

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 282 Session of
1995

INTRODUCED BY HECKLER, TOMLINSON, SALVATORE, JUBELIRER, GERLACH,
WENGER, PUNT, BRIGHTBILL, ULIANA, PORTERFIELD, BAKER, FISHER,
HELFRICK, PETERSON, MADIGAN, RHOADES, HART, DAWIDA, DELP,
STAPLETON, KASUNIC, ANDREZESKI, O'PAKE AND AFFLERBACH,
JANUARY 24, 1995

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
OCTOBER 17, 1995

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, DEFINING "POLICE OFFICER"; further <—
3 providing for buying or exchanging Federal food order
4 coupons, stamps ~~or~~, authorization cards OR ACCESS DEVICES and <—
5 for fraudulent traffic in food orders; PROHIBITING THE <—
6 OPERATION OF CERTAIN ESTABLISHMENTS; AND PROVIDING FOR LOCAL
7 OPTION.

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

10 ~~Section 1. Sections 7313 and 7314 of Title 18 of the <—~~
11 ~~Pennsylvania Consolidated Statutes are amended to read:~~

12 SECTION 1. SECTION 103 OF TITLE 18 OF THE PENNSYLVANIA <—
13 CONSOLIDATED STATUTES IS AMENDED BY ADDING A DEFINITION TO READ:
14 § 103. DEFINITIONS.

15 SUBJECT TO ADDITIONAL DEFINITIONS CONTAINED IN SUBSEQUENT
16 PROVISIONS OF THIS TITLE WHICH ARE APPLICABLE TO SPECIFIC
17 PROVISIONS OF THIS PART, THE FOLLOWING WORDS AND PHRASES WHEN
18 USED IN THIS TITLE SHALL HAVE, UNLESS THE CONTEXT CLEARLY

1 INDICATES OTHERWISE, THE MEANINGS GIVEN TO THEM IN THIS SECTION:

2 * * *

3 "POLICE OFFICER."

4 (1) A PENNSYLVANIA STATE POLICE OFFICER; OR

5 (2) AN INDIVIDUAL WHO:

6 (I) HAS THE AUTHORITY TO ENFORCE THIS TITLE AND
7 TITLE 75 (RELATING TO VEHICLES); AND

8 (II) IS REQUIRED BY LAW TO MEET THE REQUIREMENTS
9 UNDER THE ACT OF JUNE 18, 1974 (P.L.359, NO.120),
10 REFERRED TO AS THE MUNICIPAL POLICE EDUCATION AND
11 TRAINING LAW.

12 * * *

13 SECTION 2. SECTIONS 7313 AND 7314 OF TITLE 18 ARE AMENDED TO
14 READ:

15 § 7313. Buying or exchanging Federal food order coupons, stamps
16 ~~or~~, authorization cards OR ACCESS DEVICES. <—

17 (a) Offense defined.--A person [is guilty of a misdemeanor
18 of the third degree] commits the offense of buying or exchanging
19 Federal food order coupons, stamps ~~or~~, authorization cards OR <—

20 ACCESS DEVICES if he, not being authorized to do so by the
21 United States Department of Agriculture, [shall buy or exchange]
22 buys or exchanges Federal food order coupons, stamps ~~or~~, <—

23 authorization cards OR ACCESS DEVICES for currency, or if he <—
24 [shall accept or cause] accepts or causes to be accepted Federal
25 food order coupons, stamps ~~or~~, authorization cards OR ACCESS <—

26 DEVICES in exchange for any merchandise or article except food,
27 as defined by the United States Department of Agriculture, or
28 Federal food order coupons, stamps ~~or~~, authorization cards OR <—

29 ACCESS DEVICES in exchange for merchandise or articles, not
30 defined by the United States Department of Agriculture to be

1 surplus foods.

2 (b) Grading.--A person who violates this section commits a
3 felony of the third degree if the amount involved is \$1,000 or
4 more. If the amount involved is less than \$1,000, the person
5 commits a misdemeanor of the first degree. Amounts involved in
6 buying or exchanging Federal food order coupons, stamps ~~or~~, <—
7 authorization cards OR ACCESS DEVICES committed pursuant to one <—
8 scheme or course of conduct, whether from the same person or
9 several persons, shall be aggregated in determining the grade of
10 the offense.

