

No. 2011-113

AN ACT

HB 242

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," further providing for definitions, for authority to issue liquor licenses to hotels, restaurants and clubs, for sales by liquor licensees and restrictions, for prohibited interlocking business, for public venue license, for malt and brewed beverages retail licenses, for prohibitions against the grant of licenses, for sales by manufacturers of malt or brewed beverages and minimum quantities, for distributors' and importing distributors' restrictions on sales, storage, for retail dispensers' restrictions on purchases and sales, for brand registration, for breweries, for licenses not assignable and transfers, for renewal of licenses and temporary provisions for licensees in armed service, for responsible alcohol management, for unlawful acts relative to liquor, alcohol and liquor licensees, for unlawful acts relative to malt or brewed beverages and licensees, for hours of operation relative to manufacturers, importing distributors and distributors, for unlawful acts relative to liquor, malt and brewed beverages and licensees, for rights of municipalities preserved, for reporting of worthless checks, for limited wineries and for distilleries.

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

Section 1. The definitions of "eligible entity" and "public venue" in section 102 of 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), amended June 25, 2010 (P.L.217, No.35) and June 28, 2011 (P.L.55, No.11), are amended and the section 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:

* * *

"Eligible entity" shall mean a city of the third class, a hospital, a church, a synagogue, a volunteer fire company, a volunteer ambulance company, a volunteer rescue squad, a unit of a nationally chartered club which has been issued a club liquor license, a club in a city of the third class which has been issued a club liquor license and which, as of December 31, 2002, has been in existence for at least 100 years, a library, a nationally accredited Pennsylvania nonprofit zoological institution licensed by the United States Department of Agriculture, a nonprofit agricultural association in existence for at

least ten years, a bona fide sportsmen's club in existence for at least ten years, a nationally chartered veterans' organization and any affiliated lodge or subdivision of such organization, a fraternal benefit society that is licensed to do business in this Commonwealth and any affiliated lodge or subdivision of such fraternal benefit society, a museum operated by a nonprofit corporation in a city of the third class or township of the first class, a nonprofit corporation engaged in the performing arts in a city of the third class, borough or in an incorporated town, an arts council, a nonprofit corporation that operates an arts facility or museum in a city of the third class in the county of the fourth class, a nonprofit organization as defined under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)) whose purpose is to protect the architectural heritage of boroughs or a township of the second class and which has been recognized as such by a municipal resolution, a nonprofit organization as defined under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)) conducting a regatta in a city of the second class with the permit to be used on State park grounds or conducting a family-oriented celebration as part of Welcome America in a city of the first class on property leased from that city for more than fifty years, a nonprofit organization as defined under section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. § 501(c)(3)) whose purpose is to raise funds for the research and treatment of cystic fibrosis, a nonprofit organization as defined under section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. § 501(c)(3)) whose purpose is to educate the public on issues dealing with watershed conservation, a nonprofit organization as defined under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)) whose purpose is to provide equine assisted activities for children and adults with special needs, a nonprofit economic development agency in a city of the second class with the primary function to serve as an economic generator for the greater southwestern Pennsylvania region by attracting and supporting film, television and related media industry projects and coordinating government and business offices in support of a production, a county tourist promotion agency as defined in section 3(1) of the act of April 28, 1961 (P.L.111, No.50), known as the "Tourist Promotion Law," and located in a city of the third class in a county of the fourth class or located in a township of the second class in a county of the fifth class, a junior league in a third class county that is a nonprofit organization as defined under section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. § 501(c)(3)) that is comprised of women whose purpose is exclusively educational and charitable in promoting the volunteerism of women and developing and participating in community projects and that has been in existence for over seventy years, a nonprofit organization as defined under section 501(c)(3) of the Internal Revenue Code of 1986 which is located in counties of the second class A or of the third class and whose purpose is the education and promotion of American history, a nonprofit organization as defined under section 501(c)(6) of the Internal Revenue Code of 1986 whose purpose is to support business and industry, a brewery which has been issued a license to manufacture malt or brewed beverages and has been in existence for at least

100 years or a club recognized by Rotary International which is located in a county of the fourth class and whose purpose is to provide service to others, to promote high ethical standards and to advance world understanding, goodwill and peace through its fellowship of business, professional and community leaders or a nonprofit organization as defined under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)) which is located in a borough in a county of the third class and whose purpose is to promote mushrooms while supporting local and regional charities, a museum operated by a not-for-profit corporation in a city of the second class A, a nonprofit organization as defined under section 501(c)(3) of the Internal Revenue Code of 1986 which is located in a city of the second class A and has as its purpose economic and community development, a nonprofit organization as defined under section 501(c)(3) or (6) of the Internal Revenue Code of 1986 that is located in a city of the third class in a county of the fifth class, a nonprofit social service organization defined under section 501(c)(3) of the Internal Revenue Code of 1986 located in a county of the third class whose purpose is to serve individuals and families in that county of the third class, a nonprofit organization as defined under section 501(c)(3) of the Internal Revenue Code of 1986 whose main purpose is to temporarily foster stray and unwanted animals and match them to suitable permanent homes or a nonprofit organization as defined under section 501(c)(3) of the Internal Revenue Code of 1986 who operates either a Main Street Program or Elm Street Program recognized by the Commonwealth, the National Trust for Historic Preservation or both, ***a nonprofit radio station that is a member of the National Public Radio network, a nonprofit public television station that is a member of the Pennsylvania Public Television Network or a nonprofit organization as defined under section 501(c)(3) of the Internal Revenue Code of 1986 whose purpose is to promote awareness, education and research and to provide a support system for patients with neutropenia and their families through a national resource network.***

