

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1337 Session of
1995

INTRODUCED BY SERAFINI, DONATUCCI, FARMER, CONTI, ITKIN,
L. I. COHEN, STISH, BUNT, STABACK, TIGUE, M. N. WRIGHT AND
SCRIMENTI, APRIL 10, 1995

REFERRED TO COMMITTEE ON LIQUOR CONTROL, APRIL 10, 1995

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 retail licenses issued to certain
18 brewers; and providing for an exception to the interlocking
19 business prohibition.

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

22 Section 1. Section 443 of the act of April 12, 1951 (P.L.90,
23 No.21), known as the Liquor Code, reenacted and amended June 29,
24 1987 (P.L.32, No.14), is amended to read:

25 Section 443. Interlocking Business Prohibited.--(a) No
26 manufacturer of malt or brewed beverages and no officer or

1 director of any such manufacturer shall at the same time be a
2 distributor, importing distributor or retail dispenser, or an
3 officer, director or stockholder or creditor of any distributor,
4 importing distributor or retail dispenser, nor, except as
5 hereinafter provided, be the owner, proprietor or lessor of any
6 place for which a license has been issued for any importing
7 distributor, distributor or retail dispenser, or for which a
8 hotel, restaurant or club liquor license has been issued.
9 However, a holder of a manufacturer's license under section
10 431(a) who is eligible to operate a brewery pub under section
11 446(2) may also hold and operate under a hotel liquor license, a
12 restaurant liquor license or a malt and brewed beverages retail
13 license on the manufacturer's licensed premises. The hotel
14 liquor license or restaurant liquor license or the brewed
15 beverages retail license shall be acquired by the manufacturer
16 subject to section 461 and shall satisfy all requirements for
17 each respective license.

18 (b) No distributor or importing distributor and no officer
19 or director of any distributor or importing distributor shall at
20 the same time be a manufacturer, a retail dispenser or a liquor
21 licensee, or be an officer, director, stockholder or creditor of
22 a manufacturer, a retail dispenser or a liquor licensee, or,
23 directly or indirectly, own any stock of, or have any financial
24 interest in, or be the owner, proprietor or lessor of, any place
25 covered by any other malt or brewed beverage or liquor license.

26 (c) No licensee licensed under this subdivision (B) of
27 Article IV and no officer or director of such licensee shall,
28 directly or indirectly, own any stock of, or have any financial
29 interest in, any other class of business licensed under this
30 subdivision. However, a holder of a manufacturer's license under

1 section 431(a) who is eligible to operate a brewery pub under
2 section 446(2) may also hold and operate under a hotel liquor
3 license, a restaurant liquor license or a malt and brewed
4 beverages retail license on the manufacturer's licensed
5 premises. The hotel liquor license or restaurant liquor license
6 or the brewed beverages retail license shall be acquired by the
7 manufacturer subject to section 461 and shall satisfy all
8 requirements for each respective license.

9 (d) Excepting as hereinafter provided, no malt or brewed
10 beverage manufacturer, importing distributor or distributor
11 shall in any wise be interested, either directly or indirectly,
12 in the ownership or leasehold of any property or in any mortgage
13 against the same, for which a liquor or retail dispenser's
14 license is granted; nor shall any such manufacturer, importing
15 distributor or distributor, either directly or indirectly, lend
16 any moneys, credit or equivalent thereof to, or guarantee the
17 payment of any bond, mortgage, note or other obligation of, any
18 liquor licensee or retail dispenser, in equipping, fitting out,
19 or maintaining and conducting, either in whole or in part, an
20 establishment or business operated under a liquor or retail
21 dispenser's license, excepting only the usual and customary
22 credits allowed for returning original containers in which malt
23 or brewed beverages were packaged for market by the manufacturer
24 at the place of manufacture. However, a holder of a
25 manufacturer's license under section 431(a) who is eligible to
26 operate a brewery pub under section 446(2) may also hold and
27 operate under a hotel liquor license, a restaurant liquor
28 license or a malt and brewed beverages retail license on the
29 manufacturer's licensed premises. The hotel liquor license or
30 restaurant liquor license or the brewed beverages retail license

1 shall be acquired by the manufacturer subject to section 461 and
2 shall satisfy all requirements for each respective license.

