

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 291

Session of
1983

INTRODUCED BY PRATT AND FEE, MARCH 14, 1983

REFERRED TO COMMITTEE ON LIQUOR CONTROL, MARCH 14, 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 defining and exempting privately-owned private golf courses
18 from the licensing quota; and further regulating sales by
19 such golf courses.

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

22 Section 1. Section 406(a) of the act of April 12, 1951
23 (P.L.90, No.21), known as the Liquor Code, amended December 17,
24 1982 (P.L.1390, No.319), is amended to read:

25 Section 406. Sales by Liquor Licensees; Restrictions.--(a)

26 (1) Every hotel, restaurant or club liquor licensee may sell

1 liquor and malt or brewed beverages by the glass, open bottle or
2 other container, and in any mixture, for consumption only in
3 that part of the hotel or restaurant habitually used for the
4 serving of food to guests or patrons, or in a bowling alley that
5 is immediately adjacent to and under the same roof as a
6 restaurant when no minors are present in the bowling alley, and
7 in the case of hotels, to guests, and in the case of clubs, to
8 members, in their private rooms in the hotel or club. No club
9 licensee nor its officers, servants, agents or employes, other
10 than one holding a catering license, shall sell any liquor or
11 malt or brewed beverages to any person except a member of the
12 club. In the case of a restaurant located in a hotel which is
13 not operated by the owner of the hotel and which is licensed to
14 sell liquor under this act, liquor and malt or brewed beverages
15 may be sold for consumption in that part of the restaurant
16 habitually used for the serving of meals to patrons and also to
17 guests in private guest rooms in the hotel. For the purpose of
18 this paragraph, any person who is an active member of another
19 club which is chartered by the same state or national
20 organization shall have the same rights and privileges as
21 members of the particular club. For the purpose of this
22 paragraph, any person who is an active member of any volunteer
23 firefighting company, association or group of this Commonwealth,
24 whether incorporated or unincorporated, shall upon the approval
25 of any club composed of volunteer firemen licensed under this
26 act, have the same social rights and privileges as members of
27 such licensed club. For the purposes of this paragraph, the term
28 "active member" shall not include a social member.

29 (2) Hotel and restaurant liquor licensees, airport
30 restaurant liquor licensees, municipal golf course restaurant

1 liquor licensees, privately-owned public golf course restaurant
2 licensees and privately-owned private golf course licensees may
3 sell liquor and malt or brewed beverages only after seven
4 o'clock antemeridian of any day until two o'clock antemeridian
5 of the following day, except Sunday, and except as hereinafter
6 provided, may sell liquor and malt or brewed beverages on Sunday
7 between the hours of twelve o'clock midnight and two o'clock
8 antemeridian.

9 (3) Hotel and restaurant liquor licensees, airport
10 restaurant liquor licensees, municipal golf course restaurant
11 liquor licensees, privately-owned public golf course restaurant
12 licensees and privately owned private golf course licensees
13 whose sales of food and nonalcoholic beverages are equal to
14 forty per centum or more of the combined gross sales of both
15 food and alcoholic beverages may sell liquor and malt or brewed
16 beverages on Sunday between the hours of one o'clock
17 postmeridian and two o'clock antemeridian Monday upon purchase
18 of a special annual permit from the board at a fee of two
19 hundred dollars (\$200.00) per year, which shall be in addition
20 to any other license fees.

21 (4) Hotel and restaurant liquor licensees, airport
22 restaurant liquor licensees, municipal golf course restaurant
23 liquor licensees, privately-owned golf course restaurant
24 licensees and privately-owned private golf course licensees
25 which do not qualify for and purchase such annual special
26 permit, their servants, agents or employes may sell liquor and
27 malt or brewed beverages only after seven o'clock antemeridian
28 of any day and until two o'clock antemeridian of the following
29 day, and shall not sell after two o'clock antemeridian on
30 Sunday. No hotel, restaurant and public service liquor licensee

