

No. 2012-116

AN ACT

HB 2267

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 sales by Pennsylvania Liquor Stores, for sales by liquor licensees and restrictions, for sales by manufacturers of malt or brewed beverages and minimum quantities, for retail dispensers' restrictions on purchases and sales, for breweries, for local option, for unlawful acts relative to liquor, alcohol and liquor licensees, for unlawful acts relative to liquor, malt and brewed beverages and licensees and for rights of municipalities preserved.

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

Section 1. The definitions of "alcoholic cider," "catered function" and "eligible entity" 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), and amended or added June 18, 1998 (P.L.664, No.86), June 28, 2011 (P.L.55, No.11) and December 22, 2011 (P.L.530, No.113), are amended 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:

* * *

"Alcoholic cider" shall mean a beverage which may contain carbonation in an amount not to exceed three hundred ninety-two one thousandths of a gram per one hundred milliliters and flavors, produced through alcoholic fermentation of [only apples] *any fruit* or [apple] *fruit* juice, consisting of at least one-half of one per centum, but not greater than five and one-half per centum, alcohol by volume and sold or offered for sale as alcoholic cider and not as a wine, a wine product or as a substitute for wine, in bottles, cases, kegs, cans or other suitable containers of the type used for the sale of malt or brewed beverages in this Commonwealth.

* * *

"Catered function" shall mean the furnishing of food prepared on the premises or brought onto the premises already prepared in conjunction with alcoholic beverages for the accommodation of a person or an identifiable

group of people, *not the general public*, who made arrangements for the function at least **[forty-eight hours] thirty days** in advance.

* * *

"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.

* * *

Section 2. Section 305(i) of the act, added December 8, 2004 (P.L.1810, No.239), is amended to read:

Section 305. Sales by Pennsylvania Liquor Stores.—* * *

(i) Notwithstanding any other provision of law to the contrary, the board may sell wine in containers having a capacity of **[six] sixty** liters or less.

Section 3. Section 406(f) of the act, added June 28, 2011 (P.L.55, No.11), is amended to read:

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

(f) The holder of a hotel or restaurant liquor 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, liquor and malt or brewed beverages by the glass, open bottle or other container, and in any mixture *together with food*, 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 *by any patron*, 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 *as enumerated in paragraph (10)* shall be provided to the local police **[or if there is no local police force to the enforcement bureau] and the enforcement bureau** at least **[forty-eight hours] seven days** in advance of the event[.];

(10) written notice shall be provided to the board at least thirty days prior to a catered function. Written notice must include the location of the function, time of the function, host of the function, general information regarding the guests expected at the function as well as any information the board shall from time to time prescribe. The board may, in its discretion, accept notice in an electronic format. The board may, in its discretion, waive the thirty-day notice period for a catered function if:

(i) the applicant has previously conducted functions that meet the requirements of this act;

(ii) the applicant is a licensee in good standing with the board;

(iii) notification was received at least fourteen days prior to the catered function; and

(iv) the applicant pays a late fee of one hundred dollars (\$100);

(11) the board shall, in its discretion, approve or disapprove a catered function if the applicant fails to provide timely notice of the catered function, does not intend to conduct a function that meets the requirements of this act or has previously conducted a function that did not meet the requirements of this act;

(12) if a catered function is scheduled to occur on private property, the owner of that property is deemed to have submitted to the jurisdiction of the enforcement bureau, and the warrant required by section 211(a)(2) of this act shall not be necessary for the enforcement bureau to enter and search the premises during the function or any activities related to the function;

(13) no catered function may be held for more than five hours per day and must end by midnight;

(14) neither the owner of the property nor the applicant may sell tickets to a catered function unless one of the following conditions is met:

(i) the applicant has contracted with an eligible entity for the function, and the function is being used to raise money for the eligible entity's organization;

(ii) the applicant has contracted with 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)), for an event which has the sole purpose of raising funds for that nonprofit organization; or

(iii) the applicant has contracted with an organization that holds tax-exempt status under section 527 of the Internal Revenue Code of 1986;

(15) the catered function location shall be subject to section 493(34) of this act;

(16) catered functions may not be held in locations that are subject to a pending, protested transfer application;

(17) a permit may not be issued to a license holder whose license is subject to a pending objection by the director of the Bureau of Licensing or the board under section 470(a.1);

(18) a permit shall not be issued to a licensee for use in any location that is mobile; and

(19) a permit shall not be issued for use on any location used for parking at a sports event or concert event.

