

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2165 Session of
2008

INTRODUCED BY COSTA, BENNINGTON, BIANCUCCI, BRENNAN,
CALTAGIRONE, CRUZ, FRANKEL, GODSHALL, GRUCELA, HARHAI,
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K. SMITH, SURRA, VULAKOVICH, WATSON, J. WHITE AND DeLUCA,
JANUARY 17, 2008

REFERRED TO COMMITTEE ON LIQUOR CONTROL, JANUARY 17, 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,"
17 further providing for the definition of "wine," for the
18 general powers of the board, for sales by Pennsylvania Liquor
19 Stores, for wine auction permits, for interlocking business
20 prohibited, for breweries, for unlawful acts relative to
21 liquor, alcohol and liquor licensees, for unlawful acts
22 relative to liquor, malt and brewed beverages and licensees,
23 for licenses required and for limited wineries.

24 The General Assembly of the Commonwealth of Pennsylvania
25 hereby enacts as follows:

26 Section 1. The definition of "wine" in section 102 of the

1 act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code,
2 reenacted and amended June 29, 1987 (P.L.32, No.14) and added
3 December 8, 2004 (P.L.1810, No.239), is amended to read:

4 Section 102. Definitions.--The following words or phrases,
5 unless the context clearly indicates otherwise, shall have the
6 meanings ascribed to them in this section:

7 * * *

8 "Wine" shall mean liquor which is fermented from [grapes and
9 other fruits having] agricultural, apicultural, horticultural,
10 silvicultural and viticultural commodities, having an alcoholic
11 content of twenty-four per centum or less. The term "wine" shall
12 not include any products containing alcohol derived from malt,
13 grain, cereal, molasses or cactus.

14 * * *

15 Section 2. Section 207 of the act is amended by adding a
16 subsection to read:

17 Section 207. General Powers of Board.--Under this act, the
18 board shall have the power and its duty shall be:

19 * * *

20 (1) To deliver liquor to licensed and unlicensed consumers,
21 including wines purchased directly from a limited winery. The
22 board may charge a fee for this service.

23 Section 3. Section 305(b) of the act, amended July 6, 2005
24 (P.L.135, No.39), is amended to read:

25 Section 305. Sales by Pennsylvania Liquor Stores.--* * *

26 (b) Every Pennsylvania Liquor Store shall sell liquors at
27 wholesale to hotels, restaurants, clubs, and railroad, pullman
28 and steamship companies licensed under this act; and, under the
29 regulations of the board, to pharmacists duly licensed and
30 registered under the laws of the Commonwealth, and to

1 manufacturing pharmacists, and to reputable hospitals approved
2 by the board, or chemists. Sales to licensees shall be made at a
3 price that includes a discount of ten per centum from the retail
4 price. The board may sell to registered pharmacists only such
5 liquors as conform to the Pharmacopoeia of the United States,
6 the National Formulary, or the American Homeopathic
7 Pharmacopoeia. The board may sell at special prices under the
8 regulations of the board, to United States Armed Forces
9 facilities which are located on United States Armed Forces
10 installations and are conducted pursuant to the authority and
11 regulations of the United States Armed Forces. All other sales
12 by such stores shall be at retail. A person entitled to purchase
13 liquor at wholesale prices may purchase the liquor at any
14 Pennsylvania Liquor Store upon tendering cash, check or credit
15 card for the full amount of the purchase. For this purpose, the
16 board shall issue a discount card to each licensee identifying
17 such licensee as a person authorized to purchase liquor at
18 wholesale prices. Such discount card shall be retained by the
19 licensee. The board may contract through the Commonwealth
20 bidding process or it may use board employees for delivery to
21 [wholesale licensees] licensed and unlicensed consumers at the
22 expense of the [licensee] consumer receiving the delivery.

23 * * *

24 Section 4. Section 408.12(g) and (h) of the act, added July
25 1, 1994 (P.L.402, No.61), are amended to read:

26 Section 408.12. Wine Auction Permits.--* * *

27 (g) Any wine sold under this section shall be purchased from
28 a Pennsylvania Liquor Store, a [Pennsylvania] limited winery or
29 any seller authorized to sell wine by the bottle or case in this
30 Commonwealth or shall be donated by a person who is neither a

1 licensee nor a permittee who has legally acquired the wine and
2 legally possesses it in this Commonwealth.

