

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 643 Session of
2011

INTRODUCED BY RAFFERTY, YAW, FONTANA AND FARNESE,
FEBRUARY 24, 2011

REFERRED TO LAW AND JUSTICE, FEBRUARY 24, 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 authority to issue
18 liquor licenses to hotels, restaurants and clubs, for
19 issuance, transfer or extension of hotel, restaurant and club
20 liquor licenses and for sale of malt or brewed beverages by
21 liquor licensee; providing for food store licenses; further
22 providing 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 retail dispensers'
26 restrictions on purchases and sales, for limiting number of
27 retail licenses to be issued in each county, for licenses not
28 assignable and transfers, for unlawful acts relative to
29 liquor, malt and brewed beverages and licensees and for
30 premises to be vacated by patrons.

31 The General Assembly of the Commonwealth of Pennsylvania
32 hereby enacts as follows:

1 Section 1. The definitions of "case" and "retail dispenser"
2 in section 102 of the act of April 12, 1951 (P.L.90, No.21),
3 known as the Liquor Code, reenacted and amended June 29, 1987
4 (P.L.32, No.14) and amended July 7, 2006 (P.L.584, No.84), are
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 "Case" shall mean a package prepared by the manufacturer for
12 sale or distribution [of twelve or more original containers
13 totaling two hundred sixty-four or more fluid ounces of malt or
14 brewed beverages excepting those packages] containing [twenty-
15 four] six or more original containers each holding seven fluid
16 ounces or more of malt or brewed beverages.

17 * * *

18 "Convenience store" shall mean a reputable place operated by
19 persons of good repute who may sell liquid fuels for use in
20 motor vehicles, which primarily sells food and nonfood items on
21 the premises and which has an area under one roof of one
22 thousand (1,000) square feet or more.

23 * * *

24 "Grocery store" shall mean a reputable place operated by
25 persons of good repute, which primarily sells food items on the
26 premises and which has an area under one roof of ten thousand
27 (10,000) square feet or more.

28 * * *

29 "Retail dispenser" shall mean any person licensed under
30 section 432 to engage in the retail sale of malt or brewed

1 beverages [for consumption on the premises of such licensee,
2 with the privilege of selling malt or brewed beverages in
3 quantities not in excess of one hundred ninety-two fluid ounces
4 in a single sale to one person, to be carried from the premises
5 by the purchaser thereof].

6 * * *

7 Section 2. Section 401(a) of the act, amended July 6, 2005
8 (P.L.135, No.39), is amended to read:

9 Section 401. Authority to Issue Liquor Licenses to Hotels,
10 Restaurants and Clubs.--(a) Subject to the provisions of this
11 act and regulations promulgated under this act, the board shall
12 have authority to issue a retail liquor license for any premises
13 kept or operated by a hotel, restaurant or club and specified in
14 the license entitling the hotel, restaurant or club to purchase
15 liquor from a Pennsylvania Liquor Store and to keep on the
16 premises such liquor and, subject to the provisions of this act
17 and the regulations made thereunder, to sell the same and also
18 malt or brewed beverages to guests, patrons or members for
19 consumption on the hotel, restaurant or club premises. Such
20 licensees, other than clubs, shall be permitted to sell malt or
21 brewed beverages for consumption off the premises [where sold in
22 quantities of not more than one hundred ninety-two fluid ounces
23 in a single sale to one person] as provided for in section 407.
24 Such licenses shall be known as hotel liquor licenses,
25 restaurant liquor licenses and club liquor licenses,
26 respectively. No person who holds, either by appointment or
27 election, any public office which involves the duty to enforce
28 any of the penal laws of the United States of America or the
29 penal laws of the Commonwealth of Pennsylvania or any penal
30 ordinance or resolution of any political subdivision of this

1 Commonwealth shall be issued any hotel or restaurant liquor
2 license, nor shall such a person have any interest, directly or
3 indirectly, in any such license.

