

No. 103

AN ACT

HB 1255

Amending the act of April 12, 1951 (P.L.90), entitled "An act relating to alcoholic liquors, alcohol and malt and brewed beverages; amending, revising, consolidating and changing the laws relating thereto; regulating and restricting the manufacture, purchase, sale, possession, consumption, importation, transportation, furnishing, holding in bond, holding in storage, traffic in and use of alcoholic liquors, alcohol and malt and brewed beverages and the persons engaged or employed therein; defining the powers and duties of the Pennsylvania Liquor Control Board; providing for the establishment and operation of State liquor stores, for the payment of certain license fees to the respective municipalities and townships, for the abatement of certain nuisances and, in certain cases, for search and seizure without warrant; prescribing penalties and forfeitures; providing for local option, and repealing existing laws," further providing for Sunday sales by certain licensees during certain hours and further regulating the issuance of certain licenses.

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

Section 1. Section 404, act of April 12, 1951 (P.L.90), known as the "Liquor Code," amended October 9, 1967 (P.L.394), is amended to read:

Section 404. Issuance of Hotel, Restaurant and Club Liquor Licenses. —Upon receipt of the application, the proper fees and bond, and upon being satisfied of the truth of the statements in the application that the applicant is the only person in any manner pecuniarily interested in the business so asked to be licensed and that no other person will be in any manner pecuniarily interested therein during the continuance of the license, except as hereinafter permitted, and that the applicant is a person of good repute, that the premises applied for meet all the requirements of this act and the regulations of the board, that the applicant seeks a license for a hotel, restaurant or club, as defined in this act, and that the issuance of such license is not prohibited by any of the provisions of this act, the board shall, in the case of a hotel or restaurant, grant and issue to the applicant a liquor license, and in the case of a club may, in its discretion, issue or refuse a license: Provided, however, That in the case of any new license or the transfer of any license to a new location the board may, in its discretion, grant or refuse such new license or transfer if such place proposed to be licensed is within three hundred feet of any church, hospital, charitable institution, school, or public playground, or if such new license or transfer is applied for a place which is within two hundred feet of any other premises which is licensed by the board, or if such new license or transfer is applied for a place where the principal business is the sale of liquid fuels and oil: And provided further, That the board shall refuse any application for a new license or the transfer of any license to a new location if, in the board's opinion, such new license or transfer would be detrimental to the welfare, health, peace and morals of the inhabitants of

the neighborhood within a radius of five hundred feet of the place proposed to be licensed: And provided further, That the board shall not issue new licenses in any license district more than twice each license year, effective from specific dates fixed by the board, and new licenses shall not be granted, except for hotels as defined in this act, unless the application therefor shall have been filed at least thirty days before the effective date of the license: And provided further, That nothing herein contained shall prohibit the board from issuing a new license for the balance of any unexpired term in any license district to any applicant in such district, who shall have become eligible to hold such license as the result of legislative enactment, when such enactment shall have taken place during the license term of that district for which application is made or within the thirty days immediately preceding such term, nor shall anything herein contained prohibit the board from issuing at any time a new license for an airport restaurant, *or municipal golf course*, as defined in section 461 of this act, for the balance of the unexpired license term in any license district: And provided further, That the board shall have the discretion to refuse a license to any person or to any corporation, partnership or association if such person, or any officer or director of such corporation, or any member or partner of such partnership or association shall have been convicted or found guilty of a felony within a period of five years immediately preceding the date of application for the said license.

Section 2. Subsection (a) of section 406 of the act, amended July 7, 1971 (Act No. 27), is reenacted and amended to read:

Section 406. Sales by Liquor Licensees; Restrictions.—(a) Every hotel, restaurant or club liquor licensee may sell liquor and malt or brewed beverages by the glass, open bottle or other container, and in any mixture, for consumption only in that part of the hotel or restaurant habitually used for the serving of food to guests or patrons, and in the case of hotels, to guests, and in the case of clubs, to members, in their private rooms in the hotel or club. No club licensee nor its officers, servants, agents or employes, other than one holding a catering license, shall sell any liquor or malt or brewed beverages to any person except a member of the club. No club holding a catering license nor its officers, servants, agents or employes shall sell on Sunday to nonmembers any liquor or malt or brewed beverages. In the case of a restaurant located in a hotel which is not operated by the owner of the hotel and which is licensed to sell liquor under this act, liquor and malt or brewed beverages may be sold for consumption in that part of the restaurant habitually used for the serving of meals to patrons and also to guests in private guest rooms in the hotel. For the purpose of this paragraph, any person who is an active member of another club which is chartered by the same state or national organization shall have the same rights and privileges as members of the particular club.

