

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 THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
MAY 10, 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.

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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, for the purpose of hearing
6 testimony for and against applications for new licenses and
7 renewals thereof. The board may provide for the holding of such
8 hearings by examiners learned in the law, to be appointed by the
9 Governor, who shall not be subject to the "Civil Service Act."
10 Such examiners shall make report to the board in each case with
11 their recommendations. The board shall, by regulation, fix the
12 license year for each separate district so that the expiration
13 dates shall be uniform in each of the several districts but
14 staggered as to the State.

15 (b) Where a hearing is held in the case of an application
16 for a new hotel or restaurant liquor license or an application
17 for the transfer of a hotel or restaurant liquor license or when
18 the board is considering the renewal, suspension or revocation
19 of a license after the premises have been cited as a public
20 nuisance pursuant to section 611, the board shall permit
21 residents of the municipality to testify at the hearings. The
22 board and any hearing officer thereof shall give substantial
23 weight to any testimony by the resident of the municipality
24 given in connection with a public hearing. Decisions on
25 applications shall conform to the preponderance of the evidence
26 presented.

27 SECTION 2. SECTION 403(G) OF THE ACT, AMENDED NOVEMBER 19, <—
28 1959 (P.L.1546, NO.553), IS AMENDED TO READ:

29 SECTION 403. APPLICATIONS FOR HOTEL, RESTAURANT AND CLUB
30 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 DATE OF RECEIPT OF NOTICE BY THE MUNICIPALITY.

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SECTION 3. SECTION 404 OF THE ACT, AMENDED SEPTEMBER 2, 1971 (P.L.429, NO.103), IS AMENDED TO READ:

SECTION 404. ISSUANCE OF HOTEL, RESTAURANT AND CLUB LIQUOR LICENSES.--UPON RECEIPT OF THE APPLICATION, THE PROPER FEES AND BOND, AND UPON BEING SATISFIED OF THE TRUTH OF THE STATEMENTS IN THE APPLICATION THAT THE APPLICANT IS THE ONLY PERSON IN ANY MANNER PECUNIARILY INTERESTED IN THE BUSINESS SO ASKED TO BE LICENSED AND THAT NO OTHER PERSON WILL BE IN ANY MANNER PECUNIARILY INTERESTED THEREIN DURING THE CONTINUANCE OF THE LICENSE, EXCEPT AS HEREINAFTER PERMITTED, AND THAT THE APPLICANT IS A PERSON OF GOOD REPUTE, THAT THE PREMISES APPLIED FOR MEET ALL THE REQUIREMENTS OF THIS ACT AND THE REGULATIONS OF THE

