
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1979 Session of
2019

INTRODUCED BY READSHAW, KULIK, McNEILL, HILL-EVANS, YOUNGBLOOD,
CALTAGIRONE AND DeLUCA, OCTOBER 23, 2019

REFERRED TO COMMITTEE ON LIQUOR CONTROL, OCTOBER 23, 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, 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. Sections 404(a), 461(b.3) and 493.1(a) of the act
25 of April 12, 1951 (P.L.90, No.21), known as the Liquor Code, are
26 amended to read:

27 Section 404. Issuance, Transfer or Extension of Hotel,

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

1 facilities: And provided further, That the board shall refuse
2 any application for a new license, the transfer of any license
3 to a new location or the extension of an existing license to
4 cover an additional area if, in the board's opinion, such new
5 license, transfer or extension would be detrimental to the
6 welfare, health, peace and morals of the inhabitants of the
7 neighborhood within a radius of five hundred feet of the place
8 proposed to be licensed: And provided further, That the board
9 shall have the discretion to refuse a license to any person or
10 to any corporation, partnership or association if such person,
11 or any officer or director of such corporation, or any member or
12 partner of such partnership or association shall have been
13 convicted or found guilty of a felony within a period of five
14 years immediately preceding the date of application for the said
15 license. The board shall not license the area where liquid fuels
16 or oil is sold. No sales of liquid fuels or oil may be made from
17 a licensee's licensed premises. A licensed premises may not have
18 an interior connection with a location that sells liquid fuels
19 or oil unless it first receives permission from the board for
20 the interior connection. The approval shall be required
21 regardless of whether the licensee or another party is the
22 entity selling the liquid fuels or oil. All issuances, transfers
23 or extensions under this section shall be subject to any maximum
24 saturation ratio established under section 493.1(a). The board
25 may enter into an agreement with the applicant concerning
26 additional restrictions on the license in question. If the board
27 and the applicant enter into such an agreement, such agreement
28 shall be binding on the applicant. Failure by the applicant to
29 adhere to the agreement will be sufficient cause to form the
30 basis for a citation under section 471 and for the nonrenewal of

1 the license under section 470. If the board enters into an
2 agreement with an applicant concerning additional restrictions,
3 those restrictions shall be binding on subsequent holders of the
4 license until the license is transferred to a new location or
5 until the board enters into a subsequent agreement removing
6 those restrictions. If the application in question involves a
7 location previously licensed by the board, then any restrictions
8 imposed by the board on the previous license at that location
9 shall be binding on the applicant unless the board enters into a
10 new agreement rescinding those restrictions. The board may, in
11 its discretion, refuse an application for an economic
12 development license under section 461(b.1) or an application for
13 an intermunicipal transfer of a license if the board receives a
14 protest from the governing body of the receiving municipality.
15 The receiving municipality of an intermunicipal transfer or an
16 economic development license under section 461(b.1) may file a
17 protest against the transfer of a license into its municipality,
18 and the receiving municipality shall have standing in a hearing
19 to present testimony in support of or against the issuance or
20 transfer of a license. Upon any opening in any quota, an
21 application for a new license shall only be filed with the board
22 for a period of six months following said opening.

23 * * *

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

26 (b.3) An intermunicipal transfer of a license or issuance of
27 a license for economic development under subsection (b.1)(2)(i)
28 must first be approved by the governing body of the receiving
29 municipality when the total number of existing restaurant liquor
30 licenses and eating place retail dispenser licenses in the

1 receiving municipality equal or exceed one license per three
2 thousand inhabitants. An intramunicipal transfer of a license or
3 issuance of a license for economic development under subsection
4 (b.1)(2)(i) must first be approved by the governing body of the
5 municipality if the municipality has created a maximum
6 saturation ratio under section 493.1(a) and the saturation level
7 is met or exceeded. Upon request for approval of an
8 intermunicipal transfer of a license or issuance of an economic
9 development license by an applicant, at least one public hearing
10 shall be held by the municipal governing body for the purpose of
11 receiving comments and recommendations of interested individuals
12 residing within the municipality concerning the applicant's
13 intent to transfer a license into the municipality or acquire an
14 economic development license from the Pennsylvania Liquor
15 Control Board. The governing body shall, within forty-five days
16 of a request for approval, render a decision by ordinance or
17 resolution to approve or disapprove the applicant's request for
18 an intermunicipal transfer of a license or issuance of an
19 economic development license. The municipality may approve the
20 request. A decision by the governing body of the municipality to
21 deny the request may not be appealed. A copy of the approval
22 must be submitted with the license application. The approval
23 requirement shall not apply to licenses transferred into a tax
24 increment district created pursuant to the act of July 11, 1990
25 (P.L.465, No.113), known as the "Tax Increment Financing Act,"
26 located in a township of the second class that is located within
27 a county of the second class if the district was created prior
28 to December 31, 2002, and the governing body of the township has
29 adopted an agreement at a public meeting that consents to the
30 transfer of licenses into the tax increment district. Failure by

1 the governing body of the municipality to render a decision
2 within forty-five days of the applicant's request for approval
3 shall be deemed an approval of the application in terms as
4 presented unless the governing body has notified the applicant
5 in writing of their election for an extension of time not to
6 exceed sixty days. Failure by the governing body of the
7 municipality to render a decision within the extended time
8 period shall be deemed an approval of the application in terms
9 as presented.

10 * * *

11 Section 493.1. Rights of Municipalities Preserved.--(a)
12 Nothing in this act shall be construed to preempt the right of
13 any municipality to regulate zoning and enforce any other local
14 ordinances and codes dealing with health and welfare issues. A
15 municipality may, in any zoning district where licensed
16 facilities are permitted, establish a maximum saturation ratio
17 for licensed establishments taking into account one or more of
18 the following:

- 19 (1) type of licensed use;
20 (2) type of zoning district;
21 (3) the current saturation rate; and
22 (4) the size of the zoning district.

23 * * *

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