
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 178 Session of
1981

Report of the Committee of Conference

To the Members of the House of Representatives and Senate:

We, the undersigned, Committee of Conference on the part of the House of Representatives and Senate for the purpose of considering House Bill No. 178, entitled:
"An act amending the act of April 12, 1951 (P.L.90, No.21), entitled 'An act relating to alcoholic liquors, alcohol and malt and brewed beverages; amending, revising, consolidating and changing the laws relating thereto; * * * providing for local option, and repealing existing laws,' further providing for hearings on licenses, providing for the waiver of certain late filing fees by the board, further providing for the surrender of club licenses and exempting collectors of miniature bottles from certain provisions of the act AND EXTENDING LICENSED PREMISES,"

respectfully submit the following bill as our report:

STANFORD I. LEHR

GEORGE C. HASAY

THOMAS J. FEE

(Committee on the part of the House of Representatives.)

STEWART J. GREENLEAF

FRANK J. O'CONNELL

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(Committee on the part of the Senate.)

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 unlawful acts concerning liquor, malt
18 and brewed beverages, for investigations by the board and for
19 hearings on licenses, providing for the waiver of certain
20 late filing fees by the board, further providing for the
21 surrender of club licenses and exempting collectors of
22 miniature bottles from certain provisions of the act, the
23 approval of secondary service areas and for the sale of wine
24 by holders of a limited winery license.

25 The General Assembly of the Commonwealth of Pennsylvania
26 hereby enacts as follows:

27 Section 1. The act of April 12, 1951 (P.L.90, No.21), known
28 as the "Liquor Code," is amended by adding a section to read:

29 Section 209.1. Investigations.--The board shall not
30 investigate or cite any licensee resulting from a complaint
31 until the name and address of the complainant, as well as the
32 time of said complaint, is provided and entered into the file.
33 Excepting, however, the board will not be impeded from
34 investigating anonymous complaints with regard to drinking by
35 persons who have not attained the legal age limit.

36 Section 2. Section 402 of the act is amended to read:

37 Section 402. License Districts; License Year; Hearings.--(a)
38 The board shall, by regulation, divide the State into convenient
39 license districts and shall hold hearings on applications for
40 licenses [and], renewals [thereof], transfers and the revocation

1 and suspension of licenses pursuant to section 471 as it deems
2 necessary, at a convenient place or places in each of said
3 districts, at such times as it shall fix, by regulation, for the
4 purpose of hearing testimony for and against applications for
5 new licenses and renewals thereof.

6 (b) Where a hearing is held in the case of an application
7 for a new hotel or restaurant liquor license or an application
8 for the transfer of a hotel or restaurant liquor license the
9 board shall permit residents of said municipality to testify at
10 the hearings. The board and any hearing officer thereof shall
11 give substantial weight to any testimony by the residents of the
12 municipality given in connection with a public hearing.
13 Decisions on applications shall conform to the preponderance of
14 the evidence presented.

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

23 Section 3. The act is amended by adding a section to read:

24 Section 406.1. Secondary Service Area.--Upon application of
25 any restaurant, hotel, club or municipal golf course liquor
26 licensee, and payment of the appropriate fee, the board may
27 approve a secondary service area by extending the licensed
28 premises to include one additional permanent structure with
29 dimensions of at least one hundred seventy-five square feet,
30 enclosed on three sides and having adequate seating. Such

1 secondary service area must be located on the same deeded
2 property as the original licensed premises, which property has a
3 minimum area of one (1) acre, and must be on land which is
4 immediate, abutting, adjacent or contiguous to the licensed
5 premises with no intervening public thoroughfare. There shall be
6 no requirement that the secondary service area be physically
7 connected to the original licensed premises. Notwithstanding 40
8 Pa. Code § 7.21(c)(3), the licensee shall be permitted to store,
9 serve, sell or dispense food, liquor and malt or brewed
10 beverages at the board approved secondary service area.

