

AMENDMENTS TO HOUSE BILL NO. 131

Sponsor: REPRESENTATIVE JOZWIAK

Printer's No. 125

1 Amend Bill, page 1, line 17, by striking out "defining
2 "alcoholic cider."" and inserting
3 providing for definitions; in licenses and regulations and
4 liquor, alcohol and malt and brewed beverages, further
5 providing for breweries; in distilleries, wineries, bonded
6 warehouses, bailees for hire and transporters for hire,
7 further providing for limited wineries and for distilleries;
8 in miscellaneous provisions, further providing for
9 construction and applicability.

10 Amend Bill, page 2, by inserting between lines 15 and 16

11 "Fermented fruit beverage" shall mean a beverage which may
12 contain carbonation in an amount not to exceed six and four
13 tenths grams per liter, produced through alcoholic fermentation
14 of fruit, fruit juice, fruit juice concentrate and water with or
15 without flavorings, consisting of at least one-half of one per
16 centum, but not greater than eight and one-half per centum,
17 alcohol by volume and sold or offered for sale not as a wine, a
18 wine product or a substitute for wine, in bottles, cases, kegs,
19 cans or other suitable containers of the type used for the sale
20 of malt or brewed beverages in this Commonwealth.

21 * * *

22 Section 2. Sections 446(a)(2), 505.2(a) and (b), 505.4
23 heading, (b)(1) and (8) and (c)(1) and 1001 of the act are
24 amended to read:

25 Section 446. Breweries.--(a) Holders of a brewery license
26 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
31 irrespective of the volume of food sales if the licensed
32 premises are at a public venue location. The holder of a brewery
33 license may sell wines [and], alcoholic cider and fermented
34 fruit beverages produced by the holder of a limited winery
35 license, malt or brewed beverages produced by a manufacturer
36 licensed by the board and liquor produced by a limited
37 distillery or distillery licensed by the board: Provided,

1 however, That said wines, malt or brewed beverages produced by
2 another manufacturer and liquor must be consumed at the licensed
3 premises. In addition, the combined sales of wine, malt or
4 brewed beverages produced by another manufacturer and liquor may
5 not, on a yearly basis, exceed fifty per centum (50%) of the on-
6 premises sales of the brewery's own malt or brewed beverages for
7 the preceding calendar year: however, if a brewery did not
8 operate for an entire calendar year during the preceding year,
9 then its combined sales of wine, malt or brewed beverages
10 produced by another manufacturer and liquor may not, on a yearly
11 basis, exceed fifty per centum (50%) of the on-premises sales of
12 the brewery's own malt or brewed beverages for that year.

13 * * *

14 Section 505.2. Limited Wineries.--(a) In the interest of
15 promoting tourism and recreational development in Pennsylvania,
16 holders of a limited winery license may:

17 (1) Produce and sell alcoholic ciders, fermented fruit
18 beverages, mead, wines and wine coolers, subject to the
19 exceptions provided under this section, only from an
20 agricultural commodity grown in Pennsylvania.

21 (2) Sell alcoholic cider, fermented fruit beverages, mead,
22 wine and wine coolers produced by the limited winery or
23 purchased in bulk in bond from another Pennsylvania limited
24 winery on the licensed premises, under such conditions and
25 regulations as the board may enforce, to the board, to
26 individuals and to brewery, importing distributor, distributor,
27 hotel, restaurant, club and public service liquor licensees, and
28 to Pennsylvania winery licensees: Provided, That a limited
29 winery shall not, in any calendar year, purchase alcoholic
30 cider, fermented fruit beverages, mead or wine produced by other
31 limited wineries in an amount in excess of fifty per centum of
32 the alcoholic cider, fermented fruit beverage, mead or wine
33 produced by the purchasing limited winery in the preceding
34 calendar year. In addition, the holder of a limited winery
35 license may purchase wine in bottles from another Pennsylvania
36 limited winery if these wines undergo a second fermentation
37 process. Such wine may be sold in bottles bearing the purchasing
38 limited winery's label or the producing limited winery's label.
39 Such wines, if sold by the board, may be sold by the producing
40 limited winery to the purchasing limited winery at a price lower
41 than the price charged by the board.

42 (2.1) Notwithstanding any other provision of this act or law
43 to the contrary, only ship wine in accordance with the
44 provisions of section 488.

45 (3) Separately or in conjunction with other limited
46 wineries, sell alcoholic cider, fermented fruit beverages, mead,
47 wine and wine coolers produced by the limited winery on no more
48 than five (5) board-approved locations other than the licensed
49 premises, with no bottling or production requirement at those
50 additional board-approved locations and under such conditions
51 and regulations as the board may enforce, to the board, to

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

14 (4) At the discretion of the board, obtain a special permit
15 to participate in alcoholic cider, fermented fruit beverage,
16 mead, wine and food expositions off the licensed premises. A
17 special permit shall be issued upon proper application and
18 payment of a fee of thirty dollars (\$30) per day for each day of
19 permitted use, not to exceed thirty (30) consecutive days. The
20 total number of days for all the special permits may not exceed
21 one hundred (100) days in any calendar year. A special permit
22 shall entitle the holder to engage in the sale by the glass, by
23 the bottle or in case lots of alcoholic cider, fermented fruit
24 beverage, mead or wine produced by the permittee under the
25 authority of a limited winery license. Holders of special
26 permits may provide tasting samples of wines in individual
27 portions not to exceed one fluid ounce. Samples at alcoholic
28 cider, fermented fruit beverage, mead, wine and food expositions
29 may be sold or offered free of charge. Except as provided
30 herein, limited wineries utilizing special permits shall be
31 governed by all applicable provisions of this act as well as by
32 all applicable regulations or conditions adopted by the board.

