

No. 1987-14

AN ACT

HB 1000

Reenacting and amending the act of April 12, 1951 (P.L.90, No.21), entitled "An act relating to alcoholic liquors, alcohol and malt and brewed beverages; amending, revising, consolidating and changing the laws relating thereto; regulating and restricting the manufacture, purchase, sale, possession, consumption, importation, transportation, furnishing, holding in bond, holding in storage, traffic in and use of alcoholic liquors, alcohol and malt and brewed beverages and the persons engaged or employed therein; defining the powers and duties of the Pennsylvania Liquor Control Board; providing for the establishment and operation of State liquor stores, for the payment of certain license fees to the respective municipalities and townships, for the abatement of certain nuisances and, in certain cases, for search and seizure without warrant; prescribing penalties and forfeitures; providing for local option, and repealing existing laws," providing for the reestablishment, powers and duties of the board; providing ethical standards for the board and its members and employees; establishing administrative officers and units for the administration and enforcement of the act; providing for the powers and duties of the Auditor General, State Treasurer, Attorney General and Pennsylvania State Police; regulating advertising; further providing for licenses, for brand registration, for penalties, for funding and for disposition of moneys; and transferring personnel, property and appropriations.

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

Section 1. The title of the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code, is reenacted to read:

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.

Section 2. The heading of Article I of the act is reenacted to read:

ARTICLE I.
PRELIMINARY PROVISIONS.

Section 3. Section 101 of the act is reenacted to read:

Section 101. Short Title.—This act shall be known and may be cited as the “Liquor Code.”

Section 4. Section 102 of the act, amended July 10, 1957 (P.L.638, No.346), August 17, 1965 (P.L.346, No.182), December 2, 1970 (P.L.825, No.271), October 11, 1972 (P.L.906, No.215), December 12, 1980 (P.L.1195, No.221) and May 2, 1986 (P.L.141, No.44), is reenacted and amended to read:

Section 102. Definitions.—The following words or phrases, unless the context clearly indicates otherwise, shall have the meanings ascribed to them in this section:

“Alcohol” shall mean ethyl alcohol of any degree of proof originally produced by the distillation of any fermented liquid, whether rectified or diluted with or without water, whatever may be the origin thereof, and shall include synthetic ethyl alcohol, but shall not mean or include ethyl alcohol, whether or not diluted, that has been denatured or otherwise rendered unfit for beverage purposes.

“Association” shall mean a partnership, limited partnership or any form of unincorporated enterprise owned by two or more persons.

“Board” shall mean the Pennsylvania Liquor Control Board.

“Bonded warehouse” shall mean and include all places and warehouses legally established under the provisions of the acts of Congress and the administrative provisions of the internal revenue laws of the Government of the United States of America, for the storage, concentration, distribution and holding in bond, (a) of whiskey and any other potable distilled spirits, except ethyl alcohol, when used in Article VII entitled “Distillery Bonded Warehouse Certificates” and, (b) of alcohol or liquor when otherwise used.

“Club” shall mean any reputable group of individuals associated together not for profit for legitimate purposes of mutual benefit, entertainment, fellowship or lawful convenience, having some primary interest and activity to which the sale of liquor or malt and brewed beverages shall be only secondary, which, if incorporated, has been in continuous existence and operation for at least one year, and if first licensed after June sixteenth, one thousand nine hundred thirty-seven, shall have been incorporated in this Commonwealth, and, if unincorporated, for at least ten years, immediately preceding the date of its application for a license under this act, and which regularly occupies, as owner or lessee, a clubhouse or quarters for the use of its members. Continuous existence must be proven by satisfactory evidence. The board shall refuse to issue a license if it appears that the charter is not in possession of the original incorporators or their direct or legitimate successors. The club shall hold regular meetings, conduct its business through officers regularly elected, admit members by written application, investigation and ballot, and charge and collect dues from elected members, and maintain

such records as the board shall from time to time prescribe, but any such club may waive or reduce in amount, or pay from its club funds, the dues of any person who was a member at the time he was inducted into the military service of the United States or was enrolled in the armed forces of the United States pursuant to any selective service act during the time of the member's actual service or enrollment. The term includes a privately-owned private golf course.

"Container" shall mean and include any receptacle, vessel or form of package, tank, vat, cask, barrel, drum, keg, can, bottle or conduit used or capable of use for holding, storing, transferring or shipment of alcohol, liquor or malt or brewed beverages.

"Corporation" shall mean a corporation or joint-stock association organized under the laws of this Commonwealth, the United States, or any other state, territory, or foreign country or dependency.

"Denatured alcohol" shall mean and include all alcohol or any compound thereof which by the admixture of such denaturing material or materials is rendered unfit for use as a beverage.

"Denaturing plant" shall mean and include the premises of a distillery used exclusively for the denaturation of alcohol, either specially or completely, by the admixture of such denaturing materials as shall render the alcohol or any compound in which it is authorized to be used unfit for use as a beverage.

"Distillery" shall mean and include any premises or plant wherein alcohol or liquor is manufactured, made and distilled from raw materials, blended or rectified, or any place wherein alcohol or liquor is produced by any method suitable for the production of alcohol. The term shall not include a "winery" where alcohol is derived from by-products of wine production by distillation for the sole purpose of adding to the fermented products to fortify the same.

"Distillery Bonded Warehouse Certificate" shall mean a certificate, receipt, contract or other document given upon the storage of whiskey or any other potable distilled spirits, except ethyl alcohol, in a bonded warehouse, and evidencing the ownership of such whiskey or other potable distilled spirits.

"Distillery certificate broker" shall mean and include every person who engages directly or through an agent in selling, purchasing, exchanging, offering for sale or delivery, or entering into agreements for the purchase, sale or exchange, or soliciting subscriptions to or orders for, or undertaking to dispose of, or dealing in any manner in, distillery bonded warehouse certificates.

"Distributor" shall mean any person licensed by the board to engage in the purchase only from Pennsylvania manufacturers and from importing distributors and the resale of malt or brewed beverages, except to importing distributors and distributors, in the original sealed containers as prepared for the market by the manufacturer at the place of manufacture, but not for consumption on the premises where sold, and in quantities of not less than a case of twenty-four containers, each container holding seven fluid ounces or more, or a case of twelve containers, each container holding twenty-four

fluid ounces or more, except original containers containing one hundred twenty-eight ounces or more which may be sold separately.

“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 accommodating thirty persons at one time.

“*Enforcement bureau*” shall mean the *Bureau of Liquor Control Enforcement of the Pennsylvania State Police*.

“Golf course” shall mean a course having a minimum of nine holes and a total length of at least twenty-five hundred yards. The term includes a privately-owned private golf course.

“Hotel” shall mean any reputable place operated by responsible persons of good reputation where the public may, for a consideration, obtain sleeping accommodations and meals and which, in a city, has at least ten, and in any other place at least six, permanent bedrooms for the use of guests, a public dining room or rooms operated by the same management accommodating at least thirty persons at one time, and a kitchen, apart from the public dining room or rooms, in which food is regularly prepared for the public.

“Importing distributor” shall mean any person licensed by the board to engage in the purchase from manufacturers and other persons located outside this Commonwealth and from persons licensed as manufacturers of malt or brewed beverages and importing distributors under this act, and the resale of malt or brewed beverages in the original sealed containers as prepared for the market by the manufacturer at the place of manufacture, but not for consumption on the premises where sold, and in quantities of not less than a case of twenty-four containers, each container holding seven fluid ounces or more, or a case of twelve containers, each container holding twenty-four fluid ounces or more, except original containers containing one hundred twenty-eight ounces or more which may be sold separately.

“Limited Winery” shall mean a winery with a maximum output of **[one hundred thousand (100,000)] two hundred thousand (200,000)** gallons per year.

“Liquor” shall mean and include any alcoholic, spirituous, vinous, fermented or other alcoholic beverage, or combination of liquors and mixed liquor a part of which is spirituous, vinous, fermented or otherwise alcoholic, including all drinks or drinkable liquids, preparations or mixtures, and reused, recovered or redistilled denatured alcohol usable or taxable for beverage purposes which contain more than one-half of one per cent of alcohol by volume, except pure ethyl alcohol and malt or brewed beverages.

“Malt or Brewed Beverages” means any beer, lager beer, ale, porter or similar fermented malt beverage containing one-half of one per centum or more of alcohol by volume, by whatever name such beverage may be called.

“Manufacture”, when the term is applied to malt or brewed beverages, shall mean and include all means, methods and processes used, employed and made use of, to produce, make and manufacture for commercial pur-

poses, malt or brewed beverages from raw materials; when applied otherwise, it shall mean and include all means, methods and processes used, employed and made use of, to produce and make alcohol or liquor from raw materials, and shall mean and include rectification and blending of alcohol and liquor, the production, recovery or reuse of alcohol in the making, developing, using in the process of manufacture, denaturing, redistilling or recovering of any alcohol or liquor in distilleries, denaturing plants and wineries.

“Manufacturer” shall mean any person, association or corporation engaged in the producing, manufacturing, distilling, rectifying or compounding of liquor, alcohol or malt or brewed beverages in this Commonwealth or elsewhere.

“Manufacturer of malt or brewed beverages” shall mean any person holding a license issued by the board to engage in the manufacture, transportation and sale of malt or brewed beverages; also, any person engaged in the legal manufacture of malt or brewed beverages within the territorial limits of the United States, outside the Commonwealth of Pennsylvania.

“Municipality” shall mean any city, borough, incorporated town, or township of this Commonwealth.

“Original container” shall mean all bottles, casks, kegs or other suitable containers that have been securely capped, sealed or corked by the manufacturer of malt or brewed beverages at the place of manufacture, with the name and address of the manufacturer of the malt or brewed beverages contained or to be contained therein permanently affixed to the bottle, cask, keg or other container, or in the case of a bottle or can, to the cap or cork used in sealing the same or to a label securely affixed to a bottle or can.

“Package” shall mean any container or containers or receptacle or receptacles used for holding liquor or alcohol as marketed by the manufacturer.

“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.

“Person” shall mean a natural person, association or corporation. Whenever used in a clause prescribing or imposing a fine or imprisonment or both, the term “person”, as applied to “association”, shall mean the partners or members thereof, and as applied to “corporation”, shall mean the officers thereof, except, as to incorporated clubs, the term “person” shall mean such individual or individuals who, under the by-laws of such club, shall have jurisdiction over the possession and sale of liquor therein.

“Population” shall mean the number of inhabitants as determined by the last preceding decennial census of the United States, or by any other census subsequently taken by the census bureau of the United States and so certified by it: Provided, however, That such other census shall not be a basis for the fixing of license fees as provided in article IV. sections 405 and 439.

“Potable distilled spirits” shall mean and include any distillate from grains, wine, fruits, vegetables or molasses, except ethyl alcohol, capable of being used for beverage purposes.

“Regulation” shall mean any regulation prescribed by the board for carrying out the provisions of this act.

“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 accommodating at least thirty persons at one time.

“Retail dispenser” shall mean any person licensed to engage in the retail sale of malt or brewed beverages for consumption on the premises of such licensee, with the privilege of selling malt or brewed beverages in quantities not in excess of [~~one hundred forty-four~~] *one hundred ninety-two* fluid ounces in a single sale to one person, to be carried from the premises by the purchaser thereof.

“Sale” or “Sell” shall include any transfer of liquor, alcohol or malt or brewed beverages for a consideration.

“Whiskey” shall mean and include any alcoholic distillate from a fermented mash of grain, capable of being used for beverage purposes.

“Winery” shall mean and include any premises and plants where any alcohol or liquor is produced by the process by which wine is produced, or premises and plants wherein liquid such as wine is produced; and shall include the manufacture by distillation of alcohol from the by-products of wine fermentation when the alcohol so derived is used solely to fortify the fermented products, under such regulations as are or may be promulgated by the proper agency of the United States Government, and such alcohol, for that purpose only, may be sold or exchanged between wineries holding permits in this Commonwealth, without restriction.

Section 5. Section 103 of the act is reenacted to read:

Section 103. Saving Clause.—The provisions of this act, so far as they are the same as those of existing laws, are intended as a continuation of such laws and not as new enactments. The repeal by this act of any act of Assembly or part thereof shall not revive any act or part thereof heretofore repealed or superseded. The provisions of this act shall not affect any act done, liability incurred or right accrued or vested, or affect any suit or prosecution pending or to be instituted to enforce any right or penalty or punish any offense under the authority of such repeal laws. All regulations and rules made and all licenses and permits issued pursuant to any act repealed by this act shall continue with the same force and effect as if such act had not been repealed.

Section 6. Section 104 of the act is reenacted to read:

Section 104. Interpretation of Act.—(a) This act shall be deemed an exercise of the police power of the Commonwealth for the protection of the public welfare, health, peace and morals of the people of the Commonwealth and to prohibit forever the open saloon, and all of the provisions of this act shall be liberally construed for the accomplishment of this purpose.

(b) The provisions of this act are severable and if any of its provisions shall be held unconstitutional the decision of the court shall not affect or impair any of the remaining provisions of this act. It is hereby declared to be

the legislative intent that this act would have been adopted had such unconstitutional provisions not been included herein.

(c) Except as otherwise expressly provided, the purpose of this act is to prohibit the manufacture of and transactions in liquor, alcohol and malt or brewed beverages which take place in this Commonwealth, except by and under the control of the board as herein specifically provided, and every section and provision of the act shall be construed accordingly. The provisions of this act dealing with the manufacture, importation, sale and disposition of liquor, alcohol and malt or brewed beverages within the Commonwealth through the instrumentality of the board and otherwise, provide the means by which such control shall be made effective. This act shall not be construed as forbidding, affecting or regulating any transaction which is not subject to the legislative authority of this Commonwealth.

(d) Any reference in this act to the provisions of law on any subject shall apply to statutes becoming effective after the effective date of this act as well as to those then in existence.

(e) Section headings shall not be taken to govern or limit the scope of the sections of this act. The singular shall include the plural and the masculine shall include the feminine and the neuter.

Section 7. The heading of Article II of the act is reenacted to read:

ARTICLE II.
PENNSYLVANIA LIQUOR CONTROL BOARD.

Section 8. Section 201 of the act, amended November 23, 1976 (P.L.1123, No.235), is reenacted and amended to read:

Section 201. Appointment of Members; Terms; Salaries.—An independent administrative board to be known as the “Pennsylvania Liquor Control Board” is hereby created. The board shall consist of three members to be appointed by the Governor by and with the advice and consent of two-thirds of all the members of the Senate. **Of the original members, one shall be appointed for a term of two years, one for a term of four years, and one for a term of six years from the date of his appointment and until his successor shall have been appointed and qualified. Thereafter, all appointments shall be for terms of six years or until successors are appointed and qualified., not more than two of whom shall be from the same political party as the Governor. Of the members first appointed after the effective date of this amendatory act, one member shall serve a term of three years, one member shall serve a term of four years, and one member shall serve a term of five years. Subsequent terms shall be for four years, ending on the third Tuesday in May. No member upon the expiration of his term shall continue to hold office until his successor shall be duly appointed and qualified.** Each of the members shall receive an annual salary of [twenty-four thousand dollars (\$24,000), except the chairman, who shall receive an annual salary of twenty-five thousand dollars (\$25,000)] *forty thousand dollars (\$40,000), except the chairman, who shall receive an annual salary of forty-two thousand dollars (\$42,000).*

Section 9. Sections 202, 203, 204, 205 and 206 of the act are reenacted and amended or reenacted and the act is amended by adding a section to read:

Section 202. Qualifications of Members.—(a) Each member of the board at the time of his appointment and qualification shall be a citizen of the United States and a resident of the Commonwealth of Pennsylvania, shall have been a qualified elector in the Commonwealth for a period of at least one year next preceding his appointment, and shall be not less than **[thirty] twenty-one** years of age.

(b) No member of the board during his period of service as such shall hold any other office under the laws of this Commonwealth or of the United States.

(c) *Board members shall devote full time to their official duties. No board member shall hold any office or position the duties of which are incompatible with his board duties.*

Section 203. Chairman of Board.—**[The board shall elect one of its members as chairman]** (a) *The Governor shall designate one of the board members as chairman who shall serve in that position at the pleasure of the Governor.* The chairman shall, when present, preside at all meetings, and in his absence a member designated by the chairman shall preside.

(b) Two members of the board shall constitute a quorum, and any action or order of the board shall require the approval of at least two members.

Section 204. Secretary of Board.—The board may appoint a secretary to hold office at its pleasure. The secretary, if appointed, shall have such powers and shall perform such duties not contrary to law as the board shall prescribe, and shall receive such compensation as the board, with the approval of the Governor, shall determine. The secretary shall have power and authority to designate, from time to time, one of the clerks appointed by the board to perform the duties of the secretary during his absence and the clerk so appointed shall exercise, for the time so designated, the powers of the secretary of the board.

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 **[Pennsylvania Liquor Control Board] 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 **[Department of Justice] Attorney General**, and unless the Common-

wealth shall establish its own indemnity fund, all such bonds shall be given with security approved by the [Department of Justice] *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 [Department of Justice] *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. Board Subject to Administrative Code.—Except as otherwise expressly provided by law, the board shall be subject to all the provisions of The Administrative Code of one thousand nine hundred twenty-nine, as amended, which apply generally to independent administrative boards and commissions.

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 employees and employees 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.

Section 10. Section 207 of the act, amended May 25, 1956 (1955 P.L.1743, No.583), January 13, 1966 (1965 P.L.1301, No.518), June 17, 1971 (P.L.180, No.22) and July 27, 1973 (P.L.247, No.70), is reenacted and amended to read:

Section 207. General Powers of Board.—Under this act, the board shall have the power and its duty shall be:

(a) To buy, import or have in its possession for sale, and sell liquor and alcohol in the manner set forth in this act: Provided, however, That all purchases shall be made subject to the approval of the State Treasurer, or his designated deputy. *The board shall buy liquor and alcohol at the lowest price and in the greatest variety reasonably obtainable.*

(b) To control the manufacture, possession, sale, consumption, importation, use, storage, transportation and delivery of liquor, alcohol and malt or brewed beverages in accordance with the provisions of this act, and to fix the wholesale and retail prices at which liquors and alcohol shall be sold at Pennsylvania Liquor Stores[: *Provided, That in fixing the sale prices, the board shall not give any preference or make any discrimination as to classes, brands or otherwise, except to the extent and for the length of time necessary to sell*

such classes or brands in compliance with any Federal action freezing or otherwise controlling the price of said classes or brands, or except where special sales are deemed necessary to move unsaleable merchandise, or except where the addition of a service or handling charge to the fixed sales price of any merchandise in the same comparable price bracket, regardless of class, brand or otherwise, is, in the opinion of the board, required for the efficient operation of the State store system]. *Prices shall be proportional with prices paid by the board to its suppliers and shall reflect any advantage obtained through volume purchases by the board. The board may establish a preferential price structure for wines produced within this Commonwealth for the promotion of such wines, as long as the price structure is uniform within each class of wine purchased by the board.* The board shall require each Pennsylvania manufacturer and each nonresident manufacturer of liquors, other than wine, selling such liquors to the board, which are not manufactured in this Commonwealth, to make application for and be granted a permit by the board before such liquors not manufactured in this Commonwealth shall be purchased from such manufacturer. Each such manufacturer shall pay for such permit a fee which, in the case of a manufacturer of this Commonwealth, shall be equal to that required to be paid, if any, by a manufacturer or wholesaler of the state, territory or country of origin of the liquors, for selling liquors manufactured in Pennsylvania, and in the case of a nonresident manufacturer, shall be equal to that required to be paid, if any, in such state, territory or country by Pennsylvania manufacturers doing business in such state, territory or country. In the event that any such manufacturer shall, in the opinion of the board, sell or attempt to sell liquors to the board through another person for the purpose of evading this provision relating to permits, the board shall require such person, before purchasing liquors from him or it, to take out a permit and pay the same fee as hereinbefore required to be paid by such manufacturer. All permit fees so collected shall be paid into the State Stores Fund. The board shall not purchase any alcohol or liquor fermented, distilled, rectified, compounded or bottled in any state, territory or country, the laws of which result in prohibiting the importation therein of alcohol or liquor, fermented, distilled, rectified, compounded or bottled in Pennsylvania.

(c) To determine the municipalities within which Pennsylvania Liquor Stores shall be established and the locations of the stores within such municipalities.

(d) To *grant and issue all licenses and to grant, issue, suspend and revoke all [licenses and] permits authorized to be issued under this act [and the regulations of the board and impose fines on licensees licensed under this act].*

(e) Through the Department of **[Property and Supplies] General Services** as agent, to lease and furnish and equip such buildings, rooms and other accommodations as shall be required for the operation of this act.

(f) To appoint, fix the compensation and define the powers and duties of such managers, officers, inspectors, examiners, clerks and other employes as shall be required for the operation of this act, subject to the provisions of The Administrative Code of 1929 and the Civil Service Act.

(g) To determine the nature, form and capacity of all packages and original containers to be used for containing liquor, alcohol or malt or brewed beverages.

(h) Without in any way limiting or being limited by the foregoing, to do all such things and perform all such acts as are deemed necessary or advisable for the purpose of carrying into effect the provisions of this act and the regulations made thereunder.

(i) From time to time, to make such regulations not inconsistent with this act as it may deem necessary for the efficient administration of this act. The board shall cause such regulations to be published and disseminated throughout the Commonwealth in such manner as it shall deem necessary and advisable or as may be provided by law. Such regulations adopted by the board shall have the same force as if they formed a part of this act.

(j) **[To investigate, whenever any person complains, or when the board is aware that there is reasonable grounds to believe liquor or malt or brewed beverage is being sold on premises not licensed under the provisions of this act. If the investigation produces evidence of the unlawful sale of liquor or malt or brewed beverage or of any other violation of the provisions of this act, the board shall cause the prosecution of the person or persons believed to have been criminally liable for the unlawful acts. Any equipment or appurtenances actually used in the commission of the unlawful acts may be confiscated upon direction of the board. The confiscation by or under the direction of the board shall not, in any manner, divest or impair the rights or interest of any bona fide lien holder in the equipment or appurtenances, who had no knowledge that the same was being used in violation of this act.]** *By regulation, to provide for the use of a computerized referral system to assist consumers in locating special items at Pennsylvania Liquor Stores and for the use of electronic transfer of funds and credit cards for the purchase of liquor and alcohol at Pennsylvania Liquor Stores.*

Section 11. Section 208 of the act, amended July 22, 1970 (P.L.539, No.182) and October 11, 1972 (P.L.906, No.215), is reenacted to read:

Section 208. Specific Subjects on Which Board May Adopt Regulations.—Subject to the provisions of this act and without limiting the general power conferred by the preceding section, the board may make regulations regarding:

(a) The equipment and management of Pennsylvania Liquor Stores and warehouses in which liquor and alcohol are kept or sold, and the books and records to be kept therein.

(b) The duties and conduct of the officers and employes of the board.

(c) The purchase, as provided in this act, of liquor and alcohol, and its supply to Pennsylvania Liquor Stores.

(d) The classes, varieties and brands of liquor and alcohol to be kept and sold in Pennsylvania Liquor Stores. In making this determination the board shall meet not less than twice a year.

(e) The issuing and distribution of price lists for the various classes, varieties or brands of liquor and alcohol kept for sale by the board under this act.

(f) The labeling of liquor and alcohol sold under this act and of liquor and alcohol lawfully acquired by any person prior to January first, one thousand nine hundred thirty-four.

(g) Forms to be used for the purposes of this act.

(h) The issuance of licenses and permits and the conduct, management, sanitation and equipment of places licensed or included in permits.

(i) The place and manner of depositing the receipts of Pennsylvania Liquor Stores and the transmission of balances to the Treasury Department through the Department of Revenue.

(j) The solicitation by resident or nonresident vendors of liquor from Pennsylvania licensees and other persons of orders for liquor to be sold through the Pennsylvania Liquor Stores and, in the case of nonresident vendors, the collection therefrom of license fees for such privilege at the same rate as provided herein for importers' licenses.

Section 12. Section 209 of the act is repealed.

Section 13. Section 210 of the act is reenacted and amended to read:

Section 210. Restrictions on Members of the Board and *Certain* Employees of Commonwealth.—(a) A member or employe of the board *or enforcement bureau or a member of the immediate family of a member or employe of the board or enforcement bureau* shall not be directly or indirectly interested or engaged in any other business or undertaking dealing in liquor, alcohol, or malt or brewed beverages, whether as owner, part owner, partner, member of syndicate, shareholder, agent or employe, and whether for his own benefit or in a fiduciary capacity for some other person.

(b) No member or employe of the board *or enforcement bureau or a member of the immediate family of a member or employe of the board or enforcement bureau* nor any employe of the Commonwealth shall solicit or receive, directly or indirectly, any commission, remuneration or gift whatsoever, from any person having sold, selling or offering liquor or alcohol for sale to the board for use in Pennsylvania Liquor Stores.

(c) *No person convicted of an infamous crime may be employed as a member or employe by the board or enforcement bureau.*

(d) *No member or employe of the board or enforcement bureau may use his position with the board or enforcement bureau, or any confidential information received through his position with the board or enforcement bureau, to obtain financial gain, other than compensation provided by law, for himself, a member of his immediate family or a business with which he is associated.*

(e) *No person may offer or give to a member or employe of the board or enforcement bureau or a member of his immediate family or a business with which he is associated, and no member or employe of the board or enforcement bureau may solicit or accept anything of value, including a gift, loan, political contribution, reward or promise of future employment, based on an understanding that the vote, official action or judgment of the member or employe of the board or enforcement bureau would be influenced thereby.*

(f) *No member or employe of the board or enforcement bureau or a member of his immediate family or any business in which the member or*

employe or a member of his immediate family is a director, officer or owner or holder of stock exceeding five percent (5%) of the equity at fair market value of the business may enter into any contract valued at five hundred dollars (\$500) or more to provide goods or services to the board or enforcement bureau unless the contract has been awarded to the lowest responsible bidder through an open and public process, including prior public notice and subsequent public disclosure of all proposals considered and contracts awarded.

(g) No former member or employe of the board or enforcement bureau may represent a person, with or without compensation, on any matter before the board or enforcement bureau for one year after leaving the board or enforcement bureau.

(h) No member or employe of the board or enforcement bureau or an advisor or consultant thereto having recommended to the board or enforcement bureau either the making of a contract or a course of action of which the making of a contract is an express or implied part, may, at any time thereafter, have an adverse interest in that contract.

(i) No member or employe of the board or enforcement bureau may influence or attempt to influence the making of, or supervise or deal with, a contract with the board or enforcement bureau in which he has an adverse interest.

(j) No member or employe of the board or enforcement bureau may have an adverse interest in a contract with the board or enforcement bureau.

(k) No person having an adverse interest in a contract with the board or enforcement bureau may become an employe of the board or enforcement bureau until the adverse interest has been wholly divested.

(l) No member or employe of the board or enforcement bureau, except in the performance of his duties as such employe, may, for remuneration, directly or indirectly, represent a person upon a matter pending before the board or enforcement bureau.

(m) (1) Any person who violates the provisions of this section shall have his employment by the board or enforcement bureau immediately terminated by the appropriate person having the power to terminate and shall be liable to the board or enforcement bureau to reimburse the board or enforcement bureau for all compensation received by him from the board or enforcement bureau while employed in violation of subsection (c).

(2) Any person who violates the provisions of subsections (b), (d) or (e) shall be guilty of a felony and, upon conviction thereof, shall be sentenced to pay a fine of not more than ten thousand dollars (\$10,000) or to undergo imprisonment for not more than five (5) years, or both.

(3) Any person who violates the provisions of subsections (a) or (f) through (l) shall be guilty of a misdemeanor and, upon conviction thereof, shall be sentenced to pay a fine of not more than one thousand dollars (\$1,000) or to undergo imprisonment for not more than one (1) year, or both.

(4) Any person who obtains financial gain from violating any provisions of this section, in addition to any other penalty provided by law, shall pay

into the accounts of the board a sum of money equal to three (3) times the financial gain resulting from the violation.

(5) Any person who violates the provisions of this section shall be barred for a period of five (5) years from engaging in any business or contract with the board or enforcement bureau.

(6) The penalties and sanctions provided by this subsection shall supersede any similar penalties and sanctions provided by the act of July 19, 1957 (P.L.1017, No.451), known as the "State Adverse Interest Act," and the act of October 4, 1978 (P.L.883, No.170), referred to as the Public Official and Employee Ethics Law.

(n) As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Business" shall mean a corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint-stock company, receivership, trust or legal entity organized for profit or as a not-for-profit corporation or organization.

"Immediate family" shall mean a parent, spouse, child, brother, sister or like relative-in-law.

"Infamous crime" shall mean a violation and conviction for an offense which would disqualify an individual from holding public office pursuant to section 6 of Article II of the Constitution of Pennsylvania; a conviction within the preceding ten (10) years for a violation of this section or of 18 Pa.C.S. § 4113 (relating to misapplication of entrusted property and property of government or financial institutions), Ch. 47 (relating to bribery and corrupt influence), Ch. 49 (relating to falsification and intimidation), Ch. 51 (relating to obstructing governmental operations) or Ch. 53 (relating to abuse of office); or a violation of the laws of this Commonwealth or another state or the Federal Government for which an individual has been convicted within the preceding ten (10) years and which is classified as a felony.

Section 14. The act is amended by adding sections to read:

Section 211. Enforcement.—(a) There is created within the Pennsylvania State Police a Bureau of Liquor Control Enforcement which shall be responsible for enforcing this act and any regulations promulgated pursuant thereto. Officers and investigators assigned to the bureau shall have the power and their duty shall be:

(1) To investigate whenever there are reasonable grounds to believe liquor, alcohol or malt or brewed beverages are being sold on premises not licensed under the provisions of this act. If the investigation produces evidence of the unlawful sale of liquor or malt or brewed beverages or any other violation of the provisions of this act, the officer involved in the investigation shall institute criminal proceedings against the person or persons believed to have been criminally liable, as otherwise provided by law or rule of court.

(2) To arrest on view, except in private homes, without warrant, any person actually engaged in the unlawful sale, importation, manufacture or transportation or having unlawful possession of liquor, alcohol or malt or brewed beverages contrary to the provisions of this act or any other law of this Commonwealth.