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Section 4. Section 440 of the act, amended December 22, 2011 (P.L.530, No.113), is amended to read:

Section 440. Sales by Manufacturers of Malt or Brewed Beverages; Minimum Quantities.—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)] 446(a)(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 5. Section 442(f) of the act, added June 28, 2011 (P.L.55, No.11), is amended to read:

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

* *

(f) The holder of an eating place retail dispenser license may obtain an off-premises catering permit under section 493(33) to hold a catered function off of the licensed premises and on otherwise unlicensed premises where the licensee may sell malt or brewed beverages by the glass, open bottle or any other container, *together with food*, for consumption on those premises solely used for catering premises. Functions conducted under the authority of the permit shall be subject to the following:

(1) malt or brewed beverages may only be provided during the days and hours that the license holder may otherwise sell malt or brewed beverages;

(2) 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;

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

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

(5) 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);

(6) 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);

(7) no malt or brewed beverages may be taken from the permitted location *by a patron*, but the applicant may transport malt or brewed beverages to and from its licensed premises to the proposed premises; **[and]**

(8) written notice **[of the date, time and location]** of the catered function *as enumerated in paragraph (9)* shall be provided to the local police, **[or if there is no local police force to the enforcement bureau,]** *and the enforcement bureau* at least **[forty-eight hours]** *seven days* in advance of the event[.];

(9) written notice shall be provided to the board at least thirty days prior to a catered function. Written notice must include the location of the function, time of the function, host of the function, general information regarding the guests expected at the function as well as any information the board shall from time to time prescribe. The board may, in its discretion, accept notice in an electronic format. The board may, in its discretion, waive the thirty-day notice period for a catered function if:

(i) the applicant has previously conducted functions that meet the requirements of this act;

(ii) the applicant is a licensee in good standing with the board;

(iii) notification was received at least fourteen days prior to the catered function; and

(iv) the applicant pays a late fee of one hundred dollars (\$100);

(10) the board shall, in its discretion, approve or disapprove a catered function if the applicant fails to provide timely notice of the catered function, does not intend to conduct a function that meets the requirements of this act or has previously conducted a function that did not meet the requirements of this act;

(11) if a catered function is scheduled to occur on private property, the owner of that property is deemed to have submitted to the jurisdiction of the enforcement bureau, and the warrant required by section 211(a)(2) of this act shall not be necessary for the enforcement bureau to enter and search the premises during the function or any activities related to the function;

(12) all servers at the off-premises catered function shall be in compliance with the responsible alcohol management provisions under section 471.1 of this act;

(13) no catered function may be held for more than five hours per day and must end by midnight;

(14) neither the owner of the property nor the applicant may sell tickets to a catered function unless one of the following conditions is met:

(i) the applicant has contracted with an eligible entity for the function, and the function is being used to raise money for the eligible entity's organization;

(ii) the applicant has contracted with 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)), for an event which has the sole purpose of raising funds for that nonprofit organization; or¹

(iii) the applicant has contracted with an organization that holds tax-exempt status under section 527 of the Internal Revenue Code of 1986;

(15) catered functions held on unlicensed premises shall be subject to section 493(34) of this act;

(16) catered functions may not be held in locations that are subject to a pending, protested transfer application;

(17) a permit may not be issued to a licensee who is subject to objection under the board's nuisance bar program;

(18) a permit shall not be issued to a licensee for use in any location that is mobile; and

(19) a permit shall not be issued for use on any location used for parking at a sports event or concert event.

