

No. 1998-86

AN ACT

SB 1164

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 alcoholic cider; further providing for certain performing arts facilities, for wine auction permits, for malt and brewed beverages licenses, stadium or arena permits, for distributors and importing distributors restrictions, for interlocking business, for malt or brewed beverages manufactured outside this Commonwealth, for exceptions to limiting the number of retail licenses issued in each municipality, for incorporated units of national veterans' organizations, for licenses not assignable, for application filing dates, for the filing of license renewal applications, for display of prices of alcoholic beverages, for licensee's outside advertisements, for special occasion permits and for licensees employed by others.

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

Section 1. The definition of "malt or brewed beverages" in section 102 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 and the section is amended by adding a definition 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:

* * *

"Alcoholic cider" shall mean a beverage which may contain carbonation in an amount not to exceed three hundred ninety-two one thousandths of a gram per one hundred milliliters and flavors, produced through alcoholic fermentation of only apples or apple juice, consisting of at least one-half of one per centum, but not greater than five and one-half per centum, alcohol by volume and sold or offered for sale as alcoholic cider and not as a wine, a wine product or as a substitute for wine, in bottles, cases, kegs, cans or other suitable containers of the type used for the sale of malt or brewed beverages in this Commonwealth.

* * *

“Malt or Brewed Beverages” [means] *shall mean* 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, *and shall mean alcoholic cider.*

* * *

Section 2. Section 408.4(a), (c) and (e) of the act, amended October 5, 1994 (P.L.522, No.77) and February 18, 1998 (P.L.162, No.25), are amended and the section is amended by adding a subsection 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 one 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 six consecutive or nonconsecutive days during a calendar year. 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, *or an arts council* 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.”

* * *

(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 or township of the first class, and a nonprofit corporation engaged in the performing arts in a city of the third class, *or an arts council* 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.

* * *

(e) The provisions of this section shall not be applicable to any *of the following:*

(1) A licensee now or hereafter possessing a caterer’s license, [nor to any] *other than a volunteer fire company, volunteer ambulance company or volunteer rescue squad, which owns its own facility and wishes to use its special occasion permit at that facility.*

(2) A professional fund raiser.

* * *

(g) *For the purposes of this section, "arts council" means a tax-exempt organization which promotes the visual arts, performing arts, or both, and which receives funding under the Local Arts Services Program administered by the Pennsylvania Council on the Arts.*

Section 3. Section 408.6(a) of the act, amended February 18, 1998 (P.L.162, No.25), is amended to read:

Section 408.6. Performing Arts Facilities in Second Class A Cities, Third Class Cities, boroughs and Townships of the Second Class Located in Fourth Class Counties.—(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 second class A, any city of the third class or any borough 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 **[six hundred fifty] five hundred** 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.

* * *

Section 4. Section 408.12(a) of the act, added July 1, 1994 (P.L.402, No.61), is amended 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 *or any nonprofit corporation located in any county of the third class which trains and places dogs for people who are physically handicapped* 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.

* * *

Section 5. Section 431(a) and (b) of the act, amended May 31, 1996 (P.L.312, No.49), are amended and the section is amended by adding subsections 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,] from the place of**

manufacture only in original containers, in quantities of not less than a case or 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 a license period to be determined by the board. 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. 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 make full payment or 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 or upon notification to the board by the Department of Revenue or the Department of Labor and Industry of its objection, the license of such person shall immediately become invalid and shall remain invalid until payment and all charges are received by the board.

(a.1) Any out of State manufacturer whose products are sold and delivered within this Commonwealth and whose production exceeds 15,000 barrels per year shall be authorized: to rent, lease or otherwise acquire space from an importing distributor or bailee for hire authorized by this act at no more than two locations per manufacturer for use of a segregated portion of a warehouse or other storage facility owned or operated by the importing distributor or bailee for hire at which the out of State

manufacturer may store and sell malt or brewed beverages to any importing distributor to whom the out of State manufacturer has granted distribution rights pursuant to subsection (b) or to any purchaser outside this Commonwealth for delivery outside this Commonwealth; or to ship to its storage facility outside this Commonwealth. Such manufacturer may compensate the importing distributor or bailee for hire for any related storage or delivery services. The out of State manufacturer must file with the Liquor Control Board the rate of compensation to be paid. A separate written application must be filed to acquire storage licenses, and the board may establish the information that must be provided on the application. The initial filing must be made prior to any payments being made, and any subsequent changes in the rate of compensation must be filed within thirty days of any such change. Nothing in this act authorizing storage facilities for out of State manufacturers is intended to make any change in the manner malt or brewed beverages are distributed through the three-tier system.

