

## No. 2002-212

## AN ACT

## SB 1365

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," defining "arts council," "eligible entity" and "pecuniary interest"; and further providing for the definitions of "eating place" and "restaurant," for bonds required of members and secretary, for board and enforcement bureau subject to State ethics and adverse interest acts, for wine marketing, for when sales may be made at Pennsylvania liquor stores, for sales by Pennsylvania liquor stores, for applications for hotel, restaurant and club liquor licenses, for issuance of hotel, restaurant and club liquor licenses, for sales by liquor licensees, for secondary service area, for special occasion permits, for sacramental wine licenses, for liquor importers' licenses, for malt and brewed beverages (excluding manufacturers), for malt and brewed beverages retail licenses, for application for distributors', importing distributors' and retail dispensers' licenses, for prohibitions against the grant of licenses, for retail dispensers' restrictions on purchases and sales, for hearings upon refusal of licenses, renewals or transfers, for renewal of licenses, for revocation and suspension of licenses, for local option and for exchange of certain licenses; providing for surrender of restaurant, eating place retail dispenser, hotel, importing distributor and distributor license for benefit of licensee; further providing for renewal of amusement permit, for unlawful acts relative to liquor, alcohol and liquor licensees, for unlawful acts relative to malt or brewed beverages and licensees, for unlawful acts relative to liquor, malt and brewed beverages and licensees, for unlawful advertising, for limited wineries and for business hours.

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

Section 1. The definitions of "eating place" and "restaurant" 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 February 21, 2002 (P.L.103, No.10), are 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:

\* \* \*

*"Arts council" shall mean a tax-exempt organization which promotes the visual arts, performing arts or both and which receives funding under*

*the Local Arts Services Program administered by the Pennsylvania Council on the Arts.*

\* \* \*

“Eating place” shall mean a premise where food is regularly and customarily prepared and sold, having a total area of not less than three hundred square feet available to the public in one or more rooms, other than living quarters, and equipped with tables and chairs, including bar seats, accommodating thirty persons at one time. *The board shall, by regulation, set forth what constitutes tables and chairs sufficient to accommodate thirty persons at one time.*

“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 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 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 and which has been recognized as such by a municipal resolution, 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)) 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.*

\* \* \*

“Restaurant” shall mean a reputable place operated by responsible persons of good reputation and habitually and principally used for the purpose of providing food for the public, the place to have an area within a building of not less than four hundred square feet, equipped with tables and chairs, including bar seats, accommodating at least thirty persons at one time. *The board shall, by regulation, set forth what constitutes tables and chairs sufficient to accommodate thirty persons at one time.*

\* \* \*

*“Tract” shall mean a contiguous expanse of land under the control of one person.*

\* \* \*

Section 2. Sections 205 and 206.1 and of the act are amended to read:

**[Section 205. Bonds Required of Members and Secretary.—**Before entering upon the duties of their respective offices or positions, each member of the board and the secretary shall execute and file with the State Treasurer a bond in such penal sum as shall be fixed by the Executive Board of this Commonwealth upon recommendation of the Governor, but the amount of any such bond shall not be less than ten thousand dollars (\$10,000). Bonds in such penal sums as shall be fixed by the Executive Board likewise shall be executed and filed with the State Treasurer by such employes of the board as the head of such board shall, with the approval of the Executive Board, prescribe. Such bonds shall be payable to the Commonwealth of Pennsylvania and shall be conditioned for the faithful performance of the members’, secretary’s or employes’ duties imposed by law or by lawful authority and that the person bonded will not knowingly violate the provisions of this act. All bonds required to be given under this section shall, before being accepted by the State Treasurer, be approved by the Attorney General, and unless the Commonwealth shall establish its own indemnity fund, all such bonds shall be given with security approved by the Attorney General. If the Commonwealth shall establish its own indemnity fund, the Executive Board may, nevertheless, require any bond given hereunder to be executed by a surety or sureties satisfactory to the Attorney General. The cost of such bonds required to be executed by a surety or sureties shall be borne by the board as part of its operating expense.]

Section 206.1. Board and Enforcement Bureau Subject to State Ethics and Adverse Interest Acts.—(a) Except to the extent that the penalties provided in section 210 of this act for violations are more stringent, the board, its members and all of its employes and employes of the enforcement bureau shall be subject to the act of October 4, 1978 (P.L.883, No.170), referred to as the Public Official and Employee Ethics Law, and the act of July 19, 1957 (P.L.1017, No.451), known as the “State Adverse Interest Act.”

(b) Membership on the board and employment or continued employment as an employe of the board or enforcement bureau is conditioned upon compliance with all of the provisions of the acts specified in subsection (a), including, but not limited to, the filing of statements of financial interests required by section 5 of the Public Official and Employee Ethics Law. Acceptance or retention of employment shall be deemed as voluntary consent to submit to the financial reporting requirements of the Public Official and Employee Ethics Law as a condition of employment. Failure to timely comply with the requirements shall result in immediate termination

of employment. *Both the board and the enforcement bureau are subject to the provisions of 65 Pa.C.S. Ch. 11 (relating to ethics standards and financial disclosure).*

Section 3. Sections 215(c) and (d), 304 and 305(d) and (h) of the act, reenacted, amended or added June 29, 1987 (P.L.32, No.14), are amended to read:

Section 215. Wine Marketing.—\* \* \*

**[(c) The board shall establish that at least five per centum of all State stores within a metropolitan area are wine specialty stores, at which premium wine shall be sold. These stores shall not sell any distilled product. The board may establish the wine specialty stores in locations which provide the greatest customer traffic and the greatest gross profit to the board. These locations may include established retail establishments. Board employes shall staff these locations. The board shall have the option of closing stores which are unprofitable for two consecutive fiscal years.]**

**(d) [(1) The term “metropolitan area,” as used in this section, shall mean any one county or any combination of two, three or four counties contiguous and adjacent with a total population of fifty thousand or more.]**

**(2) The term “wine,” as used in this section, shall mean liquor which is fermented from grapes and other fruits, having alcoholic content of twenty-four per centum or less. The term “wine” shall not include malt or brewed beverages, nor shall wine include any products containing alcohol derived from malt, grain, cereal, molasses or cactus.**

