

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 148 Session of
2011

INTRODUCED BY PAYNE, GEIST, KORTZ, MUSTIO, READSHAW, SONNEY,
WAGNER AND STEVENSON, JANUARY 21, 2011

AS RE-REPORTED FROM COMMITTEE ON LIQUOR CONTROL, HOUSE OF
REPRESENTATIVES, AS AMENDED, APRIL 13, 2011

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 HOTEL, RESTAURANT AND ←
18 CLUB LIQUOR LICENSES, for sales by liquor licensees and
19 restrictions and for unlawful acts relative to liquor, malt
20 and brewed beverages and licensees.

21 The General Assembly of the Commonwealth of Pennsylvania
22 hereby enacts as follows:

23 Section 1. The definition of "eligible entity" in section
24 102 of the act of April 12, 1951 (P.L.90, No.21), known as the
25 Liquor Code, reenacted and amended June 29, 1987 (P.L.32, No.14)
26 and amended June 25, 2010 (P.L.217, No.35), is amended and the

1 section is amended by adding definitions to read:

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

5 * * *

6 "Catered event" shall mean the furnishing of prepared foods
7 in conjunction with alcoholic beverages for the accommodation of
8 a group of people who made arrangements for the event at least
9 forty-eight hours in advance and is paid for and sponsored by a
10 third party.

11 * * *

12 "Eligible entity" shall mean a city of the third class, a
13 hospital, a church, a synagogue, a volunteer fire company, a
14 volunteer ambulance company, a volunteer rescue squad, a unit of
15 a nationally chartered club which has been issued a club liquor
16 license, a club in a city of the third class which has been
17 issued a club liquor license and which, as of December 31, 2002,
18 has been in existence for at least 100 years, a library, a
19 nationally accredited Pennsylvania nonprofit zoological
20 institution licensed by the United States Department of
21 Agriculture, a nonprofit agricultural association in existence
22 for at least ten years, a bona fide sportsmen's club in
23 existence for at least ten years, a nationally chartered
24 veterans' organization and any affiliated lodge or subdivision
25 of such organization, a fraternal benefit society that is
26 licensed to do business in this Commonwealth and any affiliated
27 lodge or subdivision of such fraternal benefit society, a museum
28 operated by a nonprofit corporation in a city of the third class
29 or township of the first class, a nonprofit corporation engaged
30 in the performing arts in a city of the third class, borough or

1 in an incorporated town, an arts council, a nonprofit
2 corporation that operates an arts facility or museum in a city
3 of the third class in the county of the fourth class, a
4 nonprofit organization as defined under section 501(c)(3) of the
5 Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. §
6 501(c)(3)) whose purpose is to protect the architectural
7 heritage of boroughs or a township of the second class and which
8 has been recognized as such by a municipal resolution, a
9 nonprofit organization as defined under section 501(c)(3) of the
10 Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. §
11 501(c)(3)) conducting a regatta in a city of the second class
12 with the permit to be used on State park grounds or conducting a
13 family-oriented celebration as part of Welcome America in a city
14 of the first class on property leased from that city for more
15 than fifty years, a nonprofit organization as defined under
16 section 501(c)(3) of the Internal Revenue Code of 1986 (26
17 U.S.C. § 501(c)(3)) whose purpose is to raise funds for the
18 research and treatment of cystic fibrosis, a nonprofit
19 organization as defined under section 501(c)(3) of the Internal
20 Revenue Code of 1986 (26 U.S.C. § 501(c)(3)) whose purpose is to
21 educate the public on issues dealing with watershed
22 conservation, a nonprofit organization as defined under section
23 501(c)(3) of the Internal Revenue Code of 1986 (Public Law
24 99-514, 26 U.S.C. § 501(c)(3)) whose purpose is to provide
25 equine assisted activities for children and adults with special
26 needs, a nonprofit economic development agency in a city of the
27 second class with the primary function to serve as an economic
28 generator for the greater southwestern Pennsylvania region by
29 attracting and supporting film, television and related media
30 industry projects and coordinating government and business