1 BOARD, THAT THE APPLICANT SEEKS A LICENSE FOR A HOTEL,
2 RESTAURANT OR CLUB, AS DEFINED IN THIS ACT, AND THAT THE
3 ISSUANCE OF SUCH LICENSE IS NOT PROHIBITED BY ANY OF THE
4 PROVISIONS OF THIS ACT, THE BOARD SHALL, IN THE CASE OF A HOTEL
5 OR RESTAURANT, GRANT AND ISSUE TO THE APPLICANT A LIQUOR
6 LICENSE, AND IN THE CASE OF A CLUB MAY, IN ITS DISCRETION, ISSUE
7 OR REFUSE A LICENSE: PROVIDED, HOWEVER, THAT IN THE CASE OF ANY
8 NEW LICENSE OR THE TRANSFER OF ANY LICENSE TO A NEW LOCATION THE
9 BOARD MAY, IN ITS DISCRETION, GRANT OR REFUSE SUCH NEW LICENSE
10 OR TRANSFER IF SUCH PLACE PROPOSED TO BE LICENSED IS WITHIN
11 THREE HUNDRED FEET OF ANY CHURCH, HOSPITAL, CHARITABLE
12 INSTITUTION, SCHOOL, OR PUBLIC PLAYGROUND, OR IF SUCH NEW
13 LICENSE OR TRANSFER IS APPLIED FOR A PLACE WHICH IS WITHIN TWO
14 HUNDRED FEET OF ANY OTHER PREMISES WHICH IS LICENSED BY THE
15 BOARD, OR IF SUCH NEW LICENSE OR TRANSFER IS APPLIED FOR A PLACE
16 WHERE THE PRINCIPAL BUSINESS IS THE SALE OF LIQUID FUELS AND
17 OIL: AND PROVIDED FURTHER, THAT THE BOARD SHALL REFUSE ANY
18 APPLICATION FOR A NEW LICENSE OR THE TRANSFER OF ANY LICENSE TO
19 A NEW LOCATION IF, IN THE BOARD'S OPINION, SUCH NEW LICENSE OR
20 TRANSFER WOULD BE DETRIMENTAL TO THE WELFARE, HEALTH, PEACE AND
21 MORALS OF THE INHABITANTS OF THE NEIGHBORHOOD WITHIN A RADIUS OF
22 [FIVE HUNDRED] ONE THOUSAND FEET OF THE PLACE PROPOSED TO BE
23 LICENSED: AND PROVIDED FURTHER, THAT THE BOARD SHALL NOT ISSUE
24 NEW LICENSES IN ANY LICENSE DISTRICT MORE THAN TWICE EACH
25 LICENSE YEAR, EFFECTIVE FROM SPECIFIC DATES FIXED BY THE BOARD,
26 AND NEW LICENSES SHALL NOT BE GRANTED, EXCEPT FOR HOTELS AS
27 DEFINED IN THIS ACT, UNLESS THE APPLICATION THEREFOR SHALL HAVE
28 BEEN FILED AT LEAST THIRTY DAYS BEFORE THE EFFECTIVE DATE OF THE
29 LICENSE: AND PROVIDED FURTHER, THAT NOTHING HEREIN CONTAINED
30 SHALL PROHIBIT THE BOARD FROM ISSUING A NEW LICENSE FOR THE

1 BALANCE OF ANY UNEXPIRED TERM IN ANY LICENSE DISTRICT TO ANY
2 APPLICANT IN SUCH DISTRICT, WHO SHALL HAVE BECOME ELIGIBLE TO
3 HOLD SUCH LICENSE AS THE RESULT OF LEGISLATIVE ENACTMENT, WHEN
4 SUCH ENACTMENT SHALL HAVE TAKEN PLACE DURING THE LICENSE TERM OF
5 THAT DISTRICT FOR WHICH APPLICATION IS MADE OR WITHIN THE THIRTY
6 DAYS IMMEDIATELY PRECEDING SUCH TERM, NOR SHALL ANYTHING HEREIN
7 CONTAINED PROHIBIT THE BOARD FROM ISSUING AT ANY TIME A NEW
8 LICENSE FOR AN AIRPORT RESTAURANT, OR MUNICIPAL GOLF COURSE, AS
9 DEFINED IN SECTION 461 OF THIS ACT, FOR THE BALANCE OF THE
10 UNEXPIRED LICENSE TERM IN ANY LICENSE DISTRICT: AND PROVIDED
11 FURTHER, THAT THE BOARD SHALL HAVE THE DISCRETION TO REFUSE A
12 LICENSE TO ANY PERSON OR TO ANY CORPORATION, PARTNERSHIP OR
13 ASSOCIATION IF SUCH PERSON, OR ANY OFFICER OR DIRECTOR OF SUCH
14 CORPORATION, OR ANY MEMBER OR PARTNER OF SUCH PARTNERSHIP OR
15 ASSOCIATION SHALL HAVE BEEN CONVICTED OR FOUND GUILTY OF A
16 FELONY WITHIN A PERIOD OF FIVE YEARS IMMEDIATELY PRECEDING THE
17 DATE OF APPLICATION FOR THE SAID LICENSE.

18 SECTION 4. SECTION 471 OF THE ACT, AMENDED JANUARY 13, 1966
19 (1965 P.L.1301, NO.518) AND REPEALED IN PART JUNE 3, 1971
20 (P.L.118, NO.6), IS AMENDED TO READ:

