

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:

1 Section 402. License Districts; License Year; Hearings.--(a)
2 The board shall, by regulation, divide the State into convenient
3 license districts and shall hold hearings on applications for
4 licenses and renewals thereof, as it deems necessary, at a
5 convenient place or places in each of said districts, at such
6 times as it shall fix, by regulation, for the purpose of hearing
7 testimony for and against applications for new licenses and
8 renewals thereof. The board may provide for the holding of such
9 hearings by examiners learned in the law, to be appointed by the
10 Governor, who shall not be subject to the "Civil Service Act."
11 Such examiners shall make report to the board in each case with
12 their recommendations. The board shall, by regulation, fix the
13 license year for each separate district so that the expiration
14 dates shall be uniform in each of the several districts but
15 staggered as to the State.

16 (b) Where a hearing is held in the case of an application
17 for a new hotel or restaurant liquor license or an application
18 for the transfer of a hotel or restaurant liquor license or when
19 the board is considering the renewal, suspension or revocation
20 of a license after the premises have been cited as a public
21 nuisance pursuant to section 611, the board shall permit
22 ~~residents of the municipality~~ INHABITANTS OF THE NEIGHBORHOOD <—
23 WITHIN A RADIUS OF ONE THOUSAND FEET OF THE PLACE PROPOSED TO BE
24 LICENSED to testify at the hearings. The board and any hearing
25 officer thereof shall give substantial weight to any testimony
26 ~~by the resident of the municipality~~ OF SUCH INHABITANTS given in <—
27 connection with a public hearing. Decisions on applications
28 shall conform to the preponderance of the evidence presented.

29 SECTION 2. SECTION 403(G) OF THE ACT, AMENDED NOVEMBER 19, <—
30 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
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

1 IS A PERSON OF GOOD REPUTE, THAT THE PREMISES APPLIED FOR MEET
2 ALL THE REQUIREMENTS OF THIS ACT AND THE REGULATIONS OF THE
3 BOARD, THAT THE APPLICANT SEEKS A LICENSE FOR A HOTEL,
4 RESTAURANT OR CLUB, AS DEFINED IN THIS ACT, AND THAT THE
5 ISSUANCE OF SUCH LICENSE IS NOT PROHIBITED BY ANY OF THE
6 PROVISIONS OF THIS ACT, THE BOARD SHALL, IN THE CASE OF A HOTEL
7 OR RESTAURANT, GRANT AND ISSUE TO THE APPLICANT A LIQUOR
8 LICENSE, AND IN THE CASE OF A CLUB MAY, IN ITS DISCRETION, ISSUE
9 OR REFUSE A LICENSE: PROVIDED, HOWEVER, THAT IN THE CASE OF ANY
10 NEW LICENSE OR THE TRANSFER OF ANY LICENSE TO A NEW LOCATION THE
11 BOARD MAY, IN ITS DISCRETION, GRANT OR REFUSE SUCH NEW LICENSE
12 OR TRANSFER IF SUCH PLACE PROPOSED TO BE LICENSED IS WITHIN
13 THREE HUNDRED FEET OF ANY CHURCH, HOSPITAL, CHARITABLE
14 INSTITUTION, SCHOOL, OR PUBLIC PLAYGROUND, OR IF SUCH NEW
15 LICENSE OR TRANSFER IS APPLIED FOR A PLACE WHICH IS WITHIN TWO
16 HUNDRED FEET OF ANY OTHER PREMISES WHICH IS LICENSED BY THE
17 BOARD, OR IF SUCH NEW LICENSE OR TRANSFER IS APPLIED FOR A PLACE
18 WHERE THE PRINCIPAL BUSINESS IS THE SALE OF LIQUID FUELS AND
19 OIL: AND PROVIDED FURTHER, THAT THE BOARD SHALL REFUSE ANY
20 APPLICATION FOR A NEW LICENSE OR THE TRANSFER OF ANY LICENSE TO
21 A NEW LOCATION IF, IN THE BOARD'S OPINION, SUCH NEW LICENSE OR
22 TRANSFER WOULD BE DETRIMENTAL TO THE WELFARE, HEALTH, PEACE AND
23 MORALS OF THE INHABITANTS OF THE NEIGHBORHOOD WITHIN A RADIUS OF
24 [FIVE HUNDRED] ONE THOUSAND FEET OF THE PLACE PROPOSED TO BE
25 LICENSED: AND PROVIDED FURTHER, THAT THE BOARD SHALL NOT ISSUE
26 NEW LICENSES IN ANY LICENSE DISTRICT MORE THAN TWICE EACH
27 LICENSE YEAR, EFFECTIVE FROM SPECIFIC DATES FIXED BY THE BOARD,
28 AND NEW LICENSES SHALL NOT BE GRANTED, EXCEPT FOR HOTELS AS
29 DEFINED IN THIS ACT, UNLESS THE APPLICATION THEREFOR SHALL HAVE
30 BEEN FILED AT LEAST THIRTY DAYS BEFORE THE EFFECTIVE DATE OF THE