1 offices in support of a production, a county tourist promotion
2 agency as defined in section 3(1) of the act of April 28, 1961
3 (P.L.111, No.50), known as the "Tourist Promotion Law," and
4 located in a city of the third class in a county of the fourth
5 class or located in a township of the second class in a county
6 of the fifth class, a junior league in a third class county that
7 is a nonprofit organization as defined under section 501(c)(3)
8 of the Internal Revenue Code of 1986 (26 U.S.C. § 501(c)(3))
9 that is comprised of women whose purpose is exclusively
10 educational and charitable in promoting the volunteerism of
11 women and developing and participating in community projects and
12 that has been in existence for over seventy years, a nonprofit
13 organization as defined under section 501(c)(3) of the Internal
14 Revenue Code of 1986 which is located in counties of the second
15 class A or of the third class and whose purpose is the education
16 and promotion of American history, a nonprofit organization as
17 defined under section 501(c)(6) of the Internal Revenue Code of
18 1986 which is located in a city of the third class in a county
19 of the third class and whose purpose is to support business and
20 industry, a brewery which has been issued a license to
21 manufacture malt or brewed beverages and has been in existence
22 for at least 100 years or a club recognized by Rotary
23 International which is located in a county of the fourth class
24 and whose purpose is to provide service to others, to promote
25 high ethical standards and to advance world understanding,
26 goodwill and peace through its fellowship of business,
27 professional and community leaders or a nonprofit organization
28 as defined under section 501(c)(3) of the Internal Revenue Code
29 of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)) which is
30 located in a borough in a county of the third class and whose

1 purpose is to promote mushrooms while supporting local and
2 regional charities, a nonprofit organization as defined under
3 section 501(c)(3) of the Internal Revenue Code of 1986 whose
4 main purpose is to temporarily foster stray and unwanted animals
5 and match them to suitable permanent homes, a nonprofit
6 organization as defined under section 501(c)(3) of the Internal
7 Revenue Code of 1986 who operates either a Main Street Program
8 or Elm Street Program recognized by the Commonwealth, the
9 National Trust for Historic Preservation or both.

10 * * *

11 "Happy hour" shall mean the period of time during which a
12 licensee discounts alcoholic beverages.

13 * * *

14 Section 2. Section 404 of the act, amended January 6, 2006
15 (P.L.1, No.1), is amended to read:

16 Section 404. Issuance, Transfer or Extension of Hotel,
17 Restaurant and Club Liquor Licenses.--Upon receipt of the
18 application and the proper fees, and upon being satisfied of the
19 truth of the statements in the application that the applicant is
20 the only person in any manner pecuniarily interested in the
21 business so asked to be licensed and that no other person will
22 be in any manner pecuniarily interested therein during the
23 continuance of the license, except as hereinafter permitted, and
24 that the applicant is a person of good repute, that the premises
25 applied for meet all the requirements of this act and the
26 regulations of the board, that the applicant seeks a license for
27 a hotel, restaurant or club, as defined in this act, and that
28 the issuance of such license is not prohibited by any of the
29 provisions of this act, the board shall, in the case of a hotel
30 or restaurant, grant and issue to the applicant a liquor

1 license, and in the case of a club may, in its discretion, issue
2 or refuse a license: Provided, however, That in the case of any
3 new license or the transfer of any license to a new location or
4 the extension of an existing license to cover an additional area
5 the board may, in its discretion, grant or refuse such new
6 license, transfer or extension if such place proposed to be
7 licensed is within three hundred feet of any church, hospital,
8 charitable institution, school, or public playground, or if such
9 new license, transfer or extension is applied for a place which
10 is within two hundred feet of any other premises which is
11 licensed by the board: And provided further, That the board's
12 authority to refuse to grant a license because of its proximity
13 to a church, hospital, charitable institution, public playground
14 or other licensed premises shall not be applicable to license
15 applications submitted for public venues or performing arts
16 facilities: And provided further, That the board shall refuse
17 any application for a new license, the transfer of any license
18 to a new location or the extension of an existing license to
19 cover an additional area if, in the board's opinion, such new
20 license, transfer or extension would be detrimental to the
21 welfare, health, peace and morals of the inhabitants of the
22 neighborhood within a radius of five hundred feet of the place
23 proposed to be licensed: And provided further, That the board
24 shall have the discretion to refuse a license to any person or
25 to any corporation, partnership or association if such person,
26 or any officer or director of such corporation, or any member or
27 partner of such partnership or association shall have been
28 convicted or found guilty of a felony within a period of five
29 years immediately preceding the date of application for the said
30 license. The board shall refuse any application for a new