(3) *Upon reasonable and probable cause, to search for and to seize, without warrant or process, except in private homes, any liquor, alcohol or malt or brewed beverages unlawfully possessed, manufactured, sold, imported or transported and any stills, equipment, materials, utensils, vehicles, boats, vessels, animals, aircraft, or any of them, which are or have been used in the unlawful manufacture, sale, importation or transportation of the same. Such liquor, alcohol, malt or brewed beverages, stills, equipment, materials, utensils, vehicles, boats, vessels, animals or aircraft so seized shall be disposed of as hereinafter provided.*

(4) *To investigate and issue citations for any violations of this act or any laws of this Commonwealth relating to liquor, alcohol or malt or brewed beverages, or any regulations of the board adopted pursuant to such laws or any violation of any laws of this Commonwealth or of the Federal Government, relating to the payment of taxes on liquor, alcohol or malt or brewed beverages by any licensee, his officers, servants, agents or employes.*

(b) *Any equipment or appurtenance actually used in the commission of the unlawful acts may be confiscated. The confiscation shall not, in any manner, divest or impair the rights or interest of any bona fide lienholder in the equipment or appurtenance.*

(c) *The Pennsylvania State Police Commissioner shall assign State Police Officers to such supervisory and other capacities in the enforcement bureau as he deems necessary. All other personnel of the enforcement bureau shall be civilians.*

(d) *The Office of Chief Counsel for the Pennsylvania State Police shall represent the enforcement bureau in all enforcement proceedings brought before the Office of Administrative Law Judge or any other adjudicatory body.*

Section 212. Office of Administrative Law Judge.—(a) *There is hereby created within the board an autonomous office to be known as the Office of Administrative Law Judge.*

(b) *The Governor shall appoint from a list of qualified candidates submitted by the Civil Service Commission after appropriate examination under the act of August 5, 1941 (P.L. 752, No. 286), known as the "Civil Service Act," as many administrative law judges as the board, with the approval of the Governor, deems necessary for the holding of hearings required or permitted under this act. The Governor shall designate one of the civil service appointees as the chief administrative law judge.*

(c) *Administrative law judges shall preside at all citation and other enforcement hearings required or permitted under this act.*

(d) *Administrative law judges appointed under this section shall be learned in the law and shall be members in good standing of the bar of the Supreme Court of Pennsylvania.*

(e) *Compensation for the administrative law judges shall be established by the Executive Board.*

(f) *Administrative law judges shall devote full time to their official duties and shall perform no duties inconsistent with their duties and responsibilities as administrative law judges.*

(g) *Administrative law judges appointed under this section shall be afforded employment security as provided by the "Civil Service Act."*

(h) *Nothing in this section or this act shall be construed or intended to change or affect the terms and conditions of employment or the employment security of hearing examiners employed by the board on the effective date of this section.*

Section 213. Bureau of Consumer Relations.—*The board shall establish a Bureau of Consumer Relations which shall be responsible for handling all consumer complaints and suggestions. The bureau shall develop a system-wide program for investigating all complaints and suggestions and implementing improvements into the State store system.*

Section 214. Prohibitions.—(a) *The board may not make a contract or otherwise do business with a corporation, vendor or service contractor that has not complied with the regulatory and statutory requirements of any other administrative agency.*

(b) *The board may not make a contract or otherwise do business with a transportation carrier for hire of liquor, wine or malt or brewed beverages which (carrier) has not obtained the proper permits from the Pennsylvania Public Utility Commission under 66 Pa.C.S. Ch. 25 (relating to contract carrier by motor vehicle and broker).*

Section 215. Wine Marketing.—(a) *There is hereby established within the board the Bureau of Wine which shall be responsible for the purchasing and the wholesale and retail marketing of premium wines so as to make these wines available to Pennsylvania consumers at competitive prices and in a convenient atmosphere.*

(b) *The management of the bureau shall be vested in a director, who shall be assisted by such other personnel as the board deems necessary.*

(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 15. The heading of Article III of the act is reenacted to read:

ARTICLE III.
PENNSYLVANIA LIQUOR STORES.

Section 16. Section 301 of the act, amended July 9, 1976 (P.L.527, No.125), is reenacted and amended to read:

Section 301. Board to Establish State Liquor Stores.—(a) The board shall establish, operate and maintain at such places throughout the Commonwealth as it shall deem essential and advisable, stores to be known as “Pennsylvania Liquor Stores,” for the sale of liquor and alcohol in accordance with the provisions of and the regulations made under this act; except that no store not so already located shall be located within three hundred feet of any elementary or secondary school, nor within a dry municipality without there first having been a referendum approving such location. When the board shall have determined upon the location of a liquor store in any municipality, it shall give notice of such location by public advertisement in two newspapers of general circulation. In cities of the first class, the location shall also be posted for a period of at least fifteen days following its determination by the board as required in section 403(g) of this act. The notice shall be posted in a conspicuous place on the outside of the premises in which the proposed store is to operate or, in the event that a new structure is to be built in a similarly visible location. If, within five days after the appearance of such advertisement, or of the last day upon which the notice was posted, fifteen or more taxpayers residing within a quarter of a mile of such location, or the City Solicitor of the city of the first class, shall file a protest with the court of common pleas of the county averring that the location is objectionable because of its proximity to a church, a school, or to private residences, the court shall forthwith hold a hearing affording an opportunity to the protestants and to the board to present evidence. The court shall render its decision immediately upon the conclusion of the testimony and from the decision there shall be no appeal. If the court shall determine that the proposed location is undesirable for the reasons set forth in the protest, the board shall abandon it and find another location. The board may establish, operate and maintain such establishments for storing and testing liquors as it shall deem expedient to carry out its powers and duties under this act.

(b) The board may lease the necessary premises for such stores or establishments, but all such leases shall be made through the Department of General Services as agent of the board. The board, through the Department of General Services, shall have authority to purchase such equipment and appointments as may be required in the operation of such stores or establishments.

Section 17. Sections 302 and 303 of the act are reenacted to read:

Section 302. Selection of Personnel.—Officers and employes of the board, except as herein otherwise provided, shall be appointed and employed subject to the provisions of the Civil Service Act.

Section 303. Management of Pennsylvania Liquor Stores.—Every Pennsylvania Liquor Store shall be conducted by a person appointed in the manner provided in the Civil Service Act who shall be known as the

“manager” and who shall, under the directions of the board, be responsible for carrying out the provisions of this act and the regulations adopted by the board under this act as far as they relate to the conduct of such stores.

Section 18. Section 304 of the act, amended March 5, 1973 (P.L.1, No.1), is reenacted and amended to read:

Section 304. When Sales May Be Made at Pennsylvania Liquor Stores.—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, **but shall not be open longer than fourteen hours in any one day nor later than eleven o'clock postmeridian**: 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.

Section 19. Section 305 of the act, amended October 21, 1965 (P.L.642, No.316), October 11, 1972 (P.L.906, No.215), June 17, 1974 (P.L.352, No.115), October 2, 1974 (P.L.668, No.222) and October 4, 1974 (P.L.672, No.224), is reenacted and amended to read:

Section 305. Sales by Pennsylvania Liquor Stores.—(a) Every Pennsylvania Liquor Store shall keep in stock for sale such classes, varieties and brands of liquor and alcohol as the board shall prescribe. If any person shall desire to purchase any class, variety or brand of liquor or alcohol which any such store does not have in stock, it shall be the duty of such store immediately to order the same upon the payment of a reasonable deposit by the purchaser in such proportion of the approximate cost of the order as shall be prescribed by the regulations of the board. *No purchaser may be required to purchase more than two bottles or containers of the product, provided that such product is available through the State store system.* The customer shall be notified immediately upon the arrival of the goods.

In computing the retail price of such special orders for liquor or alcohol, the board shall not include the cost of freight or shipping before applying the mark-up and taxes but shall add the freight or shipping charges to the price after the mark-up and taxes have been applied.

Unless the customer pays for and accepts delivery of any such special order within **[five] ten** days after notice of arrival, the store may place it in stock for general sale and the customer's deposit shall be forfeited.

(b) Every Pennsylvania Liquor Store shall sell liquors at wholesale to hotels, restaurants, clubs, and railroad, pullman and steamship companies licensed under this act; and, under the regulations of the board, to pharmacists duly licensed and registered under the laws of the Commonwealth, and to manufacturing pharmacists, and to reputable hospitals approved by the board, or chemists. The board may sell to registered pharmacists only such liquors as conform to the Pharmacopoeia of the United States, the National

Formulary, or the American Homeopathic Pharmacopoeia. The board may sell at special prices under the regulations of the board, to United States Armed Forces facilities which are located on United States Armed Forces installations and are conducted pursuant to the authority and regulations of the United States Armed Forces. All other sales by such stores shall be at retail. **[No liquor shall be sold except for cash, except that the board may, by regulation, authorize the acceptance of checks for liquor sold at wholesale. The board shall have power to designate certain stores for wholesale or retail sales exclusively.]** *A person entitled to purchase liquor at wholesale prices may purchase the liquor at any Pennsylvania Liquor Store upon tendering cash, check or credit card for the full amount of the purchase. For this purpose, the board shall issue a discount card to each licensee identifying such licensee as a person authorized to purchase liquor at wholesale prices. Such discount card shall be retained by the licensee. The board may contract through the Commonwealth bidding process for delivery to wholesale licensees at the expense of the licensee receiving the delivery.*

(c) Whenever any checks issued in payment of liquor or alcohol purchased from State Liquor Stores by persons holding wholesale purchase permit cards issued by the board shall be returned to the board as dishonored, the board shall charge a fee of five dollars per hundred dollars or fractional part thereof, plus all protest fees, to the maker of such check submitted to the board. Failure to pay the face amount of the check in full and all charges thereon as herein required within ten days after demand has been made by the board upon the maker of the check shall be cause for revocation or suspension of any license issued by the board to the person who issued such check and the cancellation of the wholesale purchase permit card held by such person.

(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.

(e) The board may sell tax exempt alcohol to the Commonwealth of Pennsylvania and to persons to whom the board shall, by regulation to be promulgated by it, issue special permits for the purchase of such tax exempt alcohol.

Such permits may be issued to the United States or any governmental agency thereof, to any university or college of learning, any laboratory for use exclusively in scientific research, any hospital, sanitorium, eleemosynary institution or dispensary; to physicians, dentists, veterinarians and pharmacists duly licensed and registered under the laws of the Commonwealth of Pennsylvania; to manufacturing chemists and pharmacists or other persons for use in the manufacture or compounding of preparations unfit for beverage purposes.

(f) Every purchaser of liquor or alcohol from a Pennsylvania Liquor Store shall receive a numbered receipt which shall show the price paid therefor, and such other information as the board may prescribe. Copies of all

receipts issued by a Pennsylvania Liquor Store shall be retained by and shall form part of the records of such store.

(g) The board is hereby authorized and empowered to adopt and enforce appropriate rules and regulations to insure the equitable wholesale and retail sale and distribution, through the Pennsylvania Liquor Stores, of available liquor and alcohol at any time when the demand therefor is greater than the supply.

(h) Every Pennsylvania Liquor Store shall sell gift certificates which may be redeemed for liquor.

Section 20. Section 306 of the act is reenacted and amended to read:

Section 306. Audits by Auditor General.—(a) It shall be the duty of the Department of the Auditor General to make all audits which may be necessary in connection with the administration of the financial affairs of the board and the Pennsylvania Liquor Stores operated and maintained by the board. *Such audits shall be conducted in accordance with generally accepted accounting principles. Nothing herein shall be construed to require the Auditor General to conduct biannual inventories.*

(b) At least one audit shall be made each year of the affairs of the board, and all collections made by the Pennsylvania Liquor Stores shall be audited quarterly. *A copy of the annual audit of the affairs of the board shall be submitted to each member of the General Assembly.*

(c) Special audits of the affairs of the board and the Pennsylvania Liquor Stores maintained and operated by the board may be made whenever they may, in the judgment of the Auditor General, appear necessary, and shall be made whenever the Governor shall call upon the Auditor General to make them.

(d) Copies of all audits made by the Department of the Auditor General shall be promptly submitted to the board and to the Governor.

(e) Unless the Department of the Auditor General shall neglect or refuse to make annual, quarterly or special Audits, as hereinabove required, it shall be unlawful for the board to expend any money appropriated to it by the General Assembly for any audit of its affairs, except for the payment of the compensation and expenses of such auditors as are regularly employed as part of the administrative staff of the board.

Section 21. The headings of Article IV and Subdivision (A) of Article IV of the act are reenacted to read:

ARTICLE IV.

LICENSES AND REGULATIONS; LIQUOR, ALCOHOL AND MALT AND BREWED BEVERAGES.

(A) Liquor and Alcohol (Not Including Manufacturers).

Section 22. Section 401 of the act, amended June 1, 1972 (P.L.355, No.95), is reenacted and amended to read:

Section 401. Authority to Issue Liquor Licenses to Hotels, Restaurants and Clubs.—(a) Subject to the provisions of this act and regulations promulgated under this act, the board shall have authority to issue a retail liquor

license for any premises kept or operated by a hotel, restaurant or club and specified in the license entitling the hotel, restaurant or club to purchase liquor from a Pennsylvania Liquor Store and to keep on the premises such liquor and, subject to the provisions of this act and the regulations made thereunder, to sell the same and also malt or brewed beverages to guests, patrons or members for consumption on the hotel, restaurant or club premises. Such licensees, other than clubs, shall be permitted to sell malt or brewed beverages for consumption off the premises where sold in quantities of not more than **[one hundred forty-four] one hundred ninety-two** fluid ounces in a single sale to one person. Such licenses shall be known as hotel liquor licenses, restaurant liquor licenses and club liquor licenses, respectively. No person who holds, either by appointment or election, any public office which involves the duty to enforce any of the penal laws of the United States of America or the penal laws of the Commonwealth of Pennsylvania or any penal ordinance or resolution of any political subdivision of this Commonwealth shall be issued any hotel or restaurant liquor license, nor shall such a person have any interest, directly or indirectly, in any such license.

(b) The board may issue to any club which caters to groups of non-members, either privately or for functions, a catering license, and the board shall, by its rules and regulations, define what constitutes catering under this subsection except that any club which is issued a catering license shall not be prohibited from catering on Sundays during the hours which the club may lawfully serve liquor, malt or brewed beverages.

Section 23. Section 402 of the act is reenacted and amended to read:

Section 402. License Districts; License Year; Hearings.—(a) The board shall, by regulation, divide the State into convenient license districts and shall hold hearings on applications for licenses and renewals thereof, as it deems necessary, at a convenient place or places in each of said districts, at such times as it shall fix, by regulation, for the purpose of hearing testimony for and against applications for new licenses and renewals thereof. *The board shall hold a hearing on any application for a new hotel, club or restaurant liquor license or the transfer of any such license to a new location, upon the request of any person with standing to testify under subsection (b) if the request is filed with the board within the first fifteen days of posting of the notice of application pursuant to section 403(g).* The board may provide for the holding of such hearings by examiners learned in the law, to be appointed by the Governor, who shall not be subject to the "Civil Service Act." Such examiners shall make a report to the board in each case with their recommendations. The board shall, by regulation, fix the license year for each separate district so that the expiration dates shall be uniform in each of the several districts but staggered as to the State.

(b) *Where a hearing is held in the case of an application for a new hotel, club or restaurant liquor license or an application for the transfer of a hotel, club or restaurant liquor license to a new location, the board shall permit residents residing within a radius of five hundred feet of the premises to testify at the hearing. The board and any hearing officer thereof shall give appropri-*

ate evidentiary weight to any testimony of such residents given at the hearing.

Section 24. Section 403 of the act, amended November 19, 1959 (P.L.1546, No.553) and September 28, 1961 (P.L.1728, No.702), is reenacted and 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 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 of twenty dollars (\$20), the prescribed license fee, and the bond hereinafter specified. 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. 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 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, in which event, the license may be transferred by the board as provided in section 468 of this act for the transfer of the license in the case of death of the licensee.

(b) If the applicant is a natural person, his application must show that he is a citizen of the United States and has been a resident of this Commonwealth for at least two years immediately preceding his application.

(c) 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, that all officers, directors and stockholders are citizens of the United States, and that the manager of the hotel, restaurant or club is a citizen of the United States.

(d) Each application shall be signed and verified by oath or affirmation by the owner, if a natural person, or, in the case of an association, by a member or partner thereof, or, in the case of a corporation, by an executive officer thereof or any person specifically authorized by the corporation to sign the application, to which shall be attached written evidence of his authority.

(e) If the applicant is an association, the application shall set forth the names and addresses of the persons constituting the association, and if a corporation, the names and addresses of the principal officers thereof. Every club applicant shall file with and as a part of its application a list of the names and addresses of its members, directors, officers, agents and employes, together with the dates of their admission, election or employment, and such other information with respect to its affairs as the board shall require.

(f) The board shall refuse to issue licenses to clubs when it appears that the operation of the licensed business would inure to the benefit of individual members, officers, agents or employes of the club, rather than to the benefit of the entire membership of the club.

(g) Every applicant for a new license or for the transfer of an existing license [**to another premises not then licensed**] 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.

(h) If any false statement is intentionally made in any part of the application, the affiant shall be deemed guilty of a misdemeanor and, upon conviction, shall be subject to the penalties provided by this article.

(i) Upon receipt of an application for a new license or transfer of an existing license to a new location, the board shall immediately notify, in writing, the municipality in which the premises proposed to be licensed are located.

Section 25. Section 404 of the act, amended September 2, 1971 (P.L.429, No.103), is reenacted and amended to read:

Section 404. Issuance of Hotel, Restaurant and Club Liquor Licenses.— Upon receipt of the application, the proper fees and bond, 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, **or if such new license or transfer is applied for a place where the principal business is the sale of liquid fuels and oil**: 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 the board shall not issue new licenses in any license district more than twice each license year, effective from specific dates fixed by the board, and new licenses shall not be granted, except for hotels as defined in this act, unless the application therefor shall have been filed at least thirty days before the effective date of the license: And provided further, That nothing herein contained shall prohibit the board from issuing a new license for the balance of any unexpired term in any license district to any applicant in such district, who shall have become eligible to hold such license as the result of legislative enactment, when such enactment shall have taken place during the license term of that district for which application is made or within the thirty days immediately preceding such term, nor shall anything herein contained prohibit the board from issuing at any time a new license for an airport restaurant, or municipal golf course, as defined in section 461 of this act, for the balance of the unexpired license term in any license district: 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.*

Section 26. Section 405 of the act, amended July 18, 1961 (P.L.790, No.348), is reenacted to read:

Section 405. License Fees.—(a) License fees for hotel and restaurant liquor licenses shall be graduated according to the population of the municipi-

pality as determined by the last preceding decennial census of the United States in which the hotel or restaurant is located, as follows:

In municipalities having a population of less than fifteen hundred inhabitants, one hundred fifty dollars (\$150.00).

In municipalities, except townships, having a population of fifteen hundred and more but less than ten thousand inhabitants, and in townships having a population of fifteen hundred and more but less than twelve thousand inhabitants, two hundred dollars (\$200.00).

In municipalities, except townships, having a population of ten thousand and more but less than fifty thousand inhabitants, and in townships having a population of twelve thousand and more but less than fifty thousand inhabitants, three hundred dollars (\$300.00).

In those having a population of fifty thousand and more but less than one hundred thousand inhabitants, four hundred dollars (\$400.00).

In those having a population of one hundred thousand and more but less than one hundred fifty thousand inhabitants, five hundred dollars (\$500.00).

In those having a population of one hundred fifty thousand and more inhabitants, six hundred dollars (\$600.00).

(b) Every applicant for a club liquor license shall pay to the board a license fee of fifty dollars (\$50.00), except clubs to which catering licenses are issued, in which cases the license fees shall be the same as for hotels and restaurants located in the same municipality.

(c) All license fees authorized under this section shall be collected by the board for the use of the municipalities in which such fees were collected.

(d) Whenever any checks issued in payment of filing and/or license fees shall be returned to the board as dishonored, the board shall charge a fee of five dollars (\$5.00) per hundred dollars, or fractional part thereof, plus all protest fees, to the maker of such check submitted to the board. Failure to pay the face amount of the check in full and all charges thereon as herein required within ten days after demand has been made by the board upon the maker of the check, the license of such person, if issued, shall immediately terminate and be cancelled without any action on the part of the board.

Section 27. Section 406 of the act, amended September 2, 1971 (P.L.429, No.103), December 17, 1982 (P.L.1390, No.319), May 9, 1984 (P.L.246, No.54) and February 28, 1985 (P.L.1, No.1), is reenacted 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 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.

(2) Hotel and restaurant liquor licensees, airport restaurant liquor licensees, municipal golf course restaurant liquor licensees and privately-owned public golf course restaurant licensees may sell liquor and malt or brewed beverages only after seven o'clock antemeridian of any day until two o'clock antemeridian of the following day, except Sunday, and except as hereinafter provided, may sell liquor and malt or brewed beverages on Sunday between the hours of twelve o'clock midnight and two o'clock antemeridian.

(3) Hotel and restaurant liquor licensees, airport restaurant liquor licensees, municipal golf course restaurant liquor licensees and privately-owned public golf course restaurant licensees whose sales of food and nonalcoholic beverages are equal to forty per centum or more of the combined gross sales of both food and alcoholic beverages may sell liquor and malt or brewed beverages on Sunday between the hours of eleven o'clock antemeridian and two o'clock antemeridian Monday upon purchase of a special annual permit from the board at a fee of two hundred dollars (\$200.00) per year, which shall be in addition to any other license fees.

(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 annual 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 annual 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.

(5) Any hotel, restaurant, club or public service liquor licensee may, by giving notice to the board, advance by one hour the hours herein prescribed as those during which liquor and malt or brewed beverages may be sold during such part of the year when daylight saving time is being observed generally in the municipality in which the place of business of such licensee is located. Any licensee who elects to operate his place of business in accordance with daylight saving time shall post a conspicuous notice in his place of business that he is operating in accordance with daylight saving time.

(6) Notwithstanding any provisions to the contrary, whenever the thirty-first day of December or Saint Patrick's Day falls on a Sunday, every hotel or restaurant liquor licensee, their servants, agents or employes may sell liquor and malt or brewed beverages on any such day after one o'clock postmeridian and until two o'clock antemeridian of the following day.

(b) Such Sunday sales by hotel and restaurant liquor licensees which qualify for and purchase such annual special permit, their servants, agents and employes, shall be made subject to the restrictions imposed by the act on sales by hotels and restaurants for sales on weekdays as well as those restrictions set forth in this section.

Section 28. Section 406.1 of the act, amended May 9, 1984 (P.L.246, No.54), is reenacted to read:

Section 406.1. Secondary Service Area.—Upon application of any restaurant, hotel, club, any stadium as described in section 408.9 or municipal golf course liquor licensee, 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. 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. 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.

Section 29. Section 407 of the act is reenacted and amended to read:

Section 407. Sale of Malt or Brewed Beverages by Liquor Licensees.—Every liquor license issued to a hotel, restaurant, club, or a railroad, pullman or steamship company under this subdivision (A) for the sale of liquor shall authorize the licensee to sell malt or brewed beverages at the same places but subject to the same restrictions and penalties as apply to sales of liquor, except that licensees other than clubs may sell malt or brewed beverages for

consumption off the premises where sold in quantities of not more than **[one hundred forty-four] one hundred ninety-two** fluid ounces in a single sale to one person. No licensee under this subdivision (A) shall at the same time be the holder of any other class of license, except a retail dispenser's license authorizing the sale of malt or brewed beverages only.

Section 30. Section 408 of the act, amended September 19, 1961 (P.L.1507, No.639) and November 26, 1978 (P.L.1389, No.326), is reenacted to read:

Section 408. Public Service Liquor Licenses.—(a) Subject to the provisions of this act and regulations promulgated under this act, the board, upon application, shall issue retail liquor licenses to railroad or pullman companies permitting liquor and malt or brewed beverages to be sold in dining, club or buffet cars to passengers for consumption while enroute on such railroad, and may issue retail liquor licenses to steamship companies permitting liquor or malt or brewed beverages to be sold in the dining compartments of steamships or vessels wherever operated in the Commonwealth, except when standing or moored in stations, terminals or docks within a municipality wherein sales of liquor for consumption on the premises are prohibited, and may further issue retail liquor licenses to airline companies permitting liquor or malt or brewed beverages to be sold to passengers for consumption while enroute on such airline. Such licenses shall be known as public service liquor licenses. The board may issue a master license to railroad or pullman companies to cover the maximum number of cars which the company shall estimate that it will operate within the Commonwealth on any one day. Such licensees shall file monthly reports with the board showing the maximum number of cars operated in any one day during the preceding month, and if it appears that more cars have been operated than covered by its license it shall forthwith remit to the board the sum of twenty dollars for each extra car so operated.

(b) For the purpose of considering an application by a steamship or airline company for a public service liquor license, the board may cause an inspection of the steamship or vessel or aircraft for which a license is desired. The board may, in its discretion, grant or refuse the license applied for and there shall be no appeal from its decision, except that an action of mandamus may be brought against the board in the manner provided by law.

(c) Every applicant for a public service liquor license shall, before receiving such license, file with the board a surety bond as hereinafter prescribed, pay to the board for each of the maximum number of dining, club or buffet cars which the applicant estimates it will have in operation on any one day an annual fee of twenty dollars (\$20.00), and for each steamship or vessel or aircraft for which a license is desired an annual fee of one hundred dollars (\$100.00).

(d) Unless previously revoked, every license issued by the board under this section shall expire and terminate on the thirty-first day of December, in the year for which the license is issued. Licenses issued under the provisions of this section shall be renewed annually, as herein provided, upon the filing of applications in such form as the board shall prescribe, but no license shall

be renewed until the applicant shall file with the board a new surety bond and shall pay the requisite license fee specified in this section.

(e) Except as otherwise specifically provided, sales of liquor and malt or brewed beverages by the aforesaid public service company licensees shall be made in accordance with, and shall be subject to, the provisions of this act relating to the sale of liquors by restaurant licensees.

Section 31. Section 408.1 of the act, added December 15, 1965 (P.L.1106, No.426) and amended November 17, 1967 (P.L.510, No.247), is reenacted To read:

Section 408.1. Trade Show and Convention Licenses.—(a) The board is authorized to issue a license in any city of the first or second class for the retail sale of liquor and malt or brewed beverages by the glass, open bottles or other container or in any mixture for consumption in any restaurant or other appropriate location on city-owned premises or on premises of an authority created under the act of July 29, 1953 (P.L.1034), known as the "Public Auditorium Authorities Law" customarily used or available for use for trade shows and conventions. Any concessionaire selected and certified by the city or its authorized agency or by the authority may apply for a license.

(b) The application for a trade show and convention license may be filed at any time and shall conform with all requirements for restaurant liquor license applications except as may be otherwise provided herein. The applicant shall submit such other information as the board may require. Application shall be in writing on forms prescribed by the board and shall be signed and submitted to the board by the applicant. The filing fee which shall accompany the trade show and convention license application shall be twenty dollars (\$20).

(c) Upon receipt of the application in proper form and the application fee, and upon being satisfied that the applicant is of good repute and financially responsible and that the proposed place of business is proper, the board shall issue a license to the applicant.

(d) The license shall be issued for the same period as provided for restaurant licenses and shall be renewed as in section 402. The license shall terminate upon revocation by the board or upon termination of the contract between the concessionaire and the city or authority.

(e) The annual fee for a trade show and convention license shall be six hundred dollars (\$600), and shall accompany the application for the license. Whenever a concessionaire's contract terminates the license shall be returned to the board for cancellation and a new license shall be issued to a new applicant.

(f) The penal sum of the bond which shall be filed by an applicant for a trade show and convention license pursuant to section 465 of this article shall be two thousand dollars (\$2,000) and in addition thereto he shall file an additional bond in a sum to assure payment of any suspension of license up to one hundred days.

(g) Sales by the holder of a trade show and convention license may be made except to those persons prohibited under clause (1) of section 493 of

this act on city-owned or authority-owned, leased or operated premises customarily used or available for use for trade shows and conventions during the hours in which the convention or trade show is being held and up to one hour after the scheduled closing, and at functions which are incidental to or a part of the trade show or convention, but such sales may not be made beyond the hours expressed in the act for the sale of liquor by restaurant licensees: Provided, however, That during the hours expressed in this act for the sale of liquor by hotel licensees, sales of such liquor or malt or brewed beverages may be made by said licensee at banquets, not incidental to trade shows or conventions, at which more than two thousand persons are scheduled to attend, and at functions irrespective of attendance, which are directly related to the Philadelphia Commercial Museum or the Center for International Visitors: And provided further, That no such sale shall be made at any sporting, athletic or theatrical event.

(h) Whenever a contract is terminated prior to the expiration date provided in the contract between the city or authority and the concessionaire, the city or authority may select and certify to the board a different concessionaire which concessionaire shall apply to the board for a new license. If the applicant meets the requirements of the board as herein provided a new license shall thereupon be issued.

(i) If any trade show and convention license is suspended, the offer in compromise shall be accepted at the same rate as provided for existing restaurant liquor licenses not in excess of one hundred days. If any trade show and convention license is revoked, the board shall issue a new license to any qualified applicant without regard to the prohibition in section 471 against the grant of license at the same premises for a period of at least one year.

Section 32. Section 408.2 of the act, added November 25, 1970 (P.L.770, No.255) and amended June 9, 1972 (P.L.379, No.108), is reenacted to read:

Section 408.2. City-Owned Stadia.—(a) The board is authorized to issue a license in any city of the first class for the retail sale of liquor and malt or brewed beverages by the glass, open bottles or other container or in any mixture for consumption in any restaurant on city-owned premises principally utilized for competition of professional and amateur athletes and other types of entertainment where there is an available seating capacity within the premises of twelve thousand or more.

(b) The application for a city-owned stadium license may be filed at any time by a concessionaire selected and certified by the city or its authorized agency and shall conform with all requirements for restaurant-liquor licenses and applications except as may otherwise be provided herein. Applicant shall submit such other information as the board may require. Applications shall be in writing on forms prescribed by the board and shall be signed and submitted to the board by the applicant. The filing fee which shall accompany the license application shall be twenty dollars (\$20).

