



House of Representatives

File No. 805

General Assembly

January Session, 2003

(Reprint of File No. 203)

House Bill No. 5810
As Amended by House
Amendment Schedules
"A", "B" and "C"

Approved by the Legislative Commissioner
May 31, 2003

AN ACT CONCERNING THE LIQUOR CONTROL ACT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 30-39 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2003*):

3 (a) For the purposes of this section, the "filing date" of an application
4 means the date upon which the department, after approving the
5 application for processing, mails or otherwise delivers to the applicant
6 a placard containing such date.

7 (b) (1) Any person desiring a liquor permit or a renewal of such a
8 permit shall make a sworn application therefor to the Department of
9 Consumer Protection upon forms to be furnished by the department,
10 showing the name and address of the applicant and of [his] the
11 applicant's backer, if any, the location of the club or place of business
12 which is to be operated under such permit and a financial statement
13 setting forth all elements and details of any business transactions
14 connected with the application. Such application shall include a

15 detailed description of the type of live entertainment that is to be
16 provided. A club or place of business shall be exempt from providing
17 such detailed description if the club or place of business (A) was issued
18 a liquor permit prior to October 1, 1993, and (B) has not altered the
19 type of entertainment provided. The application shall also indicate any
20 crimes of which the applicant or [his] the applicant's backer may have
21 been convicted. Applicants shall submit documents sufficient to
22 establish that state and local building, fire and zoning requirements
23 and local ordinances concerning hours and days of sale will be met,
24 except that local building and zoning requirements and local
25 ordinances concerning hours and days of sale shall not apply to any
26 class of airport permit. The State Fire Marshal or [his] the marshal's
27 certified designee shall be responsible for approving compliance with
28 the State Fire Code at Bradley International Airport. Any person
29 desiring a permit provided for in section 30-33b shall file a copy of
30 [his] such person's license from the Division of Special Revenue or the
31 Gaming Policy Board with such application. The department may, at
32 its discretion, conduct an investigation to determine whether a permit
33 shall be issued to an applicant.

34 (2) The applicant shall pay to the department a nonrefundable
35 application fee, which fee shall be in addition to the fees prescribed in
36 this chapter for the permit sought. An application fee shall not be
37 charged for an application to renew a permit. The application fee shall
38 be in the amount of ten dollars for the filing of each application for a
39 permit by a charitable organization, including a nonprofit public
40 television corporation, a nonprofit golf tournament permit, a
41 temporary permit or a special club permit; and for all other permits in
42 the amount of one hundred dollars for the filing of an initial
43 application. Any permit issued shall be valid only for the purposes and
44 activities described in the application.

45 (3) The applicant, immediately after filing an application, shall give
46 notice thereof, with the name and residence of the permittee, the type
47 of permit applied for and the location of the place of business for
48 which such permit is to be issued and the type of live entertainment to

49 be provided, all in a form prescribed by the department, by publishing
50 the same in a newspaper having a circulation in the town in which the
51 place of business to be operated under such permit is to be located, at
52 least once a week for two successive weeks, the first publication to be
53 not more than seven days after the filing date of the application and
54 the last publication not more than fourteen days after the filing date of
55 the application. The applicant shall affix, and maintain in a legible
56 condition upon the outer door of the building wherein such place of
57 business is to be located and clearly visible from the public highway,
58 the placard provided by the department, not later than the day
59 following the receipt of the placard by the applicant. If such outer door
60 of such premises is so far from the public highway that such placard is
61 not clearly visible as provided, the department shall direct a suitable
62 method to notify the public of such application. When an application is
63 filed for any type of permit for a building that has not been
64 constructed, such applicant shall erect and maintain in a legible
65 condition a sign not less than six feet by four feet upon the site where
66 such place of business is to be located, instead of such placard upon
67 the outer door of the building. The sign shall set forth the type of
68 permit applied for and the name of the proposed permittee, shall be
69 clearly visible from the public highway and shall be so erected not
70 later than the day following the receipt of the placard. Such applicant
71 shall make a return to the department, under oath, of compliance with
72 the foregoing requirements, in such form as the department may
73 determine, but the department may require any additional proof of
74 such compliance. Upon receipt of evidence of such compliance, the
75 department may hold a hearing as to the suitability of the proposed
76 location. The provisions of this subdivision shall not apply to
77 applications for airline permits, charitable organization permits,
78 temporary permits, special club permits, concession permits, military
79 permits, railroad permits, boat permits, warehouse permits, brokers'
80 permits, out-of-state shippers' permits for alcoholic liquor and out-of-
81 state shippers' permits for beer, coliseum permits, coliseum concession
82 permits, special sporting facility restaurant permits, special sporting
83 facility employee recreational permits, special sporting facility guest

