

No. 1982-319

AN ACT

HB 2088

Amending the act of April 12, 1951 (P.L.90, No.21), 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," defining "golf course" and exempting certain privately-owned public golf courses from licensing quotas, further providing for the approval of secondary service areas, providing for trade show and convention licenses in cities of the third class, and further providing for the sale of wine by holders of a limited winery license.

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

Section 1. Section 102, act of April 12, 1951 (P.L.90, No.21), known as the "Liquor Code," is amended by adding a definition to read:

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

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"Golf course" shall mean a course having a minimum of nine holes and a total length of at least twenty-five hundred yards.

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Section 2. Subsection (a) of section 406 of the act, amended February 18, 1982 (P.L.40, No.24), is amended to read:

Section 406. Sales by Liquor Licensees; Restrictions.—
(a) (1) 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, or in a bowling alley that is immediately adjacent to and under the same roof as a restaurant when no minors are present in the bowling alley, 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. 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. For the purpose of this paragraph, any person who is an active member of any volunteer firefighting company, association or group of this Commonwealth, whether incorporated or unincorporated, shall upon the approval of any club composed of volunteer firemen licensed under this act, have the same social rights and privileges as members of such licensed club. For the purposes of this paragraph, the term "active member" shall not include a social member.

(2) Hotel and restaurant liquor licensees, airport restaurant liquor licensees **[and]**, municipal golf course restaurant liquor licensees *and*¹ *privately-owned public golf course restaurant 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.

(3) Hotel and restaurant liquor licensees, airport restaurant liquor licensees **[and]**, municipal golf course restaurant liquor licensees *and*² *privately-owned public golf course restaurant 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 two o'clock antemeridian Monday 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.

(4) Hotel and restaurant liquor licensees, airport restaurant liquor licensees **[and]**, municipal golf course restaurant liquor licensees *and*³ *privately-owned public golf course restaurant licensees* which do not qualify for 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 which does not have the special annual permit for Sunday sales 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, except, that, in the case of a special election for members of the General Assembly or members of the Congress of the United States, when such special election is held on other than a primary, municipal or general election day, licensees in those Legislative or Con-

¹ "," in original.

² "," in original.

³ "," in original.

gressional Districts may make such sales, as though the day were not a special election day. 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.

(5) Any hotel, restaurant, club or public service liquor licensee may, by giving 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.

(6) 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. The act is amended by adding sections to read:

Section 406.1. Secondary Service Area.—*Upon application of any restaurant, hotel, club or municipal golf course liquor licensee, and payment of the appropriate fee, the board may approve a secondary service area by extending the licensed premises to include one additional permanent structure with dimensions of at least one hundred seventy-five square feet, enclosed on three sides and having adequate seating. Such secondary service area must be located on property having a minimum area of one (1) acre, and must be on land which is immediate, abutting, adjacent or contiguous to the licensed premises with no intervening public thoroughfare. There shall be no requirement that the secondary service area be physically connected to the original licensed premises. Notwithstanding 40 Pa. Code § 7.21(c)(3), the licensee shall be permitted to store, serve, sell or dispense food, liquor and malt or brewed beverages at the board approved secondary service area.*

Section 408.8. Trade Shows and Convention Licenses; Cities of the Third Class.—*(a) The board is authorized to issue a restaurant liquor license to a nonprofit corporation or to a concessionaire selected by such nonprofit corporation in any city of the third class for the retail sale of liquor and malt or brewed beverages by the glass, open bottles or other container or in any mixture for consumption on any city-owned premises customarily used or available for use for trade shows and conventions with a capacity within the premises for one thousand people or more: Provided, however, That no sale or consumption of such beverages shall take place on any portions of such premises other than service areas approved by the board.*

(b) *An application for the issuance may be filed at any time by a non-profit corporation operating such a facility for trade shows or conventions or by a concessionaire selected by such nonprofit corporation. Any such license granted under these provisions need not conform to the requirements of the act relating to restaurant liquor licenses, except as provided herein. Applicant shall submit such other information as the board may require. Applications shall be in writing on forms prescribed by the board and shall be signed and submitted to the board by the applicant. The filing fee which shall accompany the license application shall be thirty dollars (\$30).*

(c) *Upon receipt of the application in proper form and the application fee, and upon being satisfied that the applicant is of good repute and financially responsible and that the proposed place of business is proper, the board shall issue the restaurant liquor license for the trade show or convention facility.*

(d) *The license shall be issued for the same period of time as provided for restaurant licenses and shall be renewed as provided in section 402. The license shall terminate upon revocation by the board or upon termination and nonrenewal of the contract between the concessionaire and such nonprofit corporation.*