(c) Upon receipt of the application in proper form and the application fee and upon being satisfied that the applicant is of good repute and financially responsible and that the proposed place of business is proper, the board shall issue a license to the applicant.

(d) The license shall be issued for the same period of time as provided for restaurant licenses and shall be renewed as provided in section 402. The license shall terminate upon revocation by the board or upon termination of the contract between the concessionaire and the city.

(e) The annual fee for a stadium license shall be six hundred dollars (\$600), and shall accompany the application for the license. Whenever a concessionaire's contract terminates the license shall be returned to the board for cancellation and a new license shall be issued to a new applicant.

(f) The penal sum of the bond which shall be filed by an applicant for a stadium license pursuant to section 465 of the "Liquor Code" shall be two thousand dollars (\$2,000) and in addition thereto he shall file an additional bond in a sum to assure payment of any fine imposed by the board up to one thousand dollars (\$1,000).

(g) Sales by the holder of a stadium license may be made except to those persons prohibited under clause (1) of section 493 of this act on city-owned premises customarily used or available for use for competition of professional and amateur athletes and other types of entertainment during the hours in which the entertainment is being held and up to one hour after the scheduled closing, and at functions which are incidental to or part of the stadium activities, but such sales may not be made beyond the hours expressed in the code for the sale of liquor by restaurant licensees: Provided, however, That such sales may be made on Sunday between the hours of twelve o'clock noon and ten o'clock postmeridian: And provided further, That during the hours expressed in this act for the sale of liquor by hotel licensees, sales of such liquor or malt or brewed beverages may be made by said licensee at banquets, not incidental to stadium activities, at which more than two thousand persons are scheduled to attend, and at functions irrespective of attendance, which are directly related to stadia purposes.

(h) Whenever a contract is terminated prior to the expiration date provided in the contract between the city and the concessionaire, the city may select and certify to the board a different concessionaire which concessionaire shall apply to the board for a new license. If the applicant meets the requirements of the board as herein provided a new license shall thereupon be issued. If any stadium license is revoked, the board shall issue a new license to any qualified applicant without regard to the prohibition in section 471, against the grant of a license at the same premises for a period of at least one year.

Section 33. Section 408.3 of the act, amended December 16, 1982 (P.L. 1359, No. 311), is reenacted and amended to read:

Section 408.3. Performing Arts Facilities.—(a) The board is authorized to issue a license to one nonprofit corporation operating a theater for the performing arts in each city of the first or second class which has seating accommodations for at least twenty-seven hundred persons except where prohibited by local option for the retail sale of liquor and malt or brewed beverages by the glass, open bottle or other container or in any mixture for consumption in any such theater for the performing arts.

(a.1) The board is authorized to issue licenses to operators of theaters for the performing arts, other than a theater qualifying under subsection (a), which are permanently located at a single site and which have seating accommodations, affixed to the theater structure, for at least twenty-eight hundred persons except where prohibited by local option for the retail sale of liquor and malt or brewed beverages by the glass, open bottle, or other container or in any mixture for consumption in any such theater for the performing arts.

(a.2) The board is authorized to approve the transfer of a restaurant license to one nonprofit corporation operating a theater for the performing arts in each city which has a seating capacity of at least two hundred fifty (250) persons, except where prohibited by local option, for the retail sale of liquor and malt or brewed beverages by the glass, open bottle or other container or in any mixture for consumption in any such theater for the performing arts.

(b) The application for a performing arts facility license may be filed at any time by a nonprofit corporation operating such a theater for the performing arts or by a concessionaire selected by such nonprofit corporation and shall conform with all requirements for restaurant liquor licenses and applications except as may otherwise be provided herein. Applicant shall submit such other information as the board may require. Applications shall be in writing on forms prescribed by the board and shall be signed and submitted to the board by the applicant. The filing fee shall accompany the license application.

(b.1) A performing arts facility referred to in subsection (a.1) *or (a.2)* must be in operation for a period of two (2) years before it may file an application for a license. The application for a performing arts facility license may be filed at any time thereafter by the operator or a concessionaire selected by the operator of such theater for the performing arts and shall conform with all requirements for restaurant liquor licenses and applications except as may be otherwise provided herein. Applicants shall submit such other information as the board may require. Applications shall be in writing on forms prescribed by the board and shall be signed and submitted to the board by the applicant. The filing fee shall accompany the license application.

(b.2) The filing fee which is prescribed in clause (19) of section 614-A of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929," shall accompany the license application filed under subsection (b) or (b.1).

(c) Upon receipt of the application in proper form and the application fee and upon being satisfied that the applicant is of good repute and financially responsible and that the proposed place of business is proper, the board shall issue a license to the applicant.

(d) The license shall be issued for the same period of time as provided for restaurant licenses and shall be renewed as provided in section 402. The license shall terminate upon revocation by the board or upon termination of the contract between the concessionaire and the operator of such theater for the performing arts.

(e) The annual fee for a performing arts facility shall accompany the application for the license and shall be as prescribed in clause (19) of section 614-A of "The Administrative Code of 1929." Whenever and if a concessionaire's contract terminates the license shall be returned to the board for cancellation and a new license shall be issued to a new applicant.

(f) The penal sum of the bond which shall be filed by an applicant for a performing arts facility pursuant to section 465 of the "Liquor Code" shall be two thousand dollars (\$2,000).

(g) Sales by the holder of a performing arts facility license may be made except to those persons prohibited under clause (1) of section 493 of this act on the premises of such a theater for the performing arts during the hours expressed in the code for the sale of liquor and malt and brewed beverages by restaurant licensees, and the license may be used for such sales on Sundays between the hours of 1:00 P.M. and 10:00 P.M., irrespective of the volume of food sales.

(g.1) Sales by the holder of a performing arts facility license referred to in subsection (a.1) shall be further restricted to the period of time beginning one (1) hour before and ending one (1) hour after any presentation at the performing arts facility.

(h) Whenever a contract with a concessionaire is terminated prior to the expiration date provided in the contract between such operator and the concessionaire, operator may select and certify to the board a different concessionaire which concessionaire shall apply to the board for a new license. If the applicant meets the requirements of the board as herein provided a new license shall thereupon be issued. If any such performing arts facility license is revoked, the board shall issue a new license to any qualified applicant without regard to the prohibition in section 471, against the grant of a license at the same premises for a period of at least one (1) year.

(i) Licenses issued under the provisions of this section shall not be subject to the quota restrictions of section 461 of this act.

(j) Performing arts facility licenses referred to in subsection (a) shall not be subject to the provisions of section 404 except in so far as they relate to the reputation of the applicant nor to the provisions of sections 461 and 463 nor to the provisions of clause (10) of section 493 of the "Liquor Code."

(j.1) Performing arts facilities referred to in subsection (a.1) shall not be subject to the provisions of section 463 nor to the provision requiring a special permit for dancing, theatricals or floor shows of any sort, or moving pictures other than television in clause (10) of section 493 of the "Liquor Code."

(j.2) Performing arts theaters referred to in subsection (a.2) shall not be subject to the provisions of section 463, nor to the provision requiring a special permit for dancing, theatricals or floor shows of any sort, or moving pictures other than television in clause (10) of section 493, nor to provisions defining "restaurant" in section 102.

(k) Sales under such licenses (including food sales) may be limited by the licensee to patrons of the events scheduled in the theater of the performing arts. Provided food is offered for sale when sales are made under the license, such food may be catered from off the premises.

Section 34. Section 408.4 of the act, amended July 11, 1980 (P.L.558, No.117), July 9, 1984 (P.L.659, No.137) and July 3, 1985 (P.L.134, No.36), is reenacted and 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*, bona fide sportsmen's club in existence for at least ten years, *or the auxiliary of any of the foregoing*, and upon payment of a fee of fifteen dollars (\$15) per day, the board shall issue a special occasion permit good for a period of not more than five consecutive [days] *or nonconsecutive days: Provided, however, That the five nonconsecutive days shall be used in a three-month period measured from the date of the first day.* Special occasion permits may also be issued to a museum operated by a nonprofit corporation in a city of the third class or a nonprofit corporation engaged in the performing arts in a city of the third class for a period of not more than six nonconsecutive or ten consecutive days at a fee of fifteen dollars (\$15) per day.

(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 and a nonprofit corporation engaged in the performing arts in a city of the third 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 licensee now or hereafter possessing a caterer's license, nor to any professional fund raiser.

(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.

Section 35. Section 408.5 of the act, amended July 9, 1976 (P.L.527, No.125), is reenacted and amended to read:

Section 408.5. Licenses for City-owned Art Museums, Cities First Class [and]; Art Museums Maintained by Certain Non-profit Corporations in Cities of the Second Class; *and Non-profit Science and technology Museums in Cities of the First Class and in Cities of the Second Class.*—(a) The board is authorized to issue a license in any city of the first class for the retail sale of liquor and malt or brewed beverages by the glass, open bottles or other container, and in any mixture, for consumption in any city-owned art museum [or], in any art museum maintained by a non-profit corporation in cities of the second class *or any non-profit science and technology museum in cities of the first class or in cities of the second class.* For the purpose of this section “non-profit corporation” shall mean a corporation organized under the non-profit corporation laws for the benefit of the public *and not for the mutual benefit of its members, and which maintains an art museum or a science and technology museum* having a floor area of not less than one hundred thousand square feet in one building.

(b) The application for a license may be filed at any time by the city, the non-profit corporation or lessee. The application may also be filed by a concessionaire selected and certified by the city or the non-profit corporation. The application shall conform with all requirements for restaurant liquor licenses and applications except as may otherwise be provided herein. Applicant shall submit such other information as the board may require. The application shall be in writing on forms prescribed by the board and shall be signed and submitted to the board by the applicant. A filing fee of twenty dollars (\$20) shall accompany the license application.

(c) Upon receipt of the application in proper form with the application fee and upon being satisfied that the applicant is of good repute and financially responsible and that the proposed place of business is proper, the board shall issue a license to the applicant.

(d) The license shall be issued for the same period of time as provided for restaurant licensees and shall be renewed as provided in section 402. The license shall terminate upon revocation by the board or upon termination of the lease or upon termination of the contract between the concessionaire and the city or the non-profit corporation.

(g) Sales by the holder of an art museum license *or science and technology license* may be made except to those persons prohibited by this act on premises used for art museum *or science and technology* purposes, but such sales may not be made beyond the hours expressed in this act for the sale of liquor by restaurant licenses. However, sales of liquor or malt or brewed beverages may be made by an art museum *or science and technology* licensee at

banquets at which more than five hundred persons are scheduled to attend and at any other function which is directly related to art museum *or science and technology* purposes.

(h) Whenever a lease or a concession contract is terminated prior to the expiration date provided in the lease or contract between the city or the non-profit corporation and the tenant or concessionaire, the city or the non-profit corporation may select and certify to the board a different licensee or concessionaire who may then apply to the board for a new license. If the applicant meets the requirements of the board as herein provided a new license shall thereupon be issued.

(i) If the board shall revoke any art museum license *or science and technology license*, the board shall issue a new license to any qualified applicant without regard to the prohibition in section 471 against the grant of a license at the same premises for a period of at least one year.

(i.1) Any renewal of a license presently held by a city-owned art museum in a city of the first class shall be accomplished by the purchase of a license from an existing licensee.

(i.2) An art museum maintained by a non-profit corporation or corporations in a city of the second class which obtains approval of its application for a license from the board shall purchase a license from an existing licensee.

(j) The provisions of this act shall supersede or exempt any provision of the Liquor Code which would prevent the issuance of a license for the retail sale of liquor and malt or brewed beverages upon any premises owned by the city of the first class or by a non-profit corporation in a city of the second class used for art museum purposes.

Section 36. Section 408.6 of the act, added July 11, 1980 (P.L.558, No.117), is reenacted and amended to read:

Section 408.6. Performing Arts Facilities *in Third Class Cities*.—

(a) The board is authorized to issue a restaurant liquor license to a non-profit corporation or to a concessionaire selected by such nonprofit corporation in any city of the third class for the retail sale of liquor and malt or brewed beverages by the glass, open bottles or other container or in any mixture for consumption on any city-owned premises utilized as a nonprofit performing arts facility or any other premises utilized as a nonprofit performing arts facility where there is an available seating capacity within the premises of one thousand or more: Provided, however, That no sale or consumption of such beverages shall take place on any portions of such premises other than service areas approved by the board.

(b) An application for the issuance may be filed at any time by a non-profit corporation operating such a theater for the performing arts or by a concessionaire selected by such nonprofit corporation. Any such license granted under these provisions need not conform to the requirements of the act relating to restaurant liquor licenses, except as provided herein. Applicant shall submit such other information as the board may require. Applications shall be in writing on forms prescribed by the board and shall be signed and submitted to the board by the applicant. The filing fee which shall accompany the license application shall be thirty dollars (\$30).

(c) Upon receipt of the application in proper form and the application fee and upon being satisfied that the applicant is of good repute and financially responsible and that the proposed place of business is proper, the board shall issue the restaurant liquor license for the performing arts facility.

(d) The license shall be issued for the same period of time as provided for restaurant licenses and shall be renewed as provided in section 402. The license shall terminate upon revocation by the board or upon termination and nonrenewal of the contract between the concessionaire and such non-profit corporation.

(e) The annual fee for a performing arts facility shall be as provided in section 405 and shall accompany the application for the license. Whenever and if a concessionaire's contract terminates and is not renewed the license shall be returned to the board for cancellation but the board may issue a restaurant liquor license to a subsequent applicant.

(f) The penal sum of the bond which shall be filed by an applicant for a performing arts facility pursuant to section 465 shall be two thousand dollars (\$2,000).

(g) Sales by the holder of a performing arts facility license may be made except to those persons prohibited under clause (1) of section 493 on board-approved service areas of the premises of such a facility for the performing arts during the hours in which the performance is being held and up to one hour before the scheduled opening and one hour after the scheduled closing, but such sales may not be made beyond the hours expressed in the code for the sale of liquor and malt or brewed beverages by restaurant licensees: Provided, however, That such sales may be made on Sunday between the hours of one o'clock postmeridian and ten o'clock postmeridian, irrespective of the volume of food sales.

(h) Whenever a contract with a concessionaire is terminated prior to the expiration date provided in the contract between such nonprofit corporation and the concessionaire and is not renewed, such nonprofit corporation may apply to the board for the issuance of a restaurant liquor license or may select and certify to the board a different concessionaire which concessionaire shall apply to the board for the issuance of a restaurant liquor license. If the applicant meets the requirements of the board as herein provided, the issuance shall thereupon occur. If any such performing arts facility license is revoked, the board shall issue a new license to any qualified applicant without regard to the prohibition in section 471, against the grant of a license at the same premises for a period of at least one year.

(i) Licenses issued under the provisions of this section shall not be subject to the quota restrictions of section 461.

(j) Performing arts licenses shall not be subject to the provisions of section 404 except insofar as they relate to the reputation of the applicant nor to the provisions of sections 461 and 463, nor to the provisions of clause (10) of section 493.

(k) Sales under such licenses (including food sales) may be limited by the licensee to patrons of the events scheduled in the facility of the performing arts. Provided food is offered for sale when sales are made under the license, such food may be catered from off the premises.

Section 37. Section 408.7 of the act, added December 12, 1980 (P.L.1195, No.221), is reenacted and amended to read:

Section 408.7. Performing Arts Facilities *in First and Second Class Cities*.—(a) The board is authorized to transfer a restaurant liquor license purchased by any person or by a concessionaire selected by such person in any city of the first or second class for the retail sale of liquor and malt or brewed beverages by the glass, open bottles or other container or in any mixture for consumption on any city-owned premises utilized as a performing arts facility or any other premise utilized as a performing arts facility where there is an available seating capacity within the premises of one thousand or more: Provided, however, That no sale or consumption of such beverages shall take place on any portions of such premises other than service areas approved by the board.

(b) An application for transfer may be filed at any time by a person operating such a theater for the performing arts or by a concessionaire selected by such person. Any such license granted under these provisions need not conform to the requirements of the act relating to restaurant liquor licenses, except as provided herein. Applicant shall submit such other information as the board may require. Applications shall be in writing on forms prescribed by the board and shall be signed and submitted to the board by the applicant. The filing fee which shall accompany the license transfer application shall be thirty dollars (\$30).

(c) Upon receipt of the application in proper form and the application fee and upon being satisfied that the applicant is of good repute and financially responsible and that the proposed place of business is proper, the board shall transfer the restaurant liquor license for the performing arts facility.

(d) The license shall be transferred for the same period of time as provided for restaurant licenses and shall be renewed as provided in section 402. The license shall terminate upon revocation by the board or upon termination and nonrenewal of the contract between the concessionaire and such person.

(e) The annual fee for a performing arts facility shall be as provided in section 405 and shall accompany the application for the license. Whenever and if a concessionaire's contract terminates and is not renewed the license shall be returned to the board for cancellation and the board may transfer a restaurant liquor license purchased by a subsequent applicant.

(f) The penal sum of the bond which shall be filed by an applicant for a performing arts facility pursuant to section 465 shall be two thousand dollars (\$2,000).

(g) Sales by the holder of a performing arts facility license may be made except to those persons prohibited under clause (1) of section 493 on board-approved service areas of the premises of such a facility for the performing arts during the hours in which the performance is being held and up to one hour before the scheduled opening and one hour after the scheduled closing, but such sales may not be made beyond the hours expressed in the code for the sale of liquor and malt or brewed beverages by restaurant licensees: Pro-

vided, however, That such sales may be made on Sunday between the hours of one o'clock postmeridian and ten o'clock postmeridian, irrespective of the volume of food sales.

(h) Whenever a contract with a concessionaire is terminated prior to the expiration date provided in the contract between such person and the concessionaire and is not renewed, such person may apply to the board for the transfer of a restaurant liquor license purchased by such person, or may select and certify to the board a different concessionaire which concessionaire shall apply to the board for the transfer of a restaurant liquor license purchased by such concessionaire. If the applicant meets the requirements of the board as herein provided, a transfer shall thereupon occur. If any such performing arts facility license is revoked, the board shall transfer a license for any qualified applicant who has purchased a restaurant liquor license without regard to the prohibition in section 471, against the grant of a license at the same premises for a period of at least one year.

(i) Performing arts licenses shall not be subject to the provisions of section 404 except insofar as they relate to the reputation of the applicant nor to the provisions of section 463, nor to the provisions of clause (10) of section 493.

(j) Sales under such licenses (including food sales) may be limited by the licensee to portions of the events scheduled in the facility of the performing arts. Provided food is offered for sale when sales are made under the license, such food may be catered from off the premises.

Section 38. Section 408.8 of the act, added December 17, 1982 (P.L.1390, No.319), is reenacted to read:

Section 408.8. Trade Shows and Convention Licenses; Cities of the Third Class.—(a) The board is authorized to issue a restaurant liquor license to a nonprofit corporation or to a concessionaire selected by such nonprofit corporation in any city of the third class for the retail sale of liquor and malt or brewed beverages by the glass, open bottles or other container or in any mixture for consumption on any city-owned premises customarily used or available for use for trade shows and conventions with a capacity within the premises for one thousand people or more: Provided, however, That no sale or consumption of such beverages shall take place on any portions of such premises other than service areas approved by the board.

(b) An application for the issuance may be filed at any time by a nonprofit corporation operating such a facility for trade shows or conventions or by a concessionaire selected by such nonprofit corporation. Any such license granted under these provisions need not conform to the requirements of the act relating to restaurant liquor licenses, except as provided herein. Applicant shall submit such other information as the board may require. Applications shall be in writing on forms prescribed by the board and shall be signed and submitted to the board by the applicant. The filing fee which shall accompany the license application shall be thirty dollars (\$30).

(c) Upon receipt of the application in proper form and the application fee, and upon being satisfied that the applicant is of good repute and financially responsible and that the proposed place of business is proper, the

board shall issue the restaurant liquor license for the trade show or convention facility.

(d) The license shall be issued for the same period of time as provided for restaurant licenses and shall be renewed as provided in section 402. The license shall terminate upon revocation by the board or upon termination and nonrenewal of the contract between the concessionaire and such non-profit corporation.

(e) The annual fee for a trade show or convention facility shall be as provided in section 405 and shall accompany the application for the license. Whenever and if a concessionaire's contract terminates and is not renewed, the license shall be returned to the board for cancellation but the board may issue a restaurant liquor license to a subsequent application.

(f) The penal sum of the bond which shall be filed by an applicant for a trade show or convention facility pursuant to section 465 shall be two thousand dollars (\$2,000).

(g) Sales by the holder of a trade show or convention facility license may be made except to those persons prohibited under clause (1) of section 493 on board-approved service areas of the premises of such a facility for trade shows or conventions during the hours in which the trade show or convention is being held and up to one hour before the scheduled opening and one hour after the scheduled closing, but such sales may not be made beyond the hours expressed in the code for the sale of liquor and malt or brewed beverages by restaurant licensees: Provided, however, That such sales may be made on Sunday between the hours of one o'clock postmeridian and ten o'clock postmeridian, irrespective of the volume of food sales.

(h) Whenever a contract with a concessionaire is terminated prior to the expiration date provided in the contract between such nonprofit corporation and the concessionaire and is not renewed, such nonprofit corporation may apply to the board for the issuance of a restaurant liquor license or may select and certify to the board a different concessionaire which concessionaire shall apply to the board for issuance of a restaurant liquor license. If the applicant meets the requirements of the board as herein provided, the issuance shall thereupon occur. If any such trade show or convention license is revoked, the board shall issue a new license to any qualified applicant without regard to the prohibition in section 471 against the grant of a license at the same premises for a period of at least one year.

(i) Licenses issued under the provisions of this section shall not be subject to the quota restrictions of section 461.

(j) Trade show or convention licenses shall not be subject to the provisions of section 404 except insofar as they relate to the reputation of the applicant nor to the provisions of sections 461 and 463 nor to the provisions of clause (10) of section 493.

(k) Sales under such licenses (including food sales) may be limited by the licensee to patrons of the events scheduled in the facility for trade shows or conventions. Provided food is offered for sale when sales are made under the license, such food may be catered from off the premises.

Section 39. Section 408.9 of the act, added May 9, 1984 (P.L.246, No.54), is reenacted to read:

Section 408.9. Stadium and Restaurant Licenses in Third Class Cities.—The board is authorized to issue one restaurant license in any city of the third class for the retail sale of liquor and malt or brewed beverages by the glass, open bottles or other containers, and in any mixture, for consumption in any restaurant which is located not more than one thousand feet from a stadium which has a seating capacity of five thousand persons, situate on the same lot or parcel of land not less than twenty-five acres in size with no intervening public thoroughfare between the restaurant and the stadium.

Section 40. Section 409 of the act, amended February 17, 1956 (1955 P.L.1078, No.349) and September 28, 1961 (P.L.1728, No.702), is reenacted to read:

Section 409. Sacramental Wine Licenses; Fees; Privileges; Restrictions.—(a) Subject to the provisions of this act in general and more particularly to the following provisions of this section, the board shall issue sacramental wine licenses to qualified applicants.

(b) Every applicant for a sacramental wine license shall file a written application with the board in such form as the board shall from time to time prescribe, which shall be accompanied by a filing fee of twenty dollars (\$20), a license fee of one hundred dollars, and a bond as hereinafter prescribed. Every such application shall contain a description of the premises for which the applicant desires a license and shall set forth such other material information as may be required by the board.

(c) If the applicant is a natural person, his application must show that he is a citizen of the United States 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 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.

(d) Holders of such licenses may purchase from manufacturers or bring or import into this Commonwealth wine to be used for sacramental or religious purposes only, and bottle and sell the same to priests, clergymen and rabbis for use in the cathedral, church, synagogue or temple, or for sustaining members of the congregation or members of the faith who attend religious services, duly certified by such priests, clergymen or rabbis. The sale and use of wine for sacramental or religious purposes shall be subject to and in accordance with the regulations of the board.

(e) Any wine purchased under the authority of this section shall not be used for any other than sacramental or religious purposes. Sacramental wine may not be sold by any person except the holder of a sacramental wine license.

(f) Every sacramental wine licensee shall maintain on the licensed premises such records as the board may prescribe. No deliveries of sacramental

wine shall be made unless and until an order therefor is on file at the principal place of business in Pennsylvania. All shipments into Pennsylvania of wine to be used for sacramental or religious purposes shall be consigned to the principal place of business maintained by the licensee.

(g) Any such license may be suspended or revoked by the board upon proof satisfactory to it that the licensee has violated any law of this Commonwealth or any regulation of the board relating to liquor and alcohol. The procedure in such cases shall be the same as for the revocation and suspension of hotel, restaurant and club licenses.

Section 41. Section 410 of the act, amended September 28, 1961 (P.L.1728, No.702), is reenacted and amended to read:

Section 410. Liquor Importers' Licenses; Fees; Privileges; Restrictions.—(a) Subject to the provisions of this act in general and more particularly to the following provisions of this section, the board shall issue liquor importers' licenses to qualified applicants.

(b) Every applicant for an importer's license shall file a written application with the board in such form as the board shall from time to time prescribe, which shall be accompanied by a filing fee of twenty dollars (\$20), a license fee of one hundred dollars, and a bond as hereinafter required. Every such application shall contain a description of the principal place of business for which the applicant desires a license and shall set forth such other material information as may be required by the board.

(c) The holder of an importer's license may have included in such license one warehouse wherein only his liquor may be kept and stored, located in the same municipality in which his licensed premises is situate, and not elsewhere, unless such licensee secures from the board a license for each additional storage warehouse desired. The board is authorized and empowered to issue to a holder of an importer's license a license for an additional storage warehouse or warehouses located in this Commonwealth, provided such licensed importer files with the board a separate application for each warehouse in such form and containing such information as the board may from time to time require, accompanied by a filing fee of twenty dollars (\$20), a license fee of twenty-five dollars, and a bond of an approved surety company in the amount of ten thousand dollars. Such bond shall contain the same provisions and conditions as are required in the other license bonds under this article.

(d) If the applicant is a natural person, his application must show that he is a citizen of the United States 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 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.

(e) Importers' licenses shall permit the holders thereof to bring or import liquor from other states, foreign countries, or insular possessions of the

United States, and purchase liquor from manufacturers located within this Commonwealth, to be sold outside of this Commonwealth or to Pennsylvania Liquor Stores within this Commonwealth, or when in original containers of ten gallons or greater capacity, to licensed manufacturers within this Commonwealth.

All importations of liquor into Pennsylvania by the licensed importer shall be consigned to the [**Pennsylvania Liquor Control Board**] *board* or the principal place of business or authorized place of storage maintained by the licensee.

(f) Every importer shall maintain on the licensed premises such records as the board may prescribe. Any such license may be suspended or revoked by the board upon proof satisfactory to it that the licensee has violated any law of this Commonwealth or any regulation of the board relating to liquor and alcohol. The procedure in such cases shall be the same as for the revocation and suspension of hotel, restaurant and club licenses.

Section 42. Section 411 of the act, amended July 9, 1976 (P.L.963, No.188), is reenacted to read:

Section 411. Interlocking Business Prohibited.—(a) No manufacturer and no officer or director of any manufacturer shall at the same time be a holder of a hotel, restaurant or club liquor license, nor be the owner, proprietor or lessor of any place covered by any hotel, restaurant or club liquor license.

(b) No manufacturer, importer or sacramental wine licensee, and no officer or director of a manufacturer, importer or sacramental wine licensee shall own any stock or have any financial interest in any hotel or restaurant licensed under this act.

(c) Excepting as herein provided, no manufacturer, or officer, director, stockholder, agent or employe of a manufacturer shall in any wise be interested, either directly or indirectly, in the ownership or leasehold of any property or the equipment of any property or any mortgage lien against the same, for which a hotel, restaurant or club license is granted; nor shall a manufacturer, importer or sacramental wine licensee, or officer, director, stockholder, agent or employe of a manufacturer, importer or sacramental wine licensee, either directly or indirectly, lend any moneys, credit, or give anything of value or the equivalent thereof to, or guarantee the payment of any bond, mortgage, note or other obligation of, any hotel, restaurant or club licensee, his servant, agent or employe, for equipping, fitting out, or maintaining and conducting, either in whole or in part, a hotel, restaurant or club licensed for the selling of liquor for use and consumption upon the premises.

(d) Excepting as herein provided, no hotel licensee, restaurant licensee or club licensee, and no officer, director, stockholder, agent or employe of any such licensee shall in any wise be interested, either directly or indirectly, in the ownership or leasehold of any property or the equipment of any property or any mortgage lien against the same, used by a manufacturer in manufacturing liquor or malt or brewed beverages; nor shall any hotel, restaurant or club licensee, or any officer, director, stockholder, agent or employe of any such licensee, either directly or indirectly, lend any moneys, credit, or give

anything of value or the equivalent thereof, to any manufacturer for equipping, fitting out, or maintaining and conducting, either in whole or in part, an establishment used for the manufacture of liquor or malt or brewed beverages.

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

The purpose of this section is to require a separation of the financial and business interests between manufacturers and holders of hotel or restaurant liquor licenses and, as herein provided, of club licenses, issued under this article, and no person shall, by any device whatsoever, directly or indirectly, evade the provisions of the section. But in view of existing economic conditions, nothing contained in this section shall be construed to prohibit the ownership of property or conflicting interest by a manufacturer of any place occupied by a licensee under this article after the manufacturer has continuously owned and had a conflicting interest in such place for a period of at least five years prior to July eighteenth, one thousand nine hundred thirty-five: Provided, however, That this clause shall not prohibit any hotel, restaurant or club liquor licensee from owning land which is leased to, and the buildings thereon owned by, a holder of a retail dispenser's license; and nothing in this clause shall prevent the issuance of a retail dispenser's license to a lessee of such lands who owns the buildings thereon: And, provided further, That nothing contained in this section shall be construed to prohibit any hotel, restaurant, retail dispenser or club licensee or any officer, director or stockholder, agent or employe of any such licensee from having a financial or other interest, directly or indirectly in the ownership or leasehold of any property or the equipment of any property or any mortgage lien against same, used, leased by an importer or sacramental wine licensee for the exclusive purpose of maintaining commercial offices and on the condition that said property is not used for the storage or sale of liquor or malt or brewed beverages in any quantity.

