated, the board may consider activity that occurred on or  
12 about the licensed premises or in areas under the licensee's  
13 control if the activity occurred when the premises was open for  
14 operation and there was a relationship between the activity  
15 outside the premises and the manner in which the licensed  
16 premises was operated. The board may also take into  
17 consideration whether any substantial steps were taken to  
18 address the activity occurring on or about the premises.

19 (c) If the objection to the application is based on the  
20 reputation, criminal history, citation history or activity of  
21 one or more of the applicant's shareholders, directors,  
22 officers, association members, servants, agents or employees, and  
23 not on the reputation, criminal history, citation history or  
24 activity attributable to the applicant, the board shall order  
25 the divestiture of the shareholders, directors, officers,  
26 association members, servants, agents or employees in question,  
27 in lieu of refusing the application. If such divestiture does  
28 not occur within thirty (30) days of the board's order, then the  
29 board may refuse the application.

30 Section 406.1. Secondary Service Area.--(a) Upon



1 application of any restaurant, hotel, club, municipal golf  
2 course liquor licensee or manufacturer of malt or brewed  
3 beverages, and payment of the appropriate fee, the board may  
4 approve a secondary service area by extending the licensed  
5 premises to include one additional permanent structure with  
6 dimensions of at least one hundred seventy-five square feet,  
7 enclosed on three sides and having adequate seating. Such  
8 secondary service area must be located on property having a  
9 minimum area of one (1) acre, and must be on land which is  
10 immediate, abutting, adjacent or contiguous to the licensed  
11 premises with no intervening public thoroughfare; however, the  
12 original licensed premises and the secondary service area must  
13 be located on the same tract of land. The board shall have  
14 discretion to refuse the application for a secondary service  
15 area in the same manner it has discretion to refuse an  
16 application for transfer of the license to a new location as set  
17 forth in section 404. There shall be no requirement that the  
18 secondary service area be physically connected to the original  
19 licensed premises. In addition, there shall be no requirement  
20 that the secondary service area be located in the same  
21 municipality as the original licensed premises, provided,  
22 however, that the board shall not approve a secondary service  
23 area in this case if that secondary service area is located in  
24 any municipality where the granting of liquor licenses has been  
25 prohibited as provided in this article. Notwithstanding 40 Pa.  
26 Code § 7.21(c)(3), the licensee shall be permitted to store,  
27 serve, sell or dispense food, liquor and malt or brewed  
28 beverages at the board approved secondary service area.

29 (b) If the applicant is a manufacturer of malt or brewed  
30 beverages, the board may approve a secondary service area for

1 use as a brewery pub pursuant to section 446, notwithstanding  
2 any intervening public thoroughfare, so long as the proposed  
3 secondary service area is within one thousand feet of the  
4 licensed premises. Notwithstanding any other provision of this  
5 act, the licensed premises and the secondary service area may be  
6 located on different tracts of lands.

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

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

1 feet of any other premises which is licensed by the board: And  
2 provided further, That the board shall refuse any application  
3 for a new license or the transfer of any license to a new  
4 location if, in the board's opinion, such new license or  
5 transfer would be detrimental to the welfare, health, peace and  
6 morals of the inhabitants of the neighborhood within a radius of  
7 five hundred feet of the place proposed to be licensed. The  
8 Director of the Bureau of Licensing may object to and the board  
9 may refuse an application for a distributor or importing  
10 distributor license:

11 (1) if the applicant, its shareholders, directors, officers,  
12 association members, servants, agents or employes have violated  
13 any laws of this Commonwealth or any of the regulations of the  
14 board;

15 (2) if the applicant, its shareholders, directors, officers,  
16 association members, servants, agents or employes have one (1)  
17 or more adjudicated citations under this or any other license  
18 issued by the board;

19 (3) if the applicant, its shareholders, directors, officers,  
20 association members, servants, agents or employes were involved  
21 in a license whose renewal was objected to by the Bureau of  
22 Licensing under section 470; or