Section 304. When Sales May Be Made at Pennsylvania Liquor Stores.—[Every] **(a) Except as provided for in subsection (b), every Pennsylvania Liquor Store shall be open for business week days, except legal holidays or any day on which a general, municipal, special or primary election is being held, during such hours as the board, in its discretion, shall determine: Provided, That the Pennsylvania Liquor Stores 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, shall be open in those Legislative or Congressional Districts as though the day were not a special election day. The board may, with the approval of the Governor, temporarily close any store in any municipality.**

**(b) Certain Pennsylvania Liquor Stores operated by the board shall be open for Sunday retail sales between the hours of noon and five o'clock postmeridian, except that no Sunday sales shall occur on Easter Sunday or Christmas day. For a two-year time period following the effective date of this subsection, the board shall open up to ten per centum of the total number of Pennsylvania Liquor Stores at its discretion for Sunday sales as provided for in this subsection. At the expiration of the two-year time period, the board shall conduct a review and determine whether the stores**

***shall be closed or whether additional stores shall be opened for these Sunday sales. The board shall submit yearly reports to the Appropriations and the Law and Justice Committees of the Senate and the Appropriations and the Liquor Control Committees of the House of Representatives summarizing the total dollar value of sales under this section.***

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

(d) No liquor or alcohol package shall be opened on the premises of a Pennsylvania Liquor Store. No manager or other employe of the board employed in a Pennsylvania Liquor Store shall allow any liquor or alcohol to be consumed on the store premises, nor shall any person consume any liquor or alcohol on such premises, ***except liquor and alcohol which is part of a tasting conducted pursuant to the board's regulations.***

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(h) Every Pennsylvania Liquor Store shall sell gift certificates which may be redeemed for liquor. ***In addition, the board may sell corkscrews and wine sleeves at Pennsylvania Liquor Stores.***

Section 4. Section 403(a) and (g) of the act, amended December 20, 2000 (P.L.992, No.141) and February 21, 2002 (P.L.103, No.10), are amended to read:

Section 403. Applications for Hotel, Restaurant and Club Liquor Licenses.—(a) Every applicant for a hotel liquor license, restaurant liquor license or club liquor license or for the transfer of an existing license to another premises not then licensed or to another person shall file a written application with the board in such form and containing such information as the board shall from time to time prescribe, which shall be accompanied by a filing fee and an annual license 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." Every such application shall contain a description of that part of the hotel, restaurant or club for which the applicant desires a license and shall set forth such other material information, description or plan of that part of the hotel, restaurant or club where it is proposed to keep and sell liquor as may be required by the regulations of the board. The descriptions, information and plans referred to in this subsection shall show the hotel, restaurant, club, or the proposed location for the construction of a hotel, restaurant or club, at the time the application is made, and shall show any alterations proposed to be made thereto, or the new building proposed to be constructed after the approval by the board of the application for a license or for the transfer of an existing license to another premises not then licensed or to another person. No physical alterations, improvements or changes shall be required to be made to any hotel, restaurant or club, nor shall any new building for any such purpose, be required to be constructed until approval of the application for license or for the transfer of an existing license to another premises not then licensed or to another person by the board. After approval of the application, the licensee shall make the

physical alterations, improvements and changes to the licensed premises, or shall construct the new building in the manner specified by the board at the time of approval, and the licensee shall not transact any business under the license until the board has approved the completed physical alterations, improvements and changes to the licensed premises, or the completed construction of the new building as conforming to the specifications required by the board at the time of issuance or transfer of the license, and is satisfied that the establishment is a restaurant, hotel or club as defined by this act. The board may require that all such alterations or construction or conformity to definition be completed within six months from the time of issuance or transfer of the license. Failure to comply with these requirements shall be considered cause for revocation of the license. No such license shall be transferable between the time of issuance or transfer of the license and the approval of the completed alterations or construction by the board and full compliance by the licensee with the requirements of this act, except in the case of death of the licensee prior to full compliance with all of the aforementioned requirements[,] *or* unless full compliance is impossible for reasons beyond the licensee's control, in which event, the license may be transferred by the board as provided in this act.

\* \* \*

(g) Every applicant for a new license or for the transfer of an existing license shall post, for a period of at least [~~fifteen~~] *thirty* 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[.]. *The notice shall indicate whether the applicant is applying for the amusement permit required by section 493(10). The notice shall be* in such form, *be* of such size, and [~~containing~~] *contain* 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 5. Section 404 of the act, amended December 20, 2000 (P.L.992, No.141), 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 enter into an agreement with the applicant concerning additional restrictions on the license in question. If the board and the applicant enter into such an agreement, such agreement shall be binding on the applicant. Failure by the applicant to adhere to the*

*agreement will be sufficient cause to form the basis for a citation under section 471 and for the nonrenewal of the license under section 470. If the board enters into an agreement with an applicant concerning additional restrictions, those restrictions shall be binding on subsequent holders of the license until the license is transferred to a new location or until the board enters into a subsequent agreement removing those restrictions. If the application in question involves a location previously licensed by the board, then any restrictions imposed by the board on the previous license at that location shall be binding on the applicant unless the board enters into a new agreement rescinding those restrictions.* 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 6. Section 406(a)(1) 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 406. Sales by Liquor Licensees; Restrictions.—(a) (1) Every hotel, restaurant or club liquor licensee may sell liquor and malt or brewed beverages by the glass, open bottle or other container, and in any mixture, for consumption only in that part of the hotel or restaurant habitually used for the serving of food to guests or patrons, or in a bowling alley that is immediately adjacent to and under the same roof as a restaurant when no minors are present, unless minors who are present are under proper supervision as defined in section 493, in the bowling alley, and in the case of hotels, to guests, and in the case of clubs, to members, in their private rooms in the hotel or club. No club licensee nor its officers, servants, agents or employes, other than one holding a catering license, shall sell any liquor or malt or brewed beverages to any person except a member of the club. **[In the case of a restaurant located in a hotel which is not operated by the owner of the hotel and which is licensed to sell liquor under this act, liquor and malt or brewed beverages may be sold]** *The holder of a restaurant license located in a hotel may sell liquor or malt or brewed beverages* for consumption in that part of the restaurant habitually used for the serving of meals to patrons and also to guests in private guest rooms in the hotel. For the purpose of this paragraph, any person who is an active member of another club which is chartered by the same state or national organization shall have the same rights and privileges as members of the



