

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 178

Session of 1981

INTRODUCED BY CALTAGIRONE, COCHRAN AND LEHR, JANUARY 26, 1981

AS REPORTED FROM COMMITTEE ON LIQUOR CONTROL, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 8, 1981

AN ACT

1 Amending the act of April 12, 1951 (P.L.90, No.21), entitled "An
2 act relating to alcoholic liquors, alcohol and malt and
3 brewed beverages; amending, revising, consolidating and
4 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 PROVIDING FOR THE WAIVER OF CERTAIN LATE FILING FEES BY THE <—
18 BOARD, FURTHER PROVIDING FOR THE SURRENDER OF CLUB LICENSES
19 AND exempting collectors of miniature bottles from certain
20 provisions of the act.

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

23 SECTION 1. SUBSECTION (A) OF SECTION 470, ACT OF APRIL 12, <—
24 1951 (P.L.90, NO.21), KNOWN AS THE "LIQUOR CODE," AMENDED AUGUST
25 1, 1969 (P.L.219, NO.87), 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, REQUISITE LICENSE AND FILING FEES AT LEAST
4 SIXTY DAYS BEFORE THE EXPIRATION DATE OF SAME: PROVIDED,
5 HOWEVER, THAT THE BOARD, IN ITS DISCRETION, MAY ACCEPT A RENEWAL
6 APPLICATION FILED LESS THAN SIXTY DAYS BEFORE THE EXPIRATION
7 DATE OF THE LICENSE WITH THE REQUIRED BOND AND FEES, UPON
8 REASONABLE CAUSE SHOWN AND THE PAYMENT OF AN ADDITIONAL FILING
9 FEE OF ONE HUNDRED DOLLARS (\$100.00) FOR LATE FILING, WHICH
10 ADDITIONAL FEE MAY BE WAIVED BY THE BOARD UPON SHOWING OF
11 EXTREME AND EXTENUATING CIRCUMSTANCES: AND PROVIDED FURTHER,
12 THAT EXCEPT WHERE THE FAILURE TO FILE A RENEWAL APPLICATION OR
13 BEFORE THE EXPIRATION DATE HAS CREATED A LICENSE QUOTA VACANCY
14 AFTER SAID EXPIRATION DATE WHICH HAS BEEN FILLED BY THE ISSUANCE
15 OF A NEW LICENSE, AFTER SUCH EXPIRATION DATE, BUT BEFORE THE
16 BOARD HAS RECEIVED A RENEWAL APPLICATION WITHIN THE TIME
17 PRESCRIBED HEREIN THE BOARD, IN ITS DISCRETION, MAY, AFTER
18 HEARING, ACCEPT A RENEWAL APPLICATION FILED WITHIN TEN MONTHS
19 AFTER THE EXPIRATION DATE OF THE LICENSE WITH THE REQUIRED BOND
20 AND FEES UPON THE PAYMENT OF AN ADDITIONAL FILING FEE OF TWO
21 HUNDRED FIFTY DOLLARS (\$250.00) FOR LATE FILING. WHERE ANY SUCH
22 RENEWAL APPLICATION IS FILED LESS THAN SIXTY DAYS BEFORE THE
23 EXPIRATION DATE, OR SUBSEQUENT TO THE EXPIRATION DATE, NO
24 LICENSE SHALL ISSUE UPON THE FILING OF THE RENEWAL APPLICATION
25 UNTIL THE MATTER IS FINALLY DETERMINED BY THE BOARD AND IF AN
26 APPEAL IS TAKEN FROM THE BOARD'S ACTION THE COURTS SHALL NOT
27 ORDER THE ISSUANCE OF THE RENEWAL LICENSE UNTIL FINAL
28 DETERMINATION OF THE MATTER BY THE COURTS. A RENEWAL APPLICATION
29 WILL NOT BE CONSIDERED FILED UNLESS ACCOMPANIED BY A NEW BOND
30 AND THE REQUISITE FILING AND LICENSE FEES AND ANY ADDITIONAL

1 FILING FEE REQUIRED BY THIS SECTION. UNLESS THE BOARD SHALL HAVE
2 GIVEN TEN DAYS' PREVIOUS NOTICE TO THE APPLICANT OF OBJECTIONS
3 TO THE RENEWAL OF HIS LICENSE, BASED UPON VIOLATION BY THE
4 LICENSEE OR HIS SERVANTS, AGENTS OR EMPLOYES OF ANY OF THE LAWS
5 OF THE COMMONWEALTH OR REGULATIONS OF THE BOARD RELATING TO THE
6 MANUFACTURE, TRANSPORTATION, USE, STORAGE, IMPORTATION,
7 POSSESSION OR SALE OF LIQUORS, ALCOHOL OR MALT OR BREWED
8 BEVERAGES, OR THE CONDUCT OF A LICENSED ESTABLISHMENT, OR UNLESS
9 THE APPLICANT HAS BY HIS OWN ACT BECOME A PERSON OF ILL REPUTE,
10 OR LESS THE PREMISES DO NOT MEET THE REQUIREMENTS OF THIS ACT OR
11 THE REGULATIONS OF THE BOARD, THE LICENSE OF A LICENSEE SHALL BE
12 RENEWED.

