

Food and Beverage

In *P&R Beverage v. Pennsylvania Liquor Control Board*, the **Commonwealth Court of Pennsylvania** addressed a **beer distributor's challenge** to a **neighboring grocery store's** request to open a **beer garden** inside the store. The court held that the distributor **did not have protestant status** because it was not located within 200 feet of the proposed licensed premise, as measured from the location of the beer garden and not from the grocery store entrance. The court further held that **economic competition** with the distributor is **not a basis to deny a license** where the grocery store otherwise satisfies the **criteria for licensure** set forth in state law. (October 23, 2019)

In *Berner v. Montour Township Zoning Hearing Board*, the **Supreme Court of Pennsylvania** addressed whether the **Nutrient Management Act preempts local regulation** of nutrient management by **agricultural operations** that are **not otherwise subject to the Act's requirements**. The court held that the Act **preempts local regulation of agricultural operations** not subject to the Act's requirements to the extent that the local regulation **is more stringent** than, **inconsistent** with, or in **conflict** with those requirements. (September 26, 2019)

In *Tennessee Wine and Spirits Retailers Association v. Thomas*, the **United States Supreme Court** addressed whether residency requirements for applicants for Tennessee's retail liquor store licenses violated the **Commerce Clause** or whether it was protected by the **Twenty-first Amendment**. The Court held that the two-year **residency requirement** applicable to **retail liquor store license applicants** violates the **Commerce Clause** because it intentionally imposed a barrier to interstate commerce for protectionist policies rather than **legitimate state interests**. The **Twenty-first Amendment** grants states the ability to regulate alcohol but does not allow a state to violate the **"nondiscrimination principle."** (June 26, 2019)

In *Starr Surplus Lines v. Mountaire Farms*, the **United States Court of Appeals for the First Circuit** addressed the viability of **breach of warranty and strict product liability** claims under Maine law concerning the **recall** of chicken products following a salmonella outbreak. The court refused to find the chicken **"defective"** in the absence of any allegation that the chicken was contaminated with a type of salmonella that would persist despite proper cooking. (April 3, 2019)

In *Pennsylvania State Police, Bureau of Liquor Control Enforcement v. Jet-Set Restaurant*, the **Supreme Court of Pennsylvania** addressed the meaning of

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“to frequent” an establishment under **Section 4-493(14) of the Liquor Code**, 47 P.S. §4-493(14). In the context of Section 4-493(14), the court held that **“frequent”** means “to visit often or to resort to habitually or to recur again and again, or more than one or two visits,” and to sustain a frequenting count against a licensee involving minors, the Bureau does not have to prove “that the same minor or minors come to the premises habitually,” but instead must show “that, as a course of conduct, licensees permit minors to come on the premises.” (August 21, 2018)

In *Williams v. City of Philadelphia*, the **Supreme Court of Pennsylvania** agreed to hear the **appeal of whether the City’s soda tax violates the Sterling Act**, 53 P.S. § 15971, which prohibits the City from imposing a tax on a transaction already taxed by the Commonwealth. (January 30, 2018)