33 For the purposes of this clause, "alcoholic cider, fermented
34 fruit beverage, mead, wine and food expositions" are defined as
35 affairs held indoors or outdoors with the intent of promoting
36 Pennsylvania products by educating those in attendance of the
37 availability, nature and quality of Pennsylvania-produced
38 alcoholic ciders, fermented fruit beverages, mead and wines in
39 conjunction with suitable food displays, demonstrations and
40 sales. Alcoholic cider, fermented fruit beverage, mead, wine and
41 food expositions may also include activities other than
42 alcoholic cider, fermented fruit beverage, mead, wine and food
43 displays, including arts and crafts, musical activities,
44 cultural exhibits, agricultural exhibits and farmers markets.

45 (4.1) At the discretion of the board, obtain a farmers
46 market permit. The permit shall entitle the holder to
47 participate in more than one farmers market at any given time
48 and an unlimited number throughout the year and sell alcoholic
49 cider, fermented fruit beverages, mead or wine produced under
50 the authority of the underlying limited winery license by the
51 bottle or in case lots. Samples not to exceed one fluid once per

1 brand of mead or wine may be offered free of charge. A farmers
2 market permit shall be issued upon proper application and
3 payment of an annual fee of two hundred fifty dollars (\$250). A
4 permit holder may participate in more than one farmers market at
5 any given time. Sales by permit holders shall take place during
6 the standard hours of operation of the farmers market. Written
7 notice of the date, times and location the permit is to be used
8 shall be provided by the permit holder to the enforcement bureau
9 at least two (2) weeks prior to the event. Except as provided in
10 this subsection, limited wineries utilizing farmers market
11 permits shall be governed by all applicable provisions of this
12 act as well as by all applicable regulations adopted by the
13 board.

14 (5) Do either of the following:

15 (i) 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 (ii) Apply for and hold a restaurant liquor license for use
24 at one of the additional board-approved locations referenced
25 under clause (3), as long as such location does not serve as an
26 additional board-approved location for any other manufacturer.

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

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

34 (iii) The purpose of this section is to increase the
35 productivity of limited wineries while at the same time
36 protecting the integrity and unique characteristics of wine
37 produced from fruit primarily grown in this Commonwealth.
38 Prevailing climatic conditions have a significant impact on the
39 character of the fruit. Accordingly, "permitted fruit" shall
40 mean fruit grown or juice derived from fruit grown within three
41 hundred fifty (350) miles of the winery.

42 (iv) The department is authorized to promulgate regulations
43 requiring the filing of periodic reports by limited wineries to
44 ensure compliance with the provisions of this section.

45 (6.1) Sell food for consumption on or off the licensed
46 premises and at the limited winery's additional board-approved
47 locations and sell by the glass, at the licensed premises and at
48 the limited winery's additional board-approved locations, wine,
49 mead [and], alcoholic ciders and fermented fruit beverages that
50 may otherwise be sold by the bottle. In addition, the holder of
51 a limited winery license may sell for consumption on the

1 licensed premises and at the limited winery's additional board-
2 approved locations, liquor produced by a licensed distillery or
3 limited distillery, wine [and], alcoholic cider and fermented
4 fruit beverages produced by another limited winery and malt or
5 brewed beverages produced by a licensed brewery. The combined
6 sales of wine [and], alcoholic cider and fermented fruit
7 beverages produced by another limited winery, malt or brewed
8 beverages and liquor may not, on a yearly basis, exceed fifty
9 per centum of the on-premises sales of the limited winery's own
10 sales of wine [and], alcoholic cider and fermented fruit
11 beverages for the preceding calendar year: however, if a limited
12 winery did not operate for an entire calendar year during the
13 preceding year, then its combined sales of wine and alcohol
14 produced by another limited winery, malt or brewed beverages and
15 liquor may not, on a yearly basis, exceed fifty per centum of
16 the on-premises sales of the limited winery's own wine [and],
17 alcoholic cider and fermented fruit beverages for that year.

18 (6.2) Sell wine- or liquor-scented candles acquired or
19 produced by the limited winery.

20 (6.3) Sell alcoholic cider, fermented fruit beverages, mead,
21 wine and wine coolers only between the hours of nine o'clock
22 antemeridian and eleven o'clock postmeridian. A limited winery
23 also may request approval from the board to extend sales hours
24 in individual locations at other times during the year or beyond
25 the limits set forth in this clause. The request shall be made
26 in writing to the board's Office of the Chief Counsel and shall
27 detail the exact locations where sales hours are proposed to be
28 extended, the proposed hours and dates of extended operation and
29 the reason for the proposed extended hours.

30 (6.4) Store alcoholic cider, fermented fruit beverages,
31 mead, wine and wine coolers produced by the limited winery at no
32 more than two (2) board-approved locations other than the
33 licensed premises and those premises referenced in clause (3)
34 pertaining to the five (5) board-approved locations for the sale
35 of wine, with no bottling or production requirement at those
36 additional locations and under such conditions and regulations
37 as the board may enforce. If two (2) or more businesses will
38 operate out of the same storