

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 224

Session of
1983

INTRODUCED BY O'DONNELL, WAMBACH, ALDERETTE, HALUSKA, MICOZZIE,
WOGAN, COY, KOSINSKI, STUBAN, PERZEL, VAN HORNE, PISTELLA,
FARGO, VROON, CLYMER, LAUGHLIN, MILLER, CIVERA, FREIND,
PRESTON, HARPER, MAYERNIK, JOHNSON, MCINTYRE, MRKONIC,
WESTON, WIGGINS, EVANS, CARN AND LEVIN, FEBRUARY 15, 1983

AS AMENDED ON SECOND CONSIDERATION, IN SENATE, JULY 18, 1983

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,"
17 further providing for hearings on applications for new hotel
18 and restaurant liquor licenses and the issuance of such
19 licenses and for the surrender of club licenses; and
20 requiring notices to certain municipalities.

21 The General Assembly of the Commonwealth of Pennsylvania
22 hereby enacts as follows:

23 Section 1. Section 402 of the act of April 12, 1951 (P.L.90,
24 No.21), known as the Liquor Code, is amended to read:

25 Section 402. License Districts; License Year; Hearings.--(a)

1 The board shall, by regulation, divide the State into convenient
2 license districts and shall hold hearings on applications for
3 licenses and renewals thereof, as it deems necessary, at a
4 convenient place or places in each of said districts, at such
5 times as it shall fix, by regulation, BUT IN NO EVENT MORE THAN <—
6 THIRTY DAYS AFTER THE DATE OF RECEIPT OF THE APPLICATION BY THE
7 BOARD, for the purpose of hearing testimony for and against
8 applications for new licenses and renewals thereof. THE BOARD <—
9 SHALL ACT UPON ALL APPLICATIONS FOR LICENSES AND RENEWALS
10 THEREOF WITHIN SIXTY DAYS AFTER THE DATE OF RECEIPT THEREOF BY
11 THE BOARD. SHOULD THE BOARD FAIL TO ACT WITHIN SUCH SIXTY-DAY
12 PERIOD, THE APPLICATION FOR LICENSE OR RENEWAL SHALL BE DEEMED
13 TO HAVE BEEN APPROVED. The board may provide for the holding of
14 such hearings by examiners learned in the law, to be appointed
15 by the Governor, who shall not be subject to the "Civil Service
16 Act." Such examiners shall make report to the board in each case
17 with their recommendations. The board shall, by regulation, fix
18 the license year for each separate district so that the
19 expiration dates shall be uniform in each of the several
20 districts but staggered as to the State.

21 (b) Where a hearing is held in the case of an application
22 for a new hotel or restaurant liquor license or an application
23 for the transfer of a hotel or restaurant liquor license or when
24 the board is considering the renewal, suspension or revocation
25 of a license after the premises have been cited as AND FOUND TO <—
26 BE a public nuisance BY A COURT OF COMPETENT JURISDICTION <—
27 pursuant to section 611, the board shall permit inhabitants of <—
28 the neighborhood within a radius of one thousand feet of the
29 place proposed to be licensed to testify at the hearings. The
30 board and any hearing officer thereof shall give substantial

~~weight to any testimony of such inhabitants given in connection
with a public hearing. Decisions on applications shall conform
to the preponderance of the evidence presented.~~ INHABITANTS OF
THE MUNICIPALITY WITHIN WHICH THE PREMISES IS LOCATED WHO RESIDE
WITHIN ONE THOUSAND FEET OF THE PLACE PROPOSED TO BE LICENSED TO
TESTIFY AT THE HEARING. WHEN THE PLACE PROPOSED TO BE LICENSED
IS LOCATED ON THE BORDER OF TWO MUNICIPALITIES, THE BOARD SHALL
PERMIT INHABITANTS OF THE BORDERING MUNICIPALITY WHO RESIDE
WITHIN FIVE HUNDRED FEET OF THE PLACE PROPOSED TO BE LICENSED TO
TESTIFY AT THE HEARING.

Section 2. Section 403(g) of the act, amended November 19,
1959 (P.L.1546, No.553), is amended to read:

Section 403. Applications for Hotel, Restaurant and Club
Liquor Licenses.--* * *

(g) Every applicant for a new license or for the transfer of
an existing license to another premises not then licensed shall
post, for a period of at least fifteen days beginning with the
day the application is filed with the board, in a conspicuous
place on the outside of the premises or at the proposed new
location for which the license is applied, a notice of such
application, in such form, of such size, and containing such
provisions as the board may require by its regulations.

Simultaneous with posting of the notice of such application, the
applicant shall send notice of the application to the governing
body of the municipality in which the premises or proposed new
location is located by certified mail, return receipt requested.

