

No. 2007-34

AN ACT

HB 896

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, for special occasion permits, for wine auction permits, for limiting number of retail licenses to be issued in each county, for unlawful acts relative to liquor, malt and brewed beverages and licensees, for qualifications for licenses, for applications for certain licenses and for limited wineries.

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

Section 1. The definitions of "mixed-use town center development project" and "public venue" 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 or added July 7, 2006 (P.L.584, No.84) and November 29, 2006 (P.L.1421, No.155), are amended 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:

* * *

"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. *If the site meets additional criteria stated in section 461(b.4)(5), a project comprising ninety-five contiguous acres will meet the size requirement in this definition.*

* * *

"Public venue" shall mean a stadium, arena, convention center, museum, amphitheater or similar structure. If the public venue is a cruise terminal owned or leased by a port authority created under the act of June 12, 1931 (P.L.575, No.200), entitled "An act providing for joint action by Pennsylvania and New Jersey in the development of the ports on the lower Delaware River, and the improvement of the facilities for transportation across the river; authorizing the Governor, for these purposes, to enter into an agreement with New Jersey; creating The Delaware River Joint Commission and specifying the powers and duties thereof, including the power to finance projects by the issuance of revenue bonds; transferring to the new commission all the powers of the Delaware River Bridge Joint Commission; and making an appropriation," it shall have no permanent seating requirement. If the public venue is an open-air amphitheater owned by a port authority created under the act of December 6, 1972 (P.L.1392, No.298), known as the "Third Class City Port Authority Act," it shall have no permanent seating requirement. If the public venue is owned by a political subdivision, a municipal authority, the Commonwealth, an authority created under the act of July 29, 1953 (P.L.1034, No.270), known as the "Public Auditorium Authorities Law," an authority created under Article XXV-A of the act of July 28, 1953 (P.L.723, No.230), known as the "Second Class County Code," an art museum established under the authority of the act of April 6, 1791 (3 Sm.L.20, No.1536), entitled "An act to confer on certain associations of the citizens of this commonwealth the powers and immunities of corporations, or bodies politic in law," or an authority created under Article XXIII (n) or (o) of the act of August 9, 1955 (P.L.323, No.130), known as "The County Code," it shall have permanent seating for at least one thousand (1,000) people; otherwise, it shall have permanent seating for at least two thousand (2,000) people. The term shall also mean any regional history center, multipurpose cultural and science facility, museum or convention or trade show center, regardless of owner and seating capacity, that has a floor area of at least sixty thousand (60,000) square feet in one building. The term shall also mean a convention or conference center owned by a city of the third class *or a university which is a member of the Pennsylvania State System of Higher Education which is operated by a university foundation or alumni association*, regardless of seating capacity, that has a floor area of at least fifteen thousand (15,000) square feet in one building.

Section 2. Section 408.4 of the act is amended by adding a subsection to read:

Section 408.4. Special Occasion Permits.—

(r) 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.

Section 3. Section 408.12(a) of the act, amended November 10, 1999 (P.L.514, No.47), is amended to read:

Section 408.12. Wine Auction Permits.—(a) Upon application of:

- (1) any nonprofit hospital[,];
- (2) any nonprofit public television station which is a member of the Pennsylvania Public Television Network[,];
- (3) any orchestra located in a county of the first, second or third class which is operated by a nonprofit corporation[,];
- (4) any museum located in a county of the first, second or third class which is operated by a nonprofit corporation [or];
- (5) any nonprofit corporation located in any county of the third class which trains and places dogs for people who are physically handicapped;
- (6) *any nationally recognized community-based voluntary health organization committed to fighting cancer which has been in existence for at least ninety years;*
- (7) *any nationally recognized emergency response organization that offers humanitarian care to victims of war or natural disaster and has been in existence for at least one hundred twenty-five years;*
- (8) *any nationally recognized organization whose purpose is to serve as an agent to collect funds for local charities, as well as to coordinate relief services, counsel and refer clients to cooperating agencies and make emergency assistance grants and has been in existence for at least one hundred twenty years, 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[.]; or*
- (9) *any hospice as defined under section 802.1 of the act of July 19, 1979 (P.L.130, No.48), known as the "Health Care Facilities Act."*

