

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1273 Session of
1999

INTRODUCED BY STETLER, STURLA, MASLAND, M. COHEN, DAILEY,
KIRKLAND, LEDERER, PRESTON, J. TAYLOR AND WALKO,
APRIL 14, 1999

REFERRED TO COMMITTEE ON LIQUOR CONTROL, APRIL 14, 1999

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, providing penalties for unlicensed
3 liquor, malt or brewed beverage activities.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Section 7327 of Title 18 of the Pennsylvania
7 Consolidated Statutes is amended by adding a subsection to read:
8 § 7327. Storage, consumption and sale of alcoholic beverages on
9 unlicensed business premises.

10 * * *

11 (d) Unlicensed operations.--

12 (1) A person commits a misdemeanor of the third degree
13 if he or she sells or offers to sell any liquor or malt or
14 brewed beverage without being licensed. Upon conviction of a
15 first offense, the person may be sentenced for a maximum term
16 of up to a year imprisonment and shall pay a fine of \$2 per
17 fluid ounce for each container of beer and \$4 per fluid ounce
18 for each container of wine or liquor found or sold from the

1 premises where the sale was made or attempted. The amount of
2 fine per container shall be based upon the capacity of the
3 container when full, whether or not it is full at the time of
4 the sale or attempted sale, but at no time shall the fine be
5 less than \$2,500.

6 (2) A person commits a misdemeanor of the second degree
7 if, after being sentenced under paragraph (1), he or she
8 sells or offers to sell any liquor or malt or brewed beverage
9 without being licensed. Upon conviction under this paragraph,
10 the person shall pay the fines as required by paragraph (1),
11 but at no time shall the fine be less than \$5,000 and the
12 person shall serve a term of imprisonment of not less than
13 three months and not more than one year.

14 (3) A person convicted of selling or offering to sell
15 any liquor or malt or brewed beverage without being licensed
16 shall, in addition to any other penalty prescribed by law,
17 have all beer, wine or liquor found on the premises
18 confiscated. Any property, vehicle, equipment or conveyance
19 used for the sale of any liquor, malt or brewed beverage
20 without being licensed may be deemed contraband and
21 forfeited.

22 Section 2. Section 7329(c) of Title 18 is amended to read:

23 § 7329. Prohibition of certain types of entertainment on bottle
24 club premises.

25 * * *

26 (c) Definitions.--As used in this section, the following
27 words and phrases shall have the meanings given to them in this
28 subsection:

29 "Bottle club." An establishment operated for profit or
30 pecuniary gain, which has a capacity for the assemblage of 20 or

1 more persons and in which alcoholic liquors, alcohol or malt or
2 brewed beverages [are not legally sold but where alcoholic
3 liquors, alcohol or malt or brewed beverages are either provided
4 by the operator or agents or employees of the operator for
5 consumption on the premises or] are brought into [or kept at]
6 the establishment by the patrons or persons assembling there for
7 use and consumption. The term shall not include a licensee under
8 the act of April 12, 1951 (P.L.90, No.21), known as the Liquor
9 Code, or any organization as set forth in section 6 of the act
10 of December 19, 1990 (P.L.1200, No.202), known as the
11 Solicitation of Funds for Charitable Purposes Act.

12 "Lewd, immoral or improper entertainment." Includes, but is
13 not limited to, the following acts of conduct:

14 (1) Acts or simulated acts of sexual intercourse,
15 masturbation, sodomy, bestiality, oral copulation,
16 flagellation or excretion or any sexual acts which are
17 prohibited by law.

18 (2) Any person being touched, caressed or fondled on the
19 buttocks, anus, vulva, genitals or female breasts. This
20 paragraph includes simulation.

21 (3) Scenes wherein a person displays or exposes to view
22 any portion of the pubic area, anus, cleft of the buttocks,
23 vulva, genitals or any portion of the female breast directly
24 or laterally below the top of the areola. This paragraph
25 includes simulation.

26 (4) Scenes wherein artificial devices or inanimate
27 objects are employed to portray any of the prohibited
28 activities described in paragraph (1), (2) or (3).

29 (5) Employment or use of any person in the sale and
30 service of alcoholic beverages while such person is unclothed

1 or in such attire, costume or clothing as to expose to view
2 any portion of the anatomy described in paragraph (3).

3 (6) Employment or use of the services of a person while
4 the person is unclothed or in such attire as to expose to
5 view any portion of the anatomy described in paragraph (3).

6 (7) Permitting any person on the premises to touch,
7 caress or fondle the buttocks, anus, vulva, genitals or
8 female breasts of any other person.

9 (8) Permitting any person on the premises while such
10 person is unclothed or in such attire as to expose to view
11 any portion of the anatomy described in paragraph (3).

12 (9) Permitting any person to wear or use any device or
13 covering exposed to view which simulates the human buttocks,
14 anus, vulva, genitals or female breasts.

15 (10) Permitting any person to show, display or exhibit
16 on the premises any film, still picture, electronic
17 reproduction or any other visual reproduction or image the
18 content of which primarily depicts graphic sexual acts as
19 described in paragraphs (1) and (4).

20 Section 3. This act shall take effect in 60 days.