
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 103 Session of
1993

INTRODUCED BY OLIVER, RIEGER, BISHOP, LaGROTTA, TIGUE, PESCI,
TRELLO, KENNEY, STABACK, KELLER, CURRY, SCHULER, OLASZ,
MIHALICH, LINTON, LEDERER, GIGLIOTTI, KIRKLAND, DALEY, JAMES,
DONATUCCI, JOSEPHS, HUGHES, PRESTON AND WILLIAMS,
JANUARY 27, 1993

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, JUNE 27, 1994

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 further providing for enforcement and for the issuance or <—
18 transfer of liquor licenses in license districts in cities of
19 the first class; AND PROVIDING FOR THE ISSUANCE OF A <—
20 RESTRICTED RESTAURANT LICENSE FOR CERTAIN PREMISES IN A CITY
21 OF THE FIRST CLASS SPECIAL OCCASION PERMITS, FOR DEFINITIONS, <—
22 FOR LICENSE ISSUANCE AND FOR UNLAWFUL ACTS; IMPOSING DUTIES
23 ON THE PENNSYLVANIA LIQUOR CONTROL BOARD; PROVIDING FOR <—
24 CERTAIN TRANSFERS IN CITIES OF THE FIRST CLASS; AND FURTHER
25 PROVIDING FOR UNLAWFUL ACTS RELATIVE TO LIQUOR, MALT AND
26 BREWED BEVERAGES AND LICENSEES.

27 The General Assembly of the Commonwealth of Pennsylvania

1 hereby enacts as follows:

2 ~~Section 1. Sections 211(d) and SECTION 404 of the act of~~ <—
3 ~~April 12, 1951 (P.L.90, No.21), known as the Liquor Code,~~
4 ~~reenacted and amended June 29, 1987 (P.L.32, No.14), are IS~~ <—
5 ~~amended to read:~~

6 SECTION 1. SECTION 102 OF THE ACT OF APRIL 12, 1951 (P.L.90, <—
7 NO.21), KNOWN AS THE LIQUOR CODE, REENACTED AND AMENDED JUNE 29,
8 1987 (P.L.32, NO.14), IS AMENDED BY ADDING DEFINITIONS TO READ:

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

12 * * *

13 "PATRON" SHALL MEAN AN INDIVIDUAL WHO PURCHASES FOOD,
14 NONALCOHOLIC BEVERAGES, LIQUOR, ALCOHOL OR MALT OR BREWED
15 BEVERAGES FOR A CONSIDERATION FROM A LICENSEE OR ANY PERSON ON
16 THE LICENSED PREMISES EXCEPT THOSE ACTUALLY ENGAGED IN AN
17 EMPLOYMENT RELATED ACTIVITY.

18 * * *

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

21 * * *

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

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

25 * * *

26 SECTION 2. SECTION 404 OF THE ACT IS AMENDED TO READ:

27 ~~Section 211. Enforcement. * * *~~ <—

28 ~~(d) The Office of Chief Counsel for the Pennsylvania State~~
29 ~~Police shall represent the enforcement bureau in all enforcement~~
30 ~~proceedings brought before the Office of Administrative Law~~

~~1 Judge or any other adjudicatory body. The enforcement bureau is~~
~~2 bound by legal opinions issued by the board or its counsel.~~

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

1 morals of the inhabitants of the neighborhood within a radius of
2 five hundred feet of the place proposed to be licensed: And
3 provided further, That, PRIOR TO JULY 1, 1996, in any license <—
4 district in a city of the first class, the board shall MAY, IN <—
5 ITS ~~OPINION DISCRETION~~ OPINION, refuse any application for a new <—
6 license or for any person-to-person and place to place or place <—
7 to place transfer WHICH SHALL INCLUDE A CHANGE IN STOCKHOLDERS <—
8 INVOLVING TEN PER CENTUM OR MORE OF ALL OUTSTANDING VOTING STOCK
9 AND/OR LESS THAN TEN PER CENTUM OF ALL OUTSTANDING VOTING STOCK
10 WHEN SUCH CHANGE INVOLVES A MAJORITY OR CONTROLLING INTEREST, of
11 any license if the licensed premises is or would be within three
12 hundred feet of any church, hospital, charitable institution,
13 school or public playground, or within two hundred feet of any
14 other premises licensed by the board ~~or~~ AND, if, in the opinion <—
15 of the board the licensed premises is or would be detrimental to
16 the welfare, health, peace and morals of SUCH CHURCH, HOSPITAL, <—
17 SCHOOL, PUBLIC PLAYGROUND AND/OR the inhabitants of the
18 neighborhood within a radius of five hundred feet of the
19 licensed premises. THIS AUTHORITY TO REFUSE A PERSON-TO-PERSON <—
20 TRANSFER IN A CITY OF THE FIRST CLASS IS IN ADDITION TO AND NOT
21 IN DEROGATION OF THE AUTHORITY OF THE BOARD GENERALLY STATED FOR
22 ALL AREAS OF THIS COMMONWEALTH: And provided further, That the
23 board shall not issue new licenses in any license district more
24 than twice each license year, effective from specific dates
25 fixed by the board, and new licenses shall not be granted,
26 except for hotels as defined in this act, unless the application
27 therefor shall have been filed at least thirty days before the
28 effective date of the license: And provided further, That
29 nothing herein contained shall prohibit the board from issuing a
30 new license for the balance of any unexpired term in any license

1 district to any applicant in such district, who shall have
2 become eligible to hold such license as the result of
3 legislative enactment, when such enactment shall have taken
4 place during the license term of that district for which
5 application is made or within the thirty days immediately
6 preceding such term, nor shall anything herein contained
7 prohibit the board from issuing at any time a new license for an
8 airport restaurant, or municipal golf course, as defined in
9 section 461 of this act, for the balance of the unexpired
10 license term in any license district: And provided further, That
11 the board shall have the discretion to refuse a license to any
12 person or to any corporation, partnership or association if such
13 person, or any officer or director of such corporation, or any
14 member or partner of such partnership or association shall have
15 been convicted or found guilty of a felony within a period of
16 five years immediately preceding the date of application for the
17 said license. The board shall refuse any application for a new
18 license or the transfer of any license to a location where the
19 sale of liquid fuels or oil is conducted.

