SPONSOR: Rep. Lynn & Sen. Hoffner
Reps. Briggs King, Harris, Hilovsky, Michael Smith, Yearick

HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

HOUSE BILL NO. 69

AN ACT TO AMEND TITLE 4 OF THE DELAWARE CODE RELATING TO BEER GARDENS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §101, Title 4 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 101. Definitions.

As used in this title, in addition to their usual meaning:

(6) "Beer garden" means a defined, outdoor establishment not less than 10,000 contiguous square feet, which is open to the public for at least 5 consecutive months. ~~A beer garden must employ a daily average of not less than 25 full-time employees.~~ A beer garden may sell beer, wine, and spirits by the glass or beer by the bottle, for consumption on any portion of the licensed premises. The sale of food is not required for ~~licensure but is permitted~~. licensure. The boundaries of a beer garden must be enclosed with a barrier no less than 42 inches high from the floor elevation, constructed of wood, concrete, plastic, rope, or wrought iron fencing, or other approved material. A beer garden must have a physical structure, which may be permanent or removable, and must be substantial. A "substantial physical structure" shall mean equipment and structures costing no less than $250,000 at the time of acquisition. A beer garden license may not be used by an existing liquor license holder to expand the size or nature of the licensed establishment.

Section 2. Amend §543, Title 4 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 543. Grounds for refusal of license; transfer or extension of premises.

(a) The Commissioner shall refuse to grant a license for the sale of alcoholic liquor by any ~~taproom~~ beer garden, taproom, or tavern establishment when there is an existing licensed establishment of ~~similar type~~ any of these types within 1200 feet by accessible public road or street in any incorporated city or town, or within $^{9}/_{10}$ of a mile by accessible public road or street in any unincorporated or rural area measured in driving distance both ways between the existing and proposed establishments. This subsection does not apply to any of the following:

(1) An existing license or to the sale, transfer of ownership, or renewal of an existing license.

(2) A licensee who desires to move the location of the license to a location within 500 feet thereof by accessible public road or street. However, a licensee located in a shopping center or shopping mall may move the

location of the license any distance within the same shopping center or shopping mall, whether the center or mall consists of 1 or more separate buildings.

SYNOPSIS

This Act eliminates the requirement of a daily average of no less than 25 full time employees to operate a beer garden. Beer gardens are presently the only liquor establishments that have a statutory staffing requirement. This Act also includes beer gardens along with taprooms and taverns as establishments the Commissioner may deny a license if an existing same establishment is within 1200 feet, by accessible public road in an incorporated city or town, or 9/10 of a mile in an unincorporated or rural area.