

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 553 Session of
1993

INTRODUCED BY ROEBUCK, D. W. SNYDER, KELLER, RAYMOND, PRESTON,
BISHOP, WILLIAMS, TRELLO, STABACK, STURLA, CIVERA, PESCI,
MELIO, GIGLIOTTI, DALEY, CARN, CALTAGIRONE, ROBINSON, JAROLIN
AND LINTON, MARCH 15, 1993

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
OCTOBER 13, 1993

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 extending enforcement powers of liquor control enforcement
18 officers.

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

21 Section 1. Section 211 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), is amended to read:

24 Section 211. Enforcement.--(a) There is created within the

1 Pennsylvania State Police a Bureau of Liquor Control Enforcement
2 which shall be responsible for enforcing this act and any
3 regulations promulgated pursuant thereto. Officers and
4 investigators assigned to the bureau shall have the power and
5 their duty shall be:

6 (1) To investigate whenever there are reasonable grounds to
7 believe liquor, alcohol or malt or brewed beverages are being
8 sold on premises not licensed under the provisions of this act.
9 If the investigation produces evidence of the unlawful sale of
10 liquor or malt or brewed beverages or any other violation of the
11 provisions of this act, the officer involved in the
12 investigation shall institute criminal proceedings against the
13 person or persons believed to have been criminally liable, as
14 otherwise provided by law or rule of court.

15 [(2) To arrest on view, except in private homes, without
16 warrant, any person actually engaged in the unlawful sale,
17 importation, manufacture or transportation or having unlawful
18 possession of liquor, alcohol or malt or brewed beverages
19 contrary to the provisions of this act or any other law of this
20 Commonwealth.]

21 ~~(2) To arrest on view, except in private homes, without~~ <—
22 ~~warrant, any person actually engaged in the unlawful sale,~~
23 ~~importation, manufacture or transportation or having unlawful~~
24 ~~possession of liquor, alcohol or malt or brewed beverages~~
25 ~~contrary to the provisions of this act or any other law of this~~
26 ~~Commonwealth or any person whom the officer/investigator, while~~
27 ~~in the performance of his assigned duties under and pursuant to~~
28 ~~this act and any regulations promulgated under this act,~~
29 ~~observes to be in violation of any of the following provisions:~~

30 ~~18 Pa.C.S. § 903 (relating to criminal conspiracy); this~~

~~provision is limited to conspiracy to violate the Liquor Code.~~

~~18 Pa.C.S. § 911 (relating to corrupt organizations).~~

~~18 Pa.C.S. § 3302 (relating to causing or risking catastrophe).~~

~~18 Pa.C.S. § 3304 (relating to criminal mischief).~~

~~18 Pa.C.S. § 4101 (relating to forgery).~~

~~18 Pa.C.S. § 4104 (relating to tampering with records or identification).~~

~~18 Pa.C.S. § 4903 (relating to false swearing).~~

~~18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).~~

~~18 Pa.C.S. § 4906 (relating to false reports to law enforcement authorities).~~

~~18 Pa.C.S. § 4911 (relating to tampering with public records or information).~~

~~18 Pa.C.S. § 5101 (relating to obstructing administration of law or other governmental function).~~

~~18 Pa.C.S. § 5111 (relating to dealing in proceeds of unlawful activities).~~

~~18 Pa.C.S. § 5503 (relating to disorderly conduct).~~

~~18 Pa.C.S. § 5505 (relating to public drunkenness).~~

~~18 Pa.C.S. § 5512 (relating to lotteries, etc.).~~

~~18 Pa.C.S. § 5513 (relating to gambling devices, gambling, etc.).~~

~~18 Pa.C.S. § 5514 (relating to pool selling and book making).~~

~~18 Pa.C.S. § 6307 (relating to misrepresentation of age to secure liquor or malt or brewed beverages).~~

~~18 Pa.C.S. § 6308 (relating to purchase, consumption,~~

~~possession or transportation of liquor or malt or brewed
beverages).~~

~~18 Pa.C.S. § 6309 (relating to representing that minor is
of age).~~

~~18 Pa.C.S. § 6310.1 (relating to selling or furnishing
liquor or malt or brewed beverages to minors).~~

~~18 Pa.C.S. § 6310.3 (relating to carrying a false
identification card).~~

(2) TO ARREST ON VIEW, EXCEPT IN PRIVATE HOMES, WITHOUT
WARRANT, ANY PERSON ACTUALLY ENGAGED IN THE UNLAWFUL SALE,
IMPORTATION, MANUFACTURE OR TRANSPORTATION OR HAVING UNLAWFUL
POSSESSION OF LIQUOR, ALCOHOL OR MALT OR BREWED BEVERAGES
CONTRARY TO THE PROVISIONS OF THIS ACT OR ANY OTHER LAW OF THIS
COMMONWEALTH OR ANY PERSON WHOM THE OFFICER/INVESTIGATOR, WHILE
IN THE PERFORMANCE OF HIS ASSIGNED DUTIES UNDER AND PURSUANT TO
THIS ACT AND ANY REGULATIONS PROMULGATED UNDER THIS ACT,
OBSERVES TO BE IN VIOLATION OF ANY OF THE FOLLOWING PROVISIONS:

~~18 PA.C.S. § 3302 (RELATING TO CAUSING OR RISKING
CATASTROPHE).~~

~~18 PA.C.S. § 3304 (RELATING TO CRIMINAL MISCHIEF).~~

~~18 PA.C.S. § 4101 (RELATING TO FORGERY).~~

~~18 PA.C.S. § 5503 (RELATING TO DISORDERLY CONDUCT).~~

~~18 PA.C.S. § 5505 (RELATING TO PUBLIC DRUNKENNESS).~~

~~18 PA.C.S. § 5512 (RELATING TO LOTTERIES, ETC.).~~

~~18 PA.C.S. § 5513 (RELATING TO GAMBLING DEVICES,
GAMBLING, ETC.).~~

~~18 PA.C.S. § 5514 (RELATING TO POOL SELLING AND
BOOKMAKING).~~

~~18 PA.C.S. § 6307 (RELATING TO MISREPRESENTATIONS OF AGE
TO SECURE LIQUOR OR MALT OR BREWED BEVERAGES).~~

1 18 PA.C.S. § 6308 (RELATING TO PURCHASE, CONSUMPTION,
2 POSSESSION OR TRANSPORTATION OF LIQUOR OR MALT OR BREWED
3 BEVERAGES).

