

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1547 Session of  
2017

INTRODUCED BY J. HARRIS, McCLINTON, BULLOCK, THOMAS, DAWKINS,  
CEPHAS, RABB, V. BROWN, SIMS AND SOLOMON, JUNE 12, 2017

SENATOR MCILHINNEY, LAW AND JUSTICE, AS AMENDED, OCTOBER 2, 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 ~~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. IN~~ <--  
29 LICENSES AND REGULATIONS AND LIQUOR, ALCOHOL AND MALT AND  
30 BREWED BEVERAGES, PROVIDING FOR SUSPENSION FOR INSPECTION  
31 DEFICIENCIES.

1 The General Assembly of the Commonwealth of Pennsylvania  
2 hereby enacts as follows:

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

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

9 \* \* \*

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

20 \* \* \*

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

1 ~~sufficient to accommodate thirty persons at one time.~~

2 ~~\* \* \*~~

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

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

11 ~~\* \* \*~~

12 ~~(8) To investigate compliance on an annual basis, without~~  
13 ~~notice, any and all licensed premises located in a saturated~~  
14 ~~nuisance market as defined in section 612 and issue citations~~  
15 ~~for any violations of this act discovered upon the~~  
16 ~~investigation.~~

17 ~~\* \* \*~~

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

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

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

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

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

27 ~~Section 470.4. Declaration of Need. (a) A declaration of~~  
28 ~~need may be requested by the governing body of a county that~~  
29 ~~deems itself in need of additional retail liquor licenses above~~  
30 ~~the quota set forth in section 461 and which has exhausted all~~

1 ~~available licenses under section 470.3.~~

2 ~~(b) Prior to filing a request for declaration, the governing~~  
3 ~~body shall hold at least one public hearing for the purpose of~~  
4 ~~receiving comments and recommendations from individuals residing~~  
5 ~~in that county concerning the intent to designate the county as~~  
6 ~~a county of need.~~

7 ~~(c) The governing body shall file a petition with the board~~  
8 ~~requesting that the board issue a declaration of need to a~~  
9 ~~county. The county shall submit with the petition:~~

10 ~~(1) An ordinance or resolution that states:~~

11 ~~(i) the reasoning for the request; and~~

12 ~~(ii) a belief that the county has exhausted all available~~  
13 ~~licenses under section 470.3.~~

14 ~~(2) Evidence as required under 40 Pa. Code § 3.105 (relating~~  
15 ~~to quarterly filing of applications and application hearings),~~  
16 ~~establishing that a lack of reasonable means for obtaining a~~  
17 ~~suitable license within the county exists.~~

18 ~~(3) Identification of a publication of general circulation~~  
19 ~~in the county to be used to provide public notice in accordance~~  
20 ~~with 65 Pa.C.S. Ch. 7 (relating to open meetings) of the~~  
21 ~~required public hearing.~~

22 ~~(d) Licenses revoked or not renewed under section 612 shall~~  
23 ~~be available for auction under section 470.3 only to counties~~  
24 ~~that are designated as a county of need under this section, in~~  
25 ~~the manner set forth by the board and at the date and time~~  
26 ~~appointed by the board.~~

