

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1521 Session of 2013

INTRODUCED BY O'NEILL, D. COSTA, DENLINGER, GINGRICH, HELM, HESS, KILLION, KORTZ, LAWRENCE, MILLARD, PETRI, QUINN AND GABLER, JUNE 12, 2013

AS REPORTED FROM COMMITTEE ON LIQUOR CONTROL, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 3, 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," in
17 Pennsylvania Liquor Control Board, further providing for
18 GENERAL POWERS OF BOARD AND FOR enforcement; AND, IN LICENSES <--
19 AND REGULATIONS RELATING TO LIQUOR, ALCOHOL AND MALT AND
20 BREWED BEVERAGES, FURTHER PROVIDING FOR LICENSE FEES, FOR
21 REVOCATION AND SUSPENSION OF LICENSES AND FINES AND FOR
22 PENALTIES.

23 The General Assembly of the Commonwealth of Pennsylvania
24 hereby enacts as follows:

25 ~~Section 1. Section 211(a) of the act of April 12, 1951 <--~~
26 ~~(P.L.90, No.21), known as the Liquor Code, reenacted and amended~~
27 ~~June 29, 1987 (P.L.32, No.14), is amended by adding a paragraph~~

1 ~~to read:~~

2 SECTION 1. SECTION 207 OF THE ACT OF APRIL 12, 1951 (P.L.90, <--
3 NO.21), KNOWN AS THE LIQUOR CODE, REENACTED AND AMENDED JUNE 29,
4 1987 (P.L.32, NO.14), IS AMENDED BY ADDING A SUBSECTION TO READ:

5 SECTION 207. GENERAL POWERS OF BOARD.--UNDER THIS ACT, THE
6 BOARD SHALL HAVE THE POWER AND ITS DUTY SHALL BE:

7 * * *

8 (L) TO NOTIFY, IN WRITING, WITHIN 30 DAYS OF RECEIVING
9 NOTIFICATION OF VIOLATIONS PURSUANT TO SECTION 211(A)(4.1), THE
10 ENFORCEMENT BUREAU AND THE CHAIRMAN AND MINORITY CHAIRMAN OF THE
11 LAW AND JUSTICE COMMITTEE OF THE SENATE AND THE CHAIRMAN AND
12 MINORITY CHAIRMAN OF THE LIQUOR CONTROL COMMITTEE OF THE HOUSE
13 OF REPRESENTATIVES OF THE WAYS IN WHICH THE BOARD WILL ENSURE
14 THAT PENNSYLVANIA LIQUOR STORES ARE BROUGHT INTO COMPLIANCE WITH
15 THIS ACT OR ANY LAWS OF THIS COMMONWEALTH RELATING TO LIQUOR OR
16 ALCOHOL OR ANY REGULATIONS OF THE BOARD ADOPTED PURSUANT TO SUCH
17 LAWS.

18 SECTION 2. SECTION 211(C) OF THE ACT, AMENDED OCTOBER 5,
19 1994 (P.L.537, NO.80), IS AMENDED AND SUBSECTION (A) IS AMENDED
20 BY ADDING A PARAGRAPH TO READ:

21 Section 211. Enforcement.--(a) There is created within the
22 Pennsylvania State Police a Bureau of Liquor Control Enforcement
23 which shall be responsible for enforcing this act and any
24 regulations promulgated pursuant thereto. Officers and
25 investigators assigned to the bureau shall have the power and
26 their duty shall be:

27 * * *

28 (4.1) To investigate and issue citations to Pennsylvania <--
29 Liquor Stores for any violations of this act or any laws of this
30 Commonwealth relating to liquor or alcohol, or any regulations

1 of the board adopted pursuant to such laws. THE ENFORCEMENT <--
2 BUREAU SHALL SUBMIT IN WRITING A LIST OF VIOLATIONS FOR ANY
3 PENNSYLVANIA LIQUOR STORE IT HAS INVESTIGATED TO THE BOARD AND
4 THE CHAIRMAN AND MINORITY CHAIRMAN OF THE LAW AND JUSTICE
5 COMMITTEE OF THE SENATE AND THE CHAIRMAN AND MINORITY CHAIRMAN
6 OF THE LIQUOR CONTROL COMMITTEE OF THE HOUSE OF REPRESENTATIVES.

