

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 327 Session of 2019

INTRODUCED BY WARREN, HILL-EVANS, KORTZ, CALTAGIRONE AND FREEMAN, FEBRUARY 1, 2019

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, APRIL 28, 2020

AN ACT

1 Amending the act of April 12, 1951 (P.L.90, No.21), entitled "An
2 act relating to alcoholic liquors, alcohol and malt and
3 brewed beverages; amending, revising, consolidating and
4 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," in <--
17 licenses and regulations, liquor, alcohol and malt and brewed <--
18 beverages, further providing for local option. IN PRELIMINARY <--
19 PROVISIONS, FURTHER PROVIDING FOR DEFINITIONS; AND, IN
20 LICENSES AND REGULATIONS, LIQUOR, ALCOHOL AND MALT AND BREWED
21 BEVERAGES, PROVIDING FOR PREPARED BEVERAGES AND MIXED DRINKS
22 FOR OFF-PREMISES CONSUMPTION DURING DISASTER EMERGENCY.

23 The General Assembly of the Commonwealth of Pennsylvania
24 hereby enacts as follows:

25 Section 1. Section 472(a) of the act of April 12, 1951 <--
26 (P.L.90, No.21), known as the Liquor Code, is amended to read:

27 Section 472. Local Option. (a) In any municipality or any

~~1 part of a municipality where such municipality is split so that  
2 each part thereof is separated by another municipality, an  
3 election may be held, subject to subsection (c), not oftener  
4 than once in four years, to determine the will of the electors  
5 with respect to the granting of liquor licenses to hotels,  
6 restaurants, resort facilities and clubs, not oftener than once  
7 in four years, to determine the will of the electors with  
8 respect to the granting of liquor licenses to public venues, to  
9 performing arts facilities, to continuing care retirement  
10 communities, to hotels located on property owned by an  
11 accredited college or university, to privately owned private  
12 golf courses or to privately owned public golf courses, not  
13 oftener than once in four years, to determine the will of the  
14 electors with respect to the granting of licenses to retail  
15 dispensers of malt and brewed beverages, not oftener than once  
16 in four years, to determine the will of the electors with  
17 respect to granting of licenses to wholesale distributors and  
18 importing distributors, not more than once in two years, to  
19 determine the will of the electors with respect to the granting  
20 of club liquor licenses or club retail dispenser licenses to  
21 incorporated units of national veterans' organizations, not  
22 oftener than once in two years to determine the will of the  
23 electors with respect to the granting of special occasion  
24 permits to qualified organizations, not more than once in four  
25 years, to determine the will of the electors with respect to the  
26 establishment, operation and maintenance by the board of  
27 Pennsylvania liquor stores, within the limits of such  
28 municipality or part of a split municipality, or not more than  
29 once in two years, to determine the will of the electors with  
30 respect to the granting of liquor licenses to ski resort~~

1 facilities, under the provisions of this act: Provided, That an  
2 election on the question of establishing and operating a State  
3 liquor store shall be initiated only in those municipalities, or  
4 that part of a split municipality that shall have voted against  
5 the granting of liquor licenses; and that an election on the  
6 question of granting wholesale distributor and importing  
7 distributor licenses shall be initiated only in those  
8 municipalities or parts of split municipalities that shall have  
9 at a previous election voted against the granting of dispenser's  
10 licenses. Whenever electors equal to at least twenty five per  
11 centum of the highest vote cast for any office in the  
12 municipality or part of a split municipality at the last  
13 preceding [general] election shall file a petition with the  
14 county board of elections of the county for a referendum on the  
15 question of granting any of said classes of licenses or the  
16 establishment of Pennsylvania liquor stores, the said county  
17 board of elections shall cause a question to be placed on the  
18 ballots or on the voting machine board and submitted at any  
19 election, except a special election. Separate petitions must be  
20 filed for each question to be voted on. Said proceedings shall  
21 be in the manner and subject to the provisions of the election  
22 laws which relate to the signing, filing and adjudication of  
23 nomination petitions, with respect to a question to be placed on  
24 the ballot in a primary election, and nomination papers, with  
25 respect to a question to be placed on the ballot in a municipal  
26 or general election, in each case insofar as such provisions are  
27 applicable.

