

No. 2000-141

AN ACT

SB 1531

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 standing at hearings on license applications, for posting of notice of application for a license, for issuance of licenses and for sales by liquor licensees; repealing provisions relating to certain types of licenses; providing for a public venue license and for a performing arts facility license; further providing for stadium or arena permits, for malt and brewed beverages retail licenses, for limiting number of licenses in each municipality, for incorporated units of national veterans' organizations, for places of amusement not to be licensed, for renewal of licenses, for licenses not assignable and transfers and for granting of liquor licenses in certain municipalities, for local option and for unlawful acts relative to licensees; providing for responsible alcohol management; and further providing for penalties.

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

Section 1. The definition of "performing arts facilities" 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), is amended and the section is amended by adding definitions 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:

* * *

"Alcohol service personnel" shall mean any employe of a licensee such as a bartender, waiter or, in the case of a distributor or importing distributor, a salesperson whose primary responsibility includes the resale, furnishing or serving of liquor or malt or brewed beverages. It shall also mean any employe, such as a doorman, whose primary responsibility is to ascertain the age of individuals who are attempting to enter the licensed premises.

* * *

"Performing arts facilities" shall mean those halls or theaters in which live musical, concert, dance, ballet and legitimate play book-length productions are performed. Performing arts facilities shall not mean those

halls or theaters in which burlesque shows or reviews are performed. *If the operator of the performing arts facility is a nonprofit entity, the facility must have seating for at least five hundred (500) people; otherwise, the facility must have seating for at least twenty-five hundred (2,500) people.*

* * *

“Public venue” shall mean a stadium, arena, convention center, museum, amphitheater or similar structure. 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 seating for at least one thousand (1,000) people; otherwise, it shall have seating for at least five thousand (5,000) people. The term shall also mean any regional history center, multipurpose cultural and science facility or museum, regardless of owner and seating capacity, that has a floor area of at least sixty thousand (60,000) square feet in one building.

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Section 2. Section 402 of the act is amended by adding a subsection to read:

Section 402. License Districts; License Period; Hearings.—* * *

(c) This section shall not be construed so as to grant standing to residents residing within five hundred (500) feet of a public venue or performing arts facility.

Section 3. Section 403(g) of the act is amended to read:

Section 403. Applications for Hotel, Restaurant and Club Liquor Licenses.—* * *

(g) Every applicant for a new license or for the transfer of an existing license shall post, for a period of at least fifteen days beginning with the day the application is filed with the board, in a conspicuous place on the outside of the premises or at the proposed new location for which the license is applied, a notice of such application, in such form, of such size, and containing such provisions as the board may require by its regulations. Proof of the posting of such notice shall be filed with the board. The posting requirement imposed by this subsection shall not apply to license applications submitted for public venues.

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Section 4. Section 404 of the act, amended December 21, 1998 (P.L.1202, No.155), is amended to read:

Section 404. Issuance of Hotel, Restaurant and Club Liquor Licenses.—Upon receipt of the application and the proper fees, and upon being satisfied of the truth of the statements in the application that the applicant is the only person in any manner pecuniarily interested in the business so asked to be licensed and that no other person will be in any manner pecuniarily interested therein during the continuance of the license, except as hereinafter permitted, and that the applicant is a person of good repute, that the premises applied for meet all the requirements of this act and the regulations of the board, that the applicant seeks a license for a hotel, restaurant or club, as defined in this act, and that the issuance of such license is not prohibited by any of the provisions of this act, the board shall, in the case of a hotel or restaurant, grant and issue to the applicant a liquor license, and in the case of a club may, in its discretion, issue or refuse a license: Provided, however, That in the case of any new license or the transfer of any license to a new location the board may, in its discretion, grant or refuse such new license or transfer if such place proposed to be licensed is within three hundred feet of any church, hospital, charitable institution, school, or public playground, or if such new license or transfer is applied for a place which is within two hundred feet of any other premises which is licensed by the board: ***And provided further, That the board's authority to refuse to grant a license because of its proximity to a church, hospital, charitable institution, public playground or other licensed premises shall not be applicable to license applications submitted for public venues or performing arts facilities:*** And provided further, That the board shall refuse any application for a new license or the transfer of any license to a new location if, in the board's opinion, such new license or transfer would be detrimental to the welfare, health, peace and morals of the inhabitants of the neighborhood within a radius of five hundred feet of the place proposed to be licensed: And provided further, That prior to July 1, 1996, in any license district in a city of the first class, the board may, in its opinion, refuse any application for a new license or for any person-to-person transfer which shall include a change in stockholders involving ten per centum or more of all outstanding voting stock and/or less than ten per centum of all outstanding voting stock when such change involves a majority or controlling interest, of any license if the licensed premises is or would be within three hundred feet of any church, hospital, charitable institution, school or public playground or within two hundred feet of any other premises licensed by the board and if, in the opinion of the board, the licensed premises is or would be detrimental to the welfare, health, peace and morals of such church, hospital, school, public playground and/or the inhabitants of the neighborhood within a radius of five hundred feet of the licensed premises. This authority to refuse a person-to-person transfer in a city of the first class is in addition to and not in derogation of the authority of the board generally stated for all areas of this Commonwealth: And provided further, That the board shall have the discretion to refuse a license

to any person or to any corporation, partnership or association if such person, or any officer or director of such corporation, or any member or partner of such partnership or association shall have been convicted or found guilty of a felony within a period of five years immediately preceding the date of application for the said license. The board shall refuse any application for a new license or the transfer of any license to a location where the sale of liquid fuels or oil is conducted. *The board may, in its discretion, refuse an application for an economic development license under section 461(b.1) or an application for an intermunicipal transfer of a license if the board receives a protest from the governing body of the receiving municipality. The receiving municipality of an intermunicipal transfer or an economic development license under section 461(b.1) may file a protest against the transfer of a license into its municipality, and the receiving municipality shall have standing in a hearing to present testimony in support of or against the issuance or transfer of a license.* Upon any opening in any quota, an application for a new license shall only be filed with the board for a period of six months following said opening.

Section 5. Section 406(a)(4) and (7) of the act, added February 18, 1998 (P.L.162, No.25), is amended and the section is amended by adding subsections to read:

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

(4) Hotel and restaurant liquor licensees, airport restaurant liquor licensees, municipal golf course restaurant liquor licensees and privately-owned public golf course restaurant licensees which do not qualify for and purchase such special permit, their servants, agents or employes may sell liquor and malt or brewed beverages only after seven o'clock antemeridian of any day and until two o'clock antemeridian of the following day, and shall not sell after two o'clock antemeridian on Sunday. [No hotel, restaurant and public service liquor licensee which does not have the special permit for Sunday sales shall sell liquor and malt or brewed beverages after two o'clock antemeridian on any day on which a general, municipal, special or primary election is being held until one hour after the time fixed by law for closing the polls, except, that, in the case of a special election for members of the General Assembly or members of the Congress of the United States, when such special election is held on other than a primary, municipal or general election day, licensees in those Legislative or Congressional Districts may make such sales, as though the day were not a special election day.] No club licensee or its servants, agents or employes may sell liquor or malt or brewed beverages between the hours of three o'clock antemeridian and seven o'clock antemeridian on any day. No public service liquor licensee or its servants, agents, or employes may sell liquor or malt or brewed beverages between the hours of two o'clock antemeridian and seven o'clock antemeridian on any day.

