

THE GENERAL ASSEMBLY OF PENNSYLVANIA

**SENATE BILL**

**No. 1282** Session of  
2008

INTRODUCED BY DINNIMAN, O'PAKE, D. WHITE, BOSCOLA, COSTA, FERLO,  
FONTANA, KITCHEN, LAVALLE, MELLOW, TOMLINSON, WASHINGTON,  
C. WILLIAMS AND EARLL, FEBRUARY 14, 2008

REFERRED TO LAW AND JUSTICE, FEBRUARY 14, 2008

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 local enforcement.

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

20 Section 1. Section 211(a) of the act of April 12, 1951  
21 (P.L.90, No.21), known as the Liquor Code, reenacted and amended  
22 June 29, 1987 (P.L.32, No.14) and amended October 5, 1994  
23 (P.L.537, No.80), is amended and the section is amended by  
24 adding a subsection to read:

25 Section 211. Enforcement.--(a) [There] Except as provided

1 for in subsection (g), there is created within the Pennsylvania  
2 State Police a Bureau of Liquor Control Enforcement which shall  
3 be responsible for enforcing this act and any regulations  
4 promulgated pursuant thereto. Officers and investigators  
5 assigned to the bureau shall have the power and their duty shall  
6 be:

7 (1) To investigate whenever there are reasonable grounds to  
8 believe liquor, alcohol or malt or brewed beverages are being  
9 sold on premises not licensed under the provisions of this act.  
10 If the investigation produces evidence of the unlawful sale of  
11 liquor or malt or brewed beverages or any other violation of the  
12 provisions of this act, the officer involved in the  
13 investigation shall institute criminal proceedings against the  
14 person or persons believed to have been criminally liable, as  
15 otherwise provided by law or rule of court.

16 (2) To arrest on view, except in private homes, without  
17 warrant, any person actually engaged in the unlawful sale,  
18 importation, manufacture or transportation or having unlawful  
19 possession of liquor, alcohol or malt or brewed beverages  
20 contrary to the provisions of this act or any other law of this  
21 Commonwealth or any person whom the officer/investigator, while  
22 in the performance of his assigned duties under and pursuant to  
23 this act and any regulations promulgated under this act,  
24 observes to be in violation of any of the following provisions:

25 18 Pa.C.S. § 3302 (relating to causing or risking  
26 catastrophe).

27 18 Pa.C.S. § 3304 (relating to criminal mischief).

28 18 Pa.C.S. § 4101 (relating to forgery).

29 18 Pa.C.S. § 5503 (relating to disorderly conduct).

30 18 Pa.C.S. § 5505 (relating to public drunkenness).

1 18 Pa.C.S. § 5512 (relating to lotteries, etc.).

2 18 Pa.C.S. § 5513 (relating to gambling devices,  
3 gambling, etc.).

4 18 Pa.C.S. § 5514 (relating to pool selling and  
5 bookmaking).

6 18 Pa.C.S. § 6307 (relating to misrepresentation of age  
7 to secure liquor or malt or brewed beverages).

8 18 Pa.C.S. § 6308 (relating to purchase, consumption,  
9 possession or transportation of liquor or malt or brewed  
10 beverages).

11 18 Pa.C.S. § 6309 (relating to representing that minor is  
12 of age).

13 18 Pa.C.S. § 6310.1 (relating to selling or furnishing  
14 liquor or malt or brewed beverages to minors).

15 18 Pa.C.S. § 6310.3 (relating to carrying a false  
16 identification card).

17 (3) Upon reasonable and probable cause, to search for and to  
18 seize, without warrant or process, except in private homes, any  
19 liquor, alcohol or malt or brewed beverages unlawfully  
20 possessed, manufactured, sold, imported or transported and any  
21 stills, equipment, materials, utensils, vehicles, boats,  
22 vessels, animals, aircraft, or any of them, which are or have  
23 been used in the unlawful manufacture, sale, importation or  
24 transportation of the same. Such liquor, alcohol, malt or brewed  
25 beverages, stills, equipment, materials, utensils, vehicles,  
26 boats, vessels, animals or aircraft so seized shall be disposed  
27 of as hereinafter provided.

