

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1277 Session of
1998

INTRODUCED BY AFFLERBACH, COSTA, O'PAKE, EARLL AND SCHWARTZ,
FEBRUARY 2, 1998

REFERRED TO LAW AND JUSTICE, FEBRUARY 2, 1998

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 renewal of licenses and for unlawful
18 acts relative to liquor, malt and brewed beverages and
19 licensees.

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

22 Section 1. Section 470(a) of the act of April 12, 1951
23 (P.L.90, No.21), known as the Liquor Code, reenacted and amended
24 June 29, 1987 (P.L.32, No.14) and amended April 29, 1994
25 (P.L.212, No.30), is amended to read:

26 Section 470. Renewal of Licenses; Temporary Provisions for

1 Licensees in Armed Service.--(a) All applications for renewal
2 of licenses under the provisions of this article shall be filed
3 with a new bond, tax clearance from the Department of Revenue
4 and the Department of Labor and Industry and requisite license
5 and filing fees at least sixty days before the expiration date
6 of same: Provided, however, That the board, in its discretion,
7 may accept a renewal application filed less than sixty days
8 before the expiration date of the license with the required bond
9 and fees, upon reasonable cause shown and the payment of an
10 additional filing fee of one hundred dollars (\$100.00) for late
11 filing: And provided further, That except where the failure to
12 file a renewal application on or before the expiration date has
13 created a license quota vacancy after said expiration date which
14 has been filled by the issuance of a new license, after such
15 expiration date, but before the board has received a renewal
16 application within the time prescribed herein the board, in its
17 discretion, may, after hearing, accept a renewal application
18 filed within ten months after the expiration date of the license
19 with the required bond and fees upon the payment of an
20 additional filing fee of two hundred fifty dollars (\$250.00) for
21 late filing. Where any such renewal application is filed less
22 than sixty days before the expiration date, or subsequent to the
23 expiration date, no license shall issue upon the filing of the
24 renewal application until the matter is finally determined by
25 the board and if an appeal is taken from the board's action the
26 courts shall not order the issuance of the renewal license until
27 final determination of the matter by the courts. A renewal
28 application will not be considered filed unless accompanied by a
29 new bond and the requisite filing and license fees and any
30 additional filing fee required by this section. Unless the board

1 shall have given ten days' previous notice to the applicant of
2 objections to the renewal of his license, based upon violation
3 by the licensee or his servants, agents or employees of any of
4 the laws of the Commonwealth or regulations of the board
5 relating to the manufacture, transportation, use, storage,
6 importation, possession or sale of liquors, alcohol or malt or
7 brewed beverages, or the conduct of a licensed establishment, or
8 unless the applicant has by his own act become a person of ill
9 repute, or unless the premises do not meet the requirements of
10 this act or the regulations of the board, the license of a
11 licensee shall be renewed. Unless the board shall have given ten
12 days' previous notice to the applicant of objections to the
13 renewal of the license, based upon violation by the licensee,
14 its servants, agents or employees of any of the laws or
15 regulations of the United States or the Commonwealth, or
16 licensee's citation history, or licensee's failure to prevent
17 fighting, disorderly conduct or criminal activity on or about
18 the licensed premises or in areas under licensee's control, or
19 unless the premises do not meet the requirements of this act or
20 the regulations of the board the license shall be renewed.

21 * * *

22 Section 2. Section 493 of the act is amended by adding
23 clauses to read:

24 Section 493. Unlawful Acts Relative to Liquor, Malt and
25 Brewed Beverages and Licensees.--The term "licensee," when used
26 in this section, shall mean those persons licensed under the
27 provisions of Article IV, unless the context clearly indicates
28 otherwise.

29 It shall be unlawful--

30 * * *

1 (29) For any licensee, its servant, agent or employe to
2 engage in or permit any other persons to engage in any fighting,
3 disorderly conduct or other criminal activity on the licensed
4 premises. Anyone engaging in such prohibited acts shall not be
5 permitted on the premises thereafter.

6 (30) For any licensee, its servant, agent or employe to
7 engage in or permit any fighting, disorderly conduct or other
8 criminal activity on property adjacent to its licensed premises
9 or under its control including, but not limited to, the sidewalk
10 and parking lot. Anyone engaging in such prohibited acts shall
11 not be permitted on the premises thereafter.

12 Section 3. Section 611(b) of the act is amended to read:

13 Section 611. Nuisances; Actions To Enjoin.--* * *

14 (b) An action to enjoin any nuisance defined in this act may
15 be brought in the name of the Commonwealth of Pennsylvania by
16 the Attorney General, by the Pennsylvania State Police, through
17 its Bureau of Liquor Control Enforcement, by the district
18 attorney of the proper county or by a person who resides or has
19 a place of business within five hundred feet of the location of
20 the alleged nuisance. Such action shall be brought and tried as
21 an action in equity and may be brought in any court having
22 jurisdiction to hear and determine equity cases within the
23 county in which the offense occurs. If it is made to appear, by
24 affidavit or otherwise, to the satisfaction of the court that
25 such nuisance exists, a temporary writ of injunction shall
26 forthwith issue, restraining the defendant from conducting or
27 permitting the continuance of such nuisance until the conclusion
28 of the proceedings. If a temporary injunction is prayed for, the
29 court may issue an order restraining the defendant and all other
30 persons from removing or in any way interfering with the

1 liquids, beverages or other things used in connection with the
2 violation of this act constituting such nuisance. No bond shall
3 be required in instituting such proceedings brought in the name
4 of the Commonwealth by the Attorney General or the district
5 attorney. Where such proceedings are brought by a person, the
6 court, upon application of the defendant and prior to any
7 injunction being issued, may direct the plaintiff to post bond
8 in such amount as the court may find to be reasonable and
9 sufficient. It shall not be necessary for the court to find the
10 property involved was being unlawfully used, as aforesaid, at
11 the time of the hearing, but on finding that the material
12 allegations of the petition are true, the court shall order that
13 no liquor, alcohol or malt or brewed beverage shall be
14 manufactured, sold, offered for sale, transported, bartered or
15 furnished, or stored in bond, or stored for hire in such room,
16 house, building, structure, boat, vehicle, or place, or any part
17 thereof.

18 * * *

19 Section 4. This act shall take effect in 60 days.