

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2429 Session of  
2012

INTRODUCED BY SANTONI, TAYLOR, FRANKEL, BRENNAN, GIBBONS,  
HARHAI, HARKINS, KORTZ, KOTIK, LONGIETTI, STURLA, DALEY,  
PAYNE AND M. O'BRIEN, JUNE 4, 2012

REFERRED TO COMMITTEE ON LIQUOR CONTROL, JUNE 4, 2012

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 providing for special permits for breweries.

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

20 Section 1. Section 446 of the act of April 12, 1951 (P.L.90,  
21 No.21), known as the Liquor Code, reenacted and amended June 29,  
22 1987 (P.L.32, No.14) and amended December 22, 2011 (P.L.530,  
23 No.113), is amended to read:

24 Section 446. Breweries.--(a) Holders of a brewery license  
25 may:

1       (1)   Sell malt or brewed beverages produced and owned by the  
2   brewery under such conditions and regulations as the board may  
3   enforce, to individuals for consumption on the licensed premises  
4   in any container or package of any volume and to hotel,  
5   restaurant, club and public service liquor licensees.

6       (2)   Operate a restaurant or brewery pub on the licensed  
7   premises under such conditions and regulations as the board may  
8   enforce: Provided, however, That sales on Sunday may be made  
9   irrespective of the volume of food sales if the licensed  
10   premises are at a public venue location. The holder of a brewery  
11   license may sell at its brewery pub premises Pennsylvania wines  
12   it has purchased from either the holder of a Pennsylvania  
13   limited winery license or from the board: Provided, however,  
14   That said wines must be consumed at the licensed brewery pub  
15   premises.

16       (3)   Use brewery storage and distribution facilities for the  
17   purpose of receiving, storing and distributing malt or brewed  
18   beverages manufactured outside this Commonwealth if the  
19   beverages are distributed in this Commonwealth only through  
20   specific importing distributors who shall have first been given  
21   distributing rights for such products in designated geographical  
22   areas through the distribution system required for out-of-State  
23   manufacturers under section 431(b) as well as all other  
24   pertinent sections of this act. The manufacturer of the  
25   beverages must comply with section 444.

26       (4)   Apply for and hold a hotel liquor license, a restaurant  
27   liquor license or a malt and brewed beverages retail license to  
28   sell for consumption at the restaurant or brewery pub on the  
29   licensed brewery premises, liquor, wine and malt or brewed  
30   beverages regardless of the place of manufacture, under the same

1 conditions and regulations as any other hotel liquor license,  
2 restaurant liquor license or malt and brewed beverages retail  
3 license, but must brew at least two hundred fifty barrels per  
4 year. Each holder of a brewery license who receives a hotel  
5 liquor license, a restaurant liquor license or a malt or brewed  
6 beverages retail license to operate a brew pub shall not sell  
7 directly to any person licensed by this act, except if any malt  
8 or brewed beverage is to be distributed in this Commonwealth it  
9 shall be only through specific importing distributors who shall  
10 have first been given distributing rights for such products in  
11 designated geographical areas through the distribution system  
12 required for out-of-State manufacturers under section 431(b) as  
13 well as all other pertinent sections of this act.

14 (b) The holder of a brew pub license may obtain an off-  
15 premises catering permit subject to section 493(33) to hold a  
16 catered function off the licensed premises and on otherwise  
17 unlicensed premises where the licensee may sell wine produced by  
18 a licensed limited winery and malt or brewed beverages produced  
19 by the brewery by the glass, open bottle or other container, and  
20 in any mixture, for consumption on those premises. Functions  
21 conducted under the authority of the permit shall be subject to  
22 the following:

23 (1) alcohol may be provided only during the days and hours  
24 that the license holder may otherwise sell alcohol;

25 (2) all servers at the off premises catered function shall  
26 be in compliance with the responsible alcohol management  
27 provisions under section 471.1;

28 (3) each catered function shall last no longer than one day  
29 and not more than fifty catered functions may be held each  
30 calendar year by each license holder for use with a particular

1 license;