28 When the question is in respect to the granting of liquor  
29 licenses, it shall be in the following form:

30 Do you favor the granting of liquor licenses for the

1 ~~sale of liquor in.....~~ Yes  
2 ~~of.....?~~ No

3 ~~When the question is in respect to the granting of liquor-~~  
4 ~~licenses to resort facilities in those municipalities that do-~~  
5 ~~not already allow the retail sale of liquor, it shall be in the-~~  
6 ~~following form:~~

7 ~~Do you favor the granting of liquor licenses to resort-~~  
8 ~~facilities for the sale of liquor in the.....~~ Yes  
9 ~~of.....?~~ No

10 ~~When the question is in respect to the granting of liquor-~~  
11 ~~licenses to ski resorts in those municipalities that do not-~~  
12 ~~already allow the retail sale of liquor, it shall be in the-~~  
13 ~~following form:~~

14 ~~Do you favor the granting of liquor licenses to ski-~~  
15 ~~resort facilities for the sale of liquor in the~~ Yes  
16 ~~.....of.....?~~ No

17 ~~When the question is in respect to the granting of restaurant-~~  
18 ~~liquor licenses for use at public venues in those municipalities-~~  
19 ~~that do not already allow the retail sale of liquor, it shall be-~~  
20 ~~in the following form:~~

21 ~~Do you favor the granting of liquor licenses to public-~~  
22 ~~venues for the sale of liquor in the.....~~ Yes  
23 ~~of.....?~~ No

24 ~~When the question is in respect to the granting of restaurant-~~  
25 ~~liquor licenses for use at performing arts facilities in those-~~  
26 ~~municipalities that do not already allow the retail sale of-~~  
27 ~~alcohol, it shall be in the following form:~~

28 ~~Do you favor the granting of liquor licenses to~~ Yes  
29 ~~performing arts facilities for the sale of liquor in~~ No  
30 ~~the.....~~

1 of.....?

2 ~~When the question is in respect to the granting of liquor~~  
3 ~~licenses for hotels located on property owned by an accredited~~  
4 ~~college or university in those municipalities that do not~~  
5 ~~already allow the granting of liquor licenses, it shall be in~~  
6 ~~the following form:~~

7 Do you favor the granting of liquor licenses to hotels  
8 on property owned by an accredited college or  
9 university in the..... Yes  
10 of.....? No

11 ~~When the question is in respect to the granting of liquor~~  
12 ~~licenses, for privately owned private golf courses, it shall be~~  
13 ~~in the following form:~~

14 Do you favor the granting of liquor licenses for  
15 privately owned private golf courses for the sale of  
16 liquor in.....by..... Yes  
17 of.....? No

18 ~~When the question is in respect to the granting of liquor~~  
19 ~~licenses, for privately owned public golf courses, it shall be~~  
20 ~~in the following form:~~

21 Do you favor the granting of liquor licenses for  
22 privately owned public golf courses for the sale of  
23 liquor in.....by..... Yes  
24 of.....? No

25 ~~When the question is in respect to the granting of liquor~~  
26 ~~licenses to continuing care retirement communities in those~~  
27 ~~municipalities that have not already approved the granting of~~  
28 ~~liquor licenses, it shall be in the following form:~~

