

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 159

Session of
1975

INTRODUCED BY LYNCH AND McKINNEY, FEBRUARY 10, 1975

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
JUNE 15, 1976

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 PROHIBITING LIQUOR STORES WITHIN A DRY COMMUNITY WITHOUT A <—
18 REFERENDUM; AUTHORIZING LICENSES UNDER CERTAIN TERMS AND
19 CONDITIONS FOR ART MUSEUMS OWNED BY MAINTAINED BY CERTAIN <—
20 NON-PROFIT CORPORATIONS IN CITIES OF THE SECOND CLASS,
21 CERTAIN ART MUSEUMS; AND MAKING EDITORIAL CHANGES. AND <—
22 further providing for the sale of liquor and/or malt and
23 brewed beverages at city owned art museums.

24 The General Assembly of the Commonwealth of Pennsylvania
25 hereby enacts as follows:

26 SECTION 1. SECTION 301, ACT OF APRIL 12, 1951 (P.L.90, <—
27 NO.21), KNOWN AS THE "LIQUOR CODE," AMENDED DECEMBER 12, 1973

1 (P.L.395, NO.140), IS AMENDED TO READ:

2 SECTION 301. BOARD TO ESTABLISH STATE LIQUOR STORES.--THE
3 BOARD SHALL ESTABLISH, OPERATE AND MAINTAIN AT SUCH PLACES
4 THROUGHOUT THE COMMONWEALTH AS IT SHALL DEEM ESSENTIAL AND
5 ADVISABLE, STORES TO BE KNOWN AS "PENNSYLVANIA LIQUOR STORES,"
6 FOR THE SALE OF LIQUOR AND ALCOHOL IN ACCORDANCE WITH THE
7 PROVISIONS OF AND THE REGULATIONS MADE UNDER THIS ACT; EXCEPT
8 THAT NO STORE NOT SO ALREADY LOCATED SHALL BE LOCATED WITHIN
9 THREE HUNDRED FEET OF ANY ELEMENTARY OR SECONDARY SCHOOL, NOR
10 WITHIN A DRY MUNICIPALITY WITHOUT THERE FIRST HAVING BEEN A
11 REFERENDUM APPROVING SUCH LOCATION. WHEN THE BOARD SHALL HAVE
12 DETERMINED UPON THE LOCATION OF A LIQUOR STORE IN ANY
13 MUNICIPALITY, IT SHALL GIVE NOTICE OF SUCH LOCATION BY PUBLIC
14 ADVERTISEMENT IN TWO NEWSPAPERS OF GENERAL CIRCULATION. IN
15 CITIES OF THE FIRST CLASS, THE LOCATION SHALL ALSO BE POSTED FOR
16 A PERIOD OF AT LEAST FIFTEEN DAYS FOLLOWING ITS DETERMINATION BY
17 THE BOARD AS REQUIRED IN SECTION 403(G) OF THIS ACT. THE NOTICE
18 SHALL BE POSTED IN A CONSPICUOUS PLACE ON THE OUTSIDE OF THE
19 PREMISES IN WHICH THE PROPOSED STORE IS TO OPERATE OR, IN THE
20 EVENT THAT A NEW STRUCTURE IS TO BE BUILT IN A SIMILARLY VISIBLE
21 LOCATION. IF, WITHIN FIVE DAYS AFTER THE APPEARANCE OF SUCH
22 ADVERTISEMENT, OR OF THE LAST DAY UPON WHICH THE NOTICE WAS
23 POSTED, FIFTEEN OR MORE TAXPAYERS RESIDING WITHIN A QUARTER OF A
24 MILE OF SUCH LOCATION, OR THE CITY SOLICITOR OF THE CITY OF THE
25 FIRST CLASS, SHALL FILE A PROTEST WITH THE COURT OF [QUARTER
26 SESSIONS] COMMON PLEAS OF THE COUNTY AVERRING THAT THE LOCATION
27 IS OBJECTIONABLE BECAUSE OF ITS PROXIMITY TO A CHURCH, A SCHOOL,
28 OR TO PRIVATE RESIDENCES, THE COURT SHALL FORTHWITH HOLD A
29 HEARING AFFORDING AN OPPORTUNITY TO THE PROTESTANTS AND TO THE
30 BOARD TO PRESENT EVIDENCE. THE COURT SHALL RENDER ITS DECISION