(a.2) The board shall issue to a holder of a manufacturer's license whose production exceeds 15,000 barrels per year no more than two storage licenses per manufacturer to cover storage facilities separate from the location of the manufacturing facility. A manufacturer may use its storage facilities to receive, store, sell and distribute malt or brewed beverages in the same manner as it can at its place of manufacture. A separate written application must be filed to acquire storage licenses, and the board is empowered to establish what information must be provided on that application. Nothing in this act authorizing off-site storage facilities for manufacturers is intended to make any change in the manner malt or brewed beverages are distributed through the three-tier system.

(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 a case or original containers containing one hundred twenty-eight ounces or more which may be sold separately as prepared for the market by the manufacturer at the place of manufacture. 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. *In the case of an importing distributor, the holder of such a license shall be authorized to store malt or brewed beverages owned by an out of State manufacturer at a segregated portion of a warehouse or other storage facility authorized by section 441(d) and operated by the importing distributor within its appointed territory and deliver such beverages to another importing distributor who has been granted distribution rights by the out of State manufacturer as provided herein. The importing distributor shall be permitted to receive a fee from the out of State manufacturer for any related storage or delivery services. In the case of a bailee for hire hired by an out of State manufacturer, the holder of such a permit shall be authorized: to receive or store malt or brewed beverages under the same conditions as permitted for a distributor or importing distributor under section 441(f) produced by that out of State manufacturer for sale by that manufacturer to importing distributors to whom that out of State manufacturer has given distribution rights pursuant to this subsection or to purchasers outside this Commonwealth for delivery outside this Commonwealth; or to ship to that out of State manufacturer's storage facilities outside this Commonwealth. The bailee for hire shall be permitted to receive a fee from the out of State manufacturer for any related storage or delivery services. The bailee for hire shall, as required in Article V of this act, keep complete and accurate records of all transactions, inventory, receipts and shipments and make all records and the licensed areas available for inspection by the board and for the Pennsylvania State Police, Bureau of Liquor Control Enforcement, during normal business hours.*

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.

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Section 6. Section 433.1(a) of the act, amended February 18, 1998 (P.L.162, No.25), is 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, in school districts in counties of the third class and in townships of the second class in counties of the fifth 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: (1) twelve thousand or more in cities of the first and second class; (2) four thousand or more and owned by the county or the city in cities of the third class; (3) four thousand two hundred or more and owned by counties of the third class; (4) two thousand five hundred or more in school districts in counties of the third class; and (5) five thousand or more in townships of the second class in counties of the fifth 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 *not* be made [only] during [professional] *high school and intercollegiate* athletic competition.

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Section 7. Section 441(a) of the act, amended May 31, 1996 (P.L.312, No.49), is amended 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:

(1) in the original containers as prepared for the market by the manufacturer at the place of manufacture; [or]

(2) in the case of identical containers repackaged in the manner described by subsection (f)[.]; or

(3) *as provided in section 431(b).*

* * *

Section 8. Section 443(e) and (f) of the act, amended May 31, 1996 (P.L.312, No.49), are amended to read:

Section 443. Interlocking Business Prohibited.—* * *

(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: Provided, however, That a holder of a manufacturer's license under section 431(a) who is eligible to operate a brewery pub under section 446(2) or a limited winery as provided for under section 505.2 may also hold and operate under a hotel liquor license, a restaurant liquor license or a malt and brewed beverages retail license on the manufacturer's or limited winery's licensed premises. The hotel liquor license or restaurant liquor license or the malt and brewed beverages retail license shall be acquired by the manufacturer or limited winery subject to section 461 and shall satisfy all requirements for each respective license. *Nothing in this section shall be construed to prohibit an out of State manufacturer from engaging in a transaction or making payments authorized by section 431(a.1).*