23 (4) due to the manner in which this or another licensed  
24 premises was operated while the applicant, its shareholders,  
25 directors, officers, association members, servants, agents or  
26 employes were involved with that license. When considering the  
27 manner in which this or another licensed premises was being  
28 operated, the board may consider activity that occurred on or  
29 about the licensed premises or in areas under the licensee's  
30 control if the activity occurred when the premises was open for

1 operation and there was a relationship between the activity  
2 outside the premises and the manner in which the licensed  
3 premises was operated. The board may also take into  
4 consideration whether any substantial steps were taken to  
5 address the activity occurring on or about the premises. If the  
6 objection to the application is based on the reputation,  
7 criminal history, citation history or activity of one or more of  
8 the applicant's shareholders, directors, officers, association  
9 members, servants, agents or employees, and not on the  
10 reputation, criminal history, citation history or activity  
11 attributable to the applicant, the board shall order the  
12 divestiture of the shareholders, directors, officers,  
13 association members, servants, agents or employees in question,  
14 in lieu of refusing the application. If such divestiture does  
15 not occur within thirty (30) days of the board's order, then the  
16 board may refuse the application. The board shall refuse any  
17 application for a new license or the transfer of any license to  
18 a location where the sale of liquid fuels or oil is conducted.  
19 The board may enter into an agreement with the applicant  
20 concerning additional restrictions on the license in question.  
21 If the board and the applicant enter into such an agreement,  
22 such agreement shall be binding on the applicant. Failure by the  
23 applicant to adhere to the agreement will be sufficient cause to  
24 form the basis for a citation under section 471 and for the  
25 nonrenewal of the license under section 470. If the board enters  
26 into an agreement with an applicant concerning additional  
27 restrictions, those restrictions shall be binding on subsequent  
28 holders of the license until the license is transferred to a new  
29 location or until the board enters into a subsequent agreement  
30 removing those restrictions. If the application in question

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

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

1 holder of such a permit shall be authorized: to receive or store  
2 malt or brewed beverages under the same conditions as permitted  
3 for a distributor or importing distributor under section 441(f)  
4 produced by that out of State manufacturer for sale by that  
5 manufacturer to importing distributors to whom that out of State  
6 manufacturer has given distribution rights pursuant to this  
7 subsection or to purchasers outside this Commonwealth for  
8 delivery outside this Commonwealth; or to ship to that out of  
9 State manufacturer's storage facilities outside this  
10 Commonwealth. The bailee for hire shall be permitted to receive  
11 a fee from the out of State manufacturer for any related storage  
12 or delivery services. The bailee for hire shall, as required in  
13 Article V of this act, keep complete and accurate records of all  
14 transactions, inventory, receipts and shipments and make all  
15 records and the licensed areas available for inspection by the  
16 board and for the Pennsylvania State Police, Bureau of Liquor  
17 Control Enforcement, during normal business hours.

18 Each out of State manufacturer of malt or brewed beverages  
19 whose products are sold and delivered in this Commonwealth shall  
20 give distributing rights for such products in designated  
21 geographical areas to specific importing distributors, and such  
22 importing distributor shall not sell or deliver malt or brewed  
23 beverages manufactured by the out of State manufacturer to any  
24 person issued a license under the provisions of this act whose  
25 licensed premises are not located within the geographical area  
26 for which he has been given distributing rights by such  
27 manufacturer. Should a licensee accept the delivery of such malt  
28 or brewed beverages in violation of this section, said licensee  
29 shall be subject to a suspension of his license for at least  
30 thirty days: Provided, That the importing distributor holding

1 such distributing rights for such product shall not sell or  
2 deliver the same to another importing distributor without first  
3 having entered into a written agreement with the said secondary  
4 importing distributor setting forth the terms and conditions  
5 under which such products are to be resold within the territory  
6 granted to the primary importing distributor by the  
7 manufacturer.

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

1 rights from the same manufacturer for another geographical area,  
2 providing such authority be contained in writing and a copy  
3 thereof be given to each of the importing distributors so  
4 affected.