Section 43. The heading of Subdivision (B) of Article IV of the act is reenacted to read:

(B) Malt and Brewed Beverages (Including Manufacturers).

Section 44. Section 431 of the act, amended August 17, 1965 (P.L.346, No.182), October 9, 1967 (P.L.395, No.179), May 5, 1970 (P.L.342, No.110) and June 22, 1980 (P.L.253, No.73), is reenacted and amended to read:

Section 431. Malt and Brewed Beverages Manufacturers', Distributors' and Importing Distributors' Licenses.—(a) The board shall issue to any person a resident of this Commonwealth of good repute who applies therefor, pays the license fee hereinafter prescribed, and files the bond hereinafter required, a manufacturer's license to produce and manufacture malt or brewed beverages, and to transport, sell and deliver malt or brewed beverages at or from one or more places of manufacture or storage, only in original containers, in quantities of not less than a case of twenty-four containers, each container holding seven fluid ounces or more, or a case of twelve containers, each container holding twenty-four fluid ounces or more, except original containers containing one hundred twenty-eight ounces or more which may be sold separately anywhere within the Commonwealth. Licenses for places of storage shall be limited to those maintained by manufacturers on July eighteenth, one thousand nine hundred thirty-five, and the board shall issue no licenses for places of storage in addition to those maintained on July eighteenth, one thousand nine hundred thirty-five. The application for such license shall be in such form and contain such information as the board shall require. All such licenses shall be granted for the calendar year. Every manufacturer shall keep at his or its principal place of business, within the Commonwealth daily permanent records which shall show, (1) the quantities of raw materials received and used in the manufacture of malt or brewed beverages and the quantities of malt or brewed beverages manufactured and stored, (2) the sales of malt or brewed beverages, (3) the quantities of malt or brewed beverages stored for hire or transported for hire by or for the licensee, and (4) the names and addresses of the purchasers or other recipients thereof. Every place licensed as a manufacturer shall be subject to inspection by members of the board or by persons duly authorized and designated by the board, at any and all times of the day or night, as they may deem necessary, for the detection of violations of this act or of the rules and regulations of the board, or for the purpose of ascertaining the correctness of the records required to be kept by licensees. The books and records of such licensees shall at all times be open to inspection by members of the board or by persons duly authorized and designated by the board. Members of the board and its duly authorized agents shall have the right, without hindrance, to enter any place which is subject to inspection hereunder or any place where such records are kept for the purpose of making such inspections and making transcripts thereof.

(b) The board shall issue to any reputable person who applies therefor, pays the license fee hereinafter prescribed, and files the bond hereinafter required, 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 twenty-four containers, each container holding seven fluid ounces or more, or twelve containers, each container holding twenty-four fluid ounces or more, except original containers containing one hundred twenty-eight ounces or more which may be sold separately and such containers to be the original containers as prepared for the market by the manufacturer at the

place of manufacture: **And provided further, That the board].** *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 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.

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.

(b.1) (1) Any person in this Commonwealth or elsewhere who shall purchase or in any manner whatsoever acquire or otherwise succeed to the business of a manufacturer, assets or rights to import, market, ship into this Commonwealth or distribute a brand of beer, or to use and exploit any trademark incorporated as part of a brand of beer produced by such a manufacturer shall be obligated to all terms of the manufacturer's franchise agreements in effect on the effective date of the purchase, acquisition or succession, or, if earlier, at the time the agreement contemplating the purchase, acquisition or succession is actually made.

(2) "Purchase" or "acquisition," for purposes of this section, includes, but is not limited to, a purchase, acquisition, lease, license or assignment of all or a controlling interest in the capital stock or operating assets, including brand trademarks rights; merger; any corporate reorganization or consolidation; and also, without limitation, any license, cross-license, joint venture or other agreement or arrangement, directly or indirectly, transferring, substituting or materially changing the person or persons authorized by the one owning or controlling a brand or any trademark as part of a brand, to produce, import, ship, market or distribute the brand of beer into or within this Commonwealth.

(3) "Manufacturer," as used in this subsection, shall mean any person, including any agent of such person, who (i) is licensed as a manufacturer of malt or brewed beverages located within the Commonwealth of Pennsylvania, (ii) holds a distributor or importing distributor license, or (iii) manufactures any malt beverage, has title to any malt beverage products or has the contractual right to distribute any malt beverage product, whether licensed in

this Commonwealth or not, who enters into an "agreement" with any importing distributor licensed to do business in this Commonwealth.

(c) The aforesaid licenses shall be issued only to reputable individuals, partnerships and associations who are, or whose members are, citizens of the United States and have for two years prior to the date of their applications been residents of the Commonwealth of Pennsylvania or to reputable corporations organized or duly registered under the laws of the Commonwealth of Pennsylvania. Such licenses shall be issued to corporations duly organized or registered under the laws of the Commonwealth of Pennsylvania only when it appears that all of the officers and directors of the corporation are citizens of the United States and have been residents of the Commonwealth of Pennsylvania for a period of at least two years prior to the date of application, and that at least fifty-one per centum of the capital stock of such corporation is actually owned by individuals who are citizens of the United States and have been residents of the Commonwealth of Pennsylvania for a period of at least two years prior to the date of application: Provided, That the provisions of this subsection with respect to residence requirements shall not apply to individuals, partners, officers, directors and owners of capital stock, of corporations licensed or applying for licenses as manufacturers of malt or brewed beverages, nor shall the provisions of this subsection with respect to stockholder requirements apply to corporations licensed or applying for licenses as manufacturers of malt or brewed beverages.

(d) (1) All distributing rights as hereinabove required shall be in writing, shall be equitable in their provisions and shall be substantially similar as to terms and conditions with all other distributing rights agreements between the manufacturer giving such agreement and its other importing distributors and distributors shall not be modified, cancelled, terminated or rescinded by the manufacturer without good cause, and shall contain a provision in substance or effect as follows: "The manufacturer recognizes that the importing distributor and distributor are free to manage their business in the manner the importing distributor and distributor deem best and that this prerogative vests in the importing distributor and distributor the exclusive right to establish a selling price, to select the brands of malt or brewed beverages they wish to handle and to determine the efforts and resources which the importing distributor and distributor will exert to develop and promote the same of the manufacturer's products handled by the importing distributor and distributor. However, the manufacturer expects that the importing distributor and distributor will price competitively the products handled by them, devote reasonable effort and resources to the sale of such products and maintain a reasonable sales level." "Good cause" shall mean the failure by any party to an agreement, without reasonable excuse or justification, to comply substantially with an essential, reasonable and commercially acceptable requirement imposed by the other party under the terms of an agreement.

(2) After January 1, 1980, no manufacturer shall enter into any agreement with more than one distributor or importing distributor for the purpose of establishing more than one agreement for designated brand or brands of

malt or brewed beverages in any one territory. Each franchise territory which is granted by a manufacturer shall be geographically contiguous.

(3) Except for discontinuance of a brand or a valid termination for good cause, the purchaser of the assets of the manufacturer as defined in this act shall become obligated to all the territorial and brand designations of the agreement in effect on the date of purchase. Purchase of assets as defined for the purposes of this act shall include, but not be limited to, the sale of stock, sale of assets, merger, lease, transfer or consolidation.

(4) The court of common pleas of the county wherein the licensed premises of the importing distributor or distributor are located is hereby vested with jurisdiction and power to enjoin the modification, rescission, cancellation or termination of a franchise or agreement between a manufacturer and an importing distributor or distributor at the instance of such importing distributor or distributor who is or might be adversely affected by such modification, rescission, cancellation or termination, and in granting an injunction the court shall provide that no manufacturer shall supply the customers or territory of the importing distributor or distributor by servicing the territory or customers through other importing distributors or distributors or any other means while the injunction is in effect: *Provided, however, That any injunction issued under this subsection shall require the posting of sufficient bond against damages arising from an injunction improvidently granted and a showing that the danger of irrevocable loss or damage is immediate and that during the pendency of such injunction the importing distributor or distributor shall continue to service the accounts of the manufacturer in good faith.*

(5) The provisions of this subsection shall not apply to Pennsylvania manufacturers whose principal place of business is located in Pennsylvania unless they name or constitute a distributor or importing distributor as a primary or original supplier of their products subsequent to the effective date of this act, or unless such Pennsylvania manufacturers have named or constituted a distributor or importing distributor as a primary or original supplier of their products prior to the effective date of this act, and which status is continuing when this act becomes effective.

Section 45. Section 432 of the act, amended January 19, 1952 (1951 P.L.2170, No.619), June 19, 1961 (P.L.482, No.244), October 9, 1967 (P.L.392, No.177) and May 9, 1984 (P.L.246, No.54), is reenacted and amended to read:

Section 432. Malt and Brewed Beverages Retail Licenses.—(a) Subject to the restrictions hereinafter provided in this act, and upon being satisfied of the truth of the statements in the application, that the premises and the applicant meet all the requirements of this act and the regulations of the board, that the applicant seeks a license for a reputable hotel, eating place or club, as defined in this act, the board shall, in the case of a hotel or eating place, grant and issue, and in the case of a club may, in its discretion, issue or refuse the applicant a retail dispenser's license.

(b) In the case of hotels and eating places, licenses shall be issued only to reputable persons who are citizens of the United States and have for two

years been residents of the Commonwealth of Pennsylvania at the date of their application, or to reputable corporations organized or duly registered under the laws of the Commonwealth of Pennsylvania, all of whose officers and directors are citizens of the United States. In the case of incorporated clubs, licenses shall be issued only to those incorporated under the laws of Pennsylvania.

(c) No retail dispenser's licenses shall be granted or renewed upon their expiration in any municipality in which the electors shall vote, as hereinafter provided, against the licensing therein of places where malt or brewed beverages may be sold for consumption on the premises where sold.

(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, **or if such new license or transfer is applied for a place where the principal business conducted is the sale of liquid fuels and oil**. 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.* The board shall not issue new licenses, except as herein otherwise provided, in any license district more than twice each license year effective from specific dates fixed by the board, and new licenses shall not be granted unless the application therefor shall have been filed at least thirty days before the effective date of the license. Nothing herein contained shall prohibit the board from issuing a new license for the balance of any unexpired term in any license district to any applicant in such district, who shall have become eligible to hold such license as the result of legislative enactment, when such enactment shall have taken place during the license term of that district for which application is made, or within the thirty days immediately preceding such term: 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.

(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 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, 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.

(f) Hotel, eating places, or municipal golf course retail dispenser licensees whose sales of food and nonalcoholic beverages are equal to forty per centum (40%) 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 annual permit from the board at a fee of two hundred dollars (\$200.00) per year, which shall be in addition to any other license fees. Provided further, the holder of such special annual 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 46. Section 433 of the act is reenacted and amended to read:

Section 433. Public Service Licenses.—The board may issue public service malt and brewed beverage licenses to a railroad, pullman or steamship company permitting malt or brewed beverages to be sold at retail in dining, club or buffet cars, or the dining compartments of steamships or vessels, for consumption on the trains, steamships or vessels wherever operated in the State, except when standing in stations or terminals within a municipality wherein retail sales are prohibited. Such licenses shall only be granted to reputable persons and for fit places. The board may issue a master license to railroad or pullman companies to cover the maximum number of cars which the company shall estimate that it will operate within the Commonwealth on any one day. Such licensees shall file monthly reports with the board showing the maximum number of cars operated at any time on any day during the preceding month, and if it appears that more cars have been operated than covered by its license it shall forthwith remit to the board the sum of ten dollars for each extra car so operated. The board shall have the power to suspend or revoke any such licenses for cause after granting a hearing **[thereon] before a hearing examiner** to the licensee. Any person aggrieved by the decision of the board in refusing, suspending or revoking any such license may appeal to the **[court of quarter sessions of Dauphin County] Commonwealth Court** in the same manner as provided in this article for appeals from refusals of licenses.

Section 47. Section 433.1 of the act, added July 10, 1961 (P.L.561, No.275), amended November 17, 1967 (P.L.510, No.247) and December 16, 1982 (P.L.1359, No.311), is reenacted and amended to read:

Section 433.1. Stadium or Arena Permits.—(a) The board is hereby authorized to issue, in cities of the first, second and third class, in counties of the third class and in school districts in counties of the third class, special permits allowing the holders thereof to make retail sales of malt or brewed beverages in shatterproof containers at all events on premises principally utilized for competition of professional and amateur athletes and other types of entertainment having an available seating capacity of twelve thousand or more in cities of the first and second class and seven thousand or more and owned by the city in cities of the third class and four thousand two hundred or more and owned by counties of the third class and two thousand five hundred or more in school districts in counties of the third class: Provided,

however, That in cities of the second class this section shall be applicable only to premises owned, leased or operated by any authority created under the act of July 29, 1953 (P.L.1034, No.270), known as the "Public Auditorium Authorities Law." Such sales may be made only to adults and only on days when the premises are so used and only during the period from one hour before the start of and ending one-half hour after the close of the event on the premises: Provided, however, That in school districts in counties of the third class sales may be made only during professional athletic competition.

(b) The owner or lessee or a concessionaire of any such premises may make application for a permit. The aforesaid permits shall be issued only to reputable individuals, partnerships and associations, who are or whose members are citizens of the United States and have for two years prior to the date of their applications been residents of the Commonwealth of Pennsylvania, or to reputable corporations organized or duly registered under the laws of the Commonwealth of Pennsylvania, all of whose officers and directors are citizens of the United States. Each applicant shall furnish proof satisfactory to the board that he is of good repute and financially responsible and that the premises upon which he proposes to do business is a proper place. The applicant shall submit such other information as the board may require. Applications shall be, in writing on forms prescribed by the board, and signed and sworn to by the applicant. Every application shall be accompanied by an application fee of twenty-five dollars (\$25), a permit fee of one hundred dollars (\$100) and a surety bond in the amount of one thousand dollars (\$1000) conditioned the same as the license bonds required by this act for retail dispenser licenses.

(c) Upon receipt of the application in proper form, the application fee, the permit fee and bond, and upon being satisfied that the applicant is of good repute and financially responsible and that the proposed place of business is proper, the board shall issue a special permit to the applicant. Only one permit issued under this section shall be in effect on any such premises at any time.

(d) No permit shall be transferable or assignable. The board may by regulation fix the permit year and provide for the renewal of such permits. Whenever a permit is revoked, another may be issued for the same premises to another applicant upon compliance with the provisions of this section.

(e) The board shall have the power to refuse the issuance of any permit for cause, and to revoke or suspend any permit for cause or for any violation of the liquor or malt and brewed beverage laws. Any applicant or holder of a permit aggrieved by any ruling of the board or by its refusal to issue a permit, or by its suspension or revocation thereof, shall have the right to a hearing and appeal therefrom in the same manner as provided in sections 464 and 471 of this act authorizing appeals from orders of the board *or an administrative law judge*.

Section 48. Section 434 of the act is reenacted to read:

Section 434. License Year.—(a) Licenses issued under this article to distributors, importing distributors and retail dispensers shall, unless revoked in the manner provided in this act, be valid for the license year which

may be established by the board for the particular license district in which the license issues.

(b) Malt or brewed beverage licenses issued under this article to manufacturers and public service companies shall, unless revoked in the manner herein provided, be valid for the calendar year for which they are issued. Licenses to such manufacturers and public service companies may be issued at any time during a calendar year.

Section 49. Section 435 of the act, amended September 28, 1961 (P.L.1728, No.702), is reenacted to read:

Section 435. Filing of Applications for Distributors', Importing Distributors' and Retail Dispensers' Licenses; Filing Fee.—Every person intending to apply for a distributor's, importing distributor's or retail dispenser's license, as aforesaid, in any municipality of this Commonwealth, shall file with the board his or its application. All such applications shall be filed at a time to be fixed by the board for the particular license district as set up by the board under the provisions of this act. The applicant shall, at the time of filing the application and bond, pay said board the filing fee of twenty dollars (\$20), as hereinafter specified.

Section 50. Section 436 of the act, amended June 19, 1961 (P.L.482, No.244) and June 29, 1965 (P.L.151, No.101), is reenacted 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, shall contain or have attached thereto the following information and statements:

(a) The name and residence of the applicant and how long he has resided there, and if an association, partnership or corporation, the residences of the members, officers and directors for the period of two years next preceding the date of such application.

(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. 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 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 specifica-

tions 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, in which event the license may be transferred by the board as provided in section 468 of this act for the transfer of the license in the case of death of the licensee.

(c) Place of birth of applicant, and if a naturalized citizen, where and when naturalized, and if a corporation organized or registered under the laws of the Commonwealth, when and where incorporated, with the names and addresses of each officer and director, all of whom shall be citizens of the United States; if the application is for a distributor's or importing distributor's license and the applicant therefor is a corporation, the application shall also contain a statement of facts showing the qualifications of the corporation, as hereinbefore required, together with the names and addresses of all stockholders.

(d) Name of owner of premises and his residence.

(e) That the applicant is not, or in case of a partnership or association, that the members or partners are not, and in the case of a corporation, that the officers and directors are not, in any manner pecuniarily interested, either directly or indirectly, in the profits of any other class of business regulated under this article, except as hereinafter permitted.

(f) That applicant is the only person in any manner pecuniarily interested in the business so asked to be licensed, and that no other person shall be in any manner pecuniarily interested therein during the continuance of the license, except as hereinafter permitted.

(g) Whether applicant, or in case of a partnership or association, any member or partner thereof, or in case of a corporation, any officer or director thereof, has during the three years immediately preceding the date of said application had a license for the sale of malt or brewed beverages or spirituous and vinous liquors revoked, or has during the same period been convicted of any criminal offense, and if so, a detailed history thereof.

(h) A full description of that portion of the premises for which license is asked, and if any other business is to be conducted concurrently with the sale and distribution of malt or brewed beverages, a full history of such business, relating the nature thereof, the length of time it has so previously been conducted by the applicant or his predecessor at such location, and such additional information as the board may require.

(i) Every club applicant shall file with and as a part of its application a list of the names and addresses of its members, directors, officers, agents and employes, together with the dates of their admission, election or employment, and such other information with respect to its affairs as the board shall require.

(j) The application must be verified by affidavit of applicant, and if any false statement is intentionally made in any part of the application, the affiant shall be deemed guilty of a misdemeanor and, upon conviction, shall be subject to the penalties provided by this article.

Section 51. Section 437 of the act, amended December 22, 1965 (P.L.1149, No.445), is reenacted to read:

Section 437. Prohibitions Against the Grant of Licenses.—(a) The board shall refuse to grant any licenses unless the application therefor contains the information required by this act, and the premises meet such reasonable sanitary requirements as the board, by regulation, shall prescribe.

(b) The board shall refuse to grant a license to any club when it appears that the operation of such license would inure to the benefit of individual members, officers, agents or employes of the club, rather than to the benefit of the entire membership of the club.

(c) Licenses shall be granted by the board only to reputable individuals, or to associations, partnerships and corporations whose members or officers and directors are reputable individuals.

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

(e) No distributor's or importing distributor's license shall be issued for any premises in any part of which there is operated any retail license for the sale of liquor or malt or brewed beverages.

(f) No new distributor's or importing distributor's license shall hereafter be granted by the board in any county of the Commonwealth where the combined number of distributor and importing distributor licenses exceeds one license for each fifteen thousand inhabitants of the county in which the license is to be issued: Provided, That a combined total of five such licenses may be granted in any county of the Commonwealth.

Nothing in this subsection shall be construed as denying the right of the board to renew or to transfer existing distributors' or importing distributors' licenses or to exchange a distributor's license for an importing distributor's license or to exchange an importing distributor's license for a distributor's license, upon adjustment of the applicable fee, notwithstanding that the number of such licensed places in the county shall exceed the limitation hereinbefore prescribed: Provided, That no distributor's license or importing distributor's license shall be transferred from one county to another county so long as the quota is filled in the county to which the license is proposed to be transferred.

Section 52. Section 438 of the act is reenacted to read:

Section 438. Number and Kinds of Licenses Allowed Same Licensee.—

(a) Any retail dispenser may be granted licenses to maintain, operate or conduct any number of places for the sale of malt or brewed beverages, but a separate license must be secured for each place where malt or brewed beverages are sold.

(b) No person shall possess or be issued more than one distributor's or importing distributor's license.

(c) No person shall possess more than one class of license, except that a holder of a retail dispenser's license may also be a holder of a retail liquor license.

Section 53. Section 439 of the act, amended September 28, 1961 (P.L.1728, No.702), is reenacted to read:

Section 439. Malt or Brewed Beverage License Fees.—No public service license and no license to any manufacturer, distributor, importing distributor or retail dispenser shall be issued under the provisions of this subdivision (B) until the licensee shall have first paid an annual license fee, as follows:

(a) In the case of a manufacturer, the license fee shall be one thousand dollars (\$1,000) for each place of manufacture and shall be paid to the board. The fee for all such licenses when applied for and issued on or after April 1, but prior to July 1, shall be three-fourths of the annual fee; July 1, but prior to October 1, shall be one-half of the annual fee; October 1, but prior to January 1, shall be one quarter of the annual fee.

(b) In the case of a distributor, the license fee shall be four hundred dollars (\$400) and shall be paid to the board.

(c) In the case of an importing distributor, the license fee shall be nine hundred dollars (\$900) and shall be paid to the board.

(d) In the case of a retail dispenser, except clubs, the license fee shall be graduated according to the population of the municipality in which the place of business is located and shall be paid to the board, as follows:

- (1) Less than 10,000 \$100
- (2) 10,000 and more, but less than 50,000 \$150
- (3) 50,000 and more, but less than 100,000 \$200
- (4) 100,000 and more, but less than 150,000 \$250
- (5) 150,000 and more \$300

(e) In the case of a club, the fee shall be twenty-five dollars in all cases and shall be paid to the board.

(f) In the case of a public service license for cars, the fee shall be ten dollars per car for the maximum number of cars operated on any one day on which malt or brewed beverages are sold, to be paid to the board.

(g) In the case of a public service license for the sale of malt or brewed beverages on a boat or vessel, the fee shall be fifty dollars for each such vessel or boat and shall be paid to the board.

(h) The fee for filing applications for licenses and for renewals shall be twenty dollars (\$20) which, together with fees for transfers, shall be paid to the board.

(i) The license fees fixed by this section shall be paid before the license or renewal is issued.

Section 54. Section 440 of the act, amended August 17, 1965 (P.L.346, No.182), is reenacted to read:

Section 440. Sales by Manufacturers of Malt or Brewed Beverages; Minimum Quantities.—No manufacturer shall sell any malt or brewed beverages for consumption on the premises where sold, nor sell or deliver any such malt or brewed beverages in other than original containers approved as to capacity by the board, nor in quantities of less than a case of twenty-four containers, each container holding seven fluid ounces or more, or a case of twelve containers, each container holding twenty-four fluid ounces or more, except original containers containing one hundred twenty-eight ounces or more which may be sold separately; nor shall any manufacturer maintain or operate within the Commonwealth any place or places other than the place or places covered by his or its license where malt or brewed beverages are sold or where orders are taken.

Section 55. Section 441 of the act, amended October 23, 1959 (P.L.1360, No.471) and August 17, 1965 (P.L.346, No.182), is reenacted to read:

Section 441. Distributors' and Importing Distributors' Restrictions on Sales, Storage, Etc.—(a) No distributor or importing distributor shall purchase, receive or resell any malt or brewed beverages except in the original containers as prepared for the market by the manufacturer at the place of manufacture.

(b) No distributor or importing distributor shall sell any malt or brewed beverages in quantities of less than a case of twenty-four containers, each container holding seven fluid ounces or more, or a case of twelve containers, each container holding twenty-four fluid ounces or more, except 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.

(c) No distributor or importing distributor shall maintain or operate any place where sales are made other than that for which the license is granted.

(d) No distributor or importing distributor shall maintain any place for the storage of malt or brewed beverages except in the same municipality in which the licensed premises is located and unless the same has been approved by the board. In the event there is no place of cold storage in the same municipality, the board may approve a place of cold storage in the nearest municipality.

(e) No distributor or importing distributor shall purchase, sell, resell, receive or deliver any malt or brewed beverages, except in strict compliance with the provisions of subsection (b) of section 431 of this act.

Section 56. Section 442 of the act, amended October 9, 1967 (P.L.413, No.183), July 3, 1980 (P.L.348, No.88) and May 9, 1984 (P.L.246, No.54), is reenacted and amended to read:

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

(a) No retail dispenser shall purchase or receive any malt or brewed beverages except in original containers as prepared for the market by the manufacturer at the place of manufacture. The retail dispenser may thereafter break the bulk upon the licensed premises and sell or dispense the same for consumption on or off the premises so licensed: Provided, however, That no retail dispenser may sell malt or brewed beverages for consumption off the premises in quantities in excess of **[one hundred forty-four] one hundred ninety-two** fluid ounces: Provided, further, That no club licensee may sell any malt or brewed beverages for consumption off the premises where sold or to persons not members of the club.

(b) No retail dispenser shall sell any malt or brewed beverages for consumption on the licensed premises except in a room or rooms or place on the licensed premises at all times accessible to the use and accommodation of the general public, but this section shall not be interpreted to prohibit a retail dispenser from selling malt or brewed beverages in a hotel or club house in any room of such hotel or club house occupied by a bona fide registered guest or member entitled to purchase the same or to prohibit a retail dispenser from selling malt or brewed beverages in a bowling alley when no minors are present, unless minors who are present are under proper supervision as defined in section 493, where the licensed premises and bowling alley are immediately adjacent and under the same roof.

(c) For the purpose of this section 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.

(d) For the purposes of this section, 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.

Section 57. Section 443 of the act is reenacted to read:

Section 443. Interlocking Business Prohibited.—(a) No manufacturer of malt or brewed beverages and no officer or director of any such manufacturer shall at the same time be a distributor, importing distributor or retail dispenser, or an officer, director or stockholder or creditor of any distributor, importing distributor or retail dispenser, nor, except as hereinafter provided, be the owner, proprietor or lessor of any place for which a license has been issued for any importing distributor, distributor or retail dispenser, or for which a hotel, restaurant or club liquor license has been issued.

(b) No distributor or importing distributor and no officer or director of any distributor or importing distributor shall at the same time be a manufacturer, a retail dispenser or a liquor licensee, or be an officer, director, stockholder or creditor of a manufacturer, a retail dispenser or a liquor licensee, or, directly or indirectly, own any stock of, or have any financial interest in, or be the owner, proprietor or lessor of, any place covered by any other malt or brewed beverage or liquor license.

(c) No licensee licensed under this subdivision (B) of Article IV and no officer or director of such licensee shall, directly or indirectly, own any stock of, or have any financial interest in, any other class of business licensed under this subdivision.

(d) Excepting as hereinafter provided, no malt or brewed beverage manufacturer, importing distributor or distributor shall in any wise be interested, either directly or indirectly, in the ownership or leasehold of any property or in any mortgage against the same, for which a liquor or retail dispenser's license is granted; nor shall any such manufacturer, importing distributor or distributor, either directly or indirectly, lend any moneys, credit or equivalent thereof to, or guarantee the payment of any bond, mortgage, note or other obligation of, any liquor licensee or retail dispenser, in equipping, fitting out, or maintaining and conducting, either in whole or in part, an establishment or business operated under a liquor or retail dispenser's license, excepting only the usual and customary credits allowed for returning original containers in which malt or brewed beverages were packaged for market by the manufacturer at the place of manufacture.

(e) Excepting as hereinafter provided, no manufacturer of malt or brewed beverages shall in any wise be interested, either directly or indirectly, in the ownership or leasehold of any property or any mortgage lien against the same, for which a distributor's or importing distributor's license is granted; nor shall any such manufacturer, either directly or indirectly, lend any moneys, credit, or their equivalent to, or guarantee the payment of any bond, mortgage, note or other obligation of, any distributor or importing distributor, in equipping, fitting out, or maintaining and conducting, either in whole or in part, an establishment or business where malt or brewed beverages are licensed for sale by a distributor or importing distributor, excepting only the usual credits allowed for the return of original containers in which malt or brewed beverages were originally packaged for the market by the manufacturer at the place of manufacture.

(f) No distributor, importing distributor or retail dispenser shall in anywise receive, either directly or indirectly, any credit, loan, moneys or the equivalent thereof from any other licensee, or from any officer, director or firm member of any other licensee, or from or through a subsidiary or affiliate of another licensee, or from any firm, association or corporation, except banking institutions, in which another licensee or any officer, director or firm member of another licensee has a substantial interest or exercises a control of its business policy, for equipping, fitting out, payment of license fee, maintaining and conducting, either in whole or in part, an establishment or business operated under a distributor's, importing distributor's or retail dispenser's license, excepting only the usual and customary credits allowed for the return of original containers in which malt or brewed beverages were packaged for the market by the manufacturer at the place of manufacture.

(g) The purpose of this section is to require a separation of the financial and business interests between the various classes of business regulated by subdivision (B) of this article, and no person or corporation shall, by any device whatsoever, directly or indirectly, evade the provisions of this section.

But in view of existing economic conditions, nothing contained in this section shall be construed to prohibit the ownership of property or conflicting interest by a malt or brewed beverage manufacturer of any place occupied by a distributor, importing distributor or retail dispenser after the manufacturer has continuously owned and had a conflicting interest in such place for a period of at least five years prior to the eighteenth day of July, one thousand nine hundred thirty-five.

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

Section 58. Section 444 of the act, amended December 12, 1980 (P.L.1195, No.221) and repealed in part December 20, 1982 (P.L.1409, No.326), is reenacted and amended and the act is amended by adding sections to read:

Section 444. Malt or Brewed Beverages Manufactured Outside This Commonwealth.—(a) In addition to compliance with all other provisions of this act, the board shall require each person desiring to sell any malt or brewed beverages manufactured outside this Commonwealth to Pennsylvania licensees, and shall require each Pennsylvania licensee who desires to purchase and resell any such malt or brewed beverages, to pay to the board the same fees as are required to be paid by Pennsylvania licensees or by persons or licensees in any state, territory or country outside of Pennsylvania who desires to sell malt or brewed beverages manufactured in Pennsylvania to licensees in such other state, territory or country of origin of such malt or brewed beverages not manufactured in Pennsylvania, and to observe and comply with the same regulations, prohibitions and restrictions as are required of or enforced against Pennsylvania licensees or persons who desire to purchase and resell malt or brewed beverages manufactured in Pennsylvania in such other state, territory or country of origin.

