

No. 1982-176

AN ACT

HB 1268

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 countywide transfers of licenses and adding definitions; further providing for Sunday sales permits; permitting certain licensees to be open for business on election days; and further providing for the licensing of establishments near interstate highways.

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

Section 1. Section 432, act of April 12, 1951 (P.L.90, No.21), known as the "Liquor Code," is amended by adding a subsection to read:

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

(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 one o'clock postmeridian 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 2. Subsection (a) of section 468 of the act, amended June 17, 1971 (P.L.166, No.13), is amended and a subsection is added 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 continues to hold a valid national charter and continues to function in fact as a club as defined in section 102.* The board, in its discretion, may transfer an existing restaurant retail dispenser or club license from one municipality to another in the same county regardless of the quota limitations provided for in this act, if sales of liquor or malt and brewed beverages are legal in such other municipality and if the restaurant retail dispenser or club lost the use of the building in which it was located due to governmental exercise of the right of eminent domain and no other suitable building can be found in the first municipality. 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.

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(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.

Section 3. Subsection (a) of section 475 of the act, amended December 12, 1980 (P.L.1195, No.221), is amended 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 **[any part of a ramp of] the entrance or exit of** an interstate limited access highway.

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Section 4. The first paragraph of clause (5) and clause (6) of section 492 of the act, first paragraph of clause (5) amended June 16, 1975 (P.L.14, No.5) and clause (6) amended March 5, 1973 (P.L.1, No.1), are amended to read:

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

It shall be unlawful—

* * *

(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[: **And provided further, That any hotel or eating place holding a retail dispenser's license which has sales of food and nonalcoholic beverages equal to forty per cent 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 one o'clock postmeridian on Sunday and two o'clock antemeridian on Monday upon purchase of a special annual permit from the board at a fee of one hundred dollars (\$100.00) per year, which shall be in addition to any other license fees].** 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.

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(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 (a) of section 406] subsection (f) of section 432.**

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Section 5. This act shall take effect in 60 days.

APPROVED—The 24th day of June, A. D. 1982.

DICK THORNBURGH