



## VIEW FROM THE BAR

by Marc Reisman, Esq.

# SEA CHANGES EBB AND FLOW IN THE WORLD OF LIQUOR LICENSING

The struggle goes on among those groups who want the government – state or local – to retain strict control over beverage alcohol and those who would like to see them loosen that control.

In July 2007, the City of Pittsburgh instituted changes to the Zoning Code that created “saturation districts” intended to limit the number of liquor licensees in certain areas of the city. One of the districts, on the South Side of the city, was already over the limit when the Zoning Code changes were made. As a result, two applicants, whose licenses had previously been approved by the Pennsylvania Liquor Control Board (PLCB), were refused the necessary city approvals to utilize their licenses. They appealed the zoning changes to the Court of Common Pleas of Allegheny County, which invalidated the restrictive zoning provisions as being contrary to the right of the state to control beverage alcohol, and ordered the city to issue the necessary permits. In short order, legislation was introduced in City Council that aimed to accomplish the same effect, but was quickly withdrawn. An appeal by the City of Pittsburgh of the Common Pleas Court decision is pending before Commonwealth Court.

Meanwhile, a bill in the Pennsylvania State Legislature, passed by the House of Representatives in March 2009 and now pending in the Senate, would give Pittsburgh City Council the right of disapproval over all intra-municipal liquor license transfers (Pittsburgh already has that right

regarding transfers of licenses from another municipality into the city). This means that every applicant for a liquor license transfer within city limits would have to gain approval from City Council, and City Council would have the right to disapprove any proposed license transfer within city limits. There would be no right of appeal from a City Council decision.

In any event, this particular fight is certainly not over, as those opposed to more liquor licenses coming into the South Side of Pittsburgh attempt to find other means to impose limitations, both as to the number of



Photo by Dave Aschkenas

liquor licenses issued and the manner in which licensees operate their businesses.

On the other hand, a bill introduced in the House of Representatives, on Jan. 19, 2010, may have the effect of expanding the availability of malt or brewed beverages, or at least shifting the public’s purchasing habits of them. It proposes to revise the definition of the word “case” in the Liquor Code so as to allow importing distributors and distributors to sell six-packs of beer. Of course, this has serious implications for restaurant liquor licensees, who, with hotel licensees, currently have the exclusive right to sell six-packs. Therefore, it appears that some accommodation would have to be reached with restaurant and tavern licensees before such a bill would become law.

Perhaps the most interesting development in the past year or so is the PLCB’s approval of a number of liquor license transfers to restaurants located within Wegman’s and Giant Eagle supermarkets. More on that in another column.

If you’d like a copy of the Judge’s opinion or of the legislative bills mentioned above, please call my office.

*This column is brought to you as a public service by Marc Reisman, a partner in the law firm of Gelman & Reisman. If you have an issue you would like to see addressed, or if you would like a reprint of a previous column, write to him at 429 4th Avenue, Suite 1701, Pittsburgh, PA 15219, or call 1-800-883-1LAW. This column is intended for informational purposes only. Consult Mr. Reisman for legal advice specific to your situation.*

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