

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 262 Session of 2013

INTRODUCED BY READSHAW, O'BRIEN, V. BROWN, D. COSTA, MILLARD, KORTZ, KULA, CALTAGIRONE, DENLINGER, DELUCA, MURT AND MOLCHANY, JANUARY 23, 2013

REFERRED TO COMMITTEE ON LIQUOR CONTROL, JANUARY 23, 2013

AN ACT

1 Amending the act of April 12, 1951 (P.L.90, No.21), entitled, as
2 reenacted, "An act relating to alcoholic liquors, alcohol and
3 malt and brewed beverages; amending, revising, consolidating
4 and 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 providing for municipal authority to establish maximum
18 saturation ratios for licensed establishments.

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

21 Section 1. Section 404 of the act of April 12, 1951 (P.L.90,
22 No.21), known as the Liquor Code, reenacted and amended June 29,
23 1987 (P.L.32, No.14) and amended January 6, 2006 (P.L.1, No.1),
24 is amended to read:

25 Section 404. Issuance, Transfer or Extension of Hotel,

1 Restaurant and Club Liquor Licenses.--Upon receipt of the
2 application and the proper fees, and upon being satisfied of the
3 truth of the statements in the application that the applicant is
4 the only person in any manner pecuniarily interested in the
5 business so asked to be licensed and that no other person will
6 be in any manner pecuniarily interested therein during the
7 continuance of the license, except as hereinafter permitted, and
8 that the applicant is a person of good repute, that the premises
9 applied for meet all the requirements of this act and the
10 regulations of the board, that the applicant seeks a license for
11 a hotel, restaurant or club, as defined in this act, and that
12 the issuance of such license is not prohibited by any of the
13 provisions of this act, the board shall, in the case of a hotel
14 or restaurant, grant and issue to the applicant a liquor
15 license, and in the case of a club may, in its discretion, issue
16 or refuse a license: Provided, however, That in the case of any
17 new license or the transfer of any license to a new location or
18 the extension of an existing license to cover an additional area
19 the board may, in its discretion, grant or refuse such new
20 license, transfer or extension if such place proposed to be
21 licensed is within three hundred feet of any church, hospital,
22 charitable institution, school, or public playground, or if such
23 new license, transfer or extension is applied for a place which
24 is within two hundred feet of any other premises which is
25 licensed by the board: And provided further, That the board's
26 authority to refuse to grant a license because of its proximity
27 to a church, hospital, charitable institution, public playground
28 or other licensed premises shall not be applicable to license
29 applications submitted for public venues or performing arts
30 facilities: And provided further, That the board shall refuse

1 any application for a new license, the transfer of any license
2 to a new location or the extension of an existing license to
3 cover an additional area if, in the board's opinion, such new
4 license, transfer or extension would be detrimental to the
5 welfare, health, peace and morals of the inhabitants of the
6 neighborhood within a radius of five hundred feet of the place
7 proposed to be licensed: And provided further, That the board
8 shall have the discretion to refuse a license to any person or
9 to any corporation, partnership or association if such person,
10 or any officer or director of such corporation, or any member or
11 partner of such partnership or association shall have been
12 convicted or found guilty of a felony within a period of five
13 years immediately preceding the date of application for the said
14 license. The board shall refuse any application for a new
15 license, the transfer of any license to a new location or the
16 extension of any license to cover an additional area where the
17 sale of liquid fuels or oil is conducted. All issuances,
18 transfers or extensions under this section shall be subject to
19 any maximum saturation ratio established under section 493.1(a).
20 The board may enter into an agreement with the applicant
21 concerning additional restrictions on the license in question.
22 If the board and the applicant enter into such an agreement,
23 such agreement shall be binding on the applicant. Failure by the
24 applicant to adhere to the agreement will be sufficient cause to
25 form the basis for a citation under section 471 and for the
26 nonrenewal of the license under section 470. If the board enters
27 into an agreement with an applicant concerning additional
28 restrictions, those restrictions shall be binding on subsequent
29 holders of the license until the license is transferred to a new
30 location or until the board enters into a subsequent agreement

