

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 277

Session of
1981

INTRODUCED BY GREENLEAF, FEBRUARY 3, 1981

AS REPORTED FROM COMMITTEE ON LIQUOR CONTROL, HOUSE OF
REPRESENTATIVES, AS AMENDED, JUNE 24, 1981

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 defining and exempting privately-owned public golf courses
18 from licensing quota and FURTHER regulating sales by such
19 golf courses AND CERTAIN OTHER LIQUOR LICENSEES. <—

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

22 Section 1. Subsection (a) of section 406, act of April 12,
23 1951 (P.L.90, No.21), known as the "Liquor Code," amended
24 December 12, 1980 (P.L.1195, No.221), is amended to read:

25 Section 406. Sales by Liquor Licensees; Restrictions.--(a)

1 (1) Every hotel, restaurant or club liquor licensee may sell
2 liquor and malt or brewed beverages by the glass, open bottle or
3 other container, and in any mixture, for consumption only in
4 that part of the hotel or restaurant habitually used for the
5 serving of food to guests or patrons, or in a bowling alley that
6 is immediately adjacent to and under the same roof as a
7 restaurant when no minors are present in the bowling alley, and
8 in the case of hotels, to guests, and in the case of clubs, to
9 members, in their private rooms in the hotel or club. Privately <—
10 ~~owned public golf course restaurant liquor licensees~~ ANY LIQUOR <—
11 LICENSEE WHICH OPERATES A GOLF COURSE ON THE SAME PROPERTY AS
12 THE LICENSED PREMISES may also sell liquor or malt and brewed
13 beverages as above provided in a secondary building OF ANY SIZE <—
14 other than the restaurant LICENSED PREMISES so long as such <—
15 secondary building is on the golf course premises. No club
16 licensee nor its officers, servants, agents or employes, other
17 than one holding a catering license, shall sell any liquor or
18 malt or brewed beverages to any person except a member of the
19 club. In the case of a restaurant located in a hotel which is
20 not operated by the owner of the hotel and which is licensed to
21 sell liquor under this act, liquor and malt or brewed beverages
22 may be sold for consumption in that part of the restaurant
23 habitually used for the serving of meals to patrons and also to
24 guests in private guest rooms in the hotel. For the purpose of
25 this paragraph, any person who is an active member of another
26 club which is chartered by the same state or national
27 organization shall have the same rights and privileges as
28 members of the particular club. For the purpose of this
29 paragraph, any person who is an active member of any volunteer
30 firefighting company, association or group of this Commonwealth,

1 whether incorporated or unincorporated, shall upon the approval
2 of any club composed of volunteer firemen licensed under this
3 act, have the same social rights and privileges as members of
4 such licensed club. For the purposes of this paragraph, the term
5 "active member" shall not include a social member.

6 (2) Hotel and restaurant liquor licensees, airport
7 restaurant liquor licensees [and], municipal golf course
8 restaurant liquor licensees, and privately-owned public golf <—
9 course restaurant licensees AND PRIVATELY-OWNED PRIVATE GOLF <—
10 COURSE LICENSEES may sell liquor and malt or brewed beverages
11 only after seven o'clock antemeridian of any day until two
12 o'clock antemeridian of the following day, except Sunday, and
13 except as hereinafter provided, may sell liquor and malt or
14 brewed beverages on Sunday between the hours of twelve o'clock
15 midnight and two o'clock antemeridian.

16 (3) Hotel and restaurant liquor licensees, airport
17 restaurant liquor licensees [and], municipal golf course
18 restaurant liquor licensees, and privately-owned public golf <—
19 course restaurant licensees AND PRIVATELY-OWNED PRIVATE GOLF <—
20 COURSE LICENSEES whose sales of food and nonalcoholic beverages
21 are equal to forty per centum or more of the combined gross
22 sales of both food and alcoholic beverages may sell liquor and
23 malt or brewed beverages on Sunday between the hours of one
24 o'clock postmeridian and two o'clock antemeridian Monday upon
25 purchase of a special annual permit from the board at a fee of
26 two hundred dollars (\$200.00) per year, which shall be in
27 addition to any other license fees.

