

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**HOUSE BILL****No. 1524** Session of  
2019

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INTRODUCED BY RADER, MILLARD, ROTHMAN, JAMES, MEHAFFIE, TOOHIL,  
PICKETT, BROWN, KAUFER, JOZWIAK, PEIFER, BOBACK, FRITZ, MOUL  
AND O'NEAL, MAY 29, 2019

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AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,  
JUNE 10, 2019

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## 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 preliminary provisions, further providing for definitions;  
18 and, in licenses and regulations, liquor, alcohol and malt  
19 and brewed beverages, further providing for limiting number  
20 of retail licenses to be issued in each county and for  
21 licenses not assignable and transfers.

22 The General Assembly of the Commonwealth of Pennsylvania

23 hereby enacts as follows:

24 Section 1. Section 102 of the act of April 12, 1951 (P.L.90,  
25 No.21), known as the Liquor Code, is amended by adding

26 definitions to read:

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

4 \* \* \*

5 "Saturated county" shall mean a county with more than one  
6 restaurant liquor license per three thousand (3,000) inhabitants  
7 in the top twenty-five highest ratios of restaurant liquor  
8 licenses to county population in this Commonwealth.

9 \* \* \*

10 "Tourist development project" shall mean a planned  
11 development situated on at least ninety acres of land,  
12 constructed since January 1, 2019, that is dedicated primarily  
13 to interstate tourism with at least five hundred thousand square <--  
14 feet of actual or proposed development, with a mix of  
15 entertainment and retail uses.

16 \* \* \*

17 Section 2. Section 461(a) and (b.4) (4) of the act are  
18 amended and the section is amended by adding a subsection to  
19 read:

20 Section 461. Limiting Number of Retail Licenses To Be Issued  
21 In Each County.--(a) No additional restaurant, eating place  
22 retail dispenser or club licenses shall be issued within a  
23 county if the total number of restaurant and eating place retail  
24 dispenser licenses is greater than one license for each three  
25 thousand inhabitants in the county, except the board may issue  
26 licenses to public venues, performing arts facilities,  
27 continuing care retirement communities, airport restaurants,  
28 municipal golf courses, hotels, privately-owned private golf  
29 courses, privately-owned public golf courses, racetracks,  
30 automobile racetracks, nonprimary pari-mutuel wagering

1 locations, privately-owned ski resorts and to any other entity  
2 which this act specifically exempts from the limitations  
3 provided in this section, and the board may issue a license to a  
4 club situated in a borough having a population less than eight  
5 thousand inhabitants which is located in a county of the second  
6 class A whose application is filed on or before February 28,  
7 2001. In addition, the board may issue an eating place retail  
8 dispenser license for on-premises sales only to the owner or  
9 operator of a facility having a minimum of a one-half mile  
10 asphalt track and having a permanent seating capacity of at  
11 least six thousand people used principally for holding  
12 automobile races, regardless of the number of restaurant and  
13 eating place retail dispenser licenses already issued in that  
14 county. When determining the number of restaurant and eating  
15 place retail dispenser licenses issued in a county for the  
16 purposes of this section, licenses exempted from this  
17 limitation, licenses subject to the mixed-use town development  
18 project provisions of this act, licenses subject to the tourist  
19 development project provisions of this act and club licenses  
20 shall not be considered. Inhabitants of dry municipalities shall  
21 be considered when determining the population in a county.  
22 Licenses shall not be issued or transferred into municipalities  
23 where such licenses are prohibited pursuant to local referendum  
24 in accordance with section 472. Licenses approved for  
25 intermunicipal transfer may not be transferred from the  
26 receiving municipality for a period of five years after the date  
27 that the licensed premises are operational in the receiving  
28 municipality.

29 \* \* \*

30 (b.4) \* \* \*

1 (4) The board may approve licensure of exterior serving  
2 areas for premises to be located within a mixed-use town center  
3 development project or tourist development project where such  
4 exterior serving areas are situated on municipal-owned or  
5 private-owned property, regardless of whether such exterior  
6 serving areas are located immediately adjacent, abutting or  
7 contiguous to the building to be licensed, provided that the  
8 employes of licensees in a qualified mixed-use town center  
9 development project or tourist development project may traverse  
10 unlicensed areas in order to deliver alcohol to patrons who are  
11 seated in any such licensed serving area that is not immediate,  
12 adjacent, abutting and contiguous to the licensee's primary  
13 licensed premises; and provided further that any such licensed  
14 serving area is delineated from all adjacent public areas by a  
15 railing, barrier or other partition for the purpose of table  
16 service only; and provided further that the entirety of such  
17 noncontiguous licensed exterior serving area or areas is not  
18 located more than thirty-five feet from the nearest point of the  
19 licensed structure; and provided further that such noncontiguous  
20 licensed exterior serving areas shall not include any additional  
21 enclosed structure with four walls and a roof other than the  
22 primary licensed building; and provided further that any and all  
23 public thoroughfare or thoroughfares situated between the  
24 licensed building and the noncontiguous exterior licensed  
25 serving area is or are used primarily for pedestrian foot  
26 traffic and not vehicular traffic; and provided further that the  
27 local municipality has approved, by ordinance or resolution, the  
28 use of such areas by the applicant; and provided further that,  
29 in the case of municipal-owned property, a sidewalk cafe or  
30 similar permit, as applicable, is first obtained by the

1 applicant; and provided further that the applicant complies with  
2 any regulation issued by the board pursuant hereto or in  
3 furtherance hereof. Any restaurant ("R"), eating place ("E") or  
4 hotel ("H") license transferred to or issued for premises  
5 located within a mixed-use town center development or tourist  
6 development project shall have the privileges of this subsection  
7 so long as such license remains within the mixed-use town center  
8 development or tourist development project.

