

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 371 Session of 2023

INTRODUCED BY ISAACSON, HARKINS, BENHAM, GIRAL, KINKEAD, PARKER AND SANCHEZ, MARCH 14, 2023

REFERRED TO COMMITTEE ON LIQUOR CONTROL, MARCH 14, 2023

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 preliminary provisions, further providing for definitions;
 18 and, in licenses and regulations and liquor, alcohol and malt
 19 and brewed beverages, further providing for license
 20 districts, license period and hearings, for issuance,
 21 transfer or extension of hotel, restaurant and club liquor
 22 licenses, for malt and brewed beverages manufacturers',
 23 distributors' and importing distributors' licenses and for
 24 malt and brewed beverages retail licenses.

25 The General Assembly of the Commonwealth of Pennsylvania
 26 hereby enacts as follows:

27 Section 1. Section 102 of the act of April 12, 1951 (P.L.90,
 28 No.21), known as the Liquor Code, is amended by adding a
 29 definition to read:

1 Section 102. Definitions.--The following words or phrases,
2 unless the context clearly indicates otherwise, shall have the
3 meanings ascribed to them in this section:

4 * * *

5 "Previously unlicensed location" shall mean a location that:

6 (1) has never held a retail liquor license, importing
7 distributor license or distributor license; or

8 (2) previously held a retail liquor license, importing
9 distributor license or distributor license which was not used
10 for a subsequent non-license-related purpose for a period of at
11 least three years.

12 * * *

13 Section 2. Sections 402(a) and (b), 404(a), 431(b), 432(d)
14 and (e) of the act are amended to read:

15 Section 402. License Districts; License Period; Hearings.--

16 (a) The board shall hold hearings on applications for licenses
17 and renewals thereof, as it deems necessary, at such times as it
18 shall fix for the purpose of hearing testimony for and against
19 applications for new licenses and renewals thereof. The board
20 shall hold a hearing on any application for a new hotel, club or
21 restaurant liquor license or the transfer of any such license to
22 a [new] previously unlicensed location, upon the request of any
23 person with standing to testify under subsection (b) if the
24 request is filed with the board within the first fifteen days of
25 posting of the notice of application pursuant to section 403(g).
26 The board may provide for the holding of such hearings by
27 hearing examiners learned in the law, to be appointed by the
28 Governor, who shall not be subject to the act of August 5, 1941
29 (P.L.752, No.286), known as the "Civil Service Act." Such
30 hearing examiners shall make a report to the board in each case

1 with their recommendations. The board may fix the license period
2 for each separate license so that the expiration dates shall be
3 staggered as to the State.

4 (b) Where a hearing is held in the case of an application
5 for a new hotel, club or restaurant liquor license or an
6 application for the transfer of a hotel, club or restaurant
7 liquor license to a [new] previously unlicensed location, the
8 board shall permit residents residing within a radius of five
9 hundred feet of the premises to testify at the hearing. The
10 board and any hearing examiner thereof shall give appropriate
11 evidentiary weight to any testimony of such residents given at
12 the hearing.

13 * * *

14 Section 404. Issuance, Transfer or Extension of Hotel,
15 Restaurant and Club Liquor Licenses.--(a) Upon receipt of the
16 application and the proper fees, and upon being satisfied of the
17 truth of the statements in the application that the applicant
18 and management company or companies, if any, are the only
19 persons in any manner pecuniarily interested in the business so
20 asked to be licensed and that no other person will be in any
21 manner pecuniarily interested therein during the continuance of
22 the license, except as hereinafter permitted, and that the
23 applicant is a person of good repute, that the premises applied
24 for meet all the requirements of this act and the regulations of
25 the board, that the applicant seeks a license for a hotel,
26 restaurant or club, as defined in this act, and that the
27 issuance of such license is not prohibited by any of the
28 provisions of this act, the board shall, in the case of a hotel
29 or restaurant, grant and issue to the applicant a liquor
30 license, and in the case of a club may, in its discretion, issue

