

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 50 Session of 2023

INTRODUCED BY MERCURI, HAMM, JAMES, JOZWIAK, R. MACKENZIE,
NEILSON, ROWE, SCIALABBA AND STAMBAUGH, MARCH 7, 2023

REFERRED TO COMMITTEE ON FINANCE, MARCH 7, 2023

AN ACT

1 Repealing the act of June 5, 1937 (P.L.1656, No.344), entitled
2 "An act imposing an annual license tax for the privilege of
3 operating, maintaining or controlling within this
4 Commonwealth a store or stores, theatre or theatres, as
5 herein defined; prescribing the method and manner of
6 collecting such tax and its disposition, including an
7 appropriation for the purpose of administering this act; and
8 providing penalties."

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

11 Section 1. The act of June 5, 1937 (P.L.1656, No.344), known
12 as the Store and Theatre Tax Act, is repealed:

13 [AN ACT

14 Imposing an annual license tax for the privilege of operating,
15 maintaining or controlling within this Commonwealth a store
16 or stores, theatre or theatres, as herein defined;
17 prescribing the method and manner of collecting such tax and
18 its disposition, including an appropriation for the purpose
19 of administering this act; and providing penalties."

20 Be it enacted, &c., That,

21 Section 1. Short Title.--This act shall be known, and may be

1 cited, as the "Store and Theatre Tax Act."

2 Section 2. Definitions.--The following words, terms, and
3 phrases, when used in this act, shall have the meanings ascribed
4 to them in this section, except where the context clearly
5 indicates a different meaning:

6 "Association." A partnership, limited partnership, or any
7 other form of unincorporated enterprise owned by two or more
8 persons.

9 "Corporation." A corporation or joint-stock association
10 organized under the laws of this Commonwealth, the United
11 States, or any other state, territory, or foreign country, or
12 dependency.

13 "Department." The Department of Revenue of this Commonwealth.

14 "Person." Every natural person, association, corporation,
15 receiver or assignee.

16 "Store." Any place of business or any mercantile
17 establishment in which, or from which, tangible personal
18 property of any kind is sold: Provided, however, That the term
19 "store," as and when used in this act, shall not include places
20 of business commonly known as newsstands, and warehouses or
21 establishments at which the sole business conducted is that of
22 selling, storing or distributing commodities in bulk.

23 "Theatre." Any building or place for the production of
24 theatrical entertainment, including opera, drama, comedy,
25 vaudeville, motion pictures or other shows, or a combination
26 thereof.

27 The singular shall include the plural, and the masculine
28 shall include the feminine and neuter.

29 Section 3. License.--It shall be unlawful for any person to
30 open, establish, operate, maintain or control any store or

1 theatre in this Commonwealth without first having obtained and
2 having in possession a valid license so to do from the
3 department as hereinafter provided, but each person engaged in
4 the operation, maintenance or control of such a store or
5 theatre, on the effective date of this act, shall have sixty
6 (60) days within which to obtain the first license for each such
7 store or theatre operated, maintained or controlled by him. A
8 separate license shall be procured for each store or theatre.
9 Licenses issued under this act may not be transferred or
10 assigned. Each licensee shall display each license so issued in
11 a conspicuous place in the store or theatre for which such
12 license is issued. The licenses issued under the provisions of
13 this act shall be annual licenses effective from June first of
14 one year until and including May thirty-first of the year
15 following. The first licenses shall be required for the year
16 commencing June first, one thousand nine hundred and thirty-
17 seven.

18 Section 4. Application for License.--Any person desiring to
19 open, establish, operate, maintain or control such a store or
20 theatre in this Commonwealth, shall apply to the department for
21 a license so to do before the first day of June of each year,
22 except as otherwise provided in section three hereof as to the
23 first license. The application for license shall be made on a
24 form prescribed and furnished by the department, and shall set
25 forth the name of the person desiring such license, the name and
26 location of the store or theatre for which the license is
27 desired, and such other information as the department may
28 require. Each such application shall be accompanied by the
29 proper license tax as hereinafter prescribed in this act, and,
30 upon receiving the prescribed fee, the department shall issue

1 said license.

2 Section 5. License Taxes.--Every person opening,
3 establishing, operating, maintaining or controlling one or more
4 stores or theatres within this Commonwealth, under the same
5 general management, supervision or ownership, shall pay an
6 annual license tax for the privilege of opening, establishing,
7 operating, maintaining or controlling such store or stores, or
8 theatre or theatres as follows:

9 (1) Upon one store or theatre, the sum of one dollar
10 (\$1.00).

11 (2) Upon each store or theatre in excess of one, but not to
12 exceed five stores or theatres, the sum of five dollars (\$5.00)
13 for each such additional store or theatre.

14 (3) Upon each store or theatre in excess of five, but not to
15 exceed ten stores or theatres, the sum of ten dollars (\$10.00)
16 for each such additional store or theatre.

