
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 178

Session of
1981

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

AS AMENDED ON SECOND CONSIDERATION, IN SENATE, MAY 24, 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 AND EXTENDING LICENSED PREMISES. ←

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. THE ACT IS AMENDED BY ADDING A SECTION TO READ: ←

28 SECTION 406.1. EXTENSION OF LICENSED PREMISES.--(A) UPON
29 APPLICATION OF ANY HOTEL, RESTAURANT OR CLUB LIQUOR LICENSEE,
30 THE BOARD SHALL GRANT AN EXTENSION OF THE LICENSED PREMISES TO

1 INCLUDE AS PART OF THE LICENSED PREMISES THE IMMEDIATE,
2 ABUTTING, ADJACENT AND CONTIGUOUS VACANT LAND AND ANY STRUCTURES
3 WHICH ARE ON SUCH LAND.

4 (B) ALL EXTENSION OF PREMISES APPLICATIONS FILED PURSUANT TO
5 THIS SECTION SHALL BE ACCOMPANIED BY APPROPRIATE PLANS OR
6 SURVEYS SETTING FORTH THE METES AND BOUNDS, THE NAMES OF
7 ABUTTING STREETS, AND A PLOTTING OF THE PRINCIPAL LICENSED
8 PREMISES AND THE DESIRED EXTENSION.

9 Section ~~2~~ 3. Subsection (a) of section 470 of the act, ←
10 amended August 1, 1969 (P.L.219, No.87), is amended to read:

11 Section 470. Renewal of Licenses; Temporary Provisions for
12 Licensees in Armed Service.--(a) All applications for renewal
13 of licenses under the provisions of this article shall be filed
14 with a new bond, requisite license and filing fees at least
15 sixty days before the expiration date of same: Provided,
16 however, That the board, in its discretion, may accept a renewal
17 application filed less than sixty days before the expiration
18 date of the license with the required bond and fees, upon
19 reasonable cause shown and the payment of an additional filing
20 fee of one hundred dollars (\$100.00) for late filing, which
21 additional fee may be waived by the board upon showing of
22 extreme and extenuating circumstances: And provided further,
23 That except where the failure to file a renewal application or
24 before the expiration date has created a license quota vacancy
25 after said expiration date which has been filled by the issuance
26 of a new license, after such expiration date, but before the
27 board has received a renewal application within the time
28 prescribed herein the board, in its discretion, may, after
29 hearing, accept a renewal application filed within ten months
30 after the expiration date of the license with the required bond

1 and fees upon the payment of an additional filing fee of two
2 hundred fifty dollars (\$250.00) for late filing. Where any such
3 renewal application is filed less than sixty days before the
4 expiration date, or subsequent to the expiration date, no
5 license shall issue upon the filing of the renewal application
6 until the matter is finally determined by the board and if an
7 appeal is taken from the board's action the courts shall not
8 order the issuance of the renewal license until final
9 determination of the matter by the courts. A renewal application
10 will not be considered filed unless accompanied by a new bond
11 and the requisite filing and license fees and any additional
12 filing fee required by this section. Unless the board shall have
13 given ten days' previous notice to the applicant of objections
14 to the renewal of his license, based upon violation by the
15 licensee or his servants, agents or employes of any of the laws
16 of the Commonwealth or regulations of the board relating to the
17 manufacture, transportation, use, storage, importation,
18 possession or sale of liquors, alcohol or malt or brewed
19 beverages, or the conduct of a licensed establishment, or unless
20 the applicant has by his own act become a person of ill repute,
21 or less the premises do not meet the requirements of this act or
22 the regulations of the board, the license of a licensee shall be
23 renewed.

24 * * *

25 Section 3 4. Section 474 of the act, added July 20, 1968
26 (P.L.429, No.201), is amended to read:

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27 Section 474. Surrender of Club Licenses for Benefit of
28 Licensees.--[Whenever a club license has been returned to the
29 board for the benefit of the licensee due to the licensed
30 establishment not having been in operation for any reason

1 whatsoever for a period of time not exceeding fifteen days, the
2 license shall be held by the board for the benefit of the
3 licensee for a period of time not exceeding one year, or, upon
4 proper application to the board, for an additional year, and the
5 license shall be revoked at the termination of the period, and
6 transfer of the license shall not be permitted after the
7 termination of the period.]

