

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1547 Session of 2017

INTRODUCED BY J. HARRIS, THOMAS, DAWKINS AND CEPHAS, JUNE 12, 2017

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, JUNE 26, 2017

AN ACT

1 Amending the act of April 12, 1951 (P.L.90, No.21), entitled "An
2 act relating to alcoholic liquors, alcohol and malt and
3 brewed beverages; amending, revising, consolidating and
4 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," in
17 preliminary provisions, further providing for definitions; in
18 Pennsylvania Liquor Control Board, further providing for
19 enforcement; in licenses and regulations and liquor, alcohol
20 and malt and brewed beverages, further providing for hearings
21 upon refusal of licenses, renewals or transfers and appeals,
22 providing for declaration of need and further providing for
23 revocation and suspension of licenses and fines and for
24 rights of municipalities preserved; in distilleries,
25 wineries, bonded warehouses, bailees for hire and
26 transporters for hire, further providing for appeals; and, in
27 property illegally possessed or used and forfeitures and
28 nuisances, providing for saturated nuisance market.

29 The General Assembly of the Commonwealth of Pennsylvania
30 hereby enacts as follows:

1 Section 1. The definitions of "eating place" and
2 "restaurant" in section 102 of the act of April 12, 1951
3 (P.L.90, No.21), known as the Liquor Code, are amended to read:

4 Section 102. Definitions.--The following words or phrases,
5 unless the context clearly indicates otherwise, shall have the
6 meanings ascribed to them in this section:

7 * * *

8 "Eating place" shall mean a premise where food is regularly
9 and customarily prepared and sold, having a total area of not
10 less than three hundred square feet available to the public in
11 one or more rooms, other than living quarters, and equipped with
12 tables and chairs, which must be in place and available for
13 immediate seating of patrons at all times, including bar seats,
14 but not including stacked or stored chairs on the licensed
15 premises, accommodating thirty persons at one time. The board
16 shall, by regulation, set forth what constitutes tables and
17 chairs sufficient to accommodate thirty persons at one time.

18 * * *

19 "Restaurant" shall mean a reputable place operated by
20 responsible persons of good reputation and habitually and
21 principally used for the purpose of providing food for the
22 public, the place to have an area within a building of not less
23 than four hundred square feet, equipped with tables and chairs,
24 which must be in place and available for immediate seating of
25 patrons at all times, including bar seats, but not including
26 stacked or stored chairs on the licensed premises, accommodating
27 at least thirty persons at one time. The board shall, by
28 regulation, set forth what constitutes tables and chairs
29 sufficient to accommodate thirty persons at one time.

30 * * *

1 Section 2. Section 211(a) of the act is amended by adding a
2 paragraph to read:

3 Section 211. Enforcement.--(a) There is created within the
4 Pennsylvania State Police a Bureau of Liquor Control Enforcement
5 which shall be responsible for enforcing this act and any
6 regulations promulgated pursuant thereto. Officers and
7 investigators assigned to the bureau shall have the power and
8 their duty shall be:

9 * * *

10 (8) To investigate COMPLIANCE on an annual basis, without <--
11 notice, any AND ALL licensed premises located in a saturated <--
12 nuisance market as defined in section 612 and issue citations
13 for any violations of this act discovered upon the
14 investigation.

15 * * *

16 Section 3. Section 464 of the act is amended to read:

17 Section 464. Hearings Upon Refusal of Licenses, Renewals or
18 Transfers; Appeals.--The board may of its own motion, and shall
19 upon the written request of any applicant for club, hotel or
20 restaurant liquor license, or any applicant for any malt or
21 brewed beverage license other than a public service license, or
22 for renewal or transfer thereof, or for the renewal of an
23 amusement permit, whose application for such license, renewal or
24 transfer, or the renewal of an amusement permit, has been
25 refused, fix a time and place for hearing of such application
26 for license or for renewal or transfer thereof, or the renewal
27 of an amusement permit, notice of which hearing shall be mailed
28 to the applicant at the address given in his application. Such
29 hearing shall be before a hearing examiner designated by the
30 board. At such hearing, the board shall present its reasons for