1 or refuse a license: Provided, however, That in the case of any
2 new license or the transfer of any license to a [new] previously
3 unlicensed location or the extension of an existing license to
4 cover an additional area the board may, in its discretion, grant
5 or refuse such new license, transfer or extension if such place
6 proposed to be licensed is within three hundred feet of any
7 church, hospital, charitable institution, school, or public
8 playground, or if such new license, transfer or extension is
9 applied for a place which is within two hundred feet of any
10 other premises which is licensed by the board: And provided
11 further, That the board's authority to refuse to grant a license
12 because of its proximity to a church, hospital, charitable
13 institution, public playground or other licensed premises shall
14 not be applicable to license applications submitted for public
15 venues or performing arts facilities: And provided further, That
16 the board shall refuse any application for a new license, the
17 transfer of any license to a [new] previously unlicensed
18 location or the extension of an existing license to cover an
19 additional area if, in the board's opinion, such new license,
20 transfer or extension would be detrimental to the welfare,
21 health, peace and morals of the inhabitants of the neighborhood
22 within a radius of five hundred feet of the place proposed to be
23 licensed: And provided further, That the board shall have the
24 discretion to refuse a license to any person or to any
25 corporation, partnership or association if such person, or any
26 officer or director of such corporation, or any member or
27 partner of such partnership or association shall have been
28 convicted or found guilty of a felony within a period of five
29 years immediately preceding the date of application for the said
30 license. The board may enter into an agreement with the

1 applicant concerning additional restrictions on the license in
2 question. If the board and the applicant enter into such an
3 agreement, such agreement shall be binding on the applicant.
4 Failure by the applicant to adhere to the agreement will be
5 sufficient cause to form the basis for a citation under section
6 471 and for the nonrenewal of the license under section 470. If
7 the board enters into an agreement with an applicant concerning
8 additional restrictions, those restrictions shall be binding on
9 subsequent holders of the license until the license is
10 transferred to a [new] previously unlicensed location or until
11 the board enters into a subsequent agreement removing those
12 restrictions. If the application in question involves a location
13 previously licensed by the board, then any restrictions imposed
14 by the board on the previous license at that location shall be
15 binding on the applicant unless the board enters into a new
16 agreement rescinding those restrictions. The board may, in its
17 discretion, refuse an application for an economic development
18 license under section 461(b.1) or an application for an
19 intermunicipal transfer of a license if the board receives a
20 protest from the governing body of the receiving municipality.
21 The receiving municipality of an intermunicipal transfer or an
22 economic development license under section 461(b.1) may file a
23 protest against the transfer of a license into its municipality,
24 and the receiving municipality shall have standing in a hearing
25 to present testimony in support of or against the issuance or
26 transfer of a license. Upon any opening in any quota, an
27 application for a new license shall only be filed with the board
28 for a period of six months following said opening.

29 * * *

30 Section 431. Malt and Brewed Beverages Manufacturers',

1 Distributors' and Importing Distributors' Licenses.--* * *

2 (b) The board shall issue to any reputable person who
3 applies therefor, and pays the license fee hereinafter
4 prescribed, a distributor's or importing distributor's license
5 for the place which such person desires to maintain for the sale
6 of malt or brewed beverages, not for consumption on the premises
7 where sold, and in quantities of not less than a case or
8 original containers containing one hundred twenty-eight ounces
9 or more which may be sold separately as prepared for the market
10 by the manufacturer at the place of manufacture. In addition, a
11 distributor license holder may sell malt or brewed beverages in
12 any amount to a person not licensed by the board for off-
13 premises consumption. The sales shall not be required to be in
14 the package configuration designated by the manufacturer and may
15 be sold in refillable growlers. The board shall have the
16 discretion to refuse a license to any person or to any
17 corporation, partnership or association if such person, or any
18 officer or director of such corporation, or any member or
19 partner of such partnership or association shall have been
20 convicted or found guilty of a felony within a period of five
21 years immediately preceding the date of application for the said
22 license: And provided further, That, in the case of any new
23 license or the transfer of any license to a [new] previously
24 unlicensed location, the board may, in its discretion, grant or
25 refuse such new license or transfer if such place proposed to be
26 licensed is within three hundred feet of any church, hospital,
27 charitable institution, school or public playground, or if such
28 new license or transfer is applied for a place which is within
29 two hundred feet of any other premises which is licensed by the
30 board: And provided further, That the board shall refuse any