21 SECTION 471. REVOCATION AND SUSPENSION OF LICENSES; FINES.--
22 (A) UPON LEARNING OF ANY VIOLATION OF THIS ACT OR ANY LAWS OF
23 THIS COMMONWEALTH RELATING TO LIQUOR, ALCOHOL OR MALT OR BREWED
24 BEVERAGES, OR OF ANY REGULATIONS OF THE BOARD ADOPTED PURSUANT
25 TO SUCH LAWS, OF ANY VIOLATION OF ANY LAWS OF THIS COMMONWEALTH
26 OR OF THE UNITED STATES OF AMERICA RELATING TO THE TAX-PAYMENT
27 OF LIQUOR OR MALT OR BREWED BEVERAGES BY ANY LICENSEE WITHIN THE
28 SCOPE OF THIS ARTICLE, HIS OFFICERS, SERVANTS, AGENTS OR
29 EMPLOYES, OR UPON ANY OTHER SUFFICIENT CAUSE SHOWN, THE BOARD
30 MAY, WITHIN ONE YEAR FROM THE DATE OF SUCH VIOLATION OR CAUSE

1 APPEARING, CITE SUCH LICENSEE TO APPEAR BEFORE IT OR ITS
2 EXAMINER, NOT LESS THAN TEN NOR MORE THAN SIXTY DAYS FROM THE
3 DATE OF SENDING SUCH LICENSEE, BY REGISTERED MAIL, A NOTICE
4 ADDRESSED TO HIM AT HIS LICENSED PREMISES, TO SHOW CAUSE WHY
5 SUCH LICENSE SHOULD NOT BE SUSPENDED OR REVOKED OR A FINE
6 IMPOSED. THE BOARD SHALL ALSO SEND A COPY OF THE HEARING NOTICE
7 TO THE MUNICIPALITY IN WHICH THE PREMISES IS LOCATED.

8 (B) HEARINGS ON SUCH CITATIONS SHALL BE HELD IN THE SAME
9 MANNER AS PROVIDED HEREIN FOR HEARINGS ON APPLICATIONS FOR
10 LICENSE. UPON SUCH HEARING, IF SATISFIED THAT ANY SUCH VIOLATION
11 HAS OCCURRED OR FOR OTHER SUFFICIENT CAUSE, THE BOARD SHALL
12 IMMEDIATELY SUSPEND OR REVOKE THE LICENSE, OR IMPOSE A FINE OF
13 NOT LESS THAN FIFTY DOLLARS (\$50) NOR MORE THAN ONE THOUSAND
14 DOLLARS (\$1,000), NOTIFYING THE LICENSEE BY REGISTERED LETTER
15 ADDRESSED TO HIS LICENSED PREMISES. IN THE EVENT THE FINE IS NOT
16 PAID WITHIN TWENTY DAYS OF THE ORDER THE BOARD SHALL SUSPEND OR
17 REVOKE THE LICENSE, NOTIFYING THE LICENSEE BY REGISTERED MAIL
18 ADDRESSED TO HIS LICENSED PREMISES. SUSPENSIONS AND REVOCATIONS
19 SHALL NOT GO INTO EFFECT UNTIL TWENTY DAYS HAVE ELAPSED FROM THE
20 DATE OF NOTICE OF ISSUANCE OF THE BOARD'S ORDER, DURING WHICH
21 TIME THE LICENSEE MAY TAKE AN APPEAL AS PROVIDED FOR IN THIS
22 ACT. WHEN A LICENSE IS REVOKED, THE LICENSEE'S BOND MAY BE
23 FORFEITED BY THE BOARD. ANY LICENSEE WHOSE LICENSE IS REVOKED
24 SHALL BE INELIGIBLE TO HAVE A LICENSE UNDER THIS ACT UNTIL THE
25 EXPIRATION OF THREE YEARS FROM THE DATE SUCH LICENSE WAS
26 REVOKED. IN THE EVENT THE BOARD SHALL REVOKE A LICENSE, NO
27 LICENSE SHALL BE GRANTED FOR THE PREMISES OR TRANSFERRED TO THE
28 PREMISES IN WHICH THE SAID LICENSE WAS CONDUCTED FOR A PERIOD OF
29 AT LEAST ONE YEAR AFTER THE DATE OF THE REVOCATION OF THE
30 LICENSE CONDUCTED IN THE SAID PREMISES, EXCEPT IN CASES WHERE