1 its refusal or withholding of license, renewal or transfer
2 thereof, or its refusal for renewal of an amusement permit. The
3 applicant may appear in person or by counsel, may cross-examine
4 the witnesses for the board and may present evidence which shall
5 likewise be subject to cross-examination by the board. Such
6 hearing shall be stenographically recorded. The hearing examiner
7 shall thereafter report, with the examiner's recommendation, to
8 the board in each case. The board shall thereupon grant or
9 refuse the license, renewal or transfer thereof or the renewal
10 of an amusement permit. In considering the renewal of a license
11 or amusement permit, the board shall not refuse any such renewal
12 on the basis of the propriety of the original issuance or any
13 prior renewal of such license or amusement permit. If the board
14 shall refuse such license, renewal or transfer or the renewal of
15 an amusement permit, following such hearing, notice in writing
16 of such refusal shall be mailed to the applicant at the address
17 given in his application. In all such cases, the board shall
18 file of record at least a brief statement in the form of an
19 opinion of the reasons for the ruling or order and furnish a
20 copy thereof to the applicant. Any applicant who has appeared at
21 any hearing, as above provided, who is aggrieved by the refusal
22 of the board to issue any such license or to renew or transfer
23 any such license or to issue or renew any amusement permit may
24 appeal, or any church, hospital, charitable institution, school
25 or public playground located within three hundred feet of the
26 premises applied for, aggrieved by the action of the board in
27 granting the issuance of any such license or the transfer of any
28 such license, may take an appeal limited to the question of such
29 grievance, within [twenty] thirty days from date of refusal or
30 grant, to the [court of common pleas of the county in which the

1 ~~premises or permit applied for is located]~~ Commonwealth Court.
2 If the application is for an economic development license under
3 section 461(b.1) or the intermunicipal transfer of a license,
4 the governing body of the municipality receiving the new license
5 or the transferred license may file an appeal of the board
6 decision granting the license, within [twenty] thirty days of
7 the date of the board's decision, to the [court of common pleas
8 of the county in which the proposed premises is located]
9 Commonwealth Court. Such appeal shall be upon petition of the
10 aggrieved party, who shall serve a copy thereof upon the board,
11 whereupon a hearing shall be held upon the petition by the court
12 upon ten days' notice to the board. The said appeal shall act as
13 a supersedeas unless upon sufficient cause shown the court shall
14 determine otherwise. [The] ALL APPEALS UNDER THIS SECTION SHALL <--
15 BE GOVERNED BY 42 PA.C.S. § 761 (RELATING TO ORIGINAL
16 JURISDICTION), AND THE court shall hear the application de novo
17 on questions of fact, administrative discretion and such other
18 matters as are involved, at such time as it shall fix, of which
19 notice shall be given to the board. The court shall either
20 sustain or over-rule the action of the board and either order or
21 deny the issuance of a new license or the renewal or transfer of
22 the license or the renewal of an amusement permit to the
23 applicant.

24 Section 4. The act is amended by adding a section to read:

25 Section 470.4. Declaration of Need.--(a) A declaration of
26 need may be ~~declared~~ REQUESTED by the governing body of a county <--
27 that deems itself in need of additional retail liquor licenses
28 above the quota set forth in section 461 and which has exhausted
29 all available licenses under section 470.3.

30 (b) The board shall accept applications on forms and in a <--

1 ~~manner set forth by the board, and the board shall issue a~~
2 ~~declaration of need to a county when the county:~~

3 ~~(1) has exhausted all available licenses under section~~
4 ~~470.3; and~~

5 ~~(2) establishes a lack of reasonable means for obtaining a~~
6 ~~suitable license within the county.~~

7 (B) PRIOR TO FILING A REQUEST FOR DECLARATION, THE GOVERNING <--
8 BODY SHALL HOLD AT LEAST ONE PUBLIC HEARING FOR THE PURPOSE OF
9 RECEIVING COMMENTS AND RECOMMENDATIONS FROM INDIVIDUALS RESIDING
10 IN THAT COUNTY CONCERNING THE INTENT TO DESIGNATE THE COUNTY AS
11 A COUNTY OF NEED.

