

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 623 Session of
2013

INTRODUCED BY PETRI, DeLUCA, EVERETT, GABLER, GINGRICH, HARHART,
HARKINS, HENNESSEY, KNOWLES, KORTZ, O'NEILL, READSHAW, FARRY
AND SNYDER, FEBRUARY 8, 2013

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,
JUNE 11, 2014

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 limiting number of retail licenses to
18 be issued in each county, FOR UNLAWFUL ACTS RELATIVE TO <--
19 LIQUOR, MALT AND BREWED BEVERAGES AND LICENSEES AND FOR
20 LIMITED WINERIES.

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

23 ~~Section 1. Section 461(a) of the act of April 12, 1951~~ <--
24 ~~(P.L.90, No.21), known as the Liquor Code, reenacted and amended~~
25 ~~June 29, 1987 (P.L.32, No.14) and amended October 24, 2012~~
26 ~~(P.L.1203, No.149), is amended to read:~~

1 SECTION 1. SECTION 461(A), (B.1)(4), (7) AND (8) AND (B.2) <--
2 OF THE ACT OF APRIL 12, 1951 (P.L.90, NO.21), KNOWN AS THE
3 LIQUOR CODE, REENACTED AND AMENDED JUNE 29, 1987 (P.L.32,
4 NO.14), AMENDED FEBRUARY 21, 2002 (P.L.103, NO.10), NOVEMBER 29,
5 2006 (P.L.1421, NO.155) AND OCTOBER 24, 2012 (P.L.1203, NO.149),
6 ARE AMENDED TO READ:

7 Section 461. Limiting Number of Retail Licenses To Be Issued
8 In Each County.--(a) No additional restaurant, eating place
9 retail dispenser or club licenses shall be issued within a
10 county if the total number of restaurant and eating place retail
11 dispenser licenses is greater than one license for each three
12 thousand inhabitants in the county, except the board may issue
13 licenses to public venues, performing arts facilities,
14 continuing care retirement communities, airport restaurants,
15 municipal golf courses, hotels, privately-owned private golf
16 courses, privately-owned public golf courses, racetracks,
17 automobile racetracks, nonprimary pari-mutuel wagering
18 locations, privately-owned ski resorts and to any other entity
19 which this act specifically exempts from the limitations
20 provided in this section, and the board may issue a license to a
21 club situated in a borough having a population less than eight
22 thousand inhabitants which is located in a county of the second
23 class A whose application is filed on or before February 28,
24 2001. Furthermore, the board may issue a club license to a
25 volunteer fire company regardless of the number of restaurant
26 and eating place retail dispenser licenses already issued in
27 that county; provided that these new club licenses may not be
28 transferred from person to person, place to place or both. In
29 addition, the board may issue an eating place retail dispenser
30 license for on-premises sales only to the owner or operator of a

1 facility having a minimum of a one-half mile asphalt track and
2 having a permanent seating capacity of at least six thousand
3 people used principally for holding automobile races, regardless
4 of the number of restaurant and eating place retail dispenser
5 licenses already issued in that county. When determining the
6 number of restaurant and eating place retail dispenser licenses
7 issued in a county for the purposes of this section, licenses
8 exempted from this limitation and club licenses shall not be
9 considered. Inhabitants of dry municipalities shall be
10 considered when determining the population in a county. Licenses
11 shall not be issued or transferred into municipalities where
12 such licenses are prohibited pursuant to local referendum in
13 accordance with section 472. Licenses approved for
14 intermunicipal transfer may not be transferred from the
15 receiving municipality for a period of five years after the date
16 that the licensed premises are operational in the receiving
17 municipality.

18 * * *

19 (B.1) THE BOARD MAY ISSUE RESTAURANT AND EATING PLACE RETAIL <--
20 DISPENSER LICENSES AND RENEW LICENSES ISSUED UNDER THIS
21 SUBSECTION WITHOUT REGARD TO THE QUOTA RESTRICTIONS SET FORTH IN
22 SUBSECTION (A) FOR THE PURPOSE OF ECONOMIC DEVELOPMENT IN A
23 MUNICIPALITY UNDER THE FOLLOWING CONDITIONS:

24 * * *

25 (4) AN APPLICANT UNDER THIS SUBSECTION SHALL BE REQUIRED TO
26 SELL FOOD AND NONALCOHOLIC BEVERAGES EQUAL TO [SEVENTY PER
27 CENTUM (70%)] FIFTY PER CENTUM (50%) OR MORE OF ITS COMBINED
28 GROSS SALES OF FOOD AND ALCOHOLIC BEVERAGES.

29 * * *

30 (7) AN APPEAL OF THE BOARD'S DECISION REFUSING TO GRANT OR

1 RENEW A LICENSE UNDER THIS SUBSECTION SHALL NOT ACT AS A
2 SUPERSEDEAS OF THE DECISION OF THE BOARD IF THE DECISION IS
3 BASED, IN WHOLE OR IN PART, ON THE LICENSEE'S FAILURE TO
4 DEMONSTRATE THAT ITS FOOD AND NONALCOHOLIC BEVERAGES WERE AT
5 LEAST [SEVENTY PER CENTUM (70%)] FIFTY PER CENTUM (50%) OF ITS
6 COMBINED GROSS SALES OF FOOD AND ALCOHOLIC BEVERAGES.