84 permits, special sporting facility concession permits, special sporting
85 facility bar permits, nonprofit golf tournament permits, nonprofit
86 public television permits and renewals. The provisions of this
87 subdivision regarding publication and placard display shall also be
88 required of any applicant who seeks to amend the type of
89 entertainment upon filing of a renewal application.

90 (4) In any case in which a permit has been issued to a partnership, if
91 one or more of the partners dies or retires, the remaining partner or
92 partners need not file a new application for the unexpired portion of
93 the current permit, and no additional fee for such unexpired portion
94 shall be required. Notice of any such change shall be given to the
95 department and the permit shall be endorsed to show correct
96 ownership. When any partnership changes by reason of the addition of
97 one or more persons, a new application with new fees shall be
98 required.

99 (c) Any ten residents of the town within which is intended to be
100 operated the business for which the permit or renewal thereof has been
101 applied for, or, in the case of a manufacturer's or a wholesaler's permit,
102 any ten residents of the state, may file with the department, within
103 three weeks from the filing date of the application for an initial permit,
104 and in the case of renewal of an existing permit, at least twenty-one
105 days before the renewal date of such permit, a remonstrance
106 containing any objection to the suitability of such applicant or
107 proposed place of business. Upon the filing of such remonstrance, the
108 department, upon written application, shall hold a hearing and shall
109 give such notice as it deems reasonable of the time and place at least
110 five days before such hearing is had. The remonstrants shall designate
111 one or more agents for service, who shall serve as the recipient or
112 recipients of all notices issued by the department. The decision of the
113 department on such application shall be final with respect to the
114 remonstrance.

115 (d) No new permit shall be issued until the foregoing provisions of
116 subsections (a) and (b) of this section have been complied with. Six

117 months' or seasonal permits may be renewed, provided the renewal
118 application and fee shall be filed at least twenty-one days before the
119 reopening of the business, there is no change in the permittee,
120 ownership or type of permit, and the permittee or backer did not
121 receive a rebate of the permit fee with respect to the permit issued for
122 the previous year.

123 (e) The department may renew a permit that has expired if the
124 applicant pays to the department a nonrefundable late fee pursuant to
125 subsection (c) of section 21a-4, which fee shall be in addition to the fees
126 prescribed in this chapter for the permit applied for. The provisions of
127 this subsection shall not apply to one-day permits, to any permit which
128 is the subject of administrative or court proceedings, or where
129 otherwise provided by law.

130 Sec. 2. Subsection (a) of section 30-46 of the general statutes is
131 repealed and the following is substituted in lieu thereof (*Effective*
132 *October 1, 2003*):

133 (a) The Department of Consumer Protection may, except as to a
134 store engaged chiefly in the sale of groceries that is located more than
135 five hundred feet from any residential property boundary line and has
136 a sales area in excess of five thousand square feet, in its discretion,
137 suspend, revoke or refuse to grant or renew a permit for the sale of
138 alcoholic liquor if it has reasonable cause to believe: (1) That the
139 proximity of the permit premises will have a detrimental effect upon
140 any church, public or parochial school, convent, charitable institution,
141 whether supported by private or public funds, hospital or veterans'
142 home or any camp, barracks or flying field of the armed forces; (2) that
143 such location is in such proximity to a no-permit town that it is
144 apparent that the applicant is seeking to obtain the patronage of such
145 town; (3) that the number of permit premises in the locality is such that
146 the granting of a permit is detrimental to the public interest, and, in
147 reaching a conclusion in this respect, the department may consider the
148 character of, the population of, the number of like permits and number
149 of all permits existent in, the particular town and the immediate

150 neighborhood concerned, the effect which a new permit may have on
151 such town or neighborhood or on like permits existent in such town or
152 neighborhood; (4) that the place has been conducted as a lewd or
153 disorderly establishment; (5) that the backer does not have a right to
154 occupy the permit premises; (6) that drive-up sales of alcoholic liquor
155 are being made at the permit premises; or (7) that there is any other
156 reason as provided by state or federal law or regulation which
157 warrants such refusal.