Section 4. Section 461(c) of the act, amended February 21, 2006 (P.L.42, No.15), is amended and subsection (b.4) is amended by adding a paragraph to read:

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

(b.4) ***

(5) *A development site of at least ninety-five acres that meets the following additional criteria shall satisfy the size requirement to qualify as a mixed-use town center development project:*

- (i) *at least seventy-five acres of the project were secured, whether by purchase or lease, by the developer prior to July 1, 2004;*
- (ii) *at least sixty acres of the project have been entered into the program of the Department of Environmental Protection relating to land recycling and environmental remediation standards;*

(iii) at least thirty-five acres of the project have been designated as a Brownfield Action Team site by the Department of Environmental Protection and overlap, in whole or part, between the areas in subclauses (ii) and (iii); and

(iv) the project site is bounded by a township road and a State road.

(c) The word "hotel" as used in this section shall mean any reputable place operated by a responsible person of good reputation where the public may, for a consideration, obtain sleeping accommodations, and which shall have the following number of bedrooms and requirements in each case—at least one-half of the required number of bedrooms shall be regularly available to transient guests seven days weekly, except in resort areas; at least one-third of such bedrooms shall be equipped with hot and cold water, a lavatory, commode, bathtub or shower and a clothes closet; and an additional one-third of the total of such required rooms shall be equipped with lavatory and commode:

(1) In municipalities having a population of less than three thousand, at least twelve permanent bedrooms for the use of guests.

(2) In municipalities having a population of three thousand and more but less than ten thousand inhabitants, at least sixteen permanent bedrooms for the use of guests.

(3) In municipalities having a population of ten thousand and more but less than twenty-five thousand inhabitants, at least thirty permanent bedrooms for the use of guests.

(4) In municipalities having a population of twenty-five thousand and more but less than one hundred thousand inhabitants, at least forty permanent bedrooms for the use of guests.

(5) In municipalities having a population of one hundred thousand and more inhabitants, at least fifty permanent bedrooms for the use of guests.

(6) A public dining room or rooms operated by the same management accommodating at least thirty persons at one time and a kitchen, apart from the dining room or rooms, in which food is regularly prepared for the public.

(7) Each room to be considered a bedroom under the requirements of this section shall have an area of not less than eighty square feet and an outside window.

(8) The provisions of this subsection (c) shall not apply to hotel licenses granted prior to the first day of September, one thousand nine hundred forty-nine, or that have been granted on any application made and pending prior to said date, nor to any renewal or transfer thereof, or hotels under construction or for which a bona fide contract had been entered into for construction prior to said date. In such cases, the provisions of section one of the act, approved the twenty-fourth day of June, one thousand nine hundred thirty-nine (Pamphlet Laws 806), shall continue to apply.

(8.1) The provisions of this subsection (c) shall not apply to hotel licenses that were granted prior to the first day of January, one thousand nine hundred sixty-five, in municipalities having a population of less than

ten thousand during the two thousand Federal Decennial Census. Further, the provisions of this subsection (c) shall not apply to hotel licenses that were granted prior to the first day of September, one thousand nine hundred forty-nine, and that lapsed not more than once, provided that the board issued the hotel a new hotel license prior to the first day of January, one thousand nine hundred seventy-one. In such cases, the provisions of section one of the act, approved the twenty-fourth day of June, one thousand nine hundred thirty-nine (Pamphlet Laws 806), shall continue to apply.

(9) Upon application to and subject to inspection by the board, hotel licensees under clause (8) of this subsection shall no longer be required to maintain bedrooms for public accommodation. However, areas required and designated as bedrooms for public accommodation prior to the effective date of this clause may not subsequently be used as licensed serving area. Such area may be used as licensed storage area consistent with this act and existing regulations.

