

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 103 Session of 2013

INTRODUCED BY TOMLINSON, SCARNATI, RAFFERTY, WAUGH, MENSCH,  
TARTAGLIONE, HUGHES AND SOLOBAY, FEBRUARY 13, 2013

REFERRED TO LAW AND JUSTICE, FEBRUARY 13, 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 further providing for revocation and suspension of licenses  
18 and fines.

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

21 Section 1. Section 471(b) of the act of April 12, 1951  
22 (P.L.90, No.21), known as the Liquor Code, reenacted and amended  
23 June 29, 1987 (P.L.32, No.14) and amended July 6, 2005 (P.L.135,  
24 No.39), is amended to read:

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

26 \* \* \*

1 (b) Hearing on such citations shall be held in the same  
2 manner as provided herein for hearings on applications for  
3 license. Upon such hearing, if satisfied that any such violation  
4 has occurred or for other sufficient cause, the administrative  
5 law judge shall immediately suspend or revoke the license, or  
6 impose a fine of not less than [fifty dollars (\$50)] one hundred  
7 dollars (\$100) nor more than [one thousand dollars (\$1,000)] two  
8 thousand dollars (\$2,000), or both, notifying the licensee by  
9 registered letter addressed to his licensed premises. If the  
10 licensee has been cited and found to have violated section  
11 493(1) insofar as it relates to sales to minors or sales to a  
12 visibly intoxicated person, section 493(10) insofar as it  
13 relates to lewd, immoral or improper entertainment or section  
14 493(14), (16) or (21), or has been found to be a public nuisance  
15 pursuant to section 611, or if the owner or operator of the  
16 licensed premises or any authorized agent of the owner or  
17 operator has been convicted of any violation of the act of April  
18 14, 1972 (P.L.233, No.64), known as "The Controlled Substance,  
19 Drug, Device and Cosmetic Act," or of 18 Pa.C.S. § 5902  
20 (relating to prostitution and related offenses) or 6301  
21 (relating to corruption of minors), at or relating to the  
22 licensed premises, the administrative law judge shall  
23 immediately suspend or revoke the license, or impose a fine of  
24 not less than [one thousand dollars (\$1,000)] five thousand  
25 dollars (\$5,000) nor more than [five thousand dollars (\$5,000)]  
26 ten thousand dollars (\$10,000), or both. However, if a licensee  
27 has been cited and found to have violated section 493(1) as it  
28 relates to sales to minors or sales to a visibly intoxicated  
29 person but at the time of the sale the licensee was in  
30 compliance with the requirements set forth in section 471.1 and

1 the licensee had not sold to minors or visibly intoxicated  
2 persons in the previous four years, then the administrative law  
3 judge shall immediately suspend or revoke the license, or impose  
4 a fine of not less than [fifty dollars (\$50)] one hundred  
5 dollars (\$100) nor more than [one thousand dollars (\$1,000)] two  
6 thousand dollars (\$2,000), or both. The administrative law judge  
7 shall notify the licensee by registered mail, addressed to the  
8 licensed premises, of such suspension, revocation or fine. In  
9 the event the fine is not paid within twenty days of the  
10 adjudication, the administrative law judge shall suspend or  
11 revoke the license, notifying the licensee by registered mail  
12 addressed to the licensed premises. Suspensions and revocations  
13 shall not go into effect until thirty days have elapsed from the  
14 date of the adjudication during which time the licensee may take  
15 an appeal as provided for in this act, except that revocations  
16 mandated in section 481(c) shall go into effect immediately. Any  
17 licensee whose license is revoked shall be ineligible to have a  
18 license under this act until the expiration of three years from  
19 the date such license was revoked. In the event a license is  
20 revoked, no license shall be granted for the premises or  
21 transferred to the premises in which the said license was  
22 conducted for a period of at least one year after the date of  
23 the revocation of the license conducted in the said premises,  
24 except in cases where the licensee or a member of his immediate  
25 family is not the owner of the premises, in which case the board  
26 may, in its discretion, issue or transfer a license within the  
27 said year. In the event the bureau or the person who was fined  
28 or whose license was suspended or revoked shall feel aggrieved  
29 by the adjudication of the administrative law judge, there shall  
30 be a right to appeal to the board. The appeal shall be based

1 solely on the record before the administrative law judge. The  
2 board shall only reverse the decision of the administrative law  
3 judge if the administrative law judge committed an error of law,  
4 abused its discretion or if its decision is not based on  
5 substantial evidence. In the event the bureau or the person who  
6 was fined or whose license was suspended or revoked shall feel  
7 aggrieved by the decision of the board, there shall be a right  
8 to appeal to the court of common pleas in the same manner as  
9 herein provided for appeals from refusals to grant licenses.  
10 Each of the appeals shall act as a supersedeas unless, upon  
11 sufficient cause shown, the reviewing authority shall determine  
12 otherwise; however, if the licensee has been cited and found to  
13 have violated section 493(1) insofar as it relates to sales to  
14 minors or sales to a visibly intoxicated person, section 493(10)  
15 insofar as it relates to lewd, immoral or improper entertainment  
16 or section 493(14), (16) or (21), or has been found to be a  
17 public nuisance pursuant to section 611, or if the owner or  
18 operator of the licensed premises or any authorized agent of the  
19 owner or operator has been convicted of any violation of "The  
20 Controlled Substance, Drug, Device and Cosmetic Act," or of 18  
21 Pa.C.S. § 5902 or 6301, at or relating to the licensed premises,  
22 or if the license has been revoked under section 481(c), its  
23 appeal shall not act as a supersedeas unless the reviewing  
24 authority determines otherwise upon sufficient cause shown. In  
25 any hearing on an application for a supersedeas under this  
26 section, the reviewing authority may consider, in addition to  
27 other relevant evidence, documentary evidence, including records  
28 of the bureau, showing the prior history of citations, fines,  
29 suspensions or revocations against the licensee; and the  
30 reviewing authority may also consider, in addition to other

1 relevant evidence, evidence of any recurrence of the unlawful  
2 activity occurring between the date of the citation which is the  
3 subject of the appeal and the date of the hearing. If the  
4 reviewing authority is the board, no hearing shall be held on  
5 the application for a supersedeas; however, a decision shall be  
6 made based on the application, answer and documentary evidence  
7 under this subsection. If the application for a supersedeas is  
8 for a license that has been revoked under section 481(c), the  
9 reviewing authority shall grant the supersedeas only if it finds  
10 that the licensee will likely prevail on the merits. No penalty  
11 provided by this section shall be imposed for any violations  
12 provided for in this act unless the bureau notifies the licensee  
13 of its nature within thirty days of the completion of the  
14 investigation.

15 \* \* \*

16 Section 2. This act shall take effect in 60 days.