** * **

Section 6. Section 446(b) of the act, amended December 22, 2011 (P.L.530, No.113), is amended to read:

Section 446. Breweries.—* * *

(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 **together with food**, and in any mixture, for consumption on those premises. Functions conducted under the authority of the permit shall be subject to the following:

¹“or” omitted in enrolled bill.

(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 *by any patron*, 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 *as enumerated in paragraph (10)* shall be provided to the local police **[or if there is no local police force to the enforcement bureau] and the enforcement bureau** at least **[forty-eight hours] seven days** in advance of the event[.];

(10) written notice shall be provided to the board at least thirty days prior to a catered function. Written notice must include the location of the function, time of the function, host of the function, general information regarding the guests expected at the function as well as any information the board shall from time to time prescribe. The board may, in its discretion, waive the thirty-day notice period for a catered function if:

(i) the applicant has previously conducted functions that meet the requirements of this act;

(ii) the applicant is a licensee in good standing with the board;

(iii) notification was received at least fourteen days prior to the catered function; and

(iv) the applicant pays a late fee of one hundred dollars (\$100);

(11) the board shall, in its discretion, approve or disapprove a catered function if the applicant fails to provide timely notice of the catered function, does not intend to conduct a function that meets the requirements of this act or has previously conducted a function that did not meet the requirements of this act;

(12) if a catered function is scheduled to occur on private property, the owner of that property is deemed to have submitted to the jurisdiction of the enforcement bureau, and the warrant required by section 211(a)(2) of this act shall not be necessary for the enforcement bureau to enter and search the premises during the function or any activities related to the function;

(13) no catered function may be held for more than five hours per day and must end by midnight;

(14) neither the owner of the property nor the applicant may sell tickets to a catered function unless one of the following conditions is met:

(i) the applicant has contracted with an eligible entity for the function, and the function is being used to raise money for the eligible entity's organization;

(ii) the applicant has contracted with 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)), for an event which has the sole purpose of raising funds for that nonprofit organization; or

(iii) the applicant has contracted with an organization that holds tax-exempt status under section 527 of the Internal Revenue Code of 1986;

(15) the catered function location shall be subject to section 493(34) of this act;

(16) catered functions may not be held in locations that are subject to a pending, protested transfer application;

(17) a permit may not be issued to a license holder whose license is subject to a pending objection by the director of the Bureau of Licensing or the board under section 470(a.1);

(18) a permit shall not be issued to a licensee for use in any location that is mobile; and

(19) a permit shall not be issued for use on any location used for parking at a sports event or concert event.

Section 6.1. Section 472(d) of the act is amended by adding a paragraph to read:

Section 472. Local Option.—* * *

(d) Nothing in this section shall prohibit the board from approving:

* * *

(3) The renewal or transfer of a restaurant liquor license, an eating place retail dispenser license, a hotel license, a club license or a distributor license in a location in which two or more municipalities have merged and the resulting municipality prohibits the issuance of such licenses.

* * *

Section 7. Section 491(2) of the act, amended July 7, 2006 (P.L.584, No.84), is amended to read:

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

It shall be unlawful—

* * *

(2) Possession or Transportation of Liquor or Alcohol. For any person, except a manufacturer or the board or the holder of a sacramental wine license or of an importer's license, to possess or transport any liquor or alcohol within this Commonwealth which was not lawfully acquired prior to January first, one thousand nine hundred and thirty-four, or has not been purchased from a Pennsylvania Liquor Store or a licensed limited winery in Pennsylvania, except in accordance with section 488 or the board's regulations. In addition, it shall be lawful for anyone to possess miniatures totaling less than one gallon purchased in another state or a foreign country.

