

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 739

Session of
1981

INTRODUCED BY MOORE, SCANLON AND MELLOW, APRIL 28, 1981

AS REPORTED FROM COMMITTEE ON LIQUOR CONTROL, HOUSE OF
REPRESENTATIVES, AS AMENDED, JUNE 7, 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 ~~exempting units of nonprofit nationally chartered clubs from~~
18 ~~licensing quota.~~

19 AMENDING THE ACT OF MAY 5, 1933 (P.L.284, NO.104), ENTITLED, AS <—
20 REENACTED AND AMENDED, "AN ACT IMPOSING A STATE TAX, PAYABLE
21 BY THOSE HEREIN DEFINED AS MANUFACTURERS AND BY OTHERS, ON
22 MALT OR BREWED BEVERAGES USED, SOLD, TRANSPORTED, OR
23 DELIVERED WITHIN THE COMMONWEALTH; PRESCRIBING THE METHOD AND
24 MANNER OF EVIDENCING THE PAYMENT AND COLLECTION OF SUCH TAX;
25 CONFERRING POWERS AND IMPOSING DUTIES ON THE DEPARTMENT OF
26 REVENUE, AND THOSE USING OR ENGAGED IN THE SALE, AT RETAIL OR
27 WHOLESALE, OR IN THE TRANSPORTATION OF MALT OR BREWED
28 BEVERAGES TAXABLE HEREUNDER; AND PROVIDING PENALTIES,"
29 EXTENDING THE EMERGENCY MALT OR BREWED BEVERAGE TAX CREDITS.

30 The General Assembly of the Commonwealth of Pennsylvania

1 hereby enacts as follows:

2 ~~Section 1. Subsection (a) of section 461, act of April 12,~~ <—
3 ~~1951 (P.L.90, No.21), known as the "Liquor Code," amended July~~
4 ~~11, 1980 (No.117), is amended and a subsection is added to read:~~

5 ~~Section 461. Limiting Number of Retail Licenses To Be Issued~~
6 ~~In Each Municipality. (a) No licenses shall hereafter be~~
7 ~~granted by the board for the retail sale of malt or brewed~~
8 ~~beverages or the retail sale of liquor and malt or brewed~~
9 ~~beverages in excess of one of such licenses of any class for~~
10 ~~each two thousand inhabitants in any municipality, exclusive of~~
11 ~~licenses granted to airport restaurants, municipal golf courses,~~
12 ~~hotels [and], incorporated units of national veterans'~~
13 ~~organizations and units of nonprofit nationally chartered clubs,~~
14 ~~as defined in this section, and clubs; but at least one such~~
15 ~~license may be granted in each municipality and in each part of~~
16 ~~a municipality where such municipality is split so that each~~
17 ~~part thereof is separated by another municipality, except in~~
18 ~~municipalities where the electors have voted against the~~
19 ~~granting of any retail licenses and except in that of a split~~
20 ~~municipality where the electors have voted against the granting~~
21 ~~of any retail licenses. Nothing contained in this section shall~~
22 ~~be construed as denying the right to the board to renew or to~~
23 ~~transfer existing retail licenses of any class notwithstanding~~
24 ~~that the number of such licensed places in a municipality shall~~
25 ~~exceed the limitation hereinbefore prescribed; but where such~~
26 ~~number exceeds the limitation prescribed by this section, no new~~
27 ~~license, except for hotels, municipal golf courses, airport~~
28 ~~restaurants, [and] incorporated units of national veterans'~~
29 ~~organizations and units of nonprofit nationally chartered clubs,~~
30 ~~as defined in this section, shall be granted so long as said~~

1 ~~limitation is exceeded.~~

2 * * *

3 ~~(g) The term "nonprofit nationally chartered club" shall~~
4 ~~mean any club which does not contemplate pecuniary gain or~~
5 ~~profit, incidental or otherwise, having a national charter.~~

6 ~~The term "unit of a nonprofit nationally chartered club"~~
7 ~~shall mean any post, branch, lodge or other subordinate unit of~~
8 ~~a nonprofit nationally chartered club.~~

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

10 SECTION 1. SECTION 10.1, ACT OF MAY 5, 1933 (P.L.284, <—
11 NO.104), KNOWN AS THE "MALT BEVERAGE TAX LAW," REENACTED AND
12 AMENDED JULY 9, 1935 (P.L.628, NO.222) AND AMENDED MAY 30, 1979
13 (P.L.31, NO.10), IS AMENDED TO READ:

14 SECTION 10.1. (A) THE GENERAL ASSEMBLY OF THE COMMONWEALTH
15 OF PENNSYLVANIA, CONSCIOUS OF THE FINANCIAL EMERGENCY FACING THE
16 BREWING INDUSTRY IN PENNSYLVANIA AND THE ATTENDANT RISK OF
17 BUSINESS FAILURE AND LOSS OF EMPLOYMENT OPPORTUNITY, DECLARES IT
18 PUBLIC POLICY THAT RENEWAL AND IMPROVEMENT OF THE CAPITAL
19 FACILITIES OF THE BREWING INDUSTRY BE ENCOURAGED AND ASSISTED BY
20 A LIMITED TAX SUBSIDY TO BE GRANTED DURING THE PERIOD OF THE
21 SAID EMERGENCY.