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

29 Section 471. Revocation and Suspension of Licenses; Fines.

30 \* \* \*

1       ~~(b) Hearing on such citations shall be held in the same~~  
2 ~~manner as provided herein for hearings on applications for~~  
3 ~~license. Upon such hearing, if satisfied that any such violation~~  
4 ~~has occurred or for other sufficient cause, the administrative~~  
5 ~~law judge shall immediately suspend or revoke the license, or~~  
6 ~~impose a fine of not less than fifty dollars (\$50) nor more than~~  
7 ~~one thousand dollars (\$1,000), or both, notifying the licensee~~  
8 ~~by registered letter addressed to his licensed premises. If the~~  
9 ~~licensee has been cited and found to have violated section~~  
10 ~~493(1) insofar as it relates to sales to minors or sales to a~~  
11 ~~visibly intoxicated person, section 493(10) insofar as it~~  
12 ~~relates to lewd, immoral or improper entertainment or section~~  
13 ~~493(14), (16) or (21), or has been found to be a public nuisance~~  
14 ~~pursuant to section 611, or if the owner or operator of the~~  
15 ~~licensed premises or any authorized agent of the owner or~~  
16 ~~operator has been convicted of any violation of the act of April~~  
17 ~~14, 1972 (P.L.233, No.64), known as "The Controlled Substance,~~  
18 ~~Drug, Device and Cosmetic Act," or of 18 Pa.C.S. § 5902-~~  
19 ~~(relating to prostitution and related offenses) or 6301-~~  
20 ~~(relating to corruption of minors), at or relating to the~~  
21 ~~licensed premises, the administrative law judge shall~~  
22 ~~immediately suspend or revoke the license, or impose a fine of~~  
23 ~~not less than one thousand dollars (\$1,000) nor more than five~~  
24 ~~thousand dollars (\$5,000), or both. However, if a licensee has~~  
25 ~~been cited and found to have violated section 493(1) as it~~  
26 ~~relates to sales to minors or sales to a visibly intoxicated~~  
27 ~~person but at the time of the sale the licensee was in~~  
28 ~~compliance with the requirements set forth in section 471.1 and~~  
29 ~~the licensee had not sold to minors or visibly intoxicated~~  
30 ~~persons in the previous four years, then the administrative law~~

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

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

1 ~~hearing. If the reviewing authority is the board, no hearing~~  
2 ~~shall be held on the application for a supersedeas; however, a~~  
3 ~~decision shall be made based on the application, answer and~~  
4 ~~documentary evidence under this subsection. If the application~~  
5 ~~for a supersedeas is for a license that has been revoked under~~  
6 ~~section 481(c), the reviewing authority shall grant the~~  
7 ~~supersedeas only if it finds that the licensee will likely~~  
8 ~~prevail on the merits. No penalty provided by this section shall~~  
9 ~~be imposed for any violations provided for in this act unless~~  
10 ~~the bureau notifies the licensee of its nature within thirty~~  
11 ~~days of the completion of the investigation.~~

12       ~~\* \* \*~~

13       ~~Section 493.1. Rights of Municipalities Preserved. \* \* \*~~

14       ~~(b) A municipality may file a petition with the board for an~~  
15 ~~exemption from section 493(34) of this act for all the licensees~~  
16 ~~within an identifiable area in the municipality. Prior to~~  
17 ~~submitting a petition, the municipality shall adopt a local~~  
18 ~~noise ordinance and a resolution adopted by its governing body~~  
19 ~~confirming support of the petition, citing the noise ordinance~~  
20 ~~and its intention to enforce the ordinance in place of section~~  
21 ~~493(34) of this act. Upon receipt of a petition, including a~~  
22 ~~copy of the noise ordinance, a map of the area to be exempted~~  
23 ~~and resolution, the board shall hold at least one (1) public~~  
24 ~~hearing on the petition. The hearing may be held before a~~  
25 ~~hearing examiner. The hearing shall take place within the~~  
26 ~~identified area and must comply with the notice, recording and~~  
27 ~~public participation requirements of 65 Pa.C.S. Ch. 7 (relating~~  
28 ~~to open meetings). Within sixty (60) days after receipt of the~~  
29 ~~petition, the board shall disapprove the petition for an~~  
30 ~~exemption in its entirety or may approve an area more limited~~

1 ~~for which the exemption will be granted if the board finds that~~  
2 ~~granting the petition shall have an adverse effect on the~~  
3 ~~welfare, health, peace and morals of the residents living in the~~  
4 ~~vicinity of the identified area; otherwise, the board shall~~  
5 ~~approve the petition. The board may place additional conditions~~  
6 ~~on its approval such as limiting the duration of the approval~~  
7 ~~and any other condition the board deems appropriate. There shall~~  
8 ~~be a right to appeal to the [court of common pleas] Commonwealth~~  
9 ~~Court in the same manner as provided by this act for appeals~~  
10 ~~from refusals to grant licenses.~~