(e) *The annual fee for a trade show or convention facility shall be as provided in section 405 and shall accompany the application for the license. Whenever and if a concessionaire's contract terminates and is not renewed, the license shall be returned to the board for cancellation but the board may issue a restaurant liquor license to a subsequent application.*

(f) *The penal sum of the bond which shall be filed by an applicant for a trade show or convention facility pursuant to section 465 shall be two thousand dollars (\$2,000).*

(g) *Sales by the holder of a trade show or convention facility license may be made except to those persons prohibited under clause (1) of section 493 on board-approved service areas of the premises of such a facility for trade shows or conventions during the hours in which the trade show or convention is being held and up to one hour before the scheduled opening and one hour after the scheduled closing, but such sales may not be made beyond the hours expressed in the code for the sale of liquor and malt or brewed beverages by restaurant licensees: Provided, however, That such sales may be made on Sunday between the hours of one o'clock postmeridian and ten o'clock postmeridian, irrespective of the volume of food sales.*

(h) *Whenever a contract with a concessionaire is terminated prior to the expiration date provided in the contract between such nonprofit corporation and the concessionaire and is not renewed, such nonprofit corporation may apply to the board for the issuance of a restaurant liquor license or may select and certify to the board a different concessionaire which concessionaire shall apply to the board for issuance of a restaurant liquor license. If the applicant meets the requirements of the board as*

herein provided, the issuance shall thereupon occur. If any such trade show or convention license is revoked, the board shall issue a new license to any qualified applicant without regard to the prohibition in section 471 against the grant of a license at the same premises for a period of at least one year.

(i) Licenses issued under the provisions of this section shall not be subject to the quota restrictions of section 461.

(j) Trade show or convention licenses shall not be subject to the provisions of section 404 except insofar as they relate to the reputation of the applicant nor¹ to the provisions of sections 461 and 463 nor to the provisions of clause (10) of section 493.

(k) Sales under such licenses (including food sales) may be limited by the licensee to patrons of the events scheduled in the facility for trade shows or conventions. Provided food is offered for sale when sales are made under the license, such food may be catered from off the premises.

Section 4. Subsection (a) of section 461 of the act, amended December 12, 1980 (P.L.1195, No.221), is amended and subsections are added to read:

Section 461. Limiting Number of Retail Licenses To Be Issued In Each Municipality.—(a) No licenses shall hereafter be granted by the board for the retail sale of malt or brewed beverages or the retail sale of liquor and malt or brewed beverages in excess of one of such licenses of any class for each two thousand inhabitants in any municipality, exclusive of licenses granted to airport restaurants, municipal golf courses, **[and]** hotels, *privately-owned public golf courses*, as defined in this section, and clubs; but at least one such license may be granted in each municipality and in each part of a municipality where such municipality is split so that each part thereof is separated by another municipality, except in municipalities where the electors have voted against the granting of any retail licenses and except in that part of a split municipality where the electors have voted against the granting of any retail licenses. Nothing contained in this section shall be construed as denying the right to the board to renew or to transfer existing retail licenses of any class notwithstanding that the number of such licensed places in a municipality shall exceed the limitation hereinbefore prescribed; but where such number exceeds the limitation prescribed by this section, no new license, except for hotels, municipal golf courses, **[and]** airport restaurants, *privately-owned public golf courses and privately-owned private golf course licensees*, as defined in this section, shall be granted so long as said limitation is exceeded.

* * *

(e.1) "Privately-owned public golf course" as used in this section shall mean the restaurant facilities at any privately-owned golf course open for public accommodation.

(f) The provisions of subsection (a) which apply to privately-owned public golf courses shall not apply to the owner of such course who has, within three years prior to the effective date of this amendatory act or at

¹ "not" in original.

any time after the effective date of this amendatory act, sold or transferred a regularly issued license for such course.

Section 5. Section 505.2 of the act, amended March 27, 1972 (P.L.153, No.57), is amended to read:

Section 505.2. Limited Wineries.—Holders of a limited winery license may:

(1) Produce wines only from fruits grown in Pennsylvania in an amount not to exceed one hundred thousand (100,000) gallons per year.

(2) Sell wine produced by the limited winery *or purchased in bulk in bond from another Pennsylvania limited winery* on the licensed premises, under such conditions and regulations as the board may enforce, to the Liquor Control Board, to individuals and to hotel, restaurant, club and public service liquor licensees, *and to Pennsylvania winery licensees: Provided, That a limited winery shall not, in any calendar year, purchase wine produced by other limited wineries in an amount in excess of fifty per centum of the wine produced by the purchasing limited winery in the preceding calendar year.*

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Section 6. This act shall take effect in 60 days.

APPROVED—The 17th day of December, A. D. 1982.

DICK THORNBURGH