Hotel [**liquor licensees**] *and* restaurant liquor licensees, [**and**] airport

restaurant liquor licensees *and municipal golf course restaurant liquor licensees* may sell liquor and malt or brewed beverages only after seven o'clock antemeridian of any day until two o'clock antemeridian of the following day, except Sunday, and except as hereinafter provided, may sell liquor and malt or brewed beverages on Sunday between the hours of twelve o'clock midnight and two o'clock antemeridian.

Hotel [**liquor licensees**] *and* restaurant liquor licensees, [**and**] airport restaurant liquor licensees *and municipal golf course restaurant liquor licensees* whose sales of food and nonalcoholic beverages are equal to forty per centum or more of the combined gross sales of both food and alcoholic beverages may sell liquor and malt or brewed beverages on Sunday between the hours of one o'clock postmeridian and ten o'clock postmeridian upon purchase of a special annual permit from the board at a fee of two hundred dollars (\$200.00) per year, which shall be in addition to any other license fees. [**Such Sunday sales shall be made subject to the restrictions imposed by the act on sales by hotels and restaurants for sales on week days as well as those restrictions set forth in this section.**]

Hotel and restaurant liquor licensees, [**and**] airport restaurant liquor licensees *and municipal golf course restaurant liquor licensees* which do not qualify for [**or**] *and* purchase such annual special permit, their servants, agents or employes may sell liquor and malt or brewed beverages only after seven o'clock antemeridian of any day and until two o'clock antemeridian of the following day, and shall not sell after two o'clock antemeridian on Sunday. No hotel, restaurant and public service liquor licensee shall sell liquor and malt or brewed beverages after two o'clock antemeridian on any day on which a general, municipal, special or primary election is being held until one hour after the time fixed by law for closing the polls. No club licensee or its servants, agents or employes may sell liquor or malt or brewed beverages between the hours of three o'clock antemeridian and seven o'clock antemeridian on any day. No public service liquor licensee or its servants, agents or employes may sell liquor or malt or brewed beverages between the hours of two o'clock antemeridian and seven o'clock antemeridian on any day.

Any hotel, restaurant, club or public service liquor licensee may, by given notice to the board, advance by one hour the hours herein prescribed as those during which liquor and malt or brewed beverages may be sold during such part of the year when daylight saving time is being observed generally in the municipality in which the place of business of such licensee is located. Any licensee who elects to operate his place of business in accordance with daylight saving time shall post a conspicuous notice in his place of business that he is operating in accordance with daylight saving time.

Notwithstanding any provisions to the contrary, whenever the thirty-first day of December falls on a Sunday, every hotel or restaurant liquor licensee, their servants, agents or employes may sell liquor and malt

or brewed beverages on any such day after one o'clock postmeridian and until two o'clock antemeridian of the following day.

* * *

Section 3. Subsections (b), (c), (d), (e) and (f) of section 406 of the act are repealed.

Section 4. Subsection (g) of section 406 of the act, relettered (b) and amended July 7, 1971 (Act No. 27), is reenacted and amended to read:

Section 406. Sales by Liquor Licensees; Restrictions.—* * *

(b) **[The provisions of this section pertaining to hotels and hotel retail-disposal licenses shall be applicable only to those rooms in hotels customarily used for the serving of food.]** *Such Sunday sales by hotel and restaurant liquor licensees which qualify for and purchase such annual special permit, their servants, agents and employes, shall be made subject to the restrictions imposed by the act on sales by hotels and restaurants for sales on week days as well as those restrictions set forth in this section.*

Section 5. Subsection (h) of section 406 of the act is repealed.