11 (C) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING <—
12 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
13 SUBSECTION:

14 "ACCESS DEVICE." THE PENNSYLVANIA ACCESS CARD OR ELECTRONIC
15 BENEFIT TRANSFER CARD.

16 "AUTHORIZATION CARD." THE PAPER AUTHORIZATION TO PARTICIPATE
17 THAT A PERSON SIGNS AND THEN EXCHANGES FOR THE DESIGNATED AMOUNT
18 OF FOOD COUPONS AT A BANK.

19 § 7314. Fraudulent traffic in food orders.

20 (a) Offense defined.--A person [is guilty of a summary
21 offense] commits the offense of fraudulent traffic in food
22 orders if he, whether acting for himself or for another,
23 directly or indirectly, furnishes or delivers to any person
24 money, merchandise, or anything other than food, on or in
25 exchange for a food order, or furnishes or delivers food on or
26 in exchange for a food order to any person, other than the
27 original recipient of the order, or in quantities or for prices
28 other than those itemized on the food order at the time the food
29 is furnished or delivered.

30 (a.1) Grading.--A person who violates this section commits a

1 felony of the third degree if the amount involved is \$1,000 or
2 more. If the amount involved is less than \$1,000, the person
3 commits a misdemeanor of the first degree. Amounts involved in
4 fraudulent traffic in food orders committed pursuant to one
5 scheme or course of conduct, whether from the same person or
6 several persons, shall be aggregated in determining the grade of
7 the offense.

8 (b) Additional penalty.--In addition to the penalties
9 otherwise prescribed, the defendant shall also be [adjudged]
10 ordered to pay to the agency which shall have issued such food
11 order, the face amount thereof.

12 (c) Exception.--Subsection (a) of this section shall not
13 apply to the negotiation of a food order after food to the full
14 amount of the order shall have been furnished thereon to the
15 original recipient of the order.

16 (d) Definition.--As used in this section, the term "food
17 order" means any order issued by or under the authority of any
18 public relief or assistance agency, authorizing the furnishing
19 and delivery of food to any person therein named or described.

20 SECTION 3. TITLE 18 IS AMENDED BY ADDING A SECTION TO READ: <—

21 § 7328. OPERATION OF CERTAIN ESTABLISHMENTS PROHIBITED WITHOUT
22 LOCAL OPTION.

23 (A) OFFENSE DEFINED.--A PERSON COMMITS A MISDEMEANOR OF THE
24 THIRD DEGREE IF HE OPERATES AN ESTABLISHMENT COMMONLY REFERRED
25 TO AS A BOTTLE CLUB IN A MUNICIPALITY OR PART OF A SPLIT
26 MUNICIPALITY WHERE THE OPERATION OF SUCH ESTABLISHMENTS HAS BEEN
27 DISAPPROVED BY THE VOTERS IN ACCORDANCE WITH SUBSECTION (B).