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

1 for a period of six months following said opening.
2 Notwithstanding another provision of law, the board may not
3 refuse to transfer or renew a license previously issued for
4 premises located in a township of the second class within a
5 county of the third class that is a dry municipality based on
6 the fact that the municipality is a dry municipality if the
7 premises for which the license is being transferred or renewed
8 have been continuously licensed by the board for a period of
9 fifty years or more.

10 Section 3. Section 406(a)(1) of the act, amended July 6,
11 2005 (P.L.135, No.39), is amended and the section is amended by
12 adding subsections to read:

13 Section 406. Sales by Liquor Licensees; Restrictions.--(a)
14 (1) Every hotel, restaurant or club liquor licensee may sell
15 liquor and malt or brewed beverages by the glass, open bottle or
16 other container, and in any mixture, for consumption only in
17 that part of the hotel or restaurant habitually used for the
18 serving of food to guests or patrons, or, in the case of a
19 restaurant, hotel or eating place licensee, at a catered event
20 off the licensed premises, or in a bowling alley that is
21 immediately adjacent to and under the same roof as a restaurant,
22 and in the case of hotels, to guests, and in the case of clubs,
23 to members, in their private rooms in the hotel or club. No club
24 licensee nor its officers, servants, agents or employes, other
25 than one holding a catering license, shall sell any liquor or
26 malt or brewed beverages to any person except a member of the
27 club. The holder of a restaurant license located in a hotel may
28 sell liquor or malt or brewed beverages for consumption in that
29 part of the restaurant habitually used for the serving of meals
30 to patrons and also to guests in private guest rooms in the

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

20 * * *

21 ~~(f) The holder of a hotel license or a restaurant license~~ ←
22 ~~may sell up to three bottles of wine for consumption off the~~
23 ~~licensed premises so long as the bottles of wine remain sealed.~~
24 ~~For purposes of this subsection, "wine" shall have the meaning~~
25 ~~given to it under section 488(i).~~

26 ~~(g) The holder of a hotel license, eating place license or a~~ ←
27 ~~restaurant license may obtain an off-premises catering license~~ ←
28 ~~PERMIT subject to section 493(33) to hold a catered event off~~ ←
29 ~~the licensed premises and on otherwise unlicensed premises where~~
30 ~~the licensee may sell wine, liquor and malt or brewed beverages~~

1 by the glass, open bottle or other container, and in any
2 mixture, for consumption on those premises solely used for
3 catering purposes so long as the liquor and malt or brewed
4 beverages were purchased in conjunction with a meal which will
5 be consumed on the catered premises. THE HOLDER OF AN EATING ←
6 PLACE LICENSE MAY OBTAIN AN OFF-PREMISES CATERING PERMIT SUBJECT
7 TO SECTION 493(33) TO HOLD A CATERED EVENT OFF THE LICENSED
8 PREMISES AND ON OTHERWISE UNLICENSED PREMISES WHERE THE LICENSEE
9 MAY SELL MALT OR BREWED BEVERAGES BY THE GLASS, OPEN BOTTLE OR
10 OTHER CONTAINER FOR CONSUMPTION ON THOSE PREMISES SOLELY USED
11 FOR CATERING PURPOSES SO LONG AS THE MALT OR BREWED BEVERAGES
12 WERE PURCHASED IN CONJUNCTION WITH A MEAL WHICH WILL BE CONSUMED
13 ON THE CATERED PREMISES. There shall be no limitation on the
14 number of off-premises catered events a licensee may hold at any
15 given time. At no time may an off-premises catering permittee
16 agree to hold a catered event that includes the sale of alcohol
17 at a location within a dry municipality. In addition, the off-
18 premises catering permittee shall give the local police
19 department or the Pennsylvania State Police, if there is no
20 local police department, written notice at least forty-eight
21 hours prior to each off-premises catered event. Written notice
22 shall consist of notifying the police of the date, time and
23 place of the impending sale of alcoholic beverages.