1 application for a new license or the transfer of any license to
2 a [new] previously unlicensed location if, in the board's
3 opinion, such new license or transfer would be detrimental to
4 the welfare, health, peace and morals of the inhabitants of the
5 neighborhood within a radius of five hundred feet of the place
6 proposed to be licensed. The board may enter into an agreement
7 with the applicant concerning additional restrictions on the
8 license in question. If the board and the applicant enter into
9 such an agreement, such agreement shall be binding on the
10 applicant. Failure by the applicant to adhere to the agreement
11 will be sufficient cause to form the basis for a citation under
12 section 471 and for the nonrenewal of the license under section
13 470. If the board enters into an agreement with an applicant
14 concerning additional restrictions, those restrictions shall be
15 binding on subsequent holders of the license until the license
16 is transferred to a [new] previously unlicensed location or
17 until the board enters into a subsequent agreement removing
18 those restrictions. If the application in question involves a
19 location previously licensed by the board, then any restrictions
20 imposed by the board on the previous license at that location
21 shall be binding on the applicant unless the board enters into a
22 new agreement rescinding those restrictions. The board shall
23 require notice to be posted on the property or premises upon
24 which the licensee or proposed licensee will engage in sales of
25 malt or brewed beverages. This notice shall be similar to the
26 notice required of hotel, restaurant and club liquor licensees.

27 Except as hereinafter provided, such license shall authorize
28 the holder thereof to sell or deliver malt or brewed beverages
29 in quantities above specified anywhere within the Commonwealth
30 of Pennsylvania, which, in the case of distributors, have been

1 purchased only from persons licensed under this act as
2 manufacturers or importing distributors, and in the case of
3 importing distributors, have been purchased from manufacturers
4 or persons outside this Commonwealth engaged in the legal sale
5 of malt or brewed beverages or from manufacturers or importing
6 distributors licensed under this article. In the case of an
7 importing distributor, the holder of such a license shall be
8 authorized to store and repackage malt or brewed beverages owned
9 by a manufacturer at a segregated portion of a warehouse or
10 other storage facility authorized by section 441(d) and operated
11 by the importing distributor within its appointed territory and
12 deliver such beverages to another importing distributor who has
13 been granted distribution rights by the manufacturer as provided
14 herein. The importing distributor shall be permitted to receive
15 a fee from the manufacturer for any related storage, repackaging
16 or delivery services. In the case of a bailee for hire hired by
17 a manufacturer, the holder of such a permit shall be authorized:
18 to receive, store and repackage malt or brewed beverages
19 produced by that manufacturer for sale by that manufacturer to
20 importing distributors to whom that manufacturer has given
21 distribution rights pursuant to this subsection or to purchasers
22 outside this Commonwealth for delivery outside this
23 Commonwealth; or to ship to that manufacturer's storage
24 facilities outside this Commonwealth. The bailee for hire shall
25 be permitted to receive a fee from the manufacturer for any
26 related storage, repackaging or delivery services. The bailee
27 for hire shall, as required in Article V of this act, keep
28 complete and accurate records of all transactions, inventory,
29 receipts and shipments and make all records and the licensed
30 areas available for inspection by the board and for the

1 Pennsylvania State Police, Bureau of Liquor Control Enforcement,
2 during normal business hours.

3 Each out of State manufacturer of malt or brewed beverages
4 whose products are sold and delivered in this Commonwealth shall
5 give distributing rights for such products in designated
6 geographical areas to specific importing distributors, and such
7 importing distributor shall not sell or deliver malt or brewed
8 beverages manufactured by the out of State manufacturer to any
9 person issued a license under the provisions of this act whose
10 licensed premises are not located within the geographical area
11 for which he has been given distributing rights by such
12 manufacturer. In addition, the holder of a distributor license
13 may not sell or deliver malt or brewed beverages to any licensee
14 whose licensed premises is located within the designated
15 geographical area granted to an importing distributor other than
16 the importing distributor that sold the malt or brewed beverages
17 to the distributor. If the licensee purchasing the malt or
18 brewed beverages from the distributor license holder holds
19 multiple licenses or operates at more than one location, then
20 the malt or brewed beverages may not be consumed or sold at
21 licensed premises located within the designated geographical
22 area granted to an importing distributor other than the
23 importing distributor that sold the malt or brewed beverages to
24 the distributor. Should a licensee accept the delivery of malt
25 or brewed beverages or transfer malt or brewed beverages in
26 violation of this section, said licensee shall be subject to a
27 suspension of his license for at least thirty days: Provided,
28 That the importing distributor holding such distributing rights
29 for such product shall not sell or deliver the same to another
30 importing distributor without first having entered into a

1 written agreement with the said secondary importing distributor
2 setting forth the terms and conditions under which such products
3 are to be resold within the territory granted to the primary
4 importing distributor by the manufacturer.

