

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 2509 Session of
1984

INTRODUCED BY AFFLERBACH, D. W. SNYDER, HALUSKA, SCHEETZ,
CALTAGIRONE AND JAROLIN, OCTOBER 1, 1984

REFERRED TO COMMITTEE ON LIQUOR CONTROL, OCTOBER 1, 1984

AN ACT

1 Amending the act of April 12, 1951 (P.L.90, No.21), entitled "An
2 act relating to alcoholic liquors, alcohol and malt and
3 brewed beverages; amending, revising, consolidating and
4 changing the laws relating thereto; regulating and
5 restricting the manufacture, purchase, sale, possession,
6 consumption, importation, transportation, furnishing, holding
7 in bond, holding in storage, traffic in and use of alcoholic
8 liquors, alcohol and malt and brewed beverages and the
9 persons engaged or employed therein; defining the powers and
10 duties of the Pennsylvania Liquor Control Board; providing
11 for the establishment and operation of State liquor stores,
12 for the payment of certain license fees to the respective
13 municipalities and townships, for the abatement of certain
14 nuisances and, in certain cases, for search and seizure
15 without warrant; prescribing penalties and forfeitures;
16 providing for local option, and repealing existing laws,"
17 prohibiting the sale of unpasteurized beer in certain
18 containers.

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

21 Section 1. Section 431(a) and (b) of the act of April 12,
22 1951 (P.L.90, No.21), known as the Liquor Code, (a) amended
23 August 17, 1965 (P.L.346, No.182) and (b) amended October 9,
24 1967 (P.L.395, No.179), are amended to read:

25 Section 431. Malt and Brewed Beverages Manufacturers',

1 Distributors' and Importing Distributors' Licenses.--(a) The
2 board shall issue to any person a resident of this Commonwealth
3 of good repute who applies therefor, pays the license fee
4 hereinafter prescribed, and files the bond hereinafter required,
5 a manufacturer's license to produce and manufacture malt or
6 brewed beverages, and to transport, sell and deliver malt or
7 brewed beverages at or from one or more places of manufacture or
8 storage, only in original containers, in quantities of not less
9 than a case of twenty-four containers, each container holding
10 seven fluid ounces or more of pasteurized malt or brewed
11 beverage, or a case of twelve containers, each container holding
12 twenty-four fluid ounces or more of pasteurized malt or brewed
13 beverage, except original containers containing one hundred
14 twenty-eight ounces or more of pasteurized or unpasteurized malt
15 or brewed beverage which may be sold separately anywhere within
16 the Commonwealth. Licenses for places of storage shall be
17 limited to those maintained by manufacturers on July eighteenth,
18 one thousand nine hundred thirty-five, and the board shall issue
19 no licenses for places of storage in addition to those
20 maintained on July eighteenth, one thousand nine hundred thirty-
21 five. The application for such license shall be in such form and
22 contain such information as the board shall require. All such
23 licenses shall be granted for the calendar year. Every
24 manufacturer shall keep at his or its principal place of
25 business, within the Commonwealth daily permanent records which
26 shall show, (1) the quantities of raw materials received and
27 used in the manufacture of malt or brewed beverages and the
28 quantities of malt or brewed beverages manufactured and stored,
29 (2) the sales of malt or brewed beverages, (3) the quantities of
30 malt or brewed beverages stored for hire or transported for hire

1 by or for the licensee, and (4) the names and addresses of the
2 purchasers or other recipients thereof. Every place licensed as
3 a manufacturer shall be subject to inspection by members of the
4 board or by persons duly authorized and designated by the board,
5 at any and all times of the day or night, as they may deem
6 necessary, for the detection of violations of this act or of the
7 rules and regulations of the board, or for the purpose of
8 ascertaining the correctness of the records required to be kept
9 by licensees. The books and records of such licensees shall at
10 all times be open to inspection by members of the board or by
11 persons duly authorized and designated by the board. Members of
12 the board and its duly authorized agents shall have the right,
13 without hindrance, to enter any place which is subject to
14 inspection hereunder or any place where such records are kept
15 for the purpose of making such inspections and making
16 transcripts thereof.

17 (b) The board shall issue to any reputable person who
18 applies therefor, pays the license fee hereinafter prescribed,
19 and files the bond hereinafter required, a distributor's or
20 importing distributor's license for the place which such person
21 desires to maintain for the sale of malt or brewed beverages,
22 not for consumption on the premises where sold, and in
23 quantities of not less than twenty-four containers, each
24 container holding seven fluid ounces or more of pasteurized malt
25 or brewed beverage, or twelve containers, each container holding
26 twenty-four fluid ounces or more of pasteurized malt or brewed
27 beverage, except original containers containing one hundred
28 twenty-eight ounces or more of pasteurized or unpasteurized malt
29 or brewed beverage which may be sold separately and such
30 containers to be the original containers as prepared for the

1 market by the manufacturer at the place of manufacture: And
2 provided further, That the board shall have the discretion to
3 refuse a license to any person or to any corporation,
4 partnership or association if such person, or any officer or
5 director of such corporation, or any member or partner of such
6 partnership or association shall have been convicted or found
7 guilty of a felony within a period of five years immediately
8 preceding the date of application for the said license.