24 ~~(h)~~ (G) The NOTWITHSTANDING ANY OTHER PROVISION OF LAW OR ←
25 REGULATION, THE holder of a ~~hotel license or a restaurant~~ ←
26 ~~license or an eating place license~~ RETAIL LICENSE may have up to ←
27 FOUR HOURS PER DAY AND UP TO fourteen hours per week during ←
28 which the holder discounts the price of alcoholic beverages. The
29 licensee may use ~~as many of the fourteen hours per business day~~ ←
30 ~~as the licensee chooses~~ UP TO FOUR HOURS PER DAY so long as the ←

1 hours do not exceed fourteen hours in any given week and so long
2 as no discounts are given between the hours of midnight and the
3 legal closing time AND SO LONG AS NOTICE OF ALL HAPPY HOURS IS ←
4 VISIBLY POSTED ON THE LICENSED PREMISES SEVEN DAYS PRIOR TO THE
5 HAPPY HOUR.

6 Section 4. Section 493(10) of the act, amended December 20,
7 2000 (P.L.992, No.141), is amended and the section is amended by
8 adding a paragraph to read:

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

14 It shall be unlawful--

15 * * *

16 (10) Entertainment on Licensed Premises (Except Clubs);
17 Permits; Fees. For any licensee, his servants, agents or
18 employes, except club licensees, public venue licensees or
19 performing arts facility licensees, to permit in any licensed
20 premises or in any place operated in connection therewith,
21 dancing, theatricals or floor shows of any sort, or moving
22 pictures other than television, or such as are exhibited through
23 machines operated by patrons by the deposit of coins, which
24 project pictures on a screen not exceeding in size twenty-four
25 by thirty inches and which forms part of the machine, unless the
26 licensee shall first have obtained from the board a special
27 permit to provide such entertainment, or for any licensee, under
28 any circumstances, to permit in any licensed premises or in any
29 place operated in connection therewith any lewd, immoral or
30 improper entertainment, regardless of whether a permit to

1 provide entertainment has been obtained or not. The special
2 permit may be used only during the hours when the sale of liquor
3 or malt or brewed beverages is permitted, unless the licensee
4 holds an extended hours food license under section 499(b) which
5 license would allow the special permit to be used while the
6 establishment is open, and between eleven o'clock antemeridian
7 on Sunday and two o'clock antemeridian on the following Monday,
8 regardless of whether the licensee possesses a Sunday sales
9 permit. The board shall have power to provide for the issue of
10 such special permits, and to collect an annual fee for such
11 permits as prescribed in section 614-A of the act of April 9,
12 1929 (P.L.177, No.175), known as "The Administrative Code of
13 1929." All such fees shall be paid into the State Stores Fund.
14 No such permit shall be issued in any municipality which, by
15 ordinance, prohibits amusements in licensed places. Any
16 violation of this clause shall, in addition to the penalty
17 herein provided, subject the licensee to suspension or
18 revocation of his permit and his license.

19 * * *

20 (33) Off-premises Catering Permit; Fees. For any licensee,
21 his servants, agents or employes to cater an event that includes
22 the sale and service of alcoholic beverages at a location other
23 than the licensed premises, unless the licensee shall first have
24 obtained from the board a special permit to provide such
25 catering services. Only those licensees currently holding a
26 valid restaurant, hotel or eating place license that has been
27 certified under the board's responsible alcohol management
28 program as required by section 471.1 shall be allowed to apply
29 for such a permit. The board shall have the power to provide for
30 the issue of such special permits to qualified licensees and to

1 collect an annual fee for such permits as prescribed in section ←
2 614 A of "The Administrative Code of 1929." THAT SHALL NOT ←
3 EXCEED FIVE HUNDRED DOLLARS (\$500) PER YEAR. All such fees shall
4 be paid into the State Stores Fund. Any violation of this act
5 shall subject the licensee to suspension or revocation of his
6 permit and preclude him from applying for a future off-premises
7 catering permit.

8 Section 5. This act shall take effect in 60 days.