

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1356 Session of 2011

INTRODUCED BY PETRI, CALTAGIRONE, GILLESPIE, KILLION, MILLER,
MURT, MUSTIO AND RAPP, APRIL 20, 2011

AS REPORTED FROM COMMITTEE ON LIQUOR CONTROL, HOUSE OF
REPRESENTATIVES, AS AMENDED, JUNE 21, 2011

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 general powers of the board, for
18 specific subjects on which board may adopt regulations and
19 for OFFICE OF ADMINISTRATIVE LAW JUDGE; PROVIDING FOR
20 EMPLOYEES OF THE BOARD; FURTHER PROVIDING FOR management of
21 Pennsylvania Liquor Stores; and making a repeal.

22 The General Assembly of the Commonwealth of Pennsylvania
23 hereby enacts as follows:

24 Section 1. Section 207(f) and (h) of the act of April 12,
25 1951 (P.L.90, No.21), known as the Liquor Code, reenacted and
26 amended June 29, 1987 (P.L.32, No.14), is amended and the
27 section is amended by adding a subsection to read:

1 Section 207. General Powers of Board.--Under this act, the
2 board shall have the power and its duty shall be:

3 * * *

4 (f) To appoint, fix the compensation and define the powers
5 and duties of such managers, officers, inspectors, examiners,
6 clerks and other employes as shall be required for the operation
7 of this act, [subject to the provisions of The Administrative
8 Code of 1929 and the Civil Service Act] who shall serve at the
9 board's pleasure. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO ←
10 THE CONTRARY, AN EMPLOYE OF THE BOARD SHALL NOT BE CONSIDERED A
11 MEMBER OF THE CLASSIFIED SERVICE, AS THAT TERM IS DEFINED IN THE
12 ACT OF AUGUST 5, 1941 (P.L.752, NO.286), KNOWN AS THE "CIVIL
13 SERVICE ACT," EXCEPT AS SET FORTH IN THIS ACT. An employe of the
14 board shall be considered a State employe for purposes of 71
15 Pa.C.S. Pt. XXV (relating to retirement for State employees and
16 officers). The board shall establish a system of classification
17 and compensation of its employes and shall not be subject to the
18 provisions of the act of April 9, 1929 (P.L.177, No.175), known
19 as The Administrative Code of 1929, as to classification and
20 compensation for its employes, and shall conduct its activities
21 consistent with the practices and procedures of Commonwealth
22 agencies. THE BOARD SHALL ADHERE TO THE PROVISIONS OF 51 PA.C.S. ←
23 CH. 71 (RELATING TO VETERANS' PREFERENCE), AS THEY RELATE TO
24 NONCIVIL SERVICE POSITIONS.

25 * * *

26 (h) Without in any way limiting or being limited by the
27 foregoing, to do all such things and perform all such acts as
28 are deemed necessary or advisable for the purpose of carrying
29 into effect the provisions of this act and the regulations made
30 thereunder. Notwithstanding any other provision of law to the

1 contrary, the board is authorized to purchase all goods and
2 services in its sole discretion which are deemed necessary to
3 perform all such acts. The board is authorized to promulgate
4 regulations providing for the procurement of such goods and
5 services.

6 * * *

7 (1) Notwithstanding any other provision of law to the
8 contrary, to enter into agreements with governmental units of
9 this Commonwealth and other states for the purchase or sale of
10 goods and/or services with, from or to the governmental units.

11 Section 2. Section 208(c) of the act is amended to read:

12 Section 208. Specific Subjects on Which Board May Adopt
13 Regulations.--Subject to the provisions of this act and without
14 limiting the general power conferred by the preceding section,
15 the board may make regulations regarding:

16 * * *

17 (c) The purchase, as provided in this act, of liquor and
18 alcohol, and its supply to Pennsylvania Liquor Stores and the
19 procurement of all other goods and services which are deemed
20 necessary by the board, in its sole discretion, to perform all
21 such acts.

22 * * *

23 SECTION 3. SECTION 212 OF THE ACT, AMENDED JUNE 30, 1992
24 (P.L.327, NO.66), IS AMENDED TO READ:

25 SECTION 212. OFFICE OF ADMINISTRATIVE LAW JUDGE.--(A) THERE
26 IS HEREBY CREATED WITHIN THE BOARD AN AUTONOMOUS OFFICE TO BE
27 KNOWN AS THE OFFICE OF ADMINISTRATIVE LAW JUDGE.

28 (B) THE GOVERNOR SHALL APPOINT FROM A LIST OF QUALIFIED
29 CANDIDATES [SUBMITTED BY THE CIVIL SERVICE COMMISSION AFTER
30 APPROPRIATE EXAMINATION UNDER THE ACT OF AUGUST 5, 1941



1 (P.L.752, NO.286), KNOWN AS THE "CIVIL SERVICE ACT,"] AS MANY
2 ADMINISTRATIVE LAW JUDGES AS THE BOARD, WITH THE APPROVAL OF THE
3 GOVERNOR, DEEMS NECESSARY FOR THE HOLDING OF HEARINGS REQUIRED
4 OR PERMITTED UNDER THIS ACT. THE GOVERNOR SHALL DESIGNATE ONE OF
5 THE [CIVIL SERVICE] APPOINTEES AS THE CHIEF ADMINISTRATIVE LAW
6 JUDGE.

