

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1612 Session of  
2008

INTRODUCED BY O'PAKE, OCTOBER 14, 2008

REFERRED TO LAW AND JUSTICE, OCTOBER 14, 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 prohibition of interlocking businesses.

18 The General Assembly of the Commonwealth of Pennsylvania

19 hereby enacts as follows:

20 Section 1. Section 411(e) 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), is amended to read:

23 Section 411. Interlocking Business Prohibited.--\* \* \*

24 (e) Except as herein provided, no hotel, restaurant, retail  
25 dispenser or club licensee, and no officer, director or

1 stockholder, agent or employe of any such licensee shall in any  
2 wise be interested, directly or indirectly, in the ownership or  
3 leasehold of any property or the equipment of any property or  
4 any mortgage lien against the same, used by a distributor,  
5 importing distributor, or by an importer or sacramental wine  
6 licensee, in the conduct of his business; nor shall any hotel,  
7 restaurant, retail dispenser or club licensee, or any officer,  
8 director, stockholder, agent or employe of any such licensee,  
9 either directly or indirectly, lend any moneys, credit, or give  
10 anything of value or the equivalent thereof, to any distributor,  
11 importing distributor, importer or sacramental wine licensee,  
12 for equipping, fitting out, or maintaining and conducting,  
13 either in whole or in part, an establishment used in the conduct  
14 of his business.

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

1 this clause shall prevent the issuance of a retail dispenser's  
2 license to a lessee of such lands who owns the buildings  
3 thereon: And, provided further, That nothing contained in this  
4 section shall be construed to prohibit any hotel, restaurant,  
5 retail dispenser or club licensee or any officer, director or  
6 stockholder, agent or employe of any such licensee from having a  
7 financial or other interest, directly or indirectly in the  
8 ownership or leasehold of any property or the equipment of any  
9 property or any mortgage lien against same, used, leased by an  
10 importer or sacramental wine licensee for the exclusive purpose  
11 of maintaining commercial offices and on the condition that said  
12 property is not used for the storage or sale of liquor or malt  
13 or brewed beverages in any quantity[.]: And, provided further,  
14 that notwithstanding any other provision of this section, an  
15 entity may acquire both a distillery license and a restaurant  
16 license for use at separate locations. The licenses and person's  
17 interest in the licenses or in the entity holding the licenses  
18 shall not be subject to this section.

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

21 Section 443. Interlocking Business Prohibited.--\* \* \*

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: Provided, however, That a holder of a manufacturer's  
6 license under section 431(a) who is eligible to operate a  
7 brewery pub under section 446(2) or a limited winery as provided  
8 for under section 505.2 may also hold and operate under a hotel  
9 liquor license, a restaurant liquor license or a malt and brewed  
10 beverages retail license on the manufacturer's or limited  
11 winery's licensed premises. The hotel liquor license or  
12 restaurant liquor license or the malt and brewed beverages  
13 retail license shall be acquired by the manufacturer or limited  
14 winery subject to section 461 and shall satisfy all requirements  
15 for each respective license[.]: And, provided further, that  
16 notwithstanding any other provision of this section, an entity  
17 may acquire both a distillery license and a restaurant license  
18 for use at separate locations. The licenses and person's  
19 interest in the licenses or in the entity holding the licenses  
20 shall not be subject to this section.

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

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