

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**HOUSE BILL****No. 178**Session of  
1981

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

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AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,  
JANUARY 25, 1982

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## 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 FURTHER PROVIDING FOR HEARINGS ON LICENSES, providing for the ←  
18 waiver of certain late filing fees by the board, further  
19 providing for the surrender of club licenses and exempting  
20 collectors of miniature bottles from certain provisions of  
21 the act.

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

24 ~~Section 1. Subsection (a) of section 470, act of April 12,~~ ←  
25 ~~1951 (P.L.90, No.21), known as the "Liquor Code," amended August~~  
26 ~~1, 1969 (P.L.219, No.87), is amended to read:~~

1 SECTION 1. SECTION 402, ACT OF APRIL 12, 1951 (P.L.90,  
2 NO.21), KNOWN AS THE "LIQUOR CODE," IS AMENDED TO READ:

3 SECTION 402. LICENSE DISTRICTS; LICENSE YEAR; HEARINGS.--(A)  
4 THE BOARD SHALL, BY REGULATION, DIVIDE THE STATE INTO CONVENIENT  
5 LICENSE DISTRICTS AND SHALL HOLD HEARINGS ON APPLICATIONS FOR  
6 LICENSES [AND], RENEWALS [THEREOF], TRANSFERS AND THE REVOCATION  
7 AND SUSPENSION OF LICENSES PURSUANT TO SECTION 471 AS IT DEEMS  
8 NECESSARY, AT A CONVENIENT PLACE OR PLACES IN EACH OF SAID  
9 DISTRICTS, AT SUCH TIMES AS IT SHALL FIX, BY REGULATION, FOR THE  
10 PURPOSE OF HEARING TESTIMONY FOR AND AGAINST APPLICATIONS FOR  
11 NEW LICENSES AND RENEWALS THEREOF.

12 (B) WHERE A HEARING IS HELD IN THE CASE OF AN APPLICATION  
13 FOR A NEW HOTEL OR RESTAURANT LIQUOR LICENSE OR AN APPLICATION  
14 FOR THE TRANSFER OF A HOTEL OR RESTAURANT LIQUOR LICENSE, OR  
15 WHERE A CITATION ALLEGES A PUBLIC NUISANCE PURSUANT TO SECTION  
16 611, THE BOARD SHALL PERMIT RESIDENTS OF SAID MUNICIPALITY TO  
17 TESTIFY AT THE HEARINGS. THE BOARD AND ANY HEARING OFFICER  
18 THEREOF SHALL GIVE SUBSTANTIAL WEIGHT TO ANY TESTIMONY BY THE  
19 RESIDENTS OF THE MUNICIPALITY GIVEN IN CONNECTION WITH A PUBLIC  
20 HEARING. DECISIONS ON APPLICATIONS SHALL CONFORM TO THE  
21 PREPONDERANCE OF THE EVIDENCE PRESENTED.

22 (C) THE BOARD MAY PROVIDE FOR THE HOLDING OF SUCH HEARINGS  
23 BY EXAMINERS LEARNED IN THE LAW, TO BE APPOINTED BY THE  
24 GOVERNOR, WHO SHALL NOT BE SUBJECT TO THE "CIVIL SERVICE ACT."  
25 SUCH EXAMINERS SHALL MAKE REPORT TO THE BOARD IN EACH CASE WITH  
26 THEIR RECOMMENDATIONS. THE BOARD SHALL, BY REGULATION, FIX THE  
27 LICENSE YEAR FOR EACH SEPARATE DISTRICT SO THAT THE EXPIRATION  
28 DATES SHALL BE UNIFORM IN EACH OF THE SEVERAL DISTRICTS BUT  
29 STAGGERED AS TO THE STATE.

30 SECTION 2. SUBSECTION (A) OF SECTION 470 OF THE ACT, AMENDED

1 AUGUST 1, 1969 (P.L.219, NO.87), IS AMENDED TO READ:

2 Section 470. Renewal of Licenses; Temporary Provisions for  
3 Licensees in Armed Service.--(a) All applications for renewal  
4 of licenses under the provisions of this article shall be filed  
5 with a new bond, requisite license and filing fees at least  
6 sixty days before the expiration date of same: Provided,  
7 however, That the board, in its discretion, may accept a renewal  
8 application filed less than sixty days before the expiration  
9 date of the license with the required bond and fees, upon  
10 reasonable cause shown and the payment of an additional filing  
11 fee of one hundred dollars (\$100.00) for late filing, which  
12 additional fee may be waived by the board upon showing of  
13 extreme and extenuating circumstances: And provided further,  
14 That except where the failure to file a renewal application or  
15 before the expiration date has created a license quota vacancy  
16 after said expiration date which has been filled by the issuance  
17 of a new license, after such expiration date, but before the  
18 board has received a renewal application within the time  
19 prescribed herein the board, in its discretion, may, after  
20 hearing, accept a renewal application filed within ten months  
21 after the expiration date of the license with the required bond  
22 and fees upon the payment of an additional filing fee of two  
23 hundred fifty dollars (\$250.00) for late filing. Where any such  
24 renewal application is filed less than sixty days before the  
25 expiration date, or subsequent to the expiration date, no  
26 license shall issue upon the filing of the renewal application  
27 until the matter is finally determined by the board and if an  
28 appeal is taken from the board's action the courts shall not  
29 order the issuance of the renewal license until final  
30 determination of the matter by the courts. A renewal application

1 will not be considered filed unless accompanied by a new bond  
2 and the requisite filing and license fees and any additional  
3 filing fee required by this section. Unless the board shall have  
4 given ten days' previous notice to the applicant of objections  
5 to the renewal of his license, based upon violation by the  
6 licensee or his servants, agents or employes of any of the laws  
7 of the Commonwealth or regulations of the board relating to the  
8 manufacture, transportation, use, storage, importation,  
9 possession or sale of liquors, alcohol or malt or brewed  
10 beverages, or the conduct of a licensed establishment, or unless  
11 the applicant has by his own act become a person of ill repute,  
12 or less the premises do not meet the requirements of this act or  
13 the regulations of the board, the license of a licensee shall be  
14 renewed.

