

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1096 Session of
2023

INTRODUCED BY MALAGARI, McANDREW, MADDEN, SANCHEZ, HILL-EVANS,
LEADBETER, FREEMAN, BURGOS, HANBIDGE, GUENST, CEPEDA-FREYTIZ,
CERRATO, WEBSTER, KENYATTA AND T. DAVIS, MAY 3, 2023

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, DECEMBER 12, 2023

AN ACT

1 Amending the act of April 12, 1951 (P.L.90, No.21), entitled "An
2 act relating to alcoholic liquors, alcohol and malt and
3 brewed beverages; amending, revising, consolidating and
4 changing the laws relating thereto; regulating and
5 restricting the manufacture, purchase, sale, possession,
6 consumption, importation, transportation, furnishing, holding
7 in bond, holding in storage, traffic in and use of alcoholic
8 liquors, alcohol and malt and brewed beverages and the
9 persons engaged or employed therein; defining the powers and
10 duties of the Pennsylvania Liquor Control Board; providing
11 for the establishment and operation of State liquor stores,
12 for the payment of certain license fees to the respective
13 municipalities and townships, for the abatement of certain
14 nuisances and, in certain cases, for search and seizure
15 without warrant; prescribing penalties and forfeitures;
16 providing for local option, and repealing existing laws," in
17 preliminary provisions, further providing for definitions; IN <--
18 PENNSYLVANIA LIQUOR CONTROL BOARD, ESTABLISHING THE STOP-AND-
19 GO LEGISLATIVE TASK FORCE; and, in licenses and regulations
20 and liquor, alcohol and malt and brewed beverages, further
21 providing for public venue license, ~~for malt and brewed~~ <--
22 ~~beverages manufacturers', distributors' and importing~~
23 ~~distributors' licenses, for interlocking business prohibited,~~
24 AND for limiting number of retail licenses to be issued in <--
25 each county ~~and for unlawful acts relative to malt or brewed~~ <--
26 ~~beverages and licensees.~~

27 The General Assembly of the Commonwealth of Pennsylvania

28 hereby enacts as follows:

1 Section 1. The definition of "public venue" in section 102
2 of the act of April 12, 1951 (P.L.90, No.21), known as the
3 Liquor Code, is amended to read:

4 Section 102. Definitions.--The following words or phrases,
5 unless the context clearly indicates otherwise, shall have the
6 meanings ascribed to them in this section:

7 * * *

8 "Public venue" shall mean a stadium, arena, convention
9 center, museum, zoo, amphitheater or [similar structure.]
10 amusement park as defined in section 2 of the act of June 18,
11 1984 (P.L.384, No.81), known as the "Amusement Ride Inspection
12 Act," situated on at least forty (40) acres of land regardless
13 of seating capacity, or similar structure. If the public venue
14 is a cruise terminal owned or leased by a port authority created
15 under the act of June 12, 1931 (P.L.575, No.200), entitled "An
16 act providing for joint action by Pennsylvania and New Jersey in
17 the development of the ports on the lower Delaware River, and
18 the improvement of the facilities for transportation across the
19 river; authorizing the Governor, for these purposes, to enter
20 into an agreement with New Jersey; creating The Delaware River
21 Joint Commission and specifying the powers and duties thereof,
22 including the power to finance projects by the issuance of
23 revenue bonds; transferring to the new commission all the powers
24 of the Delaware River Bridge Joint Commission; and making an
25 appropriation," it shall have no permanent seating requirement.
26 If the public venue is an open-air amphitheater owned by a port
27 authority created under the act of December 6, 1972 (P.L.1392,
28 No.298), known as the "Third Class City Port Authority Act," it
29 shall have no permanent seating requirement. If the public venue
30 is owned by a political subdivision, a municipal authority, the