28 (4) To investigate and issue citations for any violations of  
29 this act or any laws of this Commonwealth relating to liquor,  
30 alcohol or malt or brewed beverages, or any regulations of the

1 board adopted pursuant to such laws or any violation of any laws  
2 of this Commonwealth or of the Federal Government, relating to  
3 the payment of taxes on liquor, alcohol or malt or brewed  
4 beverages by any licensee, his officers, servants, agents or  
5 employes.

6 (5) To arrest any person who engages in the following  
7 offenses when the said offenses are committed against the  
8 officer/investigator or any person accompanying and assisting  
9 the officer/investigator while the said officer/investigator is  
10 performing assigned duties under and pursuant to this act and  
11 any regulations promulgated under this act:

12 18 Pa.C.S. § 2701 (relating to simple assault).

13 18 Pa.C.S. § 2702 (relating to aggravated assault).

14 18 Pa.C.S. § 2705 (relating to recklessly endangering  
15 another person).

16 18 Pa.C.S. § 2706 (relating to terroristic threats).

17 18 Pa.C.S. § 2709 (relating to harassment and stalking).

18 18 Pa.C.S. § 5104 (relating to resisting arrest or other  
19 law enforcement).

20 18 Pa.C.S. § 5501 (relating to riot).

21 (6) To serve and execute warrants issued by the proper  
22 authorities for offenses referred to in this subsection and to  
23 serve subpoenas.

24 (7) To arrange for the administration of chemical tests of  
25 breath, blood or urine, including preliminary breath tests, to  
26 persons for the purpose of determining the alcoholic content of  
27 blood or the presence of a controlled substance by qualified  
28 personnel of a State or local police department or qualified  
29 personnel of a clinical laboratory licensed and approved by the  
30 Department of Health.

1 \* \* \*

2 (g) Nothing in this section shall be construed to prohibit a  
3 municipality from exercising the authority granted to it  
4 pursuant to section 211.2.

5 Section 2. The act is amended by adding a section to read:

6 Section 211.2. Local Enforcement.--(a) Notwithstanding any  
7 other provision of law to the contrary, the governing body of a  
8 municipality may elect, through adoption of an ordinance, to  
9 authorize municipal police officers to investigate and issue  
10 citations for any violations of this act or any laws of this  
11 Commonwealth relating to liquor, alcohol or malt or brewed  
12 beverages, or any regulations of the board adopted pursuant to  
13 such laws or any violation of any laws of this Commonwealth or  
14 of the Federal Government, relating to the payment of taxes on  
15 liquor, alcohol or malt or brewed beverages by any licensee, his  
16 officers, servants, agents or employes within the geographic  
17 boundaries of the municipality. The authority granted under this  
18 section shall be identical to the authority granted to the  
19 Pennsylvania State Police Bureau of Liquor Control Enforcement  
20 pursuant to section 211.

21 (b) Prior to adopting the ordinance authorized under  
22 subsection (a), the governing body shall adopt a proposed  
23 ordinance, which shall include all of the following information:

24 (1) The content of the ordinance that will be enacted,  
25 including the effective date.

26 (2) A statement that the proposed ordinance is being adopted  
27 pursuant to and subject to the requirements of this section.

28 (c) The governing body must give public notice of its intent  
29 to adopt the proposed ordinance and hold at least one public  
30 hearing on the proposed ordinance prior to adoption. Publication

1 of the notice shall be made by advertisement once a week for  
2 three weeks in a newspaper of general circulation within the  
3 municipality if there is such a newspaper and, if there is not,  
4 then the publication shall be made in a newspaper of general  
5 circulation within the county in which the advertising  
6 municipality is located.