* * *

[(7) Notwithstanding any provision of this act, on the Sunday on which the sporting event commonly referred to as the "Super Bowl" is conducted, licensees who do not possess the special annual permit provided for in paragraph (3), their servants, agents or employes may sell liquor and malt or brewed beverages on such Sunday after one o'clock postmeridian and until two o'clock antemeridian of the following day.]

*** * ***

(c) Notwithstanding any provision of this act, on the Sunday on which the sporting event commonly referred to as the "Super Bowl" is conducted, licensees who do not possess the special annual permit provided for in subsection (a)(3), their servants, agents or employes may sell liquor and malt or brewed beverages on such Sunday after one o'clock postmeridian and until two o'clock antemeridian of the following day.

(d) Subject to section 412, licensed public venues may sell liquor and malt or brewed beverages on Sundays from eleven o'clock antemeridian until midnight without the need to acquire or qualify for a special permit. In addition, subject to section 413, licensed performing arts facilities may sell liquor and malt or brewed beverages on Sundays from one o'clock postmeridian until ten o'clock postmeridian without the need to acquire or qualify for a special permit.

Section 6. Sections 408.1, 408.2, 408.3, 408.5, 408.6, 408.7, 408.8, 408.9, 408.10, 408.11, 408.13, 408.14 and 408.15 of the act are repealed.

Section 7. The act is amended by adding sections to read:

Section 412. Public Venue License.—(a) The board is authorized to issue a restaurant liquor license to public venues. Any facility licensed under former sections 408.1, 408.2, 408.5, 408.8, 408.9, 408.10, 408.11, 408.14, 408.15 and 433.1 as well as any facility that meets the definition of a public venue may apply for and receive a restaurant liquor license under this section. Facilities used primarily for interscholastic athletic events shall not be eligible for a license under this section. Racetracks and premises used primarily for holding automobile races shall also not be eligible for a license under this section.

(b) An application for a restaurant liquor license under this section may be made by the owner of the public venue, a nonprofit corporation operating the public venue or by a concessionaire designated by the governing body of either the owner of the public venue or the nonprofit corporation. The application and issuance of the license is subject to sections 403 and 404 unless otherwise stated. The licensing period shall be as set forth by the board under section 402. The application, renewal and filing fees shall be as prescribed in section 614-A(25) of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929." For the purposes of this section, a nonprofit corporation is an

entity incorporated under the nonprofit corporation laws for the purpose of benefiting the public and not for the purpose of benefiting its members.

(c) Licenses issued under this section are nontransferable.

(d) Licenses under this section shall expire upon: (1) revocation by an administrative law judge under section 471; (2) nonrenewal by the board under section 470; (3) nonrenewal of the license by the license holder; (4) termination of the contract between the owner of the public venue and its concessionaire; or (5) termination of the contract between a nonprofit corporation and its concessionaire.

(e) The board may issue a license under this section at any time to a new applicant even if the previous license had: (1) been revoked by an administrative law judge under section 471; (2) not been renewed by the board under section 470; (3) not been renewed by the license holder; (4) expired because of the termination of the contract between the owner of the public venue and its concessionaire; or (5) expired because of the termination of the contract between the nonprofit corporation and its concessionaire.

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

(1) Sales may only be made one hour before, during and one hour after any athletic performance, performing arts event, trade show, convention, banquet or any other performance at the facility; however, sales may not be made from two o'clock antemeridian to seven o'clock antemeridian. In addition, sales may not occur prior to eleven o'clock antemeridian on Sundays or seven o'clock antemeridian on Mondays. Notwithstanding this section, facilities that had been licensed under former sections 408.9 and 408.14 may sell liquor and/or malt or brewed beverages anytime except from two o'clock antemeridian to seven o'clock antemeridian or prior to eleven o'clock antemeridian on Sundays or seven o'clock antemeridian on Mondays, regardless of whether there is a performance at the facility.

(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. The board's records shall clearly delineate where the sale of liquor or malt or brewed beverages in any type of container may occur.

(3) Sales of malt or brewed beverages for off-premises consumption are prohibited.

(4) Licenses issued under this section shall not be subject to: (i) the proximity provisions of sections 402 and 404; (ii) the quota restrictions of section 461; (iii) the provisions of section 463; (iv) the provisions of section 493(10) except as they relate to lewd, immoral or improper entertainment; and (v) the prohibition against minors frequenting as described in section 493(14). In addition, licenses issued under this section shall not be subject to the provisions defining "restaurant" in section 102.

Section 413. Performing Arts Facility License.—(a) The board is authorized to issue a restaurant liquor license to performing arts facilities. Any facility which previously had been licensed under former sections 408.3, 408.6 and 408.7 as well as any facility that meets the definition of a performing arts facility as set forth in section 102 may apply for and receive a restaurant liquor license under this section. Facilities eligible to be licensed under section 412 and which are used primarily for athletic events shall not be eligible for a license under this section unless those facilities had previously been licensed under former sections 408.3, 408.6 and 408.7. Facilities used primarily for interscholastic athletic events shall not be eligible for a license under this section.

(b) An application for a restaurant liquor license under this section may be made by the operator of the performing arts facility or by a concessionaire designated by the governing body of the operator of the performing arts facility. The licensing period shall be as set forth by the board under section 402. The application and issuance of the license are subject to sections 403 and 404 unless otherwise stated. The application, renewal and filing fees shall be as prescribed in section 614-A(19) of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929."

(c) Licenses issued under this section are nontransferable.

(d) Licenses under this section shall expire upon: (1) revocation by an administrative law judge under section 471; (2) nonrenewal by the board under section 470; (3) nonrenewal of the license by the license holder; (4) termination of the contract between the owner of the public venue and its concessionaire; or (5) termination of the contract between a corporation and its concessionaire.

(e) The board may issue a license under this section at any time to a new applicant even if the previous license had: (1) been revoked by an administrative law judge under section 471; (2) not been renewed by the board under section 470; (3) not been renewed by the license holder; (4)

expired because of the termination of the contract between the owner of the public venue and its concessionaire; or (5) expired because of the termination of the contract between the corporation and its concessionaire.

