

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2891 Session of 2022

INTRODUCED BY MERCURI, GROVE, HAMM, HENNESSEY, JAMES, JOZWIAK,  
MILLARD, NEILSON AND RYAN, OCTOBER 20, 2022

REFERRED TO COMMITTEE ON FINANCE, OCTOBER 20, 2022

AN ACT

1 Repealing the act of June 5, 1937 (P.L.1656, No.344), entitled  
2 "An act imposing an annual license tax for the privilege of  
3 operating, maintaining or controlling within this  
4 Commonwealth a store or stores, theatre or theatres, as  
5 herein defined; prescribing the method and manner of  
6 collecting such tax and its disposition, including an  
7 appropriation for the purpose of administering this act; and  
8 providing penalties."

9 The General Assembly of the Commonwealth of Pennsylvania  
10 hereby enacts as follows:

11 Section 1. The act of June 5, 1937 (P.L.1656, No.344), known  
12 as the Store and Theatre Tax Act, is repealed:

13 [AN ACT

14 Imposing an annual license tax for the privilege of operating,  
15 maintaining or controlling within this Commonwealth a store  
16 or stores, theatre or theatres, as herein defined;  
17 prescribing the method and manner of collecting such tax and  
18 its disposition, including an appropriation for the purpose  
19 of administering this act; and providing penalties."

20 Be it enacted, &c., That,

21 Section 1. Short Title.--This act shall be known, and may be

1 cited, as the "Store and Theatre Tax Act."

2 Section 2. Definitions.--The following words, terms, and  
3 phrases, when used in this act, shall have the meanings ascribed  
4 to them in this section, except where the context clearly  
5 indicates a different meaning:

6 "Association." A partnership, limited partnership, or any  
7 other form of unincorporated enterprise owned by two or more  
8 persons.

9 "Corporation." A corporation or joint-stock association  
10 organized under the laws of this Commonwealth, the United  
11 States, or any other state, territory, or foreign country, or  
12 dependency.

13 "Department." The Department of Revenue of this Commonwealth.

14 "Person." Every natural person, association, corporation,  
15 receiver or assignee.

16 "Store." Any place of business or any mercantile  
17 establishment in which, or from which, tangible personal  
18 property of any kind is sold: Provided, however, That the term  
19 "store," as and when used in this act, shall not include places  
20 of business commonly known as newsstands, and warehouses or  
21 establishments at which the sole business conducted is that of  
22 selling, storing or distributing commodities in bulk.

23 "Theatre." Any building or place for the production of  
24 theatrical entertainment, including opera, drama, comedy,  
25 vaudeville, motion pictures or other shows, or a combination  
26 thereof.

27 The singular shall include the plural, and the masculine  
28 shall include the feminine and neuter.

29 Section 3. License.--It shall be unlawful for any person to  
30 open, establish, operate, maintain or control any store or

1 theatre in this Commonwealth without first having obtained and  
2 having in possession a valid license so to do from the  
3 department as hereinafter provided, but each person engaged in  
4 the operation, maintenance or control of such a store or  
5 theatre, on the effective date of this act, shall have sixty  
6 (60) days within which to obtain the first license for each such  
7 store or theatre operated, maintained or controlled by him. A  
8 separate license shall be procured for each store or theatre.  
9 Licenses issued under this act may not be transferred or  
10 assigned. Each licensee shall display each license so issued in  
11 a conspicuous place in the store or theatre for which such  
12 license is issued. The licenses issued under the provisions of  
13 this act shall be annual licenses effective from June first of  
14 one year until and including May thirty-first of the year  
15 following. The first licenses shall be required for the year  
16 commencing June first, one thousand nine hundred and thirty-  
17 seven.

18 Section 4. Application for License.--Any person desiring to  
19 open, establish, operate, maintain or control such a store or  
20 theatre in this Commonwealth, shall apply to the department for  
21 a license so to do before the first day of June of each year,  
22 except as otherwise provided in section three hereof as to the  
23 first license. The application for license shall be made on a  
24 form prescribed and furnished by the department, and shall set  
25 forth the name of the person desiring such license, the name and  
26 location of the store or theatre for which the license is  
27 desired, and such other information as the department may  
28 require. Each such application shall be accompanied by the  
29 proper license tax as hereinafter prescribed in this act, and,  
30 upon receiving the prescribed fee, the department shall issue

1 said license.

2 Section 5. License Taxes.--Every person opening,  
3 establishing, operating, maintaining or controlling one or more  
4 stores or theatres within this Commonwealth, under the same  
5 general management, supervision or ownership, shall pay an  
6 annual license tax for the privilege of opening, establishing,  
7 operating, maintaining or controlling such store or stores, or  
8 theatre or theatres as follows:

9 (1) Upon one store or theatre, the sum of one dollar  
10 (\$1.00).

11 (2) Upon each store or theatre in excess of one, but not to  
12 exceed five stores or theatres, the sum of five dollars (\$5.00)  
13 for each such additional store or theatre.

14 (3) Upon each store or theatre in excess of five, but not to  
15 exceed ten stores or theatres, the sum of ten dollars (\$10.00)  
16 for each such additional store or theatre.

