

SPONSOR: Rep. Keeley & Rep. Bolden & Sen. Henry
Rep. Brady

HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE BILL NO. 158
AS AMENDED BY
HOUSE AMENDMENT NO. 1
AND
HOUSE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 4 OF THE DELAWARE CODE RELATING TO ALCOHOLIC LIQUORS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Three-fifths of all members elected to each house thereof concurring therein):

Section 1. Amend § 101, Title 4 of the Delaware Code by making deletions as shown by strikethrough 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. 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.

~~(18)~~(19) "Establishment" means any place located physically in this State where alcoholic liquor of 1 or more varieties is stored, sold or used by authority of any law of this State, including a hotel, restaurant, tavern, beer garden, or club as defined in this section, or where alcoholic liquor of 1 or more varieties is manufactured by virtue of any law of this State.

Section 2. Amend § 512, Title 4 of the Delaware Code by making deletions as shown by strikethrough and insertions as shown by underline as follows:

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§ 512. Licenses for taprooms, hotels, restaurants, motorsports speedways, concert halls, beer gardens, or clubs; food concessionaires at horse racetracks or multi-purpose sports facilities; dinner theater performances; bowling alleys; movie theaters; caterers; removal of partially consumed bottles from premises; beverages for personal consumption at racetracks; air passenger carriers; names of licensed establishments.

(a) Any person, who is the owner or lessee, or who is recognized by the Commissioner as being in charge of a hotel, beer garden, motel, taproom, restaurant, motorsports speedway, concert hall, club or multiple activity club, may apply to the Commissioner for a license to purchase spirits or wine or to purchase beer from a manufacturer or from an importer and to receive, keep and sell such spirits or wine either by the glass or by the bottle, or beer by the glass as draft beer or by the bottle for consumption on any portion of the premises approved by the Commissioner for that purpose. Such a license entitles a club to sell such spirits, wine or beer only to members of that club. A multiple activity club which holds such a license may apply for an additional license to sell such spirits, wine or beer to any person who is a guest of such club or of a member of such club who is duly registered in accordance with a bylaw or rule of such club, approved by the Commissioner, provided that if the Commissioner determines that any applicant is not a multiple activity club, as defined in § 101 of this title, the application shall be denied. There shall be no age restrictions on persons permitted on the premises of a licensed multiple activity club.

(d) Any person who has purchased a bottle of alcoholic liquor other than beer from a hotel, restaurant, motorsports speedway, concert hall, beer garden, club, dinner theater or horse racetrack licensed under this section, and who has partially consumed the contents of such bottle on the licensed premises, may remove it from the licensed premises for the purpose of consumption off the licensed premises. Any person who has purchased a bottle of alcoholic liquor other than beer from a caterer and who has partially consumed the contents of such bottle on the premises, approved by the Commissioner for the catering may remove it from the approved premises for the purpose of consumption off the approved premises.

Section 3. Amend § 554, Title 4 of the Delaware Code by making deletions as shown by strikethrough and insertions as shown by underline as follows:

§ 554. License fees.

(rr) For a license to sell alcoholic liquor in a beer garden, the biennial fee shall be $2,000. The holder of a beer garden license is not required to have a patio permit, but if the beer garden license holder desires a variance to Rule 42.1 [CDR 4-Rule 42.1], or a subsequently adopted rule, the biennial variance permit fee shall be $100 per variance.

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