20 ~~Section 2. This act shall take effect in 60 days.~~ <—

21 SECTION 3. SECTION 408.4 OF THE ACT, AMENDED JULY 2, 1993 <—
22 (P.L.429, NO.61), IS AMENDED TO READ:

23 SECTION 408.4. SPECIAL OCCASION PERMITS.--(A) UPON
24 APPLICATION OF ANY HOSPITAL, CHURCH, SYNAGOGUE, VOLUNTEER FIRE
25 COMPANY, VOLUNTEER AMBULANCE COMPANY, VOLUNTEER RESCUE SQUAD,
26 BONA FIDE SPORTSMEN'S CLUB IN EXISTENCE FOR AT LEAST TEN YEARS,
27 NATIONALLY CHARTERED VETERANS' ORGANIZATION AND ANY AFFILIATED
28 LODGE OR SUBDIVISION OF SUCH ORGANIZATION, FRATERNAL BENEFIT
29 SOCIETY THAT IS LICENSED TO DO BUSINESS IN THIS COMMONWEALTH AND
30 ANY AFFILIATED LODGE OR SUBDIVISION OF SUCH FRATERNAL BENEFIT

1 SOCIETY, OR THE AUXILIARY OF ANY OF THE FOREGOING, AND UPON
2 PAYMENT OF THE PRESCRIBED FEE FOR SPECIAL OCCASION PERMITS UNDER
3 SECTION 614-A OF THE ACT OF APRIL 9, 1929 (P.L.177, NO.175),
4 KNOWN AS "THE ADMINISTRATIVE CODE OF 1929," THE BOARD SHALL
5 ISSUE A SPECIAL OCCASION PERMIT GOOD FOR A PERIOD OF NOT MORE
6 THAN FIVE CONSECUTIVE OR NONCONSECUTIVE DAYS: PROVIDED, HOWEVER,
7 THAT THE FIVE NONCONSECUTIVE DAYS SHALL BE USED IN A THREE-MONTH
8 PERIOD MEASURED FROM THE DATE OF THE FIRST DAY. SPECIAL OCCASION
9 PERMITS MAY ALSO BE ISSUED TO A MUSEUM OPERATED BY A NONPROFIT
10 CORPORATION IN A CITY OF THE THIRD CLASS OR TOWNSHIP OF THE
11 FIRST CLASS OR A NONPROFIT CORPORATION ENGAGED IN THE PERFORMING
12 ARTS IN A CITY OF THE THIRD CLASS FOR A PERIOD OF NOT MORE THAN
13 SIX NONCONSECUTIVE OR TEN CONSECUTIVE DAYS AT THE PRESCRIBED FEE
14 FOR SPECIAL OCCASION PERMITS UNDER SECTION 614-A OF "THE
15 ADMINISTRATIVE CODE OF 1929."

16 (B) IN ANY CITY, BOROUGH, INCORPORATED TOWN OR TOWNSHIP IN
17 WHICH THE SALE OF LIQUOR AND/OR MALT OR BREWED BEVERAGES HAS
18 BEEN APPROVED BY THE ELECTORATE, SUCH SPECIAL OCCASION PERMIT
19 SHALL AUTHORIZE THE PERMITTEE TO SELL LIQUOR AND/OR MALT OR
20 BREWED BEVERAGES AS THE CASE MAY BE TO ANY ADULT PERSON ON ANY
21 DAY FOR WHICH THE PERMIT IS ISSUED.

22 (C) SUCH SPECIAL OCCASION PERMIT SHALL ONLY BE VALID FOR THE
23 NUMBER OF DAYS STATED IN THE PERMIT. ONLY ONE PERMIT MAY BE
24 ISSUED TO ANY PERMITTEE DURING THE YEAR. PROVIDED, THAT A MUSEUM
25 OPERATED BY A NONPROFIT CORPORATION IN A CITY OF THE THIRD CLASS
26 OR TOWNSHIP OF THE FIRST CLASS AND A NONPROFIT CORPORATION
27 ENGAGED IN THE PERFORMING ARTS IN A CITY OF THE THIRD CLASS MAY
28 BE ISSUED NO MORE THAN SIX PERMITS DURING THE YEAR, EACH PERMIT
29 BEING VALID FOR ONLY ONE DAY, OR IN THE ALTERNATIVE, ONE PERMIT
30 VALID FOR NO MORE THAN A TOTAL OF TEN CONSECUTIVE DAYS PER YEAR,

1 WHICH MAY BE ISSUED ONLY DURING THE MONTH OF AUGUST.

2 (D) SUCH PERMITS SHALL ONLY BE ISSUED FOR USE AT A SPECIAL
3 EVENT INCLUDING, BUT NOT LIMITED TO BAZAARS, PICNICS AND
4 CLAMBAKES. THE SPECIAL EVENT MUST BE ONE WHICH IS USED BY THE
5 PERMITTEE AS A MEANS OF RAISING FUNDS FOR ITSELF.