5 \* \* \*

6 Section 6. Section 432 of the act, amended December 20, 2000  
7 (P.L.992, No.141) and December 9, 2002 (P.L.1653, No.212), is  
8 amended to read:

9 Section 432. Malt and Brewed Beverages Retail Licenses.--(a)  
10 Subject to the restrictions hereinafter provided in this act,  
11 and upon being satisfied of the truth of the statements in the  
12 application, that the premises and the applicant meet all the  
13 requirements of this act and the regulations of the board, that  
14 the applicant seeks a license for a reputable hotel, eating  
15 place or club, as defined in this act, the board shall, in the  
16 case of a hotel or eating place, grant and issue, and in the  
17 case of a club may, in its discretion, issue or refuse the  
18 applicant a retail dispenser's license.

19 (b) In the case of hotels and eating places, licenses shall  
20 be issued only to reputable persons who are citizens of the  
21 United States and have for two years been residents of the  
22 Commonwealth of Pennsylvania at the date of their application,  
23 or to reputable corporations organized or duly registered under  
24 the laws of the Commonwealth of Pennsylvania, all of whose  
25 officers and directors are citizens of the United States. In the  
26 case of incorporated clubs, licenses shall be issued only to  
27 those incorporated under the laws of Pennsylvania.

28 (c) No retail dispenser's licenses shall be granted or  
29 renewed upon their expiration in any municipality in which the  
30 electors shall vote, as hereinafter provided, against the



1 licensing therein of places where malt or brewed beverages may  
2 be sold for consumption on the premises where sold.

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

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

27 (e) Every applicant for a new or for the transfer of an  
28 existing license to another premises not then licensed shall  
29 post, for a period of at least thirty days beginning with the  
30 day the application is filed with the board, in a conspicuous

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

10 (f) Hotel, eating places, or municipal golf course retail  
11 dispenser licensees whose sales of food and nonalcoholic  
12 beverages are equal to thirty per centum (30%) or more of the  
13 combined gross sales of both food and malt or brewed beverages  
14 may sell malt or brewed beverages between the hours of eleven  
15 o'clock antemeridian on Sunday and two o'clock antemeridian on  
16 Monday upon purchase of a special permit from the board at an  
17 annual fee as prescribed in section 614-A of the act of April 9,  
18 1929 (P.L.177, No.175), known as "The Administrative Code of  
19 1929," which shall be in addition to any other license fees.

20 (g) The Director of the Bureau of Licensing may object to  
21 and the board may refuse an application for a hotel, restaurant  
22 or club liquor license:

23 (1) if the applicant, its shareholders, directors, officers,  
24 association members, servants, agents or employes have violated  
25 any laws of this Commonwealth or any of the regulations of the  
26 board;

27 (2) if the applicant, its shareholders, directors, officers,  
28 association members, servants, agents or employes have one (1)  
29 or more adjudicated citations under this or any other license  
30 issued by the board;

1     (3) if the applicant, its shareholders, directors, officers,  
2 association members, servants, agents or employees were involved  
3 in a license the renewal of which was objected to by the Bureau  
4 of Licensing under section 470; or

5     (4) due to the manner in which this or another licensed  
6 premises was operated while the applicant, its shareholders,  
7 directors, officers, association members, servants, agents or  
8 employees were involved with that license. When considering the  
9 manner in which this or another licensed premises was being  
10 operated, the board may consider activity that occurred on or  
11 about the licensed premises or in areas under the licensee's  
12 control if the activity occurred when the premises was open for  
13 operation and there was a relationship between the activity  
14 outside the premises and the manner in which the licensed  
15 premises was operated. The board may also take into  
16 consideration whether any substantial steps were taken to  
17 address the activity occurring on or about the premises.

18     (h) If the objection to the application is based on the  
19 reputation, criminal history, citation history or activity of  
20 one or more of the applicant's shareholders, directors,  
21 officers, association members, servants, agents or employees, and  
22 not on the reputation, criminal history, citation history or  
23 activity attributable to the applicant, the board shall order  
24 the divestiture of the shareholders, directors, officers,  
25 association members, servants, agents or employees in question,  
26 in lieu of refusing the application. If such divestiture does  
27 not occur within thirty (30) days of the board's order, then the  
28 board may refuse the application.

