

No. 2006-155

AN ACT

HB 446

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 the definition of "eligible entity"; adding a definition of "mixed-use town center development project"; further providing for sales by liquor licensees, for sale of malt or brewed beverages by liquor licensees, for malt and brewed beverages retail licenses, for retail dispensers' restrictions on purchases and sales, for limiting number of retail licenses to be issued in each county and for surrender of restaurant, eating place retail dispenser, hotel, importing distributor and distributor license for benefit of licensee; providing for expiration of point system; further providing for unlawful acts relative to liquor, malt and brewed beverages and licensees; and making a related repeal.

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

Section 1. The definition of "eligible entity" 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) and amended April 13, 2006 (P.L.78, No.26), 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:

* * *

"Eligible entity" shall mean a city of the third class, a hospital, a church, a synagogue, a volunteer fire company, a volunteer ambulance company, a volunteer rescue squad, a unit of a nationally chartered club which has been issued a club liquor license, a club in a city of the third class which has been issued a club liquor license and which, as of December 31, 2002, has been in existence for at least 100 years, a library, a nationally accredited Pennsylvania nonprofit zoological institution licensed by the United States Department of Agriculture, a nonprofit agricultural association in existence for at least ten years, a bona fide sportsmen's club in existence for at least ten years, a nationally chartered veterans' organization and any affiliated lodge

or subdivision of such organization, a fraternal benefit society that is licensed to do business in this Commonwealth and any affiliated lodge or subdivision of such fraternal benefit society, a museum operated by a nonprofit corporation in a city of the third class or township of the first class, a nonprofit corporation engaged in the performing arts in a city of the third class, borough or in an incorporated town, an arts council, a nonprofit corporation that operates an arts facility or museum in a city of the third class in the county of the fourth class, a nonprofit organization as defined under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)) whose purpose is to protect the architectural heritage of boroughs and which has been recognized as such by a municipal resolution, a nonprofit organization as defined under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)) conducting a regatta in a city of the second class with the permit to be used on State park grounds or conducting a family-oriented celebration as part of Welcome America in a city of the first class on property leased from that city for more than fifty years, a nonprofit organization as defined under section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. § 501(c)(3)) whose purpose is to raise funds for the research and treatment of cystic fibrosis, a nonprofit organization as defined under section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. § 501(c)(3)) whose purpose is to educate the public on issues dealing with watershed conservation, a nonprofit organization as defined under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)) whose purpose is to provide equine assisted activities for children and adults with special needs, a nonprofit economic development agency in a city of the second class with the primary function to serve as an economic generator for the greater southwestern Pennsylvania region by attracting and supporting film, television and related media industry projects and coordinating government and business offices in support of a production, a county tourist promotion agency as defined in section 3(1) of the act of April 28, 1961 (P.L.111, No.50), known as the "Tourist Promotion Law," and located in a city of the third class in a county of the fourth class *or located in a township of the second class in a county of the fifth class*, a junior league in a third class county that is a nonprofit organization as defined under section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. § 501(c)(3)) that is comprised of women whose purpose is exclusively educational and charitable in promoting the volunteerism of women and developing and participating in community projects and that has been in existence for over seventy years or a nonprofit organization as defined under section 501(C)(6) of the Internal Revenue Code of 1986 which is located in a city of the third class in a county of the third class and whose purpose is to support business and industry.

* * *

"Mixed-use town center development project" shall mean a planned development, with no building construction commenced prior to July 1,

2006, situated on no fewer than one hundred contiguous acres, with at least one million square feet of actual or proposed development, with a mix of retail, hospitality, commercial and residential uses, with community facilities and which has been designated as a mixed-use town center development project by the municipality in which it is located. A mixed-use town center development project may have one or multiple owners and may be developed in one or more phases, all of which shall be included in determining the actual or proposed development.