12 (C) THE GOVERNING BODY SHALL FILE A PETITION WITH THE BOARD
13 REQUESTING THAT THE BOARD ISSUE A DECLARATION OF NEED TO A
14 COUNTY. THE COUNTY SHALL SUBMIT WITH THE PETITION:

15 (1) AN ORDINANCE OR RESOLUTION THAT STATES:

16 (I) THE REASONING FOR THE REQUEST; AND

17 (II) A BELIEF THAT THE COUNTY HAS EXHAUSTED ALL AVAILABLE
18 LICENSES UNDER SECTION 470.3.

19 (2) EVIDENCE AS REQUIRED UNDER 40 PA. CODE § 3.105 (RELATING
20 TO QUARTERLY FILING OF APPLICATIONS AND APPLICATION HEARINGS),
21 ESTABLISHING THAT A LACK OF REASONABLE MEANS FOR OBTAINING A
22 SUITABLE LICENSE WITHIN THE COUNTY EXISTS.

23 (3) IDENTIFICATION OF A PUBLICATION OF GENERAL CIRCULATION
24 IN THE COUNTY TO BE USED TO PROVIDE PUBLIC NOTICE IN ACCORDANCE
25 WITH 65 PA.C.S. CH. 7 (RELATING TO OPEN MEETINGS) OF THE
26 REQUIRED PUBLIC HEARING.

27 ~~(c)~~ (D) Licenses revoked or not renewed under section 612 <--
28 shall be available for auction under section 470.3 only to
29 counties that are designated as a county of need under this
30 section, in the manner set forth by the board and at the date

1 and time appointed by the board.

2 Section 5. Sections 471(b), 493.1(b) and 515 of the act are
3 amended to read:

4 Section 471. Revocation and Suspension of Licenses; Fines.--

5 * * *

6 (b) Hearing on such citations shall be held in the same
7 manner as provided herein for hearings on applications for
8 license. Upon such hearing, if satisfied that any such violation
9 has occurred or for other sufficient cause, the administrative
10 law judge shall immediately suspend or revoke the license, or
11 impose a fine of not less than fifty dollars (\$50) nor more than
12 one thousand dollars (\$1,000), or both, notifying the licensee
13 by registered letter addressed to his licensed premises. If the
14 licensee has been cited and found to have violated section
15 493(1) insofar as it relates to sales to minors or sales to a
16 visibly intoxicated person, section 493(10) insofar as it
17 relates to lewd, immoral or improper entertainment or section
18 493(14), (16) or (21), or has been found to be a public nuisance
19 pursuant to section 611, or if the owner or operator of the
20 licensed premises or any authorized agent of the owner or
21 operator has been convicted of any violation of the act of April
22 14, 1972 (P.L.233, No.64), known as "The Controlled Substance,
23 Drug, Device and Cosmetic Act," or of 18 Pa.C.S. § 5902
24 (relating to prostitution and related offenses) or 6301
25 (relating to corruption of minors), at or relating to the
26 licensed premises, the administrative law judge shall
27 immediately suspend or revoke the license, or impose a fine of
28 not less than one thousand dollars (\$1,000) nor more than five
29 thousand dollars (\$5,000), or both. However, if a licensee has
30 been cited and found to have violated section 493(1) as it