* * *

"Public venue" shall mean a stadium, arena, convention center, museum, zoo, amphitheater or similar structure. If the public venue is a cruise terminal owned or leased by a port authority created under the act of June 12, 1931 (P.L.575, No.200), entitled "An act providing for joint action by Pennsylvania and New Jersey in the development of the ports on the lower Delaware River, and the improvement of the facilities for transportation across the river; authorizing the Governor, for these purposes, to enter into an agreement with New Jersey; creating The Delaware River Joint Commission and specifying the powers and duties thereof, including the power to finance projects by the issuance of revenue bonds; transferring to the new commission all the powers of the Delaware River Bridge Joint Commission; and making an appropriation," it shall have no permanent seating requirement. If the public venue is an open-air amphitheater owned by a port authority created under the act of December 6, 1972 (P.L.1392, No.298), known as the "Third Class City Port Authority Act," it shall have no permanent seating requirement. If the public venue is owned by a political subdivision, a municipal authority, the Commonwealth, an authority

created under the act of July 29, 1953 (P.L.1034, No.270), known as the "Public Auditorium Authorities Law," an authority created under Article XXV-A of the act of July 28, 1953 (P.L.723, No.230), known as the "Second Class County Code," an art museum established under the authority of the act of April 6, 1791 (3 Sm.L.20, No.1536), entitled "An act to confer on certain associations of the citizens of this commonwealth the powers and immunities of corporations, or bodies politic in law," or an authority created under Article XXIII (n) or (o) of the act of August 9, 1955 (P.L.323, No.130), known as "The County Code," it shall have permanent seating for at least one thousand (1,000) people; otherwise, it shall have permanent seating for at least two thousand (2,000) people. The term shall also mean any regional history center, multipurpose cultural and science facility, museum or convention or trade show center, regardless of owner and seating capacity, that has a floor area of at least sixty thousand (60,000) square feet in one building. The term shall also mean a convention or conference center owned by a city of the third class or a university which is a member of the Pennsylvania State System of Higher Education which is operated by a university foundation or alumni association, regardless of seating capacity, that has a floor area of at least fifteen thousand (15,000) square feet in one building. The term shall also mean a visitor center, regardless of floor area or seating capacity, that was established under the authority of the Gateway Visitor Center Authorization Act of 1999 (Public Law 106-131, 113 Stat. 1678, 16 U.S.C. § 407m).

* * *

"Zoo" shall mean an accredited member of the Association of Zoos and Aquariums and for purposes of section 412 shall have no square footage or permanent seating requirements.

Section 2. Section 401(a) of the act, amended July 6, 2005 (P.L.135, No.39), is amended to read:

Section 401. Authority to Issue Liquor Licenses to Hotels, Restaurants and Clubs.—(a) Subject to the provisions of this act and regulations promulgated under this act, the board shall have authority to issue a retail liquor license for any premises kept or operated by a hotel, restaurant or club and specified in the license entitling the hotel, restaurant or club to purchase liquor from a Pennsylvania Liquor Store and to keep on the premises such liquor and, subject to the provisions of this act and the regulations made thereunder, to sell the same and also malt or brewed beverages to guests, patrons or members for consumption on the hotel, restaurant or club premises. Such licensees, other than clubs, shall be permitted to sell malt or brewed beverages for consumption off the premises where sold in quantities of not more than one hundred ninety-two fluid ounces in a single sale to one person as provided for in section 407. Such licenses shall be known as hotel liquor licenses, restaurant liquor licenses and club liquor licenses, respectively. **[No person who holds, either by appointment or election, any public office which involves the duty to enforce any of the penal laws of the United States of America or the penal laws of the Commonwealth of Pennsylvania or any penal ordinance or resolution of any political subdivision of this Commonwealth shall be issued any hotel or restaurant liquor license, nor shall such a person have any interest,**

directly or indirectly, in any such license] *No person who holds any public office that involves the duty to enforce any of the penal laws of the United States, this Commonwealth or of any political subdivision of this Commonwealth may have any interest in a hotel or restaurant liquor license. This prohibition applies to anyone with arrest authority, including, but not limited to, United States attorneys, State attorneys general, district attorneys, sheriffs and police officers. This prohibition shall also apply to magisterial district judges, judges or any other individuals who can impose a criminal sentence. This prohibition does not apply to members of the General Assembly, township supervisors, city councilpersons, mayors without arrest authority and any other public official who does not have the ability to arrest or the ability to impose a criminal sentence. This section does not apply if the proposed premises are located outside the jurisdiction of the individual in question.*

* * *

Section 3. Section 406(a)(3), (e) and (g) of the act, amended or added December 30, 2003 (P.L.423, No.59) and June 28, 2011 (P.L.55, No.11), are amended to read:

Section 406. Sales by Liquor Licensees; Restrictions.—(a) * * *

(3) Hotel and restaurant liquor licensees, municipal golf course restaurant liquor licensees and privately-owned public golf course restaurant licensees may sell liquor and malt or brewed beverages on Sunday between the hours of eleven o'clock antemeridian and two o'clock antemeridian Monday upon purchase of a special permit from the board at an annual fee as prescribed in section 614-A of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929." *Notwithstanding this provision, a licensee holding such a permit may begin selling liquor and malt or brewed beverages on Sunday between the hours of nine o'clock antemeridian and eleven o'clock antemeridian provided that the licensee offers a meal beginning at nine o'clock antemeridian.* Airport restaurant liquor licensees may sell liquor and malt or brewed beverages on Sunday between the hours of seven o'clock antemeridian and two o'clock antemeridian Monday upon purchase of a special permit from the board at an annual fee as prescribed in section 614-A of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929."