1 Commonwealth, an authority created under the act of July 29,
2 1953 (P.L.1034, No.270), known as the "Public Auditorium
3 Authorities Law," an authority created under Article XXV-A of
4 the act of July 28, 1953 (P.L.723, No.230), known as the "Second
5 Class County Code," an art museum established under the
6 authority of the act of April 6, 1791 (3 Sm.L.20, No.1536),
7 entitled "An act to confer on certain associations of the
8 citizens of this commonwealth the powers and immunities of
9 corporations, or bodies politic in law," or an authority created
10 under Article XXIII (n) or (o) of the act of August 9, 1955
11 (P.L.323, No.130), known as "The County Code," it shall have
12 permanent seating for at least one thousand (1,000) people;
13 otherwise, it shall have permanent seating for at least two
14 thousand (2,000) people. The term shall also mean any regional
15 history center, multipurpose cultural and science facility,
16 museum or convention or trade show center, regardless of owner
17 and seating capacity, that has a floor area of at least sixty
18 thousand (60,000) square feet in one building or is comprised of
19 no less than three hundred fifty (350) acres and is a member of
20 the American Public Garden Association. The term shall also mean
21 a convention or conference center owned by a city of the third
22 class or a university which is a member of the Pennsylvania
23 State System of Higher Education which is operated by a
24 university foundation or alumni association, regardless of
25 seating capacity, that has a floor area of at least fifteen
26 thousand (15,000) square feet in one building. The term shall
27 also mean a visitor center, regardless of floor area or seating
28 capacity, that was established under the authority of the
29 Gateway Visitor Center Authorization Act of 1999 (Public Law
30 106-131, 113 Stat. 1678, 16 U.S.C. § 407m).

1 * * *

2 SECTION 2. THE ACT IS AMENDED BY ADDING A SECTION TO READ: <--

3 SECTION 218. STOP-AND-GO LEGISLATIVE TASK FORCE.--(A) THE
4 STOP-AND-GO LEGISLATIVE TASK FORCE IS ESTABLISHED.

5 (B) THE TASK FORCE SHALL:

6 (1) REVIEW AND ANALYZE THE LAW, PROCEDURES, PRACTICES,
7 PROCESSES AND RULES RELATING TO THE ISSUES INVOLVING STOP-AND-GO
8 ESTABLISHMENTS.

9 (2) HOLD PUBLIC HEARINGS FOR THE TAKING OF TESTIMONY AND THE
10 REQUESTING OF DOCUMENTS.

11 (3) THROUGH THE CHAIR, ADMINISTER OATHS AND AFFIRMATIONS TO
12 WITNESSES APPEARING BEFORE THE TASK FORCE.

13 (4) ACCEPT AND REVIEW WRITTEN COMMENTS FROM INDIVIDUALS AND
14 ORGANIZATIONS.

15 (5) ISSUE THE REPORT UNDER SUBSECTION (F) NO LATER THAN FOUR
16 MONTHS AFTER THE TASK FORCE'S INITIAL MEETING. IN ADDITION TO
17 ANY INFORMATION THAT THE TASK FORCE DEEMS APPROPRIATE, THE
18 REPORT SHALL:

19 (I) DEFINE AND CREATE A LIQUOR LICENSE CATEGORY FOR STOP-
20 AND-GO ESTABLISHMENTS LOCATED AND OPERATING WITHIN A CITY OF THE
21 FIRST CLASS.

22 (II) PROVIDE RECOMMENDATIONS FOR REGULATING STOP-AND-GO
23 ESTABLISHMENTS THAT ARE LOCATED AND OPERATING WITHIN A CITY OF
24 THE FIRST CLASS.

25 (C) THE TASK FORCE SHALL CONSIST OF THE FOLLOWING MEMBERS
26 WHO SHALL BE APPOINTED WITHIN TWENTY-FIVE DAYS AFTER THE
27 EFFECTIVE DATE OF THIS SUBSECTION:

28 (1) ONE MEMBER APPOINTED BY THE GOVERNOR.

29 (2) ONE MEMBER APPOINTED BY THE PRESIDENT PRO TEMPORE OF THE
30 SENATE.

1 (3) ONE MEMBER APPOINTED BY THE MINORITY LEADER OF THE
2 SENATE.

3 (4) ONE MEMBER APPOINTED BY THE SPEAKER OF THE HOUSE OF
4 REPRESENTATIVES.

5 (5) ONE MEMBER APPOINTED BY THE MINORITY LEADER OF THE HOUSE
6 OF REPRESENTATIVES.