1 THE LICENSEE OR A MEMBER OF HIS IMMEDIATE FAMILY IS NOT THE
2 OWNER OF THE PREMISES, IN WHICH CASE THE BOARD MAY, IN ITS
3 DISCRETION, ISSUE OR TRANSFER A LICENSE WITHIN THE SAID YEAR. IN
4 ALL SUCH CASES, THE BOARD SHALL FILE OF RECORD AT LEAST A BRIEF
5 STATEMENT IN THE FORM OF AN OPINION OF THE REASONS FOR THE
6 RULING OR ORDER. IN THE EVENT THE PERSON WHO WAS FINED OR WHOSE
7 LICENSE WAS SUSPENDED OR REVOKED BY THE BOARD SHALL FEEL
8 AGGRIEVED BY THE ACTION OF THE BOARD, HE SHALL HAVE THE RIGHT TO
9 APPEAL TO THE COURT OF QUARTER SESSIONS OR THE COUNTY COURT OF
10 ALLEGHENY COUNTY IN THE SAME MANNER AS HEREIN PROVIDED FOR
11 APPEALS FROM REFUSALS TO GRANT LICENSES. UPON APPEAL, THE COURT
12 SO APPEALED TO SHALL, IN THE EXERCISE OF ITS DISCRETION,
13 SUSTAIN, REJECT, ALTER OR MODIFY THE FINDINGS, CONCLUSIONS AND
14 PENALTIES OF THE BOARD, BASED ON THE FINDINGS OF FACT AND
15 CONCLUSIONS OF LAW AS FOUND BY THE COURT. THE AFORESAID APPEAL
16 SHALL ACT AS A SUPERSEDEAS UNLESS UPON SUFFICIENT CAUSE SHOWN
17 THE COURT SHALL DETERMINE OTHERWISE. NO PENALTY PROVIDED BY THIS
18 SECTION SHALL BE IMPOSED BY THE BOARD OR ANY COURT FOR ANY
19 VIOLATIONS PROVIDED FOR IN THIS ACT UNLESS THE ENFORCEMENT
20 OFFICER OR THE BOARD NOTIFIES THE LICENSEE OF ITS NATURE AND OF
21 THE DATE OF THE ALLEGED VIOLATION WITHIN TEN DAYS OF THE
22 COMPLETION OF THE INVESTIGATION WHICH IN NO EVENT SHALL EXCEED
23 NINETY DAYS.

24 (C) IF THE VIOLATION IN QUESTION IS A THIRD OR SUBSEQUENT
25 VIOLATION OF THIS ACT OR [THE ACT OF JUNE 24, 1939 (P.L.872),
26 KNOWN AS "THE PENAL CODE,"] TITLE 18 OF THE PENNSYLVANIA
27 CONSOLIDATED STATUTES (RELATING TO CRIMES AND OFFENSES),
28 OCCURRING WITHIN A PERIOD OF FOUR YEARS THE BOARD SHALL IMPOSE A
29 SUSPENSION OR REVOCATION.

30 (D) THE JURISDICTION OF THE COUNTY COURT OF ALLEGHENY COUNTY

1 CONFERRED HEREBY SHALL BE EXCLUSIVE WITHIN THE TERRITORIAL
2 LIMITS OF ITS JURISDICTION.

3 SECTION 5. SECTION 474 OF THE ACT, ADDED JULY 20, 1968
4 (P.L.429, NO.201), IS AMENDED TO READ:

5 SECTION 474. SURRENDER OF CLUB LICENSES FOR BENEFIT OF
6 LICENSEES.--[WHENEVER A CLUB LICENSE HAS BEEN RETURNED TO THE
7 BOARD FOR THE BENEFIT OF THE LICENSEE DUE TO THE LICENSED
8 ESTABLISHMENT NOT HAVING BEEN IN OPERATION FOR ANY REASON
9 WHATSOEVER FOR A PERIOD OF TIME NOT EXCEEDING FIFTEEN DAYS, THE
10 LICENSE SHALL BE HELD BY THE BOARD FOR THE BENEFIT OF THE
11 LICENSEE FOR A PERIOD OF TIME NOT EXCEEDING ONE YEAR, OR, UPON
12 PROPER APPLICATION TO THE BOARD, FOR AN ADDITIONAL YEAR, AND THE
13 LICENSE SHALL BE REVOKED AT THE TERMINATION OF THE PERIOD, AND
14 TRANSFER OF THE LICENSE SHALL NOT BE PERMITTED AFTER THE
15 TERMINATION OF THE PERIOD.] (A) ANY CLUB LICENSEE WHOSE
16 LICENSED ESTABLISHMENT IS NOT IN OPERATION FOR A PERIOD OF
17 FIFTEEN CONSECUTIVE DAYS FOR ANY REASON SHALL RETURN ITS LICENSE
18 AND, IF A LIQUOR LICENSE, ITS WHOLESALE PURCHASE PERMIT CARD, TO
19 THE BOARD NOT LATER THAN THE EXPIRATION OF THE FIFTEEN-DAY
20 PERIOD. THE RETURN OF SUCH LICENSE AND CARD WILL NOT INVALIDATE
21 THE LICENSE, WHICH WILL BE HELD FOR THE BENEFIT OF THE LICENSEE
22 AND BE AVAILABLE FOR ITS USE WHEN OPERATIONS ARE RESUMED AT THE
23 LICENSED PREMISES, OR FOR TRANSFER.