(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: Provided, however, That a holder of a manufacturer's license under section 431(a) who is eligible to operate a brewery pub under section 446(2) or a limited winery as provided for under section 505.2 may also hold and operate under a hotel liquor license, a restaurant liquor license or a malt and brewed beverages retail license on the manufacturer's or limited winery's licensed premises. The hotel liquor license or restaurant liquor license or the malt and brewed beverages retail license shall be acquired by the manufacturer or limited winery subject to section 461 and shall satisfy all requirements for each respective license. *Nothing in this section shall be construed to prohibit an importing distributor from receiving payment from an out of State manufacturer for engaging in a transaction or performing services authorized by section 431(b) or 444(a.1).*

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Section 9. Section 444(e) of the act is amended and the section is amended by adding a subsection to read:

Section 444. Malt or Brewed Beverages Manufactured Outside This Commonwealth.—* * *

(a.1) *Any out of State manufacturer of malt or brewed beverages may appoint an importing distributor or bailee for hire to perform the services*

prescribed in section 431(b) and provide a fee to an importing distributor or bailee for hire who performs such services.

* * *

(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] *out of State* 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.

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Section 10. Section 461(a) of the act, amended October 5, 1994 (P.L.522, No.77), is amended 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 three thousand inhabitants in any municipality, exclusive of licenses granted to airport restaurants, municipal golf courses, hotels, privately-owned public golf courses and units of nonprofit nationally chartered clubs, as defined in this section, whose applications are filed on or before December 31, [1994] 1998, and except those units falling under section 461.1, 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, privately-owned private golf course licensees and units of nonprofit nationally chartered clubs, as defined in this section, whose applications are filed on or before December 31, [1994] 1998, and except those units falling under section 461.1, shall be granted so long as said limitation is exceeded.

* * *

Section 11. Section 461.1 of the act, amended June 30, 1992 (P.L.327, No.66), is amended 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 one year prior to filing the application for a license. *The term does not include auxiliaries, "sons of" or other similar organization.*

The term "affiliated organization" shall mean home associations, home corporations, auxiliaries, "sons of" or similar organizations which are directly affiliated with an incorporated unit or a national veterans' organization. An affiliated organization must meet the definition of a club set forth in section 102, except that:

(1) if incorporated, the affiliated organization need not have been in continuous existence for at least one year prior to its application; or

(2) if unincorporated, the affiliated organization need not have been in continuous existence for at least ten years prior to its application.

(c) When the charter of an incorporated unit of a national veterans' organization is suspended or revoked, the [retail] club license of the organization shall also be suspended or [revoked] rescinded. The [retail] club license of an incorporated unit of a national veterans' organization is not transferable to any other organization or person[.], *except as provided in this section.*

(d) An incorporated unit of a national veterans' organization may transfer its club license to its affiliated organization as long as, in addition to fulfilling all the requirements pertaining to the transfer of club licenses, the state department of the national veterans' organization provides the board with written approval for such a transfer. The license shall be suspended or rescinded upon the suspension or revocation of the charter of the affiliated incorporated unit of the national veterans' organization. The license shall also be rescinded upon request of the state department of the national veterans' organization or if the affiliated organization's affiliation with the incorporated unit of the national veterans' organization is severed.

(e) Only one club license may be issued to the incorporated unit of the national veterans' organization, and the board may not issue a license to an incorporated unit of a national veterans' organization if any of the unit's affiliated organizations holds a club license.

(f) For purposes of this section, a municipality which permits the issuance of club liquor licenses to incorporated units of national veterans'

organizations also permits the transfer of such licenses to an affiliated organization of the incorporated unit of the national veterans' organization.

(g) An incorporated unit of a national veterans' association or an affiliated organization which has its license suspended or rescinded or its request for transfer denied under this section may request a hearing before a hearing examiner under section 464. The board may not consider the propriety of the state department of the national veterans' organization's decision to suspend the charter, revoke the charter or refuse to approve the transfer. The written request from the state department of the national veterans' organization, standing alone, is admissible evidence at the board hearing. An appeal of the board's decision may be taken under section 464, except that the appeal shall not act as a supersedeas of the board's decision.

