

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1474 Session of
2021

INTRODUCED BY BENHAM, HERRIN, BULLOCK AND DEASY, MAY 21, 2021

REFERRED TO COMMITTEE ON LIQUOR CONTROL, MAY 21, 2021

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, further providing for issuance, transfer or
19 extension of hotel, restaurant and club liquor licenses, for
20 limiting number of retail licenses to be issued in each
21 county and for rights of municipalities preserved.

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

24 Section 1. Section 404(a) of the act of April 12, 1951
25 (P.L.90, No.21), known as the Liquor Code, amended June 5, 2020
26 (P.L.213, No.29), is amended to read:

27 Section 404. Issuance, Transfer or Extension of Hotel,
28 Restaurant and Club Liquor Licenses.--(a) Upon receipt of the

1 application and the proper fees, and upon being satisfied of the
2 truth of the statements in the application that the applicant
3 and management company or companies, if any, are the only
4 persons in any manner pecuniarily interested in the business so
5 asked to be licensed and that no other person will be in any
6 manner pecuniarily interested therein during the continuance of
7 the license, except as hereinafter permitted, and that the
8 applicant is a person of good repute, that the premises applied
9 for meet all the requirements of this act and the regulations of
10 the board, that the applicant seeks a license for a hotel,
11 restaurant or club, as defined in this act, and that the
12 issuance of such license is not prohibited by any of the
13 provisions of this act, the board shall, in the case of a hotel
14 or restaurant, grant and issue to the applicant a liquor
15 license, and in the case of a club may, in its discretion, issue
16 or refuse a license: Provided, however, That in the case of any
17 new license or the transfer of any license to a new location or
18 the extension of an existing license to cover an additional area
19 the board may, in its discretion, grant or refuse such new
20 license, transfer or extension if such place proposed to be
21 licensed is within three hundred feet of any church, hospital,
22 charitable institution, school, or public playground, or if such
23 new license, transfer or extension is applied for a place which
24 is within two hundred feet of any other premises which is
25 licensed by the board: And provided further, That the board's
26 authority to refuse to grant a license because of its proximity
27 to a church, hospital, charitable institution, public playground
28 or other licensed premises shall not be applicable to license
29 applications submitted for public venues or performing arts
30 facilities: And provided further, That the board shall refuse

1 any application for a new license, the transfer of any license
2 to a new location or the extension of an existing license to
3 cover an additional area if, in the board's opinion, such new
4 license, transfer or extension would be detrimental to the
5 welfare, health, peace and morals of the inhabitants of the
6 neighborhood within a radius of five hundred feet of the place
7 proposed to be licensed: And provided further, That the board
8 shall have the discretion to refuse a license to any person or
9 to any corporation, partnership or association if such person,
10 or any officer or director of such corporation, or any member or
11 partner of such partnership or association shall have been
12 convicted or found guilty of a felony within a period of five
13 years immediately preceding the date of application for the said
14 license. All issuances, transfers or extensions under this
15 section shall be subject to any maximum saturation ratio
16 established under section 493.1(a). The board may enter into an
17 agreement with the applicant concerning additional restrictions
18 on the license in question. If the board and the applicant enter
19 into such an agreement, such agreement shall be binding on the
20 applicant. Failure by the applicant to adhere to the agreement
21 will be sufficient cause to form the basis for a citation under
22 section 471 and for the nonrenewal of the license under section
23 470. If the board enters into an agreement with an applicant
24 concerning additional restrictions, those restrictions shall be
25 binding on subsequent holders of the license until the license
26 is transferred to a new location or until the board enters into
27 a subsequent agreement removing those restrictions. If the
28 application in question involves a location previously licensed
29 by the board, then any restrictions imposed by the board on the
30 previous license at that location shall be binding on the

1 applicant unless the board enters into a new agreement
2 rescinding those restrictions. The board may, in its discretion,
3 refuse an application for an economic development license under
4 section 461(b.1) or an application for an intermunicipal
5 transfer of a license if the board receives a protest from the
6 governing body of the receiving municipality. The receiving
7 municipality of an intermunicipal transfer or an economic
8 development license under section 461(b.1) may file a protest
9 against the transfer of a license into its municipality, and the
10 receiving municipality shall have standing in a hearing to
11 present testimony in support of or against the issuance or
12 transfer of a license. Upon any opening in any quota, an
13 application for a new license shall only be filed with the board
14 for a period of six months following said opening.

15 * * *

16 Section 2. Sections 461(b.3) and 493.1(a) of the act are
17 amended to read:

18 Section 461. Limiting Number of Retail Licenses To Be Issued
19 In Each County.--* * *

20 (b.3) An intermunicipal transfer of a license or issuance of
21 a license for economic development under subsection (b.1)(2)(i)
22 must first be approved by the governing body of the receiving
23 municipality when the total number of existing restaurant liquor
24 licenses and eating place retail dispenser licenses in the
25 receiving municipality equal or exceed one license per three
26 thousand inhabitants. An intramunicipal transfer of a license or
27 issuance of a license for economic development under subsection
28 (b.1)(2)(i) must first be approved by the governing body of the
29 municipality if the municipality has created a maximum
30 saturation ratio under section 493.1(a) and the saturation level

1 is met or exceeded. Upon request for approval of an
2 intermunicipal transfer of a license or issuance of an economic
3 development license by an applicant, at least one public hearing
4 shall be held by the municipal governing body for the purpose of
5 receiving comments and recommendations of interested individuals
6 residing within the municipality concerning the applicant's
7 intent to transfer a license into the municipality or acquire an
8 economic development license from the Pennsylvania Liquor
9 Control Board. The governing body shall, within forty-five days
10 of a request for approval, render a decision by ordinance or
11 resolution to approve or disapprove the applicant's request for
12 an intermunicipal transfer of a license or issuance of an
13 economic development license. The municipality may approve the
14 request. A decision by the governing body of the municipality to
15 deny the request may not be appealed. A copy of the approval
16 must be submitted with the license application. The approval
17 requirement shall not apply to licenses transferred into a tax
18 increment district created pursuant to the act of July 11, 1990
19 (P.L.465, No.113), known as the "Tax Increment Financing Act,"
20 located in a township of the second class that is located within
21 a county of the second class if the district was created prior
22 to December 31, 2002, and the governing body of the township has
23 adopted an agreement at a public meeting that consents to the
24 transfer of licenses into the tax increment district. Failure by
25 the governing body of the municipality to render a decision
26 within forty-five days of the applicant's request for approval
27 shall be deemed an approval of the application in terms as
28 presented unless the governing body has notified the applicant
29 in writing of their election for an extension of time not to
30 exceed sixty days. Failure by the governing body of the

1 municipality to render a decision within the extended time
2 period shall be deemed an approval of the application in terms
3 as presented.

4 * * *

5 Section 493.1. Rights of Municipalities Preserved.--(a)

6 Nothing in this act shall be construed to preempt the right of
7 any municipality to regulate zoning and enforce any other local
8 ordinances and codes dealing with health and welfare issues. A

9 municipality may, in any zoning district where licensed

10 facilities are permitted, establish a maximum saturation ratio

11 for licensed establishments taking into account one or more of

12 the following:

13 (1) type of licensed use;

14 (2) type of zoning district;

15 (3) current saturation rate; and

16 (4) size of zoning district.

17 * * *

18 Section 3. This act shall take effect in 60 days.