1 relates to sales to minors or sales to a visibly intoxicated
2 person but at the time of the sale the licensee was in
3 compliance with the requirements set forth in section 471.1 and
4 the licensee had not sold to minors or visibly intoxicated
5 persons in the previous four years, then the administrative law
6 judge shall immediately suspend or revoke the license, or impose
7 a fine of not less than fifty dollars (\$50) nor more than one
8 thousand dollars (\$1,000), or both. The administrative law judge
9 shall notify the licensee by registered mail, addressed to the
10 licensed premises, of such suspension, revocation or fine. In
11 the event the fine is not paid within twenty days of the
12 adjudication, the administrative law judge shall suspend or
13 revoke the license, notifying the licensee by registered mail
14 addressed to the licensed premises. Suspensions and revocations
15 shall not go into effect until thirty days have elapsed from the
16 date of the adjudication during which time the licensee may take
17 an appeal as provided for in this act, except that revocations
18 mandated in section 481(c) shall go into effect immediately. Any
19 licensee whose license is revoked shall be ineligible to have a
20 license under this act until the expiration of three years from
21 the date such license was revoked. In the event a license is
22 revoked, no license shall be granted for the premises or
23 transferred to the premises in which the said license was
24 conducted for a period of at least one year after the date of
25 the revocation of the license conducted in the said premises,
26 except in cases where the licensee or a member of his immediate
27 family is not the owner of the premises, in which case the board
28 may, in its discretion, issue or transfer a license within the
29 said year. In the event the bureau or the person who was fined
30 or whose license was suspended or revoked shall feel aggrieved

1 by the adjudication of the administrative law judge, there shall
2 be a right to appeal to the board. The appeal shall be based
3 solely on the record before the administrative law judge. The
4 board shall only reverse the decision of the administrative law
5 judge if the administrative law judge committed an error of law,
6 abused its discretion or if its decision is not based on
7 substantial evidence. In the event the bureau or the person who
8 was fined or whose license was suspended or revoked shall feel
9 aggrieved by the decision of the board, there shall be a right
10 to appeal to the [court of common pleas] Commonwealth Court in
11 the same manner as herein provided for appeals from refusals to
12 grant licenses. Each of the appeals shall act as a supersedeas
13 unless, upon sufficient cause shown, the reviewing authority
14 shall determine otherwise; however, if the licensee has been
15 cited and found to have violated section 493(1) insofar as it
16 relates to sales to minors or sales to a visibly intoxicated
17 person, section 493(10) insofar as it relates to lewd, immoral
18 or improper entertainment or section 493(14), (16) or (21), or
19 has been found to be a public nuisance pursuant to section 611,
20 or if the owner or operator of the licensed premises or any
21 authorized agent of the owner or operator has been convicted of
22 any violation of "The Controlled Substance, Drug, Device and
23 Cosmetic Act," or of 18 Pa.C.S. § 5902 or 6301, at or relating
24 to the licensed premises, or if the license has been revoked
25 under section 481(c), its appeal shall not act as a supersedeas
26 unless the reviewing authority determines otherwise upon
27 sufficient cause shown. In any hearing on an application for a
28 supersedeas under this section, the reviewing authority may
29 consider, in addition to other relevant evidence, documentary
30 evidence, including records of the bureau, showing the prior

1 history of citations, fines, suspensions or revocations against
2 the licensee; and the reviewing authority may also consider, in
3 addition to other relevant evidence, evidence of any recurrence
4 of the unlawful activity occurring between the date of the
5 citation which is the subject of the appeal and the date of the
6 hearing. If the reviewing authority is the board, no hearing
7 shall be held on the application for a supersedeas; however, a
8 decision shall be made based on the application, answer and
9 documentary evidence under this subsection. If the application
10 for a supersedeas is for a license that has been revoked under
11 section 481(c), the reviewing authority shall grant the
12 supersedeas only if it finds that the licensee will likely
13 prevail on the merits. No penalty provided by this section shall
14 be imposed for any violations provided for in this act unless
15 the bureau notifies the licensee of its nature within thirty
16 days of the completion of the investigation.

17 * * *

18 Section 493.1. Rights of Municipalities Preserved.--* * *

19 (b) A municipality may file a petition with the board for an
20 exemption from section 493(34) of this act for all the licensees
21 within an identifiable area in the municipality. Prior to
22 submitting a petition, the municipality shall adopt a local
23 noise ordinance and a resolution adopted by its governing body
24 confirming support of the petition, citing the noise ordinance
25 and its intention to enforce the ordinance in place of section
26 493(34) of this act. Upon receipt of a petition, including a
27 copy of the noise ordinance, a map of the area to be exempted
28 and resolution, the board shall hold at least one (1) public
29 hearing on the petition. The hearing may be held before a
30 hearing examiner. The hearing shall take place within the