2 (4) a catered function shall not be held at a location that  
3 is already subject to the applicant's or another licensee's  
4 license;

5 (5) a permit shall not be issued to an applicant whose  
6 license is in safekeeping;

7 (6) a permit shall not be issued to a location that is  
8 subject to a pending objection by the director of the Bureau of  
9 Licensing or the board under section 470(a.1);

10 (7) a permit shall not be issued to a location that is  
11 subject to a pending license suspension under section 471 or the  
12 one-year prohibition on the issuance or transfer of a license  
13 under section 471(b);

14 (8) no alcohol may be taken from the permitted location, but  
15 the applicant may transport alcohol to and from its licensed  
16 premises to the proposed premises; and

17 (9) written notice of the date, time and location of the  
18 catered function shall be provided to the local police or if  
19 there is no local police force to the enforcement bureau at  
20 least forty-eight hours in advance of the event.

21 (c) (1) Holders of a brewery license may obtain a special  
22 permit to participate in malt or brewed beverages and food  
23 expositions off the licensed premises. A special permit shall be  
24 issued upon proper application and payment of a fee of thirty  
25 dollars (\$30.00) per day for each day of permitted use, not to  
26 exceed thirty consecutive days. The total number of days for all  
27 the special permits may not exceed one hundred days in any  
28 calendar year. A special permit shall entitle the holder to  
29 engage in the sale by the glass, by the bottle or in case lots  
30 of malt or brewed beverages produced by the permittee under the

authority of its brewery license. Holders of special permits may  
provide tasting samples of malt or brewed beverages in  
individual portions not to exceed four fluid ounces. Samples at  
malt or brewed beverages and food expositions may be sold or  
offered free of charge. Except as provided herein, breweries  
utilizing special permits shall be governed by all applicable  
provisions of this act as well as by all applicable regulations  
or conditions adopted by the board. For purposes of this clause,  
"malt or brewed beverages and food expositions" are defined as  
affairs held indoors or outdoors with the intent of educating  
those in attendance of the availability, nature and quality of  
malt or brewed beverages in conjunction with suitable food  
displays, demonstrations and sales. Malt or brewed beverages and  
food expositions may also include activities other than malt or  
brewed beverages and food displays, including arts and crafts,  
musical activities, cultural exhibits, agricultural exhibits and  
farmers markets.

(2) At the discretion of the board, obtain a farmers market  
permit. The permit shall entitle the holder to participate in  
more than one farmers market at any given time and an unlimited  
number throughout the year and sell malt or brewed beverages  
produced under the authority of the underlying brewery license  
by the bottle or in case lots. Samples not to exceed four fluid  
ounces per brand of malt or brewed beverages may be offered free  
of charge. A farmers market permit shall be issued upon proper  
application and payment of an annual fee of two hundred fifty  
dollars (\$250.00). A permit holder may participate in more than  
one farmers market at any given time. Sales by permit holders  
shall take place during the standard hours of operation of the  
farmers market. Written notice of the date, times and location

1 the permit is to be used at shall be provided by the permit  
2 holder to the enforcement bureau at least two (2) weeks prior  
3 to the event. Except as provided in this subsection, breweries  
4 utilizing farmers market permits shall be governed by all  
5 applicable provisions of this act as well as by all applicable  
6 regulations adopted by the board.

7 The term "farmers market" as used in this section shall  
8 include any building, structure or other place:

9 (i) owned, leased or otherwise in the possession of a  
10 person, municipal corporation or public or private organization;

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

18 (iii) which is physically located within this Commonwealth;  
19 and

20 (iv) which is not open for business more than twelve hours  
21 each day.

22 (3) The special permit, as well as the farmers market permit  
23 authorized by this section, are only available to breweries who  
24 produce less than twenty-five thousand barrels per year. Only  
25 malt or brewed beverages for which the brewery is responsible  
26 for paying the malt beverage tax shall be considered in  
27 calculating the total number of barrels produced each year. All  
28 brands of malt or brewed beverages sold or provided under the  
29 authority of the special permit as well as the farmers market  
30 permit must be registered as set forth by this act.

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