

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 484

Session of
1985

INTRODUCED BY ANGSTADT, E. Z. TAYLOR, SCHULER, POTT, VROON,
BUSH, GRUPPO, NAHILL, BARLEY, STUBAN, HERMAN, PERZEL, BUNT,
SAURMAN, SEMMEL, WASS, CESSAR, SCHEETZ, BOOK, FLICK, HERSHEY,
FARGO, HAGARTY AND PISTELLA, FEBRUARY 27, 1985

REFERRED TO COMMITTEE ON LIQUOR CONTROL, FEBRUARY 27, 1985

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 imposing enforcement powers and duties on the Attorney
18 General; and making an editorial change.

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

21 Section 1. The title of the act of April 12, 1951 (P.L.90,
22 No.21), known as the Liquor Code, is amended to read:

AN ACT

24 Relating to alcoholic liquors, alcohol and malt and brewed
25 beverages; amending, revising, consolidating and changing the

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

15 Section 2. Section 207 of the act, amended May 25, 1956
16 (1955 P.L.1743, No.583), January 13, 1966 (1965 P.L.1301,
17 No.518), June 17, 1971 (P.L.180, No.22) and July 27, 1973
18 (P.L.247, No.70), is amended to read:

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

21 (a) To buy, import or have in its possession for sale, and
22 sell liquor and alcohol in the manner set forth in this act:
23 Provided, however, That all purchases shall be made subject to
24 the approval of the State Treasurer, or his designated deputy.

25 (b) To control the manufacture, possession, sale,
26 consumption, importation, use, storage, transportation and
27 delivery of liquor, alcohol and malt or brewed beverages in
28 accordance with the provisions of this act, and to fix the
29 wholesale and retail prices at which liquors and alcohol shall
30 be sold at Pennsylvania Liquor Stores: Provided, That in fixing

1 the sale prices, the board shall not give any preference or make
2 any discrimination as to classes, brands or otherwise, except to
3 the extent and for the length of time necessary to sell such
4 classes or brands in compliance with any Federal action freezing
5 or otherwise controlling the price of said classes or brands, or
6 except where special sales are deemed necessary to move
7 unsaleable merchandise, or except where the addition of a
8 service or handling charge to the fixed sales price of any
9 merchandise in the same comparable price bracket, regardless of
10 class, brand or otherwise, is, in the opinion of the board,
11 required for the efficient operation of the State store system.
12 The board shall require each Pennsylvania manufacturer and each
13 nonresident manufacturer of liquors, other than wine, selling
14 such liquors to the board, which are not manufactured in this
15 Commonwealth, to make application for and be granted a permit by
16 the board before such liquors not manufactured in this
17 Commonwealth shall be purchased from such manufacturer. Each
18 such manufacturer shall pay for such permit a fee which, in the
19 case of a manufacturer of this Commonwealth, shall be equal to
20 that required to be paid, if any, by a manufacturer or
21 wholesaler of the state, territory or country of origin of the
22 liquors, for selling liquors manufactured in Pennsylvania, and
23 in the case of a nonresident manufacturer, shall be equal to
24 that required to be paid, if any, in such state, territory or
25 country by Pennsylvania manufacturers doing business in such
26 state, territory or country. In the event that any such
27 manufacturer shall, in the opinion of the board, sell or attempt
28 to sell liquors to the board through another person for the
29 purpose of evading this provision relating to permits, the board
30 shall require such person, before purchasing liquors from him or

1 it, to take out a permit and pay the same fee as hereinbefore
2 required to be paid by such manufacturer. All permit fees so
3 collected shall be paid into the State Stores Fund. The board
4 shall not purchase any alcohol or liquor fermented, distilled,
5 rectified, compounded or bottled in any state, territory or
6 country, the laws of which result in prohibiting the importation
7 therein of alcohol or liquor, fermented, distilled, rectified,
8 compounded or bottled in Pennsylvania.

9 (c) To determine the municipalities within which
10 Pennsylvania Liquor Stores shall be established and the
11 locations of the stores within such municipalities.

12 (d) To grant, issue, suspend and revoke all licenses and
13 permits authorized to be issued under this act and the
14 regulations of the board and impose fines on licensees licensed
15 under this act.

16 (e) Through the Department of [Property and Supplies]
17 General Services as agent, to lease and furnish and equip such
18 buildings, rooms and other accommodations as shall be required
19 for the operation of this act.

20 (f) To appoint, fix the compensation and define the powers
21 and duties of such managers, officers, inspectors, examiners,
22 clerks and other employes as shall be required for the operation
23 of this act, subject to the provisions of The Administrative
24 Code of 1929 and the Civil Service Act.

25 (g) To determine the nature, form and capacity of all
26 packages and original containers to be used for containing
27 liquor, alcohol or malt or brewed beverages.