* * *

(e) (1) The holder of a hotel license or the holder of a restaurant license located in a hotel may allow persons to transport liquor or malt or brewed beverages from the licensed portion of the premises to the unlicensed portion of the premises, so long as the liquor or malt or brewed beverages remain on the hotel property. In addition, a holder of a restaurant or club license located on a golf course may sell, furnish or give liquor or malt or brewed beverages on the unlicensed portion of the golf course so long as the liquor or malt or brewed beverages remain on the restaurant, club or golf course. The holder of a restaurant license located immediately adjacent to and under the same roof of a bowling center may allow persons to transport liquor or malt or brewed beverages from the licensed portion of the premises to the unlicensed portion of the premises, so long as the liquor or malt or brewed beverages remain within the bowling center. In addition, the holder of a hotel license or

a restaurant license may allow persons who have purchased but only partially consumed a bottle of wine on the premises to remove the bottle from the premises so long as the bottle was purchased in conjunction with a meal which was consumed on the premises and so long as the bottle is resealed. For purposes of this subsection, "wine" shall have the meaning given to it under section 488(i). For purposes of this **[subsection] section and section 432**, "meal" shall mean food prepared on the premises, sufficient to constitute breakfast, lunch or dinner; it shall not mean a snack, such as pretzels, popcorn, chips or similar food.

(2) A holder of a restaurant or club license located on a golf course may store liquor or malt or brewed beverages in a permanent facility on the unlicensed portion of the golf course so long as the liquor or malt or brewed beverages remain on the restaurant, club or golf course without regard to whether there is any intervening public thoroughfare.

* * *

(g) Notwithstanding any other provision of law or regulation, the holder of a retail license may hold happy hours up to four *consecutive or nonconsecutive* hours per day and up to fourteen hours per week during which the holder discounts the price of alcoholic beverages. No discounts may be given between the hours of midnight and the legal closing time. Notice of all happy hours shall be visibly posted on the licensed premises seven days prior to the happy hour. Except as provided in this subsection, a licensee shall comply with the provisions of 40 Pa. Code § 13.102 (relating to discount pricing practices). *Events conducted under the authority of 40 Pa. Code § 13.102(b) shall not be counted against the four-hour per day or fourteen-hour per week limit.*

Section 4. Section 411(e) of the act, amended June 25, 2010 (P.L.217, No.35), is amended to read:

Section 411. Interlocking Business Prohibited.—* * *

(e) Except as herein provided, no hotel, restaurant, retail dispenser or club licensee, and no officer, director or stockholder, agent or employe of any such licensee shall in any wise be interested, directly or indirectly, in the ownership or leasehold of any property or the equipment of any property or any mortgage lien against the same, used by a distributor, importing distributor, or by an importer or sacramental wine licensee, in the conduct of his business; nor shall any hotel, restaurant, retail dispenser or club licensee, or any officer, director, stockholder, agent or employe of any such licensee, either directly or indirectly, lend any moneys, credit, or give anything of value or the equivalent thereof, to any distributor, importing distributor, importer or sacramental wine licensee, for equipping, fitting out, or maintaining and conducting, either in whole or in part, an establishment used in the conduct of his business.

The purpose of this section is to require a separation of the financial and business interests between manufacturers and holders of hotel or restaurant liquor licenses and, as herein provided, of club licenses, issued under this article, and no person shall, by any device whatsoever, directly or indirectly, evade the provisions of the section. But in view of existing economic conditions, nothing contained in this section shall be construed to prohibit the ownership of property or conflicting interest by a manufacturer of any

place occupied by a licensee under this article after the manufacturer has continuously owned and had a conflicting interest in such place for a period of at least five years prior to July eighteenth, one thousand nine hundred thirty-five: Provided, however, That this clause shall not prohibit any hotel, restaurant or club liquor licensee from owning land which is leased to, and the buildings thereon owned by, a holder of a retail dispenser's license; and nothing in this clause shall prevent the issuance of a retail dispenser's license to a lessee of such lands who owns the buildings thereon: And, provided further, That nothing contained in this section shall be construed to prohibit any hotel, restaurant, retail dispenser or club licensee or any officer, director or stockholder, agent or employe of any such licensee from having a financial or other interest, directly or indirectly in the ownership or leasehold of any property or the equipment of any property or any mortgage lien against same, used, leased by an importer or sacramental wine licensee for the exclusive purpose of maintaining commercial offices and on the condition that said property is not used for the storage or sale of liquor or malt or brewed beverages in any quantity: And, provided further, That nothing contained in this section shall prohibit an officer or member of a licensed privately owned private golf course catering club from having an interest in a limited winery license: And, provided further, That nothing contained in this section shall be construed to prohibit a member of the governing board of a public authority created under subdivision (n) of Article XXIII of the act of August 9, 1955 (P.L.323, No.130), known as "The County Code," from having an interest in a distributor or importing distributor license notwithstanding the fact that the public authority has an interest in one or more retail licenses or acts as a landlord for one or more retail licenses: ***And, provided further, That, nothing in this section may prohibit an employe of a hotel or restaurant licensee from having an interest in any property used by a limited winery licensee or in guaranteeing any loans, or lending any moneys, providing credit or giving anything of value to a limited winery licensee or its officers, directors and shareholders, provided that the person also is not an officer of or does not have any interest in or exercise any control over any other licensed entity that engages in any sales to or from the licensee:*** And, provided further, That, notwithstanding any other provision of this section, an entity may acquire both a manufacturer's license or a limited winery license and a hotel, restaurant or retail dispenser license for use at the same location and more than one location may be so licensed. The licenses and a person's interest in the licenses or in the entity holding the licenses shall not be subject to this section. ***Provided further, That, a person who is a holder of five per centum (5%) or less of securities or other interests in a publicly or privately held domestic or foreign corporation, partnership, limited liability company or other form of legal entity owning a restaurant liquor license or retail dispenser's license shall not be deemed to possess a financial interest and is not subject to the provisions of this section, provided that the person is not an officer of, employe of or does not have any interest in or exercise any control over any other licensed entity that engages in any sales to or from the restaurant liquor or retail dispenser licensee in which the person holds the five per centum (5%) or less interest.***

