

## No. 2006-85

## AN ACT

## HB 2383

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 definitions; requiring the Bureau of Alcohol Education to make certain reports to the General Assembly; and further providing for special occasion permits and for limiting the number of special occasion permits.

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

Section 1. 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 by adding definitions 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:

\* \* \*

***"Public hearing" shall mean a hearing held pursuant to public notice.***

***"Public notice" shall mean notice published once each week for two successive weeks in a newspaper of general circulation in the municipality. Such notice shall state the time and the place of the hearing and the particular matter to be considered at the hearing. The first publication shall not be more than 30 days, and the second publication shall not be less than seven days, from the date of the hearing.***

\* \* \*

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

***Section 217. Biennial Reports.—(a) The board's Bureau of Alcohol Education shall prepare a report on underage alcohol drinking and high-risk college alcohol drinking in this Commonwealth.***

***(b) A report shall be prepared biennially and shall address the following:***

***(1) Current levels and trends of underage alcohol drinking and high-risk college alcohol drinking in this Commonwealth.***

*(2) Current programs conducted by State agencies to prevent underage alcohol drinking and high-risk college alcohol drinking.*

*(3) Current science that better defines and suggests proven prevention strategies for underage alcohol drinking and high-risk college alcohol drinking.*

*(c) The first report to the General Assembly shall be presented prior to February 1, 2007. Additional reports shall be presented every two years thereafter. A copy of the report shall be sent to the chairman and the minority chairman of the Law and Justice Committee of the Senate and the chairman and the minority chairman of the Liquor Control Committee of the House of Representatives.*

Section 3. Section 408.4 of the act is amended by adding a subsection to read:

Section 408.4. Special Occasion Permits.—

\* \* \*

*(q) Notwithstanding any provision of law to the contrary, the board may issue a special occasion permit to an eligible entity located in a dry municipality if the board is provided with a copy of a resolution adopted by the municipality's governing body confirming support for the issuance of the special occasion permit. This subsection shall expire on January 1, 2007.*

Section 4. Section 461(b.1) and (b.3) of the act, amended February 21, 2002 (P.L.103, No.10) and December 8, 2004 (P.L.1810, No.239), are amended to read:

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

(b.1) The board may issue restaurant and eating place retail dispenser licenses and renew licenses issued under this subsection without regard to the quota restrictions set forth in subsection (a) for the purpose of economic development in a municipality under the following conditions:

(1) A license may only be issued under this subsection if the applicant has exhausted reasonable means for obtaining a suitable license within the county.

(2) The proposed licensed premises must be located within either of the following:

(i) A keystone opportunity zone established under the authority of the act of October 6, 1998 (P.L.705, No.92), known as the "Keystone Opportunity Zone and Keystone Opportunity Expansion Zone Act," or an area designated as an enterprise zone by the Department of Community and Economic Development.

(ii) A municipality in which the issuance of a restaurant or eating place retail dispenser license has been approved by the governing body of the municipality for the purpose of local economic development. Upon request for approval of an economic development license by an applicant, at least one public hearing shall be held by the municipal governing body for the

purpose of receiving comments and recommendations of interested individuals residing within the municipality concerning the applicant's intent to acquire an economic development license from the Pennsylvania Liquor Control Board. The governing body shall, within forty-five days of a request for approval, render a decision by ordinance or resolution to approve or disapprove the applicant's request for an economic development license. If the municipality finds that the issuance of the license would promote economic development, it may approve the request; however, it must refuse the request if it finds that approval of the request would adversely affect the welfare, health, peace and morals of the municipality or its residents. A decision by the governing body of the municipality to deny the request may be appealed to the court of common pleas in the county in which the municipality is located. A copy of the approval must be submitted with the license application. ***Failure by the governing body of the municipality to render a decision within forty-five days of the applicant's request for approval shall be deemed an approval of the application in terms as presented unless the governing body has notified the applicant in writing of their election for an extension of time not to exceed sixty days. Failure by the governing body of the municipality to render a decision within the extended time period shall be deemed an approval of the application in terms as presented.***

(3) The board may issue no more than two licenses total in each county of the first through fourth class and no more than one license total in each county of the fifth through eighth class per calendar year.

(4) An applicant under this subsection shall be required to sell food and nonalcoholic beverages equal to seventy per centum (70%) or more of its combined gross sales of food and alcoholic beverages.

(5) In addition to renewal and license fees provided under existing law for the type of license issued, an applicant shall be required to pay an initial application surcharge as follows:

(i) Fifty thousand dollars (\$50,000) if the licensed premises is located in a county of the first through fourth class.

(ii) Twenty-five thousand dollars (\$25,000) if the licensed premises is located in a county of the fifth through eighth class.

(iii) The initial application surcharge minus a seven hundred dollar (\$700) processing fee shall be refunded to the applicant if the board refuses to issue a provisional license under subsection (b.2). Otherwise, the initial application surcharge minus a seven hundred dollar (\$700) processing fee shall be credited to The State Stores Fund. The processing fee shall be treated as an application filing fee as prescribed in section 614-A(1)(i) of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929."

(6) A license issued under this subsection and a provisional license issued under subsection (b.2) shall be nontransferable with regard to ownership or location.

(7) An appeal of the board's decision refusing to grant or renew a license under this subsection shall not act as a supersedeas of the decision of the board if the decision is based, in whole or in part, on the licensee's failure to demonstrate that its food and nonalcoholic beverages were at least seventy per centum (70%) of its combined gross sales of food and alcoholic beverages.

(8) A license issued under this subsection may not be validated or renewed unless the licensee can establish that its sale of food and nonalcoholic beverages during the license year immediately preceding application for validation or renewal is equal to seventy per centum (70%) or more of its food and alcoholic beverage sales.

\* \* \*

(b.3) An intermunicipal transfer of a license or issuance of a license for economic development under subsection (b.1)(2)(i) must first be approved by the governing body of the receiving municipality when the total number of existing restaurant liquor licenses and eating place retail dispenser licenses in the receiving municipality exceed one license per three thousand inhabitants. Upon request for approval of an intermunicipal transfer of a license or issuance of an economic development license by an applicant, at least one public hearing shall be held by the municipal governing body for the purpose of receiving comments and recommendations of interested individuals residing within the municipality concerning the applicant's intent to transfer a license into the municipality or acquire an economic development license from the Pennsylvania Liquor Control Board. The governing body shall, within forty-five days of a request for approval, render a decision by ordinance or resolution to approve or disapprove the applicant's request for an intermunicipal transfer of a license or issuance of an economic development license. The municipality must approve the request unless it finds that doing so would adversely affect the welfare, health, peace and morals of the municipality or its residents. A decision by the governing body of the municipality to deny the request may be appealed to the court of common pleas in the county in which the municipality is located. A copy of the approval must be submitted with the license application. The approval requirement shall not apply to licenses transferred into a tax increment district created pursuant to the act of July 11, 1990 (P.L.465, No.113), known as the "Tax Increment Financing Act," located in a township of the second class that is located within a county of the second class if the district was created prior to December 31, 2002, and the governing body of the township has adopted an agreement at a public meeting that consents to the transfer of licenses into the tax increment district. ***Failure by the governing body of the municipality to render a decision within forty-five days of the applicant's request for approval shall be deemed an approval of the application in terms as presented unless the governing body has notified the applicant in writing of their election for an extension of time not to exceed sixty days. Failure by the governing body of the municipality to render a decision***

*within the extended time period shall be deemed an approval of the application in terms as presented.*

\* \* \*

Section 5. This act shall take effect immediately.

APPROVED—The 7th day of July, A.D. 2006.

EDWARD G. RENDELL