Section 6. Subsection (e) of section 461 of the act, added September 25, 1969 (P.L.233), is amended to read:

Section 461. Limiting Number of Retail Licenses To Be Issued In Each Municipality.—* * *

(e) "Municipal golf course" as used in this section shall mean the restaurant facilities at any municipal golf course open for public accommodation, which are owned or operated directly or through lessees by a *county, municipality or a municipal authority, [county or city,]* severally or jointly with any other *county, municipality or municipal authority, [county or city, but shall not include]* *including* any such restaurant facilities at any municipal golf course situate in a municipality where by vote of the electors the retail sale of liquor and malt and brewed beverages is not permitted.

Section 7. Subsection (a) of section 463 of the act, amended September 22, 1961 (P.L.1599), is amended to read:

Section 463. Places of Amusement Not To Be Licensed; Penalty.—(a) No license for the sale of liquor or malt or brewed beverages in any quantity shall be granted to the proprietors, lessees, keepers or managers of any theater, circus, museum or other place of amusement, nor shall any house be licensed for the sale of liquor or malt or brewed beverages which has passage or communication to or with any theater, circus, museum or other place of amusement, and any license granted contrary to this act shall be null and void. Nothing contained in this section shall be construed as denying to the board the right to grant a restaurant liquor license to the owner or operator of a restaurant in a building on a plot of ground owned or possessed under lease by a corporation incorporated under the laws of this Commonwealth and used principally by such corporation for holding outdoor sport events authorized by electors in a referendum in the county wherein such events are held under a license issued as provided by law

to such corporation by a department, board or commission of the Commonwealth of Pennsylvania. The restaurant liquor license aforementioned shall be subject to all the conditions and restrictions herein applicable to restaurant liquor licenses, except the above prohibition against any passageway or communication between such licensed premises and the place of amusement.

Nothing contained in this act shall be construed as denying to the board the right to grant a new restaurant liquor license, regardless of quota restrictions, at any time, to the owner or operator of a restaurant in a building or plot of ground having a seating capacity in excess of twenty-five thousand, used principally for holding automobile races.

* * *

Section 8. The first paragraph of clause (5) of section 492 of the act, amended November 30, 1967 (P.L.655), is reenacted and amended to read:

Section 492. Unlawful Acts Relative to Malt or Brewed Beverages and Licensees.—

It shall be unlawful—

* * *

(5) Sales of Malt or Brewed Beverages by Hotels, Eating Places or Public Service Licensees During Prohibited Hours.—For any hotel or eating place holding a retail dispenser's license, or the servants, agents or employes of such licensees, to sell, trade or barter in malt or brewed beverages between the hours of two o'clock antemeridian Sunday and seven o'clock in the forenoon of the following Monday, or between the hours of two o'clock antemeridian and seven o'clock antemeridian of any week day: Provided, That notwithstanding any provision to the contrary, whenever the thirty-first day of December falls on a Sunday such sales of malt or brewed beverages may be made on such day after one o'clock postmeridian and until two o'clock antemeridian of the following day: And provided further, That any hotel or eating place holding a retail dispenser's license *which has sales of food and nonalcoholic beverages equal to forty per cent or more of the combined gross sales of both food and malt or brewed beverages* may sell malt or brewed beverages between the hours of one o'clock postmeridian and ten o'clock postmeridian on Sunday upon purchase of a special annual permit from the board at a fee of one hundred dollars (\$100.00) per year, which shall be in addition to any other license fees. For any public service licensee authorized to sell malt or brewed beverages or the servants, agents or employes of such licensees to sell, trade or barter in malt or brewed beverages between the hours of two o'clock antemeridian and seven o'clock antemeridian on any day.

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Section 9. This act shall take effect immediately.

APPROVED—The 2nd day of September, A. D. 1971.

MILTON J. SHAPP

The foregoing is a true and correct copy of Act of the General Assembly
No. 103.

A handwritten signature in black ink, reading "C. McLaughlin Tucker". The signature is written in a cursive, flowing style with a large initial "C" and "T".

Secretary of the Commonwealth.