

No. 46

AN ACT

HB 1558

Amending the act of April 12, 1951 (P.L.90), 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," authorizing the sale of liquor and malt and brewed beverages at theaters for the performing arts in cities of the first or second class with seating accommodations for at least twenty-seven hundred persons and further providing for and regulating the issuance of certain licenses.

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

Section 1. Subsection (a) of section 463, act of April 12, 1951 (P.L.90), known as the "Liquor Code," amended September 2, 1971 (Act No. 103), 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 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 [authorized by electors in a referendum in the county] 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.

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 2. The act is amended by adding a section to read:

Section 408.3. Performing Arts Facilities.—(a) The board is authorized to issue a license to one nonprofit corporation operating a theater for the performing arts in each city of the first or second class which has seating accommodations for at least twenty-seven hundred 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) The application for a performing arts facility license may be filed at any time by a nonprofit corporation operating such a theater for the performing arts or by a concessionaire selected by such nonprofit corporation and 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. 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 twenty dollars (\$20).

(c) Upon receipt of the application in proper form and 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 licenses and shall be renewed as provided in section 402. The license shall terminate upon revocation by the board or upon termination of the contract between the concessionaire and such nonprofit corporation.

(e) The annual fee for a performing arts facility shall be six hundred dollars (\$600), and shall accompany the application for the license. Whenever and if 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 a performing arts facility pursuant to section 465 of the "Liquor Code" shall be two thousand dollars (\$2,000).

(g) Sales by the holder of a performing arts facility license may be made except to those persons prohibited under clause (1) of section 493 of this act on the premises of such a theater for the performing arts during the hours expressed in the code for the sale of liquor and malt and brewed beverages by restaurant licensees, and the license may be

used for such sales on Sundays between the hours of 1:00 P.M. and 10:00 P.M., irrespective of the volume of food sales.

(h) Whenever a contract with a concessionaire is terminated prior to the expiration date provided in the contract between such nonprofit corporation and the concessionaire, such nonprofit corporation may select and certify to the board a different concessionaire which concessionaire shall 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. If any such performing arts facility license is revoked, 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 (1) year.

(i) Licenses issued under the provisions of this section shall not be subject to the quota restrictions of section 461 of this act.

(j) Performing arts facility licenses shall not be subject to the provisions of section 404 except in so far 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 of the "Liquor Code."

(k) Sales under such licenses (including food sales) may be limited by the licensee to patrons of the events scheduled in the theater of the performing arts. Provided food is offered for sale when sales are made under the license, such food may be catered from off the premises.

APPROVED—The 23rd day of March, A. D. 1972.

MILTON J. SHAPP

The foregoing is a true and correct copy of Act of the General Assembly No. 46.

A handwritten signature in black ink, reading "C. McLaughlin Tucker". The signature is written in a cursive, flowing style.

Secretary of the Commonwealth.