22 (B) AS USED IN THIS ACT:

23 "AMOUNTS PAID" MEANS (I) AMOUNTS ACTUALLY PAID, OR (II) AT
24 THE TAXPAYER'S ELECTION, AMOUNTS PROMISED TO BE PAID UNDER FIRM
25 PURCHASE CONTRACTS ACTUALLY EXECUTED DURING ANY CALENDAR YEAR
26 FALLING WITHIN THE EMERGENCY PERIOD: PROVIDED, HOWEVER, THAT
27 THERE SHALL BE NO DUPLICATION OF "AMOUNTS PAID" UNDER THIS
28 DEFINITION.

29 "EMERGENCY PERIOD" IS THE PERIOD FROM JANUARY 1, 1974 TO
30 DECEMBER 31, [1982] 1985, INCLUSIVE.

1 "QUALIFYING CAPITAL EXPENDITURES" MEANS AMOUNTS PAID BY A
2 TAXPAYER DURING THE EMERGENCY PERIOD FOR THE PURCHASE OF ITEMS
3 OF PLANT, MACHINERY OR EQUIPMENT INTENDED FOR USE BY THE
4 TAXPAYER WITHIN THE COMMONWEALTH IN THE MANUFACTURE AND SALE OF
5 MALT OR BREWED BEVERAGES: PROVIDED, HOWEVER, THAT THE TOTAL
6 AMOUNT OF QUALIFYING CAPITAL EXPENDITURES MADE BY THE TAXPAYER
7 WITHIN A SINGLE CALENDAR YEAR INCLUDED WITHIN THE EMERGENCY
8 PERIOD SHALL NOT EXCEED ONE HUNDRED THOUSAND DOLLARS
9 (\$100,000.00).

10 "SECRETARY" MEANS THE SECRETARY OF REVENUE OF THE
11 COMMONWEALTH OF PENNSYLVANIA WHERE NOT OTHERWISE QUALIFIED.

12 "TAXPAYER" MEANS A MANUFACTURER OF MALT OR BREWED BEVERAGES
13 CLAIMING A TAX CREDIT OR CREDITS UNDER THIS ACT.

14 (C) A TAX CREDIT OR CREDITS SHALL BE ALLOWED TO A TAXPAYER,
15 AS HEREINAFTER PROVIDED, NOT TO EXCEED IN TOTAL AMOUNT THE
16 AMOUNT OF QUALIFYING CAPITAL EXPENDITURES MADE BY THE TAXPAYER
17 AND CERTIFIED BY THE SECRETARY.

18 (D) A TAXPAYER DESIRING TO CLAIM A TAX CREDIT OR CREDITS
19 UNDER THIS ACT SHALL FROM TIME TO TIME, IN ACCORDANCE WITH
20 REGULATIONS PROMULGATED BY THE SECRETARY, REPORT TO THE
21 SECRETARY THE NATURE, AMOUNTS AND DATES OF QUALIFYING CAPITAL
22 EXPENDITURES MADE BY HIM AND SUCH OTHER INFORMATION AS THE
23 SECRETARY SHALL REQUIRE. IF SATISFIED AS TO THE CORRECTNESS OF
24 SUCH A REPORT, THE SECRETARY SHALL ISSUE TO THE TAXPAYER A
25 CERTIFICATE ESTABLISHING THE AMOUNT OF QUALIFYING CAPITAL
26 EXPENDITURES MADE BY THE TAXPAYER AND INCLUDED WITHIN SAID
27 REPORT.

28 (E) UPON RECEIPT FROM A TAXPAYER OF A CERTIFICATE FROM THE
29 SECRETARY ISSUED UNDER SUBSECTION (C) OF THIS SECTION, THE
30 SECRETARY OF REVENUE SHALL GRANT A TAX CREDIT OR CREDITS IN THE

1 AMOUNT CERTIFIED AGAINST ANY TAX THEN DUE OR THEREAFTER BECOMING
2 DUE FROM THE TAXPAYER UNDER THIS ACT. NO CREDIT SHALL BE ALLOWED
3 AGAINST ANY TAX DUE FOR ANY TAXABLE PERIOD ENDING AFTER DECEMBER
4 31, [1983] 1986.

5 SECTION 2. THIS ACT SHALL TAKE EFFECT IMMEDIATELY.