The burden shall be upon the person possessing or transporting such liquor or alcohol to prove that it was so acquired. Notwithstanding this section or any other provision of the law, wine may be produced by any person without a license if the wine is not produced for sale and total production does not exceed two hundred gallons per calendar year. Wine produced in accordance with this clause may be used at organized affairs, exhibitions, competitions, contests, tastings or judgments if it is not sold or offered for sale.

None of the provisions herein contained shall prohibit nor shall it be unlawful for any person to import into Pennsylvania, transport or have in his possession, an amount of liquor not exceeding one gallon in volume upon which a State tax has not been paid, if it can be shown to the satisfaction of the board that such person purchased the liquor in a foreign country or United States territory and was allowed to bring it into the United States. Neither shall the provisions contained herein prohibit nor make it unlawful for (i) any member of the armed forces on active duty, or (ii) any retired member of the armed forces, or (iii) any totally disabled veteran, or (iv) the spouse of any person included in the foregoing classes of persons to import into Pennsylvania, transport or have in his possession an amount of liquor not exceeding one gallon per month in volume upon which the State tax has not been paid, so long as such liquor has been lawfully purchased from a package store established and maintained under the authority of the United States and is in containers identified in accordance with regulations issued by the Department of Defense. Such liquor shall not be possessed, offered for sale or sold on any licensed premises. *The term "package store" as used in this clause shall mean those retail operations located on any of the United States military installations, including an installation of the Army, Navy, Air Force, Marine Corps or Coast Guard.*

None of the provisions herein contained shall prohibit nor shall it be unlawful for any consul general, consul or other diplomatic officer of a foreign government to import into Pennsylvania, transport or have in his possession liquor upon which a State tax has not been paid, if it can be shown to the satisfaction of the board that such person acquired the liquor in a foreign country and was allowed to bring it into the United States. Such liquor shall not be possessed, offered for sale or sold on any licensed premises.

Any person violating the provisions of this clause for a first offense involving the possession or transportation in Pennsylvania of any liquor in a package (bottle or other receptacle) or wine not purchased from a Pennsylvania Liquor Store or from a licensed limited winery in Pennsylvania, with respect to which satisfactory proof is produced that the required Federal tax has been paid and which was purchased, procured or acquired legally outside of Pennsylvania shall upon conviction thereof in a summary proceeding be sentenced to pay a fine of twenty-five dollars (\$25) for each such package, plus costs of prosecution, or undergo imprisonment for a term not exceeding ninety (90) days. Each full quart or major fraction thereof shall be considered a separate package (bottle or other receptacle) for the purposes of this clause. Such packages of liquor shall be forfeited to the Commonwealth in the manner prescribed in Article VI of this act but the vehicle, boat, vessel, animal or aircraft used in the illegal transportation of

such packages shall not be subject to forfeiture: Provided, however, That if it is a second or subsequent offense or if it is established that the illegal possession or transportation was in connection with a commercial transaction, then the other provisions of this act providing for prosecution as a misdemeanor and for the forfeiture of the vehicle, boat, vessel, animal or aircraft shall apply.

* * *

Section 8. Section 493(33) and (34) of the act, added June 28, 2011 (P.L.55, No.11) and December 22, 2011 (P.L.530, No.113), are amended 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—