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

(1) Sales of liquor and malt or brewed beverages may be made two hours before, during and one hour after any performance at the facility; however, sales may not be made from two o'clock antemeridian to seven o'clock antemeridian. In addition, sales may not occur prior to one o'clock postmeridian or after ten o'clock postmeridian on Sundays. However, facilities that had been licensed under former section 408.3(a) and 408.3(a.2) may sell liquor and malt or brewed beverages anytime except from two o'clock antemeridian to seven o'clock antemeridian or prior to one o'clock postmeridian or after ten o'clock postmeridian on Sundays, regardless of whether there is a performance at the facility.

(2) Sales of malt or brewed beverages for off-premises consumption are prohibited.

(g) Licenses issued under this section shall not be subject to: (1) the proximity provisions of sections 402 and 404; (2) the quota restrictions of section 461; (3) the provisions of section 463; (4) the provisions of section 493(10) except as they relate to lewd, immoral or improper entertainment; and (5) the prohibitions against minors frequenting as described in section 493(14). In addition, licenses issued under this section shall not be subject to the provisions defining "restaurant" in section 102.

(h) For the purpose of this section, a facility is used primarily for athletic events if the majority of the events that occur at the facility are athletic events or if the facility is the home facility of a professional sports team.

Section 7.1. Section 432(d) and (f) of the act, amended April 29, 1994 (P.L.212, No.30) and May 31, 1996 (P.L.312, No.49), are amended to read:

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

(d) The board shall, in its discretion, grant or refuse any new license or the transfer of any license to a new location if such place proposed to be licensed is within three hundred feet of any church, hospital, charitable institution, school, or public playground, or if such new license or transfer is applied for a place which is within two hundred feet of any other premises which is licensed by the board. The board shall refuse any application for a new license or the transfer of any license to a new location if, in the board's opinion, such new license or transfer would be detrimental to the welfare, health, peace and morals of the inhabitants of the neighborhood within a radius of five hundred feet of the place to be licensed. The board shall refuse any application for a new license or the transfer of any license to a location where the sale of liquid fuels or oil is conducted: And provided further, That

the board shall have the discretion to refuse a license to any person or to any corporation, partnership or association if such person, or any officer or director of such corporation, or any member or partner of such partnership or association shall have been convicted or found guilty of a felony within a period of five years immediately preceding the date of application for the said license. *The board may, in its discretion, refuse an application for an economic development license under section 461(b.1) or an application for an intermunicipal transfer or a license if the board receives a protest from the governing body of the receiving municipality. The receiving municipality of an intermunicipal transfer or an economic development license under section 461(b.1) may file a protest against the approval for issuance of a license for economic development or an intermunicipal transfer of a license into its municipality, and such municipality shall have standing in a hearing to present testimony in support of or against the issuance or transfer of a license.* Upon any opening in any quota, an application for a new license shall only be filed with the board for a period of six months following said opening.

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(f) Hotel, eating places, or municipal golf course retail dispenser licensees whose sales of food and nonalcoholic beverages are equal to thirty per centum (30%) or more of the combined gross sales of both food and malt or brewed beverages may sell malt or brewed beverages between the hours of 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. **[Provided further, the holder of such special permit may sell malt or brewed beverages after seven o'clock antemeridian and until two o'clock antemeridian of the following day, on any day on which a general, municipal, special or primary election is being held.]**

Section 8. Section 433.1 of the act is repealed.

Section 9. Section 461 heading, (a) and (b) of the act, subsection (a) amended November 10, 1999 (P.L.514, No.47), are amended and the section is amended by adding subsections to read:

Section 461. Limiting Number of Retail Licenses To Be Issued In Each [Municipality] County.—(a) **[No licenses shall hereafter be granted by the board for the retail sale of malt or brewed beverages or the retail sale of liquor and malt or brewed beverages in excess of one of such licenses of any class for each three thousand inhabitants in any municipality, exclusive of licenses granted to airport restaurants, municipal golf courses, hotels, privately-owned public golf courses and units of nonprofit nationally chartered clubs, as defined in this section, whose applications are filed on or before June 30, 2000, and except those units falling under section 461.1, and clubs; but at least one such**

license may be granted in each municipality and in each part of a municipality where such municipality is split so that each part thereof is separated by another municipality, except in municipalities where the electors have voted against the granting of any retail licenses and except in that part of a split municipality where the electors have voted against the granting of any retail licenses. Nothing contained in this section shall be construed as denying the right to the board to renew or to transfer existing retail licenses of any class notwithstanding that the number of such licensed places in a municipality shall exceed the limitation hereinbefore prescribed; but where such number exceeds the limitation prescribed by this section, no new license, except for hotels, municipal golf courses, airport restaurants, privately-owned public golf courses, privately-owned private golf course licensees and units of nonprofit nationally chartered clubs, as defined in this section, whose applications are filed on or before June 30, 2000, and except those units falling under section 461.1, shall be granted so long as said limitation is exceeded.) *No additional restaurant, eating place retail dispenser or club licenses shall be issued within a county if the total number of restaurant and eating place retail dispenser licenses is greater than one license for each three thousand inhabitants in the county, except the board may issue licenses to public venues, performing arts facilities, airport restaurants, municipal golf courses, hotels, privately-owned private golf courses, privately-owned public golf courses and to any other entity which this act specifically exempts from the limitations provided in this section, and the board may issue a license to a club situated in a borough having a population less than eight thousand inhabitants which is located in a county of the second class A whose application is filed on or before February 28, 2001. When determining the number of restaurant and eating place retail dispenser licenses issued in a county for the purposes of this section, licenses exempted from this limitation and club licenses shall not be considered. Inhabitants of dry municipalities shall be considered when determining the population in a county. Licenses shall not be issued or transferred into municipalities where such licenses are prohibited pursuant to local referendum in accordance with section 472. Licenses approved for intermunicipal transfer may not be transferred from the receiving municipality for a period of five years after the date that the licensed premises are operational in the receiving municipality.*

[**(b)** The board shall have the power to increase the number of licenses in any such municipality which in the opinion of the board is located within a resort area.]

(b.1) The board may issue restaurant and eating place retail dispenser licenses and renew licenses issued under this subsection without regard to the quota restrictions set forth in subsection (a) for the purpose of economic development in a municipality under the following conditions:

(1) A license may only be issued under this subsection if the applicant has exhausted reasonable means for obtaining a suitable license within the county.

(2) The proposed licensed premises must be located within either of the following:

(i) A keystone opportunity zone established under the authority of the act of October 6, 1998 (P.L.705, No.92), known as the "Pennsylvania Keystone Opportunity Zone Act," or an area designated as an enterprise zone by the Department of Community and Economic Development.