1 IMMEDIATELY UPON THE CONCLUSION OF THE TESTIMONY AND FROM THE
2 DECISION THERE SHALL BE NO APPEAL. IF THE COURT SHALL DETERMINE
3 THAT THE PROPOSED LOCATION IS UNDESIRABLE FOR THE REASONS SET
4 FORTH IN THE PROTEST, THE BOARD SHALL ABANDON IT AND FIND
5 ANOTHER LOCATION. THE BOARD MAY ESTABLISH, OPERATE AND MAINTAIN
6 SUCH ESTABLISHMENTS FOR STORING AND TESTING LIQUORS AS IT SHALL
7 DEEM EXPEDIENT TO CARRY OUT ITS POWERS AND DUTIES UNDER THIS
8 ACT.

9 THE BOARD MAY LEASE THE NECESSARY PREMISES FOR SUCH STORES OR
10 ESTABLISHMENTS, BUT ALL SUCH LEASES SHALL BE MADE THROUGH THE
11 DEPARTMENT OF [PROPERTY AND SUPPLIES] GENERAL SERVICES AS AGENT
12 OF THE BOARD. THE BOARD, THROUGH THE DEPARTMENT OF [PROPERTY AND
13 SUPPLIES] GENERAL SERVICES, SHALL HAVE AUTHORITY TO PURCHASE
14 SUCH EQUIPMENT AND APPOINTMENTS AS MAY BE REQUIRED IN THE
15 OPERATION OF SUCH STORES OR ESTABLISHMENTS.

16 Section ~~1-~~ 2. ~~Subsection (g) of section~~ SECTION 408.5 OF THE <—
17 act of April 12, 1951 (P.L.90, No.21), known as the "Liquor <—
18 Code," added October 26, 1972 (P.L.1039, No.259), is amended to
19 read:

20 Section 408.5. ~~Licenses for City owned Art Museums, Cities~~ <—
21 ~~First Class. * * *~~

22 ~~(g) Sales by the holder of an art museum license may be made~~
23 ~~except to those persons prohibited by this act on city owned~~
24 ~~premises used for art museum purposes, but such sales may not be~~
25 ~~made beyond the hours expressed in this act for the sale of~~
26 ~~liquor by restaurant licenses [However] ; Provided, however,~~
27 ~~That such sales may be made on Sunday between the hours of one~~
28 ~~o'clock post meridian and ten o'clock post meridian upon~~
29 ~~purchase of a special annual permit from the board at a fee of~~
30 ~~two hundred dollars (\$200) per year which shall be in addition~~

~~to any other license fee; And provided further, That during the hours set forth in this act for the sale of liquor by hotel licensees, sales of such liquor or malt or brewed beverages may be made by an art museum licensee at banquets at which more than five hundred persons are scheduled to attend and at any other function which is directly related to art museum purposes.~~

~~* * *~~

SECTION 408.5. LICENSES FOR CITY-OWNED ART MUSEUMS, CITIES
~~FIRST CLASS AND ART MUSEUMS OWNED BY NON-PROFIT CORPORATION,~~
~~MAINTAINED BY CERTAIN NON-PROFIT CORPORATIONS IN CITIES OF THE~~
~~SECOND CLASS.--(A) THE BOARD IS AUTHORIZED TO ISSUE A LICENSE IN~~
~~ANY CITY OF THE FIRST CLASS FOR THE RETAIL SALE OF LIQUOR AND~~
~~MALT OR BREWED BEVERAGES BY THE GLASS, OPEN BOTTLES OR OTHER~~
~~CONTAINER, AND IN ANY MIXTURE, FOR CONSUMPTION IN ANY CITY-OWNED~~
~~ART MUSEUM OR IN ANY ART MUSEUM OWNED MAINTAINED BY A NON-PROFIT~~
~~CORPORATION IN CITIES OF THE SECOND CLASS. FOR THE PURPOSE OF~~
~~THIS SECTION "NON-PROFIT CORPORATION" SHALL MEAN A CORPORATION~~
~~ORGANIZED UNDER THE NON-PROFIT CORPORATION LAWS FOR THE BENEFIT~~
~~OF THE PUBLIC AND NOT FOR THE MUTUAL BENEFIT OF ITS MEMBERS, AND~~
~~WHICH MAINTAINS AN ART MUSEUM HAVING A FLOOR AREA OF NOT LESS~~
~~THAN ONE HUNDRED THOUSAND SQUARE FEET IN ONE BUILDING.~~