particular club. For the purpose of this paragraph, any person who is an active member of any volunteer firefighting company, association or group of this Commonwealth, whether incorporated or unincorporated, shall upon the approval of any club composed of volunteer firemen licensed under this act, have the same social rights and privileges as members of such licensed club. For the purposes of this paragraph, the term "active member" shall not include a social member. Any club licensee which is either an incorporated unit of a national veterans' organization or an affiliated organization as defined in section 461.1 shall be permitted to sell liquor or malt or brewed beverages to any active member of another unit which is chartered by the same national veterans' organization or to any member of a nationally chartered auxiliary associated with the same national veterans' organization.

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

Section 7. Section 406.1 of the act, amended July 1, 1994 (P.L.402, No.61), is amended to read:

Section 406.1. Secondary Service Area.—*(a) Upon application of any restaurant, hotel, club, any stadium as described in section 408.9 or, municipal golf course liquor licensee or manufacturer of malt or brewed beverages, and payment of the appropriate fee, the board may approve a secondary service area by extending the licensed premises to include one additional permanent structure with dimensions of at least one hundred seventy-five square feet, enclosed on three sides and having adequate seating. Such secondary service area must be located on property having a minimum area of one (1) acre, and must be on land which is immediate, abutting, adjacent or contiguous to the licensed premises with no intervening public thoroughfare; however, the original licensed premises and the secondary service area must be located on the same tract of land. [In any stadium as described in section 408.9, only malt or brewed beverages may be served.] There shall be no requirement that the secondary service area be physically connected to the original licensed premises. In addition, there shall be no requirement that the secondary*

service area be located in the same municipality as the original licensed premises, provided, however, that the board shall not approve a secondary service area in this case if that secondary service area is located in any municipality where the granting of liquor licenses has been prohibited as provided in this article. Notwithstanding 40 Pa. Code § 7.21(c)(3), the licensee shall be permitted to store, serve, sell or dispense food, liquor and malt or brewed beverages at the board approved secondary service area.

*(b) If the applicant is a manufacturer of malt or brewed beverages, the board may approve a secondary service area for use as a brewery pub pursuant to section 446, notwithstanding any intervening public thoroughfare, so long as the proposed secondary service area is within one thousand feet of the licensed premises. Notwithstanding any other provision of this act, the licensed premises and the secondary service area may be located on different tracts of lands.*

Section 8. Section 408.4 of the act, amended or added October 5, 1994 (P.L.522, No.77), June 18, 1998 (P.L.664, No.86), December 21, 1998 (P.L.1202, No.155), November 10, 1999 (P.L.514, No.47) and February 10, 2002 (P.L.103, No.10), is amended to read:

Section 408.4. Special Occasion Permits.—(a) Upon application of any hospital, church, synagogue, volunteer fire company, volunteer ambulance company, volunteer rescue squad, 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 and which has been recognized as such by a municipal resolution, unit of a nationally chartered club which has been issued a club liquor license, nonprofit agricultural association in existence for at least ten years, bona fide sportsmen's club in existence for at least ten years, nationally chartered veterans' organization and any affiliated lodge or subdivision of such organization, fraternal benefit society that is licensed to do business in this Commonwealth and any affiliated lodge or subdivision of such fraternal benefit society, or one auxiliary of any of the foregoing, and upon payment of the prescribed fee for special occasion permits under section 614-A of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929," the board shall issue a special occasion permit good for a period of not more than six consecutive or nonconsecutive days during a calendar year. Special occasion permits may also be issued to a museum operated by a nonprofit corporation in a city of the third class or township of the first class or a nonprofit corporation engaged in the performing arts in a city of the third class or in an incorporated town or to an arts council or to a nonprofit corporation that operates an arts facility or museum in a city of the third class in a county of the fourth class for a period of not more than six nonconsecutive or ten consecutive days at the prescribed fee for

**special occasion permits under section 614-A of "The Administrative Code of 1929."**

**(a.1) Upon application by a nationally accredited Pennsylvania nonprofit zoological institution licensed by the United States Department of Agriculture, the board shall issue a special occasion permit in accordance with subsection (a) for six nonconsecutive days or ten consecutive days in a calendar year.**

**(b) In any city, borough, incorporated town or township in which the sale of liquor and/or malt or brewed beverages has been approved by the electorate, such special occasion permit shall authorize the permittee to sell liquor and/or malt or brewed beverages as the case may be to any adult person on any day for which the permit is issued.**

**(c) Such special occasion permit shall only be valid for the number of days stated in the permit. Only one permit may be issued to any permittee during the year. Provided, that a museum operated by a nonprofit corporation in a city of the third class or township of the first class, and a nonprofit corporation engaged in the performing arts in a city of the third class, or an arts council or a nonprofit corporation that operates an arts facility or museum in a city of the third class in a county of the fourth class may be issued no more than six permits during the year, each permit being valid for only one day, or in the alternative, one permit valid for no more than a total of ten consecutive days per year, which may be issued only during the month of August.**

**(d) Such permits shall only be issued for use at a special event including, but not limited to bazaars, picnics and clambakes. The special event must be one which is used by the permittee as a means of raising funds for itself.**

**(d.1) The hours during which the holder of a special occasion permit may sell liquor or malt or brewed beverages shall be limited to the hours set forth in section 406 which are applicable to hotel and restaurant licensees. The hours during which a nonprofit corporation engaged in the performing arts in a city of the third class may sell liquor or malt or brewed beverages pursuant to a special occasion permit shall be limited to those hours set forth in section 408.3(g.1).**

**(d.2) At least forty-eight hours prior to the sale of any liquor or malt or brewed beverages, the holder of a special occasion permit shall notify the local police department, or in the absence of a local police department, the Pennsylvania State Police, of the times when and place where the sale of liquor or malt or brewed beverages shall occur.**

