

Testimony of Patrick Conway  
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House Liquor Control Committee  
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Chairman Taylor, Chairman Santoni and members of the House Liquor Control Committee, thank you for the opportunity to provide testimony on House Bill (HB) 1231 sponsored by Representative Waters. My name is Patrick Conway and I am testifying on behalf of the Pennsylvania Restaurant Association (PRA).

HB 1231 aims to make a variety of changes to the appeals process for licensees pertaining to license violations and renewals. PRA has serious concerns about the language in the bill, and its impact and unintended consequences on licensed businesses in the Commonwealth.

According to the current regulations, a licensee found in violation of the Liquor Code by the Bureau of Liquor Control Enforcement is able to request a hearing with the Administrative Law Judge (ALJ). While the ALJ is supposed to be autonomous from the Pennsylvania Liquor Control Board (PLCB), the lines can be blurred and licensees at times feel they may have not received a fair hearing.

Once the ALJ issues its ruling, a licensee is able to appeal to the Court of Common Pleas and have a *de novo* hearing. *De novo* means that the Court does not take into consideration the ALJ's ruling and the appeal starts as a fresh case. If HB 1231 moves forward as written, the *de novo* hearing is eliminated. This has serious consequences for licensees. The hearing before the Common Pleas Court would become a hearing that only reviews the findings of the ALJ. In most cases, the licensee would be precluded from entering facts and testimony, which may have been denied by the ALJ.

The current appeals process outlined within the Liquor Code is designed to afford licensees every opportunity to defend their reputation and protect their livelihood and investment in their licenses. There is discussion to remove two essential pieces of that appeals process, the PLCB and the Court of Common Pleas. Removal of them would take away key steps currently available to licensees to fight for their businesses.

We also have concerns about language in HB 1231 that states that if the Board denies the renewal of a license, the business may not serve alcohol until the Board's decision is overturned by the Court of Common Pleas. Under the current regulations, a licensee moving through the appeals process may keep his or her business open because the process is lengthy. Making the change proposed by HB 1231 would very likely lead to a loss of business that could force an operator to permanently close his or her establishment.

Currently, a license renewal can be denied if the applicant is considered a person of ill repute. HB 1231 expands the language regarding ill repute to include: shareholders, directors, officers, association members, servants, agents or employees. There is no definition of what ill repute actually means, and HB 1231 expands this already vague term to include any individual remotely associated with the license. How is a licensee able to ensure all individuals do not meet a definition of a term to which no definition is known?

The changes proposed by HB 1231 that we have highlighted in our testimony place a significant burden on licensed business owners. To make the process more onerous puts licensees at an increased risk of going out of business; ultimately hurting the business owner, his or her employees, the customers and the Commonwealth.

Thank you for considering our views and for the opportunity to provide testimony. I will be happy to take any questions.