* * *

Section 1.1. Section 406(a)(3) and (3.1) of the act, amended July 6, 2005 (P.L.135, No.39), is amended to read:

Section 406. Sales by Liquor Licensees; Restrictions.—(a) * * *

(3) Hotel and restaurant liquor licensees, airport restaurant liquor licensees, municipal golf course restaurant liquor licensees and privately-owned public golf course restaurant licensees may sell liquor and malt or brewed beverages on Sunday between the hours of eleven o'clock antemeridian and two o'clock antemeridian Monday upon purchase of a special permit from the board at an annual fee as prescribed in section 614-A of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929." [This clause shall not apply to cities of the first class.

(3.1) Hotel and restaurant liquor licensees, airport restaurant liquor licensees, municipal golf course restaurant liquor licensees and privately-owned public golf course restaurant licensees in cities of the first class whose sales of food and nonalcoholic beverages are equal to thirty per centum or more of the combined gross sales of both food and alcoholic beverages may sell liquor and malt or brewed beverages on Sunday between the hours of eleven o'clock antemeridian and two o'clock antemeridian Monday upon purchase of a special permit from the board at an annual fee as prescribed in section 614-A of "The Administrative Code of 1929."]

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Section 1.2. Section 407(b) of the act, amended July 7, 2006 (P.L.584, No.84), is amended to read:

Section 407. Sale of Malt or Brewed Beverages by Liquor Licensees.—

* * *

(b) (1) Notwithstanding [subsection (a), after October 31, 2005] *any other provision of law or any existing permit authorizing the sale of malt or brewed beverages for consumption off the premises*, a restaurant licensee located in a city of the first class who is otherwise permitted to sell malt or brewed beverages for consumption off the premises may not do so *after October 31, 2007*, unless[, every two years,] it acquires a permit from the board.

(2) The application for a permit to sell malt or brewed beverages for consumption off the premises shall be on forms designated by the board and contain such information as the board may require. The application and

renewal fee shall be as prescribed in section 614-A(27) of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929." *However, no applicant who currently has a permit shall be required to pay any additional fees under section 614-A(27) of "The Administrative Code of 1929" in order to continue selling malt or brewed beverages for consumption off the premises at its currently licensed location for the licensing term beginning November 1, 2007, and ending October 31, 2008.*

(3) The application for a permit to sell malt or brewed beverages for consumption off the premises must be accompanied by a copy of the approval of such request by the [governing body of the city of the first class in which the licensed premises is located] *hearing board authorized by this section.*

(4) [The governing body of a city of the first class] *A city of the first class shall create a hearing board within its Department of Licenses and Inspections to hear requests from licensees who are seeking a permit from the hearing board authorizing the licensee to sell malt or brewed beverages for consumption off the premises. Each hearing board shall consist of three persons appointed by the mayor of the city of the first class, who are subject to approval by the city council of the city of the first class. Each person so appointed shall serve at the pleasure of the appointing authority. The hearing board may, in its discretion, hold hearings to adduce testimony regarding a request. The hearing board must render a decision [by ordinance or resolution] within [forty-five] ninety days of receipt of a request for approval of a permit to sell malt or brewed beverages for consumption off the premises. The [governing body] hearing board must approve the request unless it finds that doing so would adversely affect the welfare, health, peace and morals of the city or its residents. A decision by the [city] hearing board to deny a request may be appealed to the court of common pleas in the county in which the city is located. The failure to render a decision by the [governing body of a city of the first class] hearing board within the [forty-five-day] required time period shall be deemed approval of the permit.*

(5) Upon being satisfied that the applicant has fulfilled all the requirements of this act and the board's regulations, the board shall approve the application. *Such permits shall expire upon the transfer of the license to a new entity or to a new location, or both; otherwise, such permits shall expire at the same time as the expiration of the underlying license.*

Section 1.3. Section 432(f) and (g) of the act, amended or added July 6, 2005 (P.L.1315, No.39), are amended to read:

Section 432. Malt and Brewed Beverages Retail Licenses.—* * *

(f) Hotel, eating places, or municipal golf course retail dispenser licensees may sell malt or brewed beverages between the hours of eleven o'clock antemeridian on Sunday and two o'clock antemeridian on Monday upon purchase of a special permit from the board at an annual fee as prescribed in section 614-A of the act of April 9, 1929 (P.L.177, No.175),

known as "The Administrative Code of 1929," which shall be in addition to any other license fees. **[This subsection shall not apply to cities of the first class.]**

(g) Hotel, eating places or municipal golf course retail dispenser licensees in cities of the first class whose sales of food and nonalcoholic beverages are equal to thirty per centum (30%) or more of the combined gross sales of both food and malt or brewed beverages may sell malt or brewed beverages between the hours of eleven o'clock antemeridian on Sunday and two o'clock antemeridian on Monday upon purchase of a special permit from the board at an annual fee as prescribed in section 614-A of "The Administrative Code of 1929," which shall be in addition to any other license fees.]

Section 1.4. Section 442(a) of the act, amended July 7, 2006 (P.L.584, No.84), is amended to read:

Section 442. Retail Dispensers' Restrictions on Purchases and Sales.—(a) (1) No retail dispenser shall purchase or receive any malt or brewed beverages except in original containers as prepared for the market by the manufacturer at the place of manufacture. The retail dispenser may thereafter break the bulk upon the licensed premises and sell or dispense the same for consumption on or off the premises so licensed: Provided, however, That no retail dispenser may sell malt or brewed beverages for consumption off the premises in quantities in excess of one hundred ninety-two fluid ounces: Provided, further, That no club licensee may sell any malt or brewed beverages for consumption off the premises where sold or to persons not members of the club.

(2) Notwithstanding **[paragraph (1), after October 31, 2005] any other provision of law or any existing permit authorizing the sale of malt or brewed beverages for consumption off the premises**, a retail dispenser licensee located in a city of the first class who is otherwise permitted to sell malt or brewed beverages for consumption off the premises may not do so **after October 31, 2007**, unless, **every two years,** it acquires a permit from the board.

(3) The application for a permit to sell malt or brewed beverages for consumption off the premises shall be on forms designated by the board and contain such information as the board may require. The application and renewal fee shall be as prescribed in section 614-A(28) of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929." **However, no applicant who currently has a permit shall be required to pay any additional fees under section 614-A(28) of "The Administrative Code of 1929" in order to continue selling malt or brewed beverages for consumption off the premises at its currently licensed location for the licensing term beginning November 1, 2007, and ending October 31, 2008.**

(4) The application for a permit to sell malt or brewed beverages for consumption off the premises must be accompanied by a copy of the approval of such request by the **[governing body of the city of the first**

class in which the licensed premises is located] *hearing board authorized by this section.*

(5) [The governing body of a city of the first class] *A city of the first class shall create a hearing board within its Department of Licenses and Inspections to hear requests from licensees who are seeking a permit from the hearing board authorizing the licensee to sell malt or brewed beverages for consumption off the premises. Each hearing board shall consist of three persons appointed by the mayor of the city of the first class, who are subject to approval by the city council of the city of the first class. Each person so appointed shall serve at the pleasure of the appointing authority. The hearing board may, in its discretion, hold hearings to adduce testimony regarding a request. The hearing board must render a decision [by ordinance or resolution] within [forty-five] ninety days of receipt of a request for approval of a permit to sell malt or brewed beverages for consumption off the premises. The [governing body] hearing board must approve the request unless it finds that doing so would adversely affect the welfare, health, peace and morals of the city or its residents. A decision by the [city] hearing board to deny a request may be appealed to the court of common pleas in the county in which the city is located. The failure to render a decision by the [governing body of a city of the first class] hearing board within the [forty-five-day] required time period shall be deemed approval of the permit.*

(6) Upon being satisfied that the applicant has fulfilled all the requirements of this act and the board's regulations, the board shall approve the application. *Such permits shall expire upon the transfer of the license to a new entity or to a new location, or both; otherwise, such permits shall expire at the same time as the expiration of the underlying license.*

* * *

Section 2. Section 461(b.1) and (b.3) of the act, amended July 7, 2006 (P.L.591, No.85), are amended and the section is amended by adding a subsection 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 *not* 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 *equal or* 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] may** 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 *not* 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.