9 Except as hereinafter provided, such license shall authorize
10 the holder thereof to sell or deliver malt or brewed beverages
11 in quantities above specified anywhere within the Commonwealth
12 of Pennsylvania, which, in the case of distributors, have been
13 purchased only from persons licensed under this act as
14 manufacturers or importing distributors, and in the case of
15 importing distributors, have been purchased from manufacturers
16 or persons outside this Commonwealth engaged in the legal sale
17 of malt or brewed beverages or from manufacturers or importing
18 distributors licensed under this article.

19 Each out of State manufacturer of malt or brewed beverages
20 whose products are sold and delivered in this Commonwealth shall
21 give distributing rights for such products in designated
22 geographical areas to specific importing distributors, and such
23 importing distributor shall not sell or deliver malt or brewed
24 beverages manufactured by the out of State manufacturer to any
25 person issued a license under the provisions of this act whose
26 licensed premises are not located within the geographical area
27 for which he has been given distributing rights by such
28 manufacturer: Provided, That the importing distributor holding
29 such distributing rights for such product shall not sell or
30 deliver the same to another importing distributor without first

1 having entered into a written agreement with the said secondary
2 importing distributor setting forth the terms and conditions
3 under which such products are to be resold within the territory
4 granted to the primary importing distributor by the
5 manufacturer.

6 When a Pennsylvania manufacturer of malt or brewed beverages
7 licensed under this article names or constitutes a distributor
8 or importing distributor as the primary or original supplier of
9 his product, he shall also designate the specific geographical
10 area for which the said distributor or importing distributor is
11 given distributing rights, and such distributor or importing
12 distributor shall not sell or deliver the products of such
13 manufacturer to any person issued a license under the provisions
14 of this act whose licensed premises are not located within the
15 geographical area for which distributing rights have been given
16 to the distributor and importing distributor by the said
17 manufacturer: Provided, That the importing distributor holding
18 such distributing rights for such product shall not sell or
19 deliver the same to another importing distributor without first
20 having entered into a written agreement with the said secondary
21 importing distributor setting forth the terms and conditions
22 under which such products are to be resold within the territory
23 granted to the primary importing distributor by the
24 manufacturer. Nothing herein contained shall be construed to
25 prevent any manufacturer from authorizing the importing
26 distributor holding the distributing rights for a designated
27 geographical area from selling the products of such manufacturer
28 to another importing distributor also holding distributing
29 rights from the same manufacturer for another geographical area,
30 providing such authority be contained in writing and a copy

1 thereof be given to each of the importing distributors so
2 affected.

3 * * *

4 Section 2. Sections 440 and 441(b) of the act, amended
5 August 17, 1965 (P.L.346, No.182), are amended to read:

6 Section 440. Sales by Manufacturers of Malt or Brewed
7 Beverages; Minimum Quantities.--No manufacturer shall sell any
8 malt or brewed beverages for consumption on the premises where
9 sold, nor sell or deliver any such malt or brewed beverages in
10 other than original containers approved as to capacity by the
11 board, nor in quantities of less than a case of twenty-four
12 containers, each container holding seven fluid ounces or more of
13 pasteurized malt or brewed beverage, or a case of twelve
14 containers, each container holding twenty-four fluid ounces or
15 more of pasteurized malt or brewed beverage, except original
16 containers containing one hundred twenty-eight ounces or more of
17 pasteurized or unpasteurized malt or brewed beverage which may
18 be sold separately; nor shall any manufacturer maintain or
19 operate within the Commonwealth any place or places other than
20 the place or places covered by his or its license where malt or
21 brewed beverages are sold or where orders are taken.

22 Section 441. Distributors' and Importing Distributors'
23 Restrictions on Sales, Storage, Etc.--* * *

24 (b) No distributor or importing distributor shall sell any
25 malt or brewed beverages in quantities of less than a case of
26 twenty-four containers, each container holding seven fluid
27 ounces or more of pasteurized malt or brewed beverage, or a case
28 of twelve containers, each container holding twenty-four fluid
29 ounces or more of pasteurized malt or brewed beverage, except
30 original containers containing one hundred twenty-eight ounces

1 or more of pasteurized or unpasteurized malt or brewed beverage
2 which may be sold separately: Provided, That no malt or brewed
3 beverages sold or delivered shall be consumed upon the premises
4 of the distributor or importing distributor, or in any place
5 provided for such purpose by such distributor or importing
6 distributor.

7 * * *

8 Section 3. Section 492 of the act is amended by adding a
9 clause to read:

10 Section 492. Unlawful Acts Relative to Malt or Brewed
11 Beverages and Licensees.--

12 It shall be unlawful--

13 * * *

14 (22) Sales of Unpasteurized Malt or Brewed Beverages in
15 Certain Containers. For any person to sell to another any
16 unpasteurized malt or brewed beverages in original containers
17 containing less than one hundred twenty-eight ounces.

18 Section 4. This act shall take effect in 60 days.