1 which does not have the special annual permit for Sunday sales
2 shall sell liquor and malt or brewed beverages after two o'clock
3 antemeridian on any day on which a general, municipal, special
4 or primary election is being held until one hour after the time
5 fixed by law for closing the polls, except, that, in the case of
6 a special election for members of the General Assembly or
7 members of the Congress of the United States, when such special
8 election is held on other than a primary, municipal or general
9 election day, licensees in those Legislative or Congressional
10 Districts may make such sales, as though the day were not a
11 special election day. No club licensee or its servants, agents
12 or employes may sell liquor or malt or brewed beverages between
13 the hours of three o'clock antemeridian and seven o'clock
14 antemeridian on any day. No public service liquor licensee or
15 its servants, agents, or employes may sell liquor or malt or
16 brewed beverages between the hours of two o'clock antemeridian
17 and seven o'clock antemeridian on any day.

18 (5) Any hotel, restaurant, club or public service liquor
19 licensee may, by giving notice to the board, advance by one hour
20 the hours herein prescribed as those during which liquor and
21 malt or brewed beverages may be sold during such part of the
22 year when daylight saving time is being observed generally in
23 the municipality in which the place of business of such licensee
24 is located. Any licensee who elects to operate his place of
25 business in accordance with daylight saving time shall post a
26 conspicuous notice in his place of business that he is operating
27 in accordance with daylight saving time.

28 (6) Notwithstanding any provisions to the contrary, whenever
29 the thirty-first day of December falls on a Sunday, every hotel
30 or restaurant liquor licensee, their servants, agents or

1 employees may sell liquor and malt or brewed beverages on any
2 such day after one o'clock postmeridian and until two o'clock
3 antemeridian of the following day.

4 * * *

5 Section 2. Section 461(a) of the act amended December 17,
6 1982 (P.L.1390, No.319), is amended and a subsection is added to
7 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 two thousand inhabitants in any municipality, exclusive of
14 licenses granted to airport restaurants, municipal golf courses,
15 hotels, privately-owned public golf courses, privately-owned
16 private golf courses, as defined in this section, and clubs; but
17 at least one such license may be granted in each municipality
18 and in each part of a municipality where such municipality is
19 split so that each part thereof is separated by another
20 municipality, except in municipalities where the electors have
21 voted against the granting of any retail licenses and except in
22 that part of a split municipality where the electors have voted
23 against the granting of any retail licenses. Nothing contained
24 in this section shall be construed as denying the right to the
25 board to renew or to transfer existing retail licenses of any
26 class notwithstanding that the number of such licensed places in
27 a municipality shall exceed the limitation hereinbefore
28 prescribed; but where such number exceeds the limitation
29 prescribed by this section, no new license, except for hotels,
30 municipal golf courses, airport restaurants, privately-owned

1 public golf courses and privately-owned private golf course
2 licensees, as defined in this section, shall be granted so long
3 as said limitation is exceeded.

4 * * *

5 (e.2) "Privately-owned private golf course" as used in this
6 section shall mean the restaurant facilities at any privately-
7 owned golf course open for private membership accommodations
8 only.

9 * * *

10 Section 3. Section 472 of the act, amended July 11, 1980
11 (P.L.558, No.117), is amended to read:

12 Section 472. Local Option.--In any municipality or any part
13 of a municipality where such municipality is split so that each
14 part thereof is separated by another municipality, an election
15 may be held on the date of the primary election immediately
16 preceding any municipal election, but not oftener than once in
17 four years, to determine the will of the electors with respect
18 to the granting of liquor licenses to hotels, restaurants [and],
19 clubs and privately-owned private golf courses, not oftener than
20 once in four years, with respect to the granting of licenses to
21 retail dispensers of malt and brewed beverages, not oftener than
22 once in four years with respect to granting of licenses to
23 wholesale distributors and importing distributors, or not more
24 than once in four years with respect to the establishment,
25 operation and maintenance by the board of Pennsylvania liquor
26 stores, within the limits of such municipality or part of a
27 split municipality, under the provisions of this act: Provided,
28 however, Where an election shall have been held at the primary
29 preceding a municipal election in any year, another election may
30 be held under the provisions of this act at the primary