**(e) The provisions of this section shall not be applicable to any of the following:**

**(1) A licensee now or hereafter possessing a caterer's license, other than a volunteer fire company, volunteer ambulance company or volunteer rescue squad, which owns its own facility and wishes to use its special occasion permit at that facility.**

**(2) A professional fund raiser.**

**(e.1) Notwithstanding any provisions of law to the contrary, a permittee who is a nonprofit organization as defined under section 501(c)(4) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(4)) may do any of the following:**

**(1) If the permittee is conducting a regatta, sell for consumption liquor and malt or brewed beverages in or on the grounds of a State park located within a city of the second class for a period not to exceed ten consecutive days per calendar year.**

**(2) If the permittee is conducting a family-oriented celebration as part of Welcome America in a city of the first class on property leased from that city for a period of more than fifty years, sell for consumption liquor and malt or brewed beverages on such leased property for a period not to exceed ten consecutive days per calendar year.**

**(3) If the permittee is a nonprofit corporation designated by a city of the first class to conduct a millennium celebration on behalf of the city on property located at four sites approved by the board, sell for consumption champagne for a period not to exceed two consecutive days between December 31, 1999, and January 1, 2000.**

**(f) Any person selling liquor or malt or brewed beverages in violation of this section shall, upon summary conviction, be sentenced to pay a fine of two hundred fifty dollars (\$250) for the first offense and a fine of five hundred dollars (\$500) for each subsequent offense. This fine shall be in addition to any other penalty imposed by law for the illegal sale of malt or brewed beverages.**

**(g) For the purposes of this section, "arts council" means a tax-exempt organization which promotes the visual arts, performing arts, or both, and which receives funding under the Local Arts Services Program administered by the Pennsylvania Council on the Arts.]**

***(h) The board may issue a special occasion permit to an eligible entity. The board may also issue a special occasion permit to one auxiliary of any eligible entity. Any eligible entity that wishes to acquire a special occasion permit must submit a written application to the board in such form and containing such information as the board shall from time to time prescribe. The fee for special occasion permits shall be as set forth under section 614-A(24) of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929."***

***(i) Only one special occasion permit shall be issued to each eligible entity per calendar year. Each permit may only be used for six consecutive or nonconsecutive days; however, if the eligible entity is 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 or in an incorporated town, or an arts council, then the special occasion permit may be used for six nonconsecutive or ten consecutive days.***

*(j) The eligible entity shall give the local police department or the Pennsylvania State Police if there is no local police department written notice at least forty-eight hours prior to each use of the special occasion permit. Written notice consists of notifying the police of the date, time and place of the impending sale of alcoholic beverages.*

*(k) Special occasion permit holders may sell alcoholic beverages during the same hours as restaurant liquor license holders. In addition, special occasion permit holders may sell any type of alcohol for consumption off the licensed premises.*

*(l) The issuance of a special occasion permit does not preclude the eligible entity from acquiring and retaining any other liquor license to which it may be entitled; however, the board shall not issue a special occasion permit for premises already licensed by the board unless the applicant owns the premises and is a volunteer fire company, volunteer rescue company or volunteer ambulance squad.*

*(m) The purpose of a special occasion permit is to provide the eligible entity with a means of raising funds for itself. The permit may be used in conjunction with activities and events involving other entities; however, no one other than the holder of the special occasion permit may acquire a pecuniary interest in the permit.*

*(n) The board may refuse to issue a special occasion permit if it finds that the applicant is not reputable or does not otherwise meet the requirements of this act. The right to refuse to issue a special occasion permit may be based in whole or in part on the applicant's prior operational history with either a special occasion permit or a license issued by the board.*

*(o) The holder of a special occasion permit is subject to the provisions of section 493(1).*

*(p) Notwithstanding any provision of law to the contrary, if the eligible entity is a regatta in a city of the second class held on the grounds of a State park, the regatta may install a security fence or similar enclosure around the boundary of the State park or a portion of the State park during the regatta and may charge an admittance fee not to exceed five dollars (\$5) per day.*

Section 9. Sections 409(c) and 410(d) of the act, reenacted June 29, 1987 (P.L.32, No.14), are amended to read:

Section 409. Sacramental Wine Licenses; Fees; Privileges; Restrictions.—\* \* \*

(c) If the applicant is a natural person, his application must show that he is a citizen of the United States *or a resident alien* and a resident of this Commonwealth. If the applicant is an association or partnership, each and every member of the association or partnership must be a citizen of the United States *or a resident alien* and a resident of this Commonwealth. If the applicant is a corporation, the application must show that the corporation was created under the laws of Pennsylvania or holds a

certificate of authority to transact business in Pennsylvania, and that all officers, directors and stockholders are citizens of the United States *or resident aliens*.

\* \* \*

Section 410. Liquor Importers' Licenses; Fees; Privileges; Restrictions.—\* \* \*

(d) If the applicant is a natural person, his application must show that he is a citizen of the United States *or a resident alien* and a resident of this Commonwealth. If the applicant is an association or partnership, each and every member of the association or partnership must be a citizen of the United States *or a resident alien* and a resident of this Commonwealth. If the applicant is a corporation, the application must show that the corporation was created under the laws of Pennsylvania or holds a certificate of authority to transact business in Pennsylvania, and that all officers, directors and stockholders are citizens of the United States *or resident aliens*.

\* \* \*

Section 10. Section 412(f)(4) of the act, amended February 21, 2002 (P.L.103, No.10), is amended and the section is amended by adding a subsection to read:

Section 412. Public Venue License.—\* \* \*

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

\* \* \*

(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; (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) *and (vi) the cost and total display area limitations of section 493(20)(i)*. In addition, licenses issued under this section shall not be subject to the provisions defining "restaurant" in section 102.