158 Sec. 3. Subsection (b) of section 19a-342 of the general statutes, as
159 amended by section 1 of public act 03-45, is repealed and the following
160 is substituted in lieu thereof (*October 1, 2003*):

161 (b) (1) Notwithstanding the provisions of section 31-40q, as
162 amended by this act, no person shall smoke: (A) In any building or
163 portion of a building owned and operated or leased and operated by
164 the state or any political subdivision thereof; (B) in any area of a health
165 care institution; (C) in any area of a retail food store; (D) in any
166 restaurant; (E) in any area of an establishment with a permit issued for
167 the sale of alcoholic liquor pursuant to section 30-20a, 30-21, 30-21b, 30-
168 22, 30-22c, 30-28, 30-28a, 30-33a, 30-33b, 30-35a, 30-37a, [30-37c,] 30-37e
169 or 30-37f, in any area of an establishment with a permit for the sale of
170 alcoholic liquor pursuant to section 30-23 issued after May 1, 2003,
171 and, on and after April 1, 2004, in any area of an establishment with a
172 permit issued for the sale of alcoholic liquor pursuant to section 30-22a,
173 [or] 30-26 or the bar area of a bowling establishment holding a permit
174 pursuant to subsection (a) of section 30-37c; (F) within a school
175 building while school is in session or student activities are being
176 conducted; (G) in any passenger elevator, provided no person shall be
177 arrested for violating this subsection unless there is posted in such
178 elevator a sign which indicates that smoking is prohibited by state law;
179 or (H) in any dormitory in any public or private institution of higher
180 education. For purposes of this subsection, "restaurant" means space,
181 in a suitable and permanent building, kept, used, maintained,
182 advertised and held out to the public to be a place where meals are
183 regularly served to the public.

184 (2) This section shall not apply to (A) correctional facilities; (B)
185 designated smoking areas in psychiatric facilities; (C) public housing
186 projects, as defined in subsection (b) of section 21a-278a; (D)
187 classrooms where demonstration smoking is taking place as part of a
188 medical or scientific experiment or lesson; (E) smoking rooms
189 provided by employers for employees, pursuant to section 31-40q, as
190 amended by this act; (F) notwithstanding the provisions of
191 subparagraph (E) of subdivision (1) of this subsection, the outdoor
192 portion of the premises of any permittee listed in subparagraph (E) of
193 subdivision (1) of this subsection, provided, in the case of any seating
194 area maintained for the service of food, at least seventy-five per cent of
195 the outdoor seating capacity is an area in which smoking is prohibited
196 and which is clearly designated with written signage as a nonsmoking
197 area, except that any temporary seating area established for special
198 events and not used on a regular basis shall not be subject to the
199 smoking prohibition or signage requirements of this subparagraph; or
200 (G) any tobacco bar, provided no tobacco bar shall expand in size or
201 change its location from its size or location as of December 31, 2002.
202 For purposes of this subdivision, "outdoor" means an area which has
203 no roof or other ceiling enclosure, "tobacco bar" means an
204 establishment with a permit for the sale of alcoholic liquor to
205 consumers issued pursuant to chapter 545 that, in the calendar year
206 ending December 31, 2002, generated ten per cent or more of its total
207 annual gross income from the on-site sale of tobacco products and the
208 rental of on-site humidors, and "tobacco product" means any substance
209 that contains tobacco, including, but not limited to, cigarettes, cigars,
210 pipe tobacco or chewing tobacco.

211 Sec. 4. Subsection (a) of section 31-40q of the general statutes, as
212 amended by section 2 of public act 03-45, is repealed and the following
213 is substituted in lieu thereof (*Effective October 1, 2003*):

214 (a) As used in this section:

215 (1) "Person" means one or more individuals, partnerships,
216 associations, corporations, limited liability companies, business trusts,

217 legal representatives or any organized group of persons.

218 (2) "Employer" means a person engaged in business who has
219 employees, including the state and any political subdivision thereof.