28 (4) Hotel and restaurant liquor licensees, airport
29 restaurant liquor licensees [and], municipal golf course
30 restaurant liquor licensees, and privately-owned public golf <—

1 course restaurant licensees AND PRIVATELY-OWNED PRIVATE GOLF
2 COURSE LICENSEES which do not qualify for and purchase such
3 annual special permit, their servants, agents or employes may
4 sell liquor and malt or brewed beverages only after seven
5 o'clock antemeridian of any day and until two o'clock
6 antemeridian of the following day, and shall not sell after two
7 o'clock antemeridian on Sunday. No hotel, restaurant and public
8 service liquor licensee shall sell liquor and malt or brewed
9 beverages after two o'clock antemeridian on any day on which a
10 general, municipal, special or primary election is being held
11 until one hour after the time fixed by law for closing the
12 polls, except, that, in the case of a special election for
13 members of the General Assembly or members of the Congress of
14 the United States, when such special election is held on other
15 than a primary, municipal or general election day, licensees in
16 those Legislative or Congressional Districts may make such
17 sales, as though the day were not a special election day. No
18 club licensee or its servants, agents or employes may sell
19 liquor or malt or brewed beverages between the hours of three
20 o'clock antemeridian and seven o'clock antemeridian on any day.
21 No public service liquor licensee or its servants, agents, or
22 employes may sell liquor or malt or brewed beverages between the
23 hours of two o'clock antemeridian and seven o'clock antemeridian
24 on any day.

25 (5) Any hotel, restaurant, club or public service liquor
26 licensee may, by giving notice to the board, advance by one hour
27 the hours herein prescribed as those during which liquor and
28 malt or brewed beverages may be sold during such part of the
29 year when daylight saving time is being observed generally in
30 the municipality in which the place of business of such licensee

1 is located. Any licensee who elects to operate his place of
2 business in accordance with daylight saving time shall post a
3 conspicuous notice in his place of business that he is operating
4 in accordance with daylight saving time.

5 (6) Notwithstanding any provisions to the contrary, whenever
6 the thirty-first day of December falls on a Sunday, every hotel
7 or restaurant liquor licensee, their servants, agents or
8 employes may sell liquor and malt or brewed beverages on any
9 such day after one o'clock postmeridian and until two o'clock
10 antemeridian of the following day.

11 * * *

12 Section 2. Subsection (a) of section 461 of the act, amended
13 December 12, 1980 (P.L.1195, No.221), is amended and a <—
14 ~~subsection is~~ SUBSECTIONS ARE added to read: <—

15 Section 461. Limiting Number of Retail Licenses To Be Issued
16 In Each Municipality.--(a) No licenses shall hereafter be
17 granted by the board for the retail sale of malt or brewed
18 beverages or the retail sale of liquor and malt or brewed
19 beverages in excess of one of such licenses of any class for
20 each two thousand inhabitants in any municipality, exclusive of
21 licenses granted to airport restaurants, municipal golf courses,
22 [and] hotels, and privately-owned public golf courses AND <—
23 PRIVATELY-OWNED PRIVATE GOLF COURSE LICENSEES, as defined in
24 this section, and clubs; but at least one such license may be
25 granted in each municipality and in each part of a municipality
26 where such municipality is split so that each part thereof is
27 separated by another municipality, except in municipalities
28 where the electors have voted against the granting of any retail
29 licenses and except in that part of a split municipality where
30 the electors have voted against the granting of any retail

1 licenses. Nothing contained in this section shall be construed
2 as denying the right to the board to renew or to transfer
3 existing retail licenses of any class notwithstanding that the
4 number of such licensed places in a municipality shall exceed
5 the limitation hereinbefore prescribed; but where such number
6 exceeds the limitation prescribed by this section, no new
7 license, except for hotels, municipal golf courses, [and]
8 airport restaurants, and privately-owned public golf courses AND <—
9 PRIVATELY-OWNED PRIVATE GOLF COURSE LICENSEES, as defined in
10 this section, shall be granted so long as said limitation is
11 exceeded.

12 * * *

13 (e.1) "Privately-owned public golf course," as used in this
14 section shall mean the restaurant facilities at any privately-
15 owned golf course open for public accommodation. including any <—
16 such restaurant facilities at any privately owned golf course
17 situate in a municipality where by vote of the electors the
18 retail sale of liquor and malt and brewed beverages is not
19 permitted.

20 (E.2) "PRIVATELY-OWNED PRIVATE GOLF COURSE" AS USED IN THIS <—
21 SECTION SHALL MEAN THE RESTAURANT FACILITIES AT ANY PRIVATELY-
22 OWNED GOLF COURSE OPEN FOR PRIVATE MEMBERSHIP ACCOMMODATIONS
23 ONLY.