(b.4) (1) Notwithstanding any other provision of this act to the contrary, the board may approve the transfer of a restaurant liquor or eating place retail dispenser license from a city of the first class to a county designated as a second class A county or a county of the third class for the purpose of economic development, subject to the following conditions:

(i) The application to the board is accompanied by municipal approval as set forth in subsection (b.1)(2)(ii).

(ii) The proposed location is located within a mixed-use town center development project as the term is defined in section 102.

(iii) The application to the board is accompanied by a resolution or ordinance indicating that the municipality has designated the location in question as being within the confines of a designated mixed-use town center development project.

(iv) The issuance or transfer of a restaurant liquor or eating place retail dispenser license is permissible under section 472.

(v) The application is accompanied by an application surcharge of fifty thousand dollars (\$50,000).

(vi) The applicant has demonstrated to the board that it has exhausted reasonable means for obtaining a suitable license within the county. This requirement shall be deemed satisfied if the applicant submits an Intra-County Affirmation as provided in subclause (vii).

(vii) The application to the board is accompanied by the applicant's written Intra-County Affirmation that demonstrates that the applicant, its agents, employes or brokers are unable to secure, at a price that is, to the best of the applicant's knowledge, information and belief, the relative market price, as defined in this section, an existing license in the county in which the applicant's proposed premises are to be located. Said affirmation shall be accompanied by an affidavit from a real estate agent, license broker or other similar professional attesting to the unavailability of a liquor license to the applicant at a price that is comparable to prices paid by bona fide purchasers for value for liquor licenses in the respective county immediately prior to obtaining municipal approval under subclause (iii), such comparable price being referred to as the "relative market price" for the respective county. Said affirmation shall set forth any measures taken to secure an existing license, including the time period during which the applicant attempted to secure a license, as well as any other pertinent

information. The board shall not approve the issuance of a license under this section where it reasonably determines an existing license was available to the applicant at the relative market price prior to the applicant filing a request for a license under this section.

(2) A restaurant liquor or eating place retail dispenser license that has been transferred from a city of the first class to a county designated as a second class A county or a county of the third class under this section may not be subsequently transferred to any location outside of the mixed-use town center development project.

(3) No more than one license for each fifty thousand square feet of proposed or actual construction may be transferred into a mixed-use town center development project under the provisions of this section. The applicant shall demonstrate that this requirement has been met by providing documentation on its application to the board that the development has sufficient proposed or actual square footage to support the transfer of licenses under this section.

(4) The board may approve licensure of exterior serving areas for premises to be located within a mixed-use town center development project where such exterior serving areas are situated on municipal-owned or private-owned property, regardless of whether such exterior serving areas are located immediately adjacent, abutting or contiguous to the building to be licensed, provided that the employes of licensees in a qualified mixed-use town center development project may traverse unlicensed areas in order to deliver alcohol to patrons who are seated in any such licensed serving area that is not immediate, adjacent, abutting and contiguous to the licensee's primary licensed premises; and provided further that any such licensed serving area is delineated from all adjacent public areas by a railing, barrier or other partition for the purpose of table service only; and provided further that the entirety of such noncontiguous licensed exterior serving area or areas is not located more than thirty-five feet from the nearest point of the licensed structure; and provided further that such noncontiguous licensed exterior serving areas shall not include any additional enclosed structure with four walls and a roof other than the primary licensed building; and provided further that any and all public thoroughfare or thoroughfares situated between the licensed building and the noncontiguous exterior licensed serving area is or are used primarily for pedestrian foot traffic and not vehicular traffic; and provided further that the local municipality has approved, by ordinance or resolution, the use of such areas by the applicant; and provided further that, in the case of municipal-owned property, a sidewalk cafe or similar permit, as applicable, is first obtained by the applicant; and provided further that the applicant complies with any regulation issued by the board pursuant hereto or in furtherance hereof. Any restaurant ("R"), eating place ("E") or hotel ("H") license transferred to or issued for premises located within a mixed-use town center development shall have the privileges of this subsection so

long as such license remains within the mixed-use town center development.