(9.1) Upon application to and subject to inspection by the board, hotel licensees under clause (8.1) of this subsection shall no longer be required to maintain bedrooms for public accommodation. However, areas required and designated as bedrooms for public accommodation prior to the effective date of this clause may not subsequently be used as licensed serving areas. Such areas may be used as licensed storage area consistent with this act and existing regulations.

* * *

Section 5. Section 493(13) of the act, amended January 6, 2006 (P.L.1, No.1), 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—

* * *

(13) Retail Licensees Employing Minors. For any hotel, restaurant or club liquor licensee, or any retail dispenser, to employ or to permit any minor under the age of eighteen to serve any alcoholic beverages or to employ or permit any minor under the age of sixteen to render any service whatever in the licensed premises, nor shall any entertainer under the age of eighteen be employed or permitted to perform in any licensed premises in violation of the labor laws of this Commonwealth: Provided, That in accordance with board regulations minors between the ages of sixteen and eighteen may be employed to serve food, clear tables and perform other similar duties, not to include the dispensing or serving of alcoholic beverages. A ski resort, golf course or amusement park licensee may employ minors fourteen and fifteen years of age to perform duties in rooms or areas of the licensed premises; however, such minors may not perform duties in rooms or areas in which

alcohol is being concurrently dispensed or served or in which alcohol is being concurrently stored in an unsecured manner. Notwithstanding any provisions of law to the contrary, a hotel, restaurant or club liquor licensee or any retail dispenser may allow students receiving instruction in a performing art to perform an exhibition **[in observance of ethnic heritage]** if the students are not compensated and are under proper supervision. Written notice of the performance must be provided to the enforcement bureau prior to the performance.

* * *

Section 6. Section 503 of the act is amended to read:

Section 503. Qualifications for License.—No license shall be issued under the provisions of this article to any person unless (a) in case of individuals, he or she is a citizen of the United States of America, (b) in case of companies or incorporated associations of individuals, each and every one is a citizen of the United States of America, (c) in case of corporations, each and every stockholder thereof is a citizen of the United States of America. ***This section shall not apply to bailees for hire.***

Section 7. Section 505.2(a)(4) and (c) of the act, amended December 8, 2004 (P.L.1810, No.239), are amended to read:

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

* * *

(4) At the discretion of the board, obtain a special permit to participate in alcoholic cider, wine and food expositions off the licensed premises. A special 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. The total number of days for all the special permits may not exceed forty (40) days in any calendar year. A special permit shall entitle the holder to engage in the sale by the glass, by the bottle or in case lots of alcoholic cider or wine produced by the permittee under the authority of a limited winery license. Holders of special permits may provide tasting samples of wines in individual portions not to exceed one 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 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] *intent of promoting Pennsylvania products*** by 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. 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.] *farmers markets.*

* * *

(c) [The term “agricultural commodity” as used in this section] *As used in this section:*

“*Agricultural commodity*” shall include any of the following: agricultural, apicultural, horticultural, silvicultural and viticultural commodities.

“*Farmers market*” shall include any building, structure or other place:

(1) *owned, leased or otherwise in the possession of a person, municipal corporation or public or private organization;*

(2) *used or intended to be used by two or more farmers or an association of farmers, who are certified by the Department of Agriculture of the Commonwealth to participate in the Farmers’ Market Nutrition Program subject to 7 CFR Pt. 249 (relating to Senior Farmers’ Market Nutrition Program (SFMNP)), for the purpose of selling agricultural commodities produced in this Commonwealth directly to consumers;*

(3) *which is physically located within this Commonwealth; and*

(4) *which is not open for business more than twelve hours each day.*

Section 8. This act shall take effect as follows:

(1) The amendment of section 505.2 of the act shall take effect immediately.

(2) This section shall take effect immediately.

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

APPROVED—The 16th day of July, A.D. 2007.

EDWARD G. RENDELL