

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1323 Session of
1985

INTRODUCED BY O'DONNELL, PISTELLA, FEE, ITKIN, D. R. WRIGHT,
HAGARTY, PRATT, ARTY, JOHNSON, ACOSTA, KOSINSKI, DIETZ, FOX,
CARN, SEMMEL, TRUMAN, MRKONIC, JOSEPHS, PHILLIPS, RICHARDSON,
LINTON, HARPER, CLYMER, BALDWIN, DEAL, WIGGINS, J. J. TAYLOR,
COHEN, SWEET, DAWIDA, SAURMAN, MICOZZIE, PRESTON, BLAUM,
BATTISTO, PERZEL, FLICK, E. Z. TAYLOR, BORTNER AND HOWLETT,
JUNE 3, 1985

REFERRED TO COMMITTEE ON LIQUOR CONTROL, JUNE 3, 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 further providing for hearings on applications for new or
18 transfers of hotel, club or restaurant liquor licenses and
19 for license applications; further providing for suspension
20 and revocation of licenses; making editorial changes; and
21 providing penalties.

22 The General Assembly of the Commonwealth of Pennsylvania
23 hereby enacts as follows:

24 Section 1. Section 402 of the act of April 12, 1951 (P.L.90,
25 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 shall hold a hearing on any
9 application for a new hotel, club or restaurant liquor license
10 or the transfer of any such license to a new location, upon the
11 request of any person with standing to testify under subsection
12 (b) if the request is filed with the board within the first
13 fifteen days of posting of the notice of application pursuant to
14 section 403(g). The board may provide for the holding of such
15 hearings by examiners learned in the law, to be appointed by the
16 Governor, who shall not be subject to the "Civil Service Act."
17 Such examiners shall make report to the board in each case with
18 their recommendations. The board shall, by regulation, fix the
19 license year for each separate district so that the expiration
20 dates shall be uniform in each of the several districts but
21 staggered as to the State.

22 (b) Where a hearing is held in the case of an application
23 for a new hotel, club or restaurant liquor license or an
24 application for the transfer of a hotel, club or restaurant
25 liquor license to a new location, the board shall permit
26 residents residing within a radius of five hundred feet of the
27 premises to testify at the hearing. The board and any hearing
28 officer thereof shall give weight to any testimony of such
29 residents of the municipality given at the hearing.

30 Section 2. Section 471 of the act, amended January 13, 1966

1 (1965 P.L.1301, No.518) and repealed in part June 3, 1971
2 (P.L.118, No.6), is amended to read:

3 Section 471. Revocation and Suspension of Licenses; Fines.--

4 (a) Upon learning of any violation of this act or any laws of
5 this Commonwealth relating to liquor, alcohol or malt or brewed
6 beverages, or of any regulations of the board adopted pursuant
7 to such laws, of any violation of any laws of this Commonwealth
8 or of the United States of America relating to the tax-payment
9 of liquor or malt or brewed beverages by any licensee within the
10 scope of this article, his officers, servants, agents or
11 employes, or upon any other sufficient cause shown, the board
12 may, within one year from the date of such violation or cause
13 appearing, cite such licensee to appear before it or its
14 examiner, not less than ten nor more than sixty days from the
15 date of sending such licensee, by registered mail, a notice
16 addressed to him at his licensed premises, to show cause why
17 such license should not be suspended or revoked or a fine
18 imposed.

19 (b) Hearings on such citations shall be held in the same
20 manner as provided herein for hearings on applications for
21 license. Upon such hearing, if satisfied that any such violation
22 has occurred or for other sufficient cause, the board shall
23 immediately suspend or revoke the license, or impose a fine of
24 not less than fifty dollars (\$50) nor more than one thousand
25 dollars (\$1,000), notifying the licensee by registered letter
26 addressed to his licensed premises. If the licensee has been
27 cited and found to have violated section 493(10), insofar as it
28 relates to any lewd, immoral or improper entertainment, or (21)
29 of this act or has been found to be a public nuisance pursuant
30 to section 611, or if the owner, operator or any authorized