29 Do you favor the granting of liquor licenses for  
30 continuing care retirement communities

1 in.....by..... Yes  
2 of.....? No  
3 ~~When the question is in respect to the granting of licenses~~  
4 ~~to retail dispensers of malt and brewed beverages, it shall be~~  
5 ~~in the following form:~~  
6 ~~Do you favor the granting of malt and brewed beverage~~  
7 ~~retail dispenser licenses for consumption on premises~~  
8 ~~where sold in the..... Yes~~  
9 ~~of.....? No~~  
10 ~~When the question is in respect to the granting of licenses~~  
11 ~~to wholesale distributors of malt or brewed beverages and~~  
12 ~~importing distributors, it shall be in the following form:~~  
13 ~~Do you favor the granting of malt and brewed beverage~~  
14 ~~wholesale distributor's and importing distributor's~~  
15 ~~licenses not for consumption on premises where sold in~~  
16 ~~the..... Yes~~  
17 ~~of.....? No~~  
18 ~~When the question is in respect to the granting of club~~  
19 ~~liquor licenses to incorporated units of national veterans'~~  
20 ~~organizations, it shall be in the following form:~~  
21 ~~Do you favor the granting of club liquor licenses to~~  
22 ~~incorporated units of national veterans' organizations~~  
23 ~~in the..... Yes~~  
24 ~~of.....? No~~  
25 ~~When the question is in respect to the granting of club~~  
26 ~~retail dispenser licenses to incorporated units of national~~  
27 ~~veterans' organizations, it shall be in the following form:~~  
28 ~~Do you favor the granting of club retail dispenser Yes~~  
29 ~~licenses to incorporated units of national veterans' No~~  
30 ~~organizations in the.....~~

1 of.....?

2 ~~When the question is in respect to the granting of special-~~  
3 ~~occasion permits allowing the sale of liquor by qualified-~~  
4 ~~organizations in municipalities that do not already allow the-~~  
5 ~~retail sale of liquor, it shall be in the following form:~~

6 Do you favor the granting of special occasion permits  
7 to allow the sale of liquor by qualified organizations  
8 in the..... Yes  
9 of.....? No

10 ~~When the question is in respect to the granting of special-~~  
11 ~~occasion permits allowing the sale of malt or brewed beverages-~~  
12 ~~only by qualified organizations in municipalities that do not-~~  
13 ~~already allow the retail sale of malt or brewed beverages, it-~~  
14 ~~shall be in the following form:~~

15 Do you favor the granting of special occasion permits  
16 to allow the sale of malt or brewed beverages only by  
17 qualified organizations in the..... Yes  
18 of.....? No

19 ~~When the question is in respect to the establishment,~~  
20 ~~operation and maintenance of Pennsylvania liquor stores it shall-~~  
21 ~~be in the following form:~~

22 Do you favor the establishment, operation and  
23 maintenance of Pennsylvania liquor stores in  
24 the..... Yes  
25 of.....? No

26 ~~When the question is in respect to the granting of liquor-~~  
27 ~~licenses to an airport authority in those municipalities that do-~~  
28 ~~not already allow the retail sale of liquor, it shall be in the-~~  
29 ~~following form:~~

30 Do you favor the granting of liquor licenses to an

1 ~~airport authority for the sale of liquor in~~  
2 ~~the.....~~ Yes  
3 ~~of.....?~~ No