29     Section 7. Section 437(d) of the act is amended to read:

30     Section 437. Prohibitions Against the Grant of Licenses.--\*

1 \* \*

2 [(d) No person who holds, either by appointment or election,  
3 any public office which involves the duty to enforce any of the  
4 penal laws of the United States of America or any of the penal  
5 laws of this Commonwealth or any penal ordinance or resolution  
6 of any political subdivision of this Commonwealth shall be  
7 issued any manufacturer's, importing distributor's,  
8 distributor's or retail dispenser's license, nor shall such a  
9 person have any interest, directly or indirectly, in any such  
10 license.]

11 (d) No person who holds any office which involves the duty  
12 to enforce any of the penal laws of the United States of  
13 America, this Commonwealth or of any political subdivision of  
14 this Commonwealth, shall have any interest in any  
15 manufacturer's, importing distributor's, distributor's or retail  
16 dispenser's license. This prohibition applies to anyone with  
17 arrest authority, including, but not limited to, police  
18 officers, sheriffs, district attorneys, state attorneys general  
19 and United States attorneys. This prohibition shall also apply  
20 to district justices, judges or any other individuals who can  
21 impose a criminal sentence. This prohibition does not apply to  
22 members of the legislature, township supervisors, city council  
23 persons, county commissioners, mayors without arrest authority  
24 and any other offices not involved in the ability to arrest or  
25 the ability to impose a criminal sentence. This prohibition does  
26 not apply if the licensed premises is located outside the  
27 official jurisdiction of the individual in question.

28 Section 8. Section 470(a.1) and (b) of the act, amended  
29 December 21, 1998 (P.L.1202, No.155), are amended and the  
30 section is amended by adding a subsection to read:

1 Section 470. Renewal of Licenses; Temporary Provisions for  
2 Licensees in Armed Service.--\* \* \*

3 (a.1) The Director of the Bureau of Licensing may object to  
4 and the board may refuse a properly filed license application:

5 (1) if the licensee, its shareholders, directors, officers,  
6 association members, servants, agents or employes have violated  
7 any of the laws of this Commonwealth or any of the regulations  
8 of the board;

9 [(2) if the licensee has one or more adjudicated citations;]

10 (2) if the licensee, its shareholders, directors, officers,  
11 association members, servants, agents or employes have one or  
12 more adjudicated citations under this or any other license  
13 issued by the board or were involved in a license whose renewal  
14 was objected to by the Bureau of Licensing under this section;

15 (3) if the licensed premises no longer meets the  
16 requirements of this act or the board's regulations; or

17 [(4) due to the manner in which the licensed premises is  
18 being operated, the board can consider activity occurring on or  
19 about the licensed premises or in areas under licensee's control  
20 if the activity occurs when the premises is open for operation  
21 and if there is a relationship between the activity outside the  
22 premises and the manner in which the licensed premises is  
23 operated. The board may take into consideration whether the  
24 licensee has taken any substantial steps to address the activity  
25 occurring on or about the premises when the premises is open for  
26 operation.]

27 (4) due to the manner in which this or another licensed  
28 premises was operated while the licensee, its shareholders,  
29 directors, officers, association members, servants, agents or  
30 employes were involved with that license. When considering the

1 manner in which this or another licensed premises was being  
2 operated, the board may consider activity that occurred on or  
3 about the licensed premises or in areas under licensee's control  
4 if the activity occurred when the premises was open for  
5 operation and if there was a relationship between the activity  
6 outside the premises and the manner in which the licensed  
7 premises was operated. The board may take into consideration  
8 whether any substantial steps were taken to address the activity  
9 occurring on or about the premises.

10 \* \* \*

11 (a.3) If the objection to the application is based on the  
12 reputation, criminal history, citation history or activity of  
13 one or more of the applicant's shareholders, directors,  
14 officers, association members, servants, agents or employes, and  
15 not on the reputation, criminal history, citation history or  
16 activity attributable to the applicant, the board shall order  
17 the divestiture of the shareholders, directors, officers,  
18 association members, servants, agents or employes in question,  
19 in lieu of refusing the application. If such divestiture does  
20 not occur within thirty (30) days of the board's order, then the  
21 board may refuse the application.

