

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1338 Session of
1995

INTRODUCED BY CIVERA, DONATUCCI, SERAFINI, MICOZZIE, FICHTER,
CLYMER, DeLUCA, RUBLEY, STABACK, M. N. WRIGHT, LEDERER,
E. Z. TAYLOR, FARGO, HENNESSEY, TRELLO, STEELMAN AND BELARDI,
APRIL 10, 1995

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
FEBRUARY 13, 1996

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 SPECIAL OCCASION PERMITS, FOR <—
18 performing arts facilities AND FOR RETAIL LICENSES WITHIN <—
19 CITIES OF THE FIRST CLASS.

20 The General Assembly of the Commonwealth of Pennsylvania

21 hereby enacts as follows:

22 Section 1. Section 408.3(b.1) and (b.2) of the act of April
23 12, 1951 (P.L.90, No.21), known as the Liquor Code, reenacted
24 and amended June 29, 1987 (P.L.32, No.14) and amended May 31,
25 1990 (P.L.224, No.48), are amended and the section is amended by

1 adding a subsection to read:

2 Section 408.3. Performing Arts Facilities.--* * *

3 (b.1) A performing arts facility referred to [in subsection
4 (a.1) must be in operation for a period of one (1) year and a
5 performing arts facility referred to] in subsection (a.2) must
6 be in operation for a period of two (2) years before it may file
7 an application for a license. The application for a performing
8 arts facility license may be filed at any time thereafter by the
9 operator or a concessionaire selected by the operator of such
10 theater for the performing arts and shall conform with all
11 requirements for restaurant liquor licenses and applications
12 except as may be otherwise provided herein. Applicants shall
13 submit such other information as the board may require.
14 Applications shall be in writing on forms prescribed by the
15 board and shall be signed and submitted to the board by the
16 applicant. The filing fee shall accompany the license
17 application.

18 [(b.2) The filing fee which is prescribed in clause (19) of
19 section 614-A of the act of April 9, 1929 (P.L.177, No.175),
20 known as "The Administrative Code of 1929," shall accompany the
21 license application filed under subsection (b) or (b.1).]

22 (b.2) A performing arts facility referred to in subsection
23 (a.1) must be in operation for a period of one (1) year before
24 it may file an application for a license. Before an application
25 for a performing arts facility license referred to in subsection
26 (a.1) may be filed with the board, the applicant for the license
27 must receive the approval of the municipal governing body of the
28 municipality in which the performing arts facility proposed to
29 be licensed is located. Within thirty days of a request for
30 approval of the issuance of such a license, the municipal

1 governing body shall hold a public hearing for the purpose of
2 receiving the comments and recommendations of interested
3 individuals residing within the municipality concerning the
4 issuance of a license to a performing arts facility. The
5 municipal governing body shall, within forty-five days of a
6 request for approval, render a decision by ordinance or
7 resolution to approve or reject the applicant's request for
8 approval regarding the issuance of such a license. This
9 requirement of approval by a municipal governing body shall not
10 be applicable to any application made for a performing arts
11 facility license pursuant to subsection (e) or (h). Upon
12 receiving approval from the municipal governing body, an
13 application for a performing arts facility license may be filed
14 with the board by the operator or a concessionaire selected by
15 the operator of such theater for the performing arts. The
16 application shall contain a copy of the ordinance or resolution
17 of the municipal governing body approving the issuance of a
18 license, and shall conform with all requirements for restaurant
19 liquor licenses and applications, except as may be otherwise
20 provided herein.

21 (b.3) The filing fee which is prescribed in clause (19) of
22 section 614-A of the act of April 9, 1929 (P.L.177, No.175),
23 known as "The Administrative Code of 1929," shall accompany the
24 license application filed under subsection (b), (b.1) or (b.2).

25 * * *

26 SECTION 2. SECTION 408.4 OF THE ACT, AMENDED APRIL 29, 1994
27 (P.L.212, NO.30) AND OCTOBER 5, 1994 (P.L.522, NO.77), IS
28 AMENDED TO READ:

29 SECTION 408.4. SPECIAL OCCASION PERMITS.--(A) UPON
30 APPLICATION OF ANY HOSPITAL, CHURCH, SYNAGOGUE, VOLUNTEER FIRE

1 COMPANY, VOLUNTEER AMBULANCE COMPANY, VOLUNTEER RESCUE SQUAD,
2 NONPROFIT AGRICULTURAL ASSOCIATION IN EXISTENCE FOR AT LEAST TEN
3 YEARS, BONA FIDE SPORTSMEN'S CLUB IN EXISTENCE FOR AT LEAST TEN
4 YEARS, NATIONALLY CHARTERED VETERANS' ORGANIZATION AND ANY
5 AFFILIATED LODGE OR SUBDIVISION OF SUCH ORGANIZATION, FRATERNAL
6 BENEFIT SOCIETY THAT IS LICENSED TO DO BUSINESS IN THIS
7 COMMONWEALTH AND ANY AFFILIATED LODGE OR SUBDIVISION OF SUCH
8 FRATERNAL BENEFIT SOCIETY, OR THE AUXILIARY OF ANY OF THE
9 FOREGOING, AND UPON PAYMENT OF THE PRESCRIBED FEE FOR SPECIAL
10 OCCASION PERMITS UNDER SECTION 614-A OF THE ACT OF APRIL 9, 1929
11 (P.L.177, NO.175), KNOWN AS "THE ADMINISTRATIVE CODE OF 1929,"
12 THE BOARD SHALL ISSUE A SPECIAL OCCASION PERMIT GOOD FOR A
13 PERIOD OF NOT MORE THAN FIVE CONSECUTIVE OR NONCONSECUTIVE DAYS:
14 PROVIDED, HOWEVER, THAT THE FIVE NONCONSECUTIVE DAYS SHALL BE
15 USED IN A [THREE-MONTH] TWELVE-MONTH PERIOD MEASURED FROM THE
16 DATE OF THE FIRST DAY. SPECIAL OCCASION PERMITS MAY ALSO BE
17 ISSUED TO A MUSEUM OPERATED BY A NONPROFIT CORPORATION IN A CITY
18 OF THE THIRD CLASS OR TOWNSHIP OF THE FIRST CLASS OR A NONPROFIT
19 CORPORATION ENGAGED IN THE PERFORMING ARTS IN A CITY OF THE
20 THIRD CLASS FOR A PERIOD OF NOT MORE THAN SIX NONCONSECUTIVE OR
21 TEN CONSECUTIVE DAYS AT THE PRESCRIBED FEE FOR SPECIAL OCCASION
22 PERMITS UNDER SECTION 614-A OF "THE ADMINISTRATIVE CODE OF
23 1929."

24 (B) IN ANY CITY, BOROUGH, INCORPORATED TOWN OR TOWNSHIP IN
25 WHICH THE SALE OF LIQUOR AND/OR MALT OR BREWED BEVERAGES HAS
26 BEEN APPROVED BY THE ELECTORATE, SUCH SPECIAL OCCASION PERMIT
27 SHALL AUTHORIZE THE PERMITTEE TO SELL LIQUOR AND/OR MALT OR
28 BREWED BEVERAGES AS THE CASE MAY BE TO ANY ADULT PERSON ON ANY
29 DAY FOR WHICH THE PERMIT IS ISSUED.

30 (C) SUCH SPECIAL OCCASION PERMIT SHALL ONLY BE VALID FOR THE

1 NUMBER OF DAYS STATED IN THE PERMIT. ONLY ONE PERMIT MAY BE
2 ISSUED TO ANY PERMITTEE DURING THE [YEAR] TWELVE-MONTH PERIOD.
3 PROVIDED, THAT A MUSEUM OPERATED BY A NONPROFIT CORPORATION IN A
4 CITY OF THE THIRD CLASS OR TOWNSHIP OF THE FIRST CLASS AND A
5 NONPROFIT CORPORATION ENGAGED IN THE PERFORMING ARTS IN A CITY
6 OF THE THIRD CLASS MAY BE ISSUED NO MORE THAN SIX PERMITS DURING
7 THE YEAR, EACH PERMIT BEING VALID FOR ONLY ONE DAY, OR IN THE
8 ALTERNATIVE, ONE PERMIT VALID FOR NO MORE THAN A TOTAL OF TEN
9 CONSECUTIVE DAYS PER YEAR, WHICH MAY BE ISSUED ONLY DURING THE
10 MONTH OF AUGUST.

11 (D) SUCH PERMITS SHALL ONLY BE ISSUED FOR USE AT A SPECIAL
12 EVENT INCLUDING, BUT NOT LIMITED TO BAZAARS, PICNICS AND
13 CLAMBAKES. THE SPECIAL EVENT MUST BE ONE WHICH IS USED BY THE
14 PERMITTEE AS A MEANS OF RAISING FUNDS FOR ITSELF.