1 identified area and must comply with the notice, recording and
2 public participation requirements of 65 Pa.C.S. Ch. 7 (relating
3 to open meetings). Within sixty (60) days after receipt of the
4 petition, the board shall disapprove the petition for an
5 exemption in its entirety or may approve an area more limited
6 for which the exemption will be granted if the board finds that
7 granting the petition shall have an adverse effect on the
8 welfare, health, peace and morals of the residents living in the
9 vicinity of the identified area; otherwise, the board shall
10 approve the petition. The board may place additional conditions
11 on its approval such as limiting the duration of the approval
12 and any other condition the board deems appropriate. There shall
13 be a right to appeal to the [court of common pleas] Commonwealth
14 Court in the same manner as provided by this act for appeals
15 from refusals to grant licenses.

16 * * *

17 Section 515. Appeals.--The board, the enforcement bureau or
18 any applicant or any licensee aggrieved by any decision
19 refusing, suspending or revoking a license under the provisions
20 of this article may appeal to the [court of the county in which
21 the licensed premises or the premises to be licensed are
22 located. In the event an applicant or a licensee shall have no
23 place of business established within the Commonwealth, his
24 appeal shall be to the] Commonwealth Court. [Such appeal shall <--
25 be in accordance with 2 Pa.C.S. Ch. 7 Subch. A (relating to
26 judicial review of Commonwealth agency action).] ALL APPEALS <--
27 UNDER THIS SECTION SHALL BE GOVERNED BY 42 PA.C.S. § 761
28 (RELATING TO ORIGINAL JURISDICTION).

29 Section 6. The act is amended by adding a section to read:

30 Section 612. Saturated Nuisance Market.--(a) ~~The board may,~~ <--

1 ~~upon its own motion or upon notice by the Bureau of Liquor~~
2 ~~Control Enforcement or at the written request of a resident of a~~
3 ~~zip code area, evaluate a zip code area to determine whether or~~
4 ~~not to designate the area as a saturated nuisance market.~~

5 ~~(b) Immediately upon motion of the board, notice by the~~
6 ~~Bureau of Liquor Control Enforcement or receipt of a written~~
7 ~~request of a resident of a zip code area, the board shall~~
8 ~~evaluate the zip code area to determine whether or not to~~
9 ~~designate the area as a saturated nuisance market. The board~~
10 ~~shall make the determination by evaluating the following~~
11 ~~factors:~~

12 ~~(1) The number of licenses that have been subject to~~
13 ~~objections to renewal, nonrenewal or revocation under this act~~
14 ~~within the zip code area in the preceding renewal period.~~

15 ~~(2) The total number of citations issued against all~~
16 ~~licensees within the zip code area in the preceding renewal~~
17 ~~period.~~

18 ~~(3) The total number of police incidents occurring in~~
19 ~~licensed establishments, or in the areas surrounding licensed~~
20 ~~establishments, within the zip code area in the preceding~~
21 ~~renewal period.~~

22 ~~(4) The total number of conditional licensing agreements~~
23 ~~entered into within the zip code area.~~

24 ~~(c) Within thirty (30) days of the motion, notice or written~~
25 ~~request, the board shall make a determination whether or not to~~
26 ~~designate a zip code area as a saturated nuisance market.~~
27 ~~Written notice of the determination shall be provided to all~~
28 ~~governing officials and licensees within the zip code area, as~~
29 ~~well as any resident that filed a written request with the~~
30 ~~board. The written notice shall set forth the reasoning for the~~

1 ~~board's determination.~~ THE DIRECTOR OF THE BUREAU OF LICENSING, <--
2 IN COOPERATION WITH THE GOVERNING BODY OF A MUNICIPALITY, OR A
3 MUNICIPALITY MAY REQUEST THAT AN AREA WITHIN A ZIP CODE BE
4 DESIGNATED A SATURATED NUISANCE MARKET AND SHALL FILE A PETITION
5 WITH THE BOARD REQUESTING APPROVAL. THE MUNICIPALITY SHALL FILE
6 THE FOLLOWING WITH THE PETITION:

7 (1) A LIST OF ALL LICENSED ESTABLISHMENTS THAT WILL BE
8 INCLUDED IN THE PROPOSED SATURATED NUISANCE MARKET.