4 * * *

5 Section 3. Section 404 of the act, amended January 6, 2006
6 (P.L.1, No.1), is amended to read:

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

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

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

23 Section 4. Section 407(a) of the act, amended July 7, 2006
24 (P.L.584, No.84), is amended to read:

25 Section 407. Sale of Malt or Brewed Beverages by Liquor
26 Licensees.--(a) Every liquor license issued to a hotel,
27 restaurant, club, or a railroad, pullman or steamship company
28 under this subdivision (A) for the sale of liquor shall
29 authorize the licensee to sell malt or brewed beverages at the
30 same places but subject to the same restrictions and penalties

1 as apply to sales of liquor, except that licensees other than
2 clubs may sell malt or brewed beverages for consumption off the
3 premises where sold [in quantities of not more than one hundred
4 ninety-two fluid ounces in a single sale to one person]. Single
5 packages of one hundred twenty-eight fluid ounces or more as
6 prepared for the market by the manufacturer at the place of
7 manufacture may not be sold for consumption off the premises,
8 where sold. No licensee under this subdivision (A) shall at the
9 same time be the holder of any other class of license, except a
10 retail dispenser's license authorizing the sale of malt or
11 brewed beverages only.

12 * * *

13 Section 5. The act is amended by adding a section to read:

14 Section 415. Food Store Licenses.--(a) The board is
15 authorized to issue a food store license to the operator of a
16 grocery store or a convenience store, who has applied for or
17 possesses a restaurant liquor or eating place retail dispenser
18 license or who has applied for a distributor or importing
19 distributor license. A restaurant liquor or eating place retail
20 dispenser license applied for or granted for the purpose of
21 economic development or which is not subject to the quota
22 restrictions of section 461 may not be used to authorize the
23 issuance of a food store license.

24 (b) The application, renewal and filing fees for a food
25 store license shall be as prescribed for a restaurant liquor
26 license in section 614-A(19) of the act of April 9, 1929
27 (P.L.177, No.175), known as "The Administrative Code of 1929."
28 In addition, if the applicant is a grocery store with ten
29 thousand (10,000) square feet or more under one roof, then the
30 initial application and any subsequent transfer application

1 shall be subject to a surcharge of \$25,000; otherwise, if the
2 applicant is a convenience store or a grocery store with less
3 than ten thousand (10,000) square feet under one roof, then the
4 initial application and any subsequent transfer application
5 shall be subject to a surcharge of \$10,000. In addition, a food
6 store license shall be subject to a yearly surcharge of \$2,500.
7 All surcharges collected under this section shall be transferred
8 to the enforcement bureau as part of its annual appropriation,
9 to be used to combat underage drinking.

10 (c) Upon being satisfied that the applicant meets all the
11 requirements in this act and the board's regulations, the board
12 shall issue the applicant a food store license upon the
13 surrender by the applicant of its restaurant liquor or eating
14 place retail dispenser license or distributor or importing
15 distributor license.

16 (d) Licenses issued under this section shall be considered
17 restaurant liquor licenses subject to the following additional
18 restrictions and privileges:

19 (1) License holders may sell malt or brewed beverages for
20 consumption off the premises between the hours of 8:00 a.m. and
21 11:00 p.m. on Mondays through Saturdays. License holders may
22 sell malt or brewed beverages for consumption off the premises
23 between the hours of noon and 5:00 p.m. on Sundays upon
24 acquiring the Sunday sales permit available to restaurant liquor
25 license holders.

26 (2) License holders are not subject to the definition of a
27 "restaurant" unless they wish to sell alcohol for on the
28 premises consumption. Sales of alcohol for on the premises
29 consumption may occur at the same hours as any other restaurant
30 liquor license holder.

1 (3) License holders shall not be allowed to provide
2 entertainment as otherwise authorized by the special permit
3 available under section 493(10).

4 (4) License holders shall not be subject to section 493(14)
5 as it relates to minors frequenting the licensed premises,
6 except section 493(14) shall apply in those areas licensed for
7 on the premises sale, service, storage or consumption of
8 alcohol.

9 (5) License holders shall not be subject to the prohibition
10 on cashing certain checks set forth in section 493(15).

11 (6) License holders shall not be subject to the cost and
12 total display area limitations of section 493(20)(i).