4 ~~In case of a tie vote, the status quo shall obtain. If a~~  
5 ~~majority of the voting electors on any such question vote "yes,"~~  
6 ~~then liquor licenses shall be granted by the board to hotels,~~  
7 ~~restaurants, ski resorts, resort facilities and clubs, or liquor~~  
8 ~~licenses shall be granted by the board to public venues, to~~  
9 ~~performing arts facilities, to continuing care retirement~~  
10 ~~communities, to hotels located on property owned by an~~  
11 ~~accredited college or university, to privately owned private~~  
12 ~~golf courses or to privately owned public golf courses, or malt~~  
13 ~~and brewed beverage retail dispenser licenses or wholesale~~  
14 ~~distributor's and importing distributor's license for the sale~~  
15 ~~of malt or brewed beverages shall be granted by the board, or~~  
16 ~~club liquor licenses or club retail dispenser licenses shall be~~  
17 ~~granted by the board to incorporated units of national veterans'~~  
18 ~~organizations, or special occasion permits may be issued to~~  
19 ~~qualified organizations, or the board may establish, operate and~~  
20 ~~maintain Pennsylvania liquor stores, as the case may be, in such~~  
21 ~~municipality or part of a split municipality, as provided by~~  
22 ~~this act; but if a majority of the electors voting on any such~~  
23 ~~question vote "no," then the board shall have no power to grant~~  
24 ~~or to renew upon their expiration any licenses of the class so~~  
25 ~~voted upon in such municipality or part of a split municipality;~~  
26 ~~or if the negative vote is on the question in respect to the~~  
27 ~~establishment, operation and maintenance of Pennsylvania liquor~~  
28 ~~stores, the board shall not open and operate a Pennsylvania~~  
29 ~~liquor store in such municipality or part of a split~~  
30 ~~municipality, nor continue to operate a then existing~~

1 ~~Pennsylvania liquor store in the municipality or part of a split~~  
2 ~~municipality for more than two years thereafter or after the~~  
3 ~~expiration of the term of the lease on the premises occupied by~~  
4 ~~such store, whichever period is less, unless and until at a~~  
5 ~~later election a majority of the voting electors vote "yes" on~~  
6 ~~such question.~~

7 \* \* \*

8 ~~Section 2. This act shall take effect in 60 days.~~

9 SECTION 1. SECTION 102 OF THE ACT OF APRIL 12, 1951 (P.L.90, <--  
10 NO.21), KNOWN AS THE LIQUOR CODE, IS AMENDED BY ADDING  
11 DEFINITIONS TO READ:

12 SECTION 102. DEFINITIONS.--THE FOLLOWING WORDS OR PHRASES,  
13 UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE, SHALL HAVE THE  
14 MEANINGS ASCRIBED TO THEM IN THIS SECTION:

15 \* \* \*

16 "PREPARED BEVERAGE AND MIXED DRINK" SHALL MEAN A SEALED  
17 CONTAINER OF NO LESS THAN FOUR FLUID OUNCES AND NO GREATER THAN  
18 SIXTY-FOUR FLUID OUNCES IN A SINGLE TRANSACTION THAT HOLDS  
19 SPIRITS AND MIXERS THAT ARE COMBINED ON A LICENSED PREMISES.

20 \* \* \*

21 "SEALED CONTAINER" SHALL MEAN A PACKAGED CONTAINER WITH A  
22 SECURE LID OR CAP DESIGNED TO PREVENT CONSUMPTION WITHOUT  
23 REMOVAL OF THE LID OR CAP. A LID WITH SIPPING HOLES OR OPENING  
24 FOR STRAWS MUST BE COVERED OR AFFIXED WITH AN ADDITIONAL SEAL  
25 BEFORE SALE.

26 \* \* \*

27 SECTION 2. THE ACT IS AMENDED BY ADDING A SECTION TO READ:

28 SECTION 417. PREPARED BEVERAGES AND MIXED DRINKS FOR OFF-  
29 PREMISES CONSUMPTION DURING DISASTER EMERGENCY.--(A) THE  
30 FOLLOWING SHALL APPLY:

1 (1) NOTWITHSTANDING ANY PROVISION OF THIS ACT, A PERSON  
2 HOLDING AND POSSESSING A VALID RESTAURANT OR HOTEL LIQUOR  
3 LICENSE THAT LOST MORE THAN TWENTY-FIVE PER CENTUM (25%) OF THE  
4 PERSON'S AVERAGE MONTHLY TOTAL SALES, INCLUDING ALCOHOL SALES,  
5 AS A RESULT OF RESTRICTIONS IMPOSED DURING THE COVID-19 DISASTER  
6 EMERGENCY MAY SELL PREPARED BEVERAGES AND MIXED DRINKS FOR OFF-  
7 PREMISES CONSUMPTION WHERE MEALS PREPARED FOR PICK-UP OR  
8 CURBSIDE PICK-UP ARE ALSO AVAILABLE.