(ii) A municipality in which the issuance of a restaurant or eating place retail dispenser license has been approved by the governing body of the municipality for the purpose of local economic development. Upon request for approval of an economic development license by an applicant, at least one public hearing shall be held by the municipal governing body for the purpose of receiving comments and recommendations of interested individuals residing within the municipality concerning the applicant's intent to acquire an economic development license from the Pennsylvania Liquor Control Board. The governing body shall, within forty-five days of a request for approval, render a decision by ordinance or resolution to approve or disapprove the applicant's request for an economic development license. The municipality must approve the request unless it finds that doing so would adversely affect the welfare, health, peace and morals of the municipality or its residents. A decision by the governing body of the municipality to deny the request may be appealed to the court of common pleas in the county in which the municipality is located. A copy of the approval must be submitted with the license application.

(3) The board may issue no more than two licenses total in each county of the first through fourth class and no more than one license total in each county of the fifth through eighth class per calendar year.

(4) An applicant under this subsection shall be required to sell food and nonalcoholic beverages equal to seventy per centum (70%) or more of its combined gross sales of food and alcoholic beverages.

(5) In addition to license fees provided under existing law for the type of license issued, an applicant shall be required to pay an initial application surcharge as follows:

(i) Fifty thousand dollars (\$50,000) if the licensed premises is located in a county of the first through fourth class.

(ii) Twenty-five thousand dollars (\$25,000) if the licensed premises is located in a county of the fifth through eighth class.

(iii) The initial application surcharge shall be refunded to the applicant if the board refuses to issue a provisional license under subsection (b.2). Otherwise, the initial application surcharge shall be credited to The State Stores Fund.

(6) A license issued under this subsection and a provisional license issued under subsection (b.2) shall be nontransferable with regard to ownership or location.

(7) An appeal of the board's decision refusing to grant or renew a license under this subsection shall not act as a supersedeas of the decision of the board if the decision is based, in whole or in part, on the licensee's failure to demonstrate that its food and nonalcoholic beverages were at least seventy per centum (70%) of its combined gross sales of food and alcoholic beverages.

(8) A license issued under this subsection may not be validated or renewed unless the licensee can establish that its sale of food and nonalcoholic beverages during the license year immediately preceding application for validation or renewal is equal to seventy per centum (70%) or more of its food and alcoholic beverage sales.

(b.2) Qualified applicants under subsection (b) shall receive a provisional license for one hundred twenty days, exclusive of periods of safekeeping. After ninety days from the date of issuance, the licensee may file an application for a permanent license. A license shall be issued if the licensee establishes that for ninety consecutive days from the date of initial issue its sales of food and nonalcoholic beverages is equal to at least seventy per centum (70%) of its combined gross sales of food and alcoholic beverages. Licensees shall not be subject to citation by the Enforcement Bureau for a violation of the requirement that food and nonalcoholic beverages equal at least seventy per centum (70%) of the combined gross sales of food and alcoholic beverages during the provisional licensing period.

(b.3) An intermunicipal transfer of a license or issuance of a license for economic development under subsection (b.1)(2)(i) must first be approved by the governing body of the receiving municipality when the total number of existing restaurant liquor licenses and eating place retail dispenser licenses exceed one license per three thousand inhabitants. Upon request for approval of an intermunicipal transfer of a license or issuance of an economic development license by an applicant, at least one public hearing shall be held by the municipal governing body for the purpose of receiving comments and recommendations of interested individuals residing within the municipality concerning the applicant's intent to transfer a license into the municipality or acquire an economic development license from the Pennsylvania Liquor Control Board. The governing body shall, within forty-five days of a request for approval, render a decision by ordinance or resolution to approve or disapprove the applicant's request for an economic development license. The municipality must approve the request unless it finds that doing so would adversely affect the welfare, health, peace and morals of the municipality or its residents. A decision by the governing body of the municipality to deny the request may be appealed to the court of common pleas in the

county in which the municipality is located. A copy of the approval must be submitted with the license application.

* * *

Section 9.1 Section 461.1(a) of the act, amended June 18, 1998 (P.L.664, No.86), is amended to read:

Section 461.1. Incorporated Units of National Veterans' Organizations.—(a) The board shall have the authority to issue new licenses to incorporated units of national veterans' organizations, as defined herein, in [municipalities] counties where the number of licenses exceeds the limitation prescribed by section 461.

* * *

Section 10. Section 463 of the act is amended by adding subsections to read:

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

(a.3) Nothing contained in subsection (a) or in section 102 shall be construed as denying to the board the right to grant a new retail dispenser license for on-premises sales only, regardless of quota restrictions, to the owner or operator of a facility having a minimum of a one-half mile asphalt track and having a permanent seating capacity of at least six thousand used principally for holding automobile races.

* * *

(c) This section is not applicable to public venues or performing arts facilities licensed under sections 412 and 413.

Section 10.1. Section 464 of the act, amended October 5, 1994 (P.L.522, No.77), is amended to read:

Section 464. Hearings Upon Refusal of Licenses, Renewals or Transfers; Appeals.—The board may of its own motion, and shall upon the written request of any applicant for club, hotel or restaurant liquor license, or any applicant for any malt or brewed beverage license other than a public service license, or for renewal or transfer thereof, or for the renewal of an amusement permit, whose application for such license, renewal or transfer, or the renewal of an amusement permit, has been refused, fix a time and place for hearing of such application for license or for renewal or transfer thereof, or the renewal of an amusement permit, notice of which hearing shall be mailed to the applicant at the address given in his application. Such hearing shall be before a hearing examiner designated by the board. At such hearing, the board shall present its reasons for its refusal or withholding of license, renewal or transfer thereof, or its refusal for renewal of an amusement permit. The applicant may appear in person or by counsel, may cross-examine the witnesses for the board and may present evidence which shall likewise be subject to cross-examination by the board. Such hearing shall be stenographically recorded. The hearing examiner shall thereafter report, with the examiner's recommendation, to the board in each case. The board shall thereupon grant or refuse the license, renewal or transfer thereof or the renewal of an amusement permit. In considering the renewal of a

license or amusement permit, the board shall not refuse any such renewal on the basis of the propriety of the original issuance or any prior renewal of such license or amusement permit. If the board shall refuse such license, renewal or transfer or the renewal of an amusement permit, following such hearing, notice in writing of such refusal shall be mailed to the applicant at the address given in his application. In all such cases, the board shall file of record at least a brief statement in the form of an opinion of the reasons for the ruling or order and furnish a copy thereof to the applicant. Any applicant who has appeared at any hearing, as above provided, who is aggrieved by the refusal of the board to issue any such license or to renew or transfer any such license or to renew any amusement permit may appeal, or any church, hospital, charitable institution, school or public playground located within three hundred feet of the premises applied for, aggrieved by the action of the board in granting the issuance of any such license or the transfer of any such license, may take an appeal limited to the question of such grievance, within twenty days from date of refusal or grant, to the court of common pleas of the county in which the premises or permit applied for is located. *If the application is for an economic development license under section 461(b.1) or the intermunicipal transfer of a license, the governing body of the municipality receiving the new license or the transferred license may file an appeal of the board decision granting the license, within twenty days of the date of the board's decision, to the court of common pleas of the county in which the proposed premises is located.* Such appeal shall be upon petition of the aggrieved party, who shall serve a copy thereof upon the board, whereupon a hearing shall be held upon the petition by the court upon ten days' notice to the board. The said appeal shall act as a supersedeas unless upon sufficient cause shown the court shall determine otherwise. The court shall hear the application de novo on questions of fact, administrative discretion and such other matters as are involved, at such time as it shall fix, of which notice shall be given to the board. The court shall either sustain or over-rule the action of the board and either order or deny the issuance of a new license or the renewal or transfer of the license or the renewal of an amusement permit to the applicant.