13 (7) Sales of malt or brewed beverages for off the premises
14 consumption may be paid for at any register designated by the
15 license holder and such register may also be used to pay for
16 other items sold by the license holder. Sales of alcohol for on
17 the premises consumption may only be paid for at a register or
18 registers located within the area designated as the area at
19 which on the premises consumption of alcohol may occur.

20 Section 6. Section 431(b) of the act, amended December 8,
21 2004 (P.L.1810, No.239), is amended to read:

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

24 (b) (1) The board shall issue to any reputable person who
25 applies therefor, and pays the license fee hereinafter
26 prescribed, a distributor's or importing distributor's license
27 for the place which such person desires to maintain for the sale
28 of malt or brewed beverages, not for consumption on the premises
29 where sold, and in quantities of not less than a case or
30 original containers containing one hundred twenty-eight ounces

1 or more which may be sold separately as prepared for the market
2 by the manufacturer at the place of manufacture. The board shall
3 have the discretion to refuse a license to any person or to any
4 corporation, partnership or association if such person, or any
5 officer or director of such corporation, or any member or
6 partner of such partnership or association shall have been
7 convicted or found guilty of a felony within a period of five
8 years immediately preceding the date of application for the said
9 license: And provided further, That, in the case of any new
10 license or the transfer of any license to a new location, the
11 board may, in its discretion, grant or refuse such new license
12 or transfer if such place proposed to be licensed is within
13 three hundred feet of any church, hospital, charitable
14 institution, school or public playground, or if such new license
15 or transfer is applied for a place which is within two hundred
16 feet of any other premises which is licensed by the board: And
17 provided further, That the board shall refuse any application
18 for a new license or the transfer of any license to a new
19 location if, in the board's opinion, such new license or
20 transfer would be detrimental to the welfare, health, peace and
21 morals of the inhabitants of the neighborhood within a radius of
22 five hundred feet of the place proposed to be licensed. [The
23 board shall refuse any application for a new license or the
24 transfer of any license to a location where the sale of liquid
25 fuels or oil is conducted.] The board may enter into an
26 agreement with the applicant concerning additional restrictions
27 on the license in question. If the board and the applicant enter
28 into such an agreement, such agreement shall be binding on the
29 applicant. Failure by the applicant to adhere to the agreement
30 will be sufficient cause to form the basis for a citation under

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

16 (2) Except as hereinafter provided, such license shall
17 authorize the holder thereof to sell or deliver malt or brewed
18 beverages in quantities above specified anywhere within the
19 Commonwealth of Pennsylvania, which, in the case of
20 distributors, have been purchased only from persons licensed
21 under this act as manufacturers or importing distributors, and
22 in the case of importing distributors, have been purchased from
23 manufacturers or persons outside this Commonwealth engaged in
24 the legal sale of malt or brewed beverages or from manufacturers
25 or importing distributors licensed under this article. In the
26 case of an importing distributor, the holder of such a license
27 shall be authorized to store and repackage malt or brewed
28 beverages owned by a manufacturer at a segregated portion of a
29 warehouse or other storage facility authorized by section 441(d)
30 and operated by the importing distributor within its appointed

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

22 (3) Each out of State manufacturer of malt or brewed
23 beverages whose products are sold and delivered in this
24 Commonwealth shall give distributing rights for such products in
25 designated geographical areas to specific importing
26 distributors, and such importing distributor shall not sell or
27 deliver malt or brewed beverages manufactured by the out of
28 State manufacturer to any person issued a license under the
29 provisions of this act whose licensed premises are not located
30 within the geographical area for which he has been given

1 distributing rights by such manufacturer. Should a licensee
2 accept the delivery of such malt or brewed beverages in
3 violation of this section, said licensee shall be subject to a
4 suspension of his license for at least thirty days: Provided,
5 That the importing distributor holding such distributing rights
6 for such product shall not sell or deliver the same to another
7 importing distributor without first having entered into a
8 written agreement with the said secondary importing distributor
9 setting forth the terms and conditions under which such products
10 are to be resold within the territory granted to the primary
11 importing distributor by the manufacturer.