*(g) The board may issue multiple licenses under this section for use in a public venue with permanent seating of at least thirty-five thousand people. If the board does issue more than one license for a specific public venue, written notice of the event must be provided to the enforcement bureau at least forty-eight hours in advance of the dispensing of any liquor or malt or brewed beverages. The notice shall include the date, time and specific licensed areas to be used. No more than one license issued under this section shall be in effect at any location at any time of day at the same time.*

Section 11. Section 431(b) of the act, amended June 18, 1998 (P.L.664, No.86) and December 21, 1998 (P.L.1202, No.155), is amended to read:

Section 431. Malt and Brewed Beverages Manufacturers', Distributors' and Importing Distributors' Licenses.—\* \* \*

(b) The board shall issue to any reputable person who applies therefor, and pays the license fee hereinafter prescribed, a distributor's or importing distributor's license for the place which such person desires to maintain for the sale of malt or brewed beverages, not for consumption on the premises where sold, and in quantities of not less than a case or original containers containing one hundred twenty-eight ounces or more which may be sold separately as prepared for the market by the manufacturer at the place of manufacture. 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: And provided further, 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 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. 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 enter into an agreement with the applicant concerning additional restrictions on the license in question. If the board and the applicant enter into such an agreement, such agreement shall be binding on the applicant. Failure by the applicant to adhere to the agreement will be sufficient cause to form the basis for a citation under section 471 and for the nonrenewal of the license under section 470. If the board enters into an agreement with an applicant concerning additional restrictions, those restrictions shall be binding on subsequent holders of the license until the license is transferred to a new location or until the board enters into a subsequent agreement removing those restrictions. If the application in question involves a location previously licensed by the board, then any restrictions imposed by the board on the previous license at that location shall be binding on the applicant unless the board enters into a new agreement rescinding those restrictions.* The board shall require notice to be posted on the property or premises upon which the licensee or proposed licensee will engage in sales of malt or brewed beverages. This notice shall be similar to the notice required of hotel, restaurant and club liquor licensees.

Except as hereinafter provided, such license shall authorize the holder thereof to sell or deliver malt or brewed beverages in quantities above specified anywhere within the Commonwealth of Pennsylvania, which, in the case of distributors, have been purchased only from persons licensed under this act as manufacturers or importing distributors, and in the case of importing distributors, have been purchased from manufacturers or persons outside this Commonwealth engaged in the legal sale of malt or brewed beverages or from manufacturers or importing distributors licensed under this article. In the case of an importing distributor, the holder of such a license shall be authorized to store malt or brewed beverages owned by an out of State manufacturer at a segregated portion of a warehouse or other storage facility authorized by section 441(d) and operated by the importing distributor within its appointed territory and deliver such beverages to another importing distributor who has been granted distribution rights by the out of State manufacturer as provided herein. The importing distributor shall be permitted to receive a fee from the out of State manufacturer for any related storage or delivery services. In the case of a bailee for hire hired by an out of State manufacturer, the holder of such a permit shall be authorized: to receive or store malt or brewed beverages under the same conditions as permitted for a distributor or importing distributor under section 441(f) produced by that out of State manufacturer for sale by that manufacturer to importing distributors to whom that out of State manufacturer has given distribution rights pursuant to this subsection or to purchasers outside this Commonwealth for delivery outside this Commonwealth; or to ship to that out of State manufacturer's storage facilities outside this Commonwealth. The bailee for hire shall be permitted to receive a fee from the out of State manufacturer for any related storage or delivery services. The bailee for hire shall, as required in Article V of this act, keep complete and accurate records of all transactions, inventory, receipts and shipments and make all records and the licensed areas available for inspection by the board and for the Pennsylvania State Police, Bureau of Liquor Control Enforcement, during normal business hours.

Each out of State manufacturer of malt or brewed beverages whose products are sold and delivered in this Commonwealth shall give distributing rights for such products in designated geographical areas to specific importing distributors, and such importing distributor shall not sell or deliver malt or brewed beverages manufactured by the out of State manufacturer to any person issued a license under the provisions of this act whose licensed premises are not located within the geographical area for which he has been given distributing rights by such manufacturer. Should a licensee accept the delivery of such malt or brewed beverages in violation of this section, said licensee shall be subject to a suspension of his license for at least thirty days: Provided, That the importing distributor holding such distributing rights for such product shall not sell or deliver the same to another importing distributor without first having entered into a written



agreement with the said secondary importing distributor setting forth the terms and conditions under which such products are to be resold within the territory granted to the primary importing distributor by the manufacturer.

When a Pennsylvania manufacturer of malt or brewed beverages licensed under this article names or constitutes a distributor or importing distributor as the primary or original supplier of his product, he shall also designate the specific geographical area for which the said distributor or importing distributor is given distributing rights, and such distributor or importing distributor shall not sell or deliver the products of such manufacturer to any person issued a license under the provisions of this act whose licensed premises are not located within the geographical area for which distributing rights have been given to the distributor and importing distributor by the said manufacturer: Provided, That the importing distributor holding such distributing rights for such product shall not sell or deliver the same to another importing distributor without first having entered into a written agreement with the said secondary importing distributor setting forth the terms and conditions under which such products are to be resold within the territory granted to the primary importing distributor by the manufacturer. Nothing herein contained shall be construed to prevent any manufacturer from authorizing the importing distributor holding the distributing rights for a designated geographical area from selling the products of such manufacturer to another importing distributor also holding distributing rights from the same manufacturer for another geographical area, providing such authority be contained in writing and a copy thereof be given to each of the importing distributors so affected.

\* \* \*

Section 12. Section 432(d) and (e) of the act, reenacted June 29, 1987 (P.L.32, No.14) and amended December 20, 2000 (P.L.992, No.141), 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 may enter into an agreement with the applicant concerning additional restrictions on the license in question. If the board and the applicant enter into such an agreement, such agreement shall be binding on the applicant. Failure by the applicant to adhere to the agreement will be sufficient cause to form the basis for a citation under section 471 and for the nonrenewal of*

*the license under section 470. If the board enters into an agreement with an applicant concerning additional restrictions, those restrictions shall be binding on subsequent holders of the license until the license is transferred to a new location or until the board enters into a subsequent agreement removing those restrictions. If the application in question involves a location previously licensed by the board, then any restrictions imposed by the board on the previous license at that location shall be binding on the applicant unless the board enters into a new agreement rescinding those restrictions.* 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.