11 \* \* \*

12 ~~Section 515. Appeals. The board, the enforcement bureau or~~  
13 ~~any applicant or any licensee aggrieved by any decision~~  
14 ~~refusing, suspending or revoking a license under the provisions~~  
15 ~~of this article may appeal to the [court of the county in which~~  
16 ~~the licensed premises or the premises to be licensed are~~  
17 ~~located. In the event an applicant or a licensee shall have no~~  
18 ~~place of business established within the Commonwealth, his~~  
19 ~~appeal shall be to the] Commonwealth Court. [Such appeal shall~~  
20 ~~be in accordance with 2 Pa.C.S. Ch. 7 Subch. A (relating to~~  
21 ~~judicial review of Commonwealth agency action).] All appeals~~  
22 ~~under this section shall be governed by 42 Pa.C.S. § 761~~  
23 ~~(relating to original jurisdiction).~~

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

25 ~~Section 612. Saturated Nuisance Market. (a) The director~~  
26 ~~of the Bureau of Licensing, in cooperation with the governing~~  
27 ~~body of a municipality, or a municipality may request that an~~  
28 ~~area within a zip code be designated a saturated nuisance market~~  
29 ~~and shall file a petition with the board requesting approval.~~  
30 ~~The municipality shall file the following with the petition:~~

1 ~~(1) A list of all licensed establishments that will be~~  
2 ~~included in the proposed saturated nuisance market.~~

3 ~~(2) The resolution adopted by the municipality that:~~

4 ~~(i) confirms the municipality's support of the petition; and~~

5 ~~(ii) states the municipality's basis for the request.~~

6 ~~(3) A complete written description of the boundary lines for~~  
7 ~~the proposed area to be designated a saturated nuisance market.~~

8 ~~(4) One copy of a geographical map, the minimum size of~~  
9 ~~which is thirty six inches by thirty six inches, including the~~  
10 ~~designated boundary lines requested for the proposed saturated~~  
11 ~~nuisance market.~~

12 ~~(5) Three copies of a geographical map, the main size of~~  
13 ~~which shall be eight and one half inches by eleven and one half~~  
14 ~~inches.~~

15 ~~(6) Identification of a proposed location within the~~  
16 ~~proposed area to be used by the board to hold the required~~  
17 ~~public hearing within the boundaries of the proposed saturated~~  
18 ~~nuisance market.~~

19 ~~(7) Identification of a publication of general circulation~~  
20 ~~in the county to be used to provide public notice in accordance~~  
21 ~~with 65 Pa.C.S. Ch. 7 (relating to open meetings) of the~~  
22 ~~required public hearing.~~

23 ~~(b) A date for a public hearing shall be set and public~~  
24 ~~notice given in advance of the hearing. The hearing must comply~~  
25 ~~with all notice, recording and public participation requirements~~  
26 ~~of 65 Pa.C.S. Ch. 7.~~

27 ~~(c) Within ninety days after receipt of the petition, the~~  
28 ~~board shall either approve or disapprove the petition for~~  
29 ~~designation of a saturated nuisance market. The board shall make~~  
30 ~~the determination based on the following:~~

1 ~~(1) Testimony received at the public hearing required in~~  
2 ~~subsection (a) (6).~~

3 ~~(2) Written testimony received from the residents of the~~  
4 ~~proposed area.~~

5 ~~(3) Written testimony received from the local law~~  
6 ~~enforcement officers.~~

7 ~~(4) Written testimony received from any licensee located in~~  
8 ~~the proposed area.~~

9 ~~(d) The board may request additional information as needed~~  
10 ~~from the governing body, local law enforcement officers, the~~  
11 ~~enforcement bureau, the Bureau of Licensing and licensees in~~  
12 ~~making a determination and may further evaluate the following:~~

