

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2435 Session of
1992

INTRODUCED BY MIHALICH, SALOOM, CIVERA, JAROLIN, KRUSZEWSKI,
CARN, OLASZ, JOSEPHS, DERMODY, PETRARCA, GIGLIOTTI AND
MICOZZIE, MARCH 9, 1992

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
NOVEMBER 17, 1992

AN ACT

1 Amending the act of April 12, 1951 (P.L.90, No.21), entitled, as
2 reenacted, "An act relating to alcoholic liquors, alcohol and
3 malt and brewed beverages; amending, revising, consolidating
4 and 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 ADDING DEFINITIONS; AND further providing for enforcement AND <—
18 FOR THE PROPER DISPOSAL OF EMPTY LIQUOR CONTAINERS.

19 The General Assembly of the Commonwealth of Pennsylvania
20 hereby enacts as follows:

21 ~~Section 1. Section 211(d) of the act of April 12, 1951~~ <—
22 ~~(P.L.90, No.21), known as the Liquor Code, reenacted and amended~~
23 ~~June 29, 1987 (P.L.32, No.14), is amended to read:~~

24 SECTION 1. SECTION 102 OF THE ACT OF APRIL 12, 1951 (P.L.90, <—
25 NO.21), KNOWN AS THE LIQUOR CODE, REENACTED AND AMENDED JUNE 29,

1 1987 (P.L.32, NO.14), IS AMENDED BY ADDING DEFINITIONS TO READ:

2 SECTION 102. DEFINITIONS.--THE FOLLOWING WORDS OR PHRASES,
3 UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE, SHALL HAVE THE
4 MEANINGS ASCRIBED TO THEM IN THIS SECTION:

5 * * *

6 "PATRON" SHALL MEAN AN INDIVIDUAL WHO PURCHASES FOOD,
7 NONALCOHOLIC BEVERAGES, LIQUOR, ALCOHOL OR MALT OR BREWED
8 BEVERAGES FOR A CONSIDERATION FROM A LICENSEE.

9 * * *

10 "PURCHASE" SHALL MEAN OBTAINING FOOD, NONALCOHOLIC BEVERAGES,
11 LIQUOR, ALCOHOL OR MALT OR BREWED BEVERAGES FOR A CONSIDERATION.

12 * * *

13 "SERVICE" SHALL MEAN THE ACT OF PROVIDING FOOD, NONALCOHOLIC
14 BEVERAGES, LIQUOR, ALCOHOL OR MALT BREWED BEVERAGES TO A PATRON.

15 "VACATE" SHALL MEAN TO PHYSICALLY LEAVE A LICENSED PREMISES.

16 * * *

17 SECTION 2. SECTIONS 211(D) AND 491(5) OF THE ACT ARE AMENDED
18 TO READ:

19 Section 211. Enforcement.--* * *

20 (d) The Office of Chief Counsel for the Pennsylvania State
21 Police shall represent the enforcement bureau in all enforcement
22 proceedings brought before the Office of Administrative Law
23 Judge or any other adjudicatory body. The enforcement bureau is
24 bound by legal opinions issued by the board or its counsel.

25 SECTION 491. UNLAWFUL ACTS RELATIVE TO LIQUOR, ALCOHOL AND
26 LIQUOR LICENSEES.--

27 IT SHALL BE UNLAWFUL--

28 * * *

29 (5) FAILURE TO [BREAK] PROPERLY DISPOSE OF EMPTY LIQUOR
30 CONTAINERS. FOR ANY RESTAURANT, HOTEL OR CLUB LICENSEE, HIS