9 (2) EXCEPT AS PROVIDED IN THIS PARAGRAPH AND PARAGRAPH (4),  
10 NOTHING IN THIS SECTION SHALL AFFECT THE ABILITY OF A LICENSEE  
11 TO OPERATE WITHIN THE SCOPE OF ITS CURRENT LICENSE AS AUTHORIZED  
12 BY THIS ACT, PROVIDED, HOWEVER, THAT NO SALES OF PREPARED  
13 BEVERAGES AND MIXED DRINKS FOR OFF-PREMISES CONSUMPTION SHALL  
14 TAKE PLACE AFTER ELEVEN O'CLOCK POSTMERIDIAN OF ANY DAY UNTIL  
15 THE LICENSEE'S PERMITTED HOURS OF OPERATION UNDER SECTION 406 OF  
16 THE NEXT DAY, INCLUDING SUNDAYS IF THE LICENSEE HAS A PERMIT  
17 AUTHORIZED UNDER SECTIONS 406(A) (3) AND 432(F).

18 (3) THE FOLLOWING LICENSEES ARE PROHIBITED FROM SELLING  
19 PREPARED BEVERAGES AND MIXED DRINKS FOR OFF-PREMISES CONSUMPTION  
20 UNDER THIS SECTION:

21 (I) A LICENSEE WHOSE UNDERLYING LICENSE IS SUBJECT TO A  
22 PENDING OBJECTION BY THE DIRECTOR OF THE BUREAU OF LICENSING OR  
23 THE BOARD UNDER SECTION 470(A.1), UNTIL THE MATTER IS DECIDED.

24 (II) A LICENSEE WHOSE UNDERLYING LICENSE HAS BEEN SUSPENDED  
25 UNDER SECTION 1799.6-E OF THE ACT OF APRIL 9, 1929 (P.L.343,  
26 NO.176), KNOWN AS "THE FISCAL CODE."

27 (4) FOR PURPOSES OF SELLING PREPARED BEVERAGES AND MIXED  
28 DRINKS FOR OFF-PREMISES CONSUMPTION, A LICENSED PREMISES SHALL  
29 NOT BE SUBJECT TO SECTION 493(14).

30 (5) WITHING SIXTY (60) DAYS OF THE EFFECTIVE DATE OF THIS

1 SECTION, A LICENSEE SELLING PREPARED BEVERAGES AND MIXED DRINKS  
2 FOR OFF-PREMISES CONSUMPTION SHALL BEGIN UTILIZING A TRANSACTION  
3 SCAN DEVICE TO VERIFY THE AGE OF AN INDIVIDUAL WHO APPEARS TO BE  
4 UNDER THIRTY-FIVE (35) YEARS OF AGE BEFORE MAKING A SALE OF  
5 PREPARED BEVERAGES AND MIXED DRINKS FOR OFF-PREMISES  
6 CONSUMPTION. A LICENSEE MAY NOT SELL OR SHARE CONSUMERS'  
7 PERSONAL DATA FROM THE USE OF A TRANSACTION SCAN DEVICE,  
8 PROVIDED THAT THE LICENSEE MAY SHARE THE DATA WITH THE  
9 ENFORCEMENT BUREAU OF THE BOARD AS EVIDENCE THAT THE LICENSEE IS  
10 IN COMPLIANCE WITH THIS PARAGRAPH.

