

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1755 Session of  
1979

INTRODUCED BY CALTAGIRONE, SEPTEMBER 25, 1979

REFERRED TO COMMITTEE ON LIQUOR CONTROL, SEPTEMBER 25, 1979

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 transferring certain powers and duties relating to  
18 enforcement from the Liquor Control Board to the Pennsylvania  
19 State Police.

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

22 Section 1. The title and subsection (h) of section 207, act  
23 of April 12, 1951 (P.L.90, No.21), known as the "Liquor Code,"  
24 are amended to read:

AN ACT

25  
26 Relating to alcoholic liquors, alcohol and malt and brewed

1 beverages; amending, revising, consolidating and changing the  
2 laws relating thereto; regulating and restricting the  
3 manufacture, purchase, sale, possession, consumption,  
4 importation, transportation, furnishing, holding in bond,  
5 holding in storage, traffic in and use of alcoholic liquors,  
6 alcohol and malt and brewed beverages and the persons engaged  
7 or employed therein; defining the powers and duties of the  
8 Pennsylvania Liquor Control Board; imposing certain powers  
9 and duties on the Pennsylvania State Police; providing for  
10 the establishment and operation of State liquor stores, for  
11 the payment of certain license fees to the respective  
12 municipalities and townships, for the abatement of certain  
13 nuisances and, in certain cases, for search and seizure  
14 without warrant; prescribing penalties and forfeitures;  
15 providing for local option, and repealing existing laws.

16 Section 207. General Powers of Board.--Under this act, the  
17 board shall have the power and its duty shall be:

18 \* \* \*

19 (h) Without in any way limiting or being limited by the  
20 foregoing except law enforcement, to do all such things and  
21 perform all such acts as are deemed necessary or advisable for  
22 the purpose of carrying into effect the provisions of this act  
23 and the regulations made thereunder.

24 \* \* \*

25 Section 2. Subsection (j) of section 207 of the act is  
26 repealed.

27 Section 3. Section 209 of the act, amended July 31, 1968  
28 (P.L.799, No.243), is amended to read:

29 Section 209. Law Enforcement; Enforcement Officers and  
30 Investigators of the [Board] Pennsylvania State Police to be

1 Peace Officers; Powers.--(a) The Pennsylvania State Police, its  
2 enforcement officers and investigators shall investigate,  
3 whenever any person complains, or when there is reasonable  
4 grounds to believe liquor or malt or brewed beverage is being  
5 sold on premises not licensed under the provisions of this act.  
6 If the investigation produces evidence of the unlawful sale of  
7 liquor or malt or brewed beverage or of any other violation of  
8 the provisions of this act, the Pennsylvania State Police shall  
9 cause the prosecution of the person or persons believed to have  
10 been criminally liable for the unlawful acts. Any equipment or  
11 appurtenances actually used in the commission of the unlawful  
12 acts may be confiscated upon direction of the Pennsylvania State  
13 Police. Said confiscation shall not, in any manner, divest or  
14 impair the rights or interest of any bona fide lien holder in  
15 the equipment or appurtenances, who had no knowledge that the  
16 same was being used in violation of this act.

17 (b) [Such] Pennsylvania State Police Officers, and such  
18 employees of the [board] Pennsylvania State Police as are  
19 designated "enforcement officers" or "investigators" who are  
20 hereby declared to be peace officers and are hereby given police  
21 power and authority throughout the Commonwealth, are authorized  
22 to arrest on view, except in private homes, without warrant, any  
23 person actually engaged in the unlawful sale, importation,  
24 manufacture or transportation, or having unlawful possession of  
25 liquor, alcohol or malt or brewed beverages, contrary to the  
26 provisions of this act or any other law of this Commonwealth.  
27 Such police officers, enforcement officers and investigators  
28 shall have power and authority, upon reasonable and probable  
29 cause, to search for and to seize without warrant or process,  
30 except in private homes, any liquor, alcohol and malt or brewed

1 beverages unlawfully possessed, manufactured, sold, imported or  
2 transported, and any stills, equipment, materials, utensils,  
3 vehicles, boats, vessels, animals, aircraft, or any of them,  
4 which are or have been used in the unlawful manufacture, sale,  
5 importation or transportation of the same. Such liquor, alcohol,  
6 malt or brewed beverages, stills, equipment, materials,  
7 utensils, vehicles, boats, vessels, animals or aircraft so  
8 seized shall be disposed of as hereinafter provided.