6 (D.1) THE HOURS DURING WHICH THE HOLDER OF A SPECIAL
7 OCCASION PERMIT MAY SELL LIQUOR OR MALT OR BREWED BEVERAGES
8 SHALL BE LIMITED TO THE HOURS SET FORTH IN SECTION 406 WHICH ARE
9 APPLICABLE TO HOTEL AND RESTAURANT LICENSEES. THE HOURS DURING
10 WHICH A NONPROFIT CORPORATION ENGAGED IN THE PERFORMING ARTS IN
11 A CITY OF THE THIRD CLASS MAY SELL LIQUOR OR MALT OR BREWED
12 BEVERAGES PURSUANT TO A SPECIAL OCCASION PERMIT SHALL BE LIMITED
13 TO THOSE HOURS SET FORTH IN SECTION 408.3(G.1).

14 (D.2) AT LEAST FORTY-EIGHT HOURS PRIOR TO THE SALE OF ANY
15 LIQUOR OR MALT OR BREWED BEVERAGES, THE HOLDER OF A SPECIAL
16 OCCASION PERMIT SHALL NOTIFY THE LOCAL POLICE DEPARTMENT, OR IN
17 THE ABSENCE OF A LOCAL POLICE DEPARTMENT, THE PENNSYLVANIA STATE
18 POLICE, OF THE TIMES WHEN AND PLACE WHERE THE SALE OF LIQUOR OR
19 MALT OR BREWED BEVERAGES SHALL OCCUR.

20 (E) THE PROVISIONS OF THIS SECTION SHALL NOT BE APPLICABLE
21 TO ANY LICENSEE NOW OR HEREAFTER POSSESSING A CATERER'S LICENSE,
22 NOR TO ANY PROFESSIONAL FUND RAISER.

23 (F) ANY PERSON SELLING LIQUOR OR MALT OR BREWED BEVERAGES IN
24 VIOLATION OF THIS SECTION SHALL, UPON SUMMARY CONVICTION, BE
25 SENTENCED TO PAY A FINE OF TWO HUNDRED FIFTY DOLLARS (\$250) FOR
26 THE FIRST OFFENSE AND A FINE OF FIVE HUNDRED DOLLARS (\$500) FOR
27 EACH SUBSEQUENT OFFENSE. THIS FINE SHALL BE IN ADDITION TO ANY
28 OTHER PENALTY IMPOSED BY LAW FOR THE ILLEGAL SALE OF MALT OR
29 BREWED BEVERAGES.

30 ~~SECTION 2. THE ACT IS AMENDED BY ADDING A SECTION TO READ:~~

<—

~~SECTION 408.11. SEASONAL OUTDOOR CAFE. (A) THE BOARD IS AUTHORIZED TO ISSUE A RESTRICTED RESTAURANT LICENSE IN A CITY OF THE FIRST CLASS FOR THE RETAIL SALE OF LIQUOR AND MALT OR BREWED BEVERAGES BY THE GLASS, OPEN BOTTLE OR OTHER CONTAINER OR IN ANY MIXTURE FOR CONSUMPTION IN A SEASONAL TEMPORARY OUTDOOR CAFE LOCATED ON PREMISES OWNED BY A CITY OF THE FIRST CLASS.~~

~~(B) THE APPLICATION FOR A LICENSE UNDER THIS SECTION MAY BE FILED AT ANY TIME BY A CONCESSIONAIRE SELECTED AND CERTIFIED BY THE CITY OF THE FIRST CLASS AND SHALL CONFORM WITH ALL REQUIREMENTS FOR RESTAURANT LIQUOR LICENSES AND APPLICATIONS, EXCEPT AS MAY OTHERWISE BE PROVIDED HEREIN. THE APPLICANT SHALL SUBMIT SUCH OTHER INFORMATION AS THE BOARD MAY REQUIRE. AN APPLICATION SHALL BE IN WRITING ON FORMS PRESCRIBED BY THE BOARD AND SHALL BE SIGNED AND SUBMITTED TO THE BOARD BY THE APPLICANT. THE FILING FEE SHALL BE AS PRESCRIBED BY LAW FOR RESTAURANT LICENSES.~~

~~(C) UPON RECEIPT OF THE APPLICATION IN PROPER FORM AND THE APPLICATION FEE AND UPON BEING SATISFIED THAT THE APPLICANT IS OF GOOD REPUTE AND FINANCIALLY RESPONSIBLE, THE BOARD SHALL ISSUE A LICENSE TO THE APPLICANT.~~

~~(D) THE LICENSE SHALL BE ISSUED FOR THE SAME PERIOD OF TIME AS PROVIDED FOR RESTAURANT LICENSES AND SHALL BE RENEWED AS PROVIDED IN SECTION 402. THE LICENSE SHALL TERMINATE UPON REVOCATION BY THE BOARD OR UPON TERMINATION OF THE CONTRACT BETWEEN THE CONCESSIONAIRE AND THE CITY OF THE FIRST CLASS.~~

~~(E) THE CHARACTERISTICS OF A RESTAURANT SET FORTH IN SECTION 102 SHALL NOT APPLY TO THE SEASONAL TEMPORARY OUTDOOR CAFE LICENSED UNDER THIS SECTION. THE SEASONAL TEMPORARY OUTDOOR CAFE SHALL BE AN OPEN AIR FACILITY WITH TABLES AND CHAIRS SUFFICIENT TO SEAT AT LEAST THIRTY PERSONS. THE SEASONAL TEMPORARY OUTDOOR~~