7 (6) AN EX OFFICIO MEMBER FROM THE BOARD WHO SHALL NOT HAVE
8 VOTING RIGHTS.

9 (D) A CHAIR OF THE TASK FORCE SHALL BE ELECTED BY A MAJORITY
10 VOTE OF THE MEMBERS OF THE TASK FORCE.

11 (E) THE TASK FORCE SHALL CONDUCT BUSINESS AS FOLLOWS:

12 (1) THE PHYSICAL PRESENCE OF A MAJORITY OF THE MEMBERS SHALL
13 CONSTITUTE A QUORUM. THE EX OFFICIO MEMBER OF THE TASK FORCE
14 SHALL NOT BE CONSIDERED FOR PURPOSES OF A QUORUM.

15 (2) ACTION OF THE TASK FORCE MUST BE AUTHORIZED OR RATIFIED
16 BY A MAJORITY VOTE OF THE MEMBERS.

17 (3) A MEMBER NOT PHYSICALLY PRESENT MAY PARTICIPATE BY
18 TELECONFERENCE OR VIDEO CONFERENCE.

19 (4) THE FIRST PUBLIC MEETING OF THE TASK FORCE SHALL BE
20 CONVENED WITHIN FORTY-FIVE DAYS OF THE EFFECTIVE DATE OF THIS
21 PARAGRAPH. ADDITIONAL PUBLIC MEETINGS MAY BE CALLED BY THE CHAIR
22 AS NECESSARY.

23 (5) THE CHAIR SHALL SCHEDULE A MEETING UPON WRITTEN REQUEST
24 OF A TWO-THIRDS MAJORITY OF THE MEMBERS.

25 (6) THE TASK FORCE SHALL HOLD PUBLIC HEARINGS AS NECESSARY.

26 (7) ALL MEETINGS AND HEARINGS HELD BY THE TASK FORCE SHALL
27 BE SUBJECT TO 65 PA.C.S. CH. 7 (RELATING TO OPEN MEETINGS).

28 (8) THE BOARD SHALL PROVIDE ADMINISTRATIVE OR OTHER
29 ASSISTANCE TO THE TASK FORCE.

30 (9) MEMBERS MAY NOT RECEIVE COMPENSATION BUT SHALL BE

1 REIMBURSED FOR REASONABLE AND NECESSARY EXPENSES INCURRED IN
2 SERVICE.

3 (F) THE TASK FORCE SHALL COMPILE A REPORT OF RECOMMENDATIONS
4 UNDER SUBSECTION (B) WITHIN FOUR MONTHS AFTER THE TASK FORCE'S
5 INITIAL MEETING AND DELIVER THE REPORT TO EACH MEMBER OF THE
6 GENERAL ASSEMBLY WHO REPRESENTS RESIDENTS OF A CITY OF THE FIRST
7 CLASS, THE BOARD, THE CHAIRMAN AND MINORITY CHAIRMAN OF THE LAW
8 AND JUSTICE COMMITTEE OF THE SENATE AND THE CHAIRMAN AND
9 MINORITY OF THE LIQUOR CONTROL COMMITTEE OF THE HOUSE OF
10 REPRESENTATIVES.

11 (G) THE TASK FORCE SHALL EXPIRE THIRTY DAYS AFTER DELIVERY
12 OF THE FINAL REPORT UNDER SUBSECTION (F).

13 (H) AS USED IN THIS SECTION:

14 (1) THE TERM "STOP-AND-GO ESTABLISHMENT" MEANS
15 ESTABLISHMENTS THAT ARE:

16 (I) LEGAL HOLDERS OF RESTAURANT OR R-LICENSES; AND

17 (II) A CONVENIENCE STORE OR DELI THAT SELLS BEER AND LIQUOR,
18 SOMETIMES IN QUANTITIES AS LOW AS A SINGLE SHOT, THAT MAY BE
19 CONSUMED ON PREMISES OR IMMEDIATELY OUTSIDE THE ESTABLISHMENT.

20 (2) THE TERM "TASK FORCE" MEANS THE STOP-AND-GO LEGISLATIVE
21 TASK FORCE ESTABLISHED UNDER THIS SECTION.