Section 5. Section 412(f)(2) of the act, amended February 21, 2002 (P.L.103, No.10), is amended to read:

Section 412. Public Venue License.—* * *

(f) Licenses issued under this section are to be considered restaurant liquor licenses. However, the following additional restrictions and privileges apply:

* * *

(2) Sales of alcoholic beverages before, during and after all professional and amateur athletic events on the premises shall be limited to sales of malt or brewed beverages in shatterproof containers. Sales of alcoholic beverages before, during and after performing arts events or other entertainment events may consist of liquor or malt or brewed beverages in shatterproof containers. Sales during trade shows, conventions, banquets or at other events, or sales made in the club seats or at a restaurant facility, may consist of liquor or malt or brewed beverages in any type of container; however, any liquor or malt or brewed beverages sold in the club seats or restaurant facility must remain in the club seating level or restaurant facility. For purposes of this section, a club seat is any seating located on the designated club seating level and partitioned from general seating by a wall, divider, partial wall or railing. The club seating level must not be accessible by the general public. *Sales at zoos during private banquets and other events may be at any site within zoo property and may consist of any type of alcohol in any type of container.* The board's records shall clearly delineate where the sale of liquor or malt or brewed beverages in any type of container may occur.

* * *

Section 6. Section 432(f) of the act, amended November 29, 2006 (P.L.1421, No.155), is amended to read:

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

(f) Hotel, eating places, or municipal golf course retail dispenser licensees may sell malt or brewed beverages between the hours of eleven o'clock antemeridian on Sunday and two o'clock antemeridian on Monday upon purchase of a special permit from the board at an annual fee as prescribed in section 614-A of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929," which shall be in addition to any other license fees. *Notwithstanding this provision, a licensee holding such a special permit may begin selling malt or brewed beverages on Sunday between the hours of nine o'clock antemeridian and eleven o'clock antemeridian provided that the licensee offers a meal, as that term is defined in section 406, beginning at nine o'clock antemeridian.*

Section 7. Section 437(d) of the act, is amended to read:

Section 437. Prohibitions Against the Grant of Licenses.—* * *

(d) [No person who holds, either by appointment or election, any public office which involves the duty to enforce any of the penal laws of the United States of America or any of the penal laws of this Commonwealth or any penal ordinance or resolution of any political subdivision of this Commonwealth shall be issued any manufacturer's, importing distributor's, distributor's or retail dispenser's license, nor shall such a person have any interest, directly or indirectly, in any such license] *No person who holds any public office that involves the duty to*

enforce any of the penal laws of the United States, this Commonwealth or of any political subdivision of this Commonwealth may have any interest in a manufacturer's, importing distributor's, distributor's or retail dispenser's license. This prohibition applies to anyone with arrest authority, including, but not limited to, United States attorneys, State attorneys general, district attorneys, sheriffs and police officers. This prohibition shall also apply to magisterial district judges, judges or any other individuals who can impose a criminal sentence. This prohibition does not apply to members of the General Assembly, township supervisors, city councilpersons, mayors without arrest authority and any other public official who does not have the ability to arrest or the ability to impose a criminal sentence. This section does not apply if the proposed premises are located outside the jurisdiction of the individual in question.

* * *

Section 8. Section 440 of the act, amended July 17, 2003 (P.L.63, No.15), is amended to read:

Section 440. Sales by Manufacturers of Malt or Brewed Beverages; Minimum Quantities.—**[No manufacturer shall sell any malt or brewed beverages for consumption on the premises where sold, nor sell or deliver any such malt or brewed beverages in other than original containers approved as to capacity by the board, nor in quantities of less than a case or original containers containing sixty-four ounces or more which may be sold separately; nor shall any manufacturer] *A manufacturer may sell malt or brewed beverages produced and owned by the manufacturer to individuals on the licensed premises for consumption on the licensed premises where sold only if it complies with the conditions and regulations placed upon holders of brewery licenses under section 446(1). A manufacturer also may sell any malt or brewed beverages produced and owned by the manufacturer to individuals on the licensed premises for consumption off the licensed premises in containers or packages of unlimited quantity and of any volume. No manufacturer may*** maintain or operate within the Commonwealth any place or places other than the place or places covered by his or its license where malt or brewed beverages are sold or where orders are taken.

Section 9. Sections 441 and 442 of the act are amended by adding subsections to read:

Section 441. Distributors' and Importing Distributors' Restrictions on Sales, Storage, Etc.—* * *

(i) Notwithstanding any other provision to the contrary, when making a sale of malt or brewed beverages to a private individual, no distributor or importing distributor may be required to collect the name, address or any other identifying information of the private individual for the purpose of keeping a record of the quantity of cases or volume of malt or brewed beverages purchased.

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

(g) Notwithstanding any other provision of law or regulation, the holder of a retail dispenser license may hold happy hours up to four consecutive or nonconsecutive hours per day and up to fourteen hours per

week during which the holder discounts the price of alcoholic beverages. No discounts may be given between the hours of midnight and the legal closing time. Notice of all happy hours shall be visibly posted on the licensed premises seven days prior to the happy hour. Except as provided in this subsection, a licensee shall comply with the provisions of 40 Pa. Code § 13.102 (relating to discount pricing practices). Events conducted under the authority of 40 Pa. Code § 13.102(b) shall not be counted against the four-hours per day or fourteen-hours per week.

