

Legal Issues

- + [About the PLCB](#)
- + [Alcohol Education](#)
 - [Contact the PLCB](#)
- + [For Consumers](#)
- + [For Industry Partners](#)
- [For Licensees](#)
 - [Applications and Forms](#)
 - [Bulk Alcohol Purchasing](#)
 - [Frequently Asked Questions](#)
 - [Legal Issues](#)
 - [Advisory Notices](#)
 - [Legal Advisory Search](#)
 - [Pennsylvania Liquor Code](#)
 - [PLCB Regulations \(Title 40 PA Code\)](#)
 - [Limited Wineries](#)
 - [Liquor Law Enforcement](#)
 - [Nuisance Bar Program](#)
 - [Office of Administrative Law Judge](#)
 - [Place a Licensee Order](#)
 - [Product Catalog](#)
 - [Registered Brands](#)
 - [Responsible Alcohol Management Program](#)
 - [Special Permits](#)
- [Press Releases](#)
- [Employment](#)
- [Bid Opportunities](#)
- [PLCB Home](#)
- [View as Text Only](#)

What licensees should know about Act 155 of 2006

WHAT LICENSEES SHOULD KNOW ABOUT ACT 155 OF 2006

On November 29, 2006, Governor Rendell signed House Bill No. 446 into law. Now known as Act 155 of 2006, this bill makes numerous changes to the Liquor Code. These changes, which became effective immediately on November 29, 2006, are summarized below. If you have any questions concerning these changes, or any other portions of the liquor laws, you may contact the Board's Office of Chief Counsel, 401 Northwest Office Building, Harrisburg, PA 17124-0001, phone (717) 783-9454.

- ***Eligible Entities.*** A county tourist promotion agency in a township of the second class in a county of the fifth class is now added to the list of entities that are eligible to apply for a special occasion permit. [Section 102].

- ***Sunday Sales in Philadelphia.*** The thirty percent (30%) food and non-alcoholic beverage standard that Philadelphia restaurant, hotel and eating place retail dispenser licensees had to meet to hold a Sunday sales permit has been eliminated. Now, such licensees in the entire state are eligible for a Sunday sales permit without meeting the former food ratio



[Visit Or](#)

[Product Search](#)

[CHAIR SELE](#)

[e-Lic](#)

FYI

- [Facts and](#)
- [Schedule](#)
- [Upcoming](#)

ZERO Toleran
Pennsylvan
committed
alcohol to ir
adults or m
[Learn how..](#)

requirement. [Sections 406 and 432(f),(g)].

Search

Keyword

- ***Beer-to-go Permits.*** The Act makes a number of changes to the Philadelphia beer-to-go requirements. All beer-to-go permits will now follow the same two-year licensing period as license renewals.

- All restaurant and eating place retail dispenser licensees in Philadelphia who wish to sell beer for consumption off the premises may not do so after October 31, 2007 unless they acquire a beer-to-go (“OPS”) permit from the Board.
- If the licensee currently has an OPS permit, it does not need to pay an additional fee for the licensing term beginning November 1, 2007 and ending October 31, 2008 (since the permit it acquired and paid for in 2006 was supposed to remain valid until October 31, 2008).
- In order to get a permit, the licensee needs the approval of a three (3)-member hearing board (instead of city council). The hearing board will be under the jurisdiction of the Philadelphia Department of Licenses and Inspections. The three (3) members are appointed by the mayor and approved by city council. The hearing board may hold hearings on the request, and must render a decision within ninety (90) days (instead of the previous

forty-five (45) days). Failure to render a decision by the hearing board within the ninety (90) days shall be deemed an approval of the permit.

➤ The OPS permit shall expire upon the transfer or expiration of the underlying license. [Sections 407(b) and 442(a)].

- ***Economic Development Licenses.*** The Act makes some changes regarding the municipal approval of economic development licenses. A municipality may approve a request for an economic development license if it finds that the issuance of the license would promote economic development. The Act eliminates the prior grounds for refusal and provides that no appeal of a municipal denial of a request can be taken to the court of common pleas. This appears to be a mistake since the deleted provision did not limit the municipality's ability to refuse an application, but rather provided an additional basis to do so. Also, a reference to the court of common pleas, which was deleted for intermunicipal transfers, below, remains in this section. This also appears to be an oversight. [Section 461(b.1)].

- ***Intermunicipal Transfers.*** The Act makes the similar changes to municipal approval of intermunicipal transfer requests as it does to economic development requests. In addition, however, it now provides that an applicant needs the approval for an intermunicipal transfer when the total number of restaurant liquor licenses and eating place retail dispenser licenses in the receiving municipality

equal or exceed one (1) license per three thousand (3000) inhabitants. Prior to this Act, approval was needed only if the number of licenses exceeded one (1) license per three thousand (3000) inhabitants. [Section 461(b.3)].

- ***Mixed-Town Center Development Projects.***

The Act adds new language providing for mixed-use town center development project licenses. A “mixed-use town center development project” is essentially a planned development situated on one hundred (100) or more contiguous acres with at least one million (1,000,000) square feet of actual or proposed development, that has 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. It may have one (1) or more owners and may be developed in one (1) or more phases.