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

1 prevent any manufacturer from authorizing the importing
2 distributor holding the distributing rights for a designated
3 geographical area from selling the products of such manufacturer
4 to another importing distributor also holding distributing
5 rights from the same manufacturer for another geographical area,
6 providing such authority be contained in writing and a copy
7 thereof be given to each of the importing distributors so
8 affected.

9 * * *

10 Section 7. Section 432(d) of the act, amended January 6,
11 2006 (P.L.1, No.1), is amended to read:

12 Section 432. Malt and Brewed Beverages Retail Licenses.--* *
13 *

14 (d) The board shall, in its discretion, grant or refuse any
15 new license, the transfer of any license to a new location or
16 the extension of an existing license to cover an additional area
17 if such place proposed to be licensed is within three hundred
18 feet of any church, hospital, charitable institution, school, or
19 public playground, or if such new license, transfer or extension
20 is applied for a place which is within two hundred feet of any
21 other premises which is licensed by the board. The board shall
22 refuse any application for a new license, the transfer of any
23 license to a new location or the extension of an existing
24 license to cover an additional area if, in the board's opinion,
25 such new license, transfer or extension would be detrimental to
26 the welfare, health, peace and morals of the inhabitants of the
27 neighborhood within a radius of five hundred feet of the place
28 to be licensed. The board may enter into an agreement with the
29 applicant concerning additional restrictions on the license in
30 question. If the board and the applicant enter into such an

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

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

9 * * *

10 Section 8. Section 437(f) of the act, amended December 7,
11 1990 (P.L.622, No.160), is amended to read:

12 Section 437. Prohibitions Against the Grant of Licenses.--*

13 * *

14 (f) (1) No new distributor's or importing distributor's
15 license shall hereafter be granted by the board in any county of
16 the Commonwealth where the combined number of distributor and
17 importing distributor licenses and food service licenses that
18 have been issued in exchange for distributor or importing
19 distributor licenses exceeds one license for each thirty
20 thousand inhabitants of the county in which the license is to be
21 issued: Provided, That a combined total of five such licenses
22 may be granted in any county of the Commonwealth.

23 (2) Nothing in this subsection shall be construed as denying
24 the right of the board to renew or to transfer existing
25 distributors' [or], importing distributors' or food store
26 licenses or to exchange a distributor's license for an importing
27 distributor's license or to exchange an importing distributor's
28 license for a distributor's license, or to exchange a
29 distributor's or importing distributor's license for a food
30 store license upon [adjustment] payment of the applicable fee,

1 notwithstanding that the number of such licensed places in the
2 county shall exceed the limitation hereinbefore prescribed:
3 Provided, That no distributor's license or importing
4 distributor's license shall be transferred from one county to
5 another county so long as the quota is filled in the county to
6 which the license is proposed to be transferred.

7 Section 9. Section 442(a) (1) of the act, amended November
8 29, 2006 (P.L.1421, No.155), is amended to read:

9 Section 442. Retail Dispensers' Restrictions on Purchases
10 and Sales.--(a) (1) No retail dispenser shall purchase or
11 receive any malt or brewed beverages except in original
12 containers as prepared for the market by the manufacturer at the
13 place of manufacture. The retail dispenser may thereafter break
14 the bulk upon the licensed premises and sell or dispense the
15 same for consumption on or off the premises so licensed:

16 Provided, however, That [no] a retail dispenser may sell malt or
17 brewed beverages for consumption off the premises [in quantities
18 in excess of one hundred ninety-two fluid ounces] regardless of
19 whether it sells for consumption on the licensed premises:

20 Provided, further, That single packages of one hundred twenty-
21 eight fluid ounces or more as prepared for the market by the
22 manufacturer at the place of manufacture may not be sold for
23 consumption off the premises where sold: Provided, further, That
24 no club licensee may sell any malt or brewed beverages for
25 consumption off the premises where sold or to persons not
26 members of the club.

