

No. 1990-48

AN ACT

HB 1139

Amending the act of April 12, 1951 (P.L.90, No.21), entitled, as reenacted, "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," further providing for the issuance of licenses for sales at performing arts facilities; and providing for the issuance of licenses for sales at nonprimary pari-mutuel wagering locations and racetracks.

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

Section 1. Section 102 of the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code, reenacted and amended June 29, 1987 (P.L.32, No.14), is amended by adding definitions to read:

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

* * *

"Nonprimary pari-mutuel wagering location" shall mean a nonprimary location for pari-mutuel wagering as designated by the State Horse Racing Commission or State Harness Racing Commission pursuant to the act of December 17, 1981 (P.L.435, No.135), known as the "Race Horse Industry Reform Act."

* * *

"Racetrack" shall mean a primary location for pari-mutuel wagering as designated by the State Horse Racing Commission or State Harness Racing Commission pursuant to the act of December 17, 1981 (P.L.435, No.135), known as the "Race Horse Industry Reform Act."

* * *

Section 2. Section 405 of the act is amended by adding a subsection to read:

Section 405. License Fees.—* * *

(e) Every application for a restaurant liquor license for a nonprimary pari-mutuel wagering location or a racetrack shall be accompanied by an applicant's fee of five thousand dollars (\$5,000) and a bond in the penal sum of two thousand dollars (\$2,000). Thereafter, the nonprimary pari-mutuel wagering location or the racetrack shall be subject to the above stated fees

for restaurant licenses and the filing of a yearly bond in the amount of two thousand dollars (\$2,000). Such license can be issued at any time; thereafter, the license shall be renewed for the same time period as provided for restaurant licenses pursuant to section 402 of this act.

Section 3. Section 408.3(a.1) and (b.1) of the act are amended to read:

Section 408.3. Performing Arts Facilities.—* * *

(a.1) The board is authorized to issue licenses to operators of theaters for the performing arts, other than a theater qualifying under subsection (a), which are permanently located at a single site and which have seating accommodations, affixed to the theater structure, for at least **[twenty-eight hundred]** *one thousand* persons except where prohibited by local option for the retail sale of liquor and malt or brewed beverages by the glass, open bottle, or other container or in any mixture for consumption in any such theater for the performing arts.

* * *

(b.1) A performing arts facility referred to in subsection (a.1) **[or] must be in operation for a period of one (1) year and a performing arts facility referred to in subsection (a.2)** must be in operation for a period of two (2) years before it may file an application for a license. The application for a performing arts facility license may be filed at any time thereafter by the operator or a concessionaire selected by the operator of such theater for the performing arts and shall conform with all requirements for restaurant liquor licenses and applications except as may be otherwise provided herein. Applicants shall submit such other information as the board may require. Applications shall be in writing on forms prescribed by the board and shall be signed and submitted to the board by the applicant. The filing fee shall accompany the license application.

* * *

Section 4. Section 408.6 heading, (a), (b) and (j) of the act are amended and the section is amended by adding a subsection to read:

Section 408.6. Performing Arts Facilities in Third Class Cities *and Townships of the Second Class Located in Fourth Class Counties.*—

(a) The board is authorized to issue a restaurant liquor license to a nonprofit corporation or to a concessionaire selected by such nonprofit corporation in any city of the third class for the retail sale of liquor and malt or brewed beverages by the glass, open bottles or other container or in any mixture for consumption on any city-owned premises utilized as a nonprofit performing arts facility or any other premises utilized as a nonprofit performing arts facility where there is an available seating capacity within the premises of **[one thousand] six hundred fifty** or more: Provided, however, That no sale or consumption of such beverages shall take place on any portions of such premises other than service areas approved by the board.

(a.1) The board is authorized to issue licenses to operators of theaters for the performing arts in townships of the second class located in fourth class counties which are permanently located at a single site and which have seating accommodations affixed to the theater structure for at least seven thousand persons, except where prohibited by local option for the retail sale

of liquor and malt or brewed beverages by the glass, open bottles or other container or in any mixture for consumption in any such theater for the performing arts.

[(b) An application for the issuance may be filed at any time by a non-profit corporation operating such a theater for the performing arts or by a concessionaire selected by such nonprofit corporation. Any such license granted under these provisions need not conform to the requirements of the act relating to restaurant liquor licenses, except as provided herein. Applicant shall submit such other information as the board may require. Applications shall be in writing on forms prescribed by the board and shall be signed and submitted to the board by the applicant. The filing fee which shall accompany the license application shall be thirty dollars (\$30).]

(b) An application for the issuance may be filed at any time. Any such license granted under these provisions need not conform to the requirements of the act relating to restaurant liquor licenses, except as provided herein. Applicants shall submit such other information as the board may require. Applications shall be in writing on forms prescribed by the board and shall be signed and submitted to the board by the applicant. The filing fee which shall accompany the license application shall be thirty dollars (\$30).

* * *

[(j) Performing arts licenses shall not be subject to the provisions of section 404 except insofar as they relate to the reputation of the applicant nor to the provisions of sections 461 and 463, nor to the provisions of clause (10) of section 493.]

(j) Performing arts licenses under subsections (a) and (a.1) shall not be subject to the provisions of section 404 except insofar as they relate to the reputation of the applicant nor to the provisions of sections 461 and 463 nor to the provisions of clause (10) of section 493.

* * *

Section 5. Section 463(a) of the act is amended to read:

Section 463. Places of Amusement Not To Be Licensed; Penalty.—
(a) No license for the sale of liquor or malt or brewed beverages in any quantity shall be granted to the proprietors, lessees, keepers or managers of any theater, circus, museum or other place of amusement, nor shall any house be licensed for the sale of liquor or malt or brewed beverages which has passage or communication to or with any theater, circus, museum or other place of amusement, and any license granted contrary to this act shall be null and void. Nothing contained in this section shall be construed as denying to the board the right to grant a restaurant liquor license regardless of quota restrictions to the owner or operator of:

(1) a racetrack as defined in section 102 of this act;

(2) a nonprimary pari-mutuel wagering location as defined in section 102 of this act; or

(3) a restaurant in a building on a plot of ground owned or possessed under lease by a corporation incorporated under the laws of this Commonwealth and used principally by such corporation for holding outdoor sport events wherein such events are held under a license issued as provided by law

to such corporation by a department, board or commission of the Commonwealth of Pennsylvania.

The restaurant liquor license aforementioned shall be subject to all the conditions and restrictions herein applicable to restaurant liquor licenses, except the above prohibition against any passageway or communication between such licensed premises and the place of amusement, *and except that nothing contained in this act shall be construed to prohibit the licensed nonprimary pari-mutuel wagering location or the racetrack from providing wagering within the entire licensed premises of the nonprimary pari-mutuel wagering location or the racetrack, and a restaurant liquor license issued for a nonprimary pari-mutuel wagering location or a restaurant liquor license issued for a racetrack issued subsequent to the enactment of this amendment shall not be transferable.*

Nothing contained in this act shall be construed as denying to the board the right to grant a new restaurant liquor license, regardless of quota restrictions, at any time, to the owner or operator of a restaurant in a building or plot of ground having a seating capacity in excess of twenty-five thousand, used principally for holding automobile races.

* * *

Section 6. This act shall take effect immediately.

APPROVED—The 31st day of May, A. D. 1990.

ROBERT P. CASEY