

No. 1994-61

## AN ACT

HB 2467

Amending the act of April 12, 1951 (P.L.90, No.21), entitled, as reenacted, "An act relating to alcoholic liquors, alcohol and malt and brewed beverages; amending, revising, consolidating and changing the laws relating thereto; regulating and restricting the manufacture, purchase, sale, possession, consumption, importation, transportation, furnishing, holding in bond, holding in storage, traffic in and use of alcoholic liquors, alcohol and malt and brewed beverages and the persons engaged or employed therein; defining the powers and duties of the Pennsylvania Liquor Control Board; providing for the establishment and operation of State liquor stores, for the payment of certain license fees to the respective municipalities and townships, for the abatement of certain nuisances and, in certain cases, for search and seizure without warrant; prescribing penalties and forfeitures; providing for local option, and repealing existing laws," providing for secondary service areas, for wine auction permits and for premises to be vacated by patrons.

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

Section 1. Section 406.1 of the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code, reenacted and amended June 29, 1987 (P.L.32, No.14), is amended 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. *In addition, there shall be no requirement that the secondary service area be located in the same municipality as the original licensed premises, provided, however, that the board shall not approve a secondary service area in this case if that secondary service area is located in any municipality where the granting of liquor licenses has been prohibited as provided in this article.* Notwithstanding 40 Pa. Code § 7.21(c)(3), the licensee shall be permitted to store, serve, sell or dispense food, liquor and malt or brewed beverages at the board approved secondary service area.

Section 2. The act is amended by adding a section to read:

**Section 408.12. Wine Auction Permits.—(a) Upon application of any nonprofit public television station which is a member of the Pennsylvania**

*Public Television Network, any orchestra located in a county of the first or second class which is operated by a nonprofit corporation or any museum located in a county of the first or second class which is operated by a nonprofit corporation and upon payment of a fee of thirty dollars (\$30) per day, the board shall issue a wine auction permit good for a period of not more than four consecutive or nonconsecutive days per calendar year.*

*(b) Subject to clause (1) of section 493 of this act, such wine auction permit shall authorize the permittee to sell, by auction, wine by the bottle or case to any person on any day for which the permit is issued, provided, however, that such permit shall only be issued 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. Any wine purchased under this section shall not be consumed at the place of purchase.*

*(c) The wine auction permit shall only be valid for the number of days stated in the permit.*

*(d) Wine auction permits shall only be issued for use at an event which is used by the permittee as a means of raising funds for its operation.*

*(e) The hours during which the holder of a wine auction permit may sell wine shall be limited to the hours set forth in section 406 of this act which are applicable to hotel and restaurant licensees, provided, however, that wine auction permittees may sell wine on Sunday between the hours of seven o'clock antemeridian and until two o'clock antemeridian Monday.*

*(f) Wine auction permits may be issued for sales on premises which are either licensed or unlicensed under this act.*

*(g) Any wine sold under this section shall be purchased from a Pennsylvania Liquor Store, a Pennsylvania limited winery or any seller authorized to sell wine by the bottle or case in this Commonwealth or shall be donated by a person who is neither a licensee nor a permittee who has legally acquired the wine and legally possesses it in this Commonwealth.*

*(h) If any wine sold under this section is purchased from a seller other than a Pennsylvania Liquor Store or a Pennsylvania limited winery, the permittee shall provide thirty days' notice to the board of its intent to purchase such wine. The notice shall include a description of the wine to be purchased, the quantity to be purchased, the name of the seller and any other information which the board may require. The permittee shall comply with all board regulations regarding taxes and fees.*

*(i) The permittee shall be responsible for paying to the board an amount equal to all taxes which would have been paid on such wine if it had been purchased from a Pennsylvania Liquor Store, together with a processing fee to be determined by the board.*

*(j) As a condition of the permit, the permittee shall not broadcast by way of radio or television or disseminate by print media nor cause the broadcast by way of radio, television or dissemination by the print media of the price of any wine sold or to be sold under this section.*

*(k) Any person selling wine 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 liquor or malt or brewed beverages.*

*(l) "Auction," as used in this section, shall mean the offer to sell wine by the permittee to the members of an audience congregated for the purpose of making bids for the purchase of the wine in an effort by the permittee to advance the amount of the bids to obtain the highest or most favorable offer.*

Section 3. Section 499(b) of the act, added December 7, 1990 (P.L.622, No.160), is amended to read:

Section 499. Premises to be Vacated by Patrons.—\* \* \*

(b) A licensee may [serve food] *remain open* between the hours of two o'clock antemeridian and seven o'clock antemeridian *for the purpose of serving food* on any day if such licensee either possesses or is eligible to purchase a Sunday sales permit [in accordance with section 406] and receives an extended hours food license. The board shall establish an annual fee for the extended hours food license which shall not exceed fifty dollars (\$50).

\* \* \*

Section 4. This act shall take effect immediately.

APPROVED—The 1st day of July, A.D. 1994.

ROBERT P. CASEY