3 (h) If any wine sold under this section is purchased from a
4 seller other than a Pennsylvania Liquor Store or a
5 [Pennsylvania] limited winery, the permittee shall provide
6 thirty days' notice to the board of its intent to purchase such
7 wine. The notice shall include a description of the wine to be
8 purchased, the quantity to be purchased, the name of the seller
9 and any other information which the board may require. The
10 permittee shall comply with all board regulations regarding
11 taxes and fees.

12 * * *

13 Section 5. Section 443 of the act, amended May 31, 1996
14 (P.L.312, No.49) and June 18, 1998 (P.L.664, No.86), is amended
15 to read:

16 Section 443. Interlocking Business Prohibited.--(a) No
17 manufacturer of malt or brewed beverages and no officer or
18 director of any such manufacturer shall at the same time be a
19 distributor, importing distributor or retail dispenser, or an
20 officer, director or stockholder or creditor of any distributor,
21 importing distributor or retail dispenser, nor, except as
22 hereinafter provided, be the owner, proprietor or lessor of any
23 place for which a license has been issued for any importing
24 distributor, distributor or retail dispenser, or for which a
25 hotel, restaurant or club liquor license has been issued:
26 Provided, however, That a holder of a manufacturer's license
27 under section 431(a) who is eligible to operate a brewery pub
28 under section 446(2) [or a limited winery as provided for under
29 section 505.2] may also hold and operate under a hotel liquor
30 license, a restaurant liquor license or a malt and brewed

1 beverages retail license on the manufacturer's [or limited
2 winery's] licensed premises. The hotel liquor license or
3 restaurant liquor license or the malt and brewed beverages
4 retail license shall be acquired by the manufacturer [or limited
5 winery] subject to section 461 and shall satisfy all
6 requirements for each respective license.

7 (b) No distributor or importing distributor and no officer
8 or director of any distributor or importing distributor shall at
9 the same time be a manufacturer, a retail dispenser or a liquor
10 licensee, or be an officer, director, stockholder or creditor of
11 a manufacturer, a retail dispenser or a liquor licensee, or,
12 directly or indirectly, own any stock of, or have any financial
13 interest in, or be the owner, proprietor or lessor of, any place
14 covered by any other malt or brewed beverage or liquor license.

15 (c) No licensee licensed under this subdivision (B) of
16 Article IV and no officer or director of such licensee shall,
17 directly or indirectly, own any stock of, or have any financial
18 interest in, any other class of business licensed under this
19 subdivision: Provided, however, That a holder of a
20 manufacturer's license under section 431(a) who is eligible to
21 operate a brewery pub under section 446(2) [or a limited winery
22 as provided for under section 505.2] may also hold and operate
23 under a hotel liquor license, a restaurant liquor license or a
24 malt and brewed beverages retail license on the manufacturer's
25 [or limited winery's] licensed premises. The hotel liquor
26 license or restaurant liquor license or the malt and brewed
27 beverages retail license shall be acquired by the manufacturer
28 [or limited winery] subject to section 461 and shall satisfy all
29 requirements for each respective license.

30 (d) Excepting as hereinafter provided, no malt or brewed

1 beverage manufacturer, importing distributor or distributor
2 shall in any wise be interested, either directly or indirectly,
3 in the ownership or leasehold of any property or in any mortgage
4 against the same, for which a liquor or retail dispenser's
5 license is granted; nor shall any such manufacturer, importing
6 distributor or distributor, either directly or indirectly, lend
7 any moneys, credit or equivalent thereof to, or guarantee the
8 payment of any bond, mortgage, note or other obligation of, any
9 liquor licensee or retail dispenser, in equipping, fitting out,
10 or maintaining and conducting, either in whole or in part, an
11 establishment or business operated under a liquor or retail
12 dispenser's license, excepting only the usual and customary
13 credits allowed for returning original containers in which malt
14 or brewed beverages were packaged for market by the manufacturer
15 at the place of manufacture: Provided, however, That a holder of
16 a manufacturer's license under section 431(a) who is eligible to
17 operate a brewery pub under section 446(2) [or a limited winery
18 as provided for under section 505.2] may also hold and operate
19 under a hotel liquor license, a restaurant liquor license or a
20 malt and brewed beverages retail license on the manufacturer's
21 [or limited winery's] licensed premises. The hotel liquor
22 license or restaurant liquor license or the malt and brewed
23 beverages retail license shall be acquired by the manufacturer
24 [or limited winery] subject to section 461 and shall satisfy all
25 requirements for each respective license.