8 (a) Any club licensee whose licensed establishment is not in
9 operation for a period of fifteen consecutive days for any
10 reason shall return its license and, if a liquor license, its
11 wholesale purchase permit card, to the board not later than the
12 expiration of the fifteen-day period. The return of such license
13 and card will not invalidate the license, which will be held for
14 the benefit of the licensee and be available for its use when
15 operations are resumed at the licensed premises, or for
16 transfer.

17 (b) Where the club license is returned because the licensee
18 no longer has a lease for the licensed premises, or removes
19 therefrom, or is dispossessed by legal process, the license will
20 be invalidated as to the premises for which issued but will not
21 be invalidated generally nor cancelled, and will be held for the
22 benefit of the licensee for transfer only.

23 (c) Where the club license and wholesale liquor purchase
24 permit card are not surrendered and returned voluntarily by the
25 licensee, enforcement officers of the board will lift and return
26 such license and card to the board.

27 (d) No club license surrendered to the board, nor any
28 renewal thereof in possession of the board, will be held for the
29 benefit of the licensee for a period exceeding one year from the
30 date of surrender, except where, in the opinion of the board,

1 circumstances beyond the control of the licensee prevent
2 reactivation. The board shall reconsider the revocation of any
3 club license during the last five years to ascertain if
4 circumstances beyond the control of the licensee prevented
5 timely reactivation of the license. Failure of the licensee to
6 lift the license and resume operation of the licensed business
7 or to effect a transfer of the license within the one-year
8 period may be sufficient cause for revocation of the license if
9 timely reactivation was not due to circumstances beyond the
10 control of the licensee.

11 (E) IN THE CASE OF ANY CLUB LICENSE WHICH IS REACTIVATED ←
12 UNDER THIS SECTION, THE BOARD SHALL DETERMINE NO SOONER THAN
13 EIGHTEEN MONTHS AFTER SUCH REACTIVATION, AND NO LATER THAN
14 TWENTY-FOUR MONTHS AFTER REACTIVATION, THAT THE CLUB HAS
15 ACTUALLY RESUMED OPERATION AND IS FUNCTIONING IN FACT AS A CLUB
16 AS DEFINED IN SECTION 102. IF THE BOARD FINDS THAT THE CLUB IS
17 NOT SO FUNCTIONING THE LICENSE SHALL BE IMMEDIATELY REVOKED.

18 Section 4 5. Clause (1) of section 491 of the act is amended ←
19 to read:

20 Section 491. Unlawful Acts Relative to Liquor, Alcohol and
21 Liquor Licensees.--

22 It shall be unlawful--

23 (1) Sales of Liquor. For any person, by himself or by an
24 employe or agent, to expose or keep for sale, or directly or
25 indirectly, or upon any pretense or upon any device, to sell or
26 offer to sell any liquor within this Commonwealth, except in
27 accordance with the provisions of this act and the regulations
28 of the board. This clause shall not be construed to prohibit
29 hospitals, physicians, dentists or veterinarians who are
30 licensed and registered under the laws of this Commonwealth from

1 administering liquor in the regular course of their professional
2 work and taking into account the cost of the liquor so
3 administered in making charges for their professional service,
4 or a pharmacist duly licensed and registered under the laws of
5 this Commonwealth from dispensing liquor on a prescription of a
6 duly licensed physician, dentist or veterinarian, or selling
7 medical preparations containing alcohol, or using liquor in
8 compounding prescriptions or medicines and making a charge for
9 the liquor used in such medicines, or a manufacturing pharmacist
10 or chemist from using liquor in manufacturing preparations unfit
11 for beverage purposes and making a charge for the liquors so
12 used. All such liquors so administered or sold by hospitals,
13 physicians, dentists, veterinarians, pharmacists or chemists
14 shall conform to the Pharmacopoeia of the United States, the
15 National Formulary, or the American Homeopathic Pharmacopoeia.
16 This clause, nor any other clause in this section, shall not be
17 construed to prohibit collectors of miniature bottles (with or
18 without the contents) who are registered with the board as
19 collectors, on a form to be supplied by the board, from buying,
20 selling, trading or bartering miniature bottles from, to or with
21 other registered collectors within the Commonwealth or any
22 person outside the Commonwealth or from possessing miniature
23 bottles without the official seal of the board affixed thereto.

24 * * *

25 Section 5 6. This act shall take effect in 60 days.

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