9 Enforcement officers or investigators may be retired upon  
10 reaching age sixty-five.

11 Section 4. Subsection (a) of section 431 of the act, amended  
12 August 17, 1965 (P.L.346, No.182), is amended to read:

13 Section 431. Malt and Brewed Beverages Manufacturers',  
14 Distributors' and Importing Distributors' Licenses.--(a) The  
15 board shall issue to any person a resident of this Commonwealth  
16 of good repute who applies therefor, pays the license fee  
17 hereinafter prescribed, and files the bond hereinafter required,  
18 a manufacturer's license to produce and manufacture malt or  
19 brewed beverages, and to transport, sell and deliver malt or  
20 brewed beverages at or from one or more places of manufacture or  
21 storage, only in original containers, in quantities of not less  
22 than a case of twenty-four containers, each container holding  
23 seven fluid ounces or more, or a case of twelve containers, each  
24 container holding twenty-four fluid ounces or more, except  
25 original containers containing one hundred twenty-eight ounces  
26 or more which may be sold separately anywhere within the  
27 Commonwealth. Licenses for places of storage shall be limited to  
28 those maintained by manufacturers on July eighteenth, one  
29 thousand nine hundred thirty-five, and the board shall issue no  
30 licenses for places of storage in addition to those maintained

1 on July eighteenth, one thousand nine hundred thirty-five. The  
2 application for such license shall be in such form and contain  
3 such information as the board shall require. All such licenses  
4 shall be granted for the calendar year. Every manufacturer shall  
5 keep at his or its principal place of business, within the  
6 Commonwealth daily permanent records which shall show, (1) the  
7 quantities of raw materials received and used in the manufacture  
8 of malt or brewed beverages and the quantities of malt or brewed  
9 beverages manufactured and stored, (2) the sales of malt or  
10 brewed beverages, (3) the quantities of malt or brewed beverages  
11 stored for hire or transported for hire by or for the licensee,  
12 and (4) the names and addresses of the purchasers or other  
13 recipients thereof. Every place licensed as a manufacturer shall  
14 be subject to inspection by members of the [board] Pennsylvania  
15 State Police or by persons duly authorized and designated by the  
16 board, at any and all times of the day or night, as they may  
17 deem necessary, for the detection of violations of this act or  
18 of the rules and regulations of the board, or for the purpose of  
19 ascertaining the correctness of the records required to be kept  
20 by licensees. The books and records of such licensees shall at  
21 all times be open to inspection by members of the [board]  
22 Pennsylvania State Police or by persons duly authorized and  
23 designated by the board. Members of the [board] Pennsylvania  
24 State Police and its duly authorized agents shall have the  
25 right, without hindrance, to enter any place which is subject to  
26 inspection hereunder or any place where such records are kept  
27 for the purpose of making such inspections and making  
28 transcripts thereof.

29 \* \* \*

30 Section 5. Subsections (c) and (d) of section 444 and

1 subsection (b) of section 470 of the act are amended to read:

2 Section 444. Malt or Brewed Beverages Manufactured Outside  
3 This Commonwealth.--\* \* \*

4 (c) Any malt or brewed beverages manufactured outside of  
5 Pennsylvania which are sold, transported or possessed in  
6 Pennsylvania contrary to any such regulations or orders of the  
7 board, or without the payment of the fees herein required, shall  
8 be considered contraband and shall be confiscated by the [board]  
9 Pennsylvania State Police and disposed of in the same manner as  
10 any other illegal liquor or malt or brewed beverages.