(e) Every applicant for a new or for the transfer of an existing license to another premises not then licensed shall post, for a period of at least [fifteen] *thirty* days beginning with the day the application is filed with the board, in a conspicuous place on the outside of the premises or in a window plainly visible from the outside of the premises for which the license is applied or at the proposed new location, a notice of such application[.]. *The notice shall indicate whether the applicant is applying for the amusement permit required by section 493(10). The notice shall be* in such form, *be* of such size, and [containing] *contain* such provisions as the board may require by its regulations. Proof of the posting of such notice shall be filed with the board.

\* \* \*

Section 13. Section 436(b) of the act, amended February 21, 2002 (P.L.103, No.10), is amended to read:

Section 436. Application for Distributors', Importing Distributors' and Retail Dispensers' Licenses.—Application for distributors', importing distributors' and retail dispensers' licenses, or for the transfer of an existing

license to another premises not then licensed or to another person, shall contain or have attached thereto the following information and statements:

\* \* \*

(b) The particular place for which the license is desired and a detailed description thereof. The description, information and plans referred to in this subsection shall show the premises or the proposed location for the construction of the premises at the time the application is made, and shall show any alterations proposed to be made thereto, or the new building proposed to be constructed after the approval by the board of the application for a license, or for the transfer of an existing license to another premises not then licensed or to another person. No physical alterations, improvements or changes shall be required to be made to any hotel, eating place or club, nor shall any new building for any such purpose be required to be constructed until approval of the application for license or for the transfer of an existing license to another premises not then licensed or to another person by the board. After approval of the application, the licensee shall make the physical alterations, improvements and changes to the licensed premises, or shall construct the new building in the manner specified by the board at the time of approval. The licensee shall not transact any business under the license until the board has approved the completed physical alterations, improvements and changes of the licensed premises or the completed construction of the new building as conforming to the specifications required by the board at the time of issuance or transfer of the license and is satisfied that the premises meet the requirements for a distributor's or importing distributor's license as set forth in this act or that the establishment is an eating place, hotel or club as defined by this act. The board may require that all such alterations or construction or conformity to definition be completed within six months from the time of issuance or transfer of the license. Failure to comply with these requirements shall be considered cause for revocation of the license. No such license shall be transferable between the time of issuance or transfer of the license and the approval of the completed alterations or construction by the board and full compliance by the licensee with the requirements of this act, except in the case of death of the licensee prior to full compliance with all of the aforementioned requirements[,] *or* unless full compliance is impossible for reasons beyond the licensee's control, in which event the license may be transferred by the board as provided in this act.

\* \* \*

Section 14. Section 441(b) of the act, amended May 31, 1996 (P.L.312, No.49), is amended to read:

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

(b) No distributor or importing distributor shall sell any malt or brewed beverages in quantities of less than a case or original containers containing one hundred twenty-eight ounces or more which may be sold separately:

Provided, That no malt or brewed beverages sold or delivered shall be consumed upon the premises of the distributor or importing distributor, or in any place provided for such purpose by such distributor or importing distributor. *Notwithstanding any other provision of this section or act, malt or brewed beverages which are part of a tasting conducted pursuant to the board's regulations may be consumed on licensed premises.*

\* \* \*

Section 15. Section 442 of the act is amended by adding a subsection to read:

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

\* \*

*(e) (1)<sup>1</sup> The holder of a retail dispenser license located in a hotel may allow persons to transport malt or brewed beverages from the licensed portion of the premises to the unlicensed portion of the premises so long as the malt or brewed beverages remain on the hotel property.*

*(2)<sup>2</sup> In addition, the holder of a retail dispenser license located on a golf course may allow its patrons to order malt or brewed beverages on licensed premises for subsequent delivery by the licensee on nonlicensed portions of the premises, including the golf course.*

Section 16. Section 464 of the act, amended December 20, 2000 (P.L.992, No.141), 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

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<sup>1</sup>Paragraph designation not in enrolled bill.

<sup>2</sup>Paragraph designation not in enrolled bill.

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 *issue or* 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 17. Section 470(a) of the act, amended December 21, 1998 (P.L.1202, No.155), is amended to read:

**Section 470. Renewal of Licenses; Temporary Provisions for Licensees in Armed Service.—(a)** All applications for renewal of licenses under the provisions of this article shall be filed with tax clearance from the Department of Revenue and the Department of Labor and Industry and requisite license and filing fees at least sixty days before the expiration date of same: Provided, however, That the board, in its discretion, may accept nunc pro tunc a renewal application filed less than sixty days before the expiration date of the license with the required fees, upon reasonable cause shown and the payment of an additional filing fee of one hundred dollars (\$100.00) for late filing: And provided further, That except where the failure to file a renewal application on or before the expiration date has created a license quota vacancy after said expiration date which has been

filled by the issuance of a new license, after such expiration date, but before the board has received a renewal application nunc pro tunc within the time prescribed herein the board, in its discretion, may, after hearing, accept a renewal application filed within two years after the expiration date of the license with the required fees upon the payment of an additional filing fee of two hundred fifty dollars (\$250.00) for late filing. Where any such renewal application is filed less than sixty days before the expiration date, or subsequent to the expiration date, no license shall issue upon the filing of the renewal application until the matter is finally determined by the board and if an appeal is taken from the board's action the courts shall not order the issuance of the renewal license until final determination of the matter by the courts. *The board may enter into an agreement with the applicant concerning additional restrictions on the license in question. If the board and the applicant enter into such an agreement, such agreement shall be binding on the applicant. Failure by the applicant to adhere to the agreement will be sufficient cause to form the basis for a citation under section 471 and for the nonrenewal of the license under this section.* A renewal application will not be considered filed unless accompanied by the requisite filing and license fees and any additional filing fee required by this section. Unless the board shall have given ten days' previous notice to the applicant of objections to the renewal of his license, based upon violation by the licensee or his servants, agents or employes of any of the laws of the Commonwealth or regulations of the board relating to the manufacture, transportation, use, storage, importation, possession or sale of liquors, alcohol or malt or brewed beverages, or the conduct of a licensed establishment, or unless the applicant has by his own act become a person of ill repute, or unless the premises do not meet the requirements of this act or the regulations of the board, the license of a licensee shall be renewed.