* * *

Section 2.1. Section 468(a)(1) of the act, amended December 20, 2000 (P.L.992, No.141), is 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, 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 county**. *If the license is a retail license, then the new location must be within the same county as the existing location except for restaurant liquor and eating place retail dispenser licenses transferred under section 461(b.4).*

* * *

Section 3. Section 474.1 of the act, amended January 6, 2006 (P.L.1, No.1), is amended to read:

Section 474.1. Surrender of Restaurant, Eating Place Retail Dispenser, Hotel, Importing Distributor and Distributor License for Benefit of Licensee.—(a) A restaurant, eating place retail dispenser, hotel, importing distributor and distributor licensee whose licensed establishment is not in operation for fifteen consecutive days shall return its license for safekeeping with the board no later than at the expiration of the fifteen-day period. The license may only be reissued from safekeeping in the manner set forth by the board through regulation.

(b) The board may hold the license in safekeeping for a period not to exceed three consecutive years. Any license remaining in safekeeping for more than three consecutive years shall be immediately revoked by the Bureau of Licensing unless a transfer application or request for reissue from safekeeping has been filed prior to the expiration of the three-year period[. **The] or unless the board has approved a request to extend the safekeeping for an additional year as set forth in subsection (g). In addition, the board shall extend the period for an additional year if, at the end of the three-year period, the licensed premises are unavailable due to fire, flood or other similar natural disaster[.]; no further extension beyond one additional year shall be granted by the board regardless of whether the licensed premises are unavailable due to fire, flood or other similar natural disaster unless an application is made as set forth in subsection (g).**

(c) In the event a transfer application filed prior to the expiration of the three-year period is disapproved by the board **[through its exercise of discretion]**, then the license may remain in safekeeping **[for an additional period of three consecutive months after the board’s decision to refuse the transfer application. Failure to remove the license from safekeeping or to file another transfer application prior to the expiration of the three-month period of time shall result in revocation of the license.] so long as the licensee has submitted and the board has approved a request to**

extend the safekeeping for an additional year as set forth in subsection (g). Such request must be submitted within thirty days of the board's decision notwithstanding any appeal filed in the matter; however, the fee set forth in subsection (g) shall be refunded if the board's decision is overturned.

(d) Any period of time in which the licensee allows the license to lapse by not filing a timely license renewal or license validation shall be considered time in which the license was held in safekeeping for purposes of this section.

(e) [A license placed in safekeeping prior to the effective date of this act will be deemed to have been placed in safekeeping on the effective date of this act for purposes of this section.] *For purposes of this section, any license placed in safekeeping prior to February 7, 2004, shall be deemed to have been placed in safekeeping on February 7, 2004.*

[(f) Notwithstanding any other provision of this section, no license shall be revoked under the provisions of this section prior to February 7, 2007.]

