

No. 1986-44

AN ACT

HB 772

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," further defining "club" and "golf course"; regulating sales by privately-owned private golf courses; and making an editorial change.

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

Section 1. The definitions of "club" and "golf course" in section 102 of the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code, added December 17, 1982 (P.L.1390, No.319), are amended to read:

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

* * *

"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.*

* * *

"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.*

* * *

Section 2. Section 461 of the act is amended by adding a subsection to read:

Section 461. Limiting Number of Retail Licenses To Be Issued In Each Municipality.—* * *

(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.

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Section 3. Section 472 of the act, amended July 11, 1980 (P.L.558, No.117), is amended 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 4. This act shall take effect immediately.

APPROVED—The 2nd day of May, A. D. 1986.

DICK THORNBURGH