11 Section 4. Subsection (a) of section 470 of the act, amended
12 August 1, 1969 (P.L.219, No.87), is amended to read:

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

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

26 * * *

27 Section 5. Section 474 of the act, added July 20, 1968
28 (P.L.429, No.201), is amended to read:

29 Section 474. Surrender of Club Licenses for Benefit of
30 Licensees.--[Whenever a club license has been returned to the

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

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

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

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

29 (d) No club license surrendered to the board, nor any
30 renewal thereof in possession of the board, will be held for the

1 benefit of the licensee for a period exceeding one year from the
2 date of surrender, except where, in the opinion of the board,
3 circumstances beyond the control of the licensee prevent
4 reactivation. The board shall reconsider the revocation of any
5 such club license during the period from January 1, 1977 through
6 December 31, 1982 to ascertain if circumstances beyond the
7 control of the licensee prevented timely reactivation of the
8 license. No such licensee whose license was revoked during the
9 aforsaid period shall be eligible for reconsideration after one
10 year after the effective date of this amendatory act. Failure of
11 the licensee to lift the license and resume operation of the
12 licensed business or to effect a transfer of the license within
13 the one-year period may be sufficient cause for revocation of
14 the license if timely reactivation was not due to circumstances
15 beyond the control of the licensee.

16 (e) In the case of any club license which is reactivated
17 under this section, the board shall determine no sooner than
18 eighteen months after such reactivation, and no later than
19 twenty-four months after reactivation, that the club has
20 actually resumed operation and is functioning in fact as a club
21 as defined in section 102. If the board finds that the club is
22 not so functioning the license shall be immediately revoked.

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

25 Section 491. Unlawful Acts Relative to Liquor, Alcohol and
26 Liquor Licensees.--

27 It shall be unlawful--

28 (1) Sales of Liquor. For any person, by himself or by an
29 employe or agent, to expose or keep for sale, or directly or
30 indirectly, or upon any pretense or upon any device, to sell or

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

29 * * *

30 Section 7. Clause (20) of section 493 is amended to read:

1 Section 493. Unlawful Acts Relative to Liquor, Malt and
2 Brewed Beverages and Licensees.--The term "licensee," when used
3 in this section, shall mean those persons licensed under the
4 provisions of Article IV, unless the context clearly indicates
5 otherwise.

6 It shall be unlawful--

7 * * *

8 (20) (i) Retail Liquor and Retail Malt or Brewed Beverages
9 Licensee's Inside Advertisements. For any retail liquor or
10 retail malt or brewed beverages licensee, to display or permit
11 the display in the show window or doorways of his licensed
12 premises, any placard or sign advertising the brands of liquor
13 or malt or brewed beverages produced by any one manufacturer, if
14 the total display area of any such placard or sign advertising
15 the products of any one manufacturer exceeds three hundred
16 square inches. Nothing herein shall prohibit a licensee from
17 displaying inside his licensed premises point of sale displays
18 advertising brand names of products sold by him, other than a
19 window or door display: Provided, That the total cost of all
20 such point of sale advertising matter relating to [products] any
21 one brand of any one manufacturer shall not exceed the sum of
22 [twenty dollars (\$20)] seventy dollars (\$70) at any one time,
23 and no single piece of advertising shall exceed a cost of [ten
24 dollars (\$10)] thirty-five dollars (\$35). All such advertising
25 material, including the window and door signs, may be furnished
26 by a manufacturer[, distributor or importing distributor] only;
27 however, an importing distributor or distributor shall not be
28 precluded from installing or delivering the advertising material
29 on behalf of the manufacturer.

30 (ii) No distributor or importing distributor, directly or

1 indirectly, independently or otherwise, shall be required to
2 participate in the purchase of any advertising of a brand
3 product in any name, in any form, whether it be radio,
4 television, newspaper, magazine or otherwise.

5 Section 8. Section 505.2 of the act, amended March 27, 1972
6 (P.L.153, No.57), is amended to read:

7 Section 505.2. Limited Wineries.--Holders of a limited
8 winery license may:

9 (1) Produce wines only from fruits grown in Pennsylvania in
10 an amount not to exceed one hundred thousand (100,000) gallons
11 per year.

12 (2) Sell wine produced by the limited winery or purchased in
13 bulk in bond from another Pennsylvania limited winery on the
14 licensed premises, under such conditions and regulations as the
15 board may enforce, to the Liquor Control Board, to individuals
16 and to hotel, restaurant, club and public service liquor
17 licensees, and to Pennsylvania winery licensees: Provided, That
18 a limited winery shall not, in any calendar year, purchase wine
19 produced by other limited wineries in an amount in excess of
20 fifty per centum of the wine produced by the purchasing limited
21 winery in the preceding calendar year.

22 Section 9. This act shall take effect in 60 days.