3 (e) Excepting as hereinafter provided, no manufacturer of
4 malt or brewed beverages shall in any wise be interested, either
5 directly or indirectly, in the ownership or leasehold of any
6 property or any mortgage lien against the same, for which a
7 distributor's or importing distributor's license is granted; nor
8 shall any such manufacturer, either directly or indirectly, lend
9 any moneys, credit, or their equivalent to, or guarantee the
10 payment of any bond, mortgage, note or other obligation of, any
11 distributor or importing distributor, in equipping, fitting out,
12 or maintaining and conducting, either in whole or in part, an
13 establishment or business where malt or brewed beverages are
14 licensed for sale by a distributor or importing distributor,
15 excepting only the usual credits allowed for the return of
16 original containers in which malt or brewed beverages were
17 originally packaged for the market by the manufacturer at the
18 place of manufacture. However, a holder of a manufacturer's
19 license under section 431(a) who is eligible to operate a
20 brewery pub under section 446(2) may also hold and operate under
21 a hotel liquor license, a restaurant liquor license or a malt
22 and brewed beverages retail license on the manufacturer's
23 licensed premises. The hotel liquor license or restaurant liquor
24 license or the brewed beverages retail license shall be acquired
25 by the manufacturer subject to section 461 and shall satisfy all
26 requirements for each respective license.

27 (f) No distributor, importing distributor or retail
28 dispenser shall in anywise receive, either directly or
29 indirectly, any credit, loan, moneys or the equivalent thereof
30 from any other licensee, or from any officer, director or firm

1 member of any other licensee, or from or through a subsidiary or
2 affiliate of another licensee, or from any firm, association or
3 corporation, except banking institutions, in which another
4 licensee or any officer, director or firm member of another
5 licensee has a substantial interest or exercises a control of
6 its business policy, for equipping, fitting out, payment of
7 license fee, maintaining and conducting, either in whole or in
8 part, an establishment or business operated under a
9 distributor's, importing distributor's or retail dispenser's
10 license, excepting only the usual and customary credits allowed
11 for the return of original containers in which malt or brewed
12 beverages were packaged for the market by the manufacturer at
13 the place of manufacture. However, a holder of a manufacturer's
14 license under section 431(a) who is eligible to operate a
15 brewery pub under section 446(2) may also hold and operate under
16 a hotel liquor license, a restaurant liquor license or a malt
17 and brewed beverages retail license on the manufacturer's
18 licensed premises. The hotel liquor license or restaurant liquor
19 license or the brewed beverages retail license shall be acquired
20 by the manufacturer subject to section 461 and shall satisfy all
21 requirements for each respective license.

22 (g) The purpose of this section is to require a separation
23 of the financial and business interests between the various
24 classes of business regulated by subdivision (B) of this
25 article, and no person or corporation shall, by any device
26 whatsoever, directly or indirectly, evade the provisions of this
27 section. But in view of existing economic conditions, nothing
28 contained in this section shall be construed to prohibit the
29 ownership of property or conflicting interest by a malt or
30 brewed beverage manufacturer of any place occupied by a

1 distributor, importing distributor or retail dispenser after the
2 manufacturer has continuously owned and had a conflicting
3 interest in such place for a period of at least five years prior
4 to the eighteenth day of July, one thousand nine hundred thirty-
5 five. However, a holder of a manufacturer's license under
6 section 431(a) who is eligible to operate a brewery pub under
7 section 446(2) may also hold and operate under a hotel liquor
8 license, a restaurant liquor license or a malt and brewed
9 beverages retail license on the manufacturer's licensed
10 premises. The hotel liquor license or restaurant liquor license
11 or the brewed beverages retail license shall be acquired by the
12 manufacturer subject to section 461 and shall satisfy all
13 requirements for each respective license.

14 The term "manufacturer" as used in this section shall include
15 manufacturers of malt or brewed beverages as defined in this act
16 and any person manufacturing any malt or brewed beverages
17 outside of this Commonwealth.

18 Section 2. Section 446 of the act, amended June 30, 1992
19 (P.L.327, No.66), is amended to read:

20 Section 446. Breweries.--Holders of a brewery license may:

21 (1) Sell malt or brewed beverages produced and owned by the
22 brewery on the licensed premises under such conditions and
23 regulations as the board may enforce, to individuals for
24 consumption on the premises and to hotel, restaurant, club and
25 public service liquor licensees.

26 (2) Operate a restaurant or brewery pub on the licensed
27 premises under such conditions and regulations as the board may
28 enforce.

29 (3) Use brewery storage and distribution facilities for the
30 purpose of receiving, storing and distributing malt or brewed

1 beverages manufactured outside this Commonwealth if the
2 beverages are distributed in this Commonwealth only through
3 specific importing distributors who shall have first been given
4 distributing rights for such products in designated geographical
5 areas through the distribution system required for out-of-State
6 manufacturers under section 431(b) as well as all other
7 pertinent sections of this act. The manufacturer of the
8 beverages must comply with section 444.

9 (4) Apply for and hold a hotel liquor license, a restaurant
10 liquor license or a malt and brewed beverages retail license to
11 sell for consumption at the restaurant or brewery pub on the
12 licensed brewery premises, liquor, wine and malt or brewed
13 beverages regardless of place of manufacture, under the same
14 conditions and regulations as any other hotel liquor license,
15 restaurant liquor license or malt and brewed beverages retail
16 license, but must brew at least five hundred barrels per year.

17 Section 3. This act shall take effect in 60 days.