1 removing those restrictions. If the application in question
2 involves a location previously licensed by the board, then any
3 restrictions imposed by the board on the previous license at
4 that location shall be binding on the applicant unless the board
5 enters into a new agreement rescinding those restrictions. The
6 board may, in its discretion, refuse an application for an
7 economic development license under section 461(b.1) or an
8 application for an intermunicipal transfer of a license if the
9 board receives a protest from the governing body of the
10 receiving municipality. The receiving municipality of an
11 intermunicipal transfer or an economic development license under
12 section 461(b.1) may file a protest against the transfer of a
13 license into its municipality, and the receiving municipality
14 shall have standing in a hearing to present testimony in support
15 of or against the issuance or transfer of a license. Upon any
16 opening in any quota, an application for a new license shall
17 only be filed with the board for a period of six months
18 following said opening.

19 Section 2. Section 461(b.3) of the act, amended November 29,
20 2006 (P.L.1421, No.155), is amended to read:

21 Section 461. Limiting Number of Retail Licenses To Be Issued
22 In Each County.--* * *

23 (b.3) An intermunicipal transfer of a license or issuance of
24 a license for economic development under subsection (b.1)(2)(i)
25 must first be approved by the governing body of the receiving
26 municipality when the total number of existing restaurant liquor
27 licenses and eating place retail dispenser licenses in the
28 receiving municipality equal or exceed one license per three
29 thousand inhabitants. An intramunicipal transfer of a license or
30 issuance of a license for economic development under subsection

1 (b.1)(2)(i) must first be approved by the governing body of the
2 municipality if the municipality has created a maximum
3 saturation ratio pursuant to section 493.1(a) and the saturation
4 level is met or exceeded. Upon request for approval of an
5 intermunicipal transfer of a license or issuance of an economic
6 development license by an applicant, at least one public hearing
7 shall be held by the municipal governing body for the purpose of
8 receiving comments and recommendations of interested individuals
9 residing within the municipality concerning the applicant's
10 intent to transfer a license into the municipality or acquire an
11 economic development license from the Pennsylvania Liquor
12 Control Board. The governing body shall, within forty-five days
13 of a request for approval, render a decision by ordinance or
14 resolution to approve or disapprove the applicant's request for
15 an intermunicipal transfer of a license or issuance of an
16 economic development license. The municipality may approve the
17 request. A decision by the governing body of the municipality to
18 deny the request may not be appealed. A copy of the approval
19 must be submitted with the license application. The approval
20 requirement shall not apply to licenses transferred into a tax
21 increment district created pursuant to the act of July 11, 1990
22 (P.L.465, No.113), known as the "Tax Increment Financing Act,"
23 located in a township of the second class that is located within
24 a county of the second class if the district was created prior
25 to December 31, 2002, and the governing body of the township has
26 adopted an agreement at a public meeting that consents to the
27 transfer of licenses into the tax increment district. Failure by
28 the governing body of the municipality to render a decision
29 within forty-five days of the applicant's request for approval
30 shall be deemed an approval of the application in terms as

1 presented unless the governing body has notified the applicant
2 in writing of their election for an extension of time not to
3 exceed sixty days. Failure by the governing body of the
4 municipality to render a decision within the extended time
5 period shall be deemed an approval of the application in terms
6 as presented.

7 * * *

8 Section 3. Section 493.1(a) of the act, amended July 5, 2012
9 (P.L.1007, No.116), is amended to read:

10 Section 493.1. Rights of Municipalities Preserved.--(a)
11 Nothing in this act shall be construed to preempt the right of
12 any municipality to regulate zoning and enforce any other local
13 ordinances and codes dealing with health and welfare issues.
14 Further, a municipality may, in any zoning district where
15 licensed facilities are permitted, establish a maximum
16 saturation ratio for licensed establishments taking into account
17 one or more of the following: type of licensed use, type of
18 zoning district, the current saturation rate and the size of the
19 zoning district.

20 * * *

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