Section 10.2. Section 468(a) of the act, amended June 18, 1998 (P.L.664, No.86) and November 10, 1999 (P.L.514, No.47), is amended to read:

Section 468. Licenses Not Assignable; Transfers.—(a) (1) Licenses issued under this article may not be assigned. The board, upon payment of the transfer filing fee, is hereby authorized to transfer any license issued by it under the provisions of this article from one person to another or from one place to another, or both, within the same [municipality, and if the applicant is a unit of a nonprofit nationally chartered club or a volunteer fire company or an affiliated organization of a volunteer fire company, the board is hereby authorized to transfer such license to a place in any other municipality within the same county if the sale of

liquor or malt and brewed beverages are legal in such other municipality as the board may determine. Prior to the approval of an application for transfer by a unit of a nonprofit nationally chartered club the board shall make an affirmative finding, upon proof submitted by the applicant, and after investigation by the board, that at the time the application for transfer is made the club continues to hold a valid national charter and continues to function in fact as a club as defined in section 102. The board, in its discretion, may transfer an existing restaurant retail dispenser or club license from one municipality to another in the same county regardless of the quota limitations provided for in this act, if sales of liquor or malt and brewed beverages are legal in such other municipality and if the restaurant retail dispenser or club lost the use of the building in which it was located due to governmental exercise of the right of eminent domain and no other suitable building can be found in the first municipality] *county*.

(2) [(i) The board, in its discretion, may transfer an existing restaurant liquor license from one municipality to another municipality of the same county or in a contiguous county regardless of the quota limitations provided for in this act if:

(A) sales of liquor or malt and brewed beverages are legal in such other municipality;

(B) the location in the same county or a contiguous county is an indoor bowling center; and

(C) the restaurant liquor license is currently located in an area which has been designated as blighted.

(ii) For purposes of this subsection, a property shall be determined to be blighted if it is any of the following:

(A) real property within or outside a certified redevelopment area determined to be blighted property under the act of May 24, 1945 (P.L.991, No.385), known as the "Urban Redevelopment Law";

(B) any property declared to be blighted under the "Urban Redevelopment Law" by a Pennsylvania local government or its agency; or

(C) any property which is located within a redevelopment area, when one of the stated purposes of designation as a redevelopment area is to remove blight, designated by a local government or its agencies under the "Urban Redevelopment Law."

(iii) If a restaurant liquor license is transferred to an indoor bowling center located outside of the municipality in which the license was originally issued, that restaurant liquor license may not be transferred within five years of the date of initial transfer unless the subsequent transfer is for use in an indoor bowling center.] In the case of distributor and importing distributor licenses, the board may transfer any such license from its place in a municipality to a place in any other municipality within the same county, or from one place to another place within the same

municipality, or exchange a distributor license for an importing distributor license or an importing distributor license for a distributor license, if the building for which the license is to be issued has, in the case of an importing distributor license, an area under one roof of two thousand five hundred square feet and, in the case of a distributor license, an area under one roof of one thousand square feet: And provided, That, in the case of all transfers of distributor or importing distributor licenses, whether from a place within the same municipality to another place within the same municipality or from a place in a municipality to a place in any other municipality within the same county, and, in the case of an exchange of a distributor license for an importing distributor license or an importing distributor license for a distributor license, the premises to be affected by the transfer or exchange shall contain an office separate and apart from the remainder of the premises to be licensed for the purpose of keeping records, required by the board, adequate toilet facilities for employes of the licensee and an entrance on a public thoroughfare: Provided, however, That in the event that the majority of the voting electors of a municipality, at an election held under the provisions of any law so empowering them to do, shall vote against the issuance of distributor or importing distributor licenses in such municipality, the board is hereby authorized to transfer any such distributor or importing distributor license from its place in such municipality to a place in any other municipality within the same county, upon application prior to the expiration of any such license and upon payment of the transfer filing fee and the execution of a new bond; but no transfer shall be made to a person who would not have been eligible to receive the license originally nor for the transaction of business at a place for which the license could not lawfully have been issued originally, nor, except as herein provided, to a place as to which a license has been revoked.

(3) No license shall be transferred to any place or property upon which is located as a business the sale of liquid fuels and oil. Except in cases of emergency such as death, serious illness, or circumstances beyond the control of the licensee, as the board may determine such circumstances to justify its action, transfers of licenses may be made only at times fixed by the board. In the case of the death of a licensee, the board may transfer the license to the surviving spouse or personal representative or to a person designated by him. From any refusal to grant a transfer or upon the grant of any transfer, the party aggrieved shall have the right of appeal to the proper court in the manner hereinbefore provided.

* * *

Section 10.3. Section 470 of the act is amended by adding a subsection to read:

Section 470. Renewal of Licenses; Temporary Provisions for Licensees in Armed Service.—* * *

(c) If the application for renewal of a license is for a license or permit issued under former section 408.1, 408.2, 408.3, 408.5, 408.6, 408.7,

408.8, 408.9, 408.10, 408.11, 408.14, 408.15 or 433.1 and if the applicant has met all requirements that would have been necessary to renew the license or permit, the board shall issue either a public venue restaurant liquor license or a performing arts facility restaurant liquor license to replace the expired license or permit.