13 * * *

14 SECTION 2. SECTION 474 OF THE ACT, ADDED JULY 20, 1968
15 (P.L.429, NO.201), IS AMENDED TO READ:

16 SECTION 474. SURRENDER OF CLUB LICENSES FOR BENEFIT OF
17 LICENSEES.--[WHENEVER A CLUB LICENSE HAS BEEN RETURNED TO THE
18 BOARD FOR THE BENEFIT OF THE LICENSEE DUE TO THE LICENSED
19 ESTABLISHMENT NOT HAVING BEEN IN OPERATION FOR ANY REASON
20 WHATSOEVER FOR A PERIOD OF TIME NOT EXCEEDING FIFTEEN DAYS, THE
21 LICENSE SHALL BE HELD BY THE BOARD FOR THE BENEFIT OF THE
22 LICENSEE FOR A PERIOD OF TIME NOT EXCEEDING ONE YEAR, OR, UPON
23 PROPER APPLICATION TO THE BOARD, FOR AN ADDITIONAL YEAR, AND THE
24 LICENSE SHALL BE REVOKED AT THE TERMINATION OF THE PERIOD, AND
25 TRANSFER OF THE LICENSE SHALL NOT BE PERMITTED AFTER THE
26 TERMINATION OF THE PERIOD.]

27 (A) ANY CLUB LICENSEE WHOSE LICENSED ESTABLISHMENT IS NOT IN
28 OPERATION FOR A PERIOD OF FIFTEEN CONSECUTIVE DAYS FOR ANY
29 REASON SHALL RETURN ITS LICENSE AND, IF A LIQUOR LICENSE, ITS
30 WHOLESALE PURCHASE PERMIT CARD, TO THE BOARD NOT LATER THAN THE

1 EXPIRATION OF THE FIFTEEN-DAY PERIOD. THE RETURN OF SUCH LICENSE
2 AND CARD WILL NOT INVALIDATE THE LICENSE, WHICH WILL BE HELD FOR
3 THE BENEFIT OF THE LICENSEE AND BE AVAILABLE FOR ITS USE WHEN
4 OPERATIONS ARE RESUMED AT THE LICENSED PREMISES, OR FOR
5 TRANSFER.

6 (B) WHERE THE CLUB LICENSE IS RETURNED BECAUSE THE LICENSEE
7 NO LONGER HAS A LEASE FOR THE LICENSED PREMISES, OR REMOVES
8 THEREFROM, OR IS DISPOSSESSED BY LEGAL PROCESS, THE LICENSE WILL
9 BE INVALIDATED AS TO THE PREMISES FOR WHICH ISSUED BUT WILL NOT
10 BE INVALIDATED GENERALLY NOR CANCELLED, AND WILL BE HELD FOR THE
11 BENEFIT OF THE LICENSEE FOR TRANSFER ONLY.

12 (C) WHERE THE CLUB LICENSE AND WHOLESALE LIQUOR PURCHASE
13 PERMIT CARD ARE NOT SURRENDERED AND RETURNED VOLUNTARILY BY THE
14 LICENSEE, ENFORCEMENT OFFICERS OF THE BOARD WILL LIFT AND RETURN
15 SUCH LICENSE AND CARD TO THE BOARD.

16 (D) NO CLUB LICENSE SURRENDERED TO THE BOARD, NOR ANY
17 RENEWAL THEREOF IN POSSESSION OF THE BOARD, WILL BE HELD FOR THE
18 BENEFIT OF THE LICENSEE FOR A PERIOD EXCEEDING ONE YEAR FROM THE
19 DATE OF SURRENDER, EXCEPT WHERE, IN THE OPINION OF THE BOARD,
20 CIRCUMSTANCES BEYOND THE CONTROL OF THE LICENSEE PREVENT
21 REACTIVATION. FAILURE OF THE LICENSEE TO LIFT THE LICENSE AND
22 RESUME OPERATION OF THE LICENSED BUSINESS OR TO EFFECT A
23 TRANSFER OF THE LICENSE WITHIN THE ONE-YEAR PERIOD SHALL BE
24 SUFFICIENT CAUSE FOR REVOCATION OF THE LICENSE.

25 Section 4 3. Clause (1) of section 491, ~~act of April 12,~~ <—
26 ~~1951 (P.L.90, No.21), known as the "Liquor Code,"~~ OF THE ACT is <—
27 amended to read:

28 Section 491. Unlawful Acts Relative to Liquor, Alcohol and
29 Liquor Licensees.--

30 It shall be unlawful--

1 (1) Sales of Liquor. For any person, by himself or by an
2 employe or agent, to expose or keep for sale, or directly or
3 indirectly, or upon any pretense or upon any device, to sell or
4 offer to sell any liquor within this Commonwealth, except in
5 accordance with the provisions of this act and the regulations
6 of the board. This clause shall not be construed to prohibit
7 hospitals, physicians, dentists or veterinarians who are
8 licensed and registered under the laws of this Commonwealth from
9 administering liquor in the regular course of their professional
10 work and taking into account the cost of the liquor so
11 administered in making charges for their professional service,
12 or a pharmacist duly licensed and registered under the laws of
13 this Commonwealth from dispensing liquor on a prescription of a
14 duly licensed physician, dentist or veterinarian, or selling
15 medical preparations containing alcohol, or using liquor in
16 compounding prescriptions or medicines and making a charge for
17 the liquor used in such medicines, or a manufacturing pharmacist
18 or chemist from using liquor in manufacturing preparations unfit
19 for beverage purposes and making a charge for the liquors so
20 used. All such liquors so administered or sold by hospitals,
21 physicians, dentists, veterinarians, pharmacists or chemists
22 shall conform to the Pharmacopoeia of the United States, the
23 National Formulary, or the American Homeopathic Pharmacopoeia.
24 This clause, nor any other clause in this section, shall not be
25 construed to prohibit collectors of miniature bottles (with or
26 without the contents) who are registered with the board as
27 collectors, on a form to be supplied by the board, from buying,
28 selling, trading or bartering miniature bottles from, to or with
29 other registered collectors within the Commonwealth or any
30 person outside the Commonwealth or from possessing miniature

1 bottles without the official seal of the board affixed thereto.

2 * * *

3 Section ~~2~~ 4. This act shall take effect in 60 days.

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