11 (d) Upon learning of the commission by a manufacturer of  
12 malt or brewed beverages whose principal place of business is  
13 outside this Commonwealth, or by any servant, agent, employe or  
14 representative of such manufacturer, within or partly within and  
15 partly outside this Commonwealth, of any violation of this act  
16 or any laws of this Commonwealth relating to liquor, alcohol or  
17 malt or brewed beverages, or of any regulation of the board  
18 adopted pursuant thereto, or of any violation of any laws of  
19 this Commonwealth or of the United States of America relating to  
20 the tax payment of liquor or malt or brewed beverages, the  
21 [board] Pennsylvania State Police shall cite such manufacturer  
22 to appear before [it] the board or [its] the board's examiner  
23 not less than ten nor more than fifteen days from the date of  
24 mailing such manufacturer at his principal place of business,  
25 wherever located, by registered mail, a notice to show cause why  
26 the further importation into this Commonwealth of malt or brewed  
27 beverages manufactured by him should not be prohibited.

28 \* \* \*

29 Section 470. Renewal of Licenses; Temporary Provisions for  
30 Licensees in Armed Service.--\* \* \*

1 (b) In cases where a licensee or his servants, agents or  
2 employes are arrested, charged with violating any of the laws of  
3 this Commonwealth relating to liquor, alcohol or malt or brewed  
4 beverages, and where the board has on file in such cases reports  
5 of the Pennsylvania State Police, its enforcement officers or  
6 investigators or from other sources that a licensee or his  
7 servants, agents or employes have violated any of the  
8 aforementioned laws and a proceeding to revoke such licensee's  
9 license is or is about to be instituted, and such arrest occurs  
10 or report of violations is received or revocation proceeding  
11 instituted or about to be instituted during the time a renewal  
12 application of such license is pending before the board, the  
13 board may, in its discretion, renew the license, notwithstanding  
14 such alleged violations, but such renewal license may be revoked  
15 if and when the licensee or any of his servants, agents or  
16 employes are convicted of or plead guilty to violations under  
17 the previous license, as aforesaid, or if and when such previous  
18 license is for any reason revoked.

19 In the event such renewal license is revoked by the board,  
20 neither the license fee paid for such license nor any part  
21 thereof shall be returned to the licensee, but the license bond  
22 filed with the application for such renewal of license shall not  
23 be forfeited.

24 \* \* \*

25 Section 6. Section 471 of the act, amended January 13, 1966  
26 (P.L.1965 P.L.1301, No.518), is amended to read:

27 Section 471. Revocation and Suspension of Licenses; Fines.--  
28 Upon learning of any violation of this act or any laws of this  
29 Commonwealth relating to liquor, alcohol or malt or brewed  
30 beverages, or of any regulations of the board adopted pursuant

1 to such laws, of any violation of any laws of this Commonwealth  
2 or of the United States of America relating to the tax-payment  
3 of liquor or malt or brewed beverages by any licensee within the  
4 scope of this article, his officers, servants, agents or  
5 employes, or upon any other sufficient cause shown, the [board]  
6 Pennsylvania State Police may, within one year from the date of  
7 such violation or cause appearing, cite such licensee to appear  
8 before [it] the board or [its] the board's examiner, not less  
9 than ten nor more than sixty days from the date of sending such  
10 licensee, by registered mail, a notice addressed to him at his  
11 licensed premises, to show cause why such license should not be  
12 suspended or revoked or a fine imposed. Hearings on such  
13 citations shall be held in the same manner as provided herein  
14 for hearings on applications for license. Upon such hearing, if  
15 satisfied that any such violation has occurred or for other  
16 sufficient cause, the board shall immediately suspend or revoke  
17 the license, or impose a fine of not less than fifty dollars  
18 (\$50) nor more than one thousand dollars (\$1,000), notifying the  
19 licensee by registered letter addressed to his licensed  
20 premises. In the event the fine is not paid within twenty days  
21 of the order the board shall suspend or revoke the license,  
22 notifying the licensee by registered mail addressed to his  
23 licensed premises. Suspensions and revocations shall not go into  
24 effect until twenty days have elapsed from the date of notice of  
25 issuance of the board's order, during which time the licensee  
26 may take an appeal as provided for in this act. When a license  
27 is revoked, the licensee's bond may be forfeited by the board.  
28 Any licensee whose license is revoked shall be ineligible to  
29 have a license under this act until the expiration of three  
30 years from the date such license was revoked. In the event the