(B) THE APPLICATION FOR A LICENSE MAY BE FILED AT ANY TIME
BY THE CITY, THE NON-PROFIT CORPORATION OR LESSEE. THE
APPLICATION MAY ALSO BE FILED BY A CONCESSIONAIRE SELECTED AND
CERTIFIED BY THE CITY OR THE NON-PROFIT CORPORATION. THE
APPLICATION SHALL CONFORM WITH ALL REQUIREMENTS FOR RESTAURANT
LIQUOR LICENSES AND APPLICATIONS EXCEPT AS MAY OTHERWISE BE
PROVIDED HEREIN. APPLICANT SHALL SUBMIT SUCH OTHER INFORMATION
AS THE BOARD MAY REQUIRE. THE APPLICATION SHALL BE IN WRITING ON
FORMS PRESCRIBED BY THE BOARD AND SHALL BE SIGNED AND SUBMITTED

1 TO THE BOARD BY THE APPLICANT. A FILING FEE OF TWENTY DOLLARS
2 (\$20) SHALL ACCOMPANY THE LICENSE APPLICATION.

3 (C) UPON RECEIPT OF THE APPLICATION IN PROPER FORM WITH THE
4 APPLICATION FEE AND UPON BEING SATISFIED THAT THE APPLICANT IS
5 OF GOOD REPUTE AND FINANCIALLY RESPONSIBLE AND THAT THE PROPOSED
6 PLACE OF BUSINESS IS PROPER, THE BOARD SHALL ISSUE A LICENSE TO
7 THE APPLICANT.

8 (D) THE LICENSE SHALL BE ISSUED FOR THE SAME PERIOD OF TIME
9 AS PROVIDED FOR RESTAURANT LICENSEES AND SHALL BE RENEWED AS
10 PROVIDED IN SECTION 402. THE LICENSE SHALL TERMINATE UPON
11 REVOCATION BY THE BOARD OR UPON TERMINATION OF THE LEASE OR UPON
12 TERMINATION OF THE CONTRACT BETWEEN THE CONCESSIONAIRE AND THE
13 CITY OR THE NON-PROFIT CORPORATION.

14 [(E) THE ANNUAL FEE FOR AN ART MUSEUM LICENSE SHALL BE TWO <—
15 HUNDRED DOLLARS (\$200) AND SHALL ACCOMPANY THE APPLICATION FOR
16 THE LICENSE. WHENEVER A LEASE TERMINATES OR WHENEVER A
17 CONCESSIONAIRE'S CONTRACT TERMINATES, THE LICENSE SHALL BE
18 RETURNED TO THE BOARD FOR CANCELLATION AND A NEW LICENSE SHALL
19 BE ISSUED TO A NEW APPLICANT.

20 (F) THE PENAL SUM OF THE BOND WHICH SHALL BE FILED BY AN
21 APPLICANT FOR AN ART MUSEUM LICENSE UNDER SECTION 465 OF THIS
22 ACT SHALL BE ONE THOUSAND DOLLARS (\$1,000) AND IN ADDITION
23 THERETO HE SHALL FILE AN ADDITIONAL BOND IN A SUM TO ASSURE
24 PAYMENT OF ANY FINE IMPOSED BY THE BOARD UP TO FIVE HUNDRED
25 DOLLARS (\$500).] <—

26 (G) SALES BY THE HOLDER OF AN ART MUSEUM LICENSE MAY BE MADE
27 EXCEPT TO THOSE PERSONS PROHIBITED BY THIS ACT ON [CITY-OWNED] <—
28 PREMISES USED FOR ART MUSEUM PURPOSES, BUT SUCH SALES MAY NOT BE
29 MADE BEYOND THE HOURS EXPRESSED IN THIS ACT FOR THE SALE OF
30 LIQUOR BY RESTAURANT LICENSEES. ~~[HOWEVER]• PROVIDED, HOWEVER,~~ <—