26 (e) Excepting as hereinafter provided, no manufacturer of
27 malt or brewed beverages shall in any wise be interested, either
28 directly or indirectly, in the ownership or leasehold of any
29 property or any mortgage lien against the same, for which a
30 distributor's or importing distributor's license is granted; nor

1 shall any such manufacturer, either directly or indirectly, lend
2 any moneys, credit, or their equivalent to, or guarantee the
3 payment of any bond, mortgage, note or other obligation of, any
4 distributor or importing distributor, in equipping, fitting out,
5 or maintaining and conducting, either in whole or in part, an
6 establishment or business where malt or brewed beverages are
7 licensed for sale by a distributor or importing distributor,
8 excepting only the usual credits allowed for the return of
9 original containers in which malt or brewed beverages were
10 originally packaged for the market by the manufacturer at the
11 place of manufacture: Provided, however, That a holder of a
12 manufacturer's license under section 431(a) who is eligible to
13 operate a brewery pub under section 446(2) [or a limited winery
14 as provided for under section 505.2] may also hold and operate
15 under a hotel liquor license, a restaurant liquor license or a
16 malt and brewed beverages retail license on the manufacturer's
17 [or limited winery's] licensed premises. The hotel liquor
18 license or restaurant liquor license or the malt and brewed
19 beverages retail license shall be acquired by the manufacturer
20 [or limited winery] subject to section 461 and shall satisfy all
21 requirements for each respective license. Nothing in this
22 section shall be construed to prohibit an out of State
23 manufacturer from engaging in a transaction or making payments
24 authorized by section 431(a.1).

25 (f) No distributor, importing distributor or retail
26 dispenser shall in anywise receive, either directly or
27 indirectly, any credit, loan, moneys or the equivalent thereof
28 from any other licensee, or from any officer, director or firm
29 member of any other licensee, or from or through a subsidiary or
30 affiliate of another licensee, or from any firm, association or

1 corporation, except banking institutions, in which another
2 licensee or any officer, director or firm member of another
3 licensee has a substantial interest or exercises a control of
4 its business policy, for equipping, fitting out, payment of
5 license fee, maintaining and conducting, either in whole or in
6 part, an establishment or business operated under a
7 distributor's, importing distributor's or retail dispenser's
8 license, excepting only the usual and customary credits allowed
9 for the return of original containers in which malt or brewed
10 beverages were packaged for the market by the manufacturer at
11 the place of manufacture: Provided, however, That a holder of a
12 manufacturer's license under section 431(a) who is eligible to
13 operate a brewery pub under section 446(2) [or a limited winery
14 as provided for under section 505.2] may also hold and operate
15 under a hotel liquor license, a restaurant liquor license or a
16 malt and brewed beverages retail license on the manufacturer's
17 [or limited winery's] licensed premises. The hotel liquor
18 license or restaurant liquor license or the malt and brewed
19 beverages retail license shall be acquired by the manufacturer
20 [or limited winery] subject to section 461 and shall satisfy all
21 requirements for each respective license. Nothing in this
22 section shall be construed to prohibit an importing distributor
23 from receiving payment from an out of State manufacturer for
24 engaging in a transaction or performing services authorized by
25 section 431(b) or 444(a.1).

26 (g) The purpose of this section is to require a separation
27 of the financial and business interests between the various
28 classes of business regulated by subdivision (B) of this
29 article, and no person or corporation shall, by any device
30 whatsoever, directly or indirectly, evade the provisions of this

1 section. But in view of existing economic conditions, nothing
2 contained in this section shall be construed to prohibit the
3 ownership of property or conflicting interest by a malt or
4 brewed beverage manufacturer of any place occupied by a
5 distributor, importing distributor or retail dispenser after the
6 manufacturer has continuously owned and had a conflicting
7 interest in such place for a period of at least five years prior
8 to the eighteenth day of July, one thousand nine hundred thirty-
9 five: Provided, however, That a holder of a manufacturer's
10 license under section 431(a) who is eligible to operate a
11 brewery pub under section 446(2) [or a limited winery as
12 provided for under section 505.2] may also hold and operate
13 under a hotel liquor license, a restaurant liquor license or a
14 malt and brewed beverages retail license on the manufacturer's
15 [or limited winery's] licensed premises. The hotel liquor
16 license or restaurant liquor license or the malt and brewed
17 beverages retail license shall be acquired by the manufacturer
18 [or limited winery] subject to section 461 and shall satisfy all
19 requirements for each respective license.