(b) In all cases where the board shall have issued any reciprocal regulations or orders concerning malt or brewed beverages manufactured in any state, territory or country other than Pennsylvania, no Pennsylvania licensee shall purchase any such malt or brewed beverages if their importation has been prohibited, or if not entirely prohibited, unless such regulations or orders have been observed and complied with by the Pennsylvania licensee and by the person from or through whom the Pennsylvania licensee desires to purchase.

(c) Any malt or brewed beverages manufactured outside of Pennsylvania which are sold, transported or possessed in Pennsylvania contrary to any such regulations or orders of the board, or without the payment of the fees herein required, shall be considered contraband and shall be confiscated by the board and disposed of in the same manner as any other illegal liquor or malt or brewed beverages.

(d) Upon learning of the commission by a manufacturer of malt or brewed beverages whose principal place of business is outside this Commonwealth, or by any servant, agent, employe or representative of such manufacturer, within or partly within and partly outside this Commonwealth, of any

violation of this act or any laws of this Commonwealth relating to liquor, alcohol or malt or brewed beverages, or of any regulation of the board adopted pursuant thereto, or of any violation of any laws of this Commonwealth or of the United States of America relating to the tax payment of liquor or malt or brewed beverages, the board shall cite such manufacturer to appear before it or [its examiner] *an administrative law judge* not less than ten nor more than fifteen days from the date of mailing such manufacturer at his principal place of business, wherever located, by registered mail, a notice to show cause why the further importation into this Commonwealth of malt or brewed beverages manufactured by him should not be prohibited.

(e) Upon such hearing, whether or not an appearance was made by such outside manufacturer, if satisfied that any such violation has occurred, the board is specifically empowered and directed to issue an order imposing a fine upon such outside manufacturer of not less than five hundred dollars (\$500) or more than ten thousand dollars (\$10,000), or prohibiting the importation of malt or brewed beverages manufactured by such outside manufacturer into this Commonwealth for a period not exceeding three years, or both. Such fine or prohibition shall not go into effect until twenty days have elapsed from the date of notice of issuance of the board's order.

(f) If, after hearing, the board prohibits the importation of malt or brewed beverages manufactured by such outside manufacturer into this Commonwealth, notice of such board action shall be given immediately to such manufacturer and to all persons licensed to import malt or brewed beverages within this Commonwealth by mailing a copy of such order to such manufacturer at its principal place of business, wherever located, and to such licensees at their licensed premises. Thereafter, it shall be unlawful for any person licensed to import malt or brewed beverages within this Commonwealth to purchase any malt or brewed beverages manufactured by such outside manufacturer during the term of such prohibition.

(g) Any violation of such prohibitory order shall be a misdemeanor and shall be punished in the same manner as herein provided for any other violation of this act, and shall also constitute grounds for revocation or suspension of a license to import malt or brewed beverages.

(h) 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.

Section 445. Brand Registration.—*No brand or brands of malt or brewed beverages shall be offered, sold or delivered to any trade buyer within this Commonwealth unless the manufacturer thereof shall first submit an application in the form and manner prescribed by the board for the registration of the said brand or brands of malt beverages, together with an annual filing fee not to exceed twenty-five dollars (\$25) for each brand registration requested. In the event an out-of-State or foreign manufacturer of malt or brewed beverages has granted franchise rights to any person for the sale and distribution of its brand products but which person is not licensed to sell and distribute the same in this Commonwealth, said such person shall nevertheless be required to register the involved brand before offering the same for sale in Pennsylvania. It is further conditioned that the person*

holding such franchise rights shall, together with its application for brand registration, file with the board copies of all agreements between it and the Pennsylvania importing distributor appointed by such person to sell and distribute the brands of malt or brewed beverages as provided by sections 431 and 492. Such agreement shall contain the manufacturer's consent and approval to the appointment of the Pennsylvania importing distributor and the rights conferred thereunder.

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

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

(2) Operate a restaurant or brewery pub on the licensed premises under such conditions and regulations as the board may enforce.

Section 59. The heading of Subdivision (C) of Article IV of the act is reenacted to read:

(C) General Provisions Applying to Both Liquor and Malt
and Brewed Beverages.

Section 60. Section 461 of the act, amended June 19, 1961 (P.L.484, No.245), September 2, 1971 (P.L.429, No.103), December 17, 1982 (P.L.1390, No.319) and May 2, 1986 (P.L.141, No.44), is reenacted to read:

Section 461. Limiting Number of Retail Licenses To Be Issued In Each Municipality.—(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 two thousand inhabitants in any municipality, exclusive of licenses granted to airport restaurants, municipal golf courses, hotels, privately-owned public golf courses, as defined in this section, 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 and privately-owned private golf course licensees, as defined in this section, shall be granted so long as said limitation is exceeded.

(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.

(c) The word "hotel" as used in this section shall mean any reputable place operated by a responsible person of good reputation where the public

may, for a consideration, obtain sleeping accommodations, and which shall have the following number of bedrooms and requirements in each case—at least one-half of the required number of bedrooms shall be regularly available to transient guests seven days weekly, except in resort areas; at least one-third of such bedrooms shall be equipped with hot and cold water, a lavatory, commode, bathtub or shower and a clothes closet; and an additional one-third of the total of such required rooms shall be equipped with lavatory and commode:

(1) In municipalities having a population of less than three thousand, at least twelve permanent bedrooms for the use of guests.

(2) In municipalities having a population of three thousand and more but less than ten thousand inhabitants, at least sixteen permanent bedrooms for the use of guests.

(3) In municipalities having a population of ten thousand and more but less than twenty-five thousand inhabitants, at least thirty permanent bedrooms for the use of guests.

(4) In municipalities having a population of twenty-five thousand and more but less than one hundred thousand inhabitants, at least forty permanent bedrooms for the use of guests.

(5) In municipalities having a population of one hundred thousand and more inhabitants, at least fifty permanent bedrooms for the use of guests.

(6) A public dining room or rooms operated by the same management accommodating at least thirty persons at one time and a kitchen, apart from the dining room or rooms, in which food is regularly prepared for the public.

(7) Each room to be considered a bedroom under the requirements of this section shall have an area of not less than eighty square feet and an outside window.

(8) The provisions of this subsection (c) shall not apply to hotel licenses granted prior to the first day of September, one thousand nine hundred forty-nine, or that have been granted on any application made and pending prior to said date, nor to any renewal or transfer thereof, or hotels under construction or for which a bona fide contract had been entered into for construction prior to said date. In such cases, the provisions of section one of the act, approved the twenty-fourth day of June, one thousand nine hundred thirty-nine (Pamphlet Laws 806), shall continue to apply.

(d) "Airport restaurant," as used in this section, shall mean restaurant facilities at any airport for public accommodation, which are owned or operated directly or through lessees by the Commonwealth of Pennsylvania, by any municipal authority, county or city, either severally or jointly, with any other municipal authority, county or city, but shall not include any such restaurant facilities at any airport situated in a municipality where by vote of the electors the retail sale of liquor and malt or brewed beverages is not permitted.

(e) "Municipal golf course" as used in this section shall mean the restaurant facilities at any municipal golf course open for public accommodation, which are owned or operated directly or through lessees by a county, municipality or a municipal authority, severally or jointly with any other county,

municipality or municipal authority, including any such restaurant facilities at any municipal golf course situate in a municipality where by vote of the electors the retail sale of liquor and malt and brewed beverages is not permitted.

(e.1) "Privately-owned public golf course" as used in this section shall mean the restaurant facilities at any privately-owned golf course open for public accommodation.

(e.2) "Privately-owned private golf course" as used in this section shall mean the clubhouse at any privately-owned golf course as defined in section 102 open for private membership accommodations only as a club as defined in section 102. The license to be issued in this instance shall be a club license.

(f) The provisions of subsection (a) which apply to privately-owned public golf courses shall not apply to the owner of such course who has, within three years prior to the effective date of this amendatory act or at any time after the effective date of this amendatory act, sold or transferred a regularly issued license for such course.

Section 61. Section 461.1 of the act, added December 12, 1980 (P.L.1195, No.221), is reenacted 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 where the number of licenses exceeds the limitation prescribed by section 461.

(b) The term "national veterans' organization" shall mean any veterans' organization having a national charter.

The term "incorporated unit of a national veterans' organization" shall mean any incorporated post, branch, camp, detachment, lodge or other subordinate unit of a national veterans' organization having one hundred or more paid up members and organized for a period of at least three years prior to filing the application for a license.

(c) When the charter of an incorporated unit of a national veterans' organization is suspended or revoked, the retail license of the organization shall also be suspended or revoked. The retail license of an incorporated unit of a national veterans' organization is not transferable to any other organization or person.

Section 62. Section 462 of the act is reenacted to read:

Section 462. Licensed Places May Be Closed During Period of Emergency.—The board may, with the approval of the Governor,

(a) Temporarily close all licensed places within any municipality during any period of emergency proclaimed to be such by the Governor.

(b) Advance by one hour the hours prescribed in this act as the hours during which liquor and malt or brewed beverages may be sold in any municipality during such part of the year when daylight saving time may be observed generally in such municipality.

Section 63. Section 463 of the act, amended November 17, 1967 (P.L.510, No.247), March 23, 1972 (P.L.122, No.46) and May 9, 1984 (P.L.246, No.54), is reenacted to read:

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

(a) No license for the sale of liquor or malt or brewed beverages in any quantity shall be granted to the proprietors, lessees, keepers or managers of any theater, circus, museum or other place of amusement, nor shall any house be licensed for the sale of liquor or malt or brewed beverages which has passage or communication to or with any theater, circus, museum or other place of amusement, and any license granted contrary to this act shall be null and void. Nothing contained in this section shall be construed as denying to the board the right to grant a restaurant liquor license regardless of quota restrictions to the owner or operator of a restaurant in a building on a plot of ground owned or possessed under lease by a corporation incorporated under the laws of this Commonwealth and used principally by such corporation for holding outdoor sport events wherein such events are held under a license issued as provided by law to such corporation by a department, board or commission of the Commonwealth of Pennsylvania. The restaurant liquor license aforementioned shall be subject to all the conditions and restrictions herein applicable to restaurant liquor licenses, except the above prohibition against any passageway or communication between such licensed premises and the place of amusement.

Nothing contained in this act shall be construed as denying to the board the right to grant a new restaurant liquor license, regardless of quota restrictions, at any time, to the owner or operator of a restaurant in a building or plot of ground having a seating capacity in excess of twenty-five thousand, used principally for holding automobile races.

(a.1) Nothing contained in subsection (a) of this section or in section 102 of this act shall be construed as denying to the board the right to grant a club or restaurant liquor or malt and brewed beverage license to a club incorporated in this Commonwealth which has been in existence less than one year prior to making application under this section or to a restaurant either of which has a clubhouse or restaurant located in a stadium or arena having an available seating capacity of twelve thousand or more and owned and operated by or pursuant to an agreement with any city of the first class or created and operated under and in compliance with the act of July 29, 1953 (P.L.1034), known as the "Public Auditorium Authorities Law," and used principally for events at which athletes compete or other types of performers entertain. The club or restaurant liquor or malt and brewed beverage license aforementioned shall be subject to all the conditions and restrictions applicable to such licenses and licenses for places of amusement, except the above prohibition against any passageway or communication between such licensed premises and the place of amusement.

(a.2) Nothing contained in this act shall be construed to prevent the holder of a hotel, restaurant liquor or malt and brewed beverage license from selling liquor and malt or brewed beverages in a bowling alley, or other recreational areas including, but not limited to, game rooms and video arcade areas of hotels, when no minors are present, unless minors who are present are under proper supervision as defined in section 493, where the restaurant, bowling alley, or other recreational areas including, but not limited to, game

rooms and video arcade areas of hotels are immediately adjacent and under the same roof. The restaurant liquor or malt and brewed beverage licensee aforementioned shall be subject to all the conditions and restrictions applicable to such restaurant licenses except the above prohibition against any passageway or communication between a licensed premise and a place of amusement.

(b) Any proprietor, lessee, keeper or manager of any theater, circus, museum or other place of amusement, or any other person who shall violate the provisions of this section, shall be guilty of a misdemeanor and, upon conviction thereof, shall be sentenced to pay a fine of one hundred dollars and to undergo an imprisonment of not less than thirty days.

Section 64. Section 464 of the act, repealed in part June 3, 1971 (P.L.118, No.6), is reenacted and 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, whose application for such license, renewal or transfer has been refused, fix a time and place for hearing of such application for license or for renewal or transfer thereof, notice of which hearing shall be mailed to the applicant at the address given in his application. Such hearing shall be before **[the board, a member thereof, or an examiner designated by the board]** *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. 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 examiner shall thereafter report to the board upon such hearing. The board shall thereupon grant or refuse the license, renewal or transfer thereof. In considering the renewal of a license, 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. If the board shall refuse such license, renewal or transfer 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 **[before the board or any agent thereof]** 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 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 **[quarter sessions]** *common pleas* of the county in which the premises applied for is located **[or the county court of Allegheny County]**.

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[, **which shall be represented in the proceeding by the Department of Justice**]. 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 to the applicant.

[The jurisdiction of the county court of Allegheny County conferred hereby shall be exclusive within the territorial limits of its jurisdiction.]

Section 65. Sections 465, 466 and 467 of the act are reenacted to read:

Section 465. All Licensees to Furnish Bond.—(a) No license shall be issued to any applicant under the provisions of this article until such applicant has filed with the board an approved bond and a warrant of attorney to confess judgment payable to the Commonwealth of Pennsylvania in the amount hereinafter prescribed.

(b) Bonds of all such applicants shall have as surety a surety company authorized to do business in this Commonwealth, or shall have deposited therewith, as collateral security, cash or negotiable obligations of the United States of America or the Commonwealth of Pennsylvania in the same amount as herein provided for the penal sum of bonds. In all cases where cash or securities in lieu of other surety have been deposited with the board, the depositor shall be permitted to continue the same deposit from year to year on each renewal of license, but in no event shall he be permitted to withdraw his deposit during the time he holds said license, or until six months after the expiration of the license held by him, or while revocation proceedings are pending against such license. All cash or securities received by the board in lieu of other surety shall be turned over by the board to the State Treasurer and held by him. The State Treasurer shall repay or return money or securities deposited with him to the respective depositors only on the order of the board.

(c) No such bond shall be accepted until approved by the board. All such bonds shall be conditioned for the faithful observance of all the laws of this Commonwealth relating to liquor, alcohol and malt or brewed beverages and the regulations of the board. All bonds shall be retained by the board.

(d) The penal sum of the respective bonds filed under the provisions of this section shall be as follows:

(1) Manufacturers of malt or brewed beverages, ten thousand dollars (\$10,000.00) for each place at which the licensee is authorized to manufacture.

(2) Liquor importers, ten thousand dollars (\$10,000.00) for each license.

(3) Sacramental wine licensees, ten thousand dollars (\$10,000.00).

(4) Importing distributors of malt or brewed beverages, two thousand dollars (\$2,000.00).

(5) Hotel, restaurant, club and public service liquor licensees, two thousand dollars (\$2,000.00), but in the case of a railroad or pullman company, such penal sum shall cover every dining, club or buffet car of such company operated under such license.

(6) Distributors of malt or brewed beverages, one thousand dollars (\$1,000.00).

(7) Retail dispensers and public service malt or brewed beverage licensees, one thousand dollars (\$1,000.00) for each place at which the licensee is authorized to sell malt or brewed beverages, except that in the case of railroad or pullman companies, said penal sum shall be one thousand dollars (\$1,000.00), irrespective of the number of licensed cars operated by the company.

(e) Every such bond may be forfeited when a license is revoked and shall be turned over to the Attorney General for collection if and when the licensee's license shall have been revoked and his bond forfeited as provided in this act.

Section 466. Disposition of Cash and Securities Upon Forfeiture of Bond.—After notice from the board that any of the aforesaid bonds have been forfeited, the State Treasurer shall immediately pay into The State Stores Fund all cash deposited as collateral with such bond, and when securities have been deposited with such bond, the State Treasurer shall sell, at private sale, at not less than the prevailing market price, any such securities so deposited as collateral with such forfeited bond. The State Treasurer shall thereafter deposit in The State Stores Fund the net amount realized from the sale of such securities, except that if the amount so realized, after deducting proper costs and expenses, is in excess of the penal amount of the bond, such excess shall be paid over by him to the obligor on such forfeited bond.

Section 467. Display of License.—Every license issued under this article shall be constantly and conspicuously exposed under transparent substance on the licensed premises and no license shall authorize sales until this section has been complied with.

Section 66. Section 468 of the act, amended November 26, 1978 (P.L.1389, No.326) and June 24, 1982 (P.L.624, No.176), is reenacted and amended to read:

Section 468. Licenses Not Assignable; Transfers.—(a) Licenses issued under this article may not be assigned. The board, upon payment of the transfer filing fee and the execution of a new bond, 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, 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 con-

tinues 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. 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. 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.

(b.1) In the event that any person to whom a license shall have been issued under the provisions of this article shall become insolvent, make an assignment for the benefit of creditors, become bankrupt by either voluntary or involuntary action, the license of such person shall be immediately placed in safekeeping with the board for the balance of the term of the license and for an additional period of one year upon application to the board by the trustee, receiver, or assignee. The trustee, receiver, or assignee shall have, during said period of safekeeping, the same rights, benefits and obligations as to the license as the person to whom the license had been issued, including the right to transfer the license subject to the approval of the board. The license shall continue as a personal privilege granted by the board and nothing herein shall constitute the license as property.

(c) (1) The term "nonprofit nationally chartered club" shall mean any club which does not contemplate pecuniary gain or profit, incidental or otherwise, having a national charter.

(2) The term "unit of a nonprofit nationally chartered club" shall mean any post, branch, lodge or other subordinate unit of a nonprofit nationally chartered club.

(d) The license shall constitute a privilege between the board and the licensee. As between the licensee and third parties, the license shall constitute property.

Section 67. Section 469 of the act, amended September 28, 1961 (P.L.1728, No.702), is reenacted and amended to read:

Section 469. Applications for Transfers; Fees.—(a) Every applicant for a transfer of a license under the provisions of this article shall file a written application with the board, together with a filing fee of thirty dollars (\$30) if the license to be transferred is a liquor license, and twenty dollars (\$20) if the license is a malt or brewed beverage license. Such application shall be in such form and shall be filed at such times as the board shall in its regulations prescribe. Each such applicant shall also file an approved bond as required on original applications for such licenses.

(b) Whenever any license is transferred, no license or other fees shall be required from the persons to whom such transfer is made for the balance of the then current license year, except the filing fee as herein provided.

Section 68. Section 470 of the act, amended August 1, 1969 (P.L.219, No.87), is reenacted and 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 a new bond, 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 a renewal application filed less than sixty days before the expiration date of the license with the required bond and 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 within the time prescribed herein the board, in its discretion, may, after hearing, accept a renewal application filed within ten months after the expiration date of the license with the required bond and 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. A renewal application will not be considered filed unless accompanied by a new bond and 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.

(b) In cases where a licensee or his servants, agents or employes are arrested, charged with violating any of the laws of this Commonwealth relating to liquor, alcohol or malt or brewed beverages, and where the board has on file in such cases reports of [its] enforcement officers or investigators of *the enforcement bureau* or from other sources that a licensee or his servants, agents or employes have violated any of the aforementioned laws and a proceeding to revoke such licensee's license is or is about to be instituted, and such arrest occurs or report of violations is received or revocation proceeding instituted or about to be instituted during the time a renewal application of such license is pending before the board, the board may, in its discretion, renew the license, notwithstanding such alleged violations, but such renewal license may be revoked if and when the licensee or any of his servants, agents or employes are convicted of or plead guilty to violations under the previous license, as aforesaid, or if and when such previous license is for any reason revoked.

In the event such renewal license is revoked by the board, neither the license fee paid for such license nor any part thereof shall be returned to the licensee, but the license bond filed with the application for such renewal of license shall not be forfeited.

(c) Notwithstanding anything to the contrary in this section, any individual who holds a restaurant or hotel liquor license or a retail dispenser (hotel or eating place) malt or brewed beverage license in effect at the time such individual enters the armed forces of the United States of America, may surrender to the board for safekeeping the said license and, if surrendered, shall furnish the board with documentary evidence as to his entering such

armed forces. Upon surrender of the license, the board shall, without the filing of an application for renewal or surety bond, the payment of filing and license fees, renew the said license from year to year and hold the same in its possession for the benefit of such licensee. A license so renewed by the board shall to all intents and purposes be considered as in full force and effect, notwithstanding the licensee is not exercising the privileges thereunder, and shall be returned to the said licensee at any time within one year from the date of his honorable discharge from the armed forces of the United States upon the filing of an application therefor, surety bond, and payment of the filing and license fees as hereinafter provided. The said application for return of license shall be on a form prescribed by the board, accompanied by a filing fee in the sum of ten dollars (\$10.00) and the prescribed license fee, except that when such application is filed after a portion of the then current license term has elapsed, the license fee shall be prorated on a monthly basis for the balance of the license year: Provided, however, That the said license shall not be returned if the electors of the municipality in which the licensed establishment is situate have voted against the granting of retail liquor licenses or against the granting of retail dispenser licenses, as the case may be, under the local option provision of this act. In the event the premises originally covered by the license are not available for occupancy by the licensee at the time he files his application for return of license, as hereinbefore provided, he shall be permitted to file an application for transfer of the license to other premises in the same municipality. Such transfer of the license shall be subject to all of the provisions of this act pertaining to the transfer of such licenses.

This subsection (c) was enacted due to conditions caused by the present war and shall remain in effect only until the termination of said war and one year thereafter.]

Section 69. Sections 470.1 and 470.2 of the act are repealed.

Section 70. Section 471 of the act, amended January 13, 1966 (1965 P.L.1301, No.518) and repealed in part June 3, 1971 (P.L.118, No.6), is reenacted and amended to read:

Section 471. Revocation and Suspension of Licenses; Fines.—[Upon learning of any violation of this act or any laws of this Commonwealth relating to liquor, alcohol or malt or brewed beverages, or of any regulations of the board adopted pursuant to such laws, of any violation of any laws of this Commonwealth or of the United States of America relating to the tax-payment of liquor or malt or brewed beverages by any licensee within the scope of this article, his officers, servants, agents or employes, or upon any other sufficient cause shown, the board may, within one year from the date of such violation or cause appearing, cite such licensee to appear before it or its examiner, not less than ten nor more than sixty days from the date of sending such licensee, by registered mail, a notice addressed to him at his licensed premises, to show cause why such license should not be suspended or revoked or a fine imposed. Hearings 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 board 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), notifying the licensee by registered letter addressed to his licensed premises. In the event the fine is not paid within twenty days of the order the board shall suspend or revoke the license, notifying the licensee by registered mail addressed to his licensed premises. Suspensions and revocations shall not go into effect until twenty days have elapsed from the date of notice of issuance of the board's order, during which time the licensee may take an appeal as provided for in this act. When a license is revoked, the licensee's bond may be forfeited by the board. 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 the board shall revoke a license, 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 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. In the event the person who was fined or whose license was suspended or revoked by the board shall feel aggrieved by the action of the board, he shall have the right to appeal to the court of quarter sessions or the county court of Allegheny County in the same manner as herein provided for appeals from refusals to grant licenses. Upon appeal, the court so appealed to shall, in the exercise of its discretion, sustain, reject, alter or modify the findings, conclusions and penalties of the board, based on the findings of fact and conclusions of law as found by the court. The aforesaid appeal shall act as a supersedeas unless upon sufficient cause shown the court shall determine otherwise. No penalty provided by this section shall be imposed by the board or any court for any violations provided for in this act unless the enforcement officer or the board notifies the licensee of its nature and of the date of the alleged violation within ten days of the completion of the investigation which in no event shall exceed ninety days.

If the violation in question is a third or subsequent violation of this act or the act of June 24, 1939 (P.L.872), known as "The Penal Code," occurring within a period of four years the board shall impose a suspension or revocation.

The jurisdiction of the county court of Allegheny County conferred hereby shall be exclusive within the territorial limits of its jurisdiction.]
(a) Upon learning of any violation of this act or any laws of this Commonwealth relating to liquor, alcohol or malt or brewed beverages, or of any regulations of the board adopted pursuant to such laws, or any violation of any laws of this Commonwealth or of the Federal Government relating to the payment of taxes on liquor, alcohol or malt or brewed beverages by any licensee within the scope of this article, his officers, servants, agents or employees, or upon any other sufficient cause shown, the enforcement bureau may, within one year from the date of such violation or cause appearing, cite

such licensee to appear before an administrative law judge, not less than ten nor more than sixty days from the date of sending such licensee, by registered mail, a notice addressed to him at his licensed premises, to show cause why such license should not be suspended or revoked or a fine imposed, or both. The bureau shall also send a copy of the hearing notice to the municipality in which the premises is located.

(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, 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. The administrative law judge shall notify the licensee by registered mail, addressed to the licensed premises, of such suspension, revocation or fine. The increased civil penalty imposed by this subsection shall not be used to require any licensee to increase the amount of the bond required by this act. 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. When a license is revoked, the licensee's bond may be forfeited. 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, 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.

(c) If the violation in question is a third or subsequent violation of this act 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 71. Section 472 of the act, amended May 2, 1986 (P.L.141, No.44), is reenacted to read:

Section 472. Local Option.—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 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 privately-owned private 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, 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 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 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 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 privately-owned private 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 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.

Section 72. Section 472.1 of the act, added September 15, 1961 (P.L.1337, No.590), is reenacted to read:

Section 472.1. Clubs.—Whenever any club in existence at least five years prior to the time of application for license owns a contiguous plot of land in more than two municipalities in one or more but less than all of which the granting of liquor licenses has not been prohibited and at least one acre of the plot of land owned by the club is situated in each municipality in which the granting of liquor licenses has not been prohibited, the club may be issued a club liquor license or a catering license by the board if the board finds that the license will not be detrimental to any residential neighborhood. This section shall not be construed to prohibit the issuance of club liquor licenses or catering licenses which may otherwise be issued under the provisions of this act.

Section 73. Section 472.2 of the act, added November 18, 1969 (P.L.296, No.124), is reenacted to read:

Section 472.2. Granting of Liquor Licenses in Certain Municipalities.—
(a) In any municipality which has, prior to January 1, 1967, 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 prior to the effective date of this amendment, 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 one thousand five hundred residents in said municipality and any application for said license shall be filed within two years from the effective date of this amendment.

(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 one thousand five hundred 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.

Section 74. Section 472.3 of the act, added July 3, 1980 (P.L.348, No.88), is reenacted to read:

Section 472.3. Exchange of Certain Licenses.—(a) In any municipality wherein restaurant liquor license issue, the board may issue to a club as defined in this act, a club liquor license in exchange for a club retail dispenser license.

(b) An applicant under this section shall surrender his club retail dispenser license for cancellation prior to the issuance of the new club liquor license.

(c) The applicant for such exchange of license shall file an application for a club liquor license and shall post a notice of such application in the manner provided in section 403. In determining whether the exchange shall be granted the board shall have the same discretion as provided in section 404 in the case of any new license.

(d) The provisions of section 461 pertaining to quota shall not pertain to this section for exchange purposes.

Section 75. Section 473 of the act, added January 13, 1966 (1965 P.L.1301, No.518), is reenacted to read:

Section 473. Public Record.—(a) Any person having a pecuniary interest in the conduct of business on licensed premises whether that interest is direct or indirect, legal or equitable, individual, corporate, or mutual shall file his name and address with the board on forms provided by the board. In the case of corporate ownership, the secretary of the corporation shall file with the board the names and addresses of all persons having such a corporate pecuniary interest.

(b) The names and addresses required by this section shall be recorded by the board and made available to the public as a public record.

Section 76. Section 474 of the act, added July 20, 1968 (P.L.429, No.201), is reenacted to read:

Section 474. Surrender of Club Licenses for Benefit of Licensees.— Whenever a club license has been returned to the board for the benefit of the licensee due to the licensed establishment not having been in operation for any reason whatsoever for a period of time not exceeding fifteen days, the license shall be held by the board for the benefit of the licensee for a period of time not exceeding one year, or, upon proper application to the board, for an additional year, and the license shall be revoked at the termination of the period, and transfer of the license shall not be permitted after the termination of the period.

Section 77. Section 475 of the act, amended November 26, 1978 (P.L.1389, No.326) and June 24, 1982 (P.L.624, No.176), is reenacted and the act is amended by adding a section to read:

Section 475. Establishments Proximate to Interstate Highways Not To Be Licensed.—(a) No license for the sale of liquor or malt or brewed beverages in any quantity shall be granted to the proprietor, lessee, keeper or manager of an establishment the building entrance to which is located within three hundred feet of the entrance or exit of an interstate limited access highway.

(b) This section shall not apply to existing licenses, nor be deemed to affect the right of an existing licensee to reinstatement or renewal of his license.

Section 477. Applicants to Provide State Tax Identification Numbers and Statement of State Tax Status; Waiver of Confidentiality of Information in the Possession of the Department of Revenue and Other Departments; Review of State Tax Status.—(a) An applicant for the grant, renewal or transfer of any license issued pursuant to this article shall provide to the board, upon forms approved by the Department of Revenue, the following:

- (1) *the applicant's State personal income tax identification number;*
- (2) *the applicant's State sales tax number;*
- (3) *the applicant's State corporation tax number;*
- (4) *the applicant's State employer withholding tax number;*
- (5) *the applicant's unemployment compensation account number; and*
- (6) *a statement that:*
 - (i) *all State tax reports have been filed and all State taxes paid;*
 - (ii) *all State taxes are subject to a timely administrative or judicial appeal; or*
 - (iii) *all State taxes are subject to a duly approved deferred payment plan.*

(b) *An applicant for the grant, renewal or transfer of any license issued pursuant to this article shall, by the filing of an application insofar as it relates to the board, waive any confidentiality with respect to State tax information regarding said applicant in the possession of the Department of Revenue, the Office of Attorney General or the Department of Labor and Industry, regardless of the source of that information and shall consent to the providing of that information to the board by the Department of Revenue, the Office of Attorney General or the Department of Labor and Industry.*

(c) Upon receipt of any application for the grant, renewal or transfer of any license issued pursuant to this article, the board shall review the State tax status of the applicant. The board shall request State tax information regarding the applicant from the Department of Revenue, the Office of Attorney General or the Department of Labor and Industry and said information shall be provided.