Section 10. Section 443(g) of the act, amended June 25, 2010 (P.L.217, No.35), is amended to read:

Section 443. Interlocking Business Prohibited.—* * *

(g) The purpose of this section is to require a separation of the financial and business interests between the various classes of business regulated by subdivision (B) of this article, and no person or corporation shall, by any device whatsoever, directly or indirectly, evade the provisions of this section. But in view of existing economic conditions, nothing contained in this section shall be construed to prohibit the ownership of property or conflicting interest by a malt or brewed beverage manufacturer of any place occupied by a distributor, importing distributor or retail dispenser after the manufacturer has continuously owned and had a conflicting interest in such place for a period of at least five years prior to the eighteenth day of July, one thousand nine hundred thirty-five: Provided, however, That a holder of a manufacturer's license under section 431(a) who is eligible to operate a brewery pub under section 446(2) or a limited winery as provided for under section 505.2 may also hold and operate under a hotel liquor license, a restaurant liquor license or a malt and brewed beverages retail license on the manufacturer's or limited winery's licensed premises. The hotel liquor license or restaurant liquor license or the malt and brewed beverages retail license shall be acquired by the manufacturer or limited winery subject to section 461 and shall satisfy all requirements for each respective license: And, provided further, That nothing contained in this section shall be construed to prohibit a member of the governing board of a public authority created under subdivision (n) of Article XXIII of the act of August 9, 1955 (P.L.323, No.130), known as "The County Code," from having an interest in a distributor or importing distributor license notwithstanding the fact that the public authority has an interest in one or more retail licenses or acts as a landlord for one or more retail licenses.

A person who is a holder of five per centum (5%) or less of securities or other interests in a publicly or privately held domestic or foreign corporation, partnership, limited liability company or other form of legal entity owning a restaurant liquor license or retail dispenser's license shall not be deemed to possess a financial interest and is not subject to the provisions of this section, provided that the person is not an officer of, employe of or does not have any interest in or exercise any control over any other licensed entity that engages in any sales to or from the restaurant liquor or retail dispenser licensee in which the person holds the five per centum (5%) or less interest.

The term "manufacturer" as used in this section shall include manufacturers of malt or brewed beverages as defined in this act and any

person manufacturing any malt or brewed beverages outside of this Commonwealth.

Section 11. Section 445(b) of the act, amended June 28, 2011 (P.L.55, No.11), is amended to read:

Section 445. Brand Registration.—* * *

(b) The board shall employ a malt beverage compliance officer whose duties shall include reviewing label registration to ensure compliance with this act and investigating reports of unregistered brands of malt or brewed beverages being sold by licensees *and [in addition to] reports of worthless checks and* any other duties the board shall assign the officer. If the malt beverage compliance officer finds that a licensee is selling malt or brewed beverages that are unregistered in this Commonwealth, he shall give the manufacturer of the malt or brewed beverages written notice that the manufacturer has ten days to register the malt or brewed beverages with the board. During that ten-day period in which the manufacturer has to come into compliance with brand registration, the unregistered malt or brewed beverages shall remain on the licensee's premises but may not be sold. Should the manufacturer fail to register the malt or brewed beverages with the board within ten days, the manufacturer shall be required to remove the unregistered malt or brewed beverages from the licensee's premises and reimburse the licensee for all unregistered products that cannot be sold in this Commonwealth. *If a malt beverage compliance officer receives notification that a licensee issued a worthless check, the officer shall give the licensee written notice that the licensee has ten days from the date the notice was mailed to honor that check. Should the licensee fail to honor the check within ten days from the date the notice was mailed, the matter shall be turned over to the enforcement bureau for citation.*

Section 12. Section 446 of the act, amended June 30, 1992 (P.L.327, No.66), May 31, 1996 (P.L.312, No.49) and January 6, 2006 (P.L.1, No.1), is amended to read:

Section 446. Breweries.—(a) Holders of a brewery license may:

(1) Sell malt or brewed beverages produced and owned by the brewery **[on the licensed premises]** under such conditions and regulations as the board may enforce, to individuals for consumption on the *licensed* premises *in any container or package of any volume* and to hotel, restaurant, club and public service liquor licensees.

(2) Operate a restaurant or brewery pub on the licensed premises under such conditions and regulations as the board may enforce: Provided, however, That sales on Sunday may be made irrespective of the volume of food sales if the licensed premises are at a public venue location. The holder of a brewery license may sell at its brewery pub premises Pennsylvania wines it has purchased from either the holder of a Pennsylvania limited winery license or from the board: Provided, however, That said wines must be consumed at the licensed brewery pub premises.

(3) Use brewery storage and distribution facilities for the purpose of receiving, storing and distributing malt or brewed beverages manufactured outside this Commonwealth if the beverages are distributed in this Commonwealth only through specific importing distributors who shall have first been given distributing rights for such products in designated

geographical areas through the distribution system required for out-of-State manufacturers under section 431(b) as well as all other pertinent sections of this act. The manufacturer of the beverages must comply with section 444.

(4) Apply for and hold a hotel liquor license, a restaurant liquor license or a malt and brewed beverages retail license to sell for consumption at the restaurant or brewery pub on the licensed brewery premises, liquor, wine and malt or brewed beverages regardless of the place of manufacture, under the same conditions and regulations as any other hotel liquor license, restaurant liquor license or malt and brewed beverages retail license, but must brew at least two hundred fifty barrels per year. Each holder of a brewery license who receives a hotel liquor license, a restaurant liquor license or a malt or brewed beverages retail license to operate a brew pub shall not sell directly to any person licensed by this act, except if any malt or brewed beverage is to be distributed in this Commonwealth it shall be only through specific importing distributors who shall have first been given distributing rights for such products in designated geographical areas through the distribution system required for out-of-State manufacturers under section 431(b) as well as all other pertinent sections of this act.