Section 12. Section 468(a) and (c) of the act are amended to read:

Section 468. Licenses Not Assignable; Transfers.—(a) (1) 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.

(2) (i) The board, in its discretion, may transfer an existing restaurant liquor license from one municipality to another municipality of the same county or in a contiguous county regardless of the quota limitations provided for in this act if:

(A) sales of liquor or malt and brewed beverages are legal in such other municipality;

(B) the location in the same county or a contiguous county is an indoor bowling center; and

(C) the restaurant liquor license is currently located in an area which has been designated as blighted.

(ii) For purposes of this subsection, a property shall be determined to be blighted if it is any of the following:

(A) real property within or outside a certified redevelopment area determined to be blighted property under the act of May 24, 1945 (P.L.991, No.385), known as the "Urban Redevelopment Law";

(B) any property declared to be blighted under the "Urban Redevelopment Law" by a Pennsylvania local government or its agency; or

(C) any property which is located within a redevelopment area, when one of the stated purposes of designation as a redevelopment area is to remove blight, designated by a local government or its agencies under the "Urban Redevelopment Law."

(iii) If a restaurant liquor license is transferred to an indoor bowling center located outside of the municipality in which the license was originally issued, that restaurant liquor license may not be transferred within five years of the date of initial transfer unless the subsequent transfer is for use in an indoor bowling center. 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 employees 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.

(3) 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.

* * *

(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.

(3) *The term "indoor bowling center" shall mean an enclosed facility of at least twelve thousand square feet with a minimum of eighteen bowling lanes and which has as its primary focus the offering of bowling as a recreational activity to the general public.*

* * *

Section 13. Section 470(a) of the act, amended April 29, 1994 (P.L.212, No.30), is 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, tax clearance from the Department of Revenue and the Department of Labor and Industry and 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 *nunc pro tunc* 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 *nunc pro tunc* within the time prescribed herein the board, in its discretion, may, after hearing, accept a renewal application filed within [ten months] *two years* 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.

* * *

Section 14. Section 493(11) of the act is 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—

* * *

(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.] *For any hotel, restaurant or club liquor licensee, or any malt or brewed beverage licensee, or any officer, servant, agent or employe of such licensee, to be at the same time employed, directly or indirectly, by any distributor, importing distributor, manufacturer, importer or vendor licensee or any out of State manufacturer. It shall also be unlawful for any distributor or importing distributor, or any officer, servant, agent or employe of such licensee, to be at the same time employed, directly or indirectly, by any other distributor, importing distributor, manufacturer, importer, vendor, out of State manufacturer, hotel restaurant, malt or brewed beverage licensee, or club liquor licensee. It shall also be unlawful*

for any manufacturer, importer, or vendor licensee, or any out of State manufacturer, or any officer, servant, agent or employe of such licensee or manufacturer, to be at the same time employed, directly or indirectly, by any hotel, restaurant or club liquor licensee or any malt or brewed beverage licensee or any distributor or importing distributor licensee. Nothing in this subsection shall be construed to prohibit a manufacturer or limited winery licensee, or any officer, servant, agent or employe of such licensee, to be employed at the same time by a hotel, restaurant or retail dispenser licensee if the hotel, restaurant or retail dispenser licensee is located at the manufacturer or limited winery premises pursuant to section 443. For the purposes of this subsection, an officer, servant, agent or employe of a licensee or manufacturer is an individual who has either an ownership interest in the licensee or manufacturer or who receives compensation for his or her work on behalf of the licensee or manufacturer.

* * *

Section 15. Section 493(18) and (19) of the act are repealed.

Section 16. Section 505.2 of the act, amended April 29, 1994 (P.L.212, No.30) and May 31, 1996 (P.L.312, No.49), is amended to read:

Section 505.2. Limited Wineries.—In the interest of promoting tourism and recreational development in Pennsylvania, holders of a limited winery license may:

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

(2) Sell *alcoholic cider*, 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 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 *alcoholic cider or wine* produced by other limited wineries in an amount in excess of fifty per centum of the *alcoholic cider or wine* produced by the purchasing limited winery in the preceding calendar year.