15 \* \* \*

16 Section ~~2~~ 3. Section 474 of the act, added July 20, 1968  
17 (P.L.429, No.201), is amended to read:

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18 Section 474. Surrender of Club Licenses for Benefit of  
19 Licensees.--[Whenever a club license has been returned to the  
20 board for the benefit of the licensee due to the licensed  
21 establishment not having been in operation for any reason  
22 whatsoever for a period of time not exceeding fifteen days, the  
23 license shall be held by the board for the benefit of the  
24 licensee for a period of time not exceeding one year, or, upon  
25 proper application to the board, for an additional year, and the  
26 license shall be revoked at the termination of the period, and  
27 transfer of the license shall not be permitted after the  
28 termination of the period.]

29 (a) Any club licensee whose licensed establishment is not in  
30 operation for a period of fifteen consecutive days for any

1 reason shall return its license and, if a liquor license, its  
2 wholesale purchase permit card, to the board not later than the  
3 expiration of the fifteen-day period. The return of such license  
4 and card will not invalidate the license, which will be held for  
5 the benefit of the licensee and be available for its use when  
6 operations are resumed at the licensed premises, or for  
7 transfer.

8 (b) Where the club license is returned because the licensee  
9 no longer has a lease for the licensed premises, or removes  
10 therefrom, or is dispossessed by legal process, the license will  
11 be invalidated as to the premises for which issued but will not  
12 be invalidated generally nor cancelled, and will be held for the  
13 benefit of the licensee for transfer only.

14 (c) Where the club license and wholesale liquor purchase  
15 permit card are not surrendered and returned voluntarily by the  
16 licensee, enforcement officers of the board will lift and return  
17 such license and card to the board.

18 (d) No club license surrendered to the board, nor any  
19 renewal thereof in possession of the board, will be held for the  
20 benefit of the licensee for a period exceeding one year from the  
21 date of surrender, except where, in the opinion of the board,  
22 circumstances beyond the control of the licensee prevent  
23 reactivation. THE BOARD SHALL RECONSIDER THE REVOCATION OF ANY <—  
24 CLUB LICENSE DURING THE LAST FIVE YEARS TO ASCERTAIN IF  
25 CIRCUMSTANCES BEYOND THE CONTROL OF THE LICENSEE PREVENTED  
26 TIMELY REACTIVATION OF THE LICENSE. Failure of the licensee to  
27 lift the license and resume operation of the licensed business  
28 or to effect a transfer of the license within the one-year  
29 period shall MAY be sufficient cause for revocation of the <—  
30 license IF TIMELY REACTIVATION WAS NOT DUE TO CIRCUMSTANCES <—

1 BEYOND THE CONTROL OF THE LICENSEE.

2 Section 3 4. Clause (1) of section 491 of the act is amended <—  
3 to read:

4 Section 491. Unlawful Acts Relative to Liquor, Alcohol and  
5 Liquor Licensees.--

6 It shall be unlawful--

7 (1) Sales of Liquor. For any person, by himself or by an  
8 employe or agent, to expose or keep for sale, or directly or  
9 indirectly, or upon any pretense or upon any device, to sell or  
10 offer to sell any liquor within this Commonwealth, except in  
11 accordance with the provisions of this act and the regulations  
12 of the board. This clause shall not be construed to prohibit  
13 hospitals, physicians, dentists or veterinarians who are  
14 licensed and registered under the laws of this Commonwealth from  
15 administering liquor in the regular course of their professional  
16 work and taking into account the cost of the liquor so  
17 administered in making charges for their professional service,  
18 or a pharmacist duly licensed and registered under the laws of  
19 this Commonwealth from dispensing liquor on a prescription of a  
20 duly licensed physician, dentist or veterinarian, or selling  
21 medical preparations containing alcohol, or using liquor in  
22 compounding prescriptions or medicines and making a charge for  
23 the liquor used in such medicines, or a manufacturing pharmacist  
24 or chemist from using liquor in manufacturing preparations unfit  
25 for beverage purposes and making a charge for the liquors so  
26 used. All such liquors so administered or sold by hospitals,  
27 physicians, dentists, veterinarians, pharmacists or chemists  
28 shall conform to the Pharmacopoeia of the United States, the  
29 National Formulary, or the American Homeopathic Pharmacopoeia.  
30 This clause, nor any other clause in this section, shall not be

1 construed to prohibit collectors of miniature bottles (with or  
2 without the contents) who are registered with the board as  
3 collectors, on a form to be supplied by the board, from buying,  
4 selling, trading or bartering miniature bottles from, to or with  
5 other registered collectors within the Commonwealth or any  
6 person outside the Commonwealth or from possessing miniature  
7 bottles without the official seal of the board affixed thereto.

8 \* \* \*

9 Section 4 5. This act shall take effect in 60 days.

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