11 (6) A LICENSEE SELLING PREPARED BEVERAGES OR MIXED DRINKS  
12 FOR OFF-PREMISE CONSUMPTION SHALL PROMINENTLY POST A WARNING  
13 SIGN IN A MANNER THAT PUTS CONSUMERS ON NOTICE OF THE  
14 RESTRICTIONS ON ALCOHOLIC BEVERAGES UNDER 75 PA.C.S. § 3809  
15 (RELATING TO RESTRICTION ON ALCOHOLIC BEVERAGES), AND THAT THE  
16 PREPARED BEVERAGES AND MIXED DRINKS PACKAGED FOR SALE BY THE  
17 LICENSEE ARE OPEN CONTAINERS AND MAY ONLY BE TRANSPORTED BY THE  
18 DRIVER OF A MOTOR VEHICLE IN THE VEHICLE'S TRUNK OR IN SOME  
19 OTHER AREA OF THE VEHICLE THAT IS NOT OCCUPIED BY THE DRIVER OR  
20 PASSENGERS.

21 (B) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION OR  
22 PROVISION OF LAW TO THE CONTRARY, A LICENSEE SELLING PREPARED  
23 BEVERAGES AND MIXED DRINKS FOR OFF-PREMISES CONSUMPTION MAY ONLY  
24 DO SO DURING THE COVID-19 DISASTER EMERGENCY AND DURING THE  
25 MITIGATION PERIOD AFTER THE TERMINATION OF THE DISASTER  
26 EMERGENCY IN WHICH A LICENSEE IS OPERATING AT LESS THAN SIXTY  
27 PER CENTUM (60%) CAPACITY.

28 (C) A LICENSEE MAY SELL LIQUOR TO ANOTHER LICENSEE QUALIFIED  
29 TO SELL PREPARED BEVERAGES AND MIXED DRINKS UNDER THIS SECTION.  
30 THE LICENSEE SHALL NOTIFY THE BOARD IN WRITING ADVISING IT OF

1 THE NAME OF THE LICENSEE AND IDENTIFYING ANY PRODUCT SOLD TO  
2 THAT LICENSEE, AS WELL AS THE DESCRIPTION OF THE LIQUOR,  
3 INCLUDING BRAND NAMES, SIZES AND NUMBERS OF CONTAINERS SOLD TO  
4 ANOTHER LICENSEE. THE SALES MAY ONLY OCCUR DURING THE COVID-19  
5 DISASTER EMERGENCY AND DURING THE MITIGATION PERIOD AFTER THE  
6 TERMINATION OF THE DISASTER EMERGENCY IN WHICH A LICENSEE IS  
7 OPERATING AT LESS THAN SIXTY PER CENTUM (60%) CAPACITY.

8 (D) AS USED IN THIS SECTION, THE FOLLOWING WORDS AND PHRASES  
9 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SUBSECTION UNLESS  
10 THE CONTEXT CLEARLY INDICATES OTHERWISE:

11 "COVID-19 DISASTER EMERGENCY" SHALL MEAN THE PROCLAMATION OF  
12 DISASTER EMERGENCY ISSUED BY THE GOVERNOR ON MARCH 6, 2020,  
13 PUBLISHED AT 50 PA.B. 1644 (MARCH 21, 2020), AND ANY RENEWAL OF  
14 THE STATE OF DISASTER EMERGENCY.

15 "LICENSEE" SHALL MEAN A PERSON HOLDING AND POSSESSING A VALID  
16 RESTAURANT OR HOTEL LIQUOR LICENSE AUTHORIZED TO SELL PREPARED  
17 BEVERAGES OR MIXED DRINKS FOR OFF-PREMISE CONSUMPTION UNDER  
18 SUBSECTION (A) (1).

19 "TRANSACTION SCAN DEVICE" SHALL MEAN A DEVICE CAPABLE OF  
20 DECIPHERING, IN AN ELECTRONICALLY READABLE FORMAT, THE  
21 INFORMATION ENCODED ON THE MAGNETIC STRIP, CHIP OR BAR CODE OF  
22 AN IDENTIFICATION CARD UNDER SECTION 495(A).

23 SECTION 3. THIS ACT SHALL TAKE EFFECT IMMEDIATELY.