(d) The board shall not approve any application for the grant, renewal or transfer of any license issued pursuant to this article where the applicant has failed to:

- (1) provide any of the information required by subsection (a);*
- (2) file required State tax reports; or*
- (3) pay any State taxes not subject to a timely administrative or judicial appeal or subject to a duly authorized deferred payment plan.*

(e) For the purpose of this section, the term "applicant" shall include the transferor and transferee of any license issued under this act.

Section 78. Subheading (D) of Article IV of the act is reenacted to read:

(D) Unlawful Acts; Penalties.

Section 79. Section 491 of the act, amended July 18, 1961 (P.L.789, No.347), May 5, 1970 (P.L.342, No.110), October 11, 1972 (P.L.906, No.215), October 2, 1974 (P.L.665, No.220), October 10, 1974 (P.L.692, No.231), December 12, 1980 (P.L.1195, No.221) and February 9, 1984 (P.L.21, No.8), is reenacted and amended to read:

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

It shall be unlawful—

(1) Sales of Liquor. For any person, by himself or by an employe or agent, to expose or keep for sale, or directly or indirectly, or upon any pretense or upon any device, to sell or offer to sell any liquor within this Commonwealth, except in accordance with the provisions of this act and the regulations of the board. This clause shall not be construed to prohibit hospitals, physicians, dentists or veterinarians who are licensed and registered under the laws of this Commonwealth from administering liquor in the regular course of their professional work and taking into account the cost of the liquor so administered in making charges for their professional service, or a pharmacist duly licensed and registered under the laws of this Commonwealth from dispensing liquor on a prescription of a duly licensed physician, dentist or veterinarian, or selling medical preparations containing alcohol, or using liquor in compounding prescriptions or medicines and making a charge for the liquor used in such medicines, or a manufacturing pharmacist or chemist from using liquor in manufacturing preparations unfit for beverage purposes and making a charge for the liquor so used. All such liquors so administered or sold by hospitals, physicians, dentists, veterinarians, pharmacists or chemists shall conform to the Pharmacopoeia of the United States, the National Formulary, or the American Homeopathic Pharmacopoeia. This clause shall not be construed to prohibit an executor or an administrator of a decedent's estate from selling privately or at public

auction liquor which was an asset of the decedent. The board shall establish regulations to ensure that State taxes from the sales will be paid by the estate from the proceeds of the sale. The board may not prohibit a sale of liquor for the reason that it was not lawfully acquired prior to January 1, 1934 or has not been purchased from a Pennsylvania Liquor Store or in compliance with Pennsylvania law.

(2) Possession or Transportation of Liquor or Alcohol. For any person, except a manufacturer or the board or the holder of a sacramental wine license or of an importer's license, to possess or transport any liquor or alcohol within this Commonwealth which was not lawfully acquired prior to January first, one thousand nine hundred and thirty-four, or has not been purchased from a Pennsylvania Liquor Store or a licensed limited winery in Pennsylvania, except miniatures totalling less than one gallon purchased by a collector of the same in another state or foreign country, or in accordance with the board's regulations. The burden shall be upon the person possessing or transporting such liquor or alcohol to prove that it was so acquired. But nothing herein contained shall prohibit the manufacture or possession of wine by any person in his home for consumption of himself, his family and guests and not for sale, not exceeding, during any one calendar year, two hundred gallons, any other law to the contrary notwithstanding. Such wine shall not be manufactured, possessed, offered for sale or sold on any licensed premises.

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

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

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

(3) **Purchase of Liquor or Alcohol.** For any person within this Commonwealth, by himself or by an employe or agent, to attempt to purchase, or directly or indirectly, or upon any pretense or device whatsoever, to purchase any liquor or alcohol from any person or source other than a Pennsylvania Liquor Store, except in accordance with the provisions of this act or the regulations of the board.

(4) **Possession and Use of Decanters.** For any person to use decanters of alcoholic beverages except that the use of decanters or other similar receptacles by licensees shall be permitted in the case of wines and then only in accordance with the regulations of the board, but nothing herein contained shall prohibit the manufacture and possession of wine as provided in clause (2) of this section.

(5) **Failure to Break Empty Liquor Containers.** For any restaurant, hotel or club licensee, his servants, agents or employes, to fail to break any package in which liquors were contained, except those decanter packages that the board determines to be decorative, within twenty-four hours after the original contents were removed therefrom.

(6) **Sales by Restaurant and Hotel Liquor Licensees.** For any restaurant or hotel licensee, his servants, agents or employes, to sell any liquor or malt or brewed beverages for consumption on the licensed premises except in a room or rooms or place on the licensed premises at all times accessible to the use and accommodation of the general public, but this section shall not be interpreted to prohibit a *restaurant liquor licensee from providing private affairs the primary function of which is for catering only to weddings or special occasions arranged twenty-four hours in advance, nor to prohibit a hotel licensee, or a restaurant licensee when the restaurant is located in a hotel, from selling liquor or malt or brewed beverages in any room of such hotel occupied by a bona fide guest or to prohibit a restaurant licensee from*

selling liquor or malt or brewed beverages in a bowling alley when no minors are present where the restaurant and bowling alley are immediately adjacent and under the same roof.

(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.

(8) **Importation and Sales of Alcohol.** For any person, to import alcohol into this Commonwealth, or to sell alcohol to any person, except in accordance with the regulations of the board.

(9) **Possession of Alcohol.** For any person, to have alcohol in his possession, except in accordance with the provisions of this act and the regulations of the board.

(10) **Fortifying, Adulterating or Contaminating Liquor.** For any licensee or any employe or agent of a licensee or of the board, to fortify, adulterate or contaminate any liquor, except as permitted by the regulations of the board, or to refill wholly or in part, with any liquid or substance whatsoever, any liquor bottle or other liquor container.

(11) **Importation of Liquor.** For any person, other than the board or the holder of a sacramental wine license or of an importer's license, to import any liquor whatsoever into this Commonwealth, but this section shall not be construed to prohibit railroad and pullman companies from 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.

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

(13) **Violation of Certain Rules and Regulations of Board.** For any person, to violate any rules and regulations adopted by the board to insure the equitable wholesale and retail sale and distribution of liquor and alcohol through the Pennsylvania Liquor Stores.

(14) **Offering Commission or Gift to Members of Board or State Employe.** For any person selling or offering to sell liquor or alcohol to, or purchasing at wholesale liquor or alcohol from, the board, either directly or indirectly, to pay or offer to pay any commission, profit or remuneration, or to make or offer to make any gift to any member or employe of the board or other employe of the Commonwealth or to anyone on behalf of such member or employe.

Section 80. Section 492 of the act, amended July 3, 1957 (P.L.475, No.268), June 22, 1980 (P.L.253, No.73) and June 24, 1982 (P.L.624, No.176), is reenacted to read:

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

It shall be unlawful—

(1) **Manufacturing Without License.** For any person, to manufacture malt or brewed beverages, unless such person holds a valid manufacturer's license for such purpose issued by the board.

(2) **Sales of Malt or Brewed Beverages for Consumption on the Premises.** For any person, to sell to another for consumption upon the premises where sold or to permit another to consume upon the premises where sold, any malt or brewed beverages, unless such person holds a valid retail dispenser license or a valid liquor license issued by the board authorizing the sale of malt or brewed beverages for consumption upon such premises.

(3) **Sales of Malt or Brewed Beverages Not for Consumption on the Premises.** For any person, to sell to another any malt or brewed beverages not for consumption upon the premises where sold, unless such person holds a valid license permitting such sale.

(4) **Sunday Sales of Malt or Brewed Beverages by Manufacturers, Importing Distributors or Distributors.** For any manufacturer of malt or brewed beverages, importing distributor or distributor, or the servants, agents or employes of the same, to sell, trade or barter in malt or brewed beverages between the hours of twelve o'clock midnight of any Saturday and two o'clock in the forenoon of the following Monday.

(5) **Sales of Malt or Brewed Beverages by Hotels, Eating Places or Public Service Licensees During Prohibited Hours.—**For any hotel or eating place holding a retail dispenser's license, or the servants, agents or employes of such licensees, to sell, trade or barter in malt or brewed beverages between the hours of two o'clock antemeridian Sunday and seven o'clock in the forenoon of the following Monday, or between the hours of two o'clock antemeridian and seven o'clock antemeridian of any week day: Provided, That notwithstanding any provision to the contrary, whenever the thirty-first day of December falls on a Sunday such sales of malt or brewed beverages may be made on such day after one o'clock postmeridian and until two o'clock antemeridian of the following day. For any public service licensee authorized to sell malt or brewed beverages or the servants, agents or employes of such licensees to sell, trade or barter in malt or brewed beverages between the hours of two o'clock antemeridian and seven o'clock antemeridian on any day.

Any licensee holding a retail dispenser license or a malt or brewed beverage public service license may, by giving notice to the board, advance by one hour the hours herein prescribed as those during which malt or brewed beverages may be sold during such part of the year when daylight saving time is being observed generally in the municipality in which the place of business is located. Any licensee who elects to operate his place of business in accordance with daylight saving time shall post a conspicuous notice in his place of business that he is operating in accordance with daylight saving time.

(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.

(7) **Clubs Selling Between Three O'Clock Antemeridian and Seven O'Clock Antemeridian.** For any club retail dispenser, or its servants, agents or employes, to sell malt or brewed beverages between the hours of three o'clock antemeridian and seven o'clock antemeridian on any day.

(8) **Transportation 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, not exceeding one hundred dollars (\$100), and shall have filed with the board a bond in the penal sum of not more than two thousand dollars (\$2000), as may be fixed by the rules and regulations of the board, any other law to the contrary notwithstanding.

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

(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.

(11) **Delivery of Malt or Brewed Beverages With Other Commodities.** For any manufacturer, importing distributor or distributor, or his servants, agents or employes, except with board approval, to deliver or transport any malt or brewed beverages in any vehicle in which any other commodity is being transported.

(12) **Distributors and Importing Distributors Engaging in Other Business.** For any distributor or importing distributor, or his servants, agents or employes, without the approval of the board, and then only in accordance with board regulations, to engage in any other business whatsoever, except the business of distributing malt or brewed beverages.

(13) **Possession or Storage of Liquor or Alcohol by Certain Licensees.** For any distributor, importing distributor or retail dispenser, or his servants, agents or employes, to have in his possession, or to permit the storage of on the licensed premises or in any place contiguous or adjacent thereto accessible to the public or used in connection with the operation of the licensed premises, any alcohol or liquor.

(14) **Malt or Brewed Beverage Licensees Dealing in Liquor or Alcohol.** For any malt or brewed beverage licensee, other than a manufacturer, or the servants, agents or employes thereof, to manufacture, import, sell, transport, store, trade or barter in any liquor or alcohol.

(15) **Selling to Persons Doing Illegal Business.** For any malt or brewed beverage licensee, or his servants, agents or employes, to knowingly sell any malt or brewed beverages to any person engaged in the business of illegally selling liquor or malt or brewed beverages.

(16) **Distributors and Importing Distributors Failing to Keep Records.** For any importing distributor or distributor engaged in the sale of products, other than malt or brewed beverages, to fail to keep such complete separate records covering in every respect his transactions in malt or brewed beverages as the board shall by regulation require.

(17) **Fortifying, Adulterating or Contaminating Malt or Brewed Beverages.** For any person, to fortify, adulterate, contaminate, or in any wise to change the character or purity of, the malt or brewed beverages from that as originally marketed by the manufacturer at the place of manufacture.

(18) **Coercing Distributors and Importing Distributors.** For any manufacturer or any officer, agent or representative of any manufacturer to coerce or persuade or attempt to coerce or persuade any person licensed to sell or distribute malt or brewed beverages at wholesale or retail to establish selling prices for its products or to enter into any contracts or agreements, whether written or oral, or take any action which will violate or tend to violate any provisions of this act or any of the rules or regulations promulgated by the board pursuant thereto.

(19) **Modifying or Terminating Distributing Rights Agreement.** For any manufacturer or any officer, agent or representative of any manufacturer to modify, cancel, terminate, rescind or not renew, without good cause, any distributing rights agreement, and in no event shall any modification, cancellation, termination, rescission or nonrenewal of any distributing rights agreement become effective for at least ninety (90) days after written notice of such modification, cancellation, termination, rescission or intention not to renew has been served on the affected party and board by certified mail, return receipt requested, except by written consent of the parties to the agreement. The notice shall state all the reasons for the intended modification, termination, cancellation, rescission or nonrenewal. The distributor or importing distributor holding such agreement shall have ninety (90) days in which to rectify any claimed deficiency, or challenge the alleged cause.

If the deficiency shall be rectified within ninety (90) days of notice, then the proposed modification, termination, cancellation, rescission or nonrenewal shall be null and void and without legal effect.

If the notice states as one of the reasons for the intended modification, cancellation, termination, rescission or renewal that the importing distributor or distributor's equipment or warehouse requires major changes or additions, then if the distributor or importing distributor shall have taken some positive action to comply with the required changes or additions, the distributor or importing distributor shall be deemed to have complied with the deficiency as set forth in the notice. The notice provisions of this section shall not apply if the reason for termination, cancellation or nonrenewal is insolvency, assignment for the benefit of creditors, bankruptcy, liquidation, fraudulent conduct in its dealings with the manufacturer, revocation or suspension for more than a thirty (30) day period of the importing distributor or distributor license.

(20) **Interference with Transfer of License, Business or Franchise.** (i) For any manufacturer to interfere with or prevent any distributor or importing distributor from selling or transferring his license, business or franchise, whether before or after notice of modification, cancellation, termination, rescission or nonrenewal has been given, provided the proposed purchaser of the business of the distributor or importing distributor meets the material qualifications and standards required of the manufacturers other distributors or importing distributors; (ii) if the proposed transfer of the distributor or importing distributor's business is to a surviving spouse or adult child, the manufacturer shall not, for any reason, interfere with, or prevent, the transfer of the distributor or importing distributor's license, business or franchise. Any subsequent transfer by surviving spouse or adult child shall *thereafter* be subject to the provisions of subclause (i) above.

(21) **Inducing or Coercing Distributors or Importing Distributors to Accept Unordered Products or Commit Illegal Acts.** For any manufacturer to compel or attempt to compel any distributor or importing distributor to accept delivery of any malt or brewed beverages or any other commodity which shall not have been ordered by the distributor or importing distributor, or to do any illegal act by any means whatsoever including, but not limited to, threatening to amend, cancel, terminate, rescind or refuse to renew any agreement existing between manufacturer and the distributor or importing distributor, or to require a distributor or importing distributor to assent to any condition, stipulation or provision limiting the distributor or importing distributor in his right to sell the products of any other manufacturer.

Section 81. Section 493 of the act, amended June 14, 1957 (P.L.322, No.170), June 15, 1961 (P.L.423, No.211), September 25, 1967 (P.L.307, No.135), March 5, 1970 (P.L.137, No.55), August 1, 1975 (P.L.161, No.83), June 15, 1977 (P.L.12, No.9), March 9, 1982 (P.L.174, No.55) and May 9, 1984 (P.L.246, No.54), is reenacted and 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—

(1) **Furnishing Liquor or Malt or Brewed Beverages to Certain Persons.** For any licensee or the board, or any employe, servant or agent of such licensee or of the board, or any other person, to sell, furnish or give any liquor or malt or brewed beverages, or to permit any liquor or malt or brewed beverages to be sold, furnished or given, to any person visibly intoxicated, or to any insane person, or to any minor, or to habitual drunkards, or persons of known intemperate habits.

(2) **Purchase or Sale of Liquor or Malt or Brewed Beverages on Credit.** For any licensee, his agent, servant or employe, to sell or offer to sell or purchase or receive any liquor or malt or brewed beverages except for cash, excepting credit extended by a hotel or club to a bona fide guest or member, or by railroad or pullman companies in dining, club or buffet cars to passengers, for consumption while enroute, holding authorized credit cards issued by railroad or railroad credit bureaus or by hotel, restaurant and public service licensees to customers holding credit cards issued in accordance with regulations of the board or credit cards issued by banking institutions subject to State or Federal regulation: Provided further, That nothing herein contained shall be construed to prohibit the use of checks or drafts drawn on a bank, banking institution, trust company or similar depository, organized and existing under the laws of the United States of America or the laws of any state, territory or possession thereof, in payment for any liquor or malt or brewed beverages if the purchaser is the payor of the check or draft and the licensee is the payee. No right of action shall exist to collect any claim for credit extended contrary to the provisions of this clause. Nothing herein contained shall prohibit a licensee from crediting to a purchaser the actual price charged for original containers returned by the original purchaser as a credit on any sale, or from refunding to any purchaser the amount paid by such purchaser for such containers or as a deposit on containers when title is retained by the vendor, if such original containers have been returned to the licensee. Nothing herein contained shall prohibit a manufacturer from extending usual and customary credit for liquor or malt or brewed beverages sold to customers or purchasers who live or maintain places of business outside of the Commonwealth of Pennsylvania, when the liquor or malt or brewed beverages so sold are actually transported and delivered to points outside of the Commonwealth: Provided, however, That as to all transactions affecting malt or brewed beverages to be resold or consumed within this Commonwealth, every licensee shall pay and shall require cash deposits on all returnable original containers and all such cash deposits shall be refunded upon return of the original containers.

(3) **Exchange of Liquor or Malt or Brewed Beverages For Merchandise, etc.** For any licensee or the board, or any employe, servant or agent of a licensee or of the board, to sell, offer to sell or furnish any liquor or malt or brewed beverages to any person on a pass book or store order, or to receive from any person any goods, wares, merchandise or other articles in exchange for liquor or malt or brewed beverages.

(4) **Peddling Liquor or Malt or Brewed Beverages.** For any person, to hawk or peddle any liquor or malt or brewed beverages in this Commonwealth.

(5) **Failure to Have Brands as Advertised.** For any licensee, his servants, agents or employes, to advertise or hold out for sale any liquor or malt or brewed beverages by trade name or other designation which would indicate the manufacturer or place of production of the said liquor or malt or brewed beverages, unless he shall actually have on hand and for sale a sufficient quantity of the particular liquor or malt or brewed beverages so advertised to meet requirements to be normally expected as a result of such advertisement or offer.

(6) **Brand or Trade Name on Spigot.** For any licensee, his agents, servants or employes, to furnish or serve any malt or brewed beverages from any faucet, spigot or other dispensing apparatus, unless the trade name or brand of the product served shall appear in full sight of the customer and in legible lettering upon such faucet, spigot or dispensing apparatus.

(7) **Alcoholic Strength on Label of Malt or Brewed Beverages.** For any licensee, or his servants, agents or employes, to transport, sell, deliver or purchase any malt or brewed beverages upon which there shall appear a label or other informative data which in any manner refers to the alcoholic contents of the malt or brewed beverage, or which refers in any manner to the original alcoholic strength, extract or balling proof from which such malt or brewed beverage was produced. This clause shall not be construed to prohibit a manufacturer from designating upon the label or descriptive data the alcoholic content of malt or brewed beverages intended for shipment into another state or territory, when the laws of such state or territory require that the alcoholic content of the malt or brewed beverage must be stated upon the package.

(8) **Advertisements on Labels Giving Alcoholic Content of Malt or Brewed Beverages.** For any manufacturer or other licensee, or his servants, agents or employes, to issue, publish or post, or cause to be issued, published or posted, any advertisement of any malt or brewed beverage including a label which shall refer in any manner to the alcoholic strength of the malt or brewed beverage manufactured, sold or distributed by such licensees, or to use in any advertisement or label such words as "full strength," "extra strength," "high test," "high proof," "pre-war strength," or similar words or phrases, which would lead or induce a consumer to purchase a brand of malt or brewed beverage on the basis of its alcoholic content, or to use in or on any advertisement or label any numeral, unless adequately explained in type of the same size, prominence and color, or for any licensee to purchase, transport, sell or distribute any malt or brewed beverage advertised or labeled contrary to the provisions of this clause.

(9) **Retail Licensees Furnishing Free Lunch, etc.** For any retail liquor licensee or any retail dispenser, his agents, servants or employes, to furnish, give or sell below a fair cost any lunch to any consumer, except such articles of food as the board may authorize and approve.

(10) Entertainment on Licensed Premises (Except Clubs); Permits; Fees. For any licensee, his servants, agents or employes, except club 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 any lewd, immoral or improper entertainment, regardless of whether a permit to provide entertainment has been obtained or not. The board shall have power to provide for the issue of such special permits, and to collect a fee for such permits equal to one-fifth of the annual license fee but not less than twenty-five dollars (\$25). 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.

(11) Licensees Employed by Others. For any hotel, restaurant or club liquor licensee, or any malt or brewed beverage licensee, or any servant, agent or employe of such licensee, to be at the same time employed, directly or indirectly, by any other person engaged in the manufacture, sale, transportation or storage of liquor, malt or brewed beverages or alcohol: Provided, That any person (except a licensee or the manager, officer or director of a licensee) who is employed by a retail licensee to prepare or serve food and beverages may be employed in the same capacity by another retail licensee during other hours or on other days.

(12) Failure to Have Records on Premises. For any liquor licensee, or any importing distributor, distributor or retail dispenser, to fail to keep on the licensed premises for a period of at least two years complete and truthful records covering the operation of his licensed business, particularly showing the date of all purchases of liquor and malt or brewed beverages, the actual price paid therefor, and the name of the vendor, including State Store receipts, or for any licensee, his servants, agents or employes, to refuse the board or an authorized employe of the board *or the enforcement bureau* access thereto or the opportunity to make copies of the same when the request is made during business hours.

(13) Retail Licensees Employing Minors. For any hotel, restaurant or club liquor licensee, or any retail dispenser, to employ or to permit any minor under the age of eighteen to serve any alcoholic beverages or to employ or permit any minor under the age of sixteen to render any service whatever in or about the licensed premises, nor shall any entertainer under the age of eighteen be employed or permitted to perform in any licensed premises in violation of the labor laws of this Commonwealth: Provided, That in accordance with board regulations minors between the ages of sixteen and eighteen may be employed to serve food, clear tables and

perform other similar duties, not to include the dispensing or serving of alcoholic beverages.

(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 herein-after 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 [Liquor Control Board] board as it may, by regulation, require. Any licensee violating the provisions of this clause shall be subject to the provisions of section 471.**

“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.

(15) **Cashing Pay Roll, Public Assistance, Unemployment Compensation or Any Other Relief Checks.** For any licensee or his servants, agents or employes to cash pay roll checks or to cash, receive, handle or negotiate in any way Public Assistance, Unemployment Compensation or any other relief checks.

(16) **Furnishing or Delivering Liquor or Malt or Brewed Beverages at Unlawful Hours.** For any licensee, his servants, agents or employes, to give, furnish, trade, barter, serve or deliver any liquor or malt or brewed beverage

ages to any person during hours or on days when the licensee is prohibited by this act from selling liquor or malt or brewed beverages.

(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.

(18) Displaying Price of Liquor or Malt or Brewed Beverages. For any restaurant, hotel or club liquor licensee, or any importing distributor, distributor or retail dispenser, or the servants, agents or employes of such licensees, to display on the outside of any licensed premises or to display any place within the licensed premises where it can be seen from the outside, any advertisement whatsoever referring, directly or indirectly, to the price at which the licensee will sell liquor or malt or brewed beverages.

(19) Licensee's Outside Advertisements. For any retail liquor licensee or any retail dispenser, distributor or importing distributor, to display in any manner whatsoever on the outside of his licensed premises, or on any lot of ground on which the licensed premises are situate, or on any building of which the licensed premises are a part, a sign of any kind, printed, painted or electric, advertising any brand of liquor or malt or brewed beverage, and it shall be likewise unlawful for any manufacturer, distributor or importing distributor, to permit the display of any sign which advertises either his products or himself on any lot of ground on which such licensed premises are situate, or on any building of which such licensed premises are a part.

(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 produced by any one manufacturer, if the total display area of any such placard or sign advertising the products of any one manufacturer exceeds three 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 of any one manufacturer shall not exceed the sum of seventy dollars (\$70) at any one time, and no single piece of advertising shall exceed a cost of thirty-five dollars (\$35). 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.

(ii) Cooperative Advertising. No distributor or importing distributor, directly or indirectly, independent or otherwise, shall, except by prior written agreement, be required to participate with a manufacturer in the purchase of any advertising of a brand name product in any name, in any form, whether it be radio, television, newspaper, magazine or otherwise.

(20.1) Manufacturer Shall Not Require Advertising. For a manufacturer to require a distributor or importing distributor to purchase any type of advertising.

(20.2) Advertising Shall Be Ordered and Authorized in Advance. For any advertising to be done on behalf of a distributor or importing distributor which was not ordered and authorized in advance by the distributor or importing distributor.

(21) Refusing The Right of Inspection. For any licensee, or his servants, agents or employes, to refuse the board *or the enforcement bureau* or any of **[its] their** authorized employes the right to inspect completely the entire licensed premises at any time during which the premises are open for the transaction of business, or when patrons, guests or members are in that portion of the licensed premises wherein either liquor or malt or brewed beverages are sold.

(22) Allowance or Rebate to Induce Purchases. For any licensee, or his servants, agents or employes, to offer, pay, make or allow, or for any licensee, or his servants, agents or employes, to solicit or receive any allowance or rebate, refunds or concessions, whether in the form of money or otherwise, to induce directly the purchase of liquor or malt or brewed beverages.

(23) Money or Valuables Given to Employes to Influence Actions of Their Employers. For any licensee, or any agent, employe or representative of any licensee, to give or permit to be given, directly or indirectly, money or anything of substantial value, in an effort to induce agents, employes or representatives of customers or prospective customers to influence their employer or principal to purchase or contract to purchase liquor or malt or brewed beverages from the donor of such gift, or to influence such employers or principals to refrain from dealing or contracting to deal with other licensees.

(24) Things of Value Offered as Inducement. For any licensee under the provisions of this article, or the board or any manufacturer, or any employe or agent of a manufacturer, licensee or of the board, to offer to give anything of value or to solicit or receive anything of value as a premium for the return of caps, stoppers, corks, stamps or labels taken from any bottle, case, barrel or package containing liquor or malt or brewed beverage, or to offer or give or solicit or receive anything of value as a premium or present to induce directly the purchase of liquor or malt or brewed beverage, or for any licensee, manufacturer or other person to offer or give to trade or consumer buyers any prize, premium, gift or other inducement to purchase liquor or malt or brewed beverages, except advertising novelties of nominal value which the board shall define: **Provided, however, That this]. This section shall not prevent any manufacturer or any agent of a manufacturer from offering only on licensed premises and honoring coupons which offer**

monetary rebates on purchases of wines and spirits through State Liquor Stores and purchases of malt or brewed beverages in accordance with conditions or regulations established by the board. Further, no manufacturer or any agent of a manufacturer shall honor any coupons without proof of purchase in the form of a sales slip or receipt attached to the coupons. This section shall not apply to the return of any monies specifically deposited for the return of the original container to the owners thereof.

(25) **Employment [of Females] in Licensed Places.** For any licensee or his agent, to employ or permit the employment of any [female] *person* at his licensed hotel, restaurant or eating place for the purpose of enticing customers, or to encourage them to drink liquor, or make assignations for improper purposes[: **Provided, That nothing in this section shall be construed to prevent the employment of any female waitress who regularly takes orders for food from serving food, liquor or malt or brewed beverages at tables; also, that nothing shall prevent any such licensees from employing any female stenographer, hotel secretary, clerk or other employe for their respective positions: Provided further, That nothing in this section shall be so construed as to prevent the wife of any such licensee or agent or any employed female from mixing or serving liquor or malt or brewed beverages behind the bar of any such licensed place].**

Any person violating the provisions of this clause shall be guilty of a misdemeanor and, upon conviction of the same, shall be sentenced to pay a fine of not less than one hundred dollars (\$100), nor more than five hundred dollars (\$500), for each and every [female] *person* so employed, or undergo an imprisonment of not less than three (3) months, nor more than one (1) year, or either or both, at the discretion of the court having jurisdiction of the case. The [board] **administrative law judge** shall have the power to revoke or refuse licenses for violation of this clause.

(26) **Worthless Checks.** For any retail liquor licensee or any retail dispenser, distributor or importing distributor, to make, draw, utter, issue or deliver, or cause to be made, drawn, uttered, issued or delivered, any check, draft or similar order, for the payment of money in payment for any purchase of malt or brewed beverages, when such retail liquor licensee, retail dispenser, distributor or importing distributor, has not sufficient funds in, or credit with, such bank, banking institution, trust company or other depository, for the payment of such check. Any person who is a licensee under the provisions of this article, who shall receive in payment for malt or brewed beverages sold by him any check, draft or similar order for the payment of money, which is subsequently dishonored by the bank, banking institution, trust company or other depository, upon which drawn, for any reason whatsoever, shall, within five days of receipt of notice of such dishonor, notify by certified mail the person who presented the said worthless check, draft or similar order.

(27) **Distributors and Importing Distributors Employing Minors.** For any distributor or importing distributor to employ minors under the age of eighteen but persons eighteen and over may be employed to sell and deliver malt and brewed beverages.