7 (C) ADMINISTRATIVE LAW JUDGES SHALL PRESIDE AT ALL CITATION
8 AND OTHER ENFORCEMENT HEARINGS REQUIRED OR PERMITTED UNDER THIS
9 ACT.

10 (D) ADMINISTRATIVE LAW JUDGES APPOINTED UNDER THIS SECTION
11 SHALL BE LEARNED IN THE LAW AND SHALL BE MEMBERS IN GOOD
12 STANDING OF THE BAR OF THE SUPREME COURT OF PENNSYLVANIA.

13 (E) COMPENSATION FOR THE ADMINISTRATIVE LAW JUDGES SHALL BE
14 ESTABLISHED BY THE EXECUTIVE BOARD.

15 (F) ADMINISTRATIVE LAW JUDGES SHALL DEVOTE FULL TIME TO
16 THEIR OFFICIAL DUTIES AND SHALL PERFORM NO DUTIES INCONSISTENT
17 WITH THEIR DUTIES AND RESPONSIBILITIES AS ADMINISTRATIVE LAW
18 JUDGES.

19 [(G) ADMINISTRATIVE LAW JUDGES APPOINTED UNDER THIS SECTION
20 SHALL BE AFFORDED EMPLOYMENT SECURITY AS PROVIDED BY THE "CIVIL
21 SERVICE ACT."

22 (H) THE BOARD SHALL SELECT FIVE HEARING EXAMINERS FROM THE
23 COMPLEMENT OF HEARING EXAMINERS, WHO HAVE BEEN APPOINTED BY THE
24 GOVERNOR AND WHO ARE EMPLOYED BY THE BOARD ON THE EFFECTIVE DATE
25 OF THIS SUBSECTION, TO CONDUCT THE LICENSING HEARINGS REQUIRED
26 BY THIS ACT. THE SELECTION OF THE FIVE HEARING EXAMINERS SHALL
27 BE AT THE BOARD'S DISCRETION.

28 (I) NOTHING IN THIS SECTION OR THIS ACT SHALL BE CONSTRUED
29 OR INTENDED TO CHANGE THE TERMS AND CONDITIONS OF EMPLOYMENT OF
30 THE FIVE HEARING EXAMINERS SELECTED BY THE BOARD PURSUANT TO


1 SUBSECTION (H).]

2 SECTION 4. THE ACT IS AMENDED BY ADDING A SECTION TO READ:


3 SECTION 218. EMPLOYES OF THE BOARD.--(A) ALL COLLECTIVE
4 BARGAINING AGREEMENTS IN EFFECT AT THE TIME OF ENACTMENT OF THIS
5 SECTION SHALL REMAIN IN FORCE FOR THE TERM OF THE CONTRACT. NEW
6 COLLECTIVE BARGAINING AGREEMENTS SHALL BE NEGOTIATED BY THE
7 COLLECTIVE BARGAINING AGENT FOR EACH BARGAINING UNIT. THE BOARD
8 SHALL BE THE EMPLOYER OF RECORD FOR ALL EMPLOYES AND SHALL
9 CONDUCT ITS ACTIVITIES CONSISTENT WITH THE PRACTICES AND
10 PROCEDURES OF OTHER COMMONWEALTH AGENCIES.

11 (B) EMPLOYES OF THE BOARD SHALL BE DEEMED PUBLIC EMPLOYES.
12 LABOR RELATIONS AND COLLECTIVE BARGAINING SHALL BE GOVERNED BY
13 THE ACT OF JULY 23, 1970 (P.L.563, NO.195), KNOWN AS THE "PUBLIC
14 EMPLOYEE RELATIONS ACT" AND THE ACT OF APRIL 9, 1929 (P.L.177,
15 NO.175), KNOWN AS "THE ADMINISTRATIVE CODE OF 1929," ON THE
16 EFFECTIVE DATE OF THIS SECTION.

17 (C) THE CIVIL SERVICE STATUS OF A PERSON EMPLOYED BY THE
18 BOARD ON THE EFFECTIVE DATE OF THIS SECTION SHALL REMAIN THE
19 SAME AS IT WAS IMMEDIATELY PRIOR TO THE EFFECTIVE DATE OF THIS
20 SECTION, FOR AS LONG AS THE PERSON REMAINS IN THE POSITION THE
21 PERSON HELD ON THE EFFECTIVE DATE OF THIS SECTION.

22 Section ~~3~~ 5. Section 302 of the act is repealed: 

23 [Section 302. Selection of Personnel.--Officers and employes
24 of the board, except as herein otherwise provided, shall be
25 appointed and employed subject to the provisions of the Civil
26 Service Act.]

27 Section ~~4~~ 6. Section 303 of the act is amended to read: 

28 Section 303. Management of Pennsylvania Liquor Stores.--
29 Every Pennsylvania Liquor Store shall be conducted by a person
30 appointed [in the manner provided in the Civil Service Act] by

1 the board who shall be known as the "manager" and who shall,
2 under the directions of the board, be responsible for carrying
3 out the provisions of this act and the regulations adopted by
4 the board under this act as far as they relate to the conduct of
5 such stores.

6 Section ~~5~~ 7. This act shall take effect in 60 days.