1 board shall revoke a license, no license shall be granted for  
2 the premises or transferred to the premises in which the said  
3 license was conducted for a period of at least one year after  
4 the date of the revocation of the license conducted in the said  
5 premises, except in cases where the licensee or a member of his  
6 immediate family is not the owner of the premises, in which case  
7 the board may, in its discretion, issue or transfer a license  
8 within the said year. In all such cases, the board shall file of  
9 record at least a brief statement in the form of an opinion of  
10 the reasons for the ruling or order. In the event the person who  
11 was fined or whose license was suspended or revoked by the board  
12 shall feel aggrieved by the action of the board, he shall have  
13 the right to appeal to the court of quarter sessions or the  
14 county court of Allegheny County in the same manner as herein  
15 provided for appeals from refusals to grant licenses. Upon  
16 appeal, the court so appealed to shall, in the exercise of its  
17 discretion, sustain, reject, alter or modify the findings,  
18 conclusions and penalties of the board, based on the findings of  
19 fact and conclusions of law as found by the court. The aforesaid  
20 appeal shall act as a supersedeas unless upon sufficient cause  
21 shown the court shall determine otherwise. No penalty provided  
22 by this section shall be imposed by the board or any court for  
23 any violations provided for in this act unless the enforcement  
24 officer or the board notifies the licensee of its nature and of  
25 the date of the alleged violation within ten days of the  
26 completion of the investigation which in no event shall exceed  
27 ninety days.

28 If the violation in question is a third or subsequent  
29 violation of this act or the act of June 24, 1939 (P.L.872,  
30 No.375), known as "The Penal Code," occurring within a period of

1 four years the board shall impose a suspension or revocation.

2 The jurisdiction of the county court of Allegheny County  
3 conferred hereby shall be exclusive within the territorial  
4 limits of its jurisdiction.

5 Section 7. Clauses (12) and (21) of section 493 of the act,  
6 are amended to read:

7 Section 493. Unlawful Acts Relative to Liquor, Malt and  
8 Brewed Beverages and Licensees.--The term "licensee," when used  
9 in this section, shall mean those persons licensed under the  
10 provisions of Article IV, unless the context clearly indicates  
11 otherwise.

12 It shall be unlawful--

13 \* \* \*

14 (12) Failure to Have Records on Premises. For any liquor  
15 licensee, or any importing distributor, distributor or retail  
16 dispenser, to fail to keep on the licensed premises for a period  
17 of at least two years complete and truthful records covering the  
18 operation of his licensed business, particularly showing the  
19 date of all purchases of liquor and malt or brewed beverages,  
20 the actual price paid therefor, and the name of the vendor,  
21 including State Store receipts, or for any licensee, his  
22 servants, agents or employes, to refuse the [board] Pennsylvania  
23 State Police or an authorized employe of the [board]  
24 Pennsylvania State Police access thereto or the opportunity to  
25 make copies of the same when the request is made during business  
26 hours.

27 \* \* \*

28 (21) Refusing The Right of Inspection. For any licensee, or  
29 his servants, agents or employes, to refuse the [board]  
30 Pennsylvania State Police or any of its authorized employes the

1 right to inspect completely the entire licensed premises at any  
2 time during which the premises are open for the transaction of  
3 business, or when patrons, guests or members are in that portion  
4 of the licensed premises wherein either liquor or malt or brewed  
5 beverages are sold.

6 \* \* \*

7 Section 8. Section 505.2 of the act, amended March 27, 1972  
8 (P.L.153, No.57), is amended to read:

9 Section 505.2. Limited Wineries.--Holders of a limited  
10 winery license may:

11 (1) Produce wines only from fruits grown in Pennsylvania in  
12 an amount not to exceed one hundred thousand (100,000) gallons  
13 per year.

14 (2) Sell wine produced by the limited winery on the licensed  
15 premises, under such conditions and regulations as the board may  
16 [enforce] adopt, to the Liquor Control Board, to individuals and  
17 to hotel, restaurant, club and public service liquor licensees.