Section 82. Section 494 of the act, amended May 25, 1956 (1955 P.L.1743, No.583), is reenacted and amended to read:

Section 494. Penalties.—(a) Any person who shall violate any of the provisions of this article, except as otherwise specifically provided, shall be guilty of a misdemeanor and, upon conviction thereof, shall be sentenced to pay a fine of not less than one hundred dollars (\$100), nor more than five hundred dollars (\$500), and on failure to pay such fine, to imprisonment for not less than one month, nor more than three months, and for any subsequent offense, shall be sentenced to pay a fine not less than three hundred dollars (\$300), nor more than five hundred dollars (\$500), and to undergo imprisonment for a period not less than three months, nor more than one year, or both. *If the person, at or relating to the licensed premises, violates section 493(1), (10), (14), (16) or (21), or if the owner or operator of the licensed premises or any authorized agent of the owner or operator violates the act of April 14, 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug, Device and Cosmetic Act," or 18 Pa.C.S. § 5902 (relating to prostitution and related offenses) or 6301 (relating to corruption-of-minors), he shall be sentenced to pay a fine not exceeding five thousand dollars (\$5,000) or to undergo imprisonment for a period not less than three months, nor more than one year, or both.*

(b) The right [of the board] to suspend and revoke licenses granted under this article shall be in addition to the penalty set forth in this section.

Section 83. Section 495 of the act, amended June 22, 1980 (P.L.262, No.76), is reenacted and amended to read:

Section 495. Identification Cards; Licensees and State Liquor Store Employes Saved From Prosecution.—(a) **The board shall issue, to any person who shall have attained the age of twenty-one years, an identification card bearing said person's date of birth, physical description, photograph, signature, and such other information, as the board by regulation may determine, attesting to the age of the applicant, upon application therefor by said person, filed no earlier than fifteen days prior to attaining the age of twenty-one. Such cards shall be numbered and a record thereof maintained by the board for a period of five years. The board may, in its discretion, impose a charge for such cards in an amount to be determined by it, and it may, upon proof of loss of such identification card by and upon application of anyone to whom such card may have been issued, issue a duplicate thereof and impose a charge therefor in an amount as it may by regulation prescribe. The board shall have the power to make such regulations as it shall, from time to time, deem proper regarding the size, style and additional content of the identification card, the form and content of any application therefor, the type, style and quantity of proof required to verify the applicant's age, the procedure for receiving and processing such application, the distribution of said card, the charge to be imposed for any card more than one that it shall issue to the same applicant, and all other matters the board shall deem necessary or advisable for the purpose of carrying into effect the provisions of this section.**

(a.1) (a) The photo driver's license or identification card issued by the Department of Transportation shall, for the purpose of this act, be accepted as an identification card.

[(a.2) For the purposes of this section, the term identification card means a card which complies with either subsection (a) or (a.1).]

(b) Such identification card shall be presented by the holder thereof upon request of any State Liquor Store or any licensee, or the servant, agent or employe thereof, for the purpose of aiding such store, licensee, or the servant, agent or employe to determine whether or not such person is twenty-one years of age and upwards, when such person desires alcoholic beverage at a State Liquor Store or licensed establishment.

(c) In addition to the presentation of such identification card, the agent of the State Liquor Store or the licensee, or his servant, agent or employe, shall require the person whose age may be in question to fill in and sign a card in the following form:

..... 19

I,, hereby represent to, a State Store or licensee of the [Pennsylvania Liquor Control Board] board, that I am of full age and discretion and over the age of 21 years, having been born on 19... at This statement is made to induce said store or licensee above named to sell or otherwise furnish alcoholic beverages to the undersigned.

Serial Number of Identification Card:

I understand that I am subject to a fine of \$300.00 and sixty days imprisonment for any misrepresentation herein.

..... (Name)

..... (Address)

Witness:

Name

Address

Such statement shall be printed upon a 3 inch by 5 inch or 4 inch by 5 inch file card, which card shall be filed alphabetically by the State Liquor Store or licensee, at or before the close of business on the day of which said certificate is executed, in a file box containing a suitable alphabetical index, and which card shall be subject to examination by any officer, agent or employe of the [Liquor Control Board] board at any and all times.

(d) It shall be unlawful for the owner of an identification card, as defined by this act, to transfer said card to any other person for the purpose of aiding such person to secure alcoholic beverage. Any person who shall transfer such identification card for the purpose of aiding such transferee to obtain alcoholic beverage shall be guilty of a misdemeanor and, upon conviction thereof, shall be sentenced to pay a fine of not more than three hundred dollars (\$300), or undergo imprisonment for not more than sixty (60) days.

Any person not entitled thereto who shall have unlawfully procured or have issued or transferred to him, as aforesaid, identification card or any person who shall make any false statement on any card required by subsection (c) hereof to be signed by him shall be guilty of a misdemeanor and, upon conviction thereof, shall be sentenced to pay a fine of not more than three hundred dollars (\$300), or undergo imprisonment for not more than sixty (60) days.

(e) The signed statement in the possession of a licensee or an employe of a State Liquor Store may be offered as a defense in all civil and criminal prosecutions for serving a minor, and no penalty shall be imposed if the **[Liquor Control Board] board** or the courts are satisfied that the licensee or State Liquor Store employe acted in good faith.

Section 84. Section 496 of the act, added June 15, 1961 (P.L.423, No.211), is reenacted to read:

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

Section 85. Section 497 of the act, added December 22, 1965 (P.L.1144, No.441), is reenacted to read:

Section 497. Liability of Licensees.—No licensee shall be liable to third persons on account of damages inflicted upon them off of the licensed premises by customers of the licensee unless the customer who inflicts the damages was sold, furnished or given liquor or malt or brewed beverages by the said licensee or his agent, servant or employe when the said customer was visibly intoxicated.

Section 86. The act is amended by adding a section to read:

Section 498. Unlawful Advertising.—(a) No manufacturer, wholesaler, retailer or shipper whether from outside or inside this Commonwealth and no licensee under this act shall cause or permit the advertising in any manner whatsoever of the price of any malt beverage, cordial, wine or distilled liquor offered for sale in this Commonwealth: Provided, however, That the provisions of this section shall not apply to price signs or tags attached to or placed on merchandise for sale within the licensed premises in accordance with rules and regulations of the board.

(b) Any person who violates any of the provisions of this section commits a misdemeanor and shall, upon conviction, be sentenced to pay a fine of fifty dollars (\$50) for the first offense and for each additional offense thereafter shall be sentenced to pay a fine of one hundred dollars (\$100). Publication or broadcast by any person in violation of the provisions of this section shall also be subject to injunctive proceedings in a court of competent jurisdiction on a complaint brought by a retail licensee or an association of retail licensees.

(c) The provisions of this section shall not apply to any trade journal which is duly recognized and authorized to be exempt from the provisions of this section by the board.

Section 87. The heading of Article V of the act is reenacted to read:

ARTICLE V.

DISTILLERIES, WINERIES, BONDED WAREHOUSES, BAILEES FOR HIRE AND TRANSPORTERS FOR HIRE.

Section 88. Section 501 of the act is reenacted to read:

Section 501. License Required.—Except as otherwise provided in this article, and except as otherwise provided in article four as to malt and brewed beverages, it shall be unlawful for any person without a license obtained under provisions of this article to hold in storage as bailee for hire, or transport for hire, any malt or brewed beverage, or to manufacture, produce, distill, develop or use in the process of manufacture, denature, redistill, recover, rectify, blend, reuse, hold in bond, hold in storage as bailee for hire, or transport for hire, within this Commonwealth, any alcohol or liquor, except that a person may manufacture wine out of grapes grown in Pennsylvania by fermentation only and with no alcohol or alcoholic product added thereto by way of fortification and sell the same to a licensed winery.

Section 89. Section 502 of the act is reenacted and amended to read:

Section 502. Exemptions.—No license hereunder shall be required from any registered pharmacist; or a physician licensed by the State Board of **[Medical Education and Licensure] Medicine**; or any person who makes and sells vinegar, nonalcoholic cider and fruit juices; or any person who manufactures, stores, sells or transports methanol, propanol, butanol and amanol; or any person who conducts a wholesale drug business; or any person who manufactures alcoholic preparations not fit for use as a beverage, other than denatured alcohol or for beverage purposes; any person engaged in the manufacture; possession or sale of patent, patented or proprietary medicines, toilet, medicinal or antiseptic preparations unfit for beverage purposes, or solutions or flavoring extracts or syrups unfit for beverage purposes; or any person who manufactures or sells paints, varnishes, enamels, lacquers, stains or paint, or varnish removing or reducing compounds, or wood fillers; or any person who manufactures any substance where the alcohol or any liquor is changed into other chemical substances and does not appear in the finished product as alcohol or liquor; or any common carrier by railroad which is subject to regulation by the Pennsylvania Public Utility Commission of the Commonwealth of Pennsylvania, or scheduled common carriers by air of mail and passengers; or any person who sells, stores or transports alcohol or liquor completely denatured, as specified by the board.

Section 90. Section 502.1 of the act, added December 14, 1979 (P.L.565, No.129), is reenacted to read:

Section 502.1. Production of Denatured Ethyl Alcohol.—
(a) Notwithstanding any other provisions of this act, a person may upon payment of an annual registration fee of twenty-five dollars (\$25) and

without the necessity of having to post a bond, manufacture or distill, hold in storage and use denatured ethyl alcohol for the purpose of providing fuel for personal or business vehicles or machinery.

(b) No denatured ethyl alcohol produced under the provisions of this section may be sold or utilized by any person other than the producer.

(c) Each licensee shall file annually with the board accurate records of the monthly production and utilization of denatured ethyl alcohol fuel. The board shall prescribe the form to be used for this report.

(d) Any violation of this section shall be subject to the penalties set forth in section 519.

Section 91. Section 503 of the act is reenacted to read:

Section 503. Qualifications for License.—No license shall be issued under the provisions of this article to any person unless (a) in case of individuals, he or she is a citizen of the United States of America, (b) in case of companies or unincorporated associations of individuals, each and every one is a citizen of the United States of America, (c) in case of corporations, each and every stockholder thereof is a citizen of the United States of America.

Section 92. Section 504 of the act, amended September 28, 1961 (P.L.1728, No.702), is reenacted and amended to read:

Section 504. Applications; Filing Fees.—(a) Every applicant for a license under this article shall file with the board a written application in such form as the board shall from time to time require. Every such application shall be accompanied by a filing fee of twenty dollars (\$20), the prescribed license fee and the bond hereinafter specified, and shall set forth:

[1.] (1) The legal names of the applicant and of the owner of the place where business under the license will be carried on, with their residence addresses by street and number, if a partnership, of each separate partner, and if a corporation, of each individual officer thereof.

[2.] (2) The exact location of said place of business and of every place to be occupied or used in connection with such business, the productive capacity of each plant where any alcohol or liquor is to be manufactured, produced, distilled, rectified, blended, developed or used in the process of manufacture, denatured, redistilled, recovered, reused, the capacity of every warehouse or other place where such alcohol or liquor or malt or brewed beverage is to be held in bond or stored for hire or the equipment to be used where a transportation business is to be carried on under the license.

[3.] (3) That each and every one of the applicants is a citizen of the United States of America.

[4.] (4) Such other relevant information as the board shall from time to time require by rule or regulation.

(b) Each application must be verified by affidavit of the applicant made before any officer legally qualified to administer oaths, and if any false statement is wilfully made in any part of said application, the applicant or applicants shall be deemed guilty of a misdemeanor and, upon conviction, shall be subject to the penalties provided by this article.

Section 93. Section 505 of the act, amended July 31, 1968 (P.L.902, No.272), is reenacted to read:

Section 505. Licenses Issued.—Upon receipt of the application in the form herein provided, the proper fees and an approved bond as herein designated, the board may grant to such applicant a license to engage in, (a) the operation of a limited winery or a winery; or, (b) the manufacturing, producing, distilling, developing, or using in the process of manufacturing, denaturing, redistilling, recovering, rectifying, blending and reusing of alcohol and liquor; or, (c) the holding in bond of alcohol and liquor; or, (d) the holding in storage, as bailee for hire, of alcohol, liquor and malt or brewed beverages; or, (e) the transporting for hire of alcohol, liquor and malt or brewed beverages.

Section 94. Section 505.1 of the act, amended February 17, 1956 (1955 P.L.1077, No.348), is reenacted and amended to read:

Section 505.1. Bonded Warehouse License Privilege Restrictions.—(a) Holders of bonded warehouse licenses may:

[(a)] (1) Receive and store in bond liquor owned by Pennsylvania licensed manufacturers and importers.

[(b)] (2) Receive and store in bond alcohol owned by Pennsylvania licensed manufacturers.

[(c)] (3) Receive and store in bond liquor owned by licensees outside this Commonwealth. Such liquor shall be released from the bonded warehouse for delivery within this Commonwealth only to persons holding a liquor importer's license issued by the **[Pennsylvania Liquor Control Board] board** authorizing the importation of liquor or to other storage facilities or persons outside this Commonwealth.

[(d)] (4) Receive and store in bond alcohol owned by licensees outside this Commonwealth. Such alcohol shall be released from the bonded warehouse for delivery within this Commonwealth only to persons holding an alcohol permit issued by the **[Pennsylvania Liquor Control Board] board** authorizing the importation of alcohol or to other storage facilities or persons outside this Commonwealth.

(b) All liquor and alcohol received and stored pursuant to this section shall be in original containers of ten gallons or greater capacity. Liquor and alcohol placed in storage in accordance with the foregoing provisions may remain in storage notwithstanding any change in ownership.

Section 95. Section 505.2 of the act, amended November 5, 1981 (P.L.329, No.119) and December 17, 1982 (P.L.1390, No.319), is reenacted and amended to read:

Section 505.2. Limited Wineries.—Holders of a limited winery license may:

(1) Produce wines *and wine coolers* only from fruits grown in Pennsylvania in an amount not to exceed **[one hundred thousand (100,000)] two hundred thousand (200,000)** gallons per year.

(2) Sell 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 **[Liquor Control Board] board**, to individuals and to 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 wine produced by other limited wineries in an amount in excess of fifty per centum of the wine produced by the purchasing limited winery in the preceding calendar year.

(3) [Sell] *Separately or in conjunction with other limited wineries, sell wine and wine coolers* produced by the limited winery on no more than [three] five board-approved locations other than the licensed premises, with no bottling or production requirement at those additional board-approved locations and under such conditions and regulations as the board may enforce, to the [Liquor Control Board] board, to individuals and to hotel, restaurant, club and public service liquor licensees.

Section 96. Section 505.3 of the act, added July 30, 1975 (P.L.136, No.68), is reenacted 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 97. Sections 506 and 507 of the act are reenacted and amended to read:

Section 506. Bonds Required.—(a) No license shall be issued to any such applicant until he has filed with the board an approved bond, duly executed, payable to the Commonwealth of Pennsylvania, together with a warrant of attorney to confess judgment in the penal sum herein set forth. All such bonds shall be conditioned for the faithful observance of all the laws of this Commonwealth and regulations of the board relating to alcohol, liquor and malt or brewed beverages and the conditions of the license, and shall have as surety a duly authorized surety company, or shall have deposited therewith, as collateral security, cash or negotiable obligations of the United States of America or the Commonwealth of Pennsylvania in the same amount as herein provided for the penal sum of bonds.

(b) In all cases where cash or securities in lieu of other surety have been deposited with the board, the depositor shall be permitted to continue the same deposit from year to year on each renewal of license, but in no event shall he be permitted to withdraw his deposit during the time he holds said license, or until six months after the expiration of the license held by him, or while revocation proceedings are pending against such licensee.

(c) All cash or securities received by the board in lieu of other surety shall be turned over by the board to the State Treasurer and held by him. The State Treasurer shall repay or return money or securities deposited with him to the respective depositors only on the order of the board.

(d) After notice from the board that such a bond has been forfeited, the State Treasurer shall immediately pay into the State Stores Fund all cash deposited as collateral with such bond, and when securities have been deposited with such a bond, the State Treasurer shall sell at private sale, at not less than the prevailing market price, any such securities so deposited as collateral with any such forfeited bond. The State Treasurer shall thereafter

deposit in the State Stores Fund the net amount realized from the sale of such securities, except that if the amount so realized, after deducting proper costs and expenses, is in excess of the penal amount of the bond, such excess shall be paid over by him to the obligor on such forfeited bond.

(e) The penal sum of bonds required to be filed by applicants for license shall be as follows:

In the case of a distillery (manufacturer), the bond shall be in the amount of ten thousand dollars (\$10,000); in the case of a bonded warehouse, a bailee for hire and a transporter for hire, each shall be in the amount of three thousand dollars (\$3000); and in the case of a winery, shall be in the amount of five thousand dollars (\$5000). Such bonds shall be filed with and retained by the board.

(f) Every such bond shall be turned over to the **[Department of Justice] Attorney General** to be collected if and when the licensee's license shall have been revoked and his bond forfeited as provided in this act.

Section 507. Hearings [Upon Refusal of Licenses] on Licenses and Refusals.—(a) The board may of its own motion, and shall upon the written request *of the enforcement bureau or* of any applicant for license or for renewal thereof whose application for such license or renewal has been refused, fix a time and place for hearing of such application or renewal, notice of which hearing shall be sent to the *bureau and to the* applicant, by registered mail, at the address given in his application. Such hearing shall be before the board, a member thereof, or an examiner designated by the board.

(b) At such hearing, the board shall present its reasons for its refusal or withholding of such license or renewal thereof *or the bureau shall present its objections to the granting or renewal of the license, as the case may be.* The applicant may appear in person or by counsel, may cross-examine the witnesses for the board *or the bureau*, and may present evidence which shall likewise be subject to cross-examination by the board *or the bureau.* Such hearing shall be stenographically recorded. The examiner shall thereafter report to the board. The board shall thereafter grant or refuse the license or renewal thereof. **[If the board shall refuse such license or renewal following such hearing, notice in writing of such refusal shall be mailed to the applicant at the address given in his application. In all 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.]**

(c) *Hearings and adjudications pursuant to this section shall be in accordance with 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of Commonwealth agencies).*

Section 98. Section 508 of the act, amended July 31, 1968 (P.L.902, No.272), is reenacted and amended to read:

Section 508. License Fees.—**(a)** The annual fee for every license issued to a limited winery or a winery shall be two hundred and fifty dollars (\$250). The annual fee for every license issued to a distillery (manufacturer) shall be twenty-five hundred dollars (\$2500) per annum if the annual production is five hundred thousand (500,000) proof gallons or less, and an additional fee

of one hundred dollars (\$100) for each one hundred thousand (100,000) proof gallons or fraction thereof in excess of five hundred thousand (500,000) proof gallons, but for the purpose of determining the amount of the fee payable by a distillery, the annual production of alcohol that is denatured by the manufacturer thereof during the license year in Pennsylvania and not elsewhere shall be excluded, but alcohol or liquor used by the manufacturer thereof during the license year in rectification or blending shall not be excluded, except that no fee for a distillery shall be less than twenty-five hundred dollars (\$2500) per annum. The annual fee for all other licenses shall be one hundred dollars (\$100). The fee for any license when applied for and issued on or after April first, but prior to July first, shall be three-fourths of the annual fee; July first, but prior to October first, shall be one-half of the annual fee; October first, but prior to January first, one-fourth of the annual fee.

(b) For the purpose of this section, the term "proof gallon" shall mean a gallon liquid which contains one-half its volume of alcohol of a specific gravity of seven thousand nine hundred thirty-nine ten thousandths (.7939) at sixty degrees Fahrenheit.

Section 99. Section 509 of the act is reenacted to read:

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.

Section 100. Sections 510, 511, 512 and 513 of the act are reenacted to read:

Section 510. Containers To Be Labeled.—All persons, except as exempted by section five hundred two hereof, manufacturing, producing, distilling, developing or using in the process of manufacture, denaturing, redistilling, recovering, rectifying, blending, reusing, holding in bond, holding in storage as bailee for hire, or transporting for hire of alcohol or liquor under the provisions of this article, shall securely and permanently attach to every container ready for shipment thereof as the same is manufactured, produced, distilled, developed, denatured, redistilled, recovered, rectified, blended, reused, a label stating the name of the manufacturer, kind and quantity of alcohol or liquor contained therein, and the date of its manufacture, together with the number of the license authorizing the manufacture thereof, and all persons possessing such alcohol or liquor in wholesale quantities shall securely keep and maintain such label thereon.

Section 511. License To Specify Each Place Authorized For Use.—Every license issued under the provision of this article shall specify by definite location every place to be occupied or used in connection with the business to be conducted thereunder. It shall be unlawful for the holder of any license to occupy or use any place in connection with any business authorized under a license other than the place or places designated therein.

Section 512. Records To Be Kept.—Every person holding a license issued under the provisions of this article shall keep on the licensed premises

daily permanent records which shall show, (a) the quantities of any alcohol or liquor manufactured, produced, distilled, developed, denatured, redistilled, recovered, reused, stored in bond, stored as bailee for hire, received or used in the process of manufacture by him, and of all other material used in manufacturing or developing any alcohol or liquor; (b) the sales or other disposition of any alcohol, liquor or malt or brewed beverages if covered by said license; (c) the quantities thereof, if any, stored in bond, stored for hire, or transported for hire by or for the licensee; and (d) the names and addresses of the purchasers or other recipients thereof: Provided, however, That persons holding licenses issued under the provisions of this article for the transportation for hire of any alcohol, liquor or malt or brewed beverages shall not be required to keep the above records, but shall keep daily permanent records showing the names and addresses of the persons from whom any alcohol, liquor or malt or brewed beverage was received and to whom delivered, and such other permanent records as the board shall prescribe.

Section 513. Premises and Records Subject To Inspection.—Every place operated under license secured under the provisions of this article where any alcohol, liquor or malt or brewed beverage covered by the license is manufactured, produced, distilled, developed or used in the process of manufacture, denatured, redistilled, rectified, blended, recovered, reused, held in bond, stored for hire or in connection with a licensee's business, shall be subject to inspection by members of the board or by persons duly authorized and designated by the board at any and all times of the day or night, as they may deem necessary, (a) for the detection of violations of this act or of the rules and regulations of the board promulgated under the authority of this act, or (b) for the purpose of ascertaining the correctness of the records required by this act to be kept by licensees and the books and records of licensees, and the books and records of their customers, in so far as they relate to purchases from said licensees, shall at all times be open to inspection by the members of the board or by persons duly authorized and designated by the board for the purpose of making inspections as authorized by this section. Members of the board and the persons duly authorized and designated by the board shall have the right, without fee or hindrance, to enter any place which is subject to inspection hereunder, or any place where records subject to inspection hereunder are kept, for the purpose of making such inspections.

Section 101. Section 514 of the act is reenacted and amended to read:

Section 514. Suspension and Revocation of Licenses.—(a) Upon learning of any violation of this act or of any rule or regulation promulgated by the board under the authority of this act, or any violation of any laws of this Commonwealth or of the United States of America relating to the tax payment of alcohol, liquor or malt or brewed beverages by the holder of a license issued under the provisions of this article, or upon other sufficient cause, the **[board] enforcement bureau** may, within one year from the date of such violation or cause appearing, cite such licensee to appear before **[it or its examiner] an administrative law judge** not less than ten (10) nor more than **[fifteen (15) sixty (60)]** days from the date of sending such licensee, by registered mail, a notice addressed to his licensed premises, to show cause why the

license should not be suspended or revoked. Hearings on such citations shall be held in the same manner as provided herein for hearings on applications for license. And upon such hearing, if satisfied that any such violation has occurred or for other sufficient cause, the **[board] administrative law judge** shall immediately suspend or revoke such license, notifying the licensee thereof by registered letter addressed to his licensed premises, or to the address given in his application where no licensed premises is maintained in Pennsylvania.

(b) When a license is revoked, the licensee's bond may be forfeited **[by the board]**. Any licensee whose license is revoked shall be ineligible to have a license under this act or under any other act relating to alcohol, liquor or malt or brewed beverages until the expiration of three (3) years from the date such license was revoked. In the event **[the board shall revoke a license] of a revocation**, no license shall be granted for the premises or transferred to the premises in which said license was conducted for a period of at least one (1) 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 said year. **[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.] Such hearing before and adjudication by an administrative law judge shall be in accordance with 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of Commonwealth agencies).**

Section 102. Section 515 of the act, repealed in part June 3, 1971 (P.L.118, No.6) and April 28, 1978 (P.L.202, No.53), is reenacted and amended to read:

Section 515. Appeals.—**[Any] The board, the enforcement bureau or any applicant or any licensee** aggrieved by any decision **[of the board]** refusing, suspending or revoking a license under the provisions of this article may appeal to the court of the county in which the licensed premises or the premises to be licensed are located. In the event an applicant or a licensee shall have no place of business established within the Commonwealth, his appeal shall be to the **[court of Dauphin County] Commonwealth Court**. Such appeal shall be **[upon petition of the applicant or licensee, as the case may be, who shall serve a copy thereof upon 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 at such time as it shall fix, of which notice shall be given to the board. The court shall, in the case of a refusal by the board, either sustain such refusal or order the issuance of the license to the applicant] in accordance with 2 Pa.C.S. Ch. 7 Subch. A (relating to judicial review of Commonwealth agency action).**

Section 103. Section 516 of the act is reenacted and amended to read:

Section 516. Compromise Penalty In Lieu of Suspension.—In those cases where the **[board] administrative law judge** shall suspend a license, the **[board] administrative law judge** may accept from the licensee an offer in compromise as a penalty in lieu of such suspension and shall thereupon rescind its order of suspension. In the case of a distillery licensee, the offer in

compromise shall be at the rate of one hundred dollars (\$100) for each day of suspension; in the case of a bonded warehouse, bailee for hire and transporter for hire licensees, twenty-five dollars (\$25) for each day; and in the case of a winery licensee, fifty dollars (\$50) for each day. No offer in compromise may be accepted **[by the board]** in those cases where the suspension is for a period in excess of one hundred (100) days.

Section 104. Sections 517 and 518 of the act are reenacted to read:

Section 517. Expiration of Licenses; Renewals.—All licenses issued under this article shall expire at the close of the calendar year, but new licenses for the succeeding year shall be issued upon written application therefor, duly verified by affidavit, stating that the facts in the original application are unchanged, and upon payment of the fee as hereinafter provided and the furnishing of a new bond, without the filing of further statements or the furnishing of any further information unless specifically requested by the board: Provided, however, That any such license issued to a corporation shall expire thirty (30) days after any change in the officers of such corporation, unless the name and address of each such new officer of such corporation shall, within that period, be reported to the board by certificate, duly verified. Applications for renewals must be made not less than thirty (30) nor more than sixty (60) days before the first day of January of the ensuing year. All applications for renewal received otherwise shall be treated as original applications.

Section 518. Unlawful Acts.—(a) It shall be unlawful for any person to transport any illegal alcohol, liquor or malt or brewed beverages.

(b) Whenever any person withdraws or removes any alcohol or liquor which has not been denatured from any distillery, denaturing plant, winery or bonded warehouse for the purpose of denaturing the same, it shall be unlawful for any such person to use, sell or conceal, or attempt to use, sell or conceal, or be concerned in the sale, use or concealment of, any such alcohol or liquor, unless before such sale or use the said alcohol or liquor shall be denatured by adding thereto denaturing material or materials or admixtures thereof which render it unfit for beverage purposes.

(c) It shall be unlawful for any person to recover and reuse or attempt to recover and reuse, by redistillation or by any other process or means whatsoever, any alcohol or liquor from denatured alcohol or from any other liquor from denatured alcohol or from any other liquid, or to knowingly use, sell, conceal, or otherwise dispose of, alcohol or liquor so recovered or redistilled.

Section 105. Section 519 of the act is reenacted and amended to read:

Section 519. Penalties.—Any person or persons who knowingly violate any of the provisions of this article, or any person who shall violate any of the conditions of any license issued under the provisions of this article, or who shall falsify any record or report required by this article to be kept, or who shall violate any rule or regulation of the board, or who shall interfere with, hinder or obstruct any inspection authorized by this article, or prevent any member of the board *or the enforcement bureau* or any person duly authorized and designated by the board *or the bureau* from entering any place which such member of the board *or the bureau* or such person is autho-

rized by this article to enter for the purpose of making an inspection, or who shall violate any other provision of this article, shall be guilty of a misdemeanor and, upon conviction thereof, shall be sentenced to pay a fine of not less than one hundred dollars (\$100), nor more than five thousand dollars (\$5000), or undergo imprisonment of not more than three (3) years, or both, at the discretion of the court.

Section 106. The headings of Article VI and Subdivision (A) of Article VI of the act are reenacted to read:

ARTICLE VI.
PROPERTY ILLEGALLY POSSESSED OR USED; FORFEITURES;
NUISANCES.

(A) Forfeitures.

Section 107. Sections 601, 602 and 603 of the act, amended April 20, 1956 (1955 P.L.1508, No.499), are reenacted and amended to read:

Section 601. Forfeiture of Property Illegally Possessed or Used.—No property rights shall exist in any liquor, alcohol or malt or brewed beverage illegally manufactured or possessed, or in any still, equipment, material, utensil, vehicle, boat, vessel, animals or aircraft used in the illegal manufacture or illegal transportation of liquor, alcohol or malt or brewed beverages, and the same shall be deemed contraband and proceedings for its forfeiture to the Commonwealth may[, at the discretion of the board,] be instituted in the manner hereinafter provided. No such property when in the custody of the law shall be seized or taken therefrom on any writ of replevin or like process.

Section 602. Forfeiture Proceedings.—(a) The proceedings for the forfeiture or condemnation of all property shall be in rem, in which the Commonwealth shall be the plaintiff and the property the defendant. A petition shall be filed in the court of [quarter sessions] *common pleas*, verified by oath or affirmation of any officer or citizen, containing the following: (1) a description of the property so seized; (2) a statement of the time and place where seized; (3) the owner, if known; (4) the person or persons in possession, if known; (5) an allegation that the same had been possessed or used or was intended for use in violation of this act; (6) and, a prayer for an order of forfeiture that the same be adjudged forfeited to the Commonwealth, unless cause be shown to the contrary.

(b) A copy of said petition shall be served personally on said owner if he can be found within the jurisdiction of the court, or upon the person or persons in possession at the time of the seizure thereof. Said copy shall have endorsed thereon a notice as follows:

“To the Claimant of Within Described Property: You are required to file an answer to this petition, setting forth your title in and right to possession of said property, within fifteen (15) days from the service hereof; and you are also notified that if you fail to file said answer, a decree of forfeiture and condemnation will be entered against said property.”

