

No. 1984-54

AN ACT

SB 730

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," permitting certain licensees, distillers or manufacturers to sponsor certain sporting tournaments or contests; extending the hours of operation for certain holders of Sunday sales permits; authorizing the board to issue certain licenses; further providing for licensee's advertisements; and further permitting bowling alleys and hotels to sell liquor, malt or brewed beverages when minors are present under proper supervision.

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

Section 1. Sections 406(a)(1) and (3) and 406.1 of the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code, amended or added December 17, 1982 (P.L.1390, No.319), are 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, *unless minors who are present are under proper supervision as defined in section 493*, 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.

* * *

(3) Hotel and restaurant liquor licensees, airport restaurant liquor licensees, municipal golf course restaurant liquor licensees and 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] eleven o'clock antemeridian** 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.

* * *

Section 406.1. Secondary Service Area.—Upon application of any restaurant, hotel, club, *any stadium as described in section 408.9* 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. *In any stadium as described in section 408.9, only malt or brewed beverages may be served.* 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 2. The act is amended by adding a section to read:

Section 408.9. Stadium and Restaurant Licenses in Third Class Cities.—*The board is authorized to issue one restaurant license 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 containers, and in any mixture, for consumption in any restaurant which is located not more than one thousand feet from a stadium which has a seating capacity of five thousand persons, situate on the same lot or parcel of land not less than twenty-five acres in size with no intervening public thoroughfare between the restaurant and the stadium.*

Section 3. Section 432(f) of the act, added June 24, 1982 (P.L.624, No.176), is amended to read:

Section 432. Malt and Brewed Beverages Retail Licenses.—* * *

(f) Hotel, eating places, or municipal golf course retail dispenser licensees whose sales of food and nonalcoholic beverages are equal to forty per centum (40%) 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] eleven o'clock antemeridian** on Sunday and two o'clock antemeridian on 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. Provided further, the holder of such special annual permit may sell malt or brewed beverages after seven o'clock antemeridian and until two o'clock antemeridian of the following day, on any day on which a general, municipal, special or primary election is being held.

Section 4. Sections 442(b) and 463(a.2) of the act, amended or added December 12, 1980 (P.L.1195, No.221), are amended to read:

Section 442. Retail Dispensers' Restrictions on Purchases and Sales.—* * *

(b) No retail dispenser shall sell any malt or brewed beverages for consumption on the licensed premises except in a room or rooms or place on the licensed premises at all times accessible to the use and accommodation of the general public, but this section shall not be interpreted to prohibit a retail dispenser from selling malt or brewed beverages in a hotel or club house in any room of such hotel or club house occupied by a bona fide registered guest or member entitled to purchase the same or to prohibit a retail dispenser from selling malt or brewed beverages in a bowling alley when no minors are present, *unless minors who are present are under proper supervision as defined in section 493*, where the licensed premises and bowling alley are immediately adjacent and under the same roof.

* * *

Section 463. Places of Amusement Not To Be Licensed; Penalty.—* * *

(a.2) Nothing contained in this act shall be construed to prevent the holder of a *hotel*, restaurant liquor or malt and brewed beverage license from selling liquor and malt or brewed beverages in a bowling alley, *or other recreational areas including, but not limited to, game rooms and video arcade areas of hotels*, when no minors are present, *unless minors who are present are under proper supervision as defined in section 493*, where the restaurant **[and]**, bowling alley, *or other recreational areas including, but not limited to, game rooms and video arcade areas of hotels* are immediately adjacent and under the same roof. The restaurant liquor or malt and brewed beverage licensee aforementioned shall be subject to all the conditions and restrictions applicable to such restaurant licenses except the above prohibition against any passageway or communication between a licensed premise and a place of amusement.

* * *

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

Section 476. Sporting Tournaments.—(a) Any distiller, manufacturer or retail or club licensee, either alone or in combination, may sponsor, hold or permit to be held, on the licensed premises or on premises contiguous and adjacent thereto, a dart, billiard, bowling, shuffleboard, rings or card tournament or contest without having to obtain any permits therefor.

(b) The distiller, manufacturer or retail or club licensee may directly or indirectly advertise a dart, billiard, bowling, shuffleboard, rings or card tournament or contest and may directly or indirectly advertise, offer, award or permit the award, on the licensed premises, of trophies, prizes or premiums therefor.

(c) Cash moneys or negotiable instruments of any type or kind, or trophies, prizes or premiums may be offered or awarded, traded or received by any person at such dart, billiard, bowling, shuffleboard, rings or card tournaments or contests.

(d) Alcoholic beverages may be served, sold, serviced or delivered and the same shall be permitted in or within the area in which such dart, billiard, bowling, shuffleboard, rings or card tournament or contest is held and a bar or service bar may be installed in the lobby of the licensed premises, passage-way or entrance immediately adjacent thereto.

Section 6. Section 493(20) of the act is amended and clauses are added to read:

Section 493. Unlawful Acts Relative to Liquor, Malt and Brewed Beverages and Licensees.—The term “licensee,” when used in this section, shall mean those persons licensed under the provisions of Article IV, unless the context clearly indicates otherwise.

It shall be unlawful—

* * *

*(20) (i) Retail Liquor and Retail Malt or Brewed Beverages Licensee’s Inside Advertisements. For any retail liquor or retail malt or brewed beverages licensee, to display or permit the display in the show window or doorways of his licensed premises, any placard or sign advertising the brands of liquor or malt or brewed beverages produced by any one manufacturer, if the total display area of any such placard or sign advertising the products of any one manufacturer exceeds three hundred square inches. Nothing herein shall prohibit a licensee from displaying inside his licensed premises point of sale displays advertising brand names of products sold by him, other than a window or door display: Provided, That the total cost of all such point of sale advertising matter relating to **[products] any one brand** of any one manufacturer shall not exceed the sum of **[twenty dollars (\$20)] seventy dollars (\$70)** at any one time, and no single piece of advertising shall exceed a cost of **[ten dollars (\$10)] thirty-five dollars (\$35)**. All such advertising material, including the window and door signs, may be furnished by a manufacturer, distributor or importing distributor. *The restrictions on advertising set forth in subclause (ii) and in clauses (20.1) and (20.2) shall also apply to this subclause.**

(ii) Cooperative Advertising. No distributor or importing distributor, directly or indirectly, independent or otherwise, shall, except by prior written agreement, be required to participate with a manufacturer in the purchase of any advertising of a brand name product in any name, in any form, whether it be radio, television, newspaper, magazine or otherwise.

(20.1) Manufacturer Shall Not Require Advertising. For a manufacturer to require a distributor or importing distributor to purchase any type of advertising.

(20.2) Advertising Shall Be Ordered and Authorized in Advance. For any advertising to be done on behalf of a distributor or importing distributor which was not ordered and authorized in advance by the distributor or importing distributor.

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Section 7. This act shall take effect immediately.

APPROVED—The 9th day of May, A. D. 1984.

DICK THORNBURGH