22 (b) [In cases where a licensee or his servants, agents or  
23 employes are arrested, charged with violating any of the laws of  
24 this Commonwealth relating to liquor, alcohol or malt or brewed  
25 beverages, and where the board has on file in such cases reports  
26 of enforcement officers or investigators of the enforcement  
27 bureau or from other sources that a licensee or his servants,  
28 agents or employes have violated any of the aforementioned laws  
29 and a proceeding to revoke such licensee's license is or is  
30 about to be instituted, and such arrest occurs or report of

1 violations is received or revocation proceeding instituted or  
2 about to be instituted during the time a renewal application of  
3 such license is pending before the board, the board may, in its  
4 discretion, renew the license, notwithstanding such alleged  
5 violations, but such renewal license may be revoked if and when  
6 the licensee or any of his servants, agents or employees are  
7 convicted of or plead guilty to violations under the previous  
8 license, as aforesaid, or if and when such previous license is  
9 for any reason revoked.] In cases where a licensee or its  
10 servants, agents or employees are arrested or charged with  
11 violating any of the laws of this Commonwealth or if a licensee  
12 has one or more unadjudicated citations pending against the  
13 licensee at the time a renewal application for the license is  
14 pending before the board, the board may, in its discretion,  
15 renew the license; however, the renewed license may be  
16 subsequently revoked by the board if and when the licensee or  
17 its servants, agents or employees are convicted of the pending  
18 criminal charges or when the citation issued against the license  
19 is adjudicated by the Office of Administrative Law Judge.

20 In the event [such] the renewal license is revoked by the  
21 board, neither the license fee paid for [such] the license nor  
22 any part thereof shall be returned to the licensee.

23 \* \* \*

24 Section 9. Section 493(24) of the act is amended to read:

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

30 It shall be unlawful--



1       \* \* \*

2       (24) Things of Value Offered as Inducement. For any licensee  
3 under the provisions of this article, or the board or any  
4 manufacturer, or any employe or agent of a manufacturer,  
5 licensee or of the board, to offer to give anything of value or  
6 to solicit or receive anything of value as a premium for the  
7 return of caps, stoppers, corks, stamps or labels taken from any  
8 bottle, case, barrel or package containing liquor or malt or  
9 brewed beverage, or to offer or give or solicit or receive  
10 anything of value as a premium or present to induce directly the  
11 purchase of liquor or malt or brewed beverage, or for any  
12 licensee, manufacturer or other person to offer or give to trade  
13 or consumer buyers any prize, premium, gift or other inducement  
14 to purchase liquor or malt or brewed beverages, except  
15 advertising novelties of nominal value which the board shall  
16 define. This section shall not prevent any manufacturer or any  
17 agent of a manufacturer from offering only on licensed premises  
18 and honoring coupons which offer monetary rebates on purchases  
19 of wines and spirits through State Liquor Stores and purchases  
20 of malt or brewed beverages in accordance with conditions or  
21 regulations established by the board. Further, no manufacturer  
22 or any agent of a manufacturer shall honor any coupons without  
23 proof of purchase [in the form of a sales slip or receipt  
24 attached to the coupons]. This section shall not apply to the  
25 return of any moneys specifically deposited for the return of  
26 the original container to the owners thereof.

27       \* \* \*

28       Section 10. Section 505.2 of the act, amended November 10,  
29 1999 (P.L.514, No.47), December 9, 2002 (P.L.1653, No.212),  
30 December 16, 2002 (P.L.1806, No.221) and July 17, 2003 (P.L.63,

1 No.15), is amended to read:

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

5 (1) Produce alcoholic ciders, wines and wine coolers,  
6 subject to the exceptions provided under this section, only from  
7 fruits grown in Pennsylvania.