~~CAFE WILL CONSIST OF A TEMPORARY STRUCTURE MEASURING NOT LESS THAN FOURTEEN FEET BY TEN FEET BY TEN FEET WITH A TWENTY FEET BY TWENTY FEET TENT ADJACENT TO OR CONNECTED TO THIS STRUCTURE OVER A TWENTY FOUR FEET BY TWENTY FOUR FEET DECK AND LOCATED ON PROPERTY OWNED BY A CITY OF THE FIRST CLASS.~~

~~(F) THE PENAL SUM OF THE BOND WHICH SHALL BE FILED BY AN APPLICANT FOR A LICENSE ISSUED UNDER THIS SECTION, PURSUANT TO SECTION 465, SHALL BE TWO THOUSAND DOLLARS (\$2,000).~~

~~(G) SALES BY THE HOLDER OF A LICENSE ISSUED UNDER THIS SECTION MAY BE MADE, EXCEPT TO THOSE PERSONS PROHIBITED UNDER CLAUSE (1) OF SECTION 493, ON PREMISES OWNED BY THE CITY OF THE FIRST CLASS AND AVAILABLE FOR USE DURING THE HOURS IN WHICH THE SEASONAL TEMPORARY CAFE IS OPERATED AND UP TO ONE HOUR AFTER THE SCHEDULED CLOSING, AND AT FUNCTIONS WHICH ARE INCIDENTAL TO THE SEASONAL TEMPORARY CAFE, BUT SUCH SALES MAY NOT BE MADE BEYOND THE HOURS EXPRESSED IN THIS ACT FOR THE SALE OF LIQUOR BY RESTAURANT LICENSEES: PROVIDED, HOWEVER, THAT SUCH SALES MAY BE MADE ON SUNDAY BETWEEN THE HOURS OF TWELVE O'CLOCK NOON AND EIGHT O'CLOCK POSTMERIDIAN.~~

~~(H) WHENEVER A CONTRACT IS TERMINATED PRIOR TO THE EXPIRATION DATE PROVIDED IN THE CONTRACT BETWEEN THE CITY OF THE FIRST CLASS AND THE CONCESSIONAIRE, THE CITY OF THE FIRST CLASS MAY SELECT AND CERTIFY TO THE BOARD A DIFFERENT CONCESSIONAIRE AND THE BOARD SHALL TRANSFER THAT LICENSE TO THE NEW CONCESSIONAIRE. A LICENSE ISSUED UNDER THIS SECTION SHALL NOT BE TRANSFERRED TO ANY OTHER LOCATION. IF THE LICENSE ISSUED UNDER THIS SECTION IS REVOKED, THE BOARD SHALL ISSUE A NEW LICENSE TO A QUALIFIED APPLICANT WITHOUT REGARD TO THE PROHIBITION IN SECTION 471 AGAINST THE GRANT OF A LICENSE AT THE SAME PREMISES FOR A PERIOD OF AT LEAST ONE YEAR.~~

1 ~~SECTION 3. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:~~

2 ~~(1) THE ADDITION OF SECTION 408.11 AND THIS SECTION~~
3 ~~SHALL TAKE EFFECT IMMEDIATELY.~~

4 ~~(2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN 60~~
5 ~~DAYS.~~

6 SECTION 4. SECTION 461(A) OF THE ACT, AMENDED APRIL 29, 1994 <—
7 (P.L.212, NO.30), IS AMENDED TO READ:

8 SECTION 461. LIMITING NUMBER OF RETAIL LICENSES TO BE ISSUED
9 IN EACH MUNICIPALITY.--(A) NO LICENSES SHALL HEREAFTER BE
10 GRANTED BY THE BOARD FOR THE RETAIL SALE OF MALT OR BREWED
11 BEVERAGES OR THE RETAIL SALE OF LIQUOR AND MALT OR BREWED
12 BEVERAGES IN EXCESS OF ONE OF SUCH LICENSES OF ANY CLASS FOR
13 EACH THREE THOUSAND INHABITANTS IN ANY MUNICIPALITY, EXCLUSIVE
14 OF LICENSES GRANTED TO AIRPORT RESTAURANTS, MUNICIPAL GOLF
15 COURSES, HOTELS, PRIVATELY-OWNED PUBLIC GOLF COURSES AND UNITS
16 OF NONPROFIT NATIONALLY CHARTERED CLUBS, AS DEFINED IN THIS
17 SECTION WHOSE APPLICATIONS ARE FILED ON OR BEFORE DECEMBER 31,
18 1994, AND EXCEPT THOSE UNITS FALLING UNDER SECTION 461.1, AND
19 CLUBS; BUT AT LEAST ONE SUCH LICENSE MAY BE GRANTED IN EACH
20 MUNICIPALITY AND IN EACH PART OF A MUNICIPALITY WHERE SUCH
21 MUNICIPALITY IS SPLIT SO THAT EACH PART THEREOF IS SEPARATED BY
22 ANOTHER MUNICIPALITY, EXCEPT IN MUNICIPALITIES WHERE THE
23 ELECTORS HAVE VOTED AGAINST THE GRANTING OF ANY RETAIL LICENSES
24 AND EXCEPT IN THAT PART OF A SPLIT MUNICIPALITY WHERE THE
25 ELECTORS HAVE VOTED AGAINST THE GRANTING OF ANY RETAIL LICENSES.
26 NOTHING CONTAINED IN THIS SECTION SHALL BE CONSTRUED AS DENYING
27 THE RIGHT TO THE BOARD TO RENEW OR TO TRANSFER EXISTING RETAIL
28 LICENSES OF ANY CLASS NOTWITHSTANDING THAT THE NUMBER OF SUCH
29 LICENSED PLACES IN A MUNICIPALITY SHALL EXCEED THE LIMITATION
30 HEREINBEFORE PRESCRIBED; BUT WHERE SUCH NUMBER EXCEEDS THE