7 (8) A LICENSE ISSUED UNDER THIS SUBSECTION MAY NOT BE
8 VALIDATED OR RENEWED UNLESS THE LICENSEE CAN ESTABLISH THAT ITS
9 SALE OF FOOD AND NONALCOHOLIC BEVERAGES DURING THE LICENSE YEAR
10 IMMEDIATELY PRECEDING APPLICATION FOR VALIDATION OR RENEWAL IS
11 EQUAL TO [SEVENTY PER CENTUM (70%)] FIFTY PER CENTUM (50%) OR
12 MORE OF ITS FOOD AND ALCOHOLIC BEVERAGE SALES.

13 (B.2) QUALIFIED APPLICANTS UNDER SUBSECTION (B.1) SHALL
14 RECEIVE A PROVISIONAL LICENSE FOR ONE HUNDRED TWENTY DAYS,
15 EXCLUSIVE OF PERIODS OF SAFEKEEPING. AFTER NINETY DAYS FROM THE
16 DATE OF ISSUANCE, THE LICENSEE MAY FILE AN APPLICATION FOR A
17 PERMANENT LICENSE. A LICENSE SHALL BE ISSUED IF THE LICENSEE
18 ESTABLISHES THAT FOR NINETY CONSECUTIVE DAYS FROM THE DATE OF
19 INITIAL ISSUE ITS SALES OF FOOD AND NONALCOHOLIC BEVERAGES IS
20 EQUAL TO AT LEAST [SEVENTY PER CENTUM (70%)] FIFTY PER CENTUM
21 (50%) OF ITS COMBINED GROSS SALES OF FOOD AND ALCOHOLIC
22 BEVERAGES. LICENSEES SHALL NOT BE SUBJECT TO CITATION BY THE
23 ENFORCEMENT BUREAU FOR A VIOLATION OF THE REQUIREMENT THAT FOOD
24 AND NONALCOHOLIC BEVERAGES EQUAL AT LEAST [SEVENTY PER CENTUM
25 (70%)] FIFTY PER CENTUM (50%) OF THE COMBINED GROSS SALES OF
26 FOOD AND ALCOHOLIC BEVERAGES DURING THE PROVISIONAL LICENSING
27 PERIOD.

28 * * *

29 SECTION 2. SECTION 493(34) OF THE ACT, AMENDED JULY 5, 2012
30 (P.L.1007, NO.116), IS AMENDED TO READ:

SECTION 493. UNLAWFUL ACTS RELATIVE TO LIQUOR, MALT AND
BREWED BEVERAGES AND LICENSEES.--THE TERM "LICENSEE," WHEN USED
IN THIS SECTION, SHALL MEAN THOSE PERSONS LICENSED UNDER THE
PROVISIONS OF ARTICLE IV, UNLESS THE CONTEXT CLEARLY INDICATES
OTHERWISE.

IT SHALL BE UNLAWFUL--

* * *

(34) NOISE. NOTWITHSTANDING ANY LAW OR REGULATION TO THE
CONTRARY, A LICENSEE, OTHER THAN A LIMITED WINERY LICENSED
PURSUANT TO SECTION 505.2, MAY NOT USE OR PERMIT TO BE USED
INSIDE OR OUTSIDE OF THE LICENSED PREMISES A LOUDSPEAKER OR
SIMILAR DEVICE WHEREBY THE SOUND OF MUSIC OR OTHER
ENTERTAINMENT, OR THE ADVERTISEMENT THEREOF, CAN BE HEARD BEYOND
THE LICENSEE'S PROPERTY LINE; HOWEVER, ANY LICENSEE THAT IS
LOCATED IN AN AREA WHICH IS SUBJECT TO AN EXEMPTION FROM THE
BOARD'S REGULATION REGARDING AMPLIFIED MUSIC BEING HEARD OFF THE
LICENSED PREMISES SHALL BE EXEMPT FROM COMPLIANCE WITH THIS
PARAGRAPH UNTIL THE EXPIRATION OF THE BOARD'S ORDER GRANTING THE
EXEMPTION. THE BOARD'S REGULATION REGARDING AMPLIFIED MUSIC
BEING HEARD OFF THE LICENSED PREMISES IS OTHERWISE SUPERSEDED BY
THIS PARAGRAPH.

SECTION 3. SECTION 505.2(A) OF THE ACT IS AMENDED BY ADDING
A PARAGRAPH TO READ:

SECTION 505.2. LIMITED WINERIES.--(A) IN THE INTEREST OF
PROMOTING TOURISM AND RECREATIONAL DEVELOPMENT IN PENNSYLVANIA,
HOLDERS OF A LIMITED WINERY LICENSE MAY:

* * *

(7) USE, OR PERMIT TO BE USED, INSIDE OR OUTSIDE THE
LICENSED PREMISES, A LOUDSPEAKER OR SIMILAR DEVICE WHEREBY THE
SOUND OF MUSIC OR OTHER ENTERTAINMENT, OR THE ADVERTISEMENT

1 THEREOF, CAN BE HEARD; HOWEVER, IF THE LICENSEE IS LOCATED IN AN
2 AREA THAT IS SUBJECT TO A MUNICIPAL ORDINANCE REGARDING
3 AMPLIFIED MUSIC, THE MUNICIPALITY MAY SUBJECT THE LICENSEE TO
4 THAT ORDINANCE.

5 * * *

6 Section 2 4. This act shall take effect in 60 days. <--