7 * * *

8 (C) THE PENNSYLVANIA STATE POLICE COMMISSIONER SHALL ASSIGN <--
9 STATE POLICE OFFICERS TO SUCH [SUPERVISORY AND OTHER] CAPACITIES
10 IN THE ENFORCEMENT BUREAU AS HE DEEMS NECESSARY. ALL OTHER
11 PERSONNEL OF THE ENFORCEMENT BUREAU SHALL BE CIVILIANS.
12 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A STATE POLICE
13 OFFICER ASSIGNED TO THE ENFORCEMENT BUREAU MAY NOT BE COUNTED
14 AGAINST THE COMPLIMENT OF OFFICERS AS PRESCRIBED IN SECTION 205
15 OF THE ACT OF APRIL 9, 1929 (P.L.177, NO.175), KNOWN AS THE
16 ADMINISTRATIVE CODE OF 1929.

17 * * *

18 SECTION 3. SECTION 405(C) OF THE ACT, AMENDED APRIL 29, 1994
19 (P.L.212, NO.30), IS AMENDED TO READ:

20 SECTION 405. LICENSE FEES.--* * *

21 (C) [ALL] (1) NOTWITHSTANDING THE PROVISIONS OF 801(B) AND
22 SUBJECT TO PARAGRAPH (2), ALL LICENSE FEES AUTHORIZED UNDER THIS
23 SECTION SHALL BE COLLECTED BY THE BOARD FOR THE USE OF THE
24 MUNICIPALITIES IN WHICH SUCH FEES WERE COLLECTED[.] SO LONG AS
25 SUCH MUNICIPALITIES HAVE A LOCAL POLICE FORCE.

26 (2) ANY LICENSE FEES AUTHORIZED UNDER THIS SECTION THAT ARE
27 COLLECTED BY THE BOARD FROM LICENSEES LOCATED IN A MUNICIPALITY
28 THAT DOES NOT HAVE ITS OWN POLICE FORCE SHALL BE TRANSFERRED TO
29 THE ENFORCEMENT BUREAU.

30 * * *

1 SECTION 4. SECTION 471(B) OF THE ACT, AMENDED JULY 6, 2005
2 (P.L.135, NO.39), IS AMENDED TO READ:

3 SECTION 471. REVOCATION AND SUSPENSION OF LICENSES; FINES.--

4 * * *

5 (B) HEARING ON SUCH CITATIONS SHALL BE HELD IN THE SAME
6 MANNER AS PROVIDED HEREIN FOR HEARINGS ON APPLICATIONS FOR
7 LICENSE. UPON SUCH HEARING, IF SATISFIED THAT ANY SUCH VIOLATION
8 HAS OCCURRED OR FOR OTHER SUFFICIENT CAUSE, THE ADMINISTRATIVE
9 LAW JUDGE SHALL IMMEDIATELY SUSPEND OR REVOKE THE LICENSE, OR
10 IMPOSE A FINE OF NOT LESS THAN [FIFTY DOLLARS (\$50)] TWO HUNDRED
11 FIFTY DOLLARS (\$250) NOR MORE THAN [ONE THOUSAND DOLLARS
12 (\$1,000)] FIVE THOUSAND DOLLARS (\$5,000), OR BOTH, NOTIFYING THE
13 LICENSEE BY REGISTERED LETTER ADDRESSED TO HIS LICENSED
14 PREMISES. IF THE LICENSEE HAS BEEN CITED AND FOUND TO HAVE
15 VIOLATED SECTION 493(1) INsofar AS IT RELATES TO SALES TO MINORS
16 OR SALES TO A VISIBLY INTOXICATED PERSON, SECTION 493(10)
17 INsofar AS IT RELATES TO LEWD, IMMORAL OR IMPROPER ENTERTAINMENT
18 OR SECTION 493(14), (16) OR (21), OR HAS BEEN FOUND TO BE A
19 PUBLIC NUISANCE PURSUANT TO SECTION 611, OR IF THE OWNER OR
20 OPERATOR OF THE LICENSED PREMISES OR ANY AUTHORIZED AGENT OF THE
21 OWNER OR OPERATOR HAS BEEN CONVICTED OF ANY VIOLATION OF THE ACT
22 OF APRIL 14, 1972 (P.L.233, NO.64), KNOWN AS "THE CONTROLLED
23 SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT," OR OF 18 PA.C.S. §
24 5902 (RELATING TO PROSTITUTION AND RELATED OFFENSES) OR 6301
25 (RELATING TO CORRUPTION OF MINORS), AT OR RELATING TO THE
26 LICENSED PREMISES, THE ADMINISTRATIVE LAW JUDGE SHALL
27 IMMEDIATELY SUSPEND OR REVOKE THE LICENSE, OR IMPOSE A FINE OF
28 NOT LESS THAN [ONE THOUSAND DOLLARS (\$1,000)] FIVE THOUSAND
29 DOLLARS (\$5,000) NOR MORE THAN [FIVE THOUSAND DOLLARS (\$5,000)]
30 TEN THOUSAND DOLLARS (\$10,000), OR BOTH. HOWEVER, IF A LICENSEE