Section 11. Section 471(b) of the act, amended December 21, 1998 (P.L.1202, No.155), is amended and the section is amended by adding a subsection to read:

Section 471. Revocation and Suspension of Licenses; Fines.—* * *

(b) Hearing on such citations shall be held in the same manner as provided herein for hearings on applications for license. Upon such hearing, if satisfied that any such violation has occurred or for other sufficient cause, the administrative law judge shall immediately suspend or revoke the license, or impose a fine of not less than fifty dollars (\$50) nor more than one thousand dollars (\$1,000), or both, notifying the licensee by registered letter addressed to his licensed premises. If the licensee has been cited and found to have violated section 493(1) insofar as it relates to sales to minors **or sales to a visibly intoxicated person**, section 493(10) insofar as it relates to lewd, immoral or improper entertainment or section 493(14), (16) or (21), or has been found to be a public nuisance pursuant to section 611, or if the owner or operator of the licensed premises or any authorized agent of the owner or operator has been convicted of any violation of the act of April 14, 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug, Device and Cosmetic Act," or of 18 Pa.C.S. § 5902 (relating to prostitution and related offenses) or 6301 (relating to corruption of minors), at or relating to the licensed premises, the administrative law judge shall immediately suspend or revoke the license, or impose a fine of not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000), or both. **However, if a licensee has been cited and found to have violated section 493(1) as it relates to sales to minors or sales to a visibly intoxicated person but at the time of the sale the licensee was in compliance with the requirements set forth in section 471.1 and the licensee had not sold to minors or visibly intoxicated persons in the previous four years, then the administrative law judge shall immediately suspend or revoke the license, or impose a fine of not less than fifty dollars (\$50) nor more than one thousand dollars (\$1,000), or both.** The administrative law judge shall notify the licensee by registered mail, addressed to the licensed premises, of such suspension, revocation or fine. In the event the fine is not paid within twenty days of the adjudication, the administrative law judge shall suspend or revoke the license, notifying the licensee by registered mail addressed to the licensed premises. Suspensions and revocations shall not go into effect until thirty days have elapsed from the date of the adjudication during which time the licensee may take an appeal as provided for in this act. Any licensee whose license is revoked shall be ineligible to have a license under this act until the expiration of

three years from the date such license was revoked. In the event a license is revoked, no license shall be granted for the premises or transferred to the premises in which the said license was conducted for a period of at least one year after the date of the revocation of the license conducted in the said premises, except in cases where the licensee or a member of his immediate family is not the owner of the premises, in which case the board may, in its discretion, issue or transfer a license within the said year. In the event the bureau or the person who was fined or whose license was suspended or revoked shall feel aggrieved by the adjudication of the administrative law judge, there shall be a right to appeal to the board. The appeal shall be based solely on the record before the administrative law judge. The board shall affirm the decision of the administrative law judge if it is based on substantial evidence; otherwise, the board shall reverse the decision of the administrative law judge. In the event the bureau or the person who was fined or whose license was suspended or revoked shall feel aggrieved by the decision of the board, there shall be a right to appeal to the court of common pleas in the same manner as herein provided for appeals from refusals to grant licenses. Each of the appeals shall act as a supersedeas unless, upon sufficient cause shown, the reviewing authority shall determine otherwise; however, if the licensee has been cited and found to have violated section 493(1) insofar as it relates to sales to minors *or sales to a visibly intoxicated person*, section 493(10) insofar as it relates to lewd, immoral or improper entertainment or section 493(14), (16) or (21), or has been found to be a public nuisance pursuant to section 611, or if the owner or operator of the licensed premises or any authorized agent of the owner or operator has been convicted of any violation of "The Controlled Substance, Drug, Device and Cosmetic Act," or of 18 Pa.C.S. § 5902 or 6301, at or relating to the licensed premises, its appeal shall not act as a supersedeas unless the reviewing authority determines otherwise upon sufficient cause shown. In any hearing on an application for a supersedeas under this section, the reviewing authority may consider, in addition to other relevant evidence, documentary evidence, including records of the bureau, showing the prior history of citations, fines, suspensions or revocations against the licensee; and the reviewing authority may also consider, in addition to other relevant evidence, evidence of any recurrence of the unlawful activity occurring between the date of the citation which is the subject of the appeal and the date of the hearing. No penalty provided by this section shall be imposed for any violations provided for in this act unless the bureau notifies the licensee of its nature within thirty days of the completion of the investigation.

* * *

(d) If a licensee has been cited and found to have violated section 493(1) as it relates to sales to minors or sales to a visibly intoxicated person, the administrative law judge, in addition to the penalties set forth in subsection (b), may require the licensee to comply with the requirements set forth in section 471.1 pertaining to responsible alcohol

management. Such compliance may be required for a period of up to one year. Failure to adhere with such an order is sufficient cause for the issuance of a citation under subsection (a).

Section 12. The act is amended by adding a section to read:

Section 471.1. Responsible Alcohol Management.—(a) *The board is authorized to offer a responsible alcohol service program to licensees. The program shall consist of four parts: new employe orientation, training for alcohol service personnel, manager/owner training and the displaying of responsible alcohol service signage. New employe orientation shall consist of orienting newly hired alcohol service personnel as to Pennsylvania law relating to the sale, furnishing or serving of alcoholic beverages to minors and visibly intoxicated persons. It shall also mean orienting newly hired alcohol service personnel to responsible server practices, as the term is defined by the board, through regulation. Training for alcohol service personnel shall be as set forth by the board, but at minimum it shall consist of training to prevent service of alcohol to minors and to visibly intoxicated persons. Manager/owner training shall be as set forth by the board, but at a minimum it shall consist of training on how to monitor employes, proper service of alcohol and how to develop an appropriate alcohol service policy. The responsible alcohol service signage shall be as set forth by the board and shall consist of signage dealing with the licensee's policy against sales to minors and visibly intoxicated persons. Alcohol service personnel training may be conducted by the board or by an entity certified by the board to conduct such training.*

(b) The board shall be authorized to certify and decertify entities that wish to offer training for alcohol service personnel. The training entity and the board shall maintain records establishing the names of individuals who have successfully undergone alcohol service personnel training.

(c) Training for managers and owners must be conducted by the board or its employes. The board shall maintain records establishing the names of individuals who have successfully undergone manager/owner training.

(d) In order to be considered in compliance with this section for purposes of section 471, a restaurant, retail dispenser, eating place, hotel, club, catering club, distributor and importing distributor licensee shall:

(1) have at least fifty per centum of its alcohol service personnel certified as having successfully completed an alcohol beverage servers training;

(2) have its manager or owner certified as having successfully completed manager/owner training;

(3) have all alcohol service personnel undergo new employe orientation; and

(4) have appropriate responsible alcohol service signage posted on the licensed premises.

For purposes of this section, an owner is an individual who owns at least twenty-five per centum of the licensed entity.

(e) Licensees ordered to comply with this act pursuant to section 471 who change managers shall have sixty calendar days to have the new manager trained as required by this section. If a licensee ordered to comply with this act pursuant to section 471 hires additional alcohol service personnel, those additional employes shall be deemed to have been certified from their date of hire if they successfully complete an alcohol serving program within sixty days of their date of hire.

(f) Upon completion of a certified alcohol service personnel program or the board's owner/manager training program, the participant will be certified by the training entity or the board as having successfully completed the program. Said certification will be valid for two years. The licensee shall keep records of the certification status of its employes, managers and owners, including the name of the employe, manager or owner and the date of that individual's certification, in the same manner as it keeps other business records pursuant to section 493(12). The licensee shall also keep records of its new employe orientation program and records of its responsible alcohol service signage as set forth by the board by regulation.