17 (4) Upon each store or theatre in excess of ten, but not to  
18 exceed fifteen stores or theatres, the sum of twenty dollars  
19 (\$20.00) for each such additional store or theatre.

20 (5) Upon each store or theatre in excess of fifteen, but not  
21 to exceed twenty stores or theatres, the sum of thirty dollars  
22 (\$30.00) for each such additional store or theatre.

23 (6) Upon each store or theatre in excess of twenty, but not  
24 to exceed thirty stores or theatres, the sum of fifty dollars  
25 (\$50.00) for each such additional store or theatre.

26 (7) Upon each store or theatre in excess of thirty, but not  
27 to exceed fifty stores or theatres, the sum of one hundred  
28 dollars (\$100.00) for each such additional store or theatre.

29 (8) Upon each store or theatre in excess of fifty, but not  
30 to exceed seventy-five stores or theatres, the sum of two

1 hundred dollars (\$200.00) for each such additional store or  
2 theatre.

3 (9) Upon each store or theatre in excess of seventy-five,  
4 but not to exceed one hundred stores or theatres, the sum of two  
5 hundred and fifty dollars (\$250.00) for each such additional  
6 store or theatre.

7 (10) Upon each store or theatre in excess of one hundred,  
8 but not to exceed two hundred stores or theatres, the sum of  
9 three hundred and fifty dollars (\$350.00) for each such  
10 additional store or theatre.

11 (11) Upon each store or theatre in excess of two hundred,  
12 but not to exceed five hundred stores or theatres, the sum of  
13 four hundred and fifty dollars (\$450.00) for each such  
14 additional store or theatre.

15 (12) Upon each store or theatre in excess of five hundred  
16 stores or theatres, the sum of five hundred dollars (\$500.00)  
17 for each such additional store or theatre.

18 Section 6. Ownership.--Two or more stores or theatres shall,  
19 for the purpose of this act, be considered under the same  
20 general management, supervision or ownership if, directly or  
21 indirectly, controlled by a single person or any group of  
22 persons having a common interest in such stores or theatres, or  
23 if any part of the gross revenues, net revenues or profits from  
24 any such stores or theatres, shall, directly or indirectly, be  
25 required to be immediately or ultimately made available as  
26 rental or in any other manner whatsoever for the beneficial use,  
27 or shall, directly or indirectly, inure to the immediate or  
28 ultimate benefit of any single person or any group of persons  
29 having a common interest therein.

30 Section 7. Penalty.--Any person operating, maintaining or

1 controlling a store or theatre without a license, as herein  
2 provided, shall be guilty of a misdemeanor, and, upon conviction  
3 thereof, shall be fined not less than fifty dollars (\$50.00) nor  
4 more than one hundred dollars (\$100.00), and costs of  
5 prosecution. Each and every day that such violation shall  
6 continue shall constitute a separate and distinct offense.

7 Section 8. Examination of Records; Penalty.--The department,  
8 or any duly authorized agent thereof, shall have the power to  
9 examine the books, records, papers, and files, within or outside  
10 the Commonwealth, of any person operating, maintaining or  
11 controlling a store or theatre within this Commonwealth. It  
12 shall have the power to examine witnesses, under oath, to verify  
13 the accuracy of any application, or to ascertain whether or not  
14 any license tax is due which has not been paid. Any person  
15 refusing to allow an examination of his books, records, papers,  
16 and files as herein provided, or who refuses to furnish the  
17 department with any information requested, shall be deemed  
18 guilty of a misdemeanor, and, upon conviction thereof, shall be  
19 fined not less than fifty dollars (\$50.00) nor more than one  
20 hundred dollars (\$100.00), and costs of prosecution. Each such  
21 refusal shall be deemed a separate offense.

22 Section 9. Disposition of Tax and Fines.--All taxes and  
23 fines received, collected or recovered under this act, shall be  
24 paid into the State Treasury, through the department, and,  
25 except as hereinafter otherwise provided, shall be credited to  
26 the State School Fund: Provided, however, That out of the  
27 revenues derived under the provisions of this act, the  
28 Department of Revenue shall, during the fiscal biennium  
29 beginning the first day of June, one thousand nine hundred and  
30 thirty-seven, pay into the General Fund the sum of one hundred

1 fifty-one thousand five hundred and seventeen dollars  
2 (\$151,517.00), and the said sum so paid into the General Fund is  
3 hereby appropriated to the Department of Revenue for the purpose  
4 of administering this act.

5 Section 10. License Tax in Addition to Existing Taxes.--The  
6 license tax imposed by this act shall be in addition to any  
7 taxes now imposed or that may subsequently be imposed by law.

8 Section 11. Constitutionality.--If any section, sentence,  
9 clause or part of this act is, for any reason, held to be  
10 unconstitutional, the decision of the court shall not affect or  
11 impair the remaining provisions of this act. It is hereby  
12 declared to be the legislative intent that this act would have  
13 been adopted had such unconstitutional section, sentence,  
14 clause, or part thereof, not been included therein.

15 Section 12. Effective Date.--This act shall become effective  
16 immediately upon final enactment.]

17 Section 2. This act shall take effect in 60 days.