18 Section 9. Section 505.3 of the act, added July 30, 1975  
19 (P.L.136, No.68), is amended to read:

20 Section 505.3. Distilleries.--Distilleries of historical  
21 significance established more than one hundred years prior to  
22 January 1, 1975 which hold a license issued under section 505  
23 may sell liquor produced by the distillery on the licensed  
24 premises under such conditions and regulations as the board may  
25 [enforce] adopt.

26 Section 10. Section 513 and subsection (a) of section 514  
27 and section 519 of the act are amended to read:

28 Section 513. Premises and Records Subject To Inspection.--  
29 Every place operated under license secured under the provisions  
30 of this article where any alcohol, liquor or malt or brewed

1 beverage covered by the license is manufactured, produced,  
2 distilled, developed or used in the process of manufacture,  
3 denatured, redistilled, rectified, blended, recovered, reused,  
4 held in bond, stored for hire or in connection with a licensee's  
5 business, shall be subject to inspection by members of the  
6 [board] Pennsylvania State Police or by persons duly authorized  
7 and designated by [the board] it at any and all times of the day  
8 or night, as they may deem necessary, (a) for the detection of  
9 violations of this act or of the rules and regulations of the  
10 board promulgated under the authority of this act, or (b) for  
11 the purpose of ascertaining the correctness of the records  
12 required by this act to be kept by licensees and the books and  
13 records of licensees, and the books and records of their  
14 customers, in so far as they relate to purchases from said  
15 licensees, shall at all times be open to inspection by the  
16 members of the [board] Pennsylvania State Police or by persons  
17 duly authorized and designated by [the board] it for the purpose  
18 of making inspections as authorized by this section. Members of  
19 the [board] Pennsylvania State Police and the persons duly  
20 authorized and designated by [the board] it shall have the  
21 right, without fee or hindrance, to enter any place which is  
22 subject to inspection hereunder, or any place where records  
23 subject to inspection hereunder are kept, for the purpose of  
24 making such inspections.

25 Section 514. Suspension and Revocation of Licenses.--(a)  
26 Upon learning of any violation of this act or of any rule or  
27 regulation promulgated by the board under the authority of this  
28 act, or any violation of any laws of the Commonwealth or of the  
29 United States of America relating to the tax payment of alcohol,  
30 liquor or malt or brewed beverages by the holder of a license

1 issued under the provisions of this article, or upon other  
2 sufficient cause, the [board] Pennsylvania State Police may,  
3 within one year from the date of such violation or cause  
4 appearing, cite such licensee to appear before [it] the board or  
5 [its] the board's examiner not less than ten (10) nor more than  
6 fifteen (15) days from the date of sending such licensee, by  
7 registered mail, a notice addressed to his licensed premises, to  
8 show cause why the license should not be suspended or revoked.  
9 Hearings on such citations shall be held in the same manner as  
10 provided herein for hearings on applications for license. And  
11 upon such hearing, if satisfied that any such violation has  
12 occurred or for other sufficient cause, the board shall  
13 immediately suspend or revoke such license, notifying the  
14 licensee thereof by registered letter addressed to his licensed  
15 premises, or to the address given in his application where no  
16 licensed premises is maintained in Pennsylvania.

17 \* \* \*

18 Section 519. Penalties.--Any person or persons who knowingly  
19 violate any of the provisions of this article, or any person who  
20 shall violate any of the conditions of any license issued under  
21 the provisions of this article, or who shall falsify any record  
22 or report required by this article to be kept, or who shall  
23 violate any rule or regulation of the board, or who shall  
24 interfere with, hinder or obstruct any inspection authorized by  
25 this article, or prevent any member of the [board] Pennsylvania  
26 State Police or any person duly authorized and designated by the  
27 [board] Pennsylvania State Police from entering any place which  
28 such member of the board or such person is authorized by this  
29 article to enter for the purpose of making an inspection, or who  
30 shall violate any other provision of this article, shall be

1 guilty of a misdemeanor and, upon conviction thereof, shall be  
2 sentenced to pay a fine of not less than one hundred dollars  
3 (\$100), nor more than five thousand dollars (\$5000), or undergo  
4 imprisonment of not more than three (3) years, or both, at the  
5 discretion of the court.