1 SERVANTS, AGENTS OR EMPLOYES, TO FAIL TO BREAK ANY PACKAGE IN
2 WHICH LIQUORS WERE CONTAINED, EXCEPT THOSE DECANTER PACKAGES
3 THAT THE BOARD DETERMINES TO BE DECORATIVE, WITHIN TWENTY-FOUR
4 HOURS AFTER THE ORIGINAL CONTENTS WERE REMOVED THEREFROM OR TO
5 FAIL TO PARTICIPATE IN EITHER A MUNICIPAL RECYCLING PROGRAM, IN
6 ACCORDANCE WITH THE ACT OF JULY 28, 1988 (P.L.556, NO.101),
7 KNOWN AS THE "MUNICIPAL WASTE PLANNING, RECYCLING AND WASTE
8 REDUCTION ACT," OR A VOLUNTARY RECYCLING PROGRAM. THE LICENSEE
9 SHALL PROVIDE PROOF, IN WRITING, THAT IT IS A PARTICIPANT IN A
10 RECYCLING PROGRAM UPON THE DEMAND OF THE ENFORCING AGENCY.

11 * * *

12 SECTION 3. SECTION 499 OF THE ACT, ADDED DECEMBER 7, 1990
13 (P.L.622, NO.160), IS AMENDED TO READ:

14 SECTION 499. PREMISES TO BE VACATED BY PATRONS.--(A) EXCEPT
15 AS PROVIDED FOR [IN SUBSECTION (B)] ELSEWHERE IN THIS SECTION,
16 ALL PATRONS OF A LICENSEE SHALL BE REQUIRED TO LEAVE THAT PART
17 OF THE PREMISES HABITUALLY USED FOR THE SERVING OF LIQUOR OR
18 MALT OR BREWED BEVERAGES TO GUESTS OR PATRONS NOT LATER THAN
19 ONE-HALF HOUR AFTER THE TIME THE LICENSEE IS REQUIRED BY THIS
20 ACT TO CEASE SERVING LIQUOR OR MALT OR BREWED BEVERAGES AND
21 SHALL NOT BE PERMITTED TO HAVE ANY PREVIOUSLY SERVED LIQUOR OR
22 MALT OR BREWED BEVERAGES IN THEIR POSSESSION, NOR SHALL THEY BE
23 PERMITTED TO REMOVE ANY PREVIOUSLY SERVED LIQUOR OR MALT OR
24 BREWED BEVERAGES FROM THAT PART OF THE PREMISES. PATRONS OF A
25 LICENSEE SHALL NOT BE PERMITTED TO RE-ENTER THAT PORTION OF THE
26 PREMISES HABITUALLY USED FOR THE SERVING OF LIQUOR OR MALT OR
27 BREWED BEVERAGES BETWEEN THE HOUR DESIGNATED BY THIS ACT FOR
28 PATRONS TO VACATE THE LICENSED PREMISES AND THE HOUR DESIGNATED
29 BY THIS ACT WHEN THE SERVING OF LIQUOR OR MALT OR BREWED
30 BEVERAGES IS ALLOWED TO BEGIN, UNLESS THE LICENSEE HAS BEEN

1 GRANTED A PERMIT FOR EXTENDED HOURS FOOD SERVICE.

2 (A.1) SUBSECTION (A) SHALL NOT APPLY TO SALES OF MALT AND
3 BREWED BEVERAGES FOR CONSUMPTION OFF THE PREMISES WHEN THE
4 FOLLOWING CONDITIONS ARE MET:

5 (1) NO LICENSEE MAY SELL MALT OR BREWED BEVERAGES IN EXCESS
6 OF ONE HUNDRED NINETY-TWO FLUID OUNCES FOR CONSUMPTION OFF THE
7 PREMISES;

8 (2) SALES AND SERVICE OF MALT AND BREWED BEVERAGES FOR
9 CONSUMPTION OFF THE PREMISES ARE MADE PRIOR TO THE DESIGNATED
10 HOOR THE LICENSEE IS REQUIRED BY THIS ACT TO CEASE SERVING
11 LIQUOR, MALT OR BREWED BEVERAGES;

12 (3) PERSONS WHO HAVE PURCHASED MALT AND BREWED BEVERAGES FOR
13 CONSUMPTION OFF THE PREMISES SHALL REMOVE THE MALT AND BREWED
14 BEVERAGES FROM THE PREMISES PRIOR TO THE DESIGNATED HOUR AS
15 CONTAINED IN THIS ACT THAT PATRONS ARE REQUIRED TO VACATE THE
16 PREMISES;

17 (4) NO CLUB LICENSEE MAY SELL ANY MALT OR BREWED BEVERAGE
18 FOR CONSUMPTION OFF THE PREMISES WHERE SOLD OR TO ANY PERSONS
19 WHO ARE NOT MEMBERS OF THE CLUB.