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

16 ~~(2) The total number of citations issued against all~~  
17 ~~licenses within the proposed area in the preceding renewal~~  
18 ~~period.~~

19 ~~(3) The total number and content of conditional licensing~~  
20 ~~agreements entered into within the proposed area.~~

21 ~~(e) The board may place additional conditions on the~~  
22 ~~petition's approval, including a further limitation of the~~  
23 ~~proposed designated boundaries of the area and any other~~  
24 ~~condition the board deems appropriate.~~

25 ~~(f) A municipality may rescind the designation of a~~  
26 ~~saturated nuisance market at any time. The notice to rescind~~  
27 ~~must be accompanied by an ordinance or resolution authorizing~~  
28 ~~the recession. A recession of an existing designation of a~~  
29 ~~saturated nuisance market that does not rescind the entire area~~  
30 ~~shall be treated as a new petition under this section.~~

1 ~~(g) A licensee located in a proposed area shall have the~~  
2 ~~right to appeal to the Commonwealth Court within thirty days of~~  
3 ~~a decision by the board to designate an area a saturated~~  
4 ~~nuisance market. The appeal shall be limited to a determination~~  
5 ~~as to whether or not the designation is substantiated by the~~  
6 ~~evidence obtained by the board in its evaluation.~~

7 ~~(h) A restaurant or eating place retail licensee located~~  
8 ~~within a saturated nuisance market shall be subject to the~~  
9 ~~following conditions:~~

10 ~~(1) A transaction scan device must be used to verify the age~~  
11 ~~of an individual who appears to be under thirty five (35) years~~  
12 ~~of age before making a sale of alcohol. Alcohol shall not be~~  
13 ~~sold to anyone under twenty one (21) years of age or to an~~  
14 ~~individual that is visibly intoxicated. Information from the use~~  
15 ~~of a transaction scan device shall not be sold or shared, except~~  
16 ~~that a licensee may use the data to demonstrate to the~~  
17 ~~enforcement bureau that the licensee is in compliance.~~

18 ~~(2) Food preparation is required to take place on the~~  
19 ~~licensed premises. For purposes of this section, "food~~  
20 ~~preparation" shall mean the act of preparing multiple~~  
21 ~~ingredients for human consumption for taste and nutritional~~  
22 ~~value, and shall not include prepackaged food that does not~~  
23 ~~require modification for consumption.~~

24 ~~(3) An application for a restaurant or eating place license~~  
25 ~~under section 404 or 432 for a licensed premise located within a~~  
26 ~~saturated nuisance market shall be considered a new license to a~~  
27 ~~new location.~~

28 ~~(4) The board shall suspend the operating privileges of a~~  
29 ~~licensee upon notification by the Department of Agriculture or a~~  
30 ~~local health department that the licensee's retail food facility~~

~~1 license has been suspended, revoked or invalid. Once  
2 verification that a licensee's retail food facility license has  
3 been restored, the board shall restore the liquor license  
4 operating privileges of the licensee.~~

~~5 (5) Within five (5) days of receiving an application for a  
6 restaurant or eating place license under section 404 or 432, the  
7 board shall notify the local law enforcement agency, State  
8 Senator, State Representative and governing body within the  
9 saturated nuisance market that an application for transfer has  
10 been received. The local law enforcement agency and governing  
11 body shall have standing in a hearing to present testimony in  
12 support of or against the transfer of the license. The board may  
13 issue subpoenas to a local law enforcement agency as needed to  
14 obtain further information prior to the approval of the  
15 transfer.~~

~~16 (6) Notwithstanding the provisions of 4 Pa.C.S. (relating to  
17 amusements) or any other gaming law, a licensee under this  
18 section shall not be permitted to operate any form of gaming  
19 except that authorized by the act of August 26, 1971 (P.L.351,  
20 No.91), known as the "State Lottery Law," or the act of December  
21 19, 1988 (P.L.1262, No.156), known as the "Local Option Small  
22 Games of Chance Act."~~

