

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2888 Session of
2004INTRODUCED BY FICHTER, RAYMOND, RUBLEY, BUNT, WATSON, MCGILL,
WEBER, DAILEY AND HARPER, OCTOBER 5, 2004AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
NOVEMBER 10, 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 limited wineries.

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

20 Section 1. Section 505.2 of the act of April 12, 1951
21 (P.L.90, No.21), known as the Liquor Code, reenacted and amended
22 June 29, 1987 (P.L.32, No.14) and amended November 10, 1999
23 (P.L.514, No.47), December 16, 2002 (P.L.1806, No.221) and July
24 17, 2003 (P.L.63, No.15), is amended to read:

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

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

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

25 (3) Separately or in conjunction with other limited
26 wineries, sell alcoholic cider, wine and wine coolers produced
27 by the limited winery on no more than five (5) board-approved
28 locations other than the licensed premises, with no bottling or
29 production requirement at those additional board-approved
30 locations and under such conditions and regulations as the board

1 may enforce, to the board, to individuals and to brewery, hotel,
2 restaurant, club and public service liquor licensees. If two or
3 more limited wineries apply to operate an additional board-
4 approved location in conjunction with each other, the wineries
5 need only have one board-approved manager for the location, need
6 only pay one application fee and need not designate specific or
7 distinct areas for each winery's licensed area. Each limited
8 winery must file an application for such an additional board-
9 approved location, and such location shall count as one of the
10 five permitted for each limited winery. Each limited winery is
11 responsible for keeping only its own complete records. A limited
12 winery may be cited for a violation of the recordkeeping
13 requirements of sections 512 and 513 pertaining to its own
14 records only.

15 (4) At the discretion of the board, obtain a special permit
16 to participate in alcoholic cider, wine and food expositions off
17 the licensed premises. A special permit shall be issued upon
18 proper application and payment of a fee of thirty dollars (\$30)
19 per day for each day of permitted use, not to exceed five (5)
20 consecutive days. The total number of days for all the special
21 permits may not exceed forty (40) days in any calendar year. A
22 special permit shall entitle the holder to engage in the sale of
23 alcoholic cider or wine produced by the bottle or in case lots
24 by the permittee under the authority of a limited winery
25 license. Holders of special permits may provide tasting samples
26 of wines in individual portions not to exceed one fluid ounce.
27 Samples at alcoholic cider, wine and food expositions may be
28 sold or offered free of charge. Except as provided herein,
29 limited wineries utilizing special permits shall be governed by
30 all applicable provisions of this act as well as by all

1 applicable regulations or conditions adopted by the board.

2 For the purposes of this clause, "alcoholic cider, wine and
3 food expositions" are defined as affairs held indoors or
4 outdoors with the primary intent of educating those in
5 attendance of the availability, nature and quality of
6 Pennsylvania-produced alcoholic ciders and wines in conjunction
7 with suitable food displays, demonstrations and sales. Alcoholic
8 cider, wine and food expositions may also include activities
9 other than alcoholic cider, wine and food displays, including
10 arts and crafts, musical activities, cultural exhibits,
11 agricultural exhibits and similar activities.

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

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

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

27 (iii) The purpose of this section is to increase the
28 productivity of limited wineries while at the same time
29 protecting the integrity and unique characteristics of wine
30 produced from fruit primarily grown in this Commonwealth.

1 Prevailing climatic conditions have a significant impact on the
2 character of the fruit. Accordingly, "permitted fruit" shall
3 mean fruit grown or juice derived from fruit grown within three
4 hundred fifty (350) miles of the winery.

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

8 (v) This clause shall expire on December 31, 2004.

9 (6.1) OPERATE A RESTAURANT ON THE LICENSED PREMISES AND SELL <—
10 BY THE GLASS ONLY WINE THAT MAY OTHERWISE BE SOLD BY THE BOTTLE.

11 (7) The total production of alcoholic ciders, wine and wine
12 coolers by a limited winery may not exceed two hundred thousand
13 (200,000) gallons per year.

14 (b) The term "agricultural commodity" as used in this
15 section shall include any of the following: agricultural,
16 apicultural, horticultural, silvicultural and viticultural.

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