20 (B) A LICENSEE MAY [SERVE FOOD] REMAIN OPEN BETWEEN THE
21 HOURS OF TWO O'CLOCK ANTEMERIDIAN AND SEVEN O'CLOCK ANTEMERIDIAN
22 FOR THE PURPOSE OF SERVING FOOD ON ANY DAY IF SUCH LICENSEE
23 EITHER POSSESSES OR IS ELIGIBLE TO PURCHASE A SUNDAY SALES
24 PERMIT [IN ACCORDANCE WITH SECTION 406] AND RECEIVES AN EXTENDED
25 HOURS FOOD LICENSE. THE BOARD SHALL ESTABLISH AN ANNUAL FEE FOR
26 THE EXTENDED HOURS FOOD LICENSE WHICH SHALL NOT EXCEED FIFTY
27 DOLLARS (\$50).

28 (B.1) UPON APPLICATION OF ANY CLUB, THE BOARD SHALL ISSUE A
29 CLUB EXTENDED HOURS FOOD PERMIT FOR A PERIOD OF SIX DAYS DURING
30 THE TERM OF ITS LICENSE. THE BOARD SHALL ISSUE REGULATIONS

1 GOVERNING TERMS OF THE APPLICATION. THE PERMITS SHALL BE USED
2 SOLELY FOR THE PURPOSE OF SERVING FOOD BETWEEN THE HOURS OF
3 THREE O'CLOCK ANTEMERIDIAN AND SEVEN O'CLOCK ANTEMERIDIAN. ALL
4 PATRONS OF A LICENSEE SHALL BE REQUIRED TO LEAVE THAT PART OF
5 THE PREMISES HABITUALLY USED FOR THE SERVING OF LIQUOR OR MALT
6 OR BREWED BEVERAGES TO GUESTS OR PATRONS NOT LATER THAN ONE-HALF
7 HOOR AFTER THE TIME THE LICENSEE IS REQUIRED BY THIS ACT TO
8 CEASE SERVING LIQUOR OR MALT OR BREWED BEVERAGES AND SHALL NOT
9 BE PERMITTED TO HAVE ANY PREVIOUSLY SERVED LIQUOR OR MALT OR
10 BREWED BEVERAGES IN THEIR POSSESSION, NOR SHALL THEY BE
11 PERMITTED TO REMOVE ANY PREVIOUSLY SERVED LIQUOR OR MALT OR
12 BREWED BEVERAGES FROM THAT PART OF THE PREMISES.

13 (C) ANY [OWNER OF LICENSED PREMISES] LICENSEE WHO VIOLATES
14 THIS SECTION FOR THE FIRST OFFENSE COMMITS A SUMMARY OFFENSE AND
15 SHALL, UPON CONVICTION, BE SENTENCED TO PAY A FINE OF NOT MORE
16 THAN THREE HUNDRED DOLLARS (\$300) OR TO IMPRISONMENT FOR NOT
17 MORE THAN NINETY (90) DAYS, OR BOTH, AND FOR THE SECOND OR ANY
18 SUBSEQUENT OFFENSE COMMITS A MISDEMEANOR OF THE THIRD DEGREE AND
19 SHALL, UPON CONVICTION, BE SENTENCED TO PAY A FINE OF NOT MORE
20 THAN TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500) OR TO
21 IMPRISONMENT FOR NOT MORE THAN ONE (1) YEAR, OR BOTH.

22 Section ~~2~~ 4. This act shall take effect in 60 days.

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