

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1981 Session of
2003

INTRODUCED BY MUSTIO, WATSON, TURZAI, T. STEVENSON, BELFANTI,
DENLINGER, HENNESSEY, HORSEY, MELIO, PAYNE, REICHLEY, WEBER,
YOUNGBLOOD AND WASHINGTON, SEPTEMBER 11, 2003

REFERRED TO COMMITTEE ON LIQUOR CONTROL, SEPTEMBER 11, 2003

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 providing for extension of existing license to cover
18 additional area.

19 The General Assembly of the Commonwealth of Pennsylvania
20 hereby enacts as follows:

21 Section 1. Sections 404, 406.1 and 432(d) of the act of
22 April 12, 1951 (P.L.90, No.21), known as the Liquor Code,
23 reenacted and amended June 29, 1987 (P.L.32, No.14) and amended
24 December 9, 2002 (P.L.1653, No.212), are amended to read:

25 Section 404. Issuance, Transfer or Extension of Hotel,

1 Restaurant and Club Liquor Licenses.--Upon receipt of the
2 application and the proper fees, and upon being satisfied of the
3 truth of the statements in the application that the applicant is
4 the only person in any manner pecuniarily interested in the
5 business so asked to be licensed and that no other person will
6 be in any manner pecuniarily interested therein during the
7 continuance of the license, except as hereinafter permitted, and
8 that the applicant is a person of good repute, that the premises
9 applied for meet all the requirements of this act and the
10 regulations of the board, that the applicant seeks a license for
11 a hotel, restaurant or club, as defined in this act, and that
12 the issuance of such license is not prohibited by any of the
13 provisions of this act, the board shall, in the case of a hotel
14 or restaurant, grant and issue to the applicant a liquor
15 license, and in the case of a club may, in its discretion, issue
16 or refuse a license: Provided, however, That in the case of any
17 new license or the transfer of any license to a new location or
18 the extension of an existing license to cover an additional area
19 the board may, in its discretion, grant or refuse such new
20 license [or], transfer or extension if such place proposed to be
21 licensed is within three hundred feet of any church, hospital,
22 charitable institution, school, or public playground, or if such
23 new license [or], transfer or extension is applied for a place
24 which is within two hundred feet of any other premises which is
25 licensed by the board: And provided further, That the board's
26 authority to refuse to grant a license because of its proximity
27 to a church, hospital, charitable institution, public playground
28 or other licensed premises shall not be applicable to license
29 applications submitted for public venues or performing arts
30 facilities: And provided further, That the board shall refuse

1 any application for a new license [or], the transfer of any
2 license to a new location, or the extension of an existing
3 license to cover an additional area if, in the board's opinion,
4 such new license [or], transfer or extension would be
5 detrimental to the welfare, health, peace and morals of the
6 inhabitants of the neighborhood within a radius of five hundred
7 feet of the place proposed to be licensed: And provided further,
8 That the board shall have the discretion to refuse a license to
9 any person or to any corporation, partnership or association if
10 such person, or any officer or director of such corporation, or
11 any member or partner of such partnership or association shall
12 have been convicted or found guilty of a felony within a period
13 of five years immediately preceding the date of application for
14 the said license. The board shall refuse any application for a
15 new license [or], the transfer of any license to a new location
16 or the extension of any license to cover an additional area
17 where the sale of liquid fuels or oil is conducted. The board
18 may enter into an agreement with the applicant concerning
19 additional restrictions on the license in question. If the board
20 and the applicant enter into such an agreement, such agreement
21 shall be binding on the applicant. Failure by the applicant to
22 adhere to the agreement will be sufficient cause to form the
23 basis for a citation under section 471 and for the nonrenewal of
24 the license under section 470. If the board enters into an
25 agreement with an applicant concerning additional restrictions,
26 those restrictions shall be binding on subsequent holders of the
27 license until the license is transferred to a new location or
28 until the board enters into a subsequent agreement removing
29 those restrictions. If the application in question involves a
30 location previously licensed by the board, then any restrictions

1 imposed by the board on the previous license at that location
2 shall be binding on the applicant unless the board enters into a
3 new agreement rescinding those restrictions. The board may, in
4 its discretion, refuse an application for an economic
5 development license under section 461(b.1) or an application for
6 an intermunicipal transfer of a license if the board receives a
7 protest from the governing body of the receiving municipality.
8 The receiving municipality of an intermunicipal transfer or an
9 economic development license under section 461(b.1) may file a
10 protest against the transfer of a license into its municipality,
11 and the receiving municipality shall have standing in a hearing
12 to present testimony in support of or against the issuance or
13 transfer of a license. Upon any opening in any quota, an
14 application for a new license shall only be filed with the board
15 for a period of six months following said opening.