7 (d) Each municipality that adopts an ordinance or resolution  
8 pursuant to this section shall enter into an agreement with the  
9 Pennsylvania State Police to provide appropriate training for  
10 the municipality's police officers. The Pennsylvania State  
11 Police shall provide the training. The Pennsylvania State Police  
12 Bureau of Liquor Control Enforcement, in consultation with the  
13 board, shall develop a training program for municipal police  
14 officers, which shall be modeled on the training provided to  
15 members of the Pennsylvania State Police Bureau of Liquor  
16 Control Enforcement. The Pennsylvania State Police may assess  
17 reasonable fees to cover the costs of the training. Fees and  
18 costs associated with the training shall be borne by the  
19 municipality. No municipal police officer may enforce the  
20 provisions of this act until the Pennsylvania State Police has  
21 certified that the municipal police officer has successfully  
22 completed the training required under this subsection.

23 (e) The district attorney of the county in which the  
24 municipality is located shall represent any municipality that  
25 adopts an ordinance or resolution pursuant to this section in  
26 all enforcement proceedings brought before the Office of  
27 Administrative Law Judge or any other adjudicatory body.

28 (f) Nothing in this section shall be construed to limit the  
29 power of the Pennsylvania State Police Bureau of Liquor Control  
30 Enforcement to exercise its enforcement powers under section 211

1 in any municipality that has adopted an ordinance pursuant to  
2 this section.

3 (g) For purposes of this section, the following words or  
4 phrases shall have the meanings ascribed to them in this  
5 subsection unless the context clearly indicates otherwise:

6 "Governing body" shall mean a city council, borough council,  
7 incorporated town council, board of township commissioners,  
8 board of township supervisors, a governing council of a home  
9 rule municipality or optional plan municipality, or a governing  
10 council of any similar general purpose unit of government which  
11 may hereafter be created by statute.

12 "Municipal police department" shall mean a public agency of a  
13 municipality having general police powers and charged with  
14 making arrests in connection with the enforcement of criminal or  
15 traffic laws.

16 "Municipal police officer" shall mean an employe of a  
17 municipal police department who is certified under 53 Pa.C.S.  
18 Ch. 21 Subch. D (relating to municipal police education and  
19 training) and is empowered to enforce 18 Pa.C.S. (relating to  
20 crimes and offenses) and 75 Pa.C.S. (relating to vehicles). The  
21 term does not include auxiliary or fire police.

22 "Municipality" shall mean a city, borough, incorporated town  
23 or township in which the total number of existing restaurant  
24 liquor licenses and eating place retail dispenser licenses  
25 exceeds one license per three thousand inhabitants. The term  
26 shall not include a city of the first class or a city of the  
27 second class.

28 Section 3. Section 802 of the act is amended by adding a  
29 subsection to read:

30 Section 802. Moneys Paid Into The State Stores Fund for Use

1 of the Commonwealth.--\* \* \*

2 (h) Annually, the board shall remit to each municipality  
3 that elects to enforce the provisions of this act pursuant to  
4 section 211.2 an amount equal to ten per centum of the total  
5 amount collected by the board from all licensees within the  
6 municipality pursuant to the act of June 9, 1936 (1st Sp. Sess.,  
7 P.L.13, No.4), entitled "An act imposing an emergency State tax  
8 on liquor, as herein defined, sold by the Pennsylvania Liquor  
9 Control Board; providing for the collection and payment of such  
10 tax; and imposing duties upon the Department of Revenue and the  
11 Pennsylvania Liquor Control Board." Payments required under this  
12 subsection shall be made from the board's annual profits from  
13 the sale of liquor and alcohol. The municipality shall use the  
14 moneys received pursuant to this subsection solely for costs  
15 associated with enforcing the provisions of this act. The board  
16 shall promulgate regulations prescribing the method of  
17 calculating the amount due to each municipality under this  
18 subsection.

19 Section 4. This act shall take effect in 60 days.