(g) (1) *A licensee whose license is subject to this section may, upon written request, apply to the board to allow the license to remain in safekeeping for an additional one year. The written request must be accompanied by a five thousand dollar (\$5,000) fee for licenses placed in safekeeping from counties of the first class, second class, second class A, third class and fourth class and a fee of two thousand five hundred dollars (\$2,500) for licenses placed in safekeeping from counties of the fifth through eighth classes. The board shall approve the request unless the license or licensee no longer meets the requirements of this act or the board's regulations. The fee collected shall be paid into the State Treasury through the Department of Revenue into the State Store Fund.*

(2) *A licensee whose license remains in safekeeping after the expiration of an approved additional one-year period may submit a written request for additional one-year periods; however, each such request must be accompanied by a five thousand dollar (\$5,000) fee for licenses placed in safekeeping from counties of the first class, second class, second class A, third class and fourth class and a fee of two thousand five hundred dollars (\$2,500) for licenses placed in safekeeping from counties of the fifth through eighth classes.*

Section 3.1. The act is amended by adding a section to read:

Section 483. Expiration of Point System.—Sections 479, 480, 481 and 482 of the act shall expire June 30, 2007.

Section 3.2. Section 493(24) and (29) of the act, clause (24) amended January 6, 2006 (P.L.1, No.1) and clause (29) added July 17, 2003 (P.L.63, No.15), repealed July 5, 2004 (P.L.512, No.71) and repeal declared unconstitutional 877 A.2d 383 (Pa. 2005), are 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—

* * *

(24) (i) Things of Value Offered as Inducement. **[For] Except as provided in subclause (ii), for** any licensee under the provisions of this article, or the board or any manufacturer, or any employe or agent of a manufacturer, licensee or of the board, to offer to give anything of value or to solicit or receive anything of value as a premium for the return of caps, stoppers, corks, stamps or labels taken from any bottle, case, barrel or package containing liquor or malt or brewed beverage, or to offer or give or solicit or receive anything of value as a premium or present to induce directly the purchase of liquor or malt or brewed beverage, or for any licensee, manufacturer or other person to offer or give to trade or consumer buyers any prize, premium, gift or other inducement to purchase liquor or malt or brewed beverages, except advertising novelties of nominal value which the board shall define. This section shall not prevent any manufacturer or any agent of a manufacturer from offering and honoring coupons which offer monetary rebates on purchases of wines and spirits through State Liquor Stores or purchases of malt or brewed beverages through distributors and importing distributors in accordance with conditions or regulations established by the board. The board may redeem coupons offered by a manufacturer or an agent of a manufacturer at the time of purchase. Coupons offered by a manufacturer or an agent of a manufacturer shall not be redeemed without proof of purchase. This section shall not apply to the return of any monies specifically deposited for the return of the original container to the owners thereof.

(ii) *Notwithstanding subclause (i) or any other provision of law, a holder of a restaurant license that is also approved to hold a slot machine license or a conditional slot machine license under 4 Pa.C.S. Part II (relating to gaming) may give liquor and malt or brewed beverages free of charge to any person actively engaged in playing a slot machine.*

* * *

[(29) Furnishing Free Liquor or Malt or Brewed Beverages. For any licensee that has obtained a license to conduct thoroughbred or harness horse race meetings respectively with pari-mutual wagering from either the State Horse Racing Commission or the State Harness Racing Commission pursuant to the act of December 17, 1981 (P.L.435, No.135), known as the "Race Horse Industry Reform Act," and that has obtained a slot machine license, or any employe, servant or agent of such licensee, to give away free of charge or below cost any liquor or malt or brewed beverage as a customary practice.]

* * *

Section 3.3. Repeals are as follows:

(1) The General Assembly declares that the repeal under paragraph (2) is necessary to effectuate the addition of section 483 of the act.

(2) Section 12 of the act of December 8, 2004 (P.L.1810, No.239), entitled "An act 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,' adding definitions; further defining "public venue"; further providing for general powers of the Pennsylvania Liquor Control Board, for when sales may be made by Pennsylvania Liquor Stores, for continuing care retirement community retail licenses, for repackaging by manufacturers, for renewal of licenses, for privately owned golf courses located in more than one county; providing for a point system for certain licensees, for unlawful acts relative to liquor, malt and brewed beverages and licensees and for limited wineries; and providing for distilleries," is repealed.

Section 4. This act shall take effect immediately.

APPROVED—The 29th day of November, A.D. 2006.

EDWARD G. RENDELL