9 (2) THE RESOLUTION ADOPTED BY THE MUNICIPALITY THAT:

10 (I) CONFIRMS THE MUNICIPALITY'S SUPPORT OF THE PETITION; AND

11 (II) STATES THE MUNICIPALITY'S BASIS FOR THE REQUEST.

12 (3) A COMPLETE WRITTEN DESCRIPTION OF THE BOUNDARY LINES FOR
13 THE PROPOSED AREA TO BE DESIGNATED A SATURATED NUISANCE MARKET.

14 (4) ONE COPY OF A GEOGRAPHICAL MAP, THE MINIMUM SIZE OF
15 WHICH IS THIRTY-SIX INCHES BY THIRTY-SIX INCHES, INCLUDING THE
16 DESIGNATED BOUNDARY LINES REQUESTED FOR THE PROPOSED SATURATED
17 NUISANCE MARKET.

18 (5) THREE COPIES OF A GEOGRAPHICAL MAP, THE MAIN SIZE OF
19 WHICH SHALL BE EIGHT AND ONE-HALF INCHES BY ELEVEN AND ONE-HALF
20 INCHES.

21 (6) IDENTIFICATION OF A PROPOSED LOCATION WITHIN THE
22 PROPOSED AREA TO BE USED BY THE BOARD TO HOLD THE REQUIRED
23 PUBLIC HEARING WITHIN THE BOUNDARIES OF THE PROPOSED SATURATED
24 NUISANCE MARKET.

25 (7) IDENTIFICATION OF A PUBLICATION OF GENERAL CIRCULATION
26 IN THE COUNTY TO BE USED TO PROVIDE PUBLIC NOTICE IN ACCORDANCE
27 WITH 65 PA.C.S. CH. 7 (RELATING TO OPEN MEETINGS) OF THE
28 REQUIRED PUBLIC HEARING.

29 (B) A DATE FOR A PUBLIC HEARING SHALL BE SET AND PUBLIC
30 NOTICE GIVEN IN ADVANCE OF THE HEARING. THE HEARING MUST COMPLY

1 WITH ALL NOTICE, RECORDING AND PUBLIC PARTICIPATION REQUIREMENTS
2 OF 65 PA.C.S. CH. 7.

3 (C) WITHIN NINETY DAYS AFTER RECEIPT OF THE PETITION, THE
4 BOARD SHALL EITHER APPROVE OR DISAPPROVE THE PETITION FOR
5 DESIGNATION OF A SATURATED NUISANCE MARKET. THE BOARD SHALL MAKE
6 THE DETERMINATION BASED ON THE FOLLOWING:

7 (1) TESTIMONY RECEIVED AT THE PUBLIC HEARING REQUIRED IN
8 SUBSECTION (A) (6).

9 (2) WRITTEN TESTIMONY RECEIVED FROM THE RESIDENTS OF THE
10 PROPOSED AREA.

11 (3) WRITTEN TESTIMONY RECEIVED FROM THE LOCAL LAW
12 ENFORCEMENT OFFICERS.

13 (4) WRITTEN TESTIMONY RECEIVED FROM ANY LICENSEE LOCATED IN
14 THE PROPOSED AREA.

15 (D) THE BOARD MAY REQUEST ADDITIONAL INFORMATION AS NEEDED
16 FROM THE GOVERNING BODY, LOCAL LAW ENFORCEMENT OFFICERS, THE
17 ENFORCEMENT BUREAU, THE BUREAU OF LICENSING AND LICENSEES IN
18 MAKING A DETERMINATION AND MAY FURTHER EVALUATE THE FOLLOWING:

19 (1) THE NUMBER OF LICENSES THAT HAVE BEEN SUBJECT TO
20 OBJECTIONS TO RENEWAL, NONRENEWAL OR REVOCATION UNDER THIS ACT
21 WITHIN THE PROPOSED AREA IN THE PRECEDING RENEWAL PERIOD.

