

AMENDMENTS TO HOUSE BILL NO. 1497

Sponsor: REPRESENTATIVE TOBASH

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1 Amend Bill, page 1, line 20, by striking out the period after
2 "PERMITS" and inserting
3 and for malt and brewed beverages manufacturers', distributors'
4 and importing distributors' licenses.

5 Amend Bill, page 5, by inserting between lines 4 and 5

6 Section 3. Section 431(b) of the act, reenacted and amended
7 November 15, 2016 (P.L.1286, No.166), is amended to read:

8 Section 431. Malt and Brewed Beverages Manufacturers',
9 Distributors' and Importing Distributors' Licenses.--

10 * * *

11 (b) The board shall issue to any reputable person who
12 applies therefor, and pays the license fee hereinafter
13 prescribed, a distributor's or importing distributor's license
14 for the place which such person desires to maintain for the sale
15 of malt or brewed beverages, not for consumption on the premises
16 where sold, and in quantities of not less than a case or
17 original containers containing one hundred twenty-eight ounces
18 or more which may be sold separately as prepared for the market
19 by the manufacturer at the place of manufacture. In addition, a
20 distributor license holder may sell malt or brewed beverages in
21 any amount to a person not licensed by the board for off-
22 premises consumption. The sales shall not be required to be in
23 the package configuration designated by the manufacturer and may
24 be sold in refillable growlers. The board shall have the
25 discretion to refuse a license to any person or to any
26 corporation, partnership or association if such person, or any
27 officer or director of such corporation, or any member or
28 partner of such partnership or association shall have been
29 convicted or found guilty of a felony within a period of five
30 years immediately preceding the date of application for the said
31 license: And provided further, That, in the case of any new
32 license or the transfer of any license to a new location, the
33 board may, in its discretion, grant or refuse such new license
34 or transfer if such place proposed to be licensed is within
35 three hundred feet of any church, hospital, charitable
36 institution, school or public playground, or if such new license
37 or transfer is applied for a place which is within two hundred

1 feet of any other premises which is licensed by the board: And
2 provided further, That the board shall refuse any application
3 for a new license or the transfer of any license to a new
4 location if, in the board's opinion, such new license or
5 transfer would be detrimental to the welfare, health, peace and
6 morals of the inhabitants of the neighborhood within a radius of
7 five hundred feet of the place proposed to be licensed. The
8 board shall not license the area where liquid fuels or oil is
9 sold. No sales of liquid fuels or oil may be made from a
10 licensee's licensed premises. A licensed premises may not have
11 an interior connection with a location that sells liquid fuels
12 or oil unless it first receives permission from the board for
13 the interior connection. The approval shall be required
14 regardless of whether the licensee or another party is the
15 entity selling the liquid fuels or oil. The board may enter into
16 an agreement with the applicant concerning additional
17 restrictions on the license in question. If the board and the
18 applicant enter into such an agreement, such agreement shall be
19 binding on the applicant. Failure by the applicant to adhere to
20 the agreement will be sufficient cause to form the basis for a
21 citation under section 471 and for the nonrenewal of the license
22 under section 470. If the board enters into an agreement with an
23 applicant concerning additional restrictions, those restrictions
24 shall be binding on subsequent holders of the license until the
25 license is transferred to a new location or until the board
26 enters into a subsequent agreement removing those restrictions.
27 If the application in question involves a location previously
28 licensed by the board, then any restrictions imposed by the
29 board on the previous license at that location shall be binding
30 on the applicant unless the board enters into a new agreement
31 rescinding those restrictions. The board shall require notice to
32 be posted on the property or premises upon which the licensee or
33 proposed licensee will engage in sales of malt or brewed
34 beverages. This notice shall be similar to the notice required
35 of hotel, restaurant and club liquor licensees.

36 Except as hereinafter provided, such license shall authorize
37 the holder thereof to sell or deliver malt or brewed beverages
38 in quantities above specified anywhere within the Commonwealth
39 of Pennsylvania, which, in the case of distributors, have been
40 purchased only from persons licensed under this act as
41 manufacturers or importing distributors, and in the case of
42 importing distributors, have been purchased from manufacturers
43 or persons outside this Commonwealth engaged in the legal sale
44 of malt or brewed beverages or from manufacturers or importing
45 distributors licensed under this article. In the case of an
46 importing distributor, the holder of such a license shall be
47 authorized to store and repackage malt or brewed beverages owned
48 by a manufacturer at a segregated portion of a warehouse or
49 other storage facility authorized by section 441(d) and operated
50 by the importing distributor within its appointed territory and
51 deliver such beverages to another importing distributor who has

1 been granted distribution rights by the manufacturer as provided
2 herein. The importing distributor shall be permitted to receive
3 a fee from the manufacturer for any related storage, repackaging
4 or delivery services. In the case of a bailee for hire hired by
5 a manufacturer, the holder of such a permit shall be authorized:
6 to receive, store and repackage malt or brewed beverages
7 produced by that manufacturer for sale by that manufacturer to
8 importing distributors to whom that manufacturer has given
9 distribution rights pursuant to this subsection or to purchasers
10 outside this Commonwealth for delivery outside this
11 Commonwealth; or to ship to that manufacturer's storage
12 facilities outside this Commonwealth. The bailee for hire shall
13 be permitted to receive a fee from the manufacturer for any
14 related storage, repackaging or delivery services. The bailee
15 for hire shall, as required in Article V of this act, keep
16 complete and accurate records of all transactions, inventory,
17 receipts and shipments and make all records and the licensed
18 areas available for inspection by the board and for the
19 Pennsylvania State Police, Bureau of Liquor Control Enforcement,
20 during normal business hours.