Section 13. Section 472(a) of the act, amended November 10, 1999 (P.L.514, No.47), is amended and the section is amended by adding a subsection to read:

Section 472. Local Option.—(a) In any municipality or any part of a municipality where such municipality is split so that each part thereof is separated by another municipality, an election may be held, subject to subsection (c), on the date of the primary election immediately preceding any municipal election, but not oftener than once in four years, to determine the will of the electors with respect to the granting of liquor licenses to hotels, restaurants and clubs, not oftener than once in four years, to determine the will of the electors with respect to the granting of liquor licenses to *public venues, to performing arts facilities, to hotels located on property owned by an accredited college or university*, to privately-owned private golf courses or to privately-owned public golf courses, not oftener than once in four years, to determine the will of the electors with respect to the granting of licenses to retail dispensers of malt and brewed beverages, not oftener than once in four years, to determine the will of the electors with respect to granting of licenses to wholesale distributors and importing distributors, not more than once in two years, to determine the will of the electors with respect to the granting of club liquor licenses or club retail dispenser licenses to incorporated units of national veterans' organizations, not oftener than once in two years to determine the will of the electors with respect to the granting of special occasion permits to qualified organizations, or not more than once in four years, to determine the will of the electors with respect to the establishment, operation and maintenance by

the board of Pennsylvania liquor stores, within the limits of such municipality or part of a split municipality, under the provisions of this act: Provided, however, Where an election shall have been held at the primary preceding a municipal election in any year, another election may be held under the provisions of this act at the primary occurring the fourth year after such prior election: And provided further, That an election on the question of establishing and operating a State liquor store shall be initiated only in those municipalities, or that part of a split municipality that shall have voted against the granting of liquor licenses; and that an election on the question of granting wholesale distributor and importing distributor licenses shall be initiated only in those municipalities or parts of split municipalities that shall have at a previous election voted against the granting of dispenser's licenses. Whenever electors equal to at least twenty-five per centum of the highest vote cast for any office in the municipality or part of a split municipality at the last preceding general election shall file a petition with the county board of elections of the county for a referendum on the question of granting any of said classes of licenses or the establishment of Pennsylvania liquor stores, the said county board of elections shall cause a question to be placed on the ballots or on the voting machine board and submitted at the primary immediately preceding the municipal election. Separate petitions must be filed for each question to be voted on. Said proceedings shall be in the manner and subject to the provisions of the election laws which relate to the signing, filing and adjudication of nomination petitions, insofar as such provisions are applicable.

When the question is in respect to the granting of liquor licenses, it shall be in the following form:

Do you favor the granting of liquor licenses
for the sale of liquor in Yes
of ? No

When the question is in respect to the granting of restaurant liquor licenses for use at public venues in those municipalities that do not already allow the retail sale of liquor, it shall be in the following form:

*Do you favor the granting of liquor licenses to public
venues for the sale of liquor in the Yes
of ? No*

When the question is in respect to the granting of restaurant liquor licenses for use at performing arts facilities in those municipalities that do not already allow the retail sale of alcohol, it shall be in the following form:

*Do you favor the granting of liquor licenses to
performing arts facilities for the sale of liquor
in the Yes
of ? No*

When the question is in respect to the granting of liquor licenses for hotels located on property owned by an accredited college or university in

those municipalities that do not already allow the granting of liquor licenses, it shall be in the following form:

Do you favor the granting of liquor licenses to hotels on property owned by an accredited college or university in the *Yes*
of *? No*

When the question is in respect to the granting of liquor licenses, for privately-owned private golf courses, it shall be in the following form:

Do you favor the granting of liquor licenses for privately-owned private golf courses for the sale of liquor in.by *Yes*
of *? No*

When the question is in respect to the granting of liquor licenses, for privately-owned public golf courses, it shall be in the following form:

Do you favor the granting of liquor licenses for privately-owned public golf courses for the sale of liquor in.by *Yes*
of *? No*

When the question is in respect to the granting of licenses to retail dispensers of malt and brewed beverages, it shall be in the following form:

Do you favor the granting of malt and brewed beverage retail dispenser licenses for consumption on premises where sold in the *Yes*
of *? No*

When the question is in respect to the granting of licenses to wholesale distributors of malt or brewed beverages and importing distributors, it shall be in the following form:

Do you favor the granting of malt and brewed beverage wholesale distributor's and importing distributor's licenses not for consumption on premises where sold in the *Yes*
of *? No*

When the question is in respect to the granting of club liquor licenses to incorporated units of national veterans' organizations, it shall be in the following form:

Do you favor the granting of club liquor licenses to incorporated units of national veterans' organizations in the *Yes*
of *? No*

When the question is in respect to the granting of club retail dispenser licenses to incorporated units of national veterans' organizations, it shall be in the following form:

Do you favor the granting of club retail dispenser licenses to incorporated units of national veterans' organizations in the *Yes*

of ? No

When the question is in respect to the granting of special occasion permits allowing the sale of liquor by qualified organizations in municipalities that do not already allow the retail sale of liquor, it shall be in the following form:

Do you favor the granting of special occasion permits to allow the sale of liquor by qualified organizations in the Yes of ? No

When the question is in respect to the granting of special occasion permits allowing the sale of malt or brewed beverages only by qualified organizations in municipalities that do not already allow the retail sale of malt or brewed beverages, it shall be in the following form:

Do you favor the granting of special occasion permits to allow the sale of malt or brewed beverages only by qualified organizations in the Yes of ? No

When the question is in respect to the establishment, operation and maintenance of Pennsylvania liquor stores it shall be in the following form:

Do you favor the establishment, operation and maintenance of Pennsylvania liquor stores in the Yes of ? No

In case of a tie vote, the status quo shall obtain. If a majority of the voting electors on any such question vote "yes," then liquor licenses shall be granted by the board to hotels, restaurants and clubs, or liquor licenses shall be granted by the board to *public venues, to performing arts facilities, to hotels located on property owned by an accredited college or university, to privately-owned private golf courses or to privately-owned public golf courses, or malt and brewed beverage retail dispenser licenses or wholesale distributor's and importing distributor's license for the sale of malt or brewed beverages shall be granted by the board, or club liquor licenses or club retail dispenser licenses shall be granted by the board to incorporated units of national veterans' organizations, or special occasion permits may be issued to qualified organizations, or the board may establish, operate and maintain Pennsylvania liquor stores, as the case may be, in such municipality or part of a split municipality, as provided by this act; but if a majority of the electors voting on any such question vote "no," then the board shall have no power to grant or to renew upon their expiration any licenses of the class so voted upon in such municipality or part of a split municipality; or if the negative vote is on the question in respect to the establishment, operation and maintenance of Pennsylvania liquor stores, the board shall not open and operate a Pennsylvania liquor store in such municipality or part of a split municipality, nor continue to operate a then existing Pennsylvania liquor store in the municipality or part of a split*

municipality for more than two years thereafter or after the expiration of the term of the lease on the premises occupied by such store, whichever period is less, unless and until at a later election a majority of the voting electors vote "yes" on such question.

