

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2643 Session of
1988

INTRODUCED BY SWEET AND CLARK, AUGUST 8, 1988

REFERRED TO COMMITTEE ON LIQUOR CONTROL, AUGUST 8, 1988

AN ACT

1 Amending the act of April 12, 1951 (P.L.90, No.21), entitled, as
2 reenacted, "An act relating to alcoholic liquors, alcohol and
3 malt and brewed beverages; amending, revising, consolidating
4 and 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 further providing for the sale of malt and brewed beverages.

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

20 Section 1. Section 431(a) and (b) of the act of April 12,
21 1951 (P.L.90, No.21), known as the Liquor Code, reenacted and
22 amended June 29, 1987 (P.L.32, No.14), are amended to read:

23 Section 431. Malt and Brewed Beverages Manufacturers',
24 Distributors' and Importing Distributors' Licenses.--(a) The
25 board shall issue to any person a resident of this Commonwealth

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

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

14 (b) The board shall issue to any reputable person who
15 applies therefor, pays the license fee hereinafter prescribed,
16 and files the bond hereinafter required, a distributor's or
17 importing distributor's license for the place which such person
18 desires to maintain for the sale of malt or brewed beverages,
19 not for consumption on the premises where sold, and in
20 quantities of not less than twenty-four containers, each
21 container holding seven fluid ounces or more, or twelve
22 containers, each container holding twenty-four fluid ounces or
23 more, except original containers containing one hundred twenty-
24 eight ounces or more which may be sold separately and such
25 containers to be the original containers as prepared for the
26 market by the manufacturer at the place of manufacture. The
27 board shall have the discretion to refuse a license to any
28 person or to any corporation, partnership or association if such
29 person, or any officer or director of such corporation, or any
30 member or partner of such partnership or association shall have

1 been convicted or found guilty of a felony within a period of
2 five years immediately preceding the date of application for the
3 said license: And provided further, That, in the case of any new
4 license or the transfer of any license to a new location, the
5 board may, in its discretion, grant or refuse such new license
6 or transfer if such place proposed to be licensed is within
7 three hundred feet of any church, hospital, charitable
8 institution, school or public playground, or if such new license
9 or transfer is applied for a place which is within two hundred
10 feet of any other premises which is licensed by the board: And
11 provided further, That the board shall refuse any application
12 for a new license or the transfer of any license to a new
13 location if, in the board's opinion, such new license or
14 transfer would be detrimental to the welfare, health, peace and
15 morals of the inhabitants of the neighborhood within a radius of
16 five hundred feet of the place proposed to be licensed. The
17 board shall refuse any application for a new license or the
18 transfer of any license to a location where the sale of liquid
19 fuels or oil is conducted. The board shall require notice to be
20 posted on the property or premises upon which the licensee or
21 proposed licensee will engage in sales of malt or brewed
22 beverages. This notice shall be similar to the notice required
23 of hotel, restaurant and club liquor licensees.

24 Except as hereinafter provided, such license shall authorize
25 the holder thereof to sell or deliver malt or brewed beverages
26 in quantities above specified [anywhere within the Commonwealth
27 of Pennsylvania] within the specified territory of the importing
28 distributor for each brand and product sold, which, in the case
29 of distributors, have been purchased only from persons licensed
30 under this act as manufacturers or importing distributors, and

1 in the case of importing distributors, have been purchased from
2 manufacturers or persons outside this Commonwealth engaged in
3 the legal sale of malt or brewed beverages or from manufacturers
4 or importing distributors licensed under this article.

5 Each out of State manufacturer of malt or brewed beverages
6 whose products are sold and delivered in this Commonwealth shall
7 give distributing rights for such products in designated
8 geographical areas to specific importing distributors, and such
9 importing distributor shall not sell or deliver malt or brewed
10 beverages manufactured by the out of State manufacturer to any
11 person issued a license under the provisions of this act whose
12 licensed premises are not located within the geographical area
13 for which he has been given distributing rights by such
14 manufacturer. Should a licensee accept the delivery of such malt
15 or brewed beverages in violation of this section, said licensee
16 shall be subject to a suspension of his license for at least
17 thirty days: 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.

25 When a Pennsylvania manufacturer of malt or brewed beverages
26 licensed under this article names or constitutes a distributor
27 or importing distributor as the primary or original supplier of
28 his product, he shall also designate the specific geographical
29 area for which the said distributor or importing distributor is
30 given distributing rights, and such distributor or importing

1 distributor shall not sell or deliver the products of such
2 manufacturer to any person issued a license under the provisions
3 of this act whose licensed premises are not located within the
4 geographical area for which distributing rights have been given
5 to the distributor and importing distributor by the said
6 manufacturer: Provided, That the importing distributor holding
7 such distributing rights for such product shall not sell or
8 deliver the same to another importing distributor without first
9 having entered into a written agreement with the said secondary
10 importing distributor setting forth the terms and conditions
11 under which such products are to be resold within the territory
12 granted to the primary importing distributor by the
13 manufacturer. Nothing herein contained shall be construed to
14 prevent any manufacturer from authorizing the importing
15 distributor holding the distributing rights for a designated
16 geographical area from selling the products of such manufacturer
17 to another importing distributor also holding distributing
18 rights from the same manufacturer for another geographical area,
19 providing such authority be contained in writing and a copy
20 thereof be given to each of the importing distributors so
21 affected.

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