Said notice shall be signed by petitioner or his attorney, or the district attorney or the Attorney General.

(c) If the owner of said property is unknown or outside the jurisdiction of the court and there was no person in possession of said property when seized, or such person so in possession cannot be found within the jurisdiction of the court, notice of said petition shall be given by an advertisement in only one newspaper of general circulation published in the county where such property shall have been seized, once a week for two (2) successive weeks. No other advertisement of any sort shall be necessary, any other law to the contrary notwithstanding. Said notice shall contain a statement of the seizure of said property, with a description thereof, the place and date of seizure, and shall direct any claimants thereof to file a claim therefor on or before a date given in said notice, which date shall not be less than ten (10) days from the date of the last publication.

(d) Upon the filing of any claim for said property, setting forth a right of possession thereof, the case shall be deemed at issue and a time be fixed for the hearing thereof.

(e) At the time of said hearing, if the Commonwealth shall produce evidence that the property in question was unlawfully possessed or used, the burden shall be upon the claimant to show (1) that he is the owner of said property, (2) that he lawfully acquired the same, and (3) that it was not unlawfully used or possessed.

In the event such claimant shall prove by competent evidence to the satisfaction of the court that said liquor, alcohol or malt or brewed beverage, or still, equipment, material, utensil, vehicle, boat, vessel, container, animal or aircraft was lawfully acquired, possessed and used, then the court may order the same returned or delivered to the claimant; but if it appears that said liquor, alcohol or malt or brewed beverage or still, equipment, material or utensil was unlawfully possessed or used, the court shall order the same destroyed, delivered to a hospital, or turned over to the board *or enforcement bureau*, as hereinafter provided, or if it appears that said vehicle, boat, vessel, container, animal or aircraft was unlawfully possessed or used, the court may, in its discretion, adjudge same forfeited and condemned as hereinafter provided.

Section 603. Disposition of Forfeited Property.—If, upon petition as hereinbefore provided and hearing before the court of **[quarter sessions] common pleas**, it appears that any liquor, alcohol, or malt or brewed beverage or still, equipment, material or utensil was so illegally possessed, or used, such liquor, alcohol or malt or brewed beverage or still, equipment, material or utensil shall be adjudged forfeited and condemned, or if it appears that any vehicle, boat, vessel, container, animal or aircraft was so used in the illegal manufacture or transportation of liquor, alcohol or malt or brewed beverage, such property may, in the discretion of the court, be adjudged forfeited and condemned and in such case shall be disposed of as follows:

(a) Upon conviction of any person of a violation of any of the provisions of this act, the court shall order the sheriff to destroy all condemned liquor, alcohol or malt or brewed beverage and property seized or obtained from

such defendants, except that the court may order the liquor, alcohol or malt or brewed beverages, or any part thereof, to be delivered to a hospital for its use, and make return to the court of compliance with said order, and any vehicle, container, boat, vessel, animals or aircraft seized under the provisions of this act shall be disposed of as hereinafter provided.

(b) In any case in which the defendant is acquitted of a violation of this act and denies the ownership or possession thereof, or no claimant appears for same, or appearing, is unable to sustain claim thereof, the court shall order all condemned liquor, alcohol and malt or brewed beverages and property (except vehicles, boats, vessels, containers, animals and aircraft) publicly destroyed by the sheriff, except that the court may order the liquor, alcohol or malt or brewed beverages, or any part thereof, to be delivered to a hospital for its use. Return of compliance with said order shall be made by the sheriff to the court.

(c) In the case of any vehicle, boat, vessel, container, animal or aircraft seized under the provisions of this act and condemned, the court shall order the same to be delivered to the **[board] enforcement bureau** for its use or for sale or disposition by the **[board] bureau**, in its discretion. Notice of such sale shall be given in such manner as the **[board] bureau** may prescribe. The proceeds of such sale shall be paid into the State Stores Fund.

Section 108. Section 604 of the act is reenacted and amended to read:

Section 604. Motor Vehicle Licenses To Be Revoked.—In addition to the foregoing provisions, the court may, in its order of condemnation, and in every conviction under this act where it shall appear that liquor, alcohol or malt or brewed beverages were unlawfully transported in a motor vehicle, declare that the license issued by the Department of **[Revenue] Transportation** for any motor vehicle so forfeited and condemned, or issued to any defendant convicted of transporting liquor, alcohol or malt or brewed beverages in any motor vehicle, shall be forfeited and revoked, and it shall be the duty of the clerk of the court in which such conviction is had and order of condemnation made to certify such conviction to the Secretary of **[Revenue] Transportation**, who shall suspend or revoke the license issued for such motor vehicles: Provided, That a license may be issued for such motor vehicle to the board *or the enforcement bureau* or to any purchaser of the vehicle after the sale thereof, as above provided.

Section 109. Section 605 of the act is reenacted to read:

Section 605. Application of Subdivision.—The provisions of this subdivision shall apply to the disposition of any liquor, alcohol or malt or brewed beverage or property in the custody of the law or of any officer at the time of the passage of this act.

Section 110. The heading of Subdivision (B) of Article VI of the act is reenacted to read:

(B) Nuisances.

Section 111. Section 611 of the act is reenacted and amended to read:

Section 611. Nuisances; Actions To Enjoin.—(a) Any room, house, building, boat, vehicle, structure or place, except a private home, where

liquor, alcohol or malt or brewed beverages are manufactured, possessed, sold, transported, offered for sale, bartered or furnished, or stored in bond, or stored for hire, in violation of this act, and all such liquids, beverages and property kept or used in maintaining the same, are hereby declared to be common nuisances, and any person who maintains such a common nuisance shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to the same penalties provided in section four hundred ninety four of this act.

(b) An action to enjoin any nuisance defined in this act may be brought in the name of the Commonwealth of Pennsylvania by the Attorney General [or], by the district attorney of the proper county *or by a person who resides or has a place of business within five hundred feet of the location of the alleged nuisance*. Such action shall be brought and tried as an action in equity and may be brought in any court having jurisdiction to hear and determine equity cases within the county in which the offense occurs. If it is made to appear, by affidavit or otherwise, to the satisfaction of the court that such nuisance exists, a temporary writ of injunction shall forthwith issue, restraining the defendant from conducting or permitting the continuance of such nuisance until the conclusion of the proceedings. If a temporary injunction is prayed for, the court may issue an order restraining the defendant and all other persons from removing or in any way interfering with the liquids, beverages or other things used in connection with the violation of this act constituting such nuisance. No bond shall be required in instituting such proceedings *brought in the name of the Commonwealth by the Attorney General or the district attorney. Where such proceedings are brought by a person, the court, upon application of the defendant and prior to any injunction being issued, may direct the plaintiff to post bond in such amount as the court may find to be reasonable and sufficient*. It shall not be necessary for the court to find the property involved was being unlawfully used, as aforesaid, at the time of the hearing, but on finding that the material allegations of the petition are true, the court shall order that no liquor, alcohol or malt or brewed beverage shall be manufactured, sold, offered for sale, transported, bartered or furnished, or stored in bond, or stored for hire in such room, house, building, structure, boat, vehicle, or place, or any part thereof.

(c) Upon the decree of the court ordering such nuisance to be abated, the court may, upon proper cause shown, order that the room, house, building, structure, boat, vehicle or place shall not be occupied or used for one year thereafter, but the court may, in its discretion, permit it to be occupied or used if the owner, lessee, tenant or occupant thereof shall give bond with sufficient surety to be approved by the court making the order in the penal and liquidated sum of not less than five hundred dollars (\$500.00), payable to the Commonwealth of Pennsylvania, for use of the county in which said proceedings are instituted, and conditioned that neither liquor, alcohol, nor malt or brewed beverages will thereafter be manufactured, sold, transported, offered for sale, bartered or furnished, or stored in bond, or stored for hire therein or thereon in violation of this act, and that he will pay all fines, costs and damages that may be assessed for any violation of this act upon said property.

Section 112. The headings of Article VII and Subdivision (A) of Article VII of the act are reenacted to read:

ARTICLE VII.
DEALING IN DISTILLERY BONDED WAREHOUSE
CERTIFICATES.

(A) Preliminary Provisions.

Section 113. Section 701 of the act is reenacted to read:

Section 701. Definitions and Interpretation.—(a) When used in this article, the following words or phrases, unless the context clearly indicates otherwise, shall have the meanings ascribed to them in this section.

“Agent” shall mean and include every person employed by a distillery certificate broker to sell, offer for sale or delivery, to purchase, exchange, or to enter into agreements for the purchase, sale or exchange, or to solicit subscriptions to, or orders for, or to undertake to dispose of, or to deal in any manner in, distillery bonded warehouse certificates.

“Fraud,” “fraudulent” and “fraudulent practice” shall include any misrepresentation in any manner of a relevant fact not made honestly and in good faith; any promise or representation or prediction as to the future not made honestly and in good faith, or an intentional failure to disclose a material fact; the gaining, directly or indirectly, through the purchase, sale or exchange of distillery bonded warehouse certificates, of any promotion fee or profit, selling or managing commission or profit, so gross and exorbitant as to be unconscionable and fraudulent; and any scheme, device, artifice or investment plan to obtain such an unconscionable profit: Provided, however, that nothing herein shall limit or diminish the full meaning of the terms “fraud” and “fraudulent” as applied or accepted in courts of law or equity.

(b) Nothing contained in this article shall be construed as permitting the holder or owner of a distillery bonded warehouse certificate, as defined in this act, to secure possession of the whiskey or other potable distilled spirits named or designated in such certificate, except in accordance with the provisions of this act and the laws of this Commonwealth hereafter enacted relating to alcohol or alcoholic beverages and the regulations of the board adopted and promulgated thereunder.

Section 114. The heading of Subdivision (B) of Article VII of the act is reenacted to read:

(B) Permits.

Section 115. Section 702 of the act is reenacted to read:

Section 702. Unlawful to Act as a Distillery Certificate Broker or to Buy or Sell Distillery Bonded Warehouse Certificate Without a Permit.—It shall be unlawful for any person, except as hereinafter exempted, directly or through an agent, to sell, purchase, exchange, offer for sale, deliver, enter into agreements for the purchase, sale, exchange, solicit subscriptions to, orders for, undertake to dispose of, deal in any manner in, distillery bonded

warehouse certificates, without first having obtained a permit to act as a distillery certificate broker as provided in this article.

Section 116. Section 703 of the act is reenacted to read:

Section 703. Authority to Issue Permits to Distillery Certificate Brokers.—Subject to the provisions of this article and regulations promulgated under this act, the board shall have authority to issue to any reputable financially responsible person whose plan of business in dealing in distillery bonded warehouse certificates is not deemed by the board to constitute “fraudulent practice,” as defined herein, a permit to act as distillery certificate broker.

Section 117. Section 704 of the act, amended September 28, 1961 (P.L.1728, No.702), is reenacted to read:

Section 704. Application for Permit; Filing Fee.—Every applicant for a distillery certificate broker permit shall file a written application with the board outlining his plan of business in dealing in distillery bonded warehouse certificates, in such form and containing such other information as the board shall from time to time prescribe, which shall be accompanied by a filing fee of twenty dollars (\$20) and the prescribed permit fee. If the applicant is a natural person, his application must show that he is a citizen of the United States, and if 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. The application shall be signed and verified by oath or affirmation of the applicant, if a natural person, or in the case of an association, by a member or partner thereof, or in the case of a corporation, by an executive officer thereof or any person specifically authorized by the corporation to sign the application, to which shall be attached written evidence of his authority. If the applicant is an association, the application shall set forth the names and addresses of the persons constituting the association, and if a corporation, the names and addresses of all the officers thereof. All applications must be verified by affidavit of applicant and if any false statement is intentionally made in any part of the application, the signer shall be guilty of a misdemeanor and upon indictment and conviction, shall be subject to penalties provided by this article.

Section 118. Section 705 of the act is reenacted to read:

Section 705. Issuance of Permits.—Upon receipt of the application and proper fees and upon being satisfied of the truth of the statements in the application, and being also satisfied that the applicant’s plan of business in dealing in distillery bonded warehouse certificates does not constitute “fraudulent practice,” as defined in this article, and that the applicant is a person of good repute and financially responsible, the board may issue to such applicant a permit authorizing the permittee to sell, purchase, exchange, pledge and deal in distillery bonded warehouse certificates.

Section 119. Section 706 of the act is reenacted to read:

Section 706. Office or Place of Business to be Maintained.—Every applicant for a distillery certificate broker permit under this article and every person to whom such a permit is issued shall maintain an office or place of business within the Commonwealth.

Section 120. Sections 707, 708 and 709 of the act are reenacted to read:

Section 707. Permit Fee; Permits Not Assignable or Transferable; Display of Permit; Term of Permit.—Every applicant for distillery certificate broker permit shall, before receiving such permit, pay to the board an annual permit fee of one hundred dollars (\$100). Permits issued under this act may not be assigned or transferred and shall be conspicuously displayed at the place of business of the permittee. All permits shall be valid only during the year for which issued and shall automatically expire on the thirty-first day of December of each calendar year unless suspended, revoked or cancelled prior thereto.

Section 708. Records to be Kept.—Every person holding a permit issued under this act shall keep daily permanent records containing a complete record of all transactions in distillery bonded warehouse certificates within this Commonwealth, in such form and manner as the board may from time to time prescribe. Such records shall be available for examination by the board's officers at the broker's principal place of business or office in Pennsylvania.

Section 709. Renewal of Permits.—Upon the filing of an application and the payment of the prescribed filing fee and permit fee in the same amount as herein required on original applications for permits, the board may renew the permit for the calendar year beginning January first, provided such application for renewal is filed and fee paid on or before December fifteenth of the preceding year, unless the board shall have given previous notice of objections to the renewal of the permit, based upon violation of this article or the board's regulations promulgated thereunder, or unless the applicant has by his own act become a person of ill repute or ceases to be financially responsible.

Section 121. Section 710 of the act, repealed in part June 3, 1971 (P.L.118, No.6) and April 28, 1978 (P.L.202, No.53), is reenacted to read:

Section 710. Permit Hearings; Appeals From Refusal of the Board to Issue or Renew Permits.—The board may of its own motion, and shall upon written request of any applicant for distillery certificate broker permit or for renewal thereof whose application for such permit or renewal has been refused, fix a time and place for hearings of such application for permit or for renewal thereof, notice of which hearing shall be sent by registered mail to the applicant at the address given in his application. Such hearing shall be before the board or a member thereof. At such hearing, the board shall present its reasons for its refusal or withholding a permit or renewal thereof. The applicant may appear in person or by counsel, cross-examine the witnesses of the board, and may present evidence which shall be subject to cross-examination by the board. Such hearings shall be stenographically recorded. The board shall thereupon grant or refuse the permit or renewal thereof. If the board shall refuse such permit or renewal following such hearing, notice in writing of such refusal shall be sent by registered mail 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.

Section 122. Section 712 of the act, repealed in part April 28, 1978 (P.L.202, No.53), is reenacted to read:

Section 712. Revocation and Suspension of Permit.—Upon learning of any violation of this act or regulations of the board promulgated thereunder, or any violation of any laws of this Commonwealth or of the United States of America by the permittee, his officers, servants, agents or employes, or upon any other sufficient cause shown, the board may cite such permittee to appear before it or a member thereof not less than ten or more than fifteen days from the date of sending such permittee, by registered mail, a notice addressed to him at the address set forth in the application for permit, to show cause why such permit should not be suspended or revoked. When such notice is duly addressed and deposited in the post office, it shall be deemed due and sufficient notice. Hearings on such citations shall be held in the same manner as provided herein for hearing on application for permit. Upon such hearing, if satisfied that any such violation has occurred, or for other sufficient cause, the board shall immediately suspend or revoke the permit, notifying the permittee thereof by registered letter addressed to the address set forth in the application for permit. Any permittee whose permit is revoked shall be ineligible to have a permit under this act until the expiration of three years from the date such permit was revoked. 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.

Section 123. The heading of Subdivision (C) of Article VII of the act is reenacted to read:

(C) Permittees' Registered Agents.

Section 124. Section 721 of the act is reenacted to read:

Section 721. Unlawful to Act as Agent or to Employ Agents Without Registration.—It shall be unlawful for a distillery certificate broker to employ any person to act as agent, or for any person to act as agent for any distillery certificate broker, in purchasing, exchanging, offering for sale, delivering, entering into agreements for the purchase, sale, exchange, soliciting subscriptions to, orders for, undertaking to dispose of, dealing in any manner in, distillery bonded warehouse certificates, without such person first having been registered as an agent as provided in this article.

Section 125. Section 722 of the act is reenacted to read:

Section 722. Registered Agents.—Every person holding a distillery certificate broker permit under this article who desires to employ an agent or agents in the operation of his business under the permit shall make application to the board for registration of such agent or agents. Every such permittee's application shall set forth the name of the permittee and the address of his main office or principal place of business in Pennsylvania, and the full address where complete records are maintained covering the permittee's operations in Pennsylvania. With each such permittee's application there shall be filed an agent's application for each agent to be registered. Permittees' applications for agents and agents' applications shall contain such information as the board shall from time to time require, and shall be signed

and verified by oath or affirmation of the agent. Each application shall be accompanied by two unmounted photographs of the agent.

Section 126. Section 723 of the act is reenacted to read:

Section 723. Registration Fee.—Every application for the registration of agents filed by a permittee shall be accompanied by a registration fee in the amount of ten dollars (\$10) for each agent to be registered, which shall cover the agent's registration from date of approval until December thirty-first of the year in which approved. Registrations may be renewed for a period of one calendar year upon the filing of a new application and payment of the same registration fee as herein provided for original registration, together with agent's new application and photographs of each agent. Applications for renewal of registration shall be filed not later than December fifteenth of each year.

Section 127. Section 724 of the act is reenacted to read:

Section 724. Registration and Issuance of Identification Card.—Upon receipt of the application, the proper fees, and upon being satisfied of the truth of the statements in the application and that the applicant is a person of good reputation and the applicant seeks a registration as defined in this act, the board may register such agent and issue to him an identification card.

Section 128. Sections 725 and 726 of the act, repealed in part April 28, 1978 (P.L.202, No.53), are reenacted to read:

Section 725. Hearings Upon Refusal of the Board; Appeals.—In the event that the board shall refuse to issue or to renew an agent's registration, a hearing shall be had.

Section 726. Revocation and Suspension of Agents' Registrations.—Upon learning of any violation of this act or regulation of the board promulgated thereunder, or any violation of any laws of this Commonwealth or of the United States of America by a registered agent, the board may revoke or suspend the agent's registration in the same manner as provided herein for the revocation and suspension of distillery certificate broker permits.

Section 129. Section 727 of the act is reenacted and amended to read:

Section 727. Identification Cards.—(a) Upon approval by the board of the application for registration of an agent, there shall be issued to such registered agent an identification card containing the name and address of the distillery certificate broker, the name, address and physical description of the agent. There shall also be affixed to the identification card a photograph of the agent, and no identification card shall be valid until signed by both the distillery certificate broker and the agent and counter-signed by a representative of the board.

(b) Before any agent's registration can be changed from one distillery certificate broker to another, the identification card of such agent shall either be returned to the board by the broker under whom he is registered, or such broker shall file with the board a notice in writing that he has knowledge of and consents to the employment of such agent by the other broker.

(c) When the employment of any agent is terminated, the broker shall immediately notify the board and the identification card issued to the agent shall be surrendered to the board.

Section 130. The heading of Subdivision (D) of Article VII of the act is reenacted to read:

(D) Exemptions.

Section 131. Sections 731, 732 and 733 of the act are reenacted to read:

Section 731. Bank and Trust Companies and Other Persons.—Bank and trust companies and other persons duly authorized within this Commonwealth to engage in the business of lending money to licensed distillers, rectifiers, importers and distillery certificate brokers may, without a permit required under the provisions of this act, accept distillery bonded warehouse certificates as security or collateral for any loan made in the regular conduct of their business, and such banks and trust companies and other persons may liquidate such security or collateral by sale only to licensed distillers, rectifiers, importers or distillery certificate brokers.

Section 732. Distillers, Rectifiers and Importers.—Duly licensed distillers, rectifiers and importers may, without a permit required under the provisions of this article, deal in distillery bonded warehouse certificates, but only with other duly licensed distillers, rectifiers, importers and with distillery certificate brokers.

Section 733. Certificates Owned Since July 24, 1939.—Persons other than licensed distillers, rectifiers, importers and distillery certificate brokers, holding distillery bonded warehouse certificates on and since the twenty-fourth day of July, one thousand nine hundred thirty-nine, may dispose of same without a permit required under the provisions of this act, but only to or through a distillery certificate broker holding a permit from the board.

Section 132. The heading of Subdivision (E) of Article VII of the act is reenacted to read:

(E) Administration and Enforcement.

Section 133. Section 741 of the act is reenacted to read:

Section 741. Duties of the Board.—It shall be the duty of the board to see that the provisions of this article are at all times properly administered and obeyed, and to take such measures and make such investigations as will detect the violations of any provisions thereof. In the event it shall discover any violation, it shall, in addition to revoking any permit or registration of an agent, take such measures as may be necessary to cause the apprehension and prosecution of all persons deemed guilty thereof.

Section 134. The heading of Subdivision (F) of Article VII of the act is reenacted to read:

(F) Fines and Penalties.

Section 135. Section 751 of the act is reenacted to read:

Section 751. Penalties.—Any person who shall violate any of the provisions of this article, or who shall engage in any fraud or fraudulent practice, as defined herein, shall be guilty of a misdemeanor and, upon conviction thereof, shall be sentenced to pay the costs of prosecution and a fine of not less than one thousand dollars (\$1000), nor more than five thousand dollars

(\$5000), or undergo imprisonment of not less than one year, nor more than five years, or both, at the discretion of the court.

Section 136. The heading of Article VIII of the act is reenacted to read:

ARTICLE VIII.
DISPOSITION OF MONEYS COLLECTED UNDER
PROVISIONS OF ACT.

Section 137. Section 801 of the act is reenacted to read:

Section 801. Moneys Paid Into Liquor License Fund and Returned to Municipalities.—(a) The following fees collected by the board under the provisions of this act shall be paid into the State Treasury through the Department of Revenue into a special fund to be known as the “Liquor License Fund”:

- (1) License fees for hotel, restaurant and club liquor licenses.
- (2) License fees for retail dispensers’ (malt and brewed beverages) licenses.

(b) The moneys in the Liquor License Fund shall, on the first days of February and August of each year, be paid by the board to the respective municipalities in which the respective licensed places are situated, in such amounts as represent the aggregate license fees collected from licenses in such municipalities during the preceding period.

(c) The board shall have the power to appropriate moneys in the Liquor License Fund for the payment of claims for refunds allowed and approved by the board for moneys paid into the Liquor License Fund because of the over-payment or overcharge on license fees. In the event that the moneys in the Liquor License Fund have been distributed to the respective municipalities, the board shall have the authority to deduct from the next semi-annual payment to the respective municipalities the amount of any over-payment previously refunded by the board to any person on account of an overcharge or over-payment on a license fee.

Section 138. Section 802 of the act, amended September 28, 1961 (P.L.1728, No.702), is reenacted and amended to read:

Section 802. Moneys Paid Into The State Stores Fund for Use of the Commonwealth.—(a) All moneys, except fees to be paid into the Liquor License Fund as provided by [the preceding] section 801, collected, received or recovered under the provisions of this act for license fees, permit fees, filing fees and registration fees, from forfeitures, sales of forfeited property, compromise penalties and sales of liquor and alcohol at the Pennsylvania Liquor Stores, shall be paid into the State Treasury through the Department of Revenue into a special fund to be known as “The State Stores Fund.”

(b) One-half of all application filing and transfer fees shall be credited to a special account designated as the Enforcement Officers’ Retirement Account. The moneys credited to this account shall be paid, annually, by the board to the State Employees’ Retirement Board to be paid into the State Employees’ Retirement Fund and credited to the Enforcement Officers’ Benefit Account.

(c) Two per centum of annual profits from the sale of liquor and alcohol shall be annually transferred to the Department of Health for use by the Office of Drug and Alcohol Programs, or its successor in function, for the following purposes:

(1) Treatment and rehabilitation of persons addicted to the excessive use of alcoholic beverages.

(2) Promotion of education, prevention and early intervention programs designed to eliminate abuse and addiction to alcohol or other mood-altering substances or secure appropriate treatment for the already addicted.

(3) Study of the problem of addiction.

(d) All other moneys in such fund shall be available for the purposes for which they are appropriated by law.

(e) Annually, the General Assembly shall make an appropriation from the State Stores Fund to provide for the operational expenses of the enforcement bureau.

Section 139. Section 803 of the act is reenacted to read:

Section 803. Alcohol Tax Moneys Paid Into General Fund.—All taxes collected or received by the board on sales of taxable alcohol under the provisions of this act shall be paid into the State Treasury through the Department of Revenue into the General Fund.

Section 140. Article IX of the act is repealed.

Section 141. (a) All personnel, allocations, appropriations, equipment, files, records, contracts, agreements, obligations and other materials which are used, employed or expended in connection with the powers, duties or functions transferred by this act to the Office of Administrative Law Judge are hereby transferred to the Office of Administrative Law Judge with the same force and effect as if the allocations and appropriations had been made to and said items had been the personnel and property of the office in the first instance and if the contracts, agreements and obligations had been incurred or entered into by the office.

(b) All personnel, allocations, appropriations, equipment, files, records, contracts, agreements, obligations and other materials which are used, employed or expended in connection with the powers, duties or functions transferred by this act to the Bureau of Liquor Control Enforcement of the Pennsylvania State Police are hereby transferred to the Pennsylvania State Police with the same force and effect as if the allocations and appropriations had been made to and said items had been the personnel and property of the bureau in the first instance and if the contracts, agreements and obligations had been incurred or entered into by the Pennsylvania State Police.

(c) All present employees of the Pennsylvania Liquor Control Board whose powers, duties or functions are transferred under subsections (a) and (b) shall be transferred to the Office of Administrative Law Judge or the bureau as appropriate. All employees are to continue in their employment with either the board, the Office of Administrative Law Judge or the bureau with the same pay scales, salaries, wages, seniority benefits, pension rights and other incidents of employment, including, but not limited to, civil service status, as if this act had not been effective.

(d) Notwithstanding any provisions of this section, enforcement officers of the Pennsylvania Liquor Control Board shall, in order of seniority, be given the choice of transferring to the Bureau of Liquor Control Enforcement of the Pennsylvania State Police or remaining within the Pennsylvania Liquor Control Board.

(e) Notwithstanding any provisions of this section, attorneys responsible for representation of the Pennsylvania Liquor Control Board in enforcement proceedings shall, in order of seniority, be given the choice of transferring to the Office of Chief Counsel of the Pennsylvania State Police or remaining within the Pennsylvania Liquor Control Board.

Section 142. The chief administrative law judge and the Commissioner of the Pennsylvania State Police shall separately by regulation provide for appropriate training of personnel to carry out the responsibilities imposed by this act upon employees of their respective agencies.

Section 143. This act reestablishes the Pennsylvania Liquor Control Board. The board shall be subject to evaluation and review and shall terminate on June 30, 1992, in the manner provided for by the act of December 22, 1981 (P.L.508, No.142), known as the Sunset Act.

Section 144. The presently confirmed members of the Pennsylvania Liquor Control Board as of December 31, 1986, shall continue to serve as members of the board for a term of 180 days beyond the effective date of this act or until the members first appointed after the effective date of this act are appointed and qualified, whichever occurs sooner. The Governor shall submit to the Senate the names of the nominees to the board within 60 days of the effective date of this act.

Section 145. Notwithstanding any provisions of this act to the contrary, citation and enforcement hearings shall temporarily continue to be conducted as heretofore, for a period, which, in the discretion of the board, shall not exceed 120 days beyond the effective date of this act. Prior to the expiration of this 120-day period, the board shall cause notice of the date for implementation of the administrative law judge system established pursuant to this act to be published in the Pennsylvania Bulletin.

Section 146. Each rule, regulation, contract or lease of the Pennsylvania Liquor Control Board in effect on December 31, 1986, shall remain in effect after such date until repealed or amended by the board or until it terminates in accordance with its own terms.

Section 147. Only those members appointed to the Pennsylvania Liquor Control Board after the effective date of this act shall be eligible for the increased salary authorized for board members pursuant to this act.

Section 148. By October 31, 1987, the Pennsylvania Liquor Control Board shall recommend to the General Assembly such fee increases as the board determines are necessary so that revenues are sufficient to cover the costs of licensing and enforcement activities.

Section 149. (a) There is hereby established the Pennsylvania Code Title 40 Review Committee to undertake the review of all regulations pertaining to the liquor, wine and malt and brewed beverage industry. The committee shall be composed of the Chairman and minority chairman of the Senate

Law and Justice Committee, the Chairman and minority chairman of the Liquor Control Committee of the House of Representatives, and eight members from throughout the liquor, wine and malt and brewed beverage industry and one member of the general public to be appointed by the board.

(b) The committee shall have the power to:

(1) study all Title 40 regulations; and

(2) prepare a report of the study to be presented to the board and both houses of the General Assembly within one year of the effective date of this amendatory act. This study shall include, but not be limited to, packaging regulations, satellite warehouses for distributors and language governing licensee's fees.

(c) This committee shall terminate after this report has been presented.

Section 150. Notwithstanding any sections of this act to the contrary, Article VI-A of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, shall supersede this act to the extent there are any inconsistencies with regard to fees charged by the Pennsylvania Liquor Control Board.

Section 151. All other acts or parts of acts are repealed insofar as they are inconsistent with this act.

Section 152. The sum of \$17,700,000, or as much thereof as may be necessary, is hereby appropriated from the State Stores Fund for fiscal year July 1, 1987, to June 30, 1988, to the Pennsylvania State Police for the operation of the Bureau of Liquor Control Enforcement.

Section 153. The provisions of this act are severable. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application.

Section 154. Sections 144 and 146 of this act shall be retroactive to December 31, 1986.

Section 155. This act shall take effect July 1, 1987, or immediately, whichever is later.

APPROVED—The 29th day of June, A. D. 1987.

ROBERT P. CASEY