

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1547 Session of
2008

INTRODUCED BY EARLL, SEPTEMBER 5, 2008

REFERRED TO LAW AND JUSTICE, SEPTEMBER 5, 2008

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," in
17 licenses and regulations relating to liquor, alcohol and malt
18 and brewed beverages, further providing for interlocking
19 businesses prohibited and for number and kinds of licenses
20 allowed same licensee.

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

23 Section 1. Sections 411(e) and 438(c) of the act of April
24 12, 1951 (P.L.90, No.21), known as the Liquor Code, reenacted
25 and amended June 29, 1987 (P.L.32, No.14), are amended to read:

26 Section 411. Interlocking Business Prohibited.--* * *

1 (e) Except as herein provided, no hotel, restaurant, retail
2 dispenser or club licensee, and no officer, director or
3 stockholder, agent or employe of any such licensee shall in any
4 wise be interested, directly or indirectly, in the ownership or
5 leasehold of any property or the equipment of any property or
6 any mortgage lien against the same, used by a distributor,
7 importing distributor, or by an importer or sacramental wine
8 licensee, in the conduct of his business; nor shall any hotel,
9 restaurant, retail dispenser or club licensee, or any officer,
10 director, stockholder, agent or employe of any such licensee,
11 either directly or indirectly, lend any moneys, credit, or give
12 anything of value or the equivalent thereof, to any distributor,
13 importing distributor, importer or sacramental wine licensee,
14 for equipping, fitting out, or maintaining and conducting,
15 either in whole or in part, an establishment used in the conduct
16 of his business.

17 The purpose of this section is to require a separation of the
18 financial and business interests between manufacturers and
19 holders of hotel or restaurant liquor licenses and, as herein
20 provided, of club licenses, issued under this article, and no
21 person shall, by any device whatsoever, directly or indirectly,
22 evade the provisions of the section. But in view of existing
23 economic conditions, nothing contained in this section shall be
24 construed to prohibit the ownership of property or conflicting
25 interest by a manufacturer of any place occupied by a licensee
26 under this article after the manufacturer has continuously owned
27 and had a conflicting interest in such place for a period of at
28 least five years prior to July eighteenth, one thousand nine
29 hundred thirty-five: Provided, however, That this clause shall
30 not prohibit any hotel, restaurant or club liquor licensee from

1 owning land which is leased to, and the buildings thereon owned
2 by, a holder of a retail dispenser's license; and nothing in
3 this clause shall prevent the issuance of a retail dispenser's
4 license to a lessee of such lands who owns the buildings
5 thereon: And, provided further, That nothing contained in this
6 section shall be construed to prohibit any hotel, restaurant,
7 retail dispenser or club licensee or any officer, director or
8 stockholder, agent or employe of any such licensee from having a
9 financial or other interest, directly or indirectly in the
10 ownership or leasehold of any property or the equipment of any
11 property or any mortgage lien against same, used, leased by an
12 importer or sacramental wine licensee for the exclusive purpose
13 of maintaining commercial offices and on the condition that said
14 property is not used for the storage or sale of liquor or malt
15 or brewed beverages in any quantity[.]: And, provided further,
16 That nothing contained in this section shall be construed to
17 prohibit a member of the governing board of a public authority
18 created under subdivision (n) of Article XXIII of the act of
19 August 9, 1955 (P.L.323, No.130), known as "The County Code,"
20 from having an interest in a distributor or importing
21 distributor license notwithstanding the fact that the public
22 authority has an interest in one or more retail licenses or acts
23 as a landlord for one or more retail licenses.

24 Section 438. Number and Kinds of Licenses Allowed Same
25 Licensee.--* * *

26 (c) No person shall possess more than one class of license,
27 except that a holder of a retail dispenser's license may also be
28 a holder of a retail liquor license[.]: Provided, however, That
29 nothing contained in this section shall be construed to prohibit
30 a member of the governing board of a public authority created

1 under subdivision (n) of Article XXIII of the act of August 9,
2 1955 (P.L.323, No.130), known as "The County Code," from having
3 an interest in a distributor or importing distributor license
4 notwithstanding the fact that the public authority has an
5 interest in one or more retail licenses or acts as a landlord
6 for one or more retail licenses.

7 Section 2. Section 443(g) of the act, amended May 31, 1996
8 (P.L.312, No.49), is amended to read:

9 Section 443. Interlocking Business Prohibited.--* * *

10 (g) The purpose of this section is to require a separation
11 of the financial and business interests between the various
12 classes of business regulated by subdivision (B) of this
13 article, and no person or corporation shall, by any device
14 whatsoever, directly or indirectly, evade the provisions of this
15 section. But in view of existing economic conditions, nothing
16 contained in this section shall be construed to prohibit the
17 ownership of property or conflicting interest by a malt or
18 brewed beverage manufacturer of any place occupied by a
19 distributor, importing distributor or retail dispenser after the
20 manufacturer has continuously owned and had a conflicting
21 interest in such place for a period of at least five years prior
22 to the eighteenth day of July, one thousand nine hundred thirty-
23 five: Provided, however, That a holder of a manufacturer's
24 license under section 431(a) who is eligible to operate a
25 brewery pub under section 446(2) or a limited winery as provided
26 for under section 505.2 may also hold and operate under a hotel
27 liquor license, a restaurant liquor license or a malt and brewed
28 beverages retail license on the manufacturer's or limited
29 winery's licensed premises. The hotel liquor license or
30 restaurant liquor license or the malt and brewed beverages

1 retail license shall be acquired by the manufacturer or limited
2 winery subject to section 461 and shall satisfy all requirements
3 for each respective license[.]: And, provided further, That
4 nothing contained in this section shall be construed to prohibit
5 a member of the governing board of a public authority created
6 under subdivision (n) of Article XXIII of the act of August 9,
7 1955 (P.L.323, No.130), known as "The County Code," from having
8 an interest in a distributor or importing distributor license
9 notwithstanding the fact that the public authority has an
10 interest in one or more retail licenses or acts as a landlord
11 for one or more retail licenses.

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

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