20 The term "manufacturer" as used in this section shall include
21 manufacturers of malt or brewed beverages as defined in this act
22 and any person manufacturing any malt or brewed beverages
23 outside of this Commonwealth.

24 Section 6. Section 446(2) of the act, amended January 6,
25 2006 (P.L.1, No.1), is amended to read:

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

27 * * *

28 (2) Operate a restaurant or brewery pub on the licensed
29 premises under such conditions and regulations as the board may
30 enforce: Provided, however, That sales on Sunday may be made

1 irrespective of the volume of food sales if the licensed
2 premises are at a public venue location. The holder of a brewery
3 license may sell at its brewery pub premises [Pennsylvania]
4 wines it has purchased from either the holder of a
5 [Pennsylvania] limited winery license or from the board:
6 Provided, however, That said wines must be consumed at the
7 licensed brewery pub premises.

8 * * *

9 Section 7. Section 491(2) of the act, amended July 7, 2006
10 (P.L.584, No.84), is amended to read:

11 Section 491. Unlawful Acts Relative to Liquor, Alcohol and
12 Liquor Licensees.--

13 It shall be unlawful--

14 * * *

15 (2) Possession or Transportation of Liquor or Alcohol. For
16 any person, except a manufacturer or the board or the holder of
17 a sacramental wine license or of an importer's license, to
18 possess or transport any liquor or alcohol within this
19 Commonwealth which was not lawfully acquired prior to January
20 first, one thousand nine hundred and thirty-four, or has not
21 been purchased from a Pennsylvania Liquor Store or a licensed
22 limited winery [in Pennsylvania], except in accordance with
23 section 488 or the board's regulations. In addition, it shall be
24 lawful for anyone to possess miniatures totaling less than one
25 gallon purchased in another state or a foreign country. The
26 burden shall be upon the person possessing or transporting such
27 liquor or alcohol to prove that it was so acquired.

28 Notwithstanding this section or any other provision of the law,
29 wine may be produced by any person without a license if the wine
30 is not produced for sale and total production does not exceed

1 two hundred gallons per calendar year. Wine produced in
2 accordance with this clause may be used at organized affairs,
3 exhibitions, competitions, contests, tastings or judgments if it
4 is not sold or offered for sale.

5 None of the provisions herein contained shall prohibit nor
6 shall it be unlawful for any person to import into Pennsylvania,
7 transport or have in his possession, an amount of liquor not
8 exceeding one gallon in volume upon which a State tax has not
9 been paid, if it can be shown to the satisfaction of the board
10 that such person purchased the liquor in a foreign country or
11 United States territory and was allowed to bring it into the
12 United States. Neither shall the provisions contained herein
13 prohibit nor make it unlawful for (i) any member of the armed
14 forces on active duty, or (ii) any retired member of the armed
15 forces, or (iii) any totally disabled veteran, or (iv) the
16 spouse of any person included in the foregoing classes of
17 persons to import into Pennsylvania, transport or have in his
18 possession an amount of liquor not exceeding one gallon per
19 month in volume upon which the State tax has not been paid, so
20 long as such liquor has been lawfully purchased from a package
21 store established and maintained under the authority of the
22 United States and is in containers identified in accordance with
23 regulations issued by the Department of Defense. Such liquor
24 shall not be possessed, offered for sale or sold on any licensed
25 premises.

26 None of the provisions herein contained shall prohibit nor
27 shall it be unlawful for any consul general, consul or other
28 diplomatic officer of a foreign government to import into
29 Pennsylvania, transport or have in his possession liquor upon
30 which a State tax has not been paid, if it can be shown to the

1 satisfaction of the board that such person acquired the liquor
2 in a foreign country and was allowed to bring it into the United
3 States. Such liquor shall not be possessed, offered for sale or
4 sold on any licensed premises.

5 Any person violating the provisions of this clause for a
6 first offense involving the possession or transportation in
7 Pennsylvania of any liquor in a package (bottle or other
8 receptacle) or wine not purchased from a Pennsylvania Liquor
9 Store or from a licensed limited winery [in Pennsylvania], with
10 respect to which satisfactory proof is produced that the
11 required Federal tax has been paid and which was purchased,
12 procured or acquired legally outside of Pennsylvania shall upon
13 conviction thereof in a summary proceeding be sentenced to pay a
14 fine of twenty-five dollars (\$25) for each such package, plus
15 costs of prosecution, or undergo imprisonment for a term not
16 exceeding ninety (90) days. Each full quart or major fraction
17 thereof shall be considered a separate package (bottle or other
18 receptacle) for the purposes of this clause. Such packages of
19 liquor shall be forfeited to the Commonwealth in the manner
20 prescribed in Article VI of this act but the vehicle, boat,
21 vessel, animal or aircraft used in the illegal transportation of
22 such packages shall not be subject to forfeiture: Provided,
23 however, That if it is a second or subsequent offense or if it
24 is established that the illegal possession or transportation was
25 in connection with a commercial transaction, then the other
26 provisions of this act providing for prosecution as a
27 misdemeanor and for the forfeiture of the vehicle, boat, vessel,
28 animal or aircraft shall apply.

