

No. 1996-199

AN ACT

HB 2292

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," further providing for identification cards and for special occasion permits; providing licenses for regional history centers; providing for multipurpose cultural and science facilities licenses; and further providing for advertising.

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

Section 1. Section 408.4(a) and (e.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) and amended or added April 29, 1994 (P.L.212, No.30), October 4, 1994 (P.L.522, No.77) and May 31, 1996 (P.L.312, No.49), are amended to read:

Section 408.4. Special Occasion Permits.—(a) Upon application of any hospital, church, synagogue, volunteer fire company, volunteer ambulance company, volunteer rescue squad, nonprofit agricultural association in existence for at least ten years, bona fide sportsmen's club in existence for at least ten years, nationally chartered veterans' organization and any affiliated lodge or subdivision of such organization, fraternal benefit society that is licensed to do business in this Commonwealth and any affiliated lodge or subdivision of such fraternal benefit society, or the auxiliary of any of the foregoing, and upon payment of the prescribed fee for special occasion permits under section 614-A of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929," the board shall issue a special occasion permit good for a period of not more than five consecutive 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 township of the first class or a nonprofit corporation engaged in the performing arts in a city of the third class *or in an incorporated town* for a period of not more than six

nonconsecutive or ten consecutive days at the prescribed fee for special occasion permits under section 614-A of "The Administrative Code of 1929."

* * *

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

(1) *If the permittee is conducting a regatta [may], sell for consumption liquor and malt or brewed beverages in or on the grounds of a State park located within a city of the second class for a period not to exceed ten consecutive days [in] per calendar year [1996].*

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

* * *

Section 2. Section 408.5 heading, (a), (g) and (i) of the act, amended May 31, 1996 (P.L.312, No.49), are amended to read:

Section 408.5. Licenses for City-owned Art Museums, Cities First Class; 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; *and Regional History Centers 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 State-chartered or city-owned art museum, 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, *or any regional history center having a floor area of not less than one hundred thousand square feet in one building 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.

* * *

(g) Sales by the holder of an art museum license or science and technology license *or any regional history center license* may be made except to those persons prohibited by this act on premises used for art museum or science and technology purposes *or regional history center 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 *or regional history center* 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 *or a regional history center's purposes.*

* * *

(i) If the board shall revoke any art museum license or science and technology license *or regional history museum 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.

* * *

Section 3. The act is amended by adding a section to read:

Section 408.14. Multipurpose Cultural and Science Facilities Licenses.—(a) *The board is authorized to issue a restaurant liquor license to a nonprofit corporation or to a concessionaire selected by such nonprofit corporation 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 nonprofit multipurpose cultural and science facility. For the purpose of this section, "nonprofit multipurpose cultural and science facility" shall be a corporation organized under the nonprofit corporation laws for the benefit of the public and not for the mutual benefit of its members, and which maintains in one building, constructed after January 1, 1997, with a minimum square footage of one hundred thousand square feet, a performing arts facility with a seating capacity of not less than three hundred seats and a science and technology center: Provided, however, That no sale or consumption of such beverages shall take place on any portion of such premises other than service areas approved by the board.*

(b) *An application for the license may be filed at any time by a nonprofit corporation operating a multipurpose cultural and science facility or by a concessionaire selected by such nonprofit corporation. Any such license granted under these provisions need not conform to the requirements of this act relating to restaurant liquor licenses except as provided herein. An 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 multipurpose cultural and science 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 administrative law judge or upon termination or nonrenewal of the contract between the concessionaire and such nonprofit corporation and shall not be validated if the annual fee is not timely paid.

(e) Fees for a multipurpose cultural and science facility shall be as provided 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." 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) Sales by the holder of a multipurpose cultural and science 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 during 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.

(g) 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 license issued to such multipurpose cultural and science facility 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.

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

(i) These 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.

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

Section 4. Section 495(c) and (e) of the act are amended and the section is amended by adding a subsection to read:

Section 495. Identification Cards; Licensees and State Liquor Store Employees Saved From Prosecution.—* * *

(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] *may* require the person whose age may be in question to fill in and sign a [card in the following form:] *form containing language approved by the board or containing the following:*

..... 19
I,....., hereby represent to, a State Store or licensee of the 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 board at any and all times.] *The forms shall be printed in a manner approved by the board and shall be filed alphabetically by the State Liquor Store or licensee in a file box containing a suitable alphabetical index at or before the close of business on the day that the form is executed, and any such form shall be subject to examination by any officer, agent or employe of the enforcement bureau at any and all times.*

* * *

(e) [The signed statement] *Any such signed form* 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 [board] *administrative law judge* or the courts are satisfied that the licensee or State Liquor Store employe acted in good faith.

(f) *A photograph or photocopy or other visual or video presentation of the identification card set forth in subsection (a) 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 administrative law judge or the courts are satisfied that the licensee or State Liquor Store employe acted in good faith.

Section 5. Section 498 of the act is amended 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.](a) *Manufacturers, wholesalers, retailers and shippers, whether from outside or inside this Commonwealth, and any licensee under this act are permitted to advertise their products and prices in this Commonwealth. All advertisements shall be subject to all Federal and State laws and regulations.*

(b) *No advertisement of price may contain the following:*

(1) *Any statement that is false, deceptive or misleading.*

(2) *Any statement that is disparaging of the products of a competitor.*

(3) *Any statement referring to monetary comparison between brands.*

(c) *Prices that are advertised or displayed on the licensed premises shall be those that are in effect at the time of the advertisement or display.*

(d) *No prices, other than the posting of a printed menu or wine list as expressly provided for in section 493(20)(i), may be displayed in a window of any licensed establishment.*

(e) *The following shall apply to all alcoholic beverage and malt beverage advertising:*

(1) *The entity responsible for the advertisement shall be clearly identified in the advertisement.*

(2) *No licensee may distribute, by mail, personally or through servants, agents or employees, price lists, circulars or handbills off the licensed premises to the general public as a means of advertising liquor, wine or malt or brewed beverages.*

(3) No print advertisement of alcoholic beverages of any type shall be permitted within three hundred feet of any church, school or public playground.

(4) The use in any advertisement of alcoholic beverages of any subject matter, language or slogan directed to minors to promote consumption of alcoholic beverages is prohibited. Nothing in this section shall be deemed to restrict or prohibit any advertisement of alcoholic beverages to those persons of legal drinking age.

(5) No advertisement shall be permitted, either directly or indirectly, in any booklet, program book, yearbook, magazine, newspaper, periodical, brochure, circular or other similar publication published by, for or in behalf of any educational institution.

(6) No advertisement that is obscene shall be permitted.

(f) Advertisement of alcoholic beverages and malt and brewed beverages shall not be inconsistent with the spirit of safety or safe driving programs.

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

Section 6. This act shall take effect in 60 days.

APPROVED—The 20th day of December, A.D. 1996.

THOMAS J. RIDGE