* * *

(d) Nothing in this section shall prohibit the board from approving the transfer of a retail license from a municipality which has voted to prohibit the issuance of such a license to a location in another municipality in the same county that allows the issuance of that type of license.

Section 14. Section 472.2 of the act, amended November 10, 1999 (P.L.514, No.47), is amended to read:

Section 472.2. Granting of Liquor Licenses in Certain Municipalities.—**(a)** In any municipality which has by referendum approved the granting of malt and brewed beverage retail dispensers' licenses and has also thereafter, in a separate and subsequent referendum approved the granting of liquor licenses, the board may issue to an applicant holding a malt and brewed beverage retail dispenser's license, a liquor license: Provided, That the applicant surrenders for cancellation the malt and brewed beverage retail dispenser's license. The board shall not issue such a liquor license in excess of one for each three thousand residents in said municipality.

(b) Nothing in this section shall otherwise affect any existing malt and brewed beverage retail dispenser's license.

(c) The board may not accept, act upon, or grant an application for a liquor license under this section, when such application, if granted, would cause an excess in the aforesaid quota of one liquor license for each three thousand residents in said municipality. Nor shall an applicant under this section be required to surrender his malt and brewed beverage retail dispenser's license until and unless the board has granted his application for a liquor license.] *The board may issue a restaurant liquor license to an applicant holding an eating place retail dispenser's license in a municipality which by referendum approved the granting of eating place retail dispenser licenses and in a subsequent referendum approved the granting of restaurant liquor licenses. This section applies to eating place retail dispenser licenses which were issued in the municipality prior to the referendum that allowed the issuance of restaurant liquor licenses. If the board grants the restaurant liquor license, the applicant must immediately surrender for cancellation its eating place retail dispenser license.*

Section 15. Section 492(6) of the act is amended to read:

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

It shall be unlawful—

* * *

[(6) Sales of Malt or Brewed Beverages on Election Day by Hotels, Eating Places or Public Service Licensees. For any hotel or eating place holding a retail dispenser's license, or any malt or brewed beverage public service licensee, or his servants, agents or employes, to sell, furnish or give any malt or brewed beverages to any person after two o'clock antemeridian, or until one hour after the time fixed by law for the closing of polling places on days on which a general, municipal, special or primary election is being held except as permitted by subsection (f) of section 432.]

* * *

Section 16. Section 493(10) and (14) of the act, amended February 18, 1998 (P.L.162, No.25), 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—

* * *

(10) Entertainment on Licensed Premises (Except Clubs); Permits; Fees. For any licensee, his servants, agents or employes, except club licensees, *public venue licensees or performing arts facility licensees*, to permit in any licensed premises or in any place operated in connection therewith, dancing, theatricals or floor shows of any sort, or moving pictures other than television, or such as are exhibited through machines operated by patrons by the deposit of coins, which project pictures on a screen not exceeding in size twenty-four by thirty inches and which forms part of the machine, unless the licensee shall first have obtained from the board a special permit to provide such entertainment, or for any licensee, under any circumstances, to permit in any licensed premises *or in any place operated in connection therewith* any lewd, immoral or improper entertainment, regardless of whether a permit to provide entertainment has been obtained or not. The special permit may be used only during the hours when the sale of liquor or malt or brewed beverages is permitted, and between eleven o'clock antemeridian on Sunday and two o'clock antemeridian on the following Monday, regardless of whether the licensee possesses a Sunday sales permit. The board shall have power to provide for the issue of such special permits, and to collect an annual fee for such permits 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." All such fees shall be paid into the State Stores Fund. No such permit shall be issued in any municipality which, by ordinance, prohibits amusements in licensed places. Any violation of this clause shall, in addition to the penalty herein provided, subject the licensee to suspension or revocation of his permit and his license.

* * *

(14) Permitting Undesirable Persons or Minors to Frequent Premises. For any hotel, restaurant or club liquor licensee, or any retail dispenser, his servants, agents or employes, to permit persons of ill repute, known criminals, prostitutes or minors to frequent his licensed premises or any premises operated in connection therewith, except minors accompanied by parents, guardians, or under proper supervision or except minors who frequent any restaurant or retail dispensing licensee whose sales of food and non-alcoholic beverages are equal to seventy per centum or more of the combined gross sales of both food and alcoholic beverages on the condition that alcoholic beverages may not be served at the table or booth at which the said minor is seated at the time (unless said minor is under proper supervision as hereinafter defined) and on the further condition that only table service of alcoholic beverages or take-out service of beer shall be permitted in the room wherein the minor is located: Provided, however, That it shall not be unlawful for any hotel, restaurant or club liquor licensee or any retail dispenser to permit minors under proper supervision upon the licensed premises or any premises operated in connection therewith for the purpose of a social gathering, even if such gathering is exclusively for minors: And provided further, That no liquor shall be sold, furnished or given to such minors nor shall the licensee knowingly permit any liquor or malt or brewed beverages to be sold, furnished or given to or be consumed by any minor, and the area of such gathering shall be segregated from the remainder of the licensed premises. In the event the area of such gathering cannot be segregated from the remainder of the licensed premises, all alcoholic beverages must be either removed from the licensed premises or placed under lock and key during the time the gathering is taking place. Notice of such gathering shall be given the board as it may, by regulation, require. Any licensee violating the provisions of this clause shall be subject to the provisions of section 471. *Nothing in this clause shall be construed to make it unlawful for minors to frequent public venues or performing arts facilities.*

“Proper supervision,” as used in this clause, means the presence, on that portion of the licensed premises where a minor or minors are present, of one person twenty-five years of age or older for every fifty minors or part thereof who is directly responsible for the care and conduct of such minor or minors while on the licensed premises and in such proximity that the minor or minors are constantly within his sight or hearing. The presence of the licensee or any employe or security officer of the licensee shall not constitute proper supervision.

* * *

Section 17. This act shall take effect as follows:

- (1) The amendment of section 468(a)(2) of the act shall take effect July 1, 2001.
- (2) This section shall take effect immediately.

(3) The addition of section 461(b.1) and (b.2) shall take effect January 1, 2002.

(4) The amendment of sections 471 and 471.1 of the act shall take effect in 180 days.

(5) The remainder of this act shall take effect in 60 days.

APPROVED—The 20th day of December, A.D. 2000.

THOMAS J. RIDGE