1 HAS BEEN CITED AND FOUND TO HAVE VIOLATED SECTION 493(1) AS IT
2 RELATES TO SALES TO MINORS OR SALES TO A VISIBLY INTOXICATED
3 PERSON BUT AT THE TIME OF THE SALE THE LICENSEE WAS IN
4 COMPLIANCE WITH THE REQUIREMENTS SET FORTH IN SECTION 471.1 AND
5 THE LICENSEE HAD NOT SOLD TO MINORS OR VISIBLY INTOXICATED
6 PERSONS IN THE PREVIOUS FOUR YEARS, THEN THE ADMINISTRATIVE LAW
7 JUDGE SHALL IMMEDIATELY SUSPEND OR REVOKE THE LICENSE, OR IMPOSE
8 A FINE OF NOT LESS THAN [FIFTY DOLLARS (\$50)] ONE THOUSAND
9 DOLLARS (\$1,000) NOR MORE THAN [ONE THOUSAND DOLLARS (\$1,000)]
10 FIVE THOUSAND DOLLARS (\$5,000), OR BOTH. THE ADMINISTRATIVE LAW
11 JUDGE SHALL NOTIFY THE LICENSEE BY REGISTERED MAIL, ADDRESSED TO
12 THE LICENSED PREMISES, OF SUCH SUSPENSION, REVOCATION OR FINE.
13 IN THE EVENT THE FINE IS NOT PAID WITHIN TWENTY DAYS OF THE
14 ADJUDICATION, THE ADMINISTRATIVE LAW JUDGE SHALL SUSPEND OR
15 REVOKE THE LICENSE, NOTIFYING THE LICENSEE BY REGISTERED MAIL
16 ADDRESSED TO THE LICENSED PREMISES. SUSPENSIONS AND REVOCATIONS
17 SHALL NOT GO INTO EFFECT UNTIL THIRTY DAYS HAVE ELAPSED FROM THE
18 DATE OF THE ADJUDICATION DURING WHICH TIME THE LICENSEE MAY TAKE
19 AN APPEAL AS PROVIDED FOR IN THIS ACT, EXCEPT THAT REVOCATIONS
20 MANDATED IN SECTION 481(C) SHALL GO INTO EFFECT IMMEDIATELY. ANY
21 LICENSEE WHOSE LICENSE IS REVOKED SHALL BE INELIGIBLE TO HAVE A
22 LICENSE UNDER THIS ACT UNTIL THE EXPIRATION OF THREE YEARS FROM
23 THE DATE SUCH LICENSE WAS REVOKED. IN THE EVENT A LICENSE IS
24 REVOKED, NO LICENSE SHALL BE GRANTED FOR THE PREMISES OR
25 TRANSFERRED TO THE PREMISES IN WHICH THE SAID LICENSE WAS
26 CONDUCTED FOR A PERIOD OF AT LEAST ONE YEAR AFTER THE DATE OF
27 THE REVOCATION OF THE LICENSE CONDUCTED IN THE SAID PREMISES,
28 EXCEPT IN CASES WHERE THE LICENSEE OR A MEMBER OF HIS IMMEDIATE
29 FAMILY IS NOT THE OWNER OF THE PREMISES, IN WHICH CASE THE BOARD
30 MAY, IN ITS DISCRETION, ISSUE OR TRANSFER A LICENSE WITHIN THE