1 occurring the fourth year after such prior election: And
2 provided further, That an election on the question of
3 establishing and operating a State liquor store shall be
4 initiated only in those municipalities, or that part of a split
5 municipality that shall have voted against the granting of
6 liquor licenses; and that an election on the question of
7 granting wholesale distributor and importing distributor
8 licenses shall be initiated only in those municipalities or
9 parts of split municipalities that shall have at a previous
10 election voted against the granting of dispenser's licenses.
11 Whenever electors equal to at least twenty-five per centum of
12 the highest vote cast for any office in the municipality or part
13 of a split municipality at the last preceding general election
14 shall file a petition with the county board of elections of the
15 county for a referendum on the question of granting any of said
16 classes of licenses or the establishment of Pennsylvania liquor
17 stores, the said county board of elections shall cause a
18 question to be placed on the ballots or on the voting machine
19 board and submitted at the primary immediately preceding the
20 municipal election. Separate petitions must be filed for each
21 question to be voted on. Said proceedings shall be in the manner
22 and subject to the provisions of the election laws which relate
23 to the signing, filing and adjudication of nomination petitions,
24 insofar as such provisions are applicable.

25 When the question is in respect to the granting of liquor
26 licenses, it shall be in the following form:

27 Do you favor the granting of liquor licenses
28 for the sale of liquor in..... Yes
29 of.....? No

30 When the question is in respect to the granting

1 of liquor licenses, for privately-owned private golf
2 courses, it shall be in the following form:

3 Do you favor the granting of liquor licenses,
4 for privately-owned private golf courses for the
5 sale of liquor in.....by..... Yes
6 of.....? No

7 When the question is in respect to the granting of licenses
8 to retail dispensers of malt and brewed beverages, it shall be
9 in the following form:

10 Do you favor the granting of malt and brewed
11 beverage retail dispenser licenses for
12 consumption on premises where sold in
13 the..... Yes
14 of.....? No

15 When the question is in respect to the granting of licenses
16 to wholesale distributors of malt or brewed beverages and
17 importing distributors, it shall be in the following form:

18 Do you favor the granting of malt and brewed
19 beverage wholesale distributor's and importing
20 distributor's licenses not for consumption on
21 premises where sold in the..... Yes
22 of.....? No

23 When the question is in respect to the establishment,
24 operation and maintenance of Pennsylvania liquor stores it shall
25 be in the following form:

26 Do you favor the establishment, operation
27 and maintenance of Pennsylvania liquor
28 stores in the..... Yes
29 of.....? No

30 In case of a tie vote, the status quo shall obtain. If a

1 majority of the voting electors on any such question vote "yes,"
2 then liquor licenses shall be granted by the board to hotels,
3 restaurants, [and] clubs and privately-owned private golf
4 courses, or malt and brewed beverage retail dispenser licenses
5 or wholesale distributor's and importing distributor's license
6 for the sale of malt or brewed beverages shall be granted by the
7 board, or the board may establish, operate and maintain
8 Pennsylvania liquor stores, as the case may be, in such
9 municipality or part of a split municipality, as provided by
10 this act; but if a majority of the electors voting on any such
11 question vote "no," then the board shall have no power to grant
12 or to renew upon their expiration any licenses of the class so
13 voted upon in such municipality or part of a split municipality;
14 or if the negative vote is on the question in respect to the
15 establishment, operation and maintenance of Pennsylvania liquor
16 stores, the board shall not open and operate a Pennsylvania
17 liquor store in such municipality or part of a split
18 municipality, nor continue to operate a then existing
19 Pennsylvania liquor store in the municipality or part of a split
20 municipality for more than two years thereafter or after the
21 expiration of the term of the lease on the premises occupied by
22 such store, whichever period is less, unless and until at a
23 later election a majority of the voting electors vote "yes" on
24 such question.

25 Section 4. This act shall take effect in 60 days.