22 Section 2 3. Section 412(f)(1) of the act is amended and the <--
23 section is amended by adding subsections to read:

24 Section 412. Public Venue License.--* * *

25 (f) Licenses issued under this section are to be considered
26 restaurant liquor licenses. However, the following additional
27 restrictions and privileges apply:

28 (1) Sales may only be made one hour before, during and one
29 hour after any athletic performance, performing arts event,
30 trade show, convention, banquet or any other performance at the

1 facility; however, sales may not be made from two o'clock
2 antemeridian to seven o'clock antemeridian. In addition, sales
3 may not occur prior to eleven o'clock antemeridian on Sundays or
4 seven o'clock antemeridian on Mondays. Notwithstanding this
5 [section, facilities that had been licensed under former
6 sections] section:

7 (i) Facilities that had been licensed under former sections
8 408.9 and 408.14 may sell liquor and/or malt or brewed beverages
9 anytime except from two o'clock antemeridian to seven o'clock
10 antemeridian or prior to eleven o'clock antemeridian on Sundays
11 or seven o'clock antemeridian on Mondays, regardless of whether
12 there is a performance at the facility.

13 (ii) Amusement parks may sell liquor and malt or brewed
14 beverages from eleven o'clock antemeridian to eleven o'clock
15 postmeridian.

16 * * *

17 (h) An amusement park that holds a restaurant license before
18 January 1, 2022, and seeks to obtain a public venue license
19 shall exchange one existing restaurant license to the board in
20 return for a public venue license at no cost. A restaurant
21 license exchanged under this subsection shall be subject to a
22 license auction under section 470.3.

23 (i) An amusement park that holds a public venue license
24 shall utilize a transaction scan device to verify the age of an
25 individual who appears to be under thirty-five years of age
26 before making a sale of liquor and malt or brewed beverages,
27 however, an acceptable form of identification under section
28 495(a) that cannot be scanned may be accepted by the licensee.
29 An amusement park may not sell or share data from the use of a
30 transaction scan device, provided that the licensee may use the

1 data to show the enforcement bureau of the board that the
2 licensee is in compliance with this act. As used in this
3 subsection, the term "transaction scan device" means a device
4 capable of deciphering, in an electronically readable format,
5 the information encoded on the magnetic strip or bar code of an
6 identification card under section 495(a).

7 (j) As used in this section, the term "amusement park" shall
8 have the same meaning as defined in section 2 of the act of June
9 18, 1984 (P.L.384, No.81), known as the "Amusement Ride
10 Inspection Act."

11 ~~Section 3. Section 431(d) (1) of the act is amended and the~~ <--
12 ~~subsection is amended by adding a paragraph to read:~~

13 ~~Section 431. Malt and Brewed Beverages Manufacturers',~~
14 ~~Distributors' and Importing Distributors' Licenses. * * *~~

15 ~~(d) (1) All distributing rights as hereinabove required~~
16 ~~shall be in writing, shall be equitable in their provisions and~~
17 ~~shall be substantially similar as to terms and conditions with~~
18 ~~all other distributing rights agreements between the~~
19 ~~manufacturer giving such agreement and its other importing~~
20 ~~distributors and distributors shall not be modified, cancelled,~~
21 ~~terminated or rescinded by the manufacturer without good cause,~~
22 ~~and shall contain a provision in substance or effect as follows:~~
23 ~~"The manufacturer recognizes that the importing distributor and~~
24 ~~distributor are free to manage their business in the manner the~~
25 ~~importing distributor and distributor deem best and that this~~
26 ~~prerogative vests in the importing distributor and distributor~~
27 ~~the exclusive right to establish a selling price, to select the~~
28 ~~brands of malt or brewed beverages they wish to handle and to~~
29 ~~determine the efforts and resources, including the e commerce~~
30 ~~platform if one is used, which the importing distributor and~~

1 distributor will exert to develop and promote the same of the
2 manufacturer's products handled by the importing distributor and
3 distributor. However, the manufacturer expects that the
4 importing distributor and distributor will price competitively
5 the products handled by them, devote reasonable effort and
6 resources to the sale of such products and maintain a reasonable
7 sales level." "Good cause" shall mean the failure by any party
8 to an agreement, without reasonable excuse or justification, to
9 comply substantially with an essential, reasonable and
10 commercially acceptable requirement imposed by the other party
11 under the terms of an agreement.