15 (D.1) THE HOURS DURING WHICH THE HOLDER OF A SPECIAL
16 OCCASION PERMIT MAY SELL LIQUOR OR MALT OR BREWED BEVERAGES
17 SHALL BE LIMITED TO THE HOURS SET FORTH IN SECTION 406 WHICH ARE
18 APPLICABLE TO HOTEL AND RESTAURANT LICENSEES. THE HOURS DURING
19 WHICH A NONPROFIT CORPORATION ENGAGED IN THE PERFORMING ARTS IN
20 A CITY OF THE THIRD CLASS MAY SELL LIQUOR OR MALT OR BREWED
21 BEVERAGES PURSUANT TO A SPECIAL OCCASION PERMIT SHALL BE LIMITED
22 TO THOSE HOURS SET FORTH IN SECTION 408.3(G.1).

23 (D.2) AT LEAST FORTY-EIGHT HOURS PRIOR TO THE SALE OF ANY
24 LIQUOR OR MALT OR BREWED BEVERAGES, THE HOLDER OF A SPECIAL
25 OCCASION PERMIT SHALL NOTIFY THE LOCAL POLICE DEPARTMENT, OR IN
26 THE ABSENCE OF A LOCAL POLICE DEPARTMENT, THE PENNSYLVANIA STATE
27 POLICE, OF THE TIMES WHEN AND PLACE WHERE THE SALE OF LIQUOR OR
28 MALT OR BREWED BEVERAGES SHALL OCCUR.

29 (E) THE PROVISIONS OF THIS SECTION SHALL NOT BE APPLICABLE
30 TO ANY LICENSEE NOW OR HEREAFTER POSSESSING A CATERER'S LICENSE,

1 NOR TO ANY PROFESSIONAL FUND RAISER.

2 (F) ANY PERSON SELLING LIQUOR OR MALT OR BREWED BEVERAGES IN
3 VIOLATION OF THIS SECTION SHALL, UPON SUMMARY CONVICTION, BE
4 SENTENCED TO PAY A FINE OF TWO HUNDRED FIFTY DOLLARS (\$250) FOR
5 THE FIRST OFFENSE AND A FINE OF FIVE HUNDRED DOLLARS (\$500) FOR
6 EACH SUBSEQUENT OFFENSE. THIS FINE SHALL BE IN ADDITION TO ANY
7 OTHER PENALTY IMPOSED BY LAW FOR THE ILLEGAL SALE OF MALT OR
8 BREWED BEVERAGES.

9 SECTION 3. SECTION 408.6(A) OF THE ACT, AMENDED MAY 31, 1990
10 (P.L.224, NO.48), IS AMENDED TO READ:

11 SECTION 408.6. PERFORMING ARTS FACILITIES IN THIRD CLASS
12 CITIES AND TOWNSHIPS OF THE SECOND CLASS LOCATED IN FOURTH CLASS
13 COUNTIES.--(A) THE BOARD IS AUTHORIZED TO ISSUE A RESTAURANT
14 LIQUOR LICENSE TO A NONPROFIT CORPORATION OR TO A CONCESSIONAIRE
15 SELECTED BY SUCH NONPROFIT CORPORATION IN ANY CITY OF THE THIRD
16 CLASS FOR THE RETAIL SALE OF LIQUOR AND MALT OR BREWED BEVERAGES
17 BY THE GLASS, OPEN BOTTLES OR OTHER CONTAINER OR IN ANY MIXTURE
18 FOR CONSUMPTION ON ANY CITY-OWNED PREMISES UTILIZED AS A
19 NONPROFIT PERFORMING ARTS FACILITY OR ANY OTHER PREMISES
20 UTILIZED AS A NONPROFIT PERFORMING ARTS FACILITY WHERE THERE IS
21 AN AVAILABLE SEATING CAPACITY WITHIN THE PREMISES OF [SIX
22 HUNDRED FIFTY] ONE HUNDRED OR MORE: PROVIDED, HOWEVER, THAT NO
23 SALE OR CONSUMPTION OF SUCH BEVERAGES SHALL TAKE PLACE ON ANY
24 PORTIONS OF SUCH PREMISES OTHER THAN SERVICE AREAS APPROVED BY
25 THE BOARD.

26 * * *

27 SECTION 4. WITHIN 90 DAYS OF THE EFFECTIVE DATE OF THIS ACT,
28 THE LIQUOR CONTROL BOARD SHALL DEVELOP A PLAN TO ADJUST THE
29 NUMBER OF RETAIL LICENSES WITHIN CITIES OF THE FIRST CLASS TO
30 THAT ALLOWABLE UNDER SECTION 461 OF THE ACT. THIS PLAN SHALL BE

1 PUBLISHED AS A NOTICE IN THE PENNSYLVANIA BULLETIN.

2 Section ~~2~~ 5. This act shall take effect immediately.

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