24 SECTION 3. SECTION 472 OF THE ACT, AMENDED JULY 11, 1980
25 (P.L.558, NO.117), IS AMENDED TO READ:

26 SECTION 472. LOCAL OPTION.--IN ANY MUNICIPALITY OR ANY PART
27 OF A MUNICIPALITY WHERE SUCH MUNICIPALITY IS SPLIT SO THAT EACH
28 PART THEREOF IS SEPARATED BY ANOTHER MUNICIPALITY, AN ELECTION
29 MAY BE HELD ON THE DATE OF THE PRIMARY ELECTION IMMEDIATELY
30 PRECEDING ANY MUNICIPAL ELECTION, BUT NOT OFTENER THAN ONCE IN

1 FOUR YEARS, TO DETERMINE THE WILL OF THE ELECTORS WITH RESPECT
2 TO THE GRANTING OF LIQUOR LICENSES TO HOTELS, RESTAURANTS [AND],
3 CLUBS AND PRIVATELY-OWNED PRIVATE GOLF COURSES, NOT OFTENER THAN
4 ONCE IN FOUR YEARS, WITH RESPECT TO THE GRANTING OF LICENSES TO
5 RETAIL DISPENSERS OF MALT AND BREWED BEVERAGES, NOT OFTENER THAN
6 ONCE IN FOUR YEARS WITH RESPECT TO GRANTING OF LICENSES TO
7 WHOLESALE DISTRIBUTORS AND IMPORTING DISTRIBUTORS, OR NOT MORE
8 THAN ONCE IN FOUR YEARS WITH RESPECT TO THE ESTABLISHMENT,
9 OPERATION AND MAINTENANCE BY THE BOARD OF PENNSYLVANIA LIQUOR
10 STORES, WITHIN THE LIMITS OF SUCH MUNICIPALITY OR PART OF A
11 SPLIT MUNICIPALITY, UNDER THE PROVISIONS OF THIS ACT: PROVIDED,
12 HOWEVER, WHERE AN ELECTION SHALL HAVE BEEN HELD AT THE PRIMARY
13 PRECEDING A MUNICIPAL ELECTION IN ANY YEAR, ANOTHER ELECTION MAY
14 BE HELD UNDER THE PROVISIONS OF THIS ACT AT THE PRIMARY
15 OCCURRING THE FOURTH YEAR AFTER SUCH PRIOR ELECTION: AND
16 PROVIDED FURTHER, THAT AN ELECTION ON THE QUESTION OF
17 ESTABLISHING AND OPERATING A STATE LIQUOR STORE SHALL BE
18 INITIATED ONLY IN THOSE MUNICIPALITIES, OR THAT PART OF A SPLIT
19 MUNICIPALITY THAT SHALL HAVE VOTED AGAINST THE GRANTING OF
20 LIQUOR LICENSES; AND THAT AN ELECTION ON THE QUESTION OF
21 GRANTING WHOLESALE DISTRIBUTOR AND IMPORTING DISTRIBUTOR
22 LICENSES SHALL BE INITIATED ONLY IN THOSE MUNICIPALITIES OR
23 PARTS OF SPLIT MUNICIPALITIES THAT SHALL HAVE AT A PREVIOUS
24 ELECTION VOTED AGAINST THE GRANTING OF DISPENSER'S LICENSES.
25 WHENEVER ELECTORS EQUAL TO AT LEAST TWENTY-FIVE PER CENTUM OF
26 THE HIGHEST VOTE CAST FOR ANY OFFICE IN THE MUNICIPALITY OR PART
27 OF A SPLIT MUNICIPALITY AT THE LAST PRECEDING GENERAL ELECTION
28 SHALL FILE A PETITION WITH THE COUNTY BOARD OF ELECTIONS OF THE
29 COUNTY FOR A REFERENDUM ON THE QUESTION OF GRANTING ANY OF SAID
30 CLASSES OF LICENSES OR THE ESTABLISHMENT OF PENNSYLVANIA LIQUOR

1 STORES, THE SAID COUNTY BOARD OF ELECTIONS SHALL CAUSE A
2 QUESTION TO BE PLACED ON THE BALLOTS OR ON THE VOTING MACHINE
3 BOARD AND SUBMITTED AT THE PRIMARY IMMEDIATELY PRECEDING THE
4 MUNICIPAL ELECTION. SEPARATE PETITIONS MUST BE FILED FOR EACH
5 QUESTION TO BE VOTED ON. SAID PROCEEDINGS SHALL BE IN THE MANNER
6 AND SUBJECT TO THE PROVISIONS OF THE ELECTION LAWS WHICH RELATE
7 TO THE SIGNING, FILING AND ADJUDICATION OF NOMINATION PETITIONS,
8 INSOFAR AS SUCH PROVISIONS ARE APPLICABLE.

