

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1434 Session of 2019

INTRODUCED BY KENYATTA, HILL-EVANS, DEASY, MILLARD, KINSEY AND MALAGARI, MAY 8, 2019

REFERRED TO COMMITTEE ON LIQUOR CONTROL, MAY 8, 2019

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 licenses and regulations and liquor, alcohol and malt and  
 18 brewed beverages, providing for liquor code suspension for  
 19 deficiency; and making a related repeal.

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

22 Section 1. The act of April 12, 1951 (P.L.90, No.21), known  
 23 as the Liquor Code, is amended by adding a section to read:

24 Section 470.4. Liquor Code Suspension for Deficiency.--(a)  
 25 (1) If the board finds, through an inspection by a board  
 26 employe, that a licensee does not meet a requirement under this

1 act or the board's regulations that renders the licensee  
2 ineligible for the license, including instances when the  
3 licensee no longer meets the seating, square footage, food,  
4 health license or room requirements for the license, the board  
5 may immediately impose an administrative suspension of the  
6 operating privileges of the licensee and shall give written  
7 notice to the licensee as to the exact deficiency observed. Upon  
8 the licensee's request, the board shall conduct a reinspection  
9 of the premises within five to ten business days of the request  
10 to determine if the licensee is eligible for the license. If  
11 deficiencies remain upon reinspection, a third or subsequent  
12 inspection shall not be conducted at the same premises within  
13 ten business days of the most recent reinspection. The operating  
14 privileges shall remain suspended until the licensee can  
15 establish to the board's satisfaction that the licensee is again  
16 eligible for the license.

17 (2) An employe of the bureau, a county department of public  
18 health or a county department of licenses and inspections or a  
19 similar employe of the Commonwealth or a municipality of the  
20 Commonwealth may notify the board of a deficiency found in a  
21 licensee's eligibility to hold a license under paragraph (1).

22 (3) If the board finds, within twelve months of the  
23 restoration of a licensee's operating privileges under paragraph  
24 (1), through an inspection by a board employe that the licensee  
25 fails to meet a requirement under this act or the board's  
26 regulations that renders the licensee ineligible for the  
27 license, a reinspection shall not be conducted at the same  
28 premises within twenty days for a second occurrence or thirty  
29 days for a third or subsequent occurrence.

30 (b) Section 464 and 42 Pa.C.S. § 933(a)(1)(v) (relating to

1 appeals from government agencies) shall not apply to an  
2 administrative suspension under subsection (a)(1). If the board  
3 refuses to reinstate a suspended licensee's operating  
4 privileges, the suspended licensee may request a hearing before  
5 the Commonwealth Court under 42 Pa.C.S. § 761(a)(4) (relating to  
6 original jurisdiction) solely on the issue of whether the  
7 suspended licensee is eligible for reinstatement of operating  
8 privileges. The Commonwealth Court shall hold a hearing within  
9 ten days of the filing of the request for a hearing under this  
10 subsection.

11 (c) An administrative suspension under subsection (a)(1)  
12 shall be in addition to any other penalty provided by law.

13 (d) Other violations of this act or questions as to the  
14 continued fitness of a licensee pursuant to section 470(a.1) or  
15 471 shall continue to be addressed under the appropriate section  
16 and not through the administrative suspension process under  
17 subsections (a)(1) and (b).

18 (e) In addition to the enforcement powers and duties under  
19 section 211(a), the bureau shall establish an inspection  
20 schedule which provides for the inspection of a premises holding  
21 either a restaurant liquor license or an eating place license  
22 for compliance and issue citations for violations of this act  
23 discovered during the inspection.

24 (f) As used in this section, the following words and phrases  
25 shall have the meanings given to them in this subsection unless  
26 the context clearly indicates otherwise:

27 "Bureau." The Bureau of Liquor Control Enforcement of the  
28 Pennsylvania State Police.

29 "License." A license issued under this act.

30 "Licensee." A person who holds a license under this act.

1 Section 2. Repeals are as follows:

2 (1) The General Assembly declares that the repeal under  
3 paragraph (2) is necessary to effectuate the addition of  
4 section 470.4 of the act.

5 (2) Section 1799.6-E of the act of April 9, 1929  
6 (P.L.343, No.176), known as The Fiscal Code, is repealed.

7 Section 3. This act shall take effect immediately.