220 (3) "Employee" means any person engaged in service to an employer
221 in the business of his employer.

222 (4) "Business facility" means a structurally enclosed location or
223 portion thereof at which employees perform services for their
224 employer. The term "business facility" shall not include: (A) Facilities
225 listed in subparagraph (A), (C) or (G) of subdivision (2) of subsection
226 (b) of section 19a-342, as amended by this act; (B) any establishment
227 with a permit for the sale of alcoholic liquor pursuant to section 30-23
228 issued on or before May 1, 2003; (C) for any business that is engaged in
229 the testing or development of tobacco or tobacco products, the areas of
230 such business designated for such testing or development; or (D)
231 during the period from October 1, 2003, to April 1, 2004,
232 establishments with a permit issued for the sale of alcoholic liquor
233 pursuant to section 30-22a, [or] 30-26 or the bar area of a bowling
234 establishment holding a permit pursuant to subsection (a) of section
235 30-37c.

236 (5) "Smoking" means the burning of a lighted cigar, cigarette, pipe
237 or any other matter or substance which contains tobacco.

238 Sec. 5. Subdivision (6) of section 30-1 of the general statutes is
239 repealed and the following is substituted in lieu thereof (*Effective from*
240 *passage*):

241 (6) (A) "Case price" means the price of a container of cardboard,
242 wood or other material, containing units of the same size, brand, age
243 and proof of alcoholic liquor, and (B) a case of alcoholic liquor, other
244 than beer, cordials, cocktails, wines and prepared mixed drinks, shall
245 be in the number and quantity of units or bottles as follows: Three
246 gallon bottles; four gallon bottles; six half-gallon bottles; twelve quart
247 bottles or twelve liter bottles; twelve one-fifth gallon bottles or twelve

248 seven hundred fifty milliliter bottles; twenty-four pint bottles; twenty-
 249 four one-tenth gallon bottles or six and four-tenths ounce bottles or
 250 twenty-four three hundred seventy-five milliliter bottles or forty-eight
 251 one hundred eighty-seven and one-half milliliter bottles; ninety-six one
 252 hundred milliliter bottles; forty-eight half-pint bottles, or two hundred
 253 forty-one and one-half ounce, one and six-tenths ounce and two ounce
 254 bottles or ninety-six ninety-three and seven-tenths milliliter bottles or
 255 one hundred ninety-two forty-six and eight-tenths milliliter bottles.

256 Sec. 6. (*Effective from passage*) Subsection (b) of section 30-92a of the
 257 general statutes is repealed.

This act shall take effect as follows:	
Section 1	<i>October 1, 2003</i>
Sec. 2	<i>October 1, 2003</i>
Sec. 4	<i>October 1, 2003</i>
Sec. 5	<i>from passage</i>
Sec. 6	<i>from passage</i>

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Type	FY 04 \$	FY 05 \$
Consumer Protection, Dept.; Attorney General	GF - Revenue Impact	Minimal	Minimal

Note: GF=General Fund

Municipal Impact: None

Explanation

The provision which requires liquor permittees, who intend to change the type of entertainment they offer in their establishments, to place notices in their local newspapers and place a placard they receive from the Department of Consumer Protection (DCP) on the outer door of the establishment, and which also imposes a violation of up to \$1,000, imprisonment or both, for each offense, is anticipated to have a minimal revenue gain. Few additional offenses under Section 30-113 of the general statutes would occur under the provisions of this bill. There were 71 offenses under the Liquor Control Act in FY 02 with 25 convictions. Fines totaling \$6,650 were imposed on 14 offenders and one was incarcerated.

Allowing the DCP to suspend, revoke or refuse to grant or renew a liquor permit to a grocery store that is less than 500 feet from any residential property and which has a sales area under 5,000 square feet; could result in a potential revenue loss to the General Fund. The current beer permit is \$85. However, since the number of liquor permits that could be suspended, revoked or refused is unknown, the exact revenue loss is at present indeterminate but is expected to be minimal. Since the DCP already conducts formal hearings in cases of complaints or remonstrances, no workload increase is anticipated.

Postponing, from October 1, 2003 to April 1, 2004, the time within which bars in bowling establishments must comply with the no smoking provisions of PA 03-45 could result in a minimal revenue loss from the fines which could have been imposed commencing on October 1, 2003.