(b) The holder of a brew pub license may obtain an off-premises catering permit subject to section 493(33) to hold a catered function off the licensed premises and on otherwise unlicensed premises where the licensee may sell wine produced by a licensed limited winery and malt or brewed beverages produced by the brewery by the glass, open bottle or other container, and in any mixture, for consumption on those premises. Functions conducted under the authority of the permit shall be subject to the following:

(1) alcohol may be provided only during the days and hours that the license holder may otherwise sell alcohol;

(2) all servers at the off premises catered function shall be in compliance with the responsible alcohol management provisions under section 471.1;

(3) each catered function shall last no longer than one day and not more than fifty catered functions may be held each calendar year by each license holder for use with a particular license;

(4) a catered function shall not be held at a location that is already subject to the applicant's or another licensee's license;

(5) a permit shall not be issued to an applicant whose license is in safekeeping;

(6) a permit shall not be issued to a location that is subject to a pending objection by the director of the Bureau of Licensing or the board under section 470(a.1);

(7) a permit shall not be issued to a location that is subject to a pending license suspension under section 471 or the one-year prohibition on the issuance or transfer of a license under section 471(b);

(8) no alcohol may be taken from the permitted location, but the applicant may transport alcohol to and from its licensed premises to the proposed premises; and

(9) written notice of the date, time and location of the catered function shall be provided to the local police or if there is no local police force to the enforcement bureau at least forty-eight hours in advance of the event.

Section 13. Section 468 of the act is amended by adding a subsection to read:

Section 468. Licenses Not Assignable; Transfers.—* * *

(e) Notwithstanding any other provision of law, the board may not approve an interior connection that is greater than ten feet wide between a licensed business and another business. This subsection shall not prohibit the board from approving a renewal application of a license, even if the licensed business has an interior connection that is greater than ten feet wide to an unlicensed business, if the board had approved the interior connection prior to the effective date of this subsection.

Section 14. Section 470(a) of the act, amended December 9, 2002 (P.L.1653, No.212), is amended to read:

Section 470. Renewal of Licenses; Temporary Provisions for Licensees in Armed Service.—(a) All applications for renewal of licenses under the provisions of this article shall be filed with tax clearance from the Department of Revenue and the Department of Labor and Industry and requisite license and filing fees at least sixty days before the expiration date of same: Provided, however, That the board, in its discretion, may accept nunc pro tunc a renewal application filed less than sixty days before the expiration date of the license with the required fees, upon reasonable cause shown and the payment of an additional filing fee of one hundred dollars (\$100.00) for late filing: And provided further, That except where the failure to file a renewal application on or before the expiration date has created a license quota vacancy after said expiration date which has been filled by the issuance of a new license, after such expiration date, but before the board has received a renewal application nunc pro tunc within the time prescribed herein the board, in its discretion, may, after hearing, accept a renewal application filed within two years after the expiration date of the license with the required fees upon the payment of an additional filing fee of two hundred fifty dollars (\$250.00) for late filing. Where any such renewal application is filed less than sixty days before the expiration date, or subsequent to the expiration date, no license shall issue upon the filing of the renewal application until the matter is finally determined by the board and if an appeal is taken from the board's action the courts shall not order the issuance of the renewal license until final determination of the matter by the courts. The board may enter into an agreement with the applicant concerning additional restrictions on the license in question. If the board and the applicant enter into such an agreement, such agreement shall be binding on the applicant. Failure by the applicant to adhere to the agreement will be sufficient cause to form the basis for a citation under section 471 and for the nonrenewal of the license under this section. A renewal application will not be considered filed unless accompanied by the requisite filing and license fees and any additional filing fee required by this section. Unless the board shall have given ten days' previous notice to the applicant of objections to the renewal of his license, based upon violation by the licensee or his servants, agents or employes of any of the laws of the Commonwealth or

regulations of the board relating to the manufacture, transportation, use, storage, importation, possession or sale of liquors, alcohol or malt or brewed beverages, or the conduct of a licensed establishment, or unless the applicant has by his own act become a person of ill repute, or unless the premises do not meet the requirements of this act or the regulations of the board, the license of a licensee shall be renewed. *Notwithstanding any other provision of this act, a noise violation shall not be the sole basis for objection by the board to the renewal of a license unless the licensee has received six prior adjudicated noise citations within a twenty-four-month period.*

* * *

Section 15. Section 471.1 of the act is amended by adding a subsection to read:

Section 471.1. Responsible Alcohol Management.—* * *

(g) Unless successfully completed prior to appointment, a manager appointed by any restaurant, eating place retail dispenser, hotel, club, limited distillery licensee or distributor licensee shall be required to complete the manager/owner training under subsection (c) within one hundred eighty days of approval of appointment by the board.

Section 16. Sections 491(12) and 492(9) and (12) of the act are amended to read:

Section 491. Unlawful Acts Relative to Liquor, Alcohol and Liquor Licensees.—

It shall be unlawful—

* * *

(12) Delivery of Liquor by Certain Licensees. For a liquor licensee permitted to deliver liquor, to make any deliveries except in his own vehicles bearing his name, address and license number on each side in letters not smaller than [four] two inches in height, or in the vehicle of another person duly authorized to transport liquor within this Commonwealth.

* * *

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

It shall be unlawful—

* * *

(9) Transportation of Malt or Brewed Beverages by Licensee. For a malt or brewed beverage licensee, to deliver or transport any malt or brewed beverages, excepting in vehicles bearing the name and address and license number of such licensee painted or affixed on each side of such vehicle in letters no smaller than [four] two inches in height.