27 * * *

28 Section 10. Section 461(a) of the act, amended February 21,
29 2002 (P.L.103, No.10), is amended to read:

30 Section 461. Limiting Number of Retail Licenses To Be Issued

1 In Each County.--(a) No additional restaurant, eating place
2 retail dispenser or club licenses shall be issued within a
3 county if the total number of restaurant and eating place retail
4 dispenser licenses and food store licenses that have been issued
5 in exchange for restaurant and eating place retail dispenser
6 licenses is greater than one license for each three thousand
7 inhabitants in the county, except the board may issue licenses
8 to public venues, performing arts facilities, continuing care
9 retirement communities, airport restaurants, municipal golf
10 courses, hotels, privately-owned private golf courses,
11 privately-owned public golf courses, racetracks, automobile
12 racetracks, nonprimary pari-mutuel wagering locations and to any
13 other entity which this act specifically exempts from the
14 limitations provided in this section, and the board may issue a
15 license to a club situated in a borough having a population less
16 than eight thousand inhabitants which is located in a county of
17 the second class A whose application is filed on or before
18 February 28, 2001. In addition, the board may issue an eating
19 place retail dispenser license for on-premises sales only to the
20 owner or operator of a facility having a minimum of a one-half
21 mile asphalt track and having a permanent seating capacity of at
22 least six thousand people used principally for holding
23 automobile races, regardless of the number of restaurant and
24 eating place retail dispenser licenses already issued in that
25 county. When determining the number of restaurant and eating
26 place retail dispenser licenses issued in a county for the
27 purposes of this section, licenses exempted from this limitation
28 and club licenses shall not be considered. Inhabitants of dry
29 municipalities shall be considered when determining the
30 population in a county. Licenses shall not be issued or

1 transferred into municipalities where such licenses are
2 prohibited pursuant to local referendum in accordance with
3 section 472. Licenses approved for intermunicipal transfer may
4 not be transferred from the receiving municipality for a period
5 of five years after the date that the licensed premises are
6 operational in the receiving municipality.

7 * * *

8 Section 11. Section 468(a)(3) of the act, amended December
9 20, 2000 (P.L.992, No.141), is amended to read:

10 Section 468. Licenses Not Assignable; Transfers.--(a) * * *

11 (3) [No license shall be transferred to any place or
12 property upon which is located as a business the sale of liquid
13 fuels and oil.] Except in cases of emergency such as death,
14 serious illness, or circumstances beyond the control of the
15 licensee, as the board may determine such circumstances to
16 justify its action, transfers of licenses may be made only at
17 times fixed by the board. In the case of the death of a
18 licensee, the board may transfer the license to the surviving
19 spouse or personal representative or to a person designated by
20 him. From any refusal to grant a transfer or upon the grant of
21 any transfer, the party aggrieved shall have the right of appeal
22 to the proper court in the manner hereinbefore provided.

23 * * *

24 Section 12. Section 493(10), (14) and (15) of the act,
25 amended December 20, 2000 (P.L.992, No.141) and May 8, 2003
26 (P.L.1, No.1), are amended and the section is amended by adding
27 a clause to read:

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

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

3 It shall be unlawful--

4 * * *

5 (10) Entertainment on Licensed Premises (Except Clubs);
6 Permits; Fees. For any licensee, his servants, agents or
7 employes, except club licensees, public venue licensees or
8 performing arts facility licensees, to permit in any licensed
9 premises or in any place operated in connection therewith,
10 dancing, theatricals or floor shows of any sort, or moving
11 pictures other than television, or such as are exhibited through
12 machines operated by patrons by the deposit of coins, which
13 project pictures on a screen not exceeding in size twenty-four
14 by thirty inches and which forms part of the machine, unless the
15 licensee shall first have obtained from the board a special
16 permit to provide such entertainment, or for any licensee, under
17 any circumstances, to permit in any licensed premises or in any
18 place operated in connection therewith any lewd, immoral or
19 improper entertainment, regardless of whether a permit to
20 provide entertainment has been obtained or not. The special
21 permit may be used only during the hours when the sale of liquor
22 or malt or brewed beverages is permitted, and between eleven
23 o'clock antemeridian on Sunday and two o'clock antemeridian on
24 the following Monday, regardless of whether the licensee
25 possesses a Sunday sales permit. The board shall have power to
26 provide for the issue of such special permits, and to collect an
27 annual fee for such permits as prescribed in section 614-A of
28 the act of April 9, 1929 (P.L.177, No.175), known as "The
29 Administrative Code of 1929." All such fees shall be paid into
30 the State Stores Fund. No such permit shall be issued in any

municipality which, by ordinance, prohibits amusements in
licensed places. Any violation of this clause shall, in addition
to the penalty herein provided, subject the licensee to
suspension or revocation of his permit and his license. No
entertainment otherwise authorized by the special permit shall
be permitted at a licensed grocery store or convenience store
and no special permit may be issued to the holder of a food
store license.