Proof of the posting of such notice and mailing of notice to the
municipality shall be filed with the board. Notwithstanding any
other provision of law, the board shall take no action on an
application until at least fifteen days have elapsed from the

1 date of receipt of notice by the municipality.

2 * * *

3 Section 3. Section 404 of the act, amended September 2, 1971
4 (P.L.429, No.103), is amended to read:

5 Section 404. Issuance of Hotel, Restaurant and Club Liquor
6 Licenses.--Upon receipt of the application, the proper fees and
7 bond, and upon being satisfied of the truth of the statements in
8 the application that the applicant is the only person in any
9 manner pecuniarily interested in the business so asked to be
10 licensed and that no other person will be in any manner
11 pecuniarily interested therein during the continuance of the
12 license, except as hereinafter permitted, and that the applicant
13 is a person of good repute, that the premises applied for meet
14 all the requirements of this act and the regulations of the
15 board, that the applicant seeks a license for a hotel,
16 restaurant or club, as defined in this act, and that the
17 issuance of such license is not prohibited by any of the
18 provisions of this act, the board shall, in the case of a hotel
19 or restaurant, grant and issue to the applicant a liquor
20 license, and in the case of a club may, in its discretion, issue
21 or refuse a license: Provided, however, That in the case of any
22 new license or the transfer of any license to a new location the
23 board may, in its discretion, grant or refuse such new license
24 or transfer if such place proposed to be licensed is within
25 three hundred feet of any church, hospital, charitable
26 institution, school, or public playground, or if such new
27 license or transfer is applied for a place which is within two
28 hundred feet of any other premises which is licensed by the
29 board, or if such new license or transfer is applied for a place
30 where the principal business is the sale of liquid fuels and

1 oil: And provided further, That the board shall refuse any
2 application for a new license or the transfer of any license to
3 a new location if, in the board's opinion, such new license or
4 transfer would be detrimental to the welfare, health, peace and
5 morals of the inhabitants of the neighborhood within a radius of
6 [five hundred] one thousand feet of the place proposed to be
7 licensed: And provided further, That the board shall not issue
8 new licenses in any license district more than twice each
9 license year, effective from specific dates fixed by the board,
10 and new licenses shall not be granted, except for hotels as
11 defined in this act, unless the application therefor shall have
12 been filed at least thirty days before the effective date of the
13 license: And provided further, That nothing herein contained
14 shall prohibit the board from issuing a new license for the
15 balance of any unexpired term in any license district to any
16 applicant in such district, who shall have become eligible to
17 hold such license as the result of legislative enactment, when
18 such enactment shall have taken place during the license term of
19 that district for which application is made or within the thirty
20 days immediately preceding such term, nor shall anything herein
21 contained prohibit the board from issuing at any time a new
22 license for an airport restaurant, or municipal golf course, as
23 defined in section 461 of this act, for the balance of the
24 unexpired license term in any license district: And provided
25 further, That the board shall have the discretion to refuse a
26 license to any person or to any corporation, partnership or
27 association if such person, or any officer or director of such
28 corporation, or any member or partner of such partnership or
29 association shall have been convicted or found guilty of a
30 felony within a period of five years immediately preceding the

1 date of application for the said license.

2 Section 4. Section 471 of the act, amended January 13, 1966
3 (1965 P.L.1301, No.518) and repealed in part June 3, 1971
4 (P.L.118, No.6), is amended to read:

5 Section 471. Revocation and Suspension of Licenses; Fines.--

6 (a) Upon learning of any violation of this act or any laws of
7 this Commonwealth relating to liquor, alcohol or malt or brewed
8 beverages, or of any regulations of the board adopted pursuant
9 to such laws, of any violation of any laws of this Commonwealth
10 or of the United States of America relating to the tax-payment
11 of liquor or malt or brewed beverages by any licensee within the
12 scope of this article, his officers, servants, agents or
13 employes, or upon any other sufficient cause shown, the board
14 may, within one year from the date of such violation or cause
15 appearing, cite such licensee to appear before it or its
16 examiner, not less than ten nor more than sixty days from the
17 date of sending such licensee, by registered mail, a notice
18 addressed to him at his licensed premises, to show cause why
19 such license should not be suspended or revoked or a fine
20 imposed. The board shall also send a copy of the hearing notice
21 to the municipality in which the premises is located.

