

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2597 Session of
2004

INTRODUCED BY ROSS, RAYMOND, McILHINNEY, BALDWIN, BARRAR,
CAPPELLI, CRAHALLA, DALLY, DERMODY, FRANKEL, GINGRICH, GOOD,
HENNESSEY, HORSEY, MAJOR, McNAUGHTON, S. MILLER, NAILOR,
PALLONE, PISTELLA, RUBLEY, SAYLOR, SCHRODER, STEIL,
T. STEVENSON, THOMAS, TURZAI, WILT AND YOUNGBLOOD,
MAY 3, 2004

REFERRED TO COMMITTEE ON LIQUOR CONTROL, MAY 3, 2004

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 permits, sales by and locations of
18 limited wineries and for an expiration date.

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

21 Section 1. Section 505.2 of the act of April 12, 1951
22 (P.L.90, No.21), known as the Liquor Code, reenacted and amended
23 June 29, 1987 (P.L.32, No.14), and amended November 10, 1999
24 (P.L.514, No.47), December 16, 2002 (P.L.1806, No.221), and July

1 17, 2003 (P.L.63, No.15), is amended to read:

2 Section 505.2. Limited Wineries.--In the interest of
3 promoting tourism and recreational development in Pennsylvania,
4 holders of a limited winery license may:

5 (1) Produce alcoholic ciders, wines and wine coolers,
6 subject to the exceptions provided under this section, only from
7 fruits grown in Pennsylvania.

8 (2) (i) Sell alcoholic cider, wine and wine coolers
9 produced by the limited winery or purchased in bulk in bond from
10 another Pennsylvania limited winery on the licensed premises,
11 under such conditions and regulations as the board may enforce,
12 to the board, to individuals and to brewery, hotel, restaurant,
13 club and public service liquor licensees, and to Pennsylvania
14 winery licensees: Provided, That a limited winery shall not, in
15 any calendar year, purchase alcoholic cider or wine produced by
16 other limited wineries in an amount in excess of fifty per
17 centum of the alcoholic cider or wine produced by the purchasing
18 limited winery in the preceding calendar year. In addition, the
19 holder of a limited winery license may purchase wine in bottles
20 from another Pennsylvania limited winery [if these wines undergo
21 a second fermentation process]. Such wine may be sold in bottles
22 bearing the purchasing limited winery's label or the producing
23 limited winery's label. Such wines, if sold by the board, may be
24 sold by the producing limited winery to the purchasing limited
25 winery at a price lower than the price charged by the board.

26 (ii) Charge for samples of wine produced by the limited
27 winery for tasting on the licensed premises.

28 (iii) Offer for sale at a licensed winery location, to
29 individuals and to brewery, hotel, restaurant, club and public
30 service liquor licensees wine at a discount price which is lower

1 than that charged by the board.

2 (3) Separately or in conjunction with other limited
3 wineries, sell alcoholic cider, wine and wine coolers produced
4 by the limited winery on no more than five (5) board-approved
5 locations other than the licensed premises, with no bottling or
6 production requirement at those additional board-approved
7 locations and under such conditions and regulations as the board
8 may enforce, to the board, to individuals and to brewery, hotel,
9 restaurant, club and public service liquor licensees. If two or
10 more limited wineries apply to operate an additional board-
11 approved location in conjunction with each other, the wineries
12 need only have one board-approved manager for the location, need
13 only pay one application fee and need not designate specific or
14 distinct areas for each winery's licensed area. Each limited
15 winery must file an application for such an additional board-
16 approved location, and such location shall count as one of the
17 five permitted for each limited winery. Each limited winery is
18 responsible for keeping only its own complete records. A limited
19 winery may be cited for a violation of the recordkeeping
20 requirements of sections 512 and 513 pertaining to its own
21 records only. The additional board-approved locations may be
22 located inside other, nonlicensed retail locations without
23 requiring a separate entrance or physical barrier separating the
24 licensed and nonlicensed areas. There must be a visual
25 delineation between the licensed and nonlicensed areas, and
26 sales of alcoholic beverages must be completed on the licensed
27 premises.

28 (4) At the discretion of the board, obtain a special permit
29 to participate in alcoholic cider, wine and food expositions off
30 the licensed premises. A special permit shall be issued upon

1 proper application and payment of a fee of thirty dollars (\$30)
2 per day for each day of permitted use, not to exceed five (5)
3 consecutive days. The total number of days for all the special
4 permits may not exceed forty (40) days in any calendar year. A
5 special permit shall entitle the holder to engage in the sale of
6 alcoholic cider or wine produced by the bottle or in case lots
7 by the permittee under the authority of a limited winery
8 license. Holders of special permits may provide tasting samples
9 of wines in individual portions not to exceed one fluid ounce.
10 Samples at alcoholic cider, wine and food expositions may be
11 sold or offered free of charge. Except as provided herein,
12 limited wineries utilizing special permits shall be governed by
13 all applicable provisions of this act as well as by all
14 applicable regulations or conditions adopted by the board.

15 For the purposes of this clause, "alcoholic cider, wine and
16 food expositions" are defined as affairs held indoors or
17 outdoors with the primary intent of educating those in
18 attendance of the availability, nature and quality of
19 Pennsylvania-produced alcoholic ciders and wines in conjunction
20 with suitable food displays, demonstrations and sales. Alcoholic
21 cider, wine and food expositions may also include activities
22 other than alcoholic cider, wine and food displays, including
23 arts and crafts, musical activities, cultural exhibits,
24 agricultural exhibits and similar activities.

25 (4.1) At the discretion of the board, obtain a permit to
26 sell wine and alcoholic ciders at up to five (5) qualified farm
27 markets for no more than fifty (50) market days each per
28 calendar year. A qualified farm market is one that features a
29 variety of fresh and/or prepared fruits, vegetables, baked goods
30 and meats, and need not have an enclosed, permanent or secure

1 facility. For those farm market locations not having a secure,
2 lockable facility, at the end of the sales day all alcoholic
3 beverages must be taken away for overnight secure storage in a
4 vehicle bearing a Pennsylvania Liquor Control Board permit or at
5 a licensed winery location. The farm market permits shall be in
6 addition to the five (5) other board-approved locations
7 permitted under this section.

8 (5) Apply for and hold a hotel liquor license, a restaurant
9 liquor license or a malt and brewed beverages retail license to
10 sell for consumption at the restaurant or limited winery on the
11 licensed winery premises, liquor, wine and malt or brewed
12 beverages regardless of the place of manufacture under the same
13 conditions and regulations as any other hotel liquor license,
14 restaurant liquor license or malt and brewed beverages retail
15 license.

16 (6) (i) Secure a permit from the board to allow the holder
17 of a limited winery license to use up to twenty-five per centum
18 permitted fruit, not wine, in the current year's production.
19 Each permit is valid only for the calendar year in which it is
20 issued.

21 (ii) The fee for a permit to import and use permitted fruit
22 shall be in an amount to be determined by the board.

23 (iii) The purpose of this section is to increase the
24 productivity of limited wineries while at the same time
25 protecting the integrity and unique characteristics of wine
26 produced from fruit primarily grown in this Commonwealth.
27 Prevailing climatic conditions have a significant impact on the
28 character of the fruit. Accordingly, "permitted fruit" shall
29 mean fruit grown or juice derived from fruit grown within three
30 hundred fifty (350) miles of the winery.

1 (iv) The department is authorized to promulgate regulations
2 requiring the filing of periodic reports by limited wineries to
3 ensure compliance with the provisions of this section.

4 [(v) This clause shall expire on December 31, 2004.]

5 (7) The total production of alcoholic ciders, wine and wine
6 coolers by a limited winery may not exceed two hundred thousand
7 (200,000) gallons per year.

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