\* \* \*

Section 18. Section 471(c) of the act, amended February 21, 2002 (P.L.103, No.10), is amended to read:

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

(c) The administrative law judge may consider the licensee's prior citation history when imposing a penalty. If the violation in question is a third or subsequent violation of [this act] *any offense referred to in subsection (b)* or Title 18 of the Pennsylvania Consolidated Statutes (relating to crimes and offenses), occurring within a period of four years, the administrative law judge shall impose a suspension or revocation.

\* \* \*

Section 19. Section 472 of the act is amended by adding a subsection to read:

Section 472. Local Option.—\* \* \*

*(e.1) A vote on the ballot question regarding the granting of liquor licenses that changes the municipality's status on that issue supersedes any earlier contrary votes on the granting of liquor licenses to public*

*venues, performing arts facilities, hotels, golf courses, incorporated units of national veterans' clubs and special occasion permits. In addition, a vote on the ballot question regarding the granting of liquor licenses that changes the municipality's status on that issue supersedes any earlier contrary votes on the issuance of granting licenses to retail dispensers of malt and brewed beverages.*

Section 20. Section 472.3(a) of the act, reenacted June 29, 1987 (P.L.32, No.14), is amended to read:

Section 472.3. Exchange of Certain Licenses.—(a) **[In any municipality wherein restaurant liquor license issue, the] The board may issue to a club as defined in this act, a club liquor license in exchange for a club retail dispenser license in any municipality which has approved the granting of liquor licenses.**

\* \* \*

Section 21. The act is amended by adding a section to read:

**Section 474.1. Surrender of Restaurant, Eating Place Retail Dispenser, Hotel, Importing Distributor and Distributor License for Benefit of Licensee.—(a) A restaurant, eating place retail dispenser, hotel, importing distributor and distributor licensee whose licensed establishment is not in operation for fifteen consecutive days shall return its license for safekeeping with the board no later than at the expiration of the fifteen-day period. The license may only be reissued from safekeeping in the manner set forth by the board through regulation.**

**(b) The board may hold the license in safekeeping for a period not to exceed three consecutive years. Any license remaining in safekeeping for more than three consecutive years shall be immediately revoked by the Bureau of Licensing unless a transfer application or request for reissue from safekeeping has been filed prior to the expiration of the three-year period. The board shall extend the period for an additional year if, at the end of the three-year period, the licensed premises are unavailable due to fire, flood or other similar natural disaster.**

**(c) In the event a transfer application filed prior to the expiration of the three-year period is disapproved by the board through its exercise of discretion, then the license may remain in safekeeping for an additional period of three consecutive months after the board's decision to refuse the transfer application. Failure to remove the license from safekeeping or to file another transfer application prior to the expiration of the three-month period of time shall result in revocation of the license.**

**(d) Any period of time in which the licensee allows the license to lapse by not filing a timely license renewal or license validation shall be considered time in which the license was held in safekeeping for purposes of this section.**

**(e) A license placed in safekeeping prior to the effective date of this act will be deemed to have been placed in safekeeping on the effective date of this act for purposes of this section.**

Section 22. Section 478(c) of the act is repealed.

Section 23. Section 491(7) and (11) of the act, reenacted June 29, 1987 (P.L.32, No.14) and amended February 21, 2002 (P.L.103, No.10), are amended to read:

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

It shall be unlawful—

\* \* \*

(7) Sales of Liquor by Manufacturers and Licensed Importers. For any manufacturer or licensed importer of liquor in this Commonwealth, his agents, servants or employes, to sell or offer to sell any liquor in this Commonwealth except to the board for use in Pennsylvania Liquor Stores, and in the case of a manufacturer, to the holder of a sacramental wine license or an importer's license[, **but a manufacturer or licensed importer may sell or offer to sell liquor to persons outside of this Commonwealth**]. *Notwithstanding any other provision of this act, a manufacturer or licensed importer may sell or offer to sell liquor for delivery outside of this Commonwealth.*

\* \* \*

(11) Importation of Liquor. For any person, other than the board or the holder of a sacramental wine license, an importer's license or a direct shipper's license, to import any liquor whatsoever into this Commonwealth, but this section shall not be construed to prohibit railroad and pullman companies from *purchasing and* selling liquors purchased outside the Commonwealth in their dining, club and buffet cars which are covered by public service liquor licenses and which are operated in this Commonwealth.

\* \* \*

Section 24. Section 492(8) and (10) of the act, reenacted June 29, 1987 (P.L.32, No.14) and amended December 21, 1998 (P.L.1202, No.155), are amended to read:

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

It shall be unlawful—

\* \* \*

(8) Transportation *and Importation* of Malt or Brewed Beverages. For any person, to transport malt or brewed beverages except in the original containers, or to transport malt or brewed beverages for another who is engaged in selling either liquor or malt or brewed beverages, unless such person shall hold (a) a license to transport for hire, alcohol, liquor and malt or brewed beverages, as hereinafter provided in this act, or (b) shall hold a permit issued by the board and shall have paid to the board such permit 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," any other law to the contrary notwithstanding. *This clause shall not be construed:*



*(i) to prohibit transportation of malt or brewed beverages through this Commonwealth and not for delivery in this Commonwealth if such transporting is done in accordance with the rules and regulations of the board; or*

*(ii) to prohibit railroad and Pullman companies from selling malt or brewed beverages purchased outside this Commonwealth in their dining, club and buffet cars which are covered by public service liquor licenses and which are operated in this Commonwealth.*

\* \* \*

**[(10) Importing or Transporting Malt or Brewed Beverages Without Tax Stamps. For any person, to transport within or import any malt or brewed beverages into this Commonwealth, except in accordance with the rules and regulations of the board, or for any person to transport malt or brewed beverages into or within this Commonwealth, unless there shall be affixed to the original containers in which such malt or brewed beverages are transported, stamps or crowns evidencing the payment of the malt liquor tax to the Commonwealth: Provided, however, That this clause shall not be construed to prohibit transportation of malt or brewed beverages through this Commonwealth and not for delivery therein, if such transporting is done in accordance with the rules and regulations of the board.]**

\* \* \*

Section 25. Section 493(14) and (17) of the act, reenacted June 29, 1987 (P.L.32, No.14) and amended February 21, 2002 (P.L.103, No.10), 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—

\* \* \*

**(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, 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 fifty 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. Written notice, at least forty-eight (48) hours in advance of such gathering, shall be given to the enforcement bureau. 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] *five* 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.