22 (b) Hearings on such citations shall be held in the same
23 manner as provided herein for hearings on applications for
24 license. Upon such hearing, if satisfied that any such violation
25 has occurred or for other sufficient cause, the board shall
26 immediately suspend or revoke the license, or impose a fine of
27 not less than fifty dollars (\$50) nor more than one thousand
28 dollars (\$1,000), notifying the licensee by registered letter
29 addressed to his licensed premises. In the event the fine is not
30 paid within twenty days of the order the board shall suspend or

1 revoke the license, notifying the licensee by registered mail
2 addressed to his licensed premises. Suspensions and revocations
3 shall not go into effect until twenty days have elapsed from the
4 date of notice of issuance of the board's order, during which
5 time the licensee may take an appeal as provided for in this
6 act. When a license is revoked, the licensee's bond may be
7 forfeited by the board. Any licensee whose license is revoked
8 shall be ineligible to have a license under this act until the
9 expiration of three years from the date such license was
10 revoked. In the event the board shall revoke a license, no
11 license shall be granted for the premises or transferred to the
12 premises in which the said license was conducted for a period of
13 at least one year after the date of the revocation of the
14 license conducted in the said premises, except in cases where
15 the licensee or a member of his immediate family is not the
16 owner of the premises, in which case the board may, in its
17 discretion, issue or transfer a license within the said year. In
18 all such cases, the board shall file of record at least a brief
19 statement in the form of an opinion of the reasons for the
20 ruling or order. In the event the person who was fined or whose
21 license was suspended or revoked by the board shall feel
22 aggrieved by the action of the board, he shall have the right to
23 appeal to the court of quarter sessions or the county court of
24 Allegheny County in the same manner as herein provided for
25 appeals from refusals to grant licenses. Upon appeal, the court
26 so appealed to shall, in the exercise of its discretion,
27 sustain, reject, alter or modify the findings, conclusions and
28 penalties of the board, based on the findings of fact and
29 conclusions of law as found by the court. The aforesaid appeal
30 shall act as a supersedeas unless upon sufficient cause shown

1 the court shall determine otherwise. No penalty provided by this
2 section shall be imposed by the board or any court for any
3 violations provided for in this act unless the enforcement
4 officer or the board notifies the licensee of its nature and of
5 the date of the alleged violation within ten days of the
6 completion of the investigation which in no event shall exceed
7 ninety days.

8 (c) If the violation in question is a third or subsequent
9 violation of this act or [the act of June 24, 1939 (P.L.872),
10 known as "The Penal Code,"] Title 18 of the Pennsylvania
11 Consolidated Statutes (relating to crimes and offenses),
12 occurring within a period of four years the board shall impose a
13 suspension or revocation.

14 (d) The jurisdiction of the county court of Allegheny County
15 conferred hereby shall be exclusive within the territorial
16 limits of its jurisdiction.

17 Section 5. Section 474 of the act, added July 20, 1968
18 (P.L.429, No.201), is amended to read:

19 Section 474. Surrender of Club Licenses for Benefit of
20 Licensees.--[Whenever a club license has been returned to the
21 board for the benefit of the licensee due to the licensed
22 establishment not having been in operation for any reason
23 whatsoever for a period of time not exceeding fifteen days, the
24 license shall be held by the board for the benefit of the
25 licensee for a period of time not exceeding one year, or, upon
26 proper application to the board, for an additional year, and the
27 license shall be revoked at the termination of the period, and
28 transfer of the license shall not be permitted after the
29 termination of the period.] (a) Any club licensee whose
30 licensed establishment is not in operation for a period of

fifteen consecutive days for any reason shall return its license and, if a liquor license, its wholesale purchase permit card, to the board not later than the expiration of the fifteen-day period. The return of such license and card will not invalidate the license, which will be held for the benefit of the licensee and be available for its use when operations are resumed at the licensed premises, or for transfer.

(b) Where the club license is returned because the licensee no longer has a lease for the licensed premises, or removes therefrom, or is dispossessed by legal process, the license will be invalidated as to the premises for which issued but will not be invalidated generally nor cancelled, and will be held for the benefit of the licensee for transfer only.

(c) Where the club license and wholesale liquor purchase permit card are not surrendered and returned voluntarily by the licensee, enforcement officers of the board will lift and return such license and card to the board.

(d) No club license surrendered to the board, nor any renewal thereof in possession of the board, will be held for the benefit of the licensee for a period exceeding one year from the date of surrender, except where, in the opinion of the board, circumstances beyond the control of the licensee prevent reactivation. The board shall reconsider the revocation of any such club license during the last five years to ascertain if circumstances beyond the control of the licensee prevented timely reactivation of the license. Failure of the licensee to lift the license and resume operation of the licensed business or to effect a transfer of the license within the one-year period may be sufficient cause for revocation of the license if timely reactivation was not due to circumstances beyond the

1 control of the licensee.

2 (e) In the case of any club license which is reactivated
3 under this section, the board shall determine no sooner than
4 eighteen months after such reactivation, and no later than
5 twenty-four months after reactivation, that the club has
6 actually resumed operation and is functioning in fact as a club
7 as defined in section 102. If the board finds that the club is
8 not so functioning the license shall be immediately revoked.

9 Section 6. This act shall take effect in 60 days.