16 Section 406.1. Secondary Service Area.--(a) Upon
17 application of any restaurant, hotel, club, municipal golf
18 course liquor licensee or manufacturer of malt or brewed
19 beverages, and payment of the appropriate fee, the board may
20 approve a secondary service area by extending the licensed
21 premises to include one additional permanent structure with
22 dimensions of at least one hundred seventy-five square feet,
23 enclosed on three sides and having adequate seating. Such
24 secondary service area must be located on property having a
25 minimum area of one (1) acre, and must be on land which is
26 immediate, abutting, adjacent or contiguous to the licensed
27 premises with no intervening public thoroughfare; however, the
28 original licensed premises and the secondary service area must
29 be located on the same tract of land. The board shall have
30 discretion to refuse the application for a secondary service

1 area in the same manner it has discretion to refuse an
2 application for transfer of the license to a new location as set
3 forth in section 404. There shall be no requirement that the
4 secondary service area be physically connected to the original
5 licensed premises. In addition, there shall be no requirement
6 that the secondary service area be located in the same
7 municipality as the original licensed premises, provided,
8 however, that the board shall not approve a secondary service
9 area in this case if that secondary service area is located in
10 any municipality where the granting of liquor licenses has been
11 prohibited as provided in this article. Notwithstanding 40 Pa.
12 Code § 7.21(c)(3), the licensee shall be permitted to store,
13 serve, sell or dispense food, liquor and malt or brewed
14 beverages at the board approved secondary service area.

15 (b) If the applicant is a manufacturer of malt or brewed
16 beverages, the board may approve a secondary service area for
17 use as a brewery pub pursuant to section 446, notwithstanding
18 any intervening public thoroughfare, so long as the proposed
19 secondary service area is within one thousand feet of the
20 licensed premises. Notwithstanding any other provision of this
21 act, the licensed premises and the secondary service area may be
22 located on different tracts of lands.

23 Section 432. Malt and Brewed Beverages Retail Licenses.--* *
24 *

25 (d) The board shall, in its discretion, grant or refuse any
26 new license [or], the transfer of any license to a new location
27 or the extension of an existing license to cover an additional
28 area if such place proposed to be licensed is within three
29 hundred feet of any church, hospital, charitable institution,
30 school, or public playground, or if such new license [or],

1 transfer or extension is applied for a place which is within two
2 hundred feet of any other premises which is licensed by the
3 board. The board shall refuse any application for a new license
4 [or], the transfer of any license to a new location or the
5 extension of an existing license to cover an additional area if,
6 in the board's opinion, such new license [or], transfer or
7 extension would be detrimental to the welfare, health, peace and
8 morals of the inhabitants of the neighborhood within a radius of
9 five hundred feet of the place to be licensed. The board may
10 enter into an agreement with the applicant concerning additional
11 restrictions on the license in question. If the board and the
12 applicant enter into such an agreement, such agreement shall be
13 binding on the applicant. Failure by the applicant to adhere to
14 the agreement will be sufficient cause to form the basis for a
15 citation under section 471 and for the nonrenewal of the license
16 under section 470. If the board enters into an agreement with an
17 applicant concerning additional restrictions, those restrictions
18 shall be binding on subsequent holders of the license until the
19 license is transferred to a new location or until the board
20 enters into a subsequent agreement removing those restrictions.
21 If the application in question involves a location previously
22 licensed by the board, then any restrictions imposed by the
23 board on the previous license at that location shall be binding
24 on the applicant unless the board enters into a new agreement
25 rescinding those restrictions. The board shall refuse any
26 application for a new license [or], the transfer of any license
27 to a location where the sale of liquid fuels or oil is conducted
28 or the extension of an existing license to cover an additional
29 area: And provided further, That the board shall have the
30 discretion to refuse a license to any person or to any

1 corporation, partnership or association if such person, or any
2 officer or director of such corporation, or any member or
3 partner of such partnership or association shall have been
4 convicted or found guilty of a felony within a period of five
5 years immediately preceding the date of application for the said
6 license. The board may, in its discretion, refuse an application
7 for an economic development license under section 461(b.1) or an
8 application for an intermunicipal transfer or a license if the
9 board receives a protest from the governing body of the
10 receiving municipality. The receiving municipality of an
11 intermunicipal transfer or an economic development license under
12 section 461(b.1) may file a protest against the approval for
13 issuance of a license for economic development or an
14 intermunicipal transfer of a license into its municipality, and
15 such municipality shall have standing in a hearing to present
16 testimony in support of or against the issuance or transfer of a
17 license. Upon any opening in any quota, an application for a new
18 license shall only be filed with the board for a period of six
19 months following said opening.

20 * * *

21 Section 2. This act shall take effect in 60 days.