17 (4) Upon each store or theatre in excess of ten, but not to
18 exceed fifteen stores or theatres, the sum of twenty dollars
19 (\$20.00) for each such additional store or theatre.

20 (5) Upon each store or theatre in excess of fifteen, but not
21 to exceed twenty stores or theatres, the sum of thirty dollars
22 (\$30.00) for each such additional store or theatre.

23 (6) Upon each store or theatre in excess of twenty, but not
24 to exceed thirty stores or theatres, the sum of fifty dollars
25 (\$50.00) for each such additional store or theatre.

26 (7) Upon each store or theatre in excess of thirty, but not
27 to exceed fifty stores or theatres, the sum of one hundred
28 dollars (\$100.00) for each such additional store or theatre.

29 (8) Upon each store or theatre in excess of fifty, but not
30 to exceed seventy-five stores or theatres, the sum of two

1 hundred dollars (\$200.00) for each such additional store or
2 theatre.

3 (9) Upon each store or theatre in excess of seventy-five,
4 but not to exceed one hundred stores or theatres, the sum of two
5 hundred and fifty dollars (\$250.00) for each such additional
6 store or theatre.

7 (10) Upon each store or theatre in excess of one hundred,
8 but not to exceed two hundred stores or theatres, the sum of
9 three hundred and fifty dollars (\$350.00) for each such
10 additional store or theatre.

11 (11) Upon each store or theatre in excess of two hundred,
12 but not to exceed five hundred stores or theatres, the sum of
13 four hundred and fifty dollars (\$450.00) for each such
14 additional store or theatre.

15 (12) Upon each store or theatre in excess of five hundred
16 stores or theatres, the sum of five hundred dollars (\$500.00)
17 for each such additional store or theatre.

18 Section 6. Ownership.--Two or more stores or theatres shall,
19 for the purpose of this act, be considered under the same
20 general management, supervision or ownership if, directly or
21 indirectly, controlled by a single person or any group of
22 persons having a common interest in such stores or theatres, or
23 if any part of the gross revenues, net revenues or profits from
24 any such stores or theatres, shall, directly or indirectly, be
25 required to be immediately or ultimately made available as
26 rental or in any other manner whatsoever for the beneficial use,
27 or shall, directly or indirectly, inure to the immediate or
28 ultimate benefit of any single person or any group of persons
29 having a common interest therein.

30 Section 7. Penalty.--Any person operating, maintaining or

1 controlling a store or theatre without a license, as herein
2 provided, shall be guilty of a misdemeanor, and, upon conviction
3 thereof, shall be fined not less than fifty dollars (\$50.00) nor
4 more than one hundred dollars (\$100.00), and costs of
5 prosecution. Each and every day that such violation shall
6 continue shall constitute a separate and distinct offense.

7 Section 8. Examination of Records; Penalty.--The department,
8 or any duly authorized agent thereof, shall have the power to
9 examine the books, records, papers, and files, within or outside
10 the Commonwealth, of any person operating, maintaining or
11 controlling a store or theatre within this Commonwealth. It
12 shall have the power to examine witnesses, under oath, to verify
13 the accuracy of any application, or to ascertain whether or not
14 any license tax is due which has not been paid. Any person
15 refusing to allow an examination of his books, records, papers,
16 and files as herein provided, or who refuses to furnish the
17 department with any information requested, shall be deemed
18 guilty of a misdemeanor, and, upon conviction thereof, shall be
19 fined not less than fifty dollars (\$50.00) nor more than one
20 hundred dollars (\$100.00), and costs of prosecution. Each such
21 refusal shall be deemed a separate offense.

22 Section 9. Disposition of Tax and Fines.--All taxes and
23 fines received, collected or recovered under this act, shall be
24 paid into the State Treasury, through the department, and,
25 except as hereinafter otherwise provided, shall be credited to
26 the State School Fund: Provided, however, That out of the
27 revenues derived under the provisions of this act, the
28 Department of Revenue shall, during the fiscal biennium
29 beginning the first day of June, one thousand nine hundred and
30 thirty-seven, pay into the General Fund the sum of one hundred

1 fifty-one thousand five hundred and seventeen dollars
2 (\$151,517.00), and the said sum so paid into the General Fund is
3 hereby appropriated to the Department of Revenue for the purpose
4 of administering this act.

5 Section 10. License Tax in Addition to Existing Taxes.--The
6 license tax imposed by this act shall be in addition to any
7 taxes now imposed or that may subsequently be imposed by law.

8 Section 11. Constitutionality.--If any section, sentence,
9 clause or part of this act is, for any reason, held to be
10 unconstitutional, the decision of the court shall not affect or
11 impair the remaining provisions of this act. It is hereby
12 declared to be the legislative intent that this act would have
13 been adopted had such unconstitutional section, sentence,
14 clause, or part thereof, not been included therein.

15 Section 12. Effective Date.--This act shall become effective
16 immediately upon final enactment.]

17 Section 2. This act shall take effect in 60 days.