28 (h) Without in any way limiting or being limited by the
29 foregoing except law enforcement, to do all such things and
30 perform all such acts as are deemed necessary or advisable for

1 the purpose of carrying into effect the provisions of this act
2 and the regulations made thereunder.

3 (i) From time to time, to make such regulations not
4 inconsistent with this act as it may deem necessary for the
5 efficient administration of this act. The board shall cause such
6 regulations to be published and disseminated throughout the
7 Commonwealth in such manner as it shall deem necessary and
8 advisable or as may be provided by law. Such regulations adopted
9 by the board shall have the same force as if they formed a part
10 of this act.

11 [(j) To investigate, whenever any person complains, or when
12 the board is aware that there is reasonable grounds to believe
13 liquor or malt or brewed beverage is being sold on premises not
14 licensed under the provisions of this act. If the investigation
15 produces evidence of the unlawful sale of liquor or malt or
16 brewed beverage or of any other violation of the provisions of
17 this act, the board shall cause the prosecution of the person or
18 persons believed to have been criminally liable for the unlawful
19 acts. Any equipment or appurtenances actually used in the
20 commission of the unlawful acts may be confiscated upon
21 direction of the board. The confiscation by or under the
22 direction of the board shall not, in any manner, divest or
23 impair the rights or interest of any bona fide lien holder in
24 the equipment or appurtenances, who had no knowledge that the
25 same was being used in violation of this act.]

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

28 Section 209. Law Enforcement; Officers and Investigators of
29 the [Board] Attorney General to be Peace Officers; Powers.--(a)
30 The Attorney General shall be responsible to enforce the

1 provisions of sections 491, 492, 493 and 494 of this act. Any
2 equipment or appurtenances actually used in the commission of
3 the unlawful acts may be confiscated upon direction of the
4 Attorney General. The confiscation by or under the direction of
5 the Attorney General shall not, in any manner, divest or impair
6 the rights or interest of any bona fide lien holder in the
7 equipment or appurtenances, who had no knowledge that the same
8 was being used in violation of this act.

9 (b) Such employees of the [board] Attorney General as are
10 designated "enforcement officers" or "investigators" are hereby
11 declared to be peace officers and are hereby given police power
12 and authority throughout the Commonwealth to arrest on view,
13 except in private homes, without warrant, any person actually
14 engaged in the unlawful sale, importation, manufacture or
15 transportation, or having unlawful possession of liquor, alcohol
16 or malt or brewed beverages, contrary to the provisions of this
17 act or any other law of this Commonwealth. Such officers and
18 investigators shall have power and authority, upon reasonable
19 and probable cause, to search for and to seize without warrant
20 or process, except in private homes, any liquor, alcohol and
21 malt or brewed beverages unlawfully possessed, manufactured,
22 sold, imported or transported, and any stills, equipment,
23 materials, utensils, vehicles, boats, vessels, animals,
24 aircraft, or any of them, which are or have been used in the
25 unlawful manufacture, sale, importation or transportation of the
26 same. Such liquor, alcohol, malt or brewed beverages, stills,
27 equipment, materials, utensils, vehicles, boats, vessels,
28 animals or aircraft so seized shall be disposed of as
29 hereinafter provided.

30 Enforcement officers or investigators may be retired upon

1 reaching age sixty-five.

2 Section 4. Section 210 of the act is amended to read:

3 Section 210. Restrictions on Members and Employees of the
4 Board, the Attorney General and Employees of Commonwealth.--(a)
5 A member or employe of the board or the Attorney General or
6 employees of the Attorney General shall not be directly or
7 indirectly interested or engaged in any other business or
8 undertaking dealing in liquor, alcohol, or malt or brewed
9 beverages, whether as owner, part owner, partner, member of
10 syndicate, shareholder, agent or employe, and whether for his
11 own benefit or in a fiduciary capacity for some other person.

12 (b) No [member] officer or employe of the [board nor any
13 employe of the] Commonwealth shall solicit or receive, directly
14 or indirectly, any commission, remuneration or gift whatsoever,
15 from any person having sold, selling or offering liquor or
16 alcohol for sale to the board for use in Pennsylvania Liquor
17 Stores.

18 Section 5. (a) On the effective date of this act, all
19 personnel, allocations, appropriations, equipment, files,
20 records, contracts, agreements, obligations and other materials
21 which are used, employed or expended in connection with the
22 powers, duties or functions transferred by this act to the
23 Attorney General, which are not required by the board to carry
24 out its powers, duties and functions are hereby transferred to
25 the Attorney General with the same force and effect as if the
26 appropriations had been made to and said items had been the
27 property of the Attorney General in the first instance and as if
28 said contracts, agreements and obligations had been incurred or
29 entered into by the Attorney General.

30 (b) Rules and regulations of the Pennsylvania Liquor Control

1 Board relating to enforcement shall remain in effect until
2 changed or repealed by the Attorney General after the effective
3 date of this act.

4 Section 6. This act shall take effect in 60 days.