- The Board may approve the transfer of restaurant liquor or eating place retail dispenser liquor license from Philadelphia to a county designated as a second class A county or a third class county for the purpose of economic development.
- Municipal approval of the application is required.
- The proposed location must be located within a mixed-use town center development project.
- The application must be accompanied by a resolution or

ordinance indicating that the municipality has designated the proposed location as being within a designated mixed-use town center development project.

- The proposed location is wet for that type of license.
- The application must be accompanied by a fifty thousand dollar (\$50,000.00) application surcharge.
- The applicant must demonstrate to the Board that it has exhausted reasonable means for obtaining a suitable license within the county. This requirement can be satisfied by an applicant's written intracounty affirmation that indicates that it is unable to secure at a reasonable market price, an existing license in the county of the proposed location. Such an affirmation must be accompanied by an affidavit of a real-estate agent, license broker, or someone similar attesting to the unavailability of a license to applicant at a reasonable market price. The affirmation shall also set forth any measures taken to secure an existing license. The Board cannot approve the license where it reasonably determines that an existing license was available to the applicant at a reasonable market price.
- Licenses transferred from Philadelphia to a mixed-use town center

development project under the above provisions may not be subsequently transferred to any location outside of the project.

- No more than one (1) license per fifty thousand (50,000) square feet of construction may be transferred into a mixed-use town center development project.
- Such licenses may have exterior serving areas on municipal or privately-owned property regardless of whether such areas are located immediately adjacent, abutting, or contiguous to the building to be licensed. Licensee's employees may traverse unlicensed areas in order to deliver alcohol to patrons who are seated in any such exterior serving area. Such licensed serving areas must be delineated from all adjacent public areas by a railing or similar partition for the purpose of table service only. The exterior service area cannot be located more than thirty-five (35) feet away from the licensed building and no other enclosed structure can be present. Any public thoroughfares situated between the licensed building and the noncontiguous exterior serving area must be used primarily for pedestrian foot traffic rather than vehicular traffic. Municipal approval is required for the licensure of

exterior serving areas and, if the municipality owns the property in question, a sidewalk café or similar permit must first be obtained.

- Any restaurant, eating place, or hotel license transferred or issued for premises located within a mixed-use town center development project shall have the same privileges as listed above. Except for restaurant liquor and eating place retail dispenser licenses which may be transferred out of the county under the mixed-use town center development project provisions listed above, transfers of retail licenses are still limited to locations within the same county. [Sections 102, 461(b.4), and 468(a)(1)].

- ***Safekeeping.*** The Act amends the safekeeping provisions of the Liquor Code by adding a provision to allow requests for extensions.

- No license can be held in safekeeping for more than three (3) consecutive years unless 1) a transfer application or request for reissuance from safekeeping has been filed prior to the expiration of the three (3)-year period; 2) the premises are unavailable due to fire, flood, or other similar natural disaster; or 3) the Board has approved a request to extend the safekeeping for an additional year.
- No further extension beyond one

(1) additional year shall be granted by the Board regardless of whether the premises are unavailable due to fire, flood, or other similar natural disaster, unless an application for extension of safekeeping is filed.

➤ To extend the safekeeping period for an additional year, the licensee must submit a request in writing, accompanied by a five thousand dollar (\$5,000.00) fee for counties of the first class through fourth class or a twenty-five hundred dollar (\$2,500.00) fee for counties of the fifth class through eighth class. The Board shall approve the request unless Board requirements are no longer being met. Licensees may file additional written requests for a one (1)-year extension with payment of an additional fee as specified above.

➤ If the licensee's request for a transfer, which was filed prior to the expiration of the three (3)-year period, is refused by the Board, then the licensee has thirty (30) days to file a written request to extend the safekeeping period for an additional year. Although the thirty (30) day period is not tolled by the filing of an appeal, the fee paid by licensee to extend the safekeeping period is refunded if the Board's decision on the transfer is overturned on appeal.

➤ Any license placed in safekeeping prior to February 7, 2004 shall be deemed to have been placed in safekeeping on February 7, 2004. [Section 474.1].

- ***Point System in Philadelphia.*** The expiration date of the Philadelphia point system has been extended from December 30, 2006 to June 30, 2007. [Section 483].

- ***Slot Machine Licenses.*** The Act permits the holder of a restaurant liquor license that also holds a slot machine license from the Gaming Control Board to give liquor or malt or brewed beverages free of charge to any person actively engaged in playing a slot machine. Similarly, racing licensees who also hold slot machine licenses from the Gaming Control Board are no longer prohibited from giving away free alcohol or alcohol below cost. [Sections 493(24), 493(29)].

[Printable Version](#) [Text-Only](#) [Full-Screen](#)

[Home](#) | [Contact Us](#) | [Right To Know Law](#) | [Privacy Policy](#) | [View as Text Only](#) | [Site Login](#)



Copyright © 2006 Pennsylvania Liquor Control Board. All Rights Reserved. [Disclaimer](#)