9 WHEN THE QUESTION IS IN RESPECT TO THE GRANTING OF LIQUOR
10 LICENSES, IT SHALL BE IN THE FOLLOWING FORM:

11 DO YOU FAVOR THE GRANTING OF LIQUOR LICENSES
12 FOR THE SALE OF LIQUOR IN..... YES
13 OF.....? NO

14 WHEN THE QUESTION IS IN RESPECT TO THE GRANTING
15 OF LIQUOR LICENSES, FOR PRIVATELY-OWNED PRIVATE GOLF
16 COURSES, IT SHALL BE IN THE FOLLOWING FORM:

17 DO YOU FAVOR THE GRANTING OF LIQUOR LICENSES,
18 FOR PRIVATELY-OWNED PRIVATE GOLF COURSES FOR THE
19 SALE OF LIQUOR IN.....BY..... YES
20 OF.....? NO

21 WHEN THE QUESTION IS IN RESPECT TO THE GRANTING OF LICENSES
22 TO RETAIL DISPENSERS OF MALT AND BREWED BEVERAGES, IT SHALL BE
23 IN THE FOLLOWING FORM:

24 DO YOU FAVOR THE GRANTING OF MALT AND BREWED
25 BEVERAGE RETAIL DISPENSER LICENSES FOR
26 CONSUMPTION ON PREMISES WHERE SOLD IN
27 THE..... YES
28 OF.....? NO

29 WHEN THE QUESTION IS IN RESPECT TO THE GRANTING OF LICENSES
30 TO WHOLESALE DISTRIBUTORS OF MALT OR BREWED BEVERAGES AND

1 IMPORTING DISTRIBUTORS, IT SHALL BE IN THE FOLLOWING FORM:

2 DO YOU FAVOR THE GRANTING OF MALT AND BREWED

3 BEVERAGE WHOLESALE DISTRIBUTOR'S AND IMPORTING

4 DISTRIBUTOR'S LICENSES NOT FOR CONSUMPTION ON

5 PREMISES WHERE SOLD IN THE..... YES

6 OF.....? NO

7 WHEN THE QUESTION IS IN RESPECT TO THE ESTABLISHMENT,

8 OPERATION AND MAINTENANCE OF PENNSYLVANIA LIQUOR STORES IT SHALL

9 BE IN THE FOLLOWING FORM:

10 DO YOU FAVOR THE ESTABLISHMENT, OPERATION

11 AND MAINTENANCE OF PENNSYLVANIA LIQUOR

12 STORES IN THE..... YES

13 OF.....? NO

14 IN CASE OF A TIE VOTE, THE STATUS QUO SHALL OBTAIN. IF A

15 MAJORITY OF THE VOTING ELECTORS ON ANY SUCH QUESTION VOTE "YES,"

16 THEN LIQUOR LICENSES SHALL BE GRANTED BY THE BOARD TO HOTELS,

17 RESTAURANTS [AND] CLUBS AND PRIVATELY-OWNED PRIVATE GOLF COURSES

18 OR MALT AND BREWED BEVERAGE RETAIL DISPENSER LICENSES OR

19 WHOLESALE DISTRIBUTOR'S AND IMPORTING DISTRIBUTOR'S LICENSE FOR

20 THE SALE OF MALT OR BREWED BEVERAGES SHALL BE GRANTED BY THE

21 BOARD, OR THE BOARD MAY ESTABLISH, OPERATE AND MAINTAIN

22 PENNSYLVANIA LIQUOR STORES, AS THE CASE MAY BE, IN SUCH

23 MUNICIPALITY OR PART OF A SPLIT MUNICIPALITY, AS PROVIDED BY

24 THIS ACT; BUT IF A MAJORITY OF THE ELECTORS VOTING ON ANY SUCH

25 QUESTION VOTE "NO," THEN THE BOARD SHALL HAVE NO POWER TO GRANT

26 OR TO RENEW UPON THEIR EXPIRATION ANY LICENSES OF THE CLASS SO

27 VOTED UPON IN SUCH MUNICIPALITY OR PART OF A SPLIT MUNICIPALITY;

28 OR IF THE NEGATIVE VOTE IS ON THE QUESTION IN RESPECT TO THE

29 ESTABLISHMENT, OPERATION AND MAINTENANCE OF PENNSYLVANIA LIQUOR

30 STORES, THE BOARD SHALL NOT OPEN AND OPERATE A PENNSYLVANIA

1 LIQUOR STORE IN SUCH MUNICIPALITY OR PART OF A SPLIT
2 MUNICIPALITY, NOR CONTINUE TO OPERATE A THEN EXISTING
3 PENNSYLVANIA LIQUOR STORE IN THE MUNICIPALITY OR PART OF A SPLIT
4 MUNICIPALITY FOR MORE THAN TWO YEARS THEREAFTER OR AFTER THE
5 EXPIRATION OF THE TERM OF THE LEASE ON THE PREMISES OCCUPIED BY
6 SUCH STORE, WHICHEVER PERIOD IS LESS, UNLESS AND UNTIL AT A
7 LATER ELECTION A MAJORITY OF THE VOTING ELECTORS VOTE "YES" ON
8 SUCH QUESTION.

9 Section ~~3-~~ 4. This act shall take effect in 60 days.

<—