12 ~~(1.1) Providing or using an e-commerce platform shall not be~~
13 ~~construed as providing a thing of value under section 493(24).~~

14 * * *

15 Section 4. Section 443 of the act is amended by adding a
16 subsection to read:

17 Section 443. Interlocking Business Prohibited. * * *

18 ~~(i) Notwithstanding any other provision of law to the~~
19 ~~contrary, a malt or brewed beverage manufacturer and its~~
20 ~~officers, directors, shareholders, servants, agents or employes~~
21 ~~may provide an e-commerce platform or access to an e-commerce~~
22 ~~platform to a distributor or importing distributor. The e-~~
23 ~~commerce platform or access to the e-commerce platform may be~~
24 ~~provided free of charge or may be made available for a fee.~~

25 Section 5 3 4. Section 461(c)(9.2) of the act is amended to <--
26 read:

27 Section 461. Limiting Number of Retail Licenses To Be Issued
28 In Each County.--* * *

29 (c) The word "hotel" as used in this section shall mean any
30 reputable place operated by a responsible person of good

1 reputation where the public may, for a consideration, obtain
2 sleeping accommodations, and which shall have the following
3 number of bedrooms and requirements in each case--at least one-
4 half of the required number of bedrooms shall be regularly
5 available to transient guests seven days weekly, except in
6 resort areas; at least one-third of such bedrooms shall be
7 equipped with hot and cold water, a lavatory, commode, bathtub
8 or shower and a clothes closet; and an additional one-third of
9 the total of such required rooms shall be equipped with lavatory
10 and commode:

11 * * *

12 (9.2) ~~For two years after the effective date of this~~ <--
13 ~~clause, upon application to the board]~~ UPON APPLICATION FILED <--
14 WITH THE BOARD BY FEBRUARY 27, 2026, and payment of a fee of
15 thirty thousand dollars (\$30,000) by a hotel licensee, the board
16 shall convert a ~~hotel license under [clause (8)] clauses (8) and~~ <--
17 ~~(8.1) of this subsection for a hotel licensee that applied for~~
18 ~~an exemption under clause (9) or (9.1) of this subsection before~~
19 ~~[January] JULY 1, [2019] 2024,~~ HOTEL LICENSE ~~[UNDER CLAUSE (8)]~~ <--
20 OF THIS SUBSECTION FOR A HOTEL LICENSEE THAT APPLIED FOR AN
21 EXEMPTION UNDER CLAUSE (9) OR (9.1) OF THIS SUBSECTION BEFORE
22 JANUARY 1, 2019,] REFERENCED UNDER CLAUSE (8) OR (8.1) OF THIS
23 SUBSECTION to a restaurant license without regard to the quota
24 restrictions set forth in subsection (a). This clause shall not
25 apply to a hotel license with a pending objection by the
26 director of the Bureau of Licensing or the board under section
27 470(a.1) until the application for renewal of the hotel license
28 is approved. This clause shall not apply to hotel licenses in a
29 city of the first class. An application to transfer a restaurant
30 license that was converted from a hotel license under this

1 clause in accordance with section 404 within five years after
2 the board received the application for the restaurant license
3 shall be subject to a fee of twenty-five per centum (25%) or
4 thirty thousand dollars (\$30,000), whichever is greater, of the
5 transactional cost for the transfer of the restaurant license to
6 be paid by the seller of the license. As used in this paragraph,
7 the term "transactional cost" shall mean the cost of the
8 restaurant license.

9 * * *

10 ~~Section 6. Section 492 of the act is amended by adding a~~ <--
11 ~~paragraph to read:~~

12 ~~Section 492. Unlawful Acts Relative to Malt or Brewed~~
13 ~~Beverages and Licensees.~~

14 ~~It shall be unlawful~~

15 ~~* * *~~

16 ~~(23) Interfering with the use of e-commerce. For any~~
17 ~~manufacturer or retail licensee to prohibit or mandate any~~
18 ~~particular e-commerce platform by any distributor or importing~~
19 ~~distributor.~~

20 Section 7 4 5. This act shall take effect in 60 days. <--