9 \* \* \*

10 (b.5) (1) Notwithstanding any other provision of this  
11 act to the contrary, the board may approve the transfer of a  
12 restaurant liquor license available for auction under section  
13 470.3 for the purpose of economic development through increased  
14 tourism, subject to the conditions of this subsection.

15 (2) A tourist development project restaurant liquor license  
16 application may be submitted by any interested party at any  
17 time. The application to the board shall be accompanied by a  
18 resolution or ordinance indicating that the municipality has  
19 approved the request to have the area designated as a tourist  
20 development project by the board, a map of the area proposed  
21 to be designated and any additional information the board may  
22 require. The application fee shall be one million dollars  
23 (\$1,000,000).

24 (3) The proposed location must be within a tourist  
25 development project as the term is defined in section 102 and  
26 within a municipality that allows for the issuance and  
27 transfer of restaurant liquor licenses under section 472.

28 (4) A tourist development project restaurant liquor license  
29 application must indicate the number of restaurant liquor  
30 licenses that the applicant is seeking, but the applicant may

1 not seek more than seventy-five licenses for the tourist  
2 development project. The applicant must submit a surcharge of  
3 sixty-five thousand (\$65,000) dollars for each restaurant liquor  
4 license upon board approval of the transfer of the applicable  
5 restaurant liquor license.

6 (5) On receiving a tourist development project restaurant  
7 license application as well as any additional documents and  
8 fees, and following satisfaction that the applicant's request  
9 meets all board requirements, the board shall approve the  
10 application request and place the surcharge under clause (4)  
11 into The State Stores Fund. The restaurant liquor license shall  
12 then be held in safekeeping for the benefit of the applicant  
13 until the applicant or the applicant's assignee files a formal  
14 transfer application. The applicant may assignee the rights to  
15 file a formal transfer application to a third party.

16 (6) The board may choose which specific restaurant liquor  
17 licenses will be made available for transfer but shall choose  
18 licenses from a saturated county, if they are available, up to  
19 the maximum number of licenses that can be accepted from that  
20 saturated county. For purposes of this subsection, the maximum  
21 number of licenses that can be accepted from a county shall be  
22 calculated by subtracting from the total number of restaurant  
23 liquor licenses in the county, a number equal to 2.64 times the  
24 county population divided by three thousand.

25 (7) A license held in safekeeping under clause (5) may  
26 remain in safekeeping for up to four years without having to  
27 pay the additional safekeeping fees in section 474.1. The  
28 restaurant liquor license shall be subject to all other fees  
29 such as renewal fees and the application surcharge under  
30 section 470. After the four-year period, measured from the date

1 the board approves the application request for making the  
2 license available for transfer, the license shall be revoked  
3 unless the applicant has submitted a transfer application  
4 prior to that date. If a license is revoked, the applicant  
5 may not receive any refund. A license revoked under this clause  
6 shall be reassigned to the county in which the license was  
7 located before the license was transferred under this subsection  
8 and be available for auction under section 470.3.

9 (8) A restaurant liquor license transferred under this  
10 subsection may not be transferred to a location outside of the  
11 designated tourist development project.

12 (9) A license transferred under this subsection is  
13 ineligible for a wine expanded permit under section 415. A  
14 licensee under this subsection may not sell malt and brewed  
15 beverages for off-premises consumption except patrons may take  
16 wine, spirits and malt and brewed beverages off the licensed  
17 premises if the wine, spirits and malt and brewed beverages  
18 remain in the area previously designated as a tourist  
19 development project.

20 (10) A license transferred into a new county under this  
21 subsection may not be counted toward or subject to the county  
22 quota under subsection (a).

23 (11) The renewal and validation dates of a license  
24 transferred into a new county under this subsection shall be  
25 amended to match the renewal and validation date of the  
26 licenses in the county.

27 \* \* \*

28 Section 3. Section 468(a)(1) of the act is amended to read:

29 Section 468. Licenses Not Assignable; Transfers.--(a) (1)  
30 Licenses issued under this article may not be assigned. The

1 board, upon payment of the transfer filing fee, is hereby  
2 authorized to transfer any license issued by it under the  
3 provisions of this article from one person to another or from  
4 one place to another, or both. Except for restaurant liquor and  
5 eating place retail dispenser licenses transferred under section  
6 461(b.4) and restaurant liquor licenses transferred under  
7 section 461(b.5), if the license is a retail license, the new  
8 location must be within the same county as the existing location  
9 or, if the municipality is located in more than one county,  
10 within the same municipality as the existing location.

11 \* \* \*

12 Section 4. This act shall take effect in 60 days.