\* \* \*

(17) Licensees, etc., Interested or Employed in Manufacturing or Sale of Equipment or Fixtures. For any licensee, or any officer, director, stockholder, servant, agent or employe of any licensee, to own any interest, directly or indirectly, in or be employed or engaged in any business which involves the manufacture or sale of any equipment, furnishings or fixtures to any hotel, restaurant or club licensees, or to any importing distributors, distributors or retail dispensers[: **Provided, however, That as to malt or brewed beverage licensees, the provisions of this subsection shall not apply to such a conflicting interest if it has existed for a period of not less than three years prior to the first day of January, one thousand nine hundred thirty-seven, and the board shall approve].** *Notwithstanding any other provision of this section or this act, licensees may sell glasses at not less than cost and to provide metal keg connectors and tap knobs to other licensees and to holders of special occasion permits.*

\* \* \*

Section 26. Section 493(20)(i) of the act, amended May 31, 1996 (P.L.312, No.49), is 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—

\* \* \*

(20) (i) Retail Liquor and Retail Malt or Brewed Beverages Licensee’s Inside Advertisements. For any retail liquor or retail malt or brewed beverages licensee, to display or permit the display in the show window or doorways of his licensed premises, any placard or sign advertising the brands of liquor or malt or brewed beverages, if the total display area of any such placard or sign advertising the product or products exceeds six hundred square inches. Nothing herein shall prohibit a licensee from displaying inside his licensed premises point of sale displays advertising brand names of products sold by him, other than a window or door display: Provided, That the total cost of all such point of sale advertising matter relating to any one brand shall [not exceed the sum of one hundred forty dollars (\$140) at any one time, and no single piece of advertising shall exceed a cost of seventy dollars (\$70). The board is authorized to make annual adjustments to the cost limitations on point of display advertising to reflect any changes in such limitations by the United States Bureau of Alcohol, Tobacco and Firearms or its successors in accordance with 27 CFR 6.83 (relating to product displays) and 27 CFR 6.85 (relating to retailer advertising specialties.)] *not exceed the dollar amount set forth by the board through regulation.* All such advertising material, including the window and door signs, may be furnished by a manufacturer, distributor or importing distributor. The restrictions on advertising set forth in subclause (ii) and in clauses (20.1) and (20.2) shall also apply to this subclause.

\* \* \*

Section 27. Section 493.1 of the act, added October 5, 1994 (P.L.522, No.77), 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 an application with the board to consider an exemption from the board’s regulations regarding amplified music being heard off the licensed premises for all the licensees within an identifiable area in the municipality with a concentrated number of licensees. Prior to submitting an application, the municipality shall adopt a local noise ordinance and a resolution adopted by its governing body confirming support of the application, citing the noise ordinance and their intention to enforce the ordinance in place of the board’s regulations. Upon receipt of an application, including a copy of the noise*

*ordinance and resolution, the board shall hold at least one public hearing on the application. The hearing may be held before a hearing examiner. The hearing shall take place within the identified area and must comply with all requirements of 65 Pa.C.S. Ch. 7 (relating to open meetings). Within sixty days after receipt of the application, the board shall, in its discretion, approve or disapprove the application for an exemption in its entirety or may approve an area more limited for which the exemption will be granted. 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.*

Section 28. Section 498(g) of the act, amended February 21, 2002 (P.L.103, No.10), is amended to read:

Section 498. Unlawful Advertising.— \* \* \*

(g) For purposes of this subsection, the term “advertisement” shall mean any advertising of alcoholic beverages through the medium of radio broadcast, television broadcast, newspapers, periodicals or other publication, outdoor advertisement, *any form of electronic transmission* or any other printed or graphic matter, including booklets, flyers or cards, or on the product label or attachment itself.

Section 29. Section 505.2(2) of the act, amended November 10, 1999 (P.L.514, No.47), is amended to read:

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

\* \* \*

(2) Sell alcoholic cider, wine and wine coolers produced by the limited winery or purchased in bulk in bond from another Pennsylvania limited winery on the licensed premises, under such conditions and regulations as the board may enforce, to the board, to individuals and to brewery, hotel, restaurant, club and public service liquor licensees, and to Pennsylvania winery licensees: Provided, That a limited winery shall not, in any calendar year, purchase alcoholic cider or wine produced by other limited wineries in an amount in excess of fifty per centum of the alcoholic cider or wine produced by the purchasing limited winery in the preceding calendar year. *In addition, the holder of a limited winery license may purchase wine in bottles from another Pennsylvania limited winery if these wines undergo a second fermentation process. Such wine may be sold in bottles bearing the purchasing limited winery’s label or the producing limited winery’s label. Such wines, if sold by the board, may be sold by the producing limited winery to the purchasing limited winery at a price lower than the price charged by the board.*

\* \* \*

Section 30. Sections 505.3 and 509 of the act, reenacted June 29, 1987 (P.L.32, No.14), are amended to read:

**[Section 505.3. Distilleries.—Distilleries of historical significance established more than one hundred years prior to January 1, 1975 which hold a license issued under section 505 may sell liquor produced by the distillery on the licensed premises under such conditions and regulations as the board may enforce.]**

**Section 509. License Must Be Posted; Business Hours.—**Licenses shall be issued by the board under its official seal. Every license so issued must at all times be posted in a conspicuous place where the business is carried on under it[, and said place of business must be kept open during general business hours of every day in the year except Sundays and legal holidays]. *Licenseses may be open every day except limited wineries which may be open as set forth by the board through regulations.*

**Section 31.** This act shall take effect as follows:

- (1) The amendment or addition of sections 305, 412 and 441(b) 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 9th day of December, A.D. 2002.

**MARK S. SCHWEIKER**