1 LICENSE: AND PROVIDED FURTHER, THAT NOTHING HEREIN CONTAINED
2 SHALL PROHIBIT THE BOARD FROM ISSUING A NEW LICENSE FOR THE
3 BALANCE OF ANY UNEXPIRED TERM IN ANY LICENSE DISTRICT TO ANY
4 APPLICANT IN SUCH DISTRICT, WHO SHALL HAVE BECOME ELIGIBLE TO
5 HOLD SUCH LICENSE AS THE RESULT OF LEGISLATIVE ENACTMENT, WHEN
6 SUCH ENACTMENT SHALL HAVE TAKEN PLACE DURING THE LICENSE TERM OF
7 THAT DISTRICT FOR WHICH APPLICATION IS MADE OR WITHIN THE THIRTY
8 DAYS IMMEDIATELY PRECEDING SUCH TERM, NOR SHALL ANYTHING HEREIN
9 CONTAINED PROHIBIT THE BOARD FROM ISSUING AT ANY TIME A NEW
10 LICENSE FOR AN AIRPORT RESTAURANT, OR MUNICIPAL GOLF COURSE, AS
11 DEFINED IN SECTION 461 OF THIS ACT, FOR THE BALANCE OF THE
12 UNEXPIRED LICENSE TERM IN ANY LICENSE DISTRICT: AND PROVIDED
13 FURTHER, THAT THE BOARD SHALL HAVE THE DISCRETION TO REFUSE A
14 LICENSE TO ANY PERSON OR TO ANY CORPORATION, PARTNERSHIP OR
15 ASSOCIATION IF SUCH PERSON, OR ANY OFFICER OR DIRECTOR OF SUCH
16 CORPORATION, OR ANY MEMBER OR PARTNER OF SUCH PARTNERSHIP OR
17 ASSOCIATION SHALL HAVE BEEN CONVICTED OR FOUND GUILTY OF A
18 FELONY WITHIN A PERIOD OF FIVE YEARS IMMEDIATELY PRECEDING THE
19 DATE OF APPLICATION FOR THE SAID LICENSE.

20 SECTION 4. SECTION 471 OF THE ACT, AMENDED JANUARY 13, 1966
21 (1965 P.L.1301, NO.518) AND REPEALED IN PART JUNE 3, 1971
22 (P.L.118, NO.6), IS AMENDED TO READ:

23 SECTION 471. REVOCATION AND SUSPENSION OF LICENSES; FINES.--

24 (A) UPON LEARNING OF ANY VIOLATION OF THIS ACT OR ANY LAWS OF
25 THIS COMMONWEALTH RELATING TO LIQUOR, ALCOHOL OR MALT OR BREWED
26 BEVERAGES, OR OF ANY REGULATIONS OF THE BOARD ADOPTED PURSUANT
27 TO SUCH LAWS, OF ANY VIOLATION OF ANY LAWS OF THIS COMMONWEALTH
28 OR OF THE UNITED STATES OF AMERICA RELATING TO THE TAX-PAYMENT
29 OF LIQUOR OR MALT OR BREWED BEVERAGES BY ANY LICENSEE WITHIN THE
30 SCOPE OF THIS ARTICLE, HIS OFFICERS, SERVANTS, AGENTS OR

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

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

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

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

1 SUSPENSION OR REVOCATION.

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

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

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

1 BENEFIT OF THE LICENSEE FOR TRANSFER ONLY.

2 (C) WHERE THE CLUB LICENSE AND WHOLESALE LIQUOR PURCHASE
3 PERMIT CARD ARE NOT SURRENDERED AND RETURNED VOLUNTARILY BY THE
4 LICENSEE, ENFORCEMENT OFFICERS OF THE BOARD WILL LIFT AND RETURN
5 SUCH LICENSE AND CARD TO THE BOARD.

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

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

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

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