1 SAID YEAR. IN THE EVENT THE BUREAU OR THE PERSON WHO WAS FINED
2 OR WHOSE LICENSE WAS SUSPENDED OR REVOKED SHALL FEEL AGGRIEVED
3 BY THE ADJUDICATION OF THE ADMINISTRATIVE LAW JUDGE, THERE SHALL
4 BE A RIGHT TO APPEAL TO THE BOARD. THE APPEAL SHALL BE BASED
5 SOLELY ON THE RECORD BEFORE THE ADMINISTRATIVE LAW JUDGE. THE
6 BOARD SHALL ONLY REVERSE THE DECISION OF THE ADMINISTRATIVE LAW
7 JUDGE IF THE ADMINISTRATIVE LAW JUDGE COMMITTED AN ERROR OF LAW,
8 ABUSED ITS DISCRETION OR IF ITS DECISION IS NOT BASED ON
9 SUBSTANTIAL EVIDENCE. IN THE EVENT THE BUREAU OR THE PERSON WHO
10 WAS FINED OR WHOSE LICENSE WAS SUSPENDED OR REVOKED SHALL FEEL
11 AGGRIEVED BY THE DECISION OF THE BOARD, THERE SHALL BE A RIGHT
12 TO APPEAL TO THE COURT OF COMMON PLEAS IN THE SAME MANNER AS
13 HEREIN PROVIDED FOR APPEALS FROM REFUSALS TO GRANT LICENSES.
14 EACH OF THE APPEALS SHALL ACT AS A SUPERSEDEAS UNLESS, UPON
15 SUFFICIENT CAUSE SHOWN, THE REVIEWING AUTHORITY SHALL DETERMINE
16 OTHERWISE; HOWEVER, IF THE LICENSEE HAS BEEN CITED AND FOUND TO
17 HAVE VIOLATED SECTION 493(1) INsofar AS IT RELATES TO SALES TO
18 MINORS OR SALES TO A VISIBLY INTOXICATED PERSON, SECTION 493(10)
19 INsofar AS IT RELATES TO LEWD, IMMORAL OR IMPROPER ENTERTAINMENT
20 OR SECTION 493(14), (16) OR (21), OR HAS BEEN FOUND TO BE A
21 PUBLIC NUISANCE PURSUANT TO SECTION 611, OR IF THE OWNER OR
22 OPERATOR OF THE LICENSED PREMISES OR ANY AUTHORIZED AGENT OF THE
23 OWNER OR OPERATOR HAS BEEN CONVICTED OF ANY VIOLATION OF "THE
24 CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT," OR OF 18
25 PA.C.S. § 5902 OR 6301, AT OR RELATING TO THE LICENSED PREMISES,
26 OR IF THE LICENSE HAS BEEN REVOKED UNDER SECTION 481(C), ITS
27 APPEAL SHALL NOT ACT AS A SUPERSEDEAS UNLESS THE REVIEWING
28 AUTHORITY DETERMINES OTHERWISE UPON SUFFICIENT CAUSE SHOWN. IN
29 ANY HEARING ON AN APPLICATION FOR A SUPERSEDEAS UNDER THIS
30 SECTION, THE REVIEWING AUTHORITY MAY CONSIDER, IN ADDITION TO