28 (B) LOCAL OPTION; ELECTION TO BE HELD.--

29 (1) IN ANY MUNICIPALITY OR ANY PART OF A MUNICIPALITY
30 WHERE SUCH MUNICIPALITY IS SPLIT SO THAT EACH PART IS

1 SEPARATED BY ANOTHER MUNICIPALITY, AN ELECTION MAY BE HELD ON
2 THE DATE OF THE PRIMARY ELECTION IMMEDIATELY PRECEDING ANY
3 MUNICIPAL ELECTION, BUT NOT MORE THAN ONCE IN FOUR YEARS, TO
4 DETERMINE THE WILL OF THE ELECTORS WITH RESPECT TO
5 PROHIBITING THE OPERATION, WITHIN THE LIMITS OF THE
6 MUNICIPALITY OR PART OF A SPLIT MUNICIPALITY, OF
7 ESTABLISHMENTS COMMONLY REFERRED TO AS BOTTLE CLUBS. WHERE AN
8 ELECTION SHALL HAVE BEEN HELD AT THE PRIMARY ELECTION
9 PRECEDING A MUNICIPAL ELECTION IN ANY YEAR, ANOTHER ELECTION
10 MAY BE HELD UNDER THE PROVISIONS OF THIS SUBSECTION AT THE
11 PRIMARY ELECTION OCCURRING THE FOURTH YEAR AFTER SUCH PRIOR
12 ELECTION. WHENEVER ELECTORS EQUAL TO AT LEAST 25% OF THE
13 HIGHEST VOTE CAST FOR ANY OFFICE IN THE MUNICIPALITY OR PART
14 OF A SPLIT MUNICIPALITY AT THE LAST PRECEDING GENERAL
15 ELECTION SHALL FILE A PETITION WITH THE COUNTY BOARD OF
16 ELECTIONS OF THE COUNTY, OR THE GOVERNING BODY OF THE
17 MUNICIPALITY ADOPTS BY MAJORITY VOTE A RESOLUTION TO PLACE
18 THE QUESTION ON THE BALLOT AND A COPY OF THE RESOLUTION IS
19 FILED WITH THE BOARD OF ELECTIONS OF THE COUNTY, FOR A
20 REFERENDUM ON THE QUESTION OF PROHIBITING THE OPERATION OF
21 ESTABLISHMENTS COMMONLY REFERRED TO AS BOTTLE CLUBS, THE SAID
22 COUNTY BOARD OF ELECTIONS SHALL CAUSE A QUESTION TO BE PLACED
23 ON THE BALLOT OR ON THE VOTING MACHINE BOARD AND SUBMITTED AT
24 THE PRIMARY ELECTION IMMEDIATELY PRECEDING THE MUNICIPAL
25 ELECTION. THE QUESTION SHALL BE IN THE FOLLOWING FORM:

26 DO YOU FAVOR THE PROHIBITION OF THE OPERATION OF
27 ESTABLISHMENTS, COMMONLY REFERRED TO AS BOTTLE CLUBS IN (
28 _____) OF (_____)?

29 (2) IN THE CASE OF A TIE VOTE, THE STATUS QUO SHALL
30 OBTAIN. IF A MAJORITY OF THE ELECTORS VOTING ON THE QUESTION

1 VOTES "YES," THEN AN ESTABLISHMENT COMMONLY REFERRED TO AS A
2 BOTTLE CLUB SHALL NOT BE OPERATED IN THE MUNICIPALITY OR PART
3 OF A SPLIT MUNICIPALITY AFTER 30 DAYS FROM THE CERTIFICATION
4 OF THE VOTE ON THE QUESTION; BUT IF A MAJORITY OF THE
5 ELECTORS VOTING ON THE QUESTION VOTES "NO," THEN THE
6 OPERATION OF THESE ESTABLISHMENTS SHALL BE PERMITTED IN THE
7 MUNICIPALITY OR PART OF A SPLIT MUNICIPALITY, UNLESS AND
8 UNTIL AT A LATER ELECTION A MAJORITY OF THE VOTING ELECTORS
9 VOTES "YES" ON THE QUESTION.

10 (3) PROCEEDINGS UNDER THIS SUBSECTION SHALL BE IN
11 ACCORDANCE WITH THE PROVISIONS OF THE ACT OF JUNE 3, 1937
12 (P.L.1333, NO.320), KNOWN AS THE PENNSYLVANIA ELECTION CODE.

13 (C) DEFINITION.--AS USED IN THIS SECTION, THE TERM "BOTTLE
14 CLUB" MEANS AN ESTABLISHMENT OPERATED FOR PROFIT OR PECUNIARY
15 GAIN, WITH A CAPACITY FOR THE ASSEMBLAGE OF 20 OR MORE PERSONS,
16 IN WHICH NO ALCOHOLIC LIQUORS, ALCOHOL OR MALT AND BREWED
17 BEVERAGES ARE SOLD BUT WHERE ALCOHOLIC LIQUORS, ALCOHOL OR MALT
18 AND BREWED BEVERAGES ARE EITHER PROVIDED BY THE OPERATOR OR
19 AGENTS OR EMPLOYEES OF THE OPERATOR FOR CONSUMPTION ON THE
20 PREMISES OR ARE BROUGHT INTO OR KEPT AT THE ESTABLISHMENT BY THE
21 PATRONS OR PERSONS ASSEMBLING THERE FOR USE AND CONSUMPTION. THE
22 TERM SHALL NOT INCLUDE A LICENSEE UNDER THE ACT OF APRIL 12,
23 1951 (P.L.90, NO.21), KNOWN AS THE LIQUOR CODE.

24 Section 2 4. This act shall take effect in 60 days.

<—