* * *

(12) Distributors and Importing Distributors Engaging in Other Business. For any distributor or importing distributor, or his servants, agents or employes, without the approval of the board, and then only in accordance with board regulations, to engage in any other business whatsoever, except the business of distributing malt or brewed beverages[.], *except that the sale of the following goods shall be permitted on the licensed premises of a distributor or importing distributor:*

(i) Any book, magazine or other publication related to malt or brewed beverages.

(ii) Any equipment, ingredients or other supplies necessary for the unlicensed manufacture of malt or brewed beverages as described in paragraph (1), commonly known as "homebrewing."

* * *

Section 17. Section 492.1(c) of the act, amended January 6, 2006 (P.L.1, No.1), is amended to read:

Section 492.1. Hours of Operation Relative to Manufacturers, Importing Distributors and Distributors.—* * *

(c) In addition to the hours authorized under subsections (a) and (b), manufacturers, importing distributors and distributors, upon purchasing a permit from the board at an annual fee of one hundred dollars (\$100), may sell malt or brewed beverages to persons not licensed under this act or to a holder of a special occasion permit on Sunday between the hours of **[noon] nine o'clock antemeridian** and **[five] nine o'clock postmeridian**.

* * *

Section 18. Section 493(12) and (26) of the act, amended February 21, 2002 (P.L.103, No.10), are amended and the section is amended by adding a paragraph 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—

* * *

(12) Failure to Have Records on Premises. For any liquor licensee, or any importing distributor, distributor or retail dispenser, to fail to keep **[on the licensed premises]** for a period of at least two years complete and truthful records covering the operation of his licensed business, particularly showing the date of all purchases of liquor and malt or brewed beverages, the actual price paid therefor, and the name of the vendor, including State Store receipts, or for any licensee, his servants, agents or employes, to refuse the board or an authorized employe of the board or the enforcement bureau access thereto or the opportunity to make copies of the same when the request is made during business hours. *The records from the most recent six-month period must be maintained on the licensed premises. Records for the remainder of the two-year period may be kept off the licensed premises so long as the records are returned to the licensed premises within twenty-four hours of a request by the board or enforcement bureau. A licensee may remove the records for the most recent six-month period from the licensed premises only for a lawful business purpose provided that they are returned to the premises when that business is completed.*

* * *

(26) Worthless Checks. For any retail liquor licensee or any retail dispenser, distributor or importing distributor, to make, draw, utter, issue or deliver, or cause to be made, drawn, uttered, issued or delivered, any check, draft or similar order, for the payment of money in payment for any purchase of malt or brewed beverages, when such retail liquor licensee, retail dispenser, distributor or importing distributor, has not sufficient funds in, or credit with, such bank, banking institution, trust company or other

depository, for the payment of such check. Any person who is a licensee under the provisions of this article, who shall receive in payment for malt or brewed beverages sold by him any check, draft or similar order for the payment of money, which is subsequently dishonored by the bank, banking institution, trust company or other depository, upon which drawn, for any reason whatsoever, shall, within five days of receipt of notice of such dishonor, notify by certified mail the person who presented the said worthless check, draft or similar order **and the malt beverage compliance officer for the board**. If the violation of this clause [is the first such violation by the licensee that calendar year] involving a check, draft or similar order from the purchaser to the seller [and if the check, draft or similar order] is subsequently honored within ten days from the day it was made, drawn, uttered, issued or delivered, then the [enforcement bureau shall issue an administrative warning in lieu of] *malt beverage compliance officer shall not turn the matter over to the enforcement bureau for a citation.*

* * *

(34) Noise. Notwithstanding any law or regulation to the contrary, a licensee may not use or permit to be used inside or outside of the licensed premises a loudspeaker or similar device whereby the sound of music or other entertainment, or the advertisement thereof, can be heard beyond the licensee's property line.

Section 18.1. Section 493.1(d) of the act, added April 13, 2006 (P.L.78, No.26), is amended to read:

Section 493.1. Rights of Municipalities Preserved.—* * *

(d) *(1) Notwithstanding any other provision of law to the contrary, a restaurant liquor license located on premises owned by a city of the first class, listed on the National Register of Historic Places and which contains a structure that is at least one hundred (100) years old shall not be subject to the board's regulations regarding amplified music.*

(2) Notwithstanding any other provision of law to the contrary, a limited winery license that is located in a second class township in a class 2A county that has a State historic site owned and operated by the Commonwealth under the direction of the Pennsylvania Historical and Museum Commission and is located on property that also contains a building that is listed on the registry of historic places of a class 2A county shall not be subject to the board's regulations regarding amplified music.

Section 19. Section 496 of the act, amended February 21, 2002 (P.L.103, No.10), is amended to read:

Section 496. Reporting of Worthless Checks.—Any person who is a licensee under the provisions of this article who shall receive in payment for malt or brewed beverages sold by him any check, draft or similar order, for the payment of money, which is subsequently dishonored by the bank, banking institution, trust company or other depository, upon which drawn, for any reason whatsoever, and which violates the provisions of section 493(26), shall, within [twenty] *five* days of receipt of notice of such dishonor, notify the *malt beverage compliance officer of the board* thereof. Such notification to the [board] *malt beverage compliance officer* shall be in such manner and form as the board shall direct.

Section 20. Section 505.2(a)(4) of the act, amended July 16, 2007 (P.L.107, No.34), is amended to read:

Section 505.2. Limited Wineries.—(a) In the interest of promoting tourism and recreational development in Pennsylvania, holders of a limited winery license may:

* * *

(4) At the discretion of the board, obtain a special permit to participate in alcoholic cider, wine and food expositions off the licensed premises. A special permit shall be issued upon proper application and payment of a fee of thirty dollars (\$30) per day for each day of permitted use, not to exceed **[five (5)] thirty (30)** consecutive days. The total number of days for all the special permits may not exceed **[forty (40)] one hundred (100)** days in any calendar year. A special permit shall entitle the holder to engage in the sale by the glass, by the bottle or in case lots of alcoholic cider or wine produced by the permittee under the authority of a limited winery license. Holders of special permits may provide tasting samples of wines in individual portions not to exceed one fluid ounce. Samples at alcoholic cider, wine and food expositions may be sold or offered free of charge. Except as provided herein, limited wineries utilizing special permits shall be governed by all applicable provisions of this act as well as by all applicable regulations or conditions adopted by the board.