29 * * *

30 Section 8. Section 493(11) of the act, amended June 18, 1998

1 (P.L.664, No.86), is amended to read:

2 Section 493. Unlawful Acts Relative to Liquor, Malt and
3 Brewed Beverages and Licensees.--The term "licensee," when used
4 in this section, shall mean those persons licensed under the
5 provisions of Article IV, unless the context clearly indicates
6 otherwise.

7 It shall be unlawful--

8 * * *

9 (11) Licensees Employed by Others. For any hotel, restaurant
10 or club liquor licensee, or any malt or brewed beverage
11 licensee, or any officer, servant, agent or employe of such
12 licensee, to be at the same time employed, directly or
13 indirectly, by any distributor, importing distributor,
14 manufacturer, importer or vendor licensee or any out of State
15 manufacturer. It shall also be unlawful for any distributor or
16 importing distributor, or any officer, servant, agent or employe
17 of such licensee, to be at the same time employed, directly or
18 indirectly, by any other distributor, importing distributor,
19 manufacturer, importer, vendor, out of State manufacturer, hotel
20 restaurant, malt or brewed beverage licensee, or club liquor
21 licensee. It shall also be unlawful for any manufacturer,
22 importer, or vendor licensee, or any out of State manufacturer,
23 or any officer, servant, agent or employe of such licensee or
24 manufacturer, to be at the same time employed, directly or
25 indirectly, by any hotel, restaurant or club liquor licensee or
26 any malt or brewed beverage licensee or any distributor or
27 importing distributor licensee. Nothing in this subsection shall
28 be construed to prohibit a manufacturer or limited winery
29 licensee, or any officer, servant, agent or employe of such
30 licensee, to be employed at the same time by a hotel, restaurant

1 or retail dispenser licensee if the hotel, restaurant or retail
2 dispenser licensee is located at the manufacturer or limited
3 winery premises pursuant to section 443 or 505.2. For the
4 purposes of this subsection, an officer, servant, agent or
5 employe of a licensee or manufacturer is an individual who has
6 either an ownership interest in the licensee or manufacturer or
7 who receives compensation for his or her work on behalf of the
8 licensee or manufacturer.

9 * * *

10 Section 9. Section 501 of the act is amended to read:

11 Section 501. License Required.--Except as otherwise provided
12 in this article, and except as otherwise provided in article
13 four as to malt and brewed beverages, it shall be unlawful for
14 any person without a license obtained under provisions of this
15 article to hold in storage as bailee for hire, or transport for
16 hire, any malt or brewed beverage, or to manufacture, produce,
17 distill, develop or use in the process of manufacture, denature,
18 redistill, recover, rectify, blend, reuse, hold in bond, hold in
19 storage as bailee for hire, or transport for hire, within this
20 Commonwealth, any alcohol or liquor, [, except that a person may
21 manufacture wine out of grapes grown in Pennsylvania by
22 fermentation only and with no alcohol or alcoholic product added
23 thereto by way of fortification and sell the same to a licensed
24 winery.]

25 Section 10. Section 505.2 of the act, amended December 8,
26 2004 (P.L.1810, No.239) and July 16, 2007 (P.L.107, No.34), is
27 amended to read:

28 Section 505.2. Limited Wineries.--(a) [In the interest of
29 promoting tourism and recreational development in Pennsylvania,
30 holders] Holders of a limited winery license may:

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

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

23 (3) [Separately or in conjunction with other limited
24 wineries, sell] Sell alcoholic cider[, wine and wine coolers]
25 and wine produced by the limited winery on no more than five (5)
26 board-approved satellite locations other than the primary
27 licensed premises location, with no bottling or production
28 requirement at [those additional] the board-approved satellite
29 locations and under such conditions and regulations as the board
30 may enforce, to the board, to individuals and to brewery, hotel,

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

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

1 shall be governed by all applicable provisions of this act as
2 well as by all applicable regulations or conditions adopted by
3 the board. Notwithstanding any other provisions of law, permits
4 may not be utilized in supermarkets or other similar locations.