4 18 PA.C.S. § 6309 (RELATING TO REPRESENTING THAT MINOR IS
5 OF AGE).

6 18 PA.C.S. § 6310.1 (RELATING TO SELLING OR FURNISHING
7 LIQUOR OR MALT OR BREWED BEVERAGES TO MINORS).

8 18 PA.C.S. § 6310.3 (RELATING TO CARRYING A FALSE
9 IDENTIFICATION CARD).

10 (3) Upon reasonable and probable cause, to search for and to
11 seize, without warrant or process, except in private homes, any
12 liquor, alcohol or malt or brewed beverages unlawfully
13 possessed, manufactured, sold, imported or transported and any
14 stills, equipment, materials, utensils, vehicles, boats,
15 vessels, animals, aircraft, or any of them, which are or have
16 been used in the unlawful manufacture, sale, importation or
17 transportation of the same. Such liquor, alcohol, malt or brewed
18 beverages, stills, equipment, materials, utensils, vehicles,
19 boats, vessels, animals or aircraft so seized shall be disposed
20 of as hereinafter provided.

21 (4) To investigate and issue citations for any violations of
22 this act or any laws of this Commonwealth relating to liquor,
23 alcohol or malt or brewed beverages, or any regulations of the
24 board adopted pursuant to such laws or any violation of any laws
25 of this Commonwealth or of the Federal Government, relating to
26 the payment of taxes on liquor, alcohol or malt or brewed
27 beverages by any licensee, his officers, servants, agents or
28 employes.

29 (5) To arrest any person who engages in the following
30 offenses when the said offenses are committed against the

officer/investigator, or any person accompanying and assisting the officer/investigator, while the said officer/investigator is performing assigned duties under and pursuant to this act and any regulations promulgated under this act:

18 Pa.C.S. § 2701 (relating to simple assault).

18 Pa.C.S. § 2702 (relating to aggravated assault).

18 Pa.C.S. § 2705 (relating to recklessly endangering another person).

18 Pa.C.S. § 2706 (relating to terroristic threats).

18 Pa.C.S. § 2709 (relating to harassment).

18 Pa.C.S. § 5104 (relating to resisting arrest or other law enforcement).

18 Pa.C.S. § 5507 (relating to riot).

(6) To serve and execute warrants issued by the proper authorities for offenses referred to in this subsection and to serve subpoenas.

(7) To arrange for the administration of chemical tests of breath, blood or urine, including preliminary breath tests, to persons for the purpose of determining the alcoholic content of blood or the presence of a controlled substance by qualified personnel of a State or local police department or qualified personnel of a clinical laboratory licensed and approved by the Department of Health.

(b) Any equipment or appurtenance actually used in the commission of the unlawful acts may be confiscated. The confiscation shall not, in any manner, divest or impair the rights or interest of any bona fide lienholder in the equipment or appurtenance.

(c) The Pennsylvania State Police Commissioner shall assign State Police Officers to such supervisory and other capacities

1 in the enforcement bureau as he deems necessary. All other
2 personnel of the enforcement bureau shall be civilians.

3 (d) The Office of Chief Counsel for the Pennsylvania State
4 Police shall represent the enforcement bureau in all enforcement
5 proceedings brought before the Office of Administrative Law
6 Judge or any other adjudicatory body.

7 (e) Nothing in this act shall be construed to change the
8 status of civilian enforcement agents for the purposes of the
9 act of July 23, 1970 (P.L.563, No.195), known as the "Public
10 Employe Relations Act," or cause civilian enforcement agents to
11 be considered policemen for the purposes of the act of June 24,
12 1968 (P.L.237, No.111), referred to as the Policemen and Firemen
13 Collective Bargaining Act.

14 ~~Section 2. This act shall take effect in 60 days.~~ <—

15 SECTION 2. THE ACT IS AMENDED BY ADDING A SECTION TO READ: <—

16 SECTION 211.2. ENFORCEMENT PERSONNEL IN CITIES OF THE FIRST
17 CLASS.--NOTWITHSTANDING ANY PROVISION OF THIS ACT TO THE
18 CONTRARY, THE PENNSYLVANIA STATE POLICE COMMISSIONER SHALL
19 ASSIGN NO LESS THAN FORTY LIQUOR CONTROL ENFORCEMENT AGENTS TO
20 ENFORCE THIS ACT AND ANY REGULATIONS PROMULGATED PURSUANT
21 THERE TO IN CITIES OF THE FIRST CLASS. THE NUMBER OF LIQUOR
22 ENFORCEMENT AGENTS IN CITIES OF THE FIRST CLASS SHALL NEVER BE
23 LESS THAN A NUMBER EQUAL TO TWENTY-FIVE PERCENT (25%) OF THE
24 TOTAL NUMBER OF LIQUOR CONTROL ENFORCEMENT AGENTS STATEWIDE.

25 SECTION 3. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

26 (1) THE ADDITION OF SECTION 211.2 OF THE ACT SHALL TAKE
27 EFFECT JULY 1, 1994.

28 (2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN 60
29 DAYS.