22 (2) THE TOTAL NUMBER OF CITATIONS ISSUED AGAINST ALL
23 LICENSES WITHIN THE PROPOSED AREA IN THE PRECEDING RENEWAL
24 PERIOD.

25 (3) THE TOTAL NUMBER AND CONTENT OF CONDITIONAL LICENSING
26 AGREEMENTS ENTERED INTO WITHIN THE PROPOSED AREA.

27 (E) THE BOARD MAY PLACE ADDITIONAL CONDITIONS ON THE
28 PETITION'S APPROVAL, INCLUDING A FURTHER LIMITATION OF THE
29 PROPOSED DESIGNATED BOUNDARIES OF THE AREA AND ANY OTHER
30 CONDITION THE BOARD DEEMS APPROPRIATE.

1 (F) A MUNICIPALITY MAY RESCIND THE DESIGNATION OF A
2 SATURATED NUISANCE MARKET AT ANY TIME. THE NOTICE TO RESCIND
3 MUST BE ACCOMPANIED BY AN ORDINANCE OR RESOLUTION AUTHORIZING
4 THE RECESSION. A RECESSION OF AN EXISTING DESIGNATION OF A
5 SATURATED NUISANCE MARKET THAT DOES NOT RESCIND THE ENTIRE AREA
6 SHALL BE TREATED AS A NEW PETITION UNDER THIS SECTION.

7 (G) A LICENSEE LOCATED IN A PROPOSED AREA SHALL HAVE THE
8 RIGHT TO APPEAL TO THE COMMONWEALTH COURT WITHIN THIRTY DAYS OF
9 A DECISION BY THE BOARD TO DESIGNATE AN AREA A SATURATED
10 NUISANCE MARKET. THE APPEAL SHALL BE LIMITED TO A DETERMINATION
11 AS TO WHETHER OR NOT THE DESIGNATION IS SUBSTANTIATED BY THE
12 EVIDENCE OBTAINED BY THE BOARD IN ITS EVALUATION.

13 ~~(d)~~ (H) A restaurant or eating place retail licensee located <--
14 within a saturated nuisance market shall be subject to the
15 following conditions:

16 (1) A transaction scan device must be used to verify the age
17 of an individual who appears to be under thirty-five (35) years
18 of age before making a sale of ~~liquor. Liquor~~ ALCOHOL. ALCOHOL <--
19 shall not be sold to anyone under twenty-one (21) years of age
20 or to an individual that is visibly intoxicated. Information
21 from the use of a transaction scan device shall not be sold or
22 shared, except that a licensee may use the data to demonstrate
23 to the enforcement bureau that the licensee is in compliance.

24 (2) Food preparation is required to take place on the
25 licensed premises. For purposes of this section, "food
26 preparation" shall mean the act of preparing multiple
27 ingredients for human consumption for taste and nutritional
28 value, and shall not include prepackaged food that does not
29 require modification for consumption.

30 (3) An application FOR A RESTAURANT OR EATING PLACE LICENSE <--

1 under section 404 OR 432 for a licensed premise located within a <--
2 saturated nuisance market shall be considered a new license to a
3 new location.

4 (4) The board shall suspend the operating privileges of a
5 licensee upon notification by the Department of Agriculture or a
6 local health department that the licensee's retail food facility
7 license has been suspended, revoked or invalid. Once
8 verification that a licensee's retail food facility license has
9 been restored, the board shall restore the liquor license
10 operating privileges of the licensee.

11 (5) Within five (5) days of receiving an application for a
12 RESTAURANT OR EATING PLACE license under section 404 OR 432, the <--
13 board shall notify the local law enforcement agency, State
14 Senator, State Representative and governing body in the affected <--
15 jurisdiction WITHIN THE SATURATED NUISANCE MARKET that an <--
16 application for transfer has been received. The local law
17 enforcement agency AND GOVERNING BODY shall have standing in a <--
18 hearing to present testimony in support of or against the
19 transfer of the license. THE BOARD MAY ISSUE SUBPOENAS TO A <--
20 LOCAL LAW ENFORCEMENT AGENCY AS NEEDED TO OBTAIN FURTHER
21 INFORMATION PRIOR TO THE APPROVAL OF THE TRANSFER.

