

No. 1982-311

AN ACT

SB 1335

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," further providing for licenses for certain performing arts facilities, for certain unlawful acts, for stadium or arena permits and for tourist areas.

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

Section 1. Section 408.3, act of April 12, 1951 (P.L.90, No.21), known as the "Liquor Code," added March 23, 1972 (P.L.122, No.46), is amended 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.

(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 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)].

(b.1) A performing arts facility referred to in subsection (a.1) 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.

(b.2) The filing fee which is prescribed in clause (19) of section 614-A of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929," shall accompany the license application filed under subsection (b) or (b.1)¹.

(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] *the operator of such theater for the performing arts.*

(e) The annual fee for a performing arts facility shall [be six hundred dollars (\$600), and shall] accompany the application for the license *and shall be as prescribed in clause (19) of section 614-A of "The Administrative Code of 1929."* 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.

(g.1) Sales by the holder of a performing arts facility license referred to in subsection (a.1) shall be further restricted to the period of time beginning one (1) hour before and ending one (1) hour after any presentation at the performing arts facility.

¹ "(b.1) or (b.2)" in original.

(h) Whenever a contract with a concessionaire is terminated prior to the expiration date provided in the contract between such **[nonprofit corporation] operator** and the concessionaire, **[such nonprofit corporation] operator** 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 *referred to in subsection (a)* 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."

(j.1) Performing arts facilities referred to in subsection (a.1) shall not be subject to the provisions of section 463 nor to the provision requiring a special permit for dancing, theatricals or floor shows of any sort, or moving pictures other than television in 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.

Section 2. Subsection (a) of section 433.1 of the act, amended July 9, 1976 (P.L.924, No.173), is amended to read:

Section 433.1. Stadium or Arena Permits.—(a) The board is hereby authorized to issue, in cities of the first, second and third class, **[and] in counties of the third class and in school districts in counties of the third class**, special permits allowing the holders thereof to make retail sales of malt or brewed beverages in shatterproof containers at all events on premises principally utilized for competition of professional and amateur athletes and other types of entertainment having an available seating capacity of twelve thousand or more in cities of the first and second class and seven thousand or more and owned by the city in cities of the third class and four thousand two hundred or more and owned by counties of the third class **and two thousand five hundred or more in school districts in counties of the third class**: Provided, however, That in cities of the second class this section shall be applicable only to premises owned, leased or operated by any authority created under the act of July 29, 1953 (P.L.1034, No.270), known as the "Public Auditorium Authorities Law." Such sales may be made only to adults and only on days when the premises are so used and only during the period from one hour before the start of and ending one-half hour after the close of the event on the premises: *Provided, however, That in school districts in counties*

of the third class sales may be made only during professional athletic competition.

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Section 3. This act shall take effect immediately.

APPROVED—The 16th day of December, A. D. 1982.

DICK THORNBURGH