1 LIMITATION PRESCRIBED BY THIS SECTION, NO NEW LICENSE, EXCEPT
2 FOR HOTELS, MUNICIPAL GOLF COURSES, AIRPORT RESTAURANTS,
3 PRIVATELY-OWNED PUBLIC GOLF COURSES AND PRIVATELY-OWNED PRIVATE
4 GOLF COURSE LICENSEES AND, UNITS OF NONPROFIT NATIONALLY
5 CHARTERED CLUBS, AS DEFINED IN THIS SECTION WHOSE APPLICATIONS
6 ARE FILED ON OR BEFORE DECEMBER 31, 1994, AND EXCEPT THOSE UNITS
7 FALLING UNDER SECTION 461.1, SHALL BE GRANTED SO LONG AS SAID
8 LIMITATION IS EXCEEDED.

9 * * *

10 SECTION 5. SECTION 464 OF THE ACT, AMENDED JUNE 30, 1992
11 (P.L.327, NO.66), IS AMENDED TO READ:

12 SECTION 464. HEARINGS UPON REFUSAL OF LICENSES, RENEWALS OR
13 TRANSFERS; APPEALS.--THE BOARD MAY OF ITS OWN MOTION, AND SHALL
14 UPON THE WRITTEN REQUEST OF ANY APPLICANT FOR CLUB, HOTEL OR
15 RESTAURANT LIQUOR LICENSE, OR ANY APPLICANT FOR ANY MALT OR
16 BREWED BEVERAGE LICENSE OTHER THAN A PUBLIC SERVICE LICENSE, OR
17 FOR RENEWAL OR TRANSFER THEREOF, OR FOR THE RENEWAL OF AN
18 AMUSEMENT PERMIT, WHOSE APPLICATION FOR SUCH LICENSE, RENEWAL OR
19 TRANSFER, OR THE RENEWAL OF AN AMUSEMENT PERMIT, HAS BEEN
20 REFUSED, FIX A TIME AND PLACE FOR HEARING OF SUCH APPLICATION
21 FOR LICENSE OR FOR RENEWAL OR TRANSFER THEREOF, OR THE RENEWAL
22 OF AN AMUSEMENT PERMIT, NOTICE OF WHICH HEARING SHALL BE MAILED
23 TO THE APPLICANT AT THE ADDRESS GIVEN IN HIS APPLICATION. SUCH
24 HEARING SHALL BE BEFORE A HEARING EXAMINER DESIGNATED BY THE
25 BOARD. AT SUCH HEARING, THE BOARD SHALL PRESENT ITS REASONS FOR
26 ITS REFUSAL OR WITHHOLDING OF LICENSE, RENEWAL OR TRANSFER
27 THEREOF, OR ITS REFUSAL FOR RENEWAL OF AN AMUSEMENT PERMIT. THE
28 APPLICANT MAY APPEAR IN PERSON OR BY COUNSEL, MAY CROSS-EXAMINE
29 THE WITNESSES FOR THE BOARD AND MAY PRESENT EVIDENCE WHICH SHALL
30 LIKEWISE BE SUBJECT TO CROSS-EXAMINATION BY THE BOARD. SUCH

1 HEARING SHALL BE STENOGRAPHICALLY RECORDED. THE HEARING EXAMINER
2 SHALL THEREAFTER REPORT, WITH THE EXAMINER'S RECOMMENDATION, TO
3 THE BOARD IN EACH CASE. THE BOARD SHALL THEREUPON GRANT OR
4 REFUSE THE LICENSE, RENEWAL OR TRANSFER THEREOF, OR THE RENEWAL
5 OF AN AMUSEMENT PERMIT. IN CONSIDERING THE RENEWAL OF A LICENSE
6 OR AMUSEMENT PERMIT, THE BOARD SHALL NOT REFUSE ANY SUCH RENEWAL
7 ON THE BASIS OF THE PROPRIETY OF THE ORIGINAL ISSUANCE OR ANY
8 PRIOR RENEWAL OF SUCH LICENSE OR AMUSEMENT PERMIT. IF THE BOARD
9 SHALL REFUSE SUCH LICENSE, RENEWAL OR TRANSFER, OR THE RENEWAL
10 OF AN AMUSEMENT PERMIT FOLLOWING SUCH HEARING, NOTICE IN WRITING
11 OF SUCH REFUSAL SHALL BE MAILED TO THE APPLICANT AT THE ADDRESS
12 GIVEN IN HIS APPLICATION. IN ALL SUCH CASES, THE BOARD SHALL
13 FILE OF RECORD AT LEAST A BRIEF STATEMENT IN THE FORM OF AN
14 OPINION OF THE REASONS FOR THE RULING OR ORDER AND FURNISH A
15 COPY THEREOF TO THE APPLICANT. ANY APPLICANT WHO HAS APPEARED AT
16 ANY HEARING, AS ABOVE PROVIDED, WHO IS AGGRIEVED BY THE REFUSAL
17 OF THE BOARD TO ISSUE ANY SUCH LICENSE OR TO RENEW OR TRANSFER
18 ANY SUCH LICENSE, OR TO RENEW ANY AMUSEMENT PERMIT MAY APPEAL,
19 OR ANY CHURCH, HOSPITAL, CHARITABLE INSTITUTION, SCHOOL OR
20 PUBLIC PLAYGROUND LOCATED WITHIN THREE HUNDRED FEET OF THE
21 PREMISES APPLIED FOR, AGGRIEVED BY THE ACTION OF THE BOARD IN
22 GRANTING THE ISSUANCE OF ANY SUCH LICENSE OR THE TRANSFER OF ANY
23 SUCH LICENSE, MAY TAKE AN APPEAL LIMITED TO THE QUESTION OF SUCH
24 GRIEVANCE, WITHIN TWENTY DAYS FROM DATE OF REFUSAL OR GRANT, TO
25 THE COURT OF COMMON PLEAS OF THE COUNTY IN WHICH THE PREMISES OR
26 PERMIT APPLIED FOR IS LOCATED. SUCH APPEAL SHALL BE UPON
27 PETITION OF THE AGGRIEVED PARTY, WHO SHALL SERVE A COPY THEREOF
28 UPON THE BOARD, WHEREUPON A HEARING SHALL BE HELD UPON THE
29 PETITION BY THE COURT UPON TEN DAYS' NOTICE TO THE BOARD. THE
30 SAID APPEAL SHALL ACT AS A SUPERSEDEAS UNLESS UPON SUFFICIENT

1 CAUSE SHOWN THE COURT SHALL DETERMINE OTHERWISE. THE COURT SHALL
2 HEAR THE APPLICATION DE NOVO ON QUESTIONS OF FACT,
3 ADMINISTRATIVE DISCRETION AND SUCH OTHER MATTERS AS ARE
4 INVOLVED, AT SUCH TIME AS IT SHALL FIX, OF WHICH NOTICE SHALL BE
5 GIVEN TO THE BOARD. THE COURT SHALL EITHER SUSTAIN OR OVER-RULE
6 THE ACTION OF THE BOARD AND EITHER ORDER OR DENY THE ISSUANCE OF
7 A NEW LICENSE OR THE RENEWAL OR TRANSFER OF THE LICENSE OR THE
8 RENEWAL OF AN AMUSEMENT PERMIT TO THE APPLICANT.

9 SECTION 6. THE ACT IS AMENDED BY ADDING A SECTION TO READ:

10 SECTION 478. RENEWAL OF AMUSEMENT PERMIT.--(A) UPON THE
11 ANNUAL REVIEW OF THE OPERATING HISTORY OF A LICENSEE PRIOR TO
12 THE VALIDATION PERIOD OR THE PERIODIC RENEWAL OF THE LICENSE,
13 THE DIRECTOR OF THE BUREAU OF LICENSING SHALL HAVE THE AUTHORITY
14 TO STATE OBJECTION TO THE RENEWAL OF THE AMUSEMENT PERMIT AS
15 REQUIRED BY SECTION 493(10). SUCH OBJECTION SHALL BE BASED UPON
16 THE OPERATING HISTORY AND NOTICE SHALL BE PROVIDED TO THE
17 LICENSEE IN WRITING, BY CERTIFIED MAIL, AT THE ADDRESS LISTED ON
18 THE LICENSE. UPON THE COMPLETION OF ANY HEARING CONDUCTED
19 CONCERNING THE RENEWAL OF THE AMUSEMENT PERMIT PURSUANT TO
20 SECTION 464, THE BOARD MAY, IN ITS ~~DISCRETION~~ OPINION, REFUSE TO <—
21 RENEW THE AMUSEMENT PERMIT.

22 (B) IN CASES WHERE THE BOARD REFUSES TO RENEW THE AMUSEMENT
23 PERMIT OF ANY LICENSEE, THE LICENSEE OR THE APPLICANT OR MANAGER
24 OR PERSON WITH A MAJORITY OR CONTROLLING INTEREST OF EITHER IN
25 THE OPERATION OF THIS OR ANY OTHER LICENSE MAY NOT AGAIN BE
26 ELIGIBLE TO RECEIVE A NEW PERMIT FROM THE BOARD UNTIL THE
27 EXPIRATION OF A PERIOD OF UP TO TWO YEARS FROM THE FINAL
28 ADJUDICATION ON SUCH MATTER, BASED UPON BOARD ~~DISCRETION~~ <—
29 OPINION. <—

30 (C) ANY APPEAL TO COURT FILED BY A LICENSEE PURSUANT TO

1 SECTION 464 CONCERNING THE RENEWAL OF A PERMIT SHALL ACT AS
2 SUPERSEDEAS, UNLESS UPON SUFFICIENT CAUSE SHOWN, THE REVIEWING
3 AUTHORITY DETERMINES OTHERWISE. UPON THE FILING OF A MOTION BY
4 THE BOARD TO VACATE SUPERSEDEAS, THE REVIEWING AUTHORITY SHALL
5 RULE ON THE MOTION FORTHWITH.