1 OTHER RELEVANT EVIDENCE, DOCUMENTARY EVIDENCE, INCLUDING RECORDS
2 OF THE BUREAU, SHOWING THE PRIOR HISTORY OF CITATIONS, FINES,
3 SUSPENSIONS OR REVOCATIONS AGAINST THE LICENSEE; AND THE
4 REVIEWING AUTHORITY MAY ALSO CONSIDER, IN ADDITION TO OTHER
5 RELEVANT EVIDENCE, EVIDENCE OF ANY RECURRENCE OF THE UNLAWFUL
6 ACTIVITY OCCURRING BETWEEN THE DATE OF THE CITATION WHICH IS THE
7 SUBJECT OF THE APPEAL AND THE DATE OF THE HEARING. IF THE
8 REVIEWING AUTHORITY IS THE BOARD, NO HEARING SHALL BE HELD ON
9 THE APPLICATION FOR A SUPERSEDEAS; HOWEVER, A DECISION SHALL BE
10 MADE BASED ON THE APPLICATION, ANSWER AND DOCUMENTARY EVIDENCE
11 UNDER THIS SUBSECTION. IF THE APPLICATION FOR A SUPERSEDEAS IS
12 FOR A LICENSE THAT HAS BEEN REVOKED UNDER SECTION 481(C), THE
13 REVIEWING AUTHORITY SHALL GRANT THE SUPERSEDEAS ONLY IF IT FINDS
14 THAT THE LICENSEE WILL LIKELY PREVAIL ON THE MERITS. NO PENALTY
15 PROVIDED BY THIS SECTION SHALL BE IMPOSED FOR ANY VIOLATIONS
16 PROVIDED FOR IN THIS ACT UNLESS THE BUREAU NOTIFIES THE LICENSEE
17 OF ITS NATURE WITHIN THIRTY DAYS OF THE COMPLETION OF THE
18 INVESTIGATION.

19 * * *

20 SECTION 5. SECTION 494(A) OF THE ACT, AMENDED APRIL 29, 1994
21 (P.L.212, NO.30), IS AMENDED TO READ:

22 SECTION 494. PENALTIES.--(A) ANY PERSON WHO SHALL VIOLATE
23 ANY OF THE PROVISIONS OF THIS ARTICLE, EXCEPT AS OTHERWISE
24 SPECIFICALLY PROVIDED, SHALL BE GUILTY OF A MISDEMEANOR AND,
25 UPON CONVICTION THEREOF, SHALL BE SENTENCED TO PAY A FINE OF NOT
26 LESS THAN ONE HUNDRED DOLLARS (\$100), NOR MORE THAN FIVE HUNDRED
27 DOLLARS (\$500), AND ON FAILURE TO PAY SUCH FINE, TO IMPRISONMENT
28 FOR NOT LESS THAN ONE MONTH, NOR MORE THAN THREE MONTHS, AND FOR
29 ANY SUBSEQUENT OFFENSE, SHALL BE SENTENCED TO PAY A FINE NOT
30 LESS THAN THREE HUNDRED DOLLARS (\$300), NOR MORE THAN FIVE

1 HUNDRED DOLLARS (\$500), AND TO UNDERGO IMPRISONMENT FOR A PERIOD
2 NOT LESS THAN THREE MONTHS, NOR MORE THAN ONE YEAR, OR BOTH. IF
3 THE PERSON, AT OR RELATING TO THE LICENSED PREMISES, VIOLATES
4 SECTION 493(1), (10), (14), (16) OR (21), OR IF THE OWNER OR
5 OPERATOR OF THE LICENSED PREMISES OR ANY AUTHORIZED AGENT OF THE
6 OWNER OR OPERATOR VIOLATES THE ACT OF APRIL 14, 1972 (P.L.233,
7 NO.64), KNOWN AS "THE CONTROLLED SUBSTANCE, DRUG, DEVICE AND
8 COSMETIC ACT," OR 18 PA.C.S. § 5902 (RELATING TO PROSTITUTION
9 AND RELATED OFFENSES) OR 6301 (RELATING TO CORRUPTION OF
10 MINORS), HE SHALL BE SENTENCED TO PAY A FINE NOT EXCEEDING [FIVE
11 THOUSAND DOLLARS (\$5,000)] TEN THOUSAND DOLLARS (\$10,000) OR TO
12 UNDERGO IMPRISONMENT FOR A PERIOD NOT LESS THAN THREE MONTHS,
13 NOR MORE THAN ONE YEAR, OR BOTH.

14 * * *

15 Section 2 6. This act shall take effect in 60 days.

<--