The provision which allows all types of alcohol, instead of wine only, to be sold in 100 milliliter bottles in a case of 96 bottles would have no fiscal impact.

House "A", which addresses the liquor store permit in grocery stores, could result in a minimal revenue loss from the suspension, revocation or refusal to grant or renew a liquor store permit.

House "B" postpones the smoking ban for bars in bowling alleys. This provision could result in a minimal revenue loss from the fines, which could have been collected commencing on October 1, 2003.

House "C" which permits alcohol to be sold in 100 milliliter bottles will have no fiscal impact.

OLR Bill Analysis

HB 5810 (as amended by House "A", "B," and "C") *

AN ACT CONCERNING THE LIQUOR CONTROL ACT**SUMMARY:**

This bill makes several changes to state liquor laws. It:

1. allows the Department of Consumer Protection (DCP) to suspend, revoke, or refuse to grant or renew a permit for some grocery stores, based on their location or the character of their premises;
2. postpones, from October 1, 2003 to April 1, 2004, the time within which bars in bowling establishments must comply with the no-smoking provisions of PA 03-45;
3. allows all types of alcohol, rather than wine only, to be sold in 100 milliliter bottles, and specifies that 96 bottles of this size constitute a case; and
4. requires liquor permit applicants who are currently required to notify the public about their applications to follow the same procedures when they intend to change the type of live entertainment they offer as part of a permit renewal application.

*House Amendment "A" adds the grocery store provisions.

House Amendment "B" postpones the smoking ban for bowling alley bars.

House Amendment "C" permits alcohol to be sold in 100 milliliter bottles.

EFFECTIVE DATE: October 1, 2003, except the provisions concerning 100 milliliter bottles are effective upon passage.

DCP ACTIONS BASED UPON LOCATION OR CHARACTER OF PREMISES

Current law exempts all grocery stores from the law authorizing DCP to suspend, revoke, or refuse to grant or renew a liquor permit when it has reason to believe that:

1. the premises are so close to a church, school, convent, charity, hospital, veterans' home or camp, or military post that it will have a detrimental effect;
2. the premises are so close to a no-permit town that it is apparent that the applicant is seeking customers from that town;
3. the number of permittees in the area is such that granting another one is detrimental to the public interest, considering the town character and population;
4. the place has been conducted in a lewd or disorderly way;
5. the backer does not have the right to occupy the permit premises;
6. drive-up sales of alcohol are being made at the permit premises; or
7. federal or state law or regulation provides a reason to refuse a permit.

The bill limits the grocery store exemption to those located more than 500 feet from residential property boundaries with sales areas in excess of 5,000 square feet, thereby allowing DCP to take these actions against smaller groceries in residential neighborhoods.

SMOKING BAN

Effective October 1, 2003, PA 03-45 prohibits smoking inside most restaurants and places that serve alcohol. It postpones the ban until April 1, 2004 for cafes and taverns. The bill extends this postponement to the bar areas of bowling establishments.

PLANNED CHANGES IN ENTERTAINMENT

By law, most people filing liquor permit applications must place notices in the local newspaper where their business will be operated. Notices give the applicant's name and address, the type of permit

applied for, the business location, and the type of live entertainment to be provided. They must also affix a DCP placard on the building's outer door or some other location clearly visible to passersby. The bill directs permit holders to follow the same procedures when their renewal application includes a change in the form of live entertainment they will offer. Violators are subject to fines of up to \$1,000, imprisonment for up to one year, or both, for each offense.

Exempted Renewal Applications

Under the bill, publicity need not be given to renewal applications involving the following permit types: airline; charitable organization; temporary; special club; concession; military; railroad; boat; coliseum or coliseum concession; special sporting facility restaurant, employee recreational, guest, concession, or bar; and nonprofit golf tournament or public television. These permit types are exempt under the current law's publicity requirements.

BACKGROUND

Legislative History

On April 22 the House referred the bill (File 203) to the Judiciary Committee, which reported it favorably on May 2.

COMMITTEE ACTION

General Law Committee

Joint Favorable Report
Yea 17 Nay 0

Judiciary Committee

Joint Favorable Report
Yea 37 Nay 0