

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1023 Session of
1991

INTRODUCED BY BIRMELIN, LEH, NOYE, PITTS, PHILLIPS, KOSINSKI,
DAVIES, SCHULER, BARLEY, DeLUCA, HALUSKA, KRUSZEWSKI,
ANGSTADT, ARMSTRONG, FOX, TANGRETTI, HASAY, HERMAN, JOHNSON,
VROON, HERSHEY, McHUGH, GEIST, BUNT, HESS, M. N. WRIGHT,
BELARDI, THOMAS, WOGAN, TRELLO, GODSHALL, OLASZ, SCHEETZ,
ROBINSON, STEELMAN, NAHILL, SAURMAN, FLEAGLE, MELIO,
E. Z. TAYLOR, HARPER, LAWLESS, GALLEN, HAYES, CLYMER,
STRITTMATTER, TELEK AND PERZEL, APRIL 8, 1991

REFERRED TO COMMITTEE ON LIQUOR CONTROL, APRIL 8, 1991

AN ACT

1 Amending the act of April 12, 1951 (P.L.90, No.21), entitled, as
2 reenacted, "An act relating to alcoholic liquors, alcohol and
3 malt and brewed beverages; amending, revising, consolidating
4 and 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 involving lewd, immoral
18 or improper entertainment.

19 The General Assembly declares that an amendment to the Liquor
20 Code is in order to prohibit acts of gross sexuality and nude
21 attire in establishments licensed by the Commonwealth to provide
22 entertainment without requiring that such activity appeal to
23 pruriency and to avoid the disturbances associated with mixing

1 alcohol and nudity and entertainment by means of reasonable
2 restrictions upon such establishments. The General Assembly
3 further declares that whatever artistic or communicative value
4 may attach to topless or bottomless dancing or entertainment is
5 overcome by the exercise of the broad powers given to the
6 Commonwealth by the 21st amendment to the Constitution of the
7 United States.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Section 493(10) of the act of April 12, 1951
11 (P.L.90, No.21), known as the Liquor Code, reenacted and amended
12 June 29, 1987 (P.L.32, No.14), is amended to read:

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

18 It shall be unlawful--

19 * * *

20 (10) (i) Entertainment on Licensed Premises (Except
21 Clubs)[; Permits; Fees]. For any licensee, his servants, agents
22 or employes, except club licensees, to permit in any licensed
23 premises or in any place operated in connection therewith,
24 dancing, theatricals or floor shows of any sort, or moving
25 pictures other than television, or such as are exhibited through
26 machines operated by patrons by the deposit of coins, which
27 project pictures on a screen not exceeding in size twenty-four
28 by thirty inches and which forms part of the machine, unless the
29 licensee shall first have obtained from the board a special
30 permit to provide such entertainment, or for any licensee, under

any circumstances, to permit in any licensed premises any lewd, immoral or improper entertainment, regardless of whether a permit to provide entertainment has been obtained or not.

Without limiting other applications of the phrase, the following acts or conduct are deemed to constitute lewd, immoral or improper entertainment prohibited by this clause:

(A) Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, excretion or any sexual acts which are prohibited by law.

(B) Any person being touched, caressed or fondled on the buttock, anus, vulva, genitals, or female breasts or any simulation thereof.

(C) Scenes wherein a person displays or exposes to view any portion of the pubic area, anus, cleft of the buttocks, vulva, genitals or any portion of the female breast directly or laterally below the top of the areola or any simulation thereof.

(D) Scenes wherein artificial devices or inanimate objects are employed to portray any of the prohibited activities described above.

(E) Employment or use of any person in the sale and service of alcoholic beverages while such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the anatomy described in (C) of this subclause.

(F) Employment or use of the services of any hostess or other person while such hostess or other person is unclothed or in such attire as to expose to view any portion of the anatomy described in (C) of this subclause.

(G) Permitting any person on the premises to touch, caress or fondle the buttocks, anus, vulva, genitals or female breasts of any other person.

1 (H) Permitting any person on the premises while such person
2 is unclothed or in such attire as to expose to view any portion
3 of the anatomy described in (C) of this subclause.

4 (I) Permitting any person to wear or use any device or
5 covering exposed to view which simulates the buttocks, anus,
6 vulva, genitals, or female breasts of any person.

7 (J) Permitting any person to show, display or exhibit on the
8 premises any film, still picture, electronic reproduction or any
9 other visual reproduction or image of any act or conduct
10 described in (A) to (I) of this subclause.

11 (ii) Permit and Fees. The board shall have power to provide
12 for the issue of such special permits, and to collect a fee for
13 such permits equal to one-fifth of the annual license fee but
14 not less than twenty-five dollars (\$25). All such fees shall be
15 paid into the State Stores Fund. No such permit shall be issued
16 in any municipality which, by ordinance, prohibits amusements in
17 licensed places. Any violation of this [subclause] clause shall,
18 in addition to the penalty herein provided, subject the licensee
19 to suspension or revocation of his permit and his license.

20 * * *

21 Section 2. The provisions of this act are severable. If any
22 provision of this act or its application to any person or
23 circumstance is held invalid, the invalidity shall not affect
24 other provisions or applications of this act which can be given
25 effect without the invalid provision or application.

26 Section 3. This act shall take effect in 60 days.