
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 178

Session of
1981

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

SENATOR GREENLEAF, LAW AND JUSTICE, IN SENATE, AS AMENDED,
MAY 4, 1982

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. Section 402, act of April 12, 1951 (P.L.90,
25 No.21), known as the "Liquor Code," is amended to read:

26 Section 402. License Districts; License Year; Hearings.--(a)

1 The board shall, by regulation, divide the State into convenient
2 license districts and shall hold hearings on applications for
3 licenses [and], renewals [thereof], transfers and the revocation
4 and suspension of licenses pursuant to section 471 as it deems
5 necessary, at a convenient place or places in each of said
6 districts, at such times as it shall fix, by regulation, for the
7 purpose of hearing testimony for and against applications for
8 new licenses and renewals thereof.

9 (b) Where a hearing is held in the case of an application
10 for a new hotel or restaurant liquor license or an application
11 for the transfer of a hotel or restaurant liquor license, or ←
12 where a citation alleges a public nuisance pursuant to section
13 611, the board shall permit residents of said municipality to
14 testify at the hearings. The board and any hearing officer
15 thereof shall give substantial weight to any testimony by the
16 residents of the municipality given in connection with a public
17 hearing. Decisions on applications shall conform to the
18 preponderance of the evidence presented.

19 (c) The board may provide for the holding of such hearings
20 by examiners learned in the law, to be appointed by the
21 Governor, who shall not be subject to the "Civil Service Act."
22 Such examiners shall make report to the board in each case with
23 their recommendations. The board shall, by regulation, fix the
24 license year for each separate district so that the expiration
25 dates shall be uniform in each of the several districts but
26 staggered as to the State.

27 Section 2. Subsection (a) of section 470 of the act, amended
28 August 1, 1969 (P.L.219, No.87), is amended to read:

29 Section 470. Renewal of Licenses; Temporary Provisions for
30 Licensees in Armed Service.--(a) All applications for renewal

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

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

12 * * *

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

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

26 (a) Any club licensee whose licensed establishment is not in
27 operation for a period of fifteen consecutive days for any
28 reason shall return its license and, if a liquor license, its
29 wholesale purchase permit card, to the board not later than the
30 expiration of the fifteen-day period. The return of such license

1 and card will not invalidate the license, which will be held for
2 the benefit of the licensee and be available for its use when
3 operations are resumed at the licensed premises, or for
4 transfer.

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

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

15 (d) No club license surrendered to the board, nor any
16 renewal thereof in possession of the board, will be held for the
17 benefit of the licensee for a period exceeding one year from the
18 date of surrender, except where, in the opinion of the board,
19 circumstances beyond the control of the licensee prevent
20 reactivation. The board shall reconsider the revocation of any
21 club license during the last five years to ascertain if
22 circumstances beyond the control of the licensee prevented
23 timely reactivation of the license. Failure of the licensee to
24 lift the license and resume operation of the licensed business
25 or to effect a transfer of the license within the one-year
26 period may be sufficient cause for revocation of the license if
27 timely reactivation was not due to circumstances beyond the
28 control of the licensee.

29 (E) IN THE CASE OF ANY CLUB LICENSE WHICH IS REACTIVATED
30 UNDER THIS SECTION, THE BOARD SHALL DETERMINE NO SOONER THAN

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1 EIGHTEEN MONTHS AFTER SUCH REACTIVATION, AND NO LATER THAN
2 TWENTY-FOUR MONTHS AFTER REACTIVATION, THAT THE CLUB HAS
3 ACTUALLY RESUMED OPERATION AND IS FUNCTIONING IN FACT AS A CLUB
4 AS DEFINED IN SECTION 102. IF THE BOARD FINDS THAT THE CLUB IS
5 NOT SO FUNCTIONING THE LICENSE SHALL BE IMMEDIATELY REVOKED.

6 Section 4. Clause (1) of section 491 of the act is amended
7 to read:

8 Section 491. Unlawful Acts Relative to Liquor, Alcohol and
9 Liquor Licensees.--

10 It shall be unlawful--

11 (1) Sales of Liquor. For any person, by himself or by an
12 employe or agent, to expose or keep for sale, or directly or
13 indirectly, or upon any pretense or upon any device, to sell or
14 offer to sell any liquor within this Commonwealth, except in
15 accordance with the provisions of this act and the regulations
16 of the board. This clause shall not be construed to prohibit
17 hospitals, physicians, dentists or veterinarians who are
18 licensed and registered under the laws of this Commonwealth from
19 administering liquor in the regular course of their professional
20 work and taking into account the cost of the liquor so
21 administered in making charges for their professional service,
22 or a pharmacist duly licensed and registered under the laws of
23 this Commonwealth from dispensing liquor on a prescription of a
24 duly licensed physician, dentist or veterinarian, or selling
25 medical preparations containing alcohol, or using liquor in
26 compounding prescriptions or medicines and making a charge for
27 the liquor used in such medicines, or a manufacturing pharmacist
28 or chemist from using liquor in manufacturing preparations unfit
29 for beverage purposes and making a charge for the liquors so
30 used. All such liquors so administered or sold by hospitals,

1 physicians, dentists, veterinarians, pharmacists or chemists
2 shall conform to the Pharmacopoeia of the United States, the
3 National Formulary, or the American Homeopathic Pharmacopoeia.
4 This clause, nor any other clause in this section, shall not be
5 construed to prohibit collectors of miniature bottles (with or
6 without the contents) who are registered with the board as
7 collectors, on a form to be supplied by the board, from buying,
8 selling, trading or bartering miniature bottles from, to or with
9 other registered collectors within the Commonwealth or any
10 person outside the Commonwealth or from possessing miniature
11 bottles without the official seal of the board affixed thereto.

12 * * *

13 Section 5. This act shall take effect in 60 days.