1 ~~THAT SUCH SALES MAY BE MADE ON SUNDAY BETWEEN THE HOURS OF ONE~~
2 ~~O'CLOCK POST MERIDIAN AND TEN O'CLOCK POST MERIDIAN UPON~~
3 ~~PURCHASE OF A SPECIAL ANNUAL PERMIT FROM THE BOARD AT A FEE OF~~
4 ~~TWO HUNDRED DOLLARS (\$200) PER YEAR WHICH SHALL BE IN ADDITION~~
5 ~~TO ANY OTHER LICENSE FEE: AND PROVIDED FURTHER, THAT DURING THE~~
6 ~~HOURS SET FORTH IN THIS ACT FOR THE SALE OF LIQUOR BY HOTEL~~
7 ~~LICENSEES,~~ SALES OF SUCH LIQUOR OR MALT OR BREWED BEVERAGES MAY <—
8 BE MADE BY AN ART MUSEUM LICENSEE AT BANQUETS AT WHICH MORE THAN
9 FIVE HUNDRED PERSONS ARE SCHEDULED TO ATTEND AND AT ANY OTHER
10 FUNCTION WHICH IS DIRECTLY RELATED TO ART MUSEUM PURPOSES.

11 (H) WHENEVER A LEASE OR A CONCESSION CONTRACT IS TERMINATED
12 PRIOR TO THE EXPIRATION DATE PROVIDED IN THE LEASE OR CONTRACT
13 BETWEEN THE CITY OR THE NON-PROFIT CORPORATION AND THE TENANT OR
14 CONCESSIONAIRE, THE CITY OR THE NON-PROFIT CORPORATION MAY
15 SELECT AND CERTIFY TO THE BOARD A DIFFERENT LICENSEE OR
16 CONCESSIONAIRE WHO MAY THEN APPLY TO THE BOARD FOR A NEW
17 LICENSE. IF THE APPLICANT MEETS THE REQUIREMENTS OF THE BOARD AS
18 HEREIN PROVIDED A NEW LICENSE SHALL THEREUPON BE ISSUED.

19 (I) IF THE BOARD SHALL REVOKE ANY ART MUSEUM LICENSE, THE
20 BOARD SHALL ISSUE A NEW LICENSE TO ANY QUALIFIED APPLICANT
21 WITHOUT REGARD TO THE PROHIBITION IN SECTION 471 AGAINST THE
22 GRANT OF A LICENSE AT THE SAME PREMISES FOR A PERIOD OF AT LEAST
23 ONE YEAR.

24 (I.1) ANY RENEWAL OF A LICENSE PRESENTLY HELD BY A CITY-
25 OWNED ART MUSEUM IN A CITY OF THE FIRST CLASS SHALL BE
26 ACCOMPLISHED BY THE PURCHASE OF A LICENSE FROM AN EXISTING
27 LICENSEE.

28 (I.2) AN ART MUSEUM MAINTAINED BY A NONPROFIT CORPORATION OR
29 CORPORATIONS IN A CITY OF THE SECOND CLASS WHICH OBTAINS
30 APPROVAL OF ITS APPLICATION FOR A LICENSE FROM THE BOARD SHALL

1 PURCHASE A LICENSE FROM AN EXISTING LICENSEE.

2 (J) THE PROVISIONS OF THIS ACT SHALL SUPERSEDE OR EXEMPT ANY
3 PROVISION OF THE LIQUOR CODE WHICH WOULD PREVENT THE ISSUANCE OF
4 A LICENSE FOR THE RETAIL SALE OF LIQUOR AND MALT OR BREWED
5 BEVERAGES UPON ANY PREMISES OWNED BY THE CITY OF THE FIRST CLASS
6 OR BY A NON-PROFIT CORPORATION IN A CITY OF THE SECOND CLASS
7 USED FOR ART MUSEUM PURPOSES.

8 Section ~~2-~~ 3. This act shall take effect immediately.

<—