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

26 (3) Separately or in conjunction with other limited  
27 wineries, sell alcoholic cider, wine and wine coolers produced  
28 by the limited winery on no more than five (5) board-approved  
29 locations other than the licensed premises, with no bottling or  
30 production requirement at those additional board-approved

1 locations and under such conditions and regulations as the board  
2 may enforce, to the board, to individuals and to brewery, hotel,  
3 restaurant, club and public service liquor licensees. If two or  
4 more limited wineries apply to operate an additional board-  
5 approved location in conjunction with each other, the wineries  
6 need only have one board-approved manager for the location, need  
7 only pay one application fee and need not designate specific or  
8 distinct areas for each winery's licensed area. Each limited  
9 winery must file an application for such an additional board-  
10 approved location, and such location shall count as one of the  
11 five permitted for each limited winery. Each limited winery is  
12 responsible for keeping only its own complete records. A limited  
13 winery may be cited for a violation of the recordkeeping  
14 requirements of sections 512 and 513 pertaining to its own  
15 records only.

16 (4) At the discretion of the board, obtain a special permit  
17 to participate in alcoholic cider, wine and food expositions off  
18 the licensed premises. A special permit shall be issued upon  
19 proper application and payment of a fee of thirty dollars (\$30)  
20 per day for each day of permitted use, not to exceed five (5)  
21 consecutive days. The total number of days for all the special  
22 permits may not exceed forty (40) days in any calendar year. A  
23 special permit shall entitle the holder to engage in the sale by  
24 the glass, by the bottle or in case lots of alcoholic cider or  
25 wine produced [by the bottle or in case lots] by the permittee  
26 under the authority of a limited winery license. Holders of  
27 special permits may provide tasting samples of wines in  
28 individual portions not to exceed one fluid ounce. Samples at  
29 alcoholic cider, wine and food expositions may be sold or  
30 offered free of charge. Except as provided herein, limited

1 wineries utilizing special permits shall be governed by all  
2 applicable provisions of this act as well as by all applicable  
3 regulations or conditions adopted by the board.

4 For the purposes of this clause, "alcoholic cider, wine and  
5 food expositions" are defined as affairs held indoors or  
6 outdoors with the primary intent of educating those in  
7 attendance of the availability, nature and quality of  
8 Pennsylvania-produced alcoholic ciders and wines in conjunction  
9 with suitable food displays, demonstrations and sales. Alcoholic  
10 cider, wine and food expositions may also include activities  
11 other than alcoholic cider, wine and food displays, including  
12 arts and crafts, musical activities, cultural exhibits,  
13 agricultural exhibits and similar activities.

14 (5) Apply for and hold a hotel liquor license, a restaurant  
15 liquor license or a malt and brewed beverages retail license to  
16 sell for consumption at the restaurant or limited winery on the  
17 licensed winery premises, liquor, wine and malt or brewed  
18 beverages regardless of the place of manufacture under the same  
19 conditions and regulations as any other hotel liquor license,  
20 restaurant liquor license or malt and brewed beverages retail  
21 license.

22 (6) (i) Secure a permit from the board to allow the holder  
23 of a limited winery license to use up to twenty-five per centum  
24 permitted fruit, not wine, in the current year's production.  
25 Each permit is valid only for the calendar year in which it is  
26 issued.

27 (ii) The fee for a permit to import and use permitted fruit  
28 shall be in an amount to be determined by the board.

29 (iii) The purpose of this section is to increase the  
30 productivity of limited wineries while at the same time

1 protecting the integrity and unique characteristics of wine  
2 produced from fruit primarily grown in this Commonwealth.  
3 Prevailing climatic conditions have a significant impact on the  
4 character of the fruit. Accordingly, "permitted fruit" shall  
5 mean fruit grown or juice derived from fruit grown within three  
6 hundred fifty (350) miles of the winery.

7 (iv) The department is authorized to promulgate regulations  
8 requiring the filing of periodic reports by limited wineries to  
9 ensure compliance with the provisions of this section.

10 (v) This clause shall expire on December 31, 2004.

11 (6.1) Operate a restaurant on the licensed premises and sell  
12 by the glass only wine and alcoholic ciders that may otherwise  
13 be sold by the bottle.

14 [(7)] (b) The total production of alcoholic ciders, wine and  
15 wine coolers by a limited winery may not exceed two hundred  
16 thousand (200,000) gallons per year.

17 Section 11. This act shall take effect in 60 days.