

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 81 Session of 2009

INTRODUCED BY EARLL, JANUARY 29, 2009

REFERRED TO LAW AND JUSTICE, JANUARY 29, 2009

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

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

27 (e) Except as herein provided, no hotel, restaurant, retail

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

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

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

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

25 (c) No person shall possess more than one class of license,  
26 except that a holder of a retail dispenser's license may also be  
27 a holder of a retail liquor license[.]: Provided, however, That  
28 nothing contained in this section shall be construed to prohibit  
29 a member of the governing board of a public authority created  
30 under subdivision (n) of Article XXIII of the act of August 9,

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

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

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

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

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

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

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