6 SECTION 4 7. SECTIONS 491(5) AND 493(7) OF THE ACT ARE <—
7 AMENDED TO READ:

8 SECTION 491. UNLAWFUL ACTS RELATIVE TO LIQUOR, ALCOHOL AND
9 LIQUOR LICENSEES.--

10 IT SHALL BE UNLAWFUL--

11 * * *

12 (5) FAILURE TO [BREAK] PROPERLY DISPOSE OF EMPTY LIQUOR
13 CONTAINERS. FOR ANY RESTAURANT, HOTEL OR CLUB LICENSEE, HIS
14 SERVANTS, AGENTS OR EMPLOYES, TO FAIL TO BREAK ANY PACKAGE IN
15 WHICH LIQUORS WERE CONTAINED, EXCEPT THOSE DECANTER PACKAGES
16 THAT THE BOARD DETERMINES TO BE DECORATIVE, WITHIN TWENTY-FOUR
17 HOURS AFTER THE ORIGINAL CONTENTS WERE REMOVED THEREFROM[.],
18 UNLESS THE LICENSEE PARTICIPATES IN EITHER A MUNICIPAL RECYCLING
19 PROGRAM, IN ACCORDANCE WITH THE ACT OF JULY 28, 1988 (P.L.556,
20 NO.101), KNOWN AS THE "MUNICIPAL WASTE PLANNING, RECYCLING AND
21 WASTE REDUCTION ACT," OR A VOLUNTARY RECYCLING PROGRAM. THE
22 LICENSEE SHALL PROVIDE PROOF IN WRITING OF THE PARTICIPATION IN
23 A RECYCLING PROGRAM UPON THE DEMAND OF THE BUREAU OF LIQUOR
24 CONTROL ENFORCEMENT OF THE PENNSYLVANIA STATE POLICE. THE PROOF
25 OF PARTICIPATION SHALL BE PROVIDED IN A MANNER AS PRESCRIBED BY
26 THE PENNSYLVANIA LIQUOR CONTROL BOARD.

27 * * *

28 SECTION 493. UNLAWFUL ACTS RELATIVE TO LIQUOR, MALT AND
29 BREWED BEVERAGES AND LICENSEES.--THE TERM "LICENSEE," WHEN USED
30 IN THIS SECTION, SHALL MEAN THOSE PERSONS LICENSED UNDER THE

1 PROVISIONS OF ARTICLE IV, UNLESS THE CONTEXT CLEARLY INDICATES
2 OTHERWISE.

3 IT SHALL BE UNLAWFUL--

4 * * *

5 (7) ALCOHOLIC STRENGTH ON LABEL OF MALT OR BREWED BEVERAGES.
6 FOR ANY LICENSEE, OR HIS SERVANTS, AGENTS OR EMPLOYES, TO
7 TRANSPORT, SELL, DELIVER OR PURCHASE ANY MALT OR BREWED
8 BEVERAGES UPON WHICH THERE SHALL APPEAR A LABEL OR OTHER
9 INFORMATIVE DATA WHICH [IN ANY MANNER] REFERS TO THE ALCOHOLIC
10 CONTENTS OF THE MALT OR BREWED BEVERAGE[, OR WHICH REFERS IN ANY
11 MANNER TO THE ORIGINAL ALCOHOLIC STRENGTH, EXTRACT OR BALLING
12 PROOF FROM WHICH SUCH MALT OR BREWED BEVERAGE WAS PRODUCED.] IN
13 ANY TERMS OTHER THAN AS A PERCENTAGE OF ALCOHOL BY VOLUME. THIS
14 CLAUSE SHALL BE CONSTRUED TO PERMIT, BUT NOT TO REQUIRE, A
15 MANUFACTURER TO DESIGNATE UPON THE LABEL OR DESCRIPTIVE DATA THE
16 ALCOHOLIC CONTENT OF MALT OR BREWED BEVERAGES IN PERCENTAGE OF
17 ALCOHOL BY VOLUME. THIS CLAUSE SHALL NOT BE CONSTRUED TO
18 PROHIBIT A MANUFACTURER FROM DESIGNATING UPON THE LABEL OR
19 DESCRIPTIVE DATA THE ALCOHOLIC CONTENT OF MALT OR BREWED
20 BEVERAGES INTENDED FOR SHIPMENT INTO ANOTHER STATE OR TERRITORY,
21 WHEN THE LAWS OF SUCH STATE OR TERRITORY REQUIRE THAT THE
22 ALCOHOLIC CONTENT OF THE MALT OR BREWED BEVERAGE MUST BE STATED
23 UPON THE PACKAGE.

24 * * *

25 SECTION 8. THE ACT IS AMENDED BY ADDING A SECTION TO READ: <—
26 SECTION 493.1. RIGHTS OF MUNICIPALITIES PRESERVED.--NOTHING
27 IN THIS ACT SHALL BE CONSTRUED TO PREEMPT THE RIGHT OF ANY
28 MUNICIPALITY TO REGULATE ZONING AND ENFORCE ANY OTHER LOCAL
29 ORDINANCES AND CODES DEALING WITH HEALTH AND WELFARE ISSUES.

30 SECTION ~~5-8~~ 9. SECTION 499 OF THE ACT, ADDED DECEMBER 7, <—

1 1990 (P.L.622, NO.160), IS AMENDED TO READ:

2 SECTION 499. PREMISES TO BE VACATED BY PATRONS.--(A) EXCEPT
3 AS PROVIDED FOR [IN SUBSECTION (B)] ELSEWHERE IN THIS SECTION,
4 ALL PATRONS OF A LICENSEE SHALL BE REQUIRED TO LEAVE THAT PART
5 OF THE PREMISES HABITUALLY USED FOR THE SERVING OF LIQUOR OR
6 MALT OR BREWED BEVERAGES TO GUESTS OR PATRONS NOT LATER THAN
7 ONE-HALF HOUR AFTER THE TIME THE LICENSEE IS REQUIRED BY THIS
8 ACT TO CEASE SERVING LIQUOR OR MALT OR BREWED BEVERAGES AND
9 SHALL NOT BE PERMITTED TO HAVE ANY PREVIOUSLY SERVED LIQUOR OR
10 MALT OR 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. PATRONS OF A
13 LICENSEE SHALL NOT BE PERMITTED TO REENTER THAT PORTION OF THE
14 PREMISES HABITUALLY USED FOR THE SERVING OF LIQUOR OR MALT OR
15 BREWED BEVERAGES BETWEEN THE TIME DESIGNATED BY THIS ACT FOR
16 PATRONS TO VACATE THE LICENSED PREMISES AND THE TIME DESIGNATED
17 BY THIS ACT WHEN THE SERVING OF LIQUOR OR MALT OR BREWED
18 BEVERAGES IS ALLOWED TO BEGIN, UNLESS THE LICENSEE HAS BEEN
19 GRANTED A PERMIT FOR EXTENDED HOURS FOOD SERVICE.