~~23 (i) In addition to any other penalty authorized by law, a  
24 licensee that violates this section shall be subject to citation  
25 by the enforcement bureau to be adjudicated by an administrative  
26 law judge, which may result in:~~

~~27 (1) a fine or suspension or license revocation;~~

~~28 (2) nonrenewal of the license;~~

~~29 (3) revocation of operating authority; or~~

~~30 (4) another penalty authorized under sections 471 and 494.~~

1 ~~(j) A restaurant or eating place retail licensee located in~~  
2 ~~a saturated nuisance market that has been cited and found to be~~  
3 ~~in violation of this act or Federal, State or local law shall be~~  
4 ~~subject to the following:~~

5 ~~(1) For a first offense, a fine of not less than two hundred~~  
6 ~~and fifty dollars (\$250), nor more than one thousand dollars~~  
7 ~~(\$1,000).~~

8 ~~(2) For a second offense, a fine of not less than two~~  
9 ~~thousand dollars (\$2,000), nor more than five thousand dollars~~  
10 ~~(\$5,000), and suspension of operating privileges for at least~~  
11 ~~seven (7) days.~~

12 ~~(3) For a third or subsequent offense, a fine of not less~~  
13 ~~than five thousand dollars (\$5,000), nor more than ten thousand~~  
14 ~~dollars (\$10,000), and license revocation under section 471.~~

15 ~~(k) Within sixty (60) days after the completion of two full~~  
16 ~~renewal periods, the board shall reevaluate a saturated nuisance~~  
17 ~~market based on the factors set forth under subsection (d) to~~  
18 ~~determine whether or not to continue the zip code area's~~  
19 ~~designation as a saturated nuisance market. After conducting the~~  
20 ~~evaluation, the board shall provide written notice of the~~  
21 ~~board's determination to all governing officials and licensees~~  
22 ~~within a zip code area. The written notice shall set forth the~~  
23 ~~reasoning for the board's determination.~~

24 ~~(l) (1) The board shall prepare and submit an annual report~~  
25 ~~to the Law and Justice Committee of the Senate and the Liquor~~  
26 ~~Control Committee of the House of Representatives on the impact~~  
27 ~~of the legislation creating designated nuisance market areas in~~  
28 ~~this Commonwealth. The board shall commence preparation of the~~  
29 ~~report beginning one year after the date of designation of a~~  
30 ~~nuisance market and must submit the report to the committees~~

1 ~~within ninety (90) days. In compiling the report, the board~~  
2 ~~shall include information related to the following:~~

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

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

7 ~~(iii) The number of police incidents occurring in licensed~~  
8 ~~establishments, or in the areas surrounding licensed~~  
9 ~~establishments, within the designated area.~~

10 ~~(iv) The fines, fees and suspensions imposed on licensees in~~  
11 ~~the designated area.~~

12 ~~(2) The report shall specifically address:~~

13 ~~(i) Changes in the number of citations.~~

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

17 ~~(iii) Any legislative or administrative concerns with the~~  
18 ~~provisions concerning designated saturated nuisance market areas~~  
19 ~~and provide recommendations regarding resolution of the~~  
20 ~~concerns.~~

21 ~~(m) As used in this section, the term "zip code area" means~~  
22 ~~the geographic area covered by a postal zip code.~~

23 ~~Section 7. This act shall take effect in 30 days.~~

24 SECTION 1. THE ACT OF APRIL 12, 1951 (P.L.90, NO.21), KNOWN <--  
25 AS THE LIQUOR CODE, IS AMENDED BY ADDING A SECTION TO READ:

26 SECTION 470.4. SUSPENSION FOR INSPECTION DEFICIENCIES.-- (A)  
27 IF THE BOARD FINDS, THROUGH AN INSPECTION BY ONE OF THE BOARD'S  
28 EMPLOYES, THAT A LICENSEE DOES NOT MEET A REQUIREMENT UNDER THE  
29 ACT OR THE BOARD'S REGULATIONS THAT RENDERS THE LICENSEE  
30 INELIGIBLE FOR THE LICENSE, INCLUDING INSTANCES WHEN THE