24 (B) WHERE THE CLUB LICENSE IS RETURNED BECAUSE THE LICENSEE
25 NO LONGER HAS A LEASE FOR THE LICENSED PREMISES, OR REMOVES
26 THEREFROM, OR IS DISPOSSESSED BY LEGAL PROCESS, THE LICENSE WILL
27 BE INVALIDATED AS TO THE PREMISES FOR WHICH ISSUED BUT WILL NOT
28 BE INVALIDATED GENERALLY NOR CANCELLED, AND WILL BE HELD FOR THE
29 BENEFIT OF THE LICENSEE FOR TRANSFER ONLY.

30 (C) WHERE THE CLUB LICENSE AND WHOLESALE LIQUOR PURCHASE

1 PERMIT CARD ARE NOT SURRENDERED AND RETURNED VOLUNTARILY BY THE
2 LICENSEE, ENFORCEMENT OFFICERS OF THE BOARD WILL LIFT AND RETURN
3 SUCH LICENSE AND CARD TO THE BOARD.

4 (D) NO CLUB LICENSE SURRENDERED TO THE BOARD, NOR ANY
5 RENEWAL THEREOF IN POSSESSION OF THE BOARD, WILL BE HELD FOR THE
6 BENEFIT OF THE LICENSEE FOR A PERIOD EXCEEDING ONE YEAR FROM THE
7 DATE OF SURRENDER, EXCEPT WHERE, IN THE OPINION OF THE BOARD,
8 CIRCUMSTANCES BEYOND THE CONTROL OF THE LICENSEE PREVENT
9 REACTIVATION. THE BOARD SHALL RECONSIDER THE REVOCATION OF ANY
10 SUCH CLUB LICENSE DURING THE LAST FIVE YEARS TO ASCERTAIN IF
11 CIRCUMSTANCES BEYOND THE CONTROL OF THE LICENSEE PREVENTED
12 TIMELY REACTIVATION OF THE LICENSE. FAILURE OF THE LICENSEE TO
13 LIFT THE LICENSE AND RESUME OPERATION OF THE LICENSED BUSINESS
14 OR TO EFFECT A TRANSFER OF THE LICENSE WITHIN THE ONE-YEAR
15 PERIOD MAY BE SUFFICIENT CAUSE FOR REVOCATION OF THE LICENSE IF
16 TIMELY REACTIVATION WAS NOT DUE TO CIRCUMSTANCES BEYOND THE
17 CONTROL OF THE LICENSEE.

18 (E) IN THE CASE OF ANY CLUB LICENSE WHICH IS REACTIVATED
19 UNDER THIS SECTION, THE BOARD SHALL DETERMINE NO SOONER THAN
20 EIGHTEEN MONTHS AFTER SUCH REACTIVATION, AND NO LATER THAN
21 TWENTY-FOUR MONTHS AFTER REACTIVATION, THAT THE CLUB HAS
22 ACTUALLY RESUMED OPERATION AND IS FUNCTIONING IN FACT AS A CLUB
23 AS DEFINED IN SECTION 102. IF THE BOARD FINDS THAT THE CLUB IS
24 NOT SO FUNCTIONING THE LICENSE SHALL BE IMMEDIATELY REVOKED.

25 Section 2 6. This act shall take effect in 60 days.

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