* * *

(33) Off-premises Catering Permit; Fees. For any licensee, his servants, agents or employes to sell alcohol at a location other than its licensed premises, unless the sale is specifically authorized under this act, or unless the licensee receives a special permit from the board to do so. Only those licensees holding a current and valid restaurant, hotel, *brew pub* or eating place license shall be allowed to apply for such a permit. *Any licensee that wishes to obtain an off-premises catering permit must notify the board and pay the permitting fee by March of each calendar year regardless of whether the licensee has scheduled catered events. Any licensee that fails to notify the board and pay the permit fee by March 1 shall be precluded from obtaining the permit for that calendar year. If a licensee notifies the board and pays the permitting fee by March 1 and does not then use the permit throughout the calendar year, the licensee shall not be entitled to a return of the permitting fee. Any licensee not granted a license until after March 1 of the calendar year shall have sixty days from the date of the license transfer to notify the board of the licensee's intention to use an off-premises catering permit and pay the permitting fee.* All servers at the off-premises catered function shall be certified under the board's responsible alcohol management program as required under section 471.1. The board may charge a fee of five hundred dollars (\$500) each calendar year, to each applicant for the initial permit associated with a particular license, but no further fee shall be charged for any subsequent permits issued to the applicant for the license during the same calendar year. *The applicant shall submit written notice to the board thirty days prior to each catered event, unless this time frame has been waived by the board, and the board may approve or disapprove each event if the applicant fails to provide timely notice of the catered function, does not intend to conduct a function that meets the requirements of this act or has previously conducted a function that did not meet the requirements of this act.* The fees shall be paid into the State Stores Fund. Any violation of this act or the board's regulations for governing activity occurring under the authority of this permit may be the basis for the issuance of a citation under section 471, the nonrenewal of the license under section 470 or the refusal by the board to issue subsequent

permits or honor subsequent dates on the existing permit. This penalty shall be in addition to any other remedies available to the enforcement bureau or the board.

(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[.]; *however, any licensee that is located in an area which is subject to an exemption from the board's regulation regarding amplified music being heard off the licensed premises shall be exempt from compliance with this paragraph until the expiration of the board's order granting the exemption. The board's regulation regarding amplified music being heard off the licensed premises is otherwise superseded by this paragraph.*

Section 9. Section 493.1 of the act, amended December 9, 2002 (P.L.1653, No.212), July 17, 2003 (P.L.63, No.15) and December 22, 2011 (P.L.530, No.113), is amended to read:

Section 493.1. Rights of Municipalities Preserved.—(a) Nothing in this act shall be construed to preempt the right of any municipality to regulate zoning and enforce any other local ordinances and codes dealing with health and welfare issues.

(b) A municipality may file a petition with the board for an exemption **[from the board's regulations regarding amplified music being heard off the licensed premises] from section 493(34) of this act** for all the licensees within an identifiable area in the municipality. Prior to submitting a petition, the municipality shall adopt a local noise ordinance and a resolution adopted by its governing body confirming support of the petition, citing the noise ordinance and its intention to enforce the ordinance in place of **[the board's regulations] section 493(34) of this act**. Upon receipt of a petition, including a copy of the noise ordinance, a map of the area to be exempted and resolution, the board shall hold at least one (1) public hearing on the petition. The hearing may be held before a hearing examiner. The hearing shall take place within the identified area and must comply with the notice, recording and public participation requirements of 65 Pa.C.S. Ch. 7 (relating to open meetings). Within sixty (60) days after receipt of the petition, the board shall disapprove the petition for an exemption in its entirety or may approve an area more limited for which the exemption will be granted if the board finds that granting the petition shall have an adverse effect on the welfare, health, peace and morals of the residents living in the vicinity of the identified area; otherwise, the board shall approve the petition. The board may place additional conditions on its approval such as limiting the duration of the approval and any other condition the board deems appropriate. There shall be a right to appeal to the court of common pleas in the same manner as provided by this act for appeals from refusals to grant licenses.

(c) A municipality may rescind any existing exemption from **[the board's regulations regarding amplified music] section 493(34) of this act** by notifying the board of its intent to do so in writing, fifteen (15) days prior to the rescission date. Such notice must be accompanied by an ordinance or resolution authorizing the rescission. A rescission of an existing

exemption which does not rescind the entire exempted area shall be treated as a new petition for exemption with the board and shall follow the procedures set forth in subsection (b).

(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] section 493(34) of this act.**

(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 493(34) of this act.**

Section 10. This act shall take effect as follows:

- (1) The amendment of sections 493(34) and 493.1 of the act shall take effect immediately.
- (2) This section shall take effect immediately.
- (3) The remainder of this act shall take effect in 60 days.

APPROVED—The 5th day of July, A.D. 2012

TOM CORBETT