5 When a Pennsylvania manufacturer of malt or brewed beverages
6 licensed under this article names or constitutes a distributor
7 or importing distributor as the primary or original supplier of
8 his product, he shall also designate the specific geographical
9 area for which the said distributor or importing distributor is
10 given distributing rights, and such distributor or importing
11 distributor shall not sell or deliver the products of such
12 manufacturer to any person issued a license under the provisions
13 of this act whose licensed premises are not located within the
14 geographical area for which distributing rights have been given
15 to the distributor and importing distributor by the said
16 manufacturer. In addition, the holder of a distributor license
17 may not sell or deliver malt or brewed beverages to a licensee
18 whose licensed premises is located within the designated
19 geographical area granted to an importing distributor other than
20 the importing distributor that sold the malt or brewed beverages
21 to the distributor. If the licensee purchasing the malt or
22 brewed beverages from the distributor license holder holds
23 multiple licenses or operates at more than one location, the
24 malt or brewed beverages may not be consumed or sold at licensed
25 premises located within the designated geographical area granted
26 to an importing distributor other than the importing distributor
27 that sold the malt or brewed beverages to the distributor. If a
28 licensee accepts the delivery of malt or brewed beverages or
29 transfers malt or brewed beverages in violation of this section,
30 the licensee shall be subject to suspension of his license for

1 at least thirty days: Provided, That the importing distributor
2 holding such distributing rights for such product shall not sell
3 or deliver the same to another importing distributor without
4 first having entered into a written agreement with the said
5 secondary importing distributor setting forth the terms and
6 conditions under which such products are to be resold within the
7 territory granted to the primary importing distributor by the
8 manufacturer. Nothing herein contained shall be construed to
9 prevent any manufacturer from authorizing the importing
10 distributor holding the distributing rights for a designated
11 geographical area from selling the products of such manufacturer
12 to another importing distributor also holding distributing
13 rights from the same manufacturer for another geographical area,
14 providing such authority be contained in writing and a copy
15 thereof be given to each of the importing distributors so
16 affected.

17 * * *

18 Section 432. Malt and Brewed Beverages Retail Licenses.--* *

19 *

20 (d) The board shall, in its discretion, grant or refuse any
21 new license, the transfer of any license to a [new] previously
22 unlicensed location or the extension of an existing license to
23 cover an additional area if such place proposed to be licensed
24 is within three hundred feet of any church, hospital, charitable
25 institution, school, or public playground, or if such new
26 license, transfer or extension is applied for a place which is
27 within two hundred feet of any other premises which is licensed
28 by the board. The board shall refuse any application for a new
29 license, the transfer of any license to a [new] previously
30 unlicensed location or the extension of an existing license to

1 cover an additional area if, in the board's opinion, such new
2 license, transfer or extension would be detrimental to the
3 welfare, health, peace and morals of the inhabitants of the
4 neighborhood within a radius of five hundred feet of the place
5 to be licensed. The board may enter into an agreement with the
6 applicant concerning additional restrictions on the license in
7 question. If the board and the applicant enter into such an
8 agreement, such agreement shall be binding on the applicant.
9 Failure by the applicant to adhere to the agreement will be
10 sufficient cause to form the basis for a citation under section
11 471 and for the nonrenewal of the license under section 470. If
12 the board enters into an agreement with an applicant concerning
13 additional restrictions, those restrictions shall be binding on
14 subsequent holders of the license until the license is
15 transferred to a [new] previously unlicensed location or until
16 the board enters into a subsequent agreement removing those
17 restrictions. If the application in question involves a location
18 previously licensed by the board, then any restrictions imposed
19 by the board on the previous license at that location shall be
20 binding on the applicant unless the board enters into a new
21 agreement rescinding those restrictions. The board shall have
22 the discretion to refuse a license to any person or to any
23 corporation, partnership or association if such person, or any
24 officer or director of such corporation, or any member or
25 partner of such partnership or association shall have been
26 convicted or found guilty of a felony within a period of five
27 years immediately preceding the date of application for the said
28 license. The board may, in its discretion, refuse an application
29 for an economic development license under section 461(b.1) or an
30 application for an intermunicipal transfer or a license if the

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

12 (e) Every applicant for a new or for the transfer of an
13 existing license to another premises not then licensed shall
14 post, for a period of at least thirty days beginning with the
15 day the application is filed with the board, in a conspicuous
16 place on the outside of the premises or in a window plainly
17 visible from the outside of the premises for which the license
18 is applied or at the proposed [new] previously unlicensed
19 location, a notice of such application. The notice shall
20 indicate whether the applicant is applying for the amusement
21 permit required by section 493(10). The notice shall be in such
22 form, be of such size, and contain such provisions as the board
23 may require by its regulations. Proof of the posting of such
24 notice shall be filed with the board.

25 * * *

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