22 (6) NOTWITHSTANDING THE PROVISIONS OF 4 PA.C.S. (RELATING TO
23 AMUSEMENTS) OR ANY OTHER GAMING LAW, A LICENSEE UNDER THIS
24 SECTION SHALL NOT BE PERMITTED TO OPERATE ANY FORM OF GAMING
25 EXCEPT THAT AUTHORIZED BY THE ACT OF AUGUST 26, 1971 (P.L.351,
26 NO.91), KNOWN AS THE "STATE LOTTERY LAW," OR THE ACT OF DECEMBER
27 19, 1988 (P.L.1262, NO.156), KNOWN AS THE "LOCAL OPTION SMALL
28 GAMES OF CHANCE ACT."

29 ~~(e)~~ (I) In addition to any other penalty authorized by law, <--
30 a licensee that violates this section shall be subject to

1 citation by the enforcement bureau TO BE ADJUDICATED BY AN <--
2 ADMINISTRATIVE LAW JUDGE, which may result in:
3 (1) a fine or suspension or license revocation;
4 (2) nonrenewal of the license;
5 (3) revocation of operating authority; or
6 (4) another penalty authorized under sections 471 and 494.
7 ~~(f)~~ (J) A restaurant or eating place retail licensee located <--
8 in a saturated nuisance market that has been cited and found to
9 be in violation of this act or Federal, State or local law shall
10 be subject to the following:
11 (1) For a first offense, a fine of not less than two hundred
12 and fifty dollars (\$250), nor more than one thousand dollars
13 (\$1,000).
14 (2) For a second offense, a fine of not less than two
15 thousand dollars (\$2,000), nor more than five thousand dollars
16 (\$5,000), and suspension of operating privileges for at least
17 seven (7) days.
18 (3) For a third or subsequent offense, a fine of not less
19 than five thousand dollars (\$5,000), nor more than ten thousand
20 dollars (\$10,000), and license revocation under section 471.
21 ~~(g)~~ (K) Within sixty (60) days after the completion of two <--
22 full renewal periods, the board shall reevaluate a saturated
23 nuisance market based on the factors set forth under subsection
24 ~~(b)~~ (D) to determine whether or not to continue the zip code <--
25 area's designation as a saturated nuisance market. After
26 conducting the evaluation, the board shall provide written
27 notice of the board's determination to all governing officials
28 and licensees within a zip code area. The written notice shall
29 set forth the reasoning for the board's determination.
30 ~~(h)~~ (L) (1) The board shall prepare and submit a AN ANNUAL <--

1 report to the Law and Justice Committee of the Senate and the
2 Liquor Control Committee of the House of Representatives on the
3 impact of the legislation creating designated nuisance market
4 areas in this Commonwealth. The board shall commence preparation
5 of the report beginning one year after the date of designation
6 of a nuisance market and must submit the report to the
7 committees within ninety (90) days. In compiling the report, the
8 board shall include information related to the following:

9 (i) The number of licenses subject to objection to renewal,
10 to nonrenewal or to revocation within the designated area.

11 (ii) The total number of citations issued against licensees
12 in the designated area during the preceding renewal period.

13 (iii) The number of police incidents occurring in licensed
14 establishments, or in the areas surrounding licensed
15 establishments, within the designated area.

16 (iv) The fines, fees and suspensions imposed on licensees in
17 the designated area.

18 (2) The report shall specifically address:

19 (i) Changes in the number of citations.

20 (ii) Objections to renewals, nonrenewals, police incidents
21 and fines as compared with such objections prior to the licensed
22 establishment being designated as a saturated nuisance market.

23 (iii) Any legislative or administrative concerns with the
24 provisions concerning designated saturated nuisance market areas
25 and provide recommendations regarding resolution of the
26 concerns.

27 ~~(i)~~ (M) As used in this section, the term "zip code area" <--
28 means the geographic area covered by a postal zip code.

29 Section 7. This act shall take effect in 30 days.