1 agent has been cited for any violation of the act of April 14,
2 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug,
3 Device and Cosmetic Act," or 18 Pa.C.S. § 5902 (relating to
4 prostitution and related offenses), the board shall immediately
5 suspend or revoke the license, or impose a fine not to exceed
6 five thousand dollars (\$5,000). The board shall notify the
7 licensee by registered mail, addressed to the licensed premises,
8 of such suspension, revocation or fine. In the event the fine is
9 not paid within twenty days of the order the board shall suspend
10 or revoke the license, notifying the licensee by registered mail
11 addressed to his licensed premises. Suspensions and revocations
12 shall not go into effect until twenty days have elapsed from the
13 date of notice of issuance of the board's order, during which
14 time the licensee may take an appeal as provided for in this
15 act. When a license is revoked, the licensee's bond may be
16 forfeited by the board. Any licensee whose license is revoked
17 shall be ineligible to have a license under this act until the
18 expiration of three years from the date such license was
19 revoked. In the event the board shall revoke a license, no
20 license shall be granted for the premises or transferred to the
21 premises in which the said license was conducted for a period of
22 at least one year after the date of the revocation of the
23 license conducted in the said premises, except in cases where
24 the licensee or a member of his immediate family is not the
25 owner of the premises, in which case the board may, in its
26 discretion, issue or transfer a license within the said year. In
27 all such cases, the board shall file of record at least a brief
28 statement in the form of an opinion of the reasons for the
29 ruling or order. In the event the person who was fined or whose
30 license was suspended or revoked by the board shall feel

1 aggrieved by the action of the board, he shall have the right to
2 appeal to the court of [quarter sessions or the county court of
3 Allegheny County] common pleas in the same manner as herein
4 provided for appeals from refusals to grant licenses. Upon
5 appeal, the court so appealed to shall, in the exercise of its
6 discretion, sustain, reject, alter or modify the findings,
7 conclusions and penalties of the board, based on the findings of
8 fact and conclusions of law as found by the court. The aforesaid
9 appeal shall act as a supersedeas unless upon sufficient cause
10 shown the court shall determine otherwise.

11 (c) If the licensee has been cited and found to have
12 violated section 493(10), insofar as it relates to lewd, immoral
13 or improper entertainment, or (21) of this act or has been found
14 to be a public nuisance pursuant to section 611, or if the
15 owner, operator or any authorized agent has been cited for any
16 violation of the act of April 14, 1972 (P.L.233, No.64), known
17 as "The Controlled Substance, Drug, Device and Cosmetic Act," or
18 18 Pa.C.S. § 5902 (relating to prostitution and related
19 offenses), its appeal shall not act as a supersedeas unless the
20 court determines otherwise upon sufficient cause shown. In any
21 hearing on an application for a supersedeas under this section,
22 the court shall consider, in addition to other relevant
23 evidence, the prior history of citations, fines, suspensions or
24 revocations against the licensee; the seriousness of the
25 offense; and the evidence of any recurrence of the unlawful
26 activity occurring between the date of the citation which is the
27 subject of the appeal and the date of the hearing by the court.

28 (d) No penalty provided by this section shall be imposed by
29 the board or any court for any violations provided for in this
30 act unless the enforcement officer or the board notifies the

1 licensee of its nature and of the date of the alleged violation
2 within ten days of the completion of the investigation which in
3 no event shall exceed ninety days.

4 (e) If the violation in question is a third or subsequent
5 violation of this act or [the act of June 24, 1939 (P.L.872),
6 known as "The Penal Code,"] Title 18 of the Pennsylvania
7 Consolidated Statutes (relating to crimes and offenses),
8 occurring within a period of four years the board shall impose a
9 suspension or revocation.

10 [The jurisdiction of the county court of Allegheny County
11 conferred hereby shall be exclusive within the territorial
12 limits of its jurisdiction.]

13 Section 3. Section 494 of the act, amended May 25, 1956
14 (1955 P.L.1743, No.583), is amended to read:

15 Section 494. Penalties.--(a) Any person who shall violate
16 any of the provisions of this article, except as otherwise
17 specifically provided, shall be guilty of a misdemeanor and,
18 upon conviction thereof, shall be sentenced to pay a fine of not
19 less than one hundred dollars (\$100), nor more than five hundred
20 dollars (\$500), or if the licensee has been cited and found to
21 have violated section 493(10), insofar as it relates to lewd,
22 immoral or improper entertainment, or (21) of this act or has
23 been found to be a public nuisance pursuant to section 611, or
24 if the owner, operator or any authorized agent has been cited
25 for any violation of the act of April 14, 1972 (P.L.233, No.64),
26 known as "The Controlled Substance, Drug, Device and Cosmetic
27 Act," or 18 Pa.C.S. § 5902 (relating to prostitution and related
28 offenses), a fine not exceeding five thousand dollars (\$5,000),
29 and on failure to pay such fine, to imprisonment for not less
30 than one month, nor more than three months, and for any

1 subsequent offense, shall be sentenced to pay a fine not less
2 than three hundred dollars (\$300), nor more than five hundred
3 dollars (\$500), and to undergo imprisonment for a period not
4 less than three months, nor more than one year.

5 (b) The right of the board to suspend and revoke licenses
6 granted under this article shall be in addition to the penalty
7 set forth in this section.

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