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

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

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

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

30 (iii) The purpose of this section is to increase the

1 productivity of limited wineries while at the same time
2 protecting the integrity and unique characteristics of wine
3 produced from fruit primarily grown in this Commonwealth.
4 Prevailing climatic conditions have a significant impact on the
5 character of the fruit. Accordingly, "permitted fruit" shall
6 mean fruit grown or juice derived from fruit grown within three
7 hundred fifty (350) miles of the winery.

8 (iv) The department is authorized to promulgate regulations
9 requiring the filing of periodic reports by limited wineries to
10 ensure compliance with the provisions of this section.]

11 (6.1) [Sell] At the primary licensed premises location only,
12 sell food for consumption on or off the licensed premises and
13 sell by the glass only wine and alcoholic ciders that may
14 otherwise be sold by the bottle.

15 (6.2) Sell wine- or liquor-scented candles acquired or
16 produced by the limited winery.

17 (6.3) Sell alcoholic cider, wine and wine coolers only
18 between the hours of nine o'clock antemeridian and nine o'clock
19 postmeridian. During the period from Thanksgiving Day through
20 New Year's Day, limited winery sales locations may remain open
21 to conform with the closing times of neighboring mall or
22 shopping district businesses but no later than ten o'clock
23 postmeridian. A limited winery also may request approval from
24 the board to extend sales hours in individual locations at other
25 times during the year or beyond the limits set forth in this
26 clause. The request shall be made in writing to the board's
27 Office of the Chief Counsel and shall detail the exact locations
28 where sales hours are proposed to be extended, the proposed
29 hours and dates of extended operation and the reason for the
30 proposed extended hours. This paragraph shall not be construed

1 as regulating the hours of operation by a limited winery for a
2 location outside of this Commonwealth.

3 (b) The total production of alcoholic ciders, wine and wine
4 coolers by a limited winery may not exceed [two hundred thousand
5 (200,000) gallons per year.] eighty thousand (80,000) gallons
6 per year, including wine in bulk in bond sold to or obtained
7 from other limited wineries.

8 (c) As used in this section:

9 "Agricultural commodity" shall include any of the following:
10 agricultural, apicultural, horticultural, silvicultural and
11 viticultural commodities.

12 "Farmers market" shall include any building, structure or
13 other place:

14 (1) owned, leased or otherwise in the possession of a
15 person, municipal corporation or public or private organization;

16 (2) used or intended to be used by two or more farmers or an
17 association of farmers, who are certified by the Department of
18 Agriculture of the Commonwealth to participate in the Farmers'
19 Market Nutrition Program subject to 7 CFR Pt. 249 (relating to
20 Senior Farmers' Market Nutrition Program (SFMNP)), for the
21 purpose of selling agricultural commodities produced in this
22 Commonwealth directly to consumers;

23 (3) which is physically located within this Commonwealth;
24 and

25 (4) which is not open for business more than twelve hours
26 each day.

27 (d) No limited winery licensee, or its officers, directors,
28 shareholders or members, shall hold any interest in any other
29 license issued by the board; nor shall any limited winery
30 licensee, or its officers, directors, shareholders or members,

1 either directly or indirectly, lend any moneys, credit or
2 equivalent thereof to any other licensee; nor shall any limited
3 winery licensee, or its officers, directors, shareholders or
4 members guarantee the payment of any bond, mortgage, note or
5 other obligation of any other licensee; nor shall any limited
6 winery licensee, or its officers, directors, shareholders or
7 members, be the owner, proprietor or lessor of any place for
8 which any other license has been issued by the board.

9 Notwithstanding this section, a limited winery licensee may hold
10 and operate a hotel liquor license, a restaurant liquor license
11 or a malt or brewed beverages retail dispenser license at the
12 limited winery licensee's primary licensed premises location.

13 (e) No limited winery licensee, or its officers, directors,
14 shareholders, members, employees, servants or agents may deliver
15 wine to a licensed or unlicensed customer off of the limited
16 winery's licensed premises, except in accordance with section
17 207(e). Wine sold directly by the limited winery and delivered
18 to customers pursuant to section 207(e) is subject to taxes in
19 the same manner as wine sold through the Pennsylvania Liquor
20 Stores.

21 Section 11. This act shall take effect in 60 days.