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

23 (1) NO LICENSEE MAY SELL MALT OR BREWED BEVERAGES IN EXCESS
24 OF ONE HUNDRED NINETY-TWO FLUID OUNCES IN ANY ONE SALE FOR
25 CONSUMPTION OFF THE PREMISES;

26 (2) SALES AND SERVICE OF MALT AND BREWED BEVERAGES FOR
27 CONSUMPTION OFF THE PREMISES ARE MADE PRIOR TO THE DESIGNATED
28 TIME THE LICENSEE IS REQUIRED BY THIS ACT TO CEASE SERVING
29 LIQUOR, MALT OR BREWED BEVERAGES;

30 (3) PERSONS WHO HAVE PURCHASED MALT AND BREWED BEVERAGES FOR

1 CONSUMPTION OFF THE PREMISES SHALL REMOVE THE MALT AND BREWED
2 BEVERAGES FROM THE PREMISES BY THE DESIGNATED TIME AS CONTAINED
3 IN THIS ACT THAT PATRONS ARE REQUIRED TO VACATE THE PREMISES;

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

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

15 (B.1) UPON APPLICATION OF ANY CLUB, THE BOARD SHALL ISSUE A
16 CLUB EXTENDED HOURS FOOD PERMIT FOR A PERIOD OF SIX (6) DAYS
17 DURING THE TERM OF ITS LICENSE. THE BOARD SHALL ISSUE
18 REGULATIONS GOVERNING TERMS OF THE APPLICATION. THE PERMITS
19 SHALL BE USED SOLELY FOR THE PURPOSE OF SERVING FOOD BETWEEN THE
20 HOURS OF THREE O'CLOCK ANTEMERIDIAN AND SEVEN O'CLOCK
21 ANTEMERIDIAN. ALL PATRONS OF A LICENSEE SHALL BE REQUIRED TO
22 LEAVE THAT PART OF THE PREMISES HABITUALLY USED FOR THE SERVING
23 OF LIQUOR OR MALT OR BREWED BEVERAGES TO GUESTS OR PATRONS NOT
24 LATER THAN ONE-HALF HOUR AFTER THE TIME THE LICENSEE IS REQUIRED
25 BY THIS ACT TO CEASE SERVING LIQUOR OR MALT OR BREWED BEVERAGES
26 AND SHALL NOT BE PERMITTED TO HAVE ANY PREVIOUSLY SERVED LIQUOR
27 OR MALT OR BREWED BEVERAGES IN THEIR POSSESSION, NOR SHALL THEY
28 BE PERMITTED TO REMOVE ANY PREVIOUSLY SERVED LIQUOR OR MALT OR
29 BREWED BEVERAGES FROM THAT PART OF THE PREMISES.

30 (C) ANY [OWNER OF LICENSED PREMISES] LICENSEE WHO VIOLATES

1 THIS SECTION FOR THE FIRST OFFENSE COMMITS A SUMMARY OFFENSE AND
2 SHALL, UPON CONVICTION, BE SENTENCED TO PAY A FINE OF NOT MORE
3 THAN THREE HUNDRED DOLLARS (\$300) OR TO IMPRISONMENT FOR NOT
4 MORE THAN NINETY (90) DAYS, OR BOTH, AND FOR THE SECOND OR ANY
5 SUBSEQUENT OFFENSE COMMITS A MISDEMEANOR OF THE THIRD DEGREE AND
6 SHALL, UPON CONVICTION, BE SENTENCED TO PAY A FINE OF NOT MORE
7 THAN TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500) OR TO
8 IMPRISONMENT FOR NOT MORE THAN ONE (1) YEAR, OR BOTH.

9 SECTION ~~6-9~~ 10. (A) THE AMENDMENT OF SECTION 404 OF THE ACT <—
10 SHALL APPLY TO APPLICATIONS FILED AFTER THE EFFECTIVE DATE OF
11 THE AMENDMENT OF SECTION 404 OF THE ACT.

12 (B) IF AN APPLICATION UNDER SUBSECTION (A) HAS NOT RECEIVED
13 FINAL ACTION BEFORE JULY 1, 1996, THE APPLICATION SHALL BE
14 GOVERNED BY THE LAW AT THE TIME THE APPLICATION WAS FILED. THIS
15 SUBSECTION SHALL APPLY UNTIL ALL APPEALS HAVE BEEN EXHAUSTED.

16 SECTION ~~7-10~~ 11. BY DECEMBER 31, 1995, THE PENNSYLVANIA <—
17 LIQUOR CONTROL BOARD SHALL SUBMIT A REPORT ON THE IMPLEMENTATION
18 OF THE AMENDMENT OF SECTION 404 OF THE ACT TO THE LAW AND
19 JUSTICE COMMITTEE OF THE SENATE AND THE LIQUOR CONTROL COMMITTEE
20 OF THE HOUSE OF REPRESENTATIVES.

21 SECTION ~~8-11~~ 12. THIS ACT SHALL TAKE EFFECT AS FOLLOWS: <—

22 (1) THE AMENDMENT OF SECTION 404 OF THE ACT SHALL TAKE
23 EFFECT IN 30 DAYS.

24 (2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT
25 IMMEDIATELY.