

No. 1995-35

AN ACT

HB 1098

Amending the act of April 12, 1951 (P.L.90, No.21), entitled, as reenacted, "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, providing for transfer of restaurant licenses to certain deteriorated areas," providing for transfer of restaurant licenses to certain deteriorated areas.

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

Section 1. The act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code, reenacted and amended June 29, 1987 (P.L.32, No.14), is amended by adding a section to read:

Section 408.13. Transfer of Restaurant Licenses to Deteriorated Areas.—(a) The board is hereby authorized to approve the transfer of restaurant liquor licenses from one municipality to another in the same county regardless of the quota limitations provided for in section 461, if sales of liquor and malt or brewed beverages are legal in such other municipality and if the place proposed to be licensed in the other municipality is located within a deteriorated area whose boundaries have been affixed pursuant to the criteria set forth in the act of December 1, 1977 (P.L.237, No.76), known as the "Local Economic Revitalization Tax Assistance Act," and in which the cost of new construction is eligible for real property tax exemption by more than one local taxing authority and whose total area comprises at least fifty acres. Any such area in this section shall be referred to as a "LERTA zone." For purposes of this section, the board shall not, however, approve such a transfer if the license to be transferred is located in a municipality in which the number of licenses issued in the municipality does not exceed the quota limitations provided in section 461 or if such municipality has been designated as a resort area by either the board or any court. In addition, the board shall not approve the transfer of any license, if the license was issued under the resort area exception provided in section 461.

(b) For the purposes of this section, a local taxing authority shall mean a county, city, borough, incorporated town, township, institution district or school district having authority to levy real property taxes.

(c) For the purposes of this section, a municipal governing body shall mean a city, borough, incorporated town or township.

(d) Licenses approved for transfer under this section shall be limited to one licensed premises per fifty thousand square feet of completed new construction in the LERTA zone which is climate-controlled and is eligible for local property tax exemption, except that in no instance shall more than six restaurant liquor licenses be transferred to any single LERTA zone pursuant to this section. Licenses transferred pursuant to this section may be filed on a prior or final approval basis pursuant to section 403.

(e) Before an application for transfer may be filed with the board under subsection (a) of this section, the applicant for transfer must receive the approval of the municipal governing body which specified the boundaries of the LERTA zone wherein the place proposed to be licensed is located. Within thirty days of a request for approval of a transfer of a restaurant liquor license to a LERTA zone by an applicant, at least one public hearing shall be held by the municipal governing body for the purpose of receiving the comments and recommendations of interested individuals residing within the LERTA zone concerning the applicant's intent to transfer a restaurant liquor license to the LERTA zone. The municipal governing body shall, within forty-five days of a request for approval, render a decision by ordinance or resolution to approve or disapprove the applicant's request to transfer a restaurant liquor license to the LERTA zone. A decision by the municipal governing body to approve the request is not appealable. A municipal governing body shall not approve any request to transfer a restaurant liquor license to a LERTA zone which does not meet the requirements relating to property tax exemption by more than one local taxing authority, total acreage of the LERTA zone, and the square footage of new construction eligible for tax exemption contained in subsections (a) and (d) of this section.

(f) Every applicant for transfer of a restaurant liquor license under this section shall file a written application with the board and shall conform with the requirements of section 102. Applications for transfer under this section must meet all the requirements of restaurant liquor license transfers not inconsistent with the provisions of this section but shall not be subject to the two hundred-foot restriction set forth in section 404.

(g) An application for transfer filed under this section shall contain a copy of the ordinance or resolution of the municipal governing body approving the transfer of a restaurant liquor license to a LERTA zone. The applicant shall submit such other information as the board may by regulation require.

(h) Upon receipt of an application in proper form and the filing fee and upon being satisfied that the requirements of this section have been met, the board shall approve the transfer of the license.

(i) After transfer of the license into a LERTA zone under this section, the license may not be transferred to a location outside of the LERTA zone or outside of the boundaries by which the LERTA zone was originally established, except as provided for in section 468 and the selling price of the license, if any, shall remain fixed at the price at which the license was transferred to the LERTA zone.

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

APPROVED—The 6th day of July, A.D. 1995.

THOMAS J. RIDGE