6 Section 11. Section 601 of the act, amended April 20, 1956  
7 (1955 P.L.1508, No.499), is amended to read:

8 Section 601. Forfeiture of Property Illegally Possessed or  
9 Used.--No property rights shall exist in any liquor, alcohol or  
10 malt or brewed beverage illegally manufactured or possessed, or  
11 in any still, equipment, material, utensil, vehicle, boat,  
12 vessel, animals or aircraft used in the illegal manufacture or  
13 illegal transportation of liquor, alcohol or malt or brewed  
14 beverages, and the same shall be deemed contraband and  
15 proceedings for its forfeiture to the Commonwealth may, at the  
16 discretion of the [board] Pennsylvania State Police, be  
17 instituted in the manner hereinafter provided. No such property  
18 when in the custody of the law shall be seized or taken  
19 therefrom on any writ of replevin or like process.

20 Section 12. Sections 708, 712 and 741 of the act are amended  
21 to read:

22 Section 708. Records to be Kept.--Every person holding a  
23 permit issued under this act shall keep daily permanent records  
24 containing a complete record of all transactions in distillery  
25 bonded warehouse certificates within this Commonwealth, in such  
26 form and manner as the board may from time to time prescribe.  
27 Such records shall be available for examination by the [boards]  
28 Pennsylvania State Police and their enforcement officers or  
29 investigators at the broker's principal place of business or  
30 office in Pennsylvania.

1       Section 712. Revocation and Suspension of Permit.--Upon  
2 learning of any violation of this act or regulations of the  
3 board promulgated thereunder, or any violation of any laws of  
4 this Commonwealth or of the United States of America by the  
5 permittee, his officers, servants, agents or employees, or upon  
6 any other sufficient cause shown, the [board] Pennsylvania State  
7 Police may cite such permittee to appear before [it] the board  
8 or a member thereof not less than ten or more than fifteen days  
9 from the date of sending such permittee, by registered mail, a  
10 notice addressed to him at the address set forth in the  
11 application for permit, to show cause why such permit should not  
12 be suspended or revoked. When such notice is duly addressed and  
13 deposited in the post office, it shall be deemed due and  
14 sufficient notice. Hearings on such citations shall be held in  
15 the same manner as provided herein for hearing on application  
16 for permit. Upon such hearing, if satisfied that any such  
17 violation has occurred, or for other sufficient cause, the board  
18 shall immediately suspend or revoke the permit, notifying the  
19 permittee thereof by registered letter addressed to the address  
20 set forth in the application for permit. Any permittee whose  
21 permit is revoked shall be ineligible to have a permit under  
22 this act until the expiration of three years from the date such  
23 permit was revoked. In all such cases, the board shall file of  
24 record at least a brief statement in the form of an opinion of  
25 the reasons for the ruling or order.

26       Section 741. Duties of the [Board] Pennsylvania State  
27 Police.--It shall be the duty of the [board] Pennsylvania State  
28 Police to see that the provisions of this article are at all  
29 times properly administered and obeyed, and to take such  
30 measures and make such investigations as will detect the

1 violations of any provisions thereof. In the event it shall  
2 discover any violation, it shall, in addition to revoking any  
3 permit or registration of an agent, take such measures as may be  
4 necessary to cause the apprehension and prosecution of all  
5 persons deemed guilty thereof.

6       Section 13. All personnel, allocations, appropriations,  
7 equipment, files, records, contracts, agreements, obligations  
8 and other materials which are used, employed or expended in  
9 connection with the powers, duties or functions transferred by  
10 this act to the Pennsylvania State Police are hereby transferred  
11 to the Pennsylvania State Police with the same force and effect  
12 as if the appropriations had been made to and said items had  
13 been the property of the Pennsylvania State Police in the first  
14 instance and as if said contracts, agreements and obligations  
15 had been incurred or entered into by the Pennsylvania State  
16 Police.

17       Section 14. This act shall take effect July 1, 1980.