

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 2356 Session of
1980

INTRODUCED BY PERZEL, SERAFINI, BELARDI AND GALLEN,
MARCH 7, 1980

REFERRED TO COMMITTEE ON LIQUOR CONTROL, MARCH 7, 1980

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 providing for transfer of certain licenses to performing arts
18 facilities.

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

21 Section 1. Section 408.3, act of April 12, 1951 (P.L.90,
22 No.21), known as the "Liquor Code," added March 23, 1972
23 (P.L.122, No.46), is amended to read:

24 Section 408.3. Performing Arts Facilities.--(a) The board
25 is authorized to issue a license to one nonprofit corporation

1 operating a theater for the performing arts in each city of the
2 first or second class which has seating accommodations for at
3 least twenty-seven hundred persons except where prohibited by
4 local option for the retail sale of liquor and malt or brewed
5 beverages by the glass, open bottle or other container or in any
6 mixture for consumption in any such theater for the performing
7 arts.

8 (a.1) The board is authorized to allow the transfer of a
9 restaurant liquor license in any city of the first or second
10 class for the retail sale of liquor and malt or brewed
11 beverages, by the glass, open bottles or other container or in
12 any mixture for consumption on any city-owned premises
13 principally utilized as a nonprofit performing arts facility
14 where there is an available seating capacity within the premises
15 of five thousand or more: Provided, however, That no sale or
16 consumption of such beverages shall take place on any portions
17 of such premises other than service areas approved by the board.

18 (b) The application for a performing arts facility license
19 may be filed at any time by a nonprofit corporation operating
20 such a theater for the performing arts or by a concessionaire
21 selected by such nonprofit corporation and shall conform with
22 all requirements for restaurant liquor licenses and applications
23 except as may otherwise be provided herein. Applicant shall
24 submit such other information as the board may require.
25 Applications shall be in writing on forms prescribed by the
26 board and shall be signed and submitted to the board by the
27 applicant. The filing fee which shall accompany the license
28 application shall be twenty dollars (\$20).

29 (b.1) An application for transfer pursuant to section
30 408.3(a.1) above may be filed at any time by a nonprofit

1 corporation operating such a theater for the performing arts or
2 by a concessionaire selected by such nonprofit corporation. Any
3 such license granted under these provisions need not conform to
4 the requirements of the act relating to restaurant liquor
5 licenses, except as provided herein. Applicant shall submit such
6 other information as the board may require. Applications shall
7 be in writing on forms prescribed by the board and shall be
8 signed and submitted to the board by the applicant. The filing
9 fee which shall accompany the license transfer application shall
10 be thirty dollars (\$30).

11 (c) Upon receipt of the application in proper form and the
12 [application] appropriate fee and upon being satisfied that the
13 applicant is of good repute and financially responsible and that
14 the proposed place of business is proper, the board shall issue
15 a performing arts license to the applicant or shall approve the
16 transfer of the restaurant liquor license for the performing
17 arts facility.

18 (d) The license shall be issued or transferred for the same
19 period of time as provided for restaurant licenses and shall be
20 renewed as provided in section 402. The license shall terminate
21 upon revocation by the board or upon termination and nonrenewal
22 of the contract between the concessionaire and such nonprofit
23 corporation.

24 (e) The annual fee for a performing arts facility shall be
25 six hundred dollars (\$600), and shall accompany the application
26 for the license. Whenever and if a concessionaire's contract
27 terminates and is not renewed the license shall be returned to
28 the board for cancellation [and a new license shall be issued to
29 a new applicant]. A new license may be issued to a new
30 applicant, or the transfer of a restaurant liquor license may be

1 approved for a new applicant.

2 (f) The penal sum of the bond which shall be filed by an
3 applicant for a performing arts facility pursuant to section 465
4 of the "Liquor Code" shall be two thousand dollars (\$2,000).

5 (g) Sales by the holder of a performing arts facility
6 license may be made except to those persons prohibited under
7 clause (1) of section 493 of this act on the premises of such a
8 [theater] facility for the performing arts during the hours
9 expressed in the code for the sale of liquor and malt and brewed
10 beverages by restaurant licensees, and the license may be used
11 for such sales on Sundays between the hours of 1:00 P.M. and
12 10:00 P.M., irrespective of the volume of food sales.

13 (h) Whenever a contract with a concessionaire is terminated
14 prior to the expiration date provided in the contract between
15 such nonprofit corporation and the concessionaire and is not
16 renewed, such nonprofit corporation may select and certify to
17 the board a different concessionaire which concessionaire shall
18 apply to the board for a new license or for the transfer of a
19 restaurant liquor license. If the applicant meets the
20 requirements of the board as herein provided, a new license
21 shall thereupon be issued or a transfer shall thereupon be
22 approved. If any such performing arts facility license is
23 revoked, the board shall issue a new license [to] or approve a
24 license transfer for any qualified applicant without regard to
25 the prohibition in section 471, against the grant of a license
26 at the same premises for a period of at least one (1) year.

27 (i) Licenses issued under the provisions of this section
28 shall not be subject to the quota restrictions of section 461 of
29 this act.

30 (j) Performing arts [facility] licenses shall not be subject

1 to the provisions of section 404 except in so far as they relate
2 to the reputation of the applicant nor to the provisions of
3 sections 461 and 463 nor to the provisions of clause (10) of
4 section 493 of the "Liquor Code."

5 (k) Sales under such licenses (including food sales) may be
6 limited by the licensee to patrons of the events scheduled in
7 the [theater] facility of the performing arts. Provided food is
8 offered for sale when sales are made under the license, such
9 food may be catered from off the premises.

10 Section 2. This act shall take effect immediately.