* * *

(14) Permitting Undesirable Persons or Minors to Frequent
Premises. For any hotel, restaurant or club liquor licensee, or
any retail dispenser, his servants, agents or employes, to
permit persons of ill repute or prostitutes to frequent his
licensed premises or any premises operated in connection
therewith. Minors may only frequent licensed premises if: (a)
they are accompanied by a parent; (b) they are accompanied by a
legal guardian; (c) they are under proper supervision; (d) they
are attending a social gathering; or (e) the hotel, restaurant
or retail dispenser licensee has gross sales of food and
nonalcoholic beverages equal to fifty per centum or more of its
combined gross sale of both food and alcoholic beverages. If a
minor is frequenting a hotel, restaurant or retail dispenser
licensee under subsection (e), then the minor may not sit at the
bar section of the premises, nor may any alcoholic beverages be
served at the table or booth at which the said minor is seated
unless said minor is with a parent, legal guardian or under
proper supervision. Further, if a hotel, restaurant, club liquor
licensee or retail dispenser is hosting a social gathering under
subsection (d), then written notice at least forty-eight hours
in advance of such gathering shall be given to the Bureau of

1 Enforcement. If a minor is frequenting licensed premises with
2 proper supervision under subsection (c), each supervisor can
3 supervise up to twenty minors, except for premises located in
4 cities of the first class, where each supervisor can supervise
5 up to five minors. Notwithstanding any other provisions of this
6 section, if the minors are on the premises as part of a school-
7 endorsed function, then each supervisor can supervise fifty
8 minors. Nothing in this clause shall be construed to make it
9 unlawful for minors to frequent public venues or performing arts
10 facilities or for minors to frequent those portions of a grocery
11 store or convenience store that are not licensed for the on the
12 premises consumption of alcohol.

13 (15) Cashing Pay Roll, Public Assistance, Unemployment
14 Compensation or Any Other Relief Checks. For any licensee,
15 except a food store licensee, or his servants, agents or
16 employes to cash pay roll checks or to cash, receive, handle or
17 negotiate in any way Public Assistance, Unemployment
18 Compensation or any other relief checks.

19 * * *

20 (32) Selling malt or brewed beverages for off the premises
21 consumption without verification of identity. For any licensee
22 to sell malt or brewed beverages for off the premises
23 consumption to a person not licensed by this act, without first
24 verifying the identity of the purchaser by requiring the person
25 to produce one of the forms of identification set forth in
26 section 495.

27 Section 13. Section 499(a.1) of the act, amended October 5,
28 1994 (P.L.522, No.77), is amended to read:

29 Section 499. Premises to be Vacated by Patrons.--* * *

30 (a.1) Subsection (a) shall not apply to sales of malt and

1 brewed beverages for consumption off the premises when the
2 following conditions are met:

3 [(1) no licensee may sell malt or brewed beverages in excess
4 of one hundred ninety-two fluid ounces in any one sale for
5 consumption off the premises;]

6 (2) sales and service of malt and brewed beverages for
7 consumption off the premises are made prior to the designated
8 time the licensee is required by this act to cease serving
9 liquor, malt or brewed beverages;

10 (3) persons who have purchased malt and brewed beverages for
11 consumption off the premises shall remove the malt and brewed
12 beverages from the premises by the designated time as contained
13 in this act that patrons are required to vacate the premises;

14 (4) no club licensee may sell any malt or brewed beverage
15 for consumption off the premises where sold or to any persons
16 who are not members of the club.

17 * * *

18 Section 14. This act shall take effect in 60 days.