(3) Separately or in conjunction with other limited wineries, sell *alcoholic cider*, wine and wine coolers produced by the limited winery on no more than five (5) 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 board, to individuals and to hotel, restaurant, club and public service liquor licensees.

(4) At the discretion of the board, obtain a special [wine] permit to participate in *alcoholic cider*, wine and food expositions off the licensed premises. A special [wine] permit shall be issued upon proper application and payment of a fee of thirty dollars (\$30) per day for each day of permitted

use, not to exceed five (5) consecutive days. A limited winery may not obtain more than five (5) special [wine] permits in any calendar year. The total number of days for all the *special* permits may not exceed ten (10) days in any calendar year. A special [wine] permit shall entitle the holder to engage in the sale of *alcoholic cider* or wine produced by the bottle or in case lots by the permittee under the authority of a limited winery license. Holders of special [wine] permits may provide tasting samples of wines in individual portions not to exceed one (1) fluid ounce. Samples at *alcoholic cider*, wine and food expositions may be sold or offered free of charge. Except as provided herein, limited wineries utilizing special [wine] permits shall be governed by all applicable provisions of this act as well as by all applicable regulations or conditions adopted by the board.

For the purposes of this clause, "*alcoholic cider*, wine and food expositions" are defined as affairs held indoors or outdoors with the primary intent of educating those in attendance of the availability, nature and quality of Pennsylvania-produced *alcoholic ciders* and wines in conjunction with suitable food displays, demonstrations and sales. [Wine] *Alcoholic cider*, *wine* and food expositions may also include activities other than *alcoholic cider*, wine and food displays, including arts and crafts, musical activities, cultural exhibits, agricultural exhibits and similar activities.

(5) Apply for and hold a hotel liquor license, a restaurant liquor license or a malt and brewed beverages retail license to sell for consumption at the restaurant or limited winery on the licensed winery premises, liquor, wine and malt or brewed beverages regardless of the place of manufacture under the same conditions and regulations as any other hotel liquor license, restaurant liquor license or malt and brewed beverages retail license.

Section 17. The act is amended by adding an article to read:

ARTICLE X. MISCELLANEOUS PROVISIONS.

Section 1001. Construction and Applicability.—(a) *Except as provided in subsection (b), unless the context clearly indicates otherwise, a reference to "malt or brewed beverages" in a statute shall be construed to include alcoholic cider.*

(b) *Regardless of context, a reference to "malt or brewed beverages" in Article XX of the act of March 4, 1971 (P.L.6, No.2), known as the "Tax Reform Code of 1971," shall be construed to include alcoholic cider.*

(c) *Except as provided in subsection (d), unless the context clearly indicates otherwise, a reference to "wine" in a statute shall be construed to exclude alcoholic cider.*

(d) *Regardless of context, a reference to "wine" in the act of December 5, 1933 (Sp.Sess., P.L.38, No.6), known as the "Spirituuous and Vinous Liquor Tax Law," shall be construed to exclude alcoholic cider.*

Section 18. The following acts and parts of acts are repealed insofar as they are inconsistent with the amendment or addition of sections 102 and 505.2 and Article X of the act:

Act of December 5, 1933 (Sp.Sess., P.L.38, No.6), known as the Spirituous and Vinous Liquor Tax Law.

Article XX of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

Section 19. Pennsylvania liquor stores may continue to sell alcoholic cider within its inventory after the effective date of this section until the alcoholic cider within its current inventory is depleted. The Pennsylvania Liquor Control Board shall not purchase additional alcoholic cider after the effective date of this section.

Section 20. This act shall take effect as follows:

(1) The amendment or addition of sections 102, 505.2 and Article X of the act shall take effect immediately.

(2) Sections 17 and 18 of this act and this section shall take effect immediately.

(3) The remainder of this act shall take effect in 60 days.

APPROVED—The 18th day of June, A.D. 1998.

THOMAS J. RIDGE