

## No. 125

## AN ACT

## SB 159

Amending the act of April 12, 1951 (P.L.90, No.21), entitled "An act relating to alcoholic liquors, alcohol and malt and brewed beverages; amending, revising, consolidating and changing the laws relating thereto; regulating and restricting the manufacture, purchase, sale, possession, consumption, importation, transportation, furnishing, holding in bond, holding in storage, traffic in and use of alcoholic liquors, alcohol and malt and brewed beverages and the persons engaged or employed therein; defining the powers and duties of the Pennsylvania Liquor Control Board; providing for the establishment and operation of State liquor stores, for the payment of certain license fees to the respective municipalities and townships, for the abatement of certain nuisances and, in certain cases, for search and seizure without warrant; prescribing penalties and forfeitures; providing for local option, and repealing existing laws," prohibiting liquor stores within a dry community without a referendum; authorizing licenses under certain terms and conditions for certain art museums; and making editorial changes.

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

Section 1. Section 301, act of April 12, 1951 (P.L.90, No.21), known as the "Liquor Code," amended December 12, 1973 (P.L.395, No.140), is amended to read:

Section 301. Board to Establish State Liquor Stores.—The board shall establish, operate and maintain at such places throughout the Commonwealth as it shall deem essential and advisable, stores to be known as "Pennsylvania Liquor Stores," for the sale of liquor and alcohol in accordance with the provisions of and the regulations made under this act; except that no store not so already located shall be located within three hundred feet of any elementary or secondary school, *nor within a dry municipality without there first having been a referendum approving such location*. When the board shall have determined upon the location of a liquor store in any municipality, it shall give notice of such location by public advertisement in two newspapers of general circulation. In cities of the first class, the location shall also be posted for a period of at least fifteen days following its determination by the board as required in section 403(g) of this act. The notice shall be posted in a conspicuous place on the outside of the premises in which the proposed store is to operate or, in the event that a new structure is to be built in a similarly visible location. If, within five days after the appearance of such advertisement, or of the last day upon which the notice was posted, fifteen or more taxpayers residing within a quarter of a mile of such location, or the City Solicitor of the city of the first class, shall file a protest with the court of [quarter sessions] *common pleas* of the county averring that the location is objectionable because of its proximity to a church, a school, or to private residences, the court shall forthwith hold a hearing affording an opportunity to the

protestants and to the board to present evidence. The court shall render its decision immediately upon the conclusion of the testimony and from the decision there shall be no appeal. If the court shall determine that the proposed location is undesirable for the reasons set forth in the protest, the board shall abandon it and find another location. The board may establish, operate and maintain such establishments for storing and testing liquors as it shall deem expedient to carry out its powers and duties under this act.

The board may lease the necessary premises for such stores or establishments, but all such leases shall be made through the Department of **[Property and Supplies] General Services** as agent of the board. The board, through the Department of **[Property and Supplies] General Services**, shall have authority to purchase such equipment and appointments as may be required in the operation of such stores or establishments.

Section 2. Section 408.5 of the act, added October 26, 1972 (P.L.1039, No.259), is amended to read:

Section 408.5. Licenses for City-owned Art Museums, Cities First Class *and Art Museums Maintained by Certain Non-profit Corporations in Cities of the Second Class*.—(a) The board is authorized to issue a license in any city of the first class for the retail sale of liquor and malt or brewed beverages by the glass, open bottles or other container, and in any mixture, for consumption in any city-owned art museum *or in any art museum maintained by a non-profit corporation in cities of the second class. For the purpose of this section "non-profit corporation" shall mean a corporation organized under the non-profit corporation laws for the benefit of the public and not for the mutual benefit of its members, and which maintains an art museum having a floor area of not less than one hundred thousand square feet in one building.*

(b) The application for a license may be filed at any time by the city, *the non-profit corporation* or lessee. The application may also be filed by a concessionaire selected and certified by the city *or the non-profit corporation*. The application shall conform with all requirements for restaurant liquor licenses and applications except as may otherwise be provided herein. Applicant shall submit such other information as the board may require. The application shall be in writing on forms prescribed by the board and shall be signed and submitted to the board by the applicant. A filing fee of twenty dollars (\$20) shall accompany the license application.

(c) Upon receipt of the application in proper form with the application fee and upon being satisfied that the applicant is of good repute and financially responsible and that the proposed place of business is proper, the board shall issue a license to the applicant.

(d) The license shall be issued for the same period of time as provided for restaurant licensees and shall be renewed as provided in section 402. The license shall terminate upon revocation by the board or upon termination of the lease or upon termination of the contract between the concessionaire and the city *or the non-profit corporation*.

**[(e) The annual fee for an art museum license shall be two hundred dollars (\$200) and shall accompany the application for the license. Whenever a lease terminates or whenever a concessionaire's contract terminates, the license shall be returned to the board for cancellation and a new license shall be issued to a new applicant.**

**(f) The penal sum of the bond which shall be filed by an applicant for an art museum license under section 465 of this act shall be one thousand dollars (\$1,000) and in addition thereto he shall file an additional bond in a sum to assure payment of any fine imposed by the board up to five hundred dollars (\$500).]**

**(g) Sales by the holder of an art museum license may be made except to those persons prohibited by this act on [city-owned] premises used for art museum purposes, but such sales may not be made beyond the hours expressed in this act for the sale of liquor by restaurant licensees. However, sales of liquor or malt or brewed beverages may be made by an art museum licensee at banquets at which more than five hundred persons are scheduled to attend and at any other function which is directly related to art museum purposes.**

**(h) Whenever a lease or a concession contract is terminated prior to the expiration date provided in the lease or contract between the city *or the non-profit corporation* and the tenant or concessionaire, the city *or the non-profit corporation* may select and certify to the board a different licensee or concessionaire who may then apply to the board for a new license. If the applicant meets the requirements of the board as herein provided a new license shall thereupon be issued.**

**(i) If the board shall revoke any art museum license, the board shall issue a new license to any qualified applicant without regard to the prohibition in section 471 against the grant of a license at the same premises for a period of at least one year.**

***(i.1) Any renewal of a license presently held by a city-owned art museum in a city of the first class shall be accomplished by the purchase of a license from an existing licensee.***

***(i.2) An art museum maintained by a non-profit corporation or corporations in a city of the second class which obtains approval of its application for a license from the board shall purchase a license from an existing licensee.***

**(j) The provisions of this act shall supersede or exempt any provision of the Liquor Code which would prevent the issuance of a license for the retail sale of liquor and malt or brewed beverages upon any premises owned by the city of the first class *or by a non-profit corporation in a city of the second class* used for art museum purposes.**

**Section 3. This act shall take effect immediately.**

**APPROVED—The 9th day of July, A. D. 1976.**

**MILTON J. SHAPP**