For the purposes of this clause, "alcoholic cider, wine and food expositions" are defined as affairs held indoors or outdoors with the intent of promoting Pennsylvania products by educating those in attendance of the availability, nature and quality of Pennsylvania-produced alcoholic ciders and wines in conjunction with suitable food displays, demonstrations and sales. Alcoholic cider, wine and food expositions may also include activities other than alcoholic cider, wine and food displays, including arts and crafts, musical activities, cultural exhibits, agricultural exhibits and farmers markets.

* * *

Section 21. Section 505.4 of the act, added December 8, 2004 (P.L.1810, No.239), is amended to read:

Section 505.4. Distilleries.—(a) The board may issue a distillery of historical significance license to any distillery which was established prior to January 1, 1875. The holder of the license may manufacture and sell liquor produced on the licensed premises to the board, to entities licensed by the board and to the public under such conditions and regulations as the board may enforce. Production at the distillery of historical significance shall be limited to an amount not to exceed twenty thousand (20,000) gallons per year. The distillery does not need to establish continuous operation since January 1, 1875, in order to qualify for a license under this section.

(b) (1) The board may issue a limited distillery license that will allow the holder thereof to operate a distillery that shall not exceed production of one hundred thousand (100,000) gallons of distilled liquor per year. The holder of the license may manufacture and sell bottled liquors produced on the licensed premises to the board, to entities licensed by the board and to the public between the hours of nine o'clock antemeridian and eleven o'clock postmeridian so long as a specific code of distilled liquor which is

listed for sale as a stock item by the board in State liquor stores may not be offered for sale at a licensed limited distillery location at a price which is lower than that charged by the board and under such conditions and regulations as the board may enforce.

(2) (i) The holder of a limited distillery license may, separately or in conjunction with other limited distillery licensees, sell bottled liquors produced by the distillery at no more than two (2) board-approved locations other than the licensed premises, with no bottling or production requirement at those additional board-approved locations and under such conditions and regulations as the board may enforce to the board, to individuals and to entities licensed by the board.

(ii) If two (2) or more limited distilleries apply to operate an additional board-approved location in conjunction with each other, the distilleries need only have one (1) board-approved manager for the location, need only pay one application fee and need not designate specific or distinct areas for each distillery's licensed area. A limited distillery must file an application for the additional board-approved location, and that location shall count as one (1) of the two (2) permitted for each limited distillery. A limited distillery is responsible for keeping only its own complete records. A limited distillery may be cited for a violation of the recordkeeping requirements of sections 512 and 513 pertaining to its own records only.

(3) The holder of a limited distillery license may apply for and hold a hotel liquor license, a restaurant liquor license or a malt and brewed beverages retail license to sell for consumption at the restaurant or limited distillery on the licensed distillery premises liquor, wine and malt or brewed beverages regardless of the place of manufacture under the same conditions and regulations as any other hotel liquor license, restaurant liquor license or malt and brewed beverages retail license.

(4) The holder of a limited distillery license may sell food for consumption on or off the licensed premises and at the limited distillery's additional board-approved locations, and may sell by the glass, at the licensed premises and at the limited distillery's additional board-approved locations, only liquor that may otherwise be sold by the bottle.

(5) The holder of a limited distillery license may provide tasting samples of liquor that in total do not exceed one and one-half (1.5) fluid ounces per person on the licensed premises and at the two (2) board-approved locations. Samples may be sold or provided free of charge and may only be provided between the hours of nine o'clock antemeridian and eleven o'clock postmeridian.

(6) The fee for the limited distillery license shall be in an amount to be determined by the board but shall not exceed one thousand five hundred dollars (\$1,500).

(7) The board may issue to the holder of a distillery license a limited distillery license in exchange for the distillery license provided that the applicant has not manufactured more than one hundred thousand (100,000) gallons of distilled liquor in the prior calendar year. The board may not charge a fee for this exchange. An applicant under this subsection shall surrender his distillery license for cancellation prior to the issuance of the new limited distillery license. The authority of the board to exchange

a distillery license for a limited distillery license under this subsection and this subsection shall expire December 31, 2012.

(c) (1) The holder of a distillery license as issued under section 505 may sell bottled liquors produced on the licensed premises to the board, to entities licensed by the board and to the public between the hours of nine o'clock antemeridian and eleven o'clock postmeridian so long as a specific code of distilled liquor which is listed for sale as a stock item by the board in State liquor stores may not be offered for sale at a licensed distillery location at a price which is lower than that charged by the board and under such conditions and regulations as the board may enforce.

(2) The holder of a distillery license as issued under section 505 may provide tasting samples of liquor that in total do not exceed one and one-half (1.5) fluid ounces. Samples may be sold or provided free of charge between the hours of nine o'clock antemeridian and eleven o'clock postmeridian.

Section 22. This act shall take effect as follows:

(1) The amendment or addition of the definitions of "eligible entity" and "public venue" in section 102 and sections 401(a), 412(f)(2), 437(d), 440, 445(b), 446, 471.1(g), 492(12), 493(12) and (26), 496 and 505.4 of the act shall take effect in 60 days.

(2) The remainder of this act shall take effect immediately.

APPROVED—The 22nd day of December, A.D. 2011

TOM CORBETT