1 LICENSEE NO LONGER MEETS THE SEATING, SQUARE FOOTAGE, FOOD,  
2 HEALTH LICENSE OR ROOM REQUIREMENTS FOR THE LICENSE, THE BOARD  
3 MAY IMMEDIATELY IMPOSE AN ADMINISTRATIVE SUSPENSION OF THE  
4 OPERATING PRIVILEGES OF THE LICENSEE AND SHALL GIVE WRITTEN  
5 NOTICE TO THE LICENSEE AS TO THE EXACT DEFICIENCY OBSERVED. THE  
6 OPERATING PRIVILEGES SHALL REMAIN SUSPENDED UNTIL THE LICENSEE  
7 CAN ESTABLISH TO THE BOARD'S SATISFACTION THAT THE LICENSEE IS  
8 AGAIN ELIGIBLE FOR THE LICENSE. IF AN EMPLOYE OF THE  
9 PENNSYLVANIA STATE POLICE, BUREAU OF LIQUOR CONTROL ENFORCEMENT,  
10 PHILADELPHIA COUNTY DEPARTMENT OF PUBLIC HEALTH, CITY OF  
11 PHILADELPHIA DEPARTMENT OF LICENSES AND INSPECTIONS OR OTHER  
12 SIMILAR GOVERNMENT EMPLOYE FINDS THAT A LICENSEE DOES NOT MEET  
13 THE REQUIREMENTS OF EITHER THE LIQUOR CODE OR THE BOARD'S  
14 REGULATIONS, AS PROVIDED UNDER THIS SECTION, THE EMPLOYE MAY  
15 INFORM THE BOARD OF THE DEFICIENCY SO THAT THE BOARD MAY PROCEED  
16 IN ACCORDANCE WITH THIS SECTION.

17 (B) SECTION 464 AND 42 PA.C.S. § 933(A)(1)(V) (RELATING TO  
18 APPEALS FROM GOVERNMENT AGENCIES) SHALL NOT APPLY TO SUSPENSIONS  
19 IMPOSED UNDER THIS SECTION. IF THE BOARD REFUSES TO REINSTATE A  
20 SUSPENDED LICENSEE'S OPERATING PRIVILEGES, THE SUSPENDED  
21 LICENSEE MAY REQUEST A HEARING BEFORE THE COMMONWEALTH COURT  
22 UNDER 42 PA.C.S. § 761(A)(4) (RELATING TO ORIGINAL JURISDICTION)  
23 SOLELY ON THE ISSUE OF WHETHER THE SUSPENDED LICENSEE IS  
24 ELIGIBLE FOR REINSTATEMENT OF OPERATING PRIVILEGES. THE  
25 COMMONWEALTH COURT SHALL HOLD A HEARING WITHIN TEN DAYS OF THE  
26 FILING OF THE REQUEST FOR A HEARING UNDER THIS SUBSECTION AND  
27 MAY NOT LIFT A SUSPENSION IMPOSED BY THE BOARD UNTIL AFTER THE  
28 HEARING.

29 (C) AN ADMINISTRATIVE SUSPENSION UNDER THIS SECTION SHALL BE  
30 IN ADDITION TO ANY OTHER PENALTIES PROVIDED BY LAW.

1       (D) OTHER VIOLATIONS OF THE LAW OR QUESTIONS AS TO THE  
2 CONTINUED FITNESS OF A LICENSEE THAT ARE CURRENTLY ADDRESSED  
3 THROUGH THE CITATION PROCESS UNDER SECTION 471 OR THE BOARD'S  
4 NONRENEWAL PROCESS UNDER SECTION 470(A.1) SHALL CONTINUE TO BE  
5 ADDRESSED IN THAT MANNER AND NOT THROUGH THE ADMINISTRATIVE  
6 SUSPENSION PROCESS UNDER THIS SECTION.

7       SECTION 2. THIS ACT SHALL TAKE EFFECT IN 60 DAYS.