21 Each out of State manufacturer of malt or brewed beverages
22 whose products are sold and delivered in this Commonwealth shall
23 give distributing rights for such products in designated
24 geographical areas to specific importing distributors, and such
25 importing distributor shall not sell or deliver malt or brewed
26 beverages manufactured by the out of State manufacturer to any
27 person issued a license under the provisions of this act whose
28 licensed premises are not located within the geographical area
29 for which he has been given distributing rights by such
30 manufacturer. In addition, the holder of a distributor license
31 may not sell or deliver malt or brewed beverages to any licensee
32 whose licensed premises is located within the designated
33 geographical area granted to an importing distributor other than
34 the importing distributor that sold the malt or brewed beverages
35 to the distributor. If the licensee purchasing the malt or
36 brewed beverages from the distributor license holder holds
37 multiple licenses or operates at more than one location, then
38 the malt or brewed beverages may not be consumed or sold at
39 licensed premises located within the designated geographical
40 area granted to an importing distributor other than the
41 importing distributor that sold the malt or brewed beverages to
42 the distributor. Should a licensee accept the delivery of malt
43 or brewed beverages or transfer malt or brewed beverages in
44 violation of this section, said licensee shall be subject to a
45 suspension of his license for at least thirty days: Provided,
46 That the importing distributor holding such distributing rights
47 for such product shall not sell or deliver the same to another
48 importing distributor without first having entered into a
49 written agreement with the said secondary importing distributor
50 setting forth the terms and conditions under which such products
51 are to be resold within the territory granted to the primary

1 importing distributor by the manufacturer.

2 When a Pennsylvania manufacturer of malt or brewed beverages
3 licensed under this article names or constitutes a distributor
4 or importing distributor as the primary or original supplier of
5 his product, he shall also designate the specific geographical
6 area for which the said distributor or importing distributor is
7 given distributing rights, and such distributor or importing
8 distributor shall not sell or deliver the products of such
9 manufacturer to any person issued a license under the provisions
10 of this act whose licensed premises are not located within the
11 geographical area for which distributing rights have been given
12 to the distributor and importing distributor by the said
13 manufacturer. In addition, the holder of a distributor license
14 may not sell or deliver malt or brewed beverages to a licensee
15 whose licensed premises is located within the designated
16 geographical area granted to an importing distributor other than
17 the importing distributor that sold the malt or brewed beverages
18 to the distributor. If the licensee purchasing the malt or
19 brewed beverages from the distributor license holder holds
20 multiple licenses or operates at more than one location, the
21 malt or brewed beverages may not be consumed or sold at licensed
22 premises located within the designated geographical area granted
23 to an importing distributor other than the importing distributor
24 that sold the malt or brewed beverages to the distributor. [If a
25 licensee accepts the delivery of malt or brewed beverages or
26 transfers malt or brewed beverages in violation of this section,
27 the licensee shall be subject to suspension of his license for
28 at least thirty days: Provided, That the] The importing
29 distributor holding such distributing rights for such product
30 shall not sell or deliver the same to another importing
31 distributor without first having entered into a written
32 agreement with the said secondary importing distributor setting
33 forth the terms and conditions under which such products are to
34 be resold within the territory granted to the primary importing
35 distributor by the manufacturer. Nothing herein contained shall
36 be construed to prevent any manufacturer from authorizing the
37 importing distributor holding the distributing rights for a
38 designated geographical area from selling the products of such
39 manufacturer to another importing distributor also holding
40 distributing rights from the same manufacturer for another
41 geographical area, providing such authority be contained in
42 writing and a copy thereof be given to each of the importing
43 distributors so affected.

44 A distributor who violates the provisions of this section and
45 delivers to a licensee outside of the designated geographical
46 area shall be subject to citation by the enforcement bureau of
47 the board which shall result in penalties as follows: The
48 receipt of a first citation will result in a fine of not less
49 than five hundred dollars (\$500), nor more than one thousand
50 dollars (\$1,000); the receipt of a second citation will result
51 in a fine of not less than one thousand dollars (\$1,000), nor

1 more than two thousand five hundred dollars (\$2,500) and
2 suspension of operating privileges for at least two days; the
3 receipt of a third or subsequent citation will result in a fine
4 of not less than two thousand five hundred dollars (\$2,500), nor
5 more than five thousand (\$5,000) and suspension of operating
6 privileges for seven days.

7 A licensee who accepts product in violation of the provisions
8 of this section shall be subject to citation by the enforcement
9 bureau of the board, which shall result in penalties as follows:
10 the receipt of a first citation will result in a warning and
11 will serve as official notice that the licensee is accepting
12 product in violation of this act; the receipt of a second
13 citation will result in a fine of not less than five hundred
14 dollars (\$500), nor more than one thousand dollars (\$1,000); the
15 receipt of a third citation will result in a fine of not less
16 than one thousand dollars (\$1,000), nor more than two thousand
17 five hundred dollars (\$2,500) and suspension of operating
18 privileges for at least two days; the receipt of a fourth or
19 subsequent citation will result in a fine of not less than two
20 thousand five hundred dollars (\$2,500), nor more than five
21 thousand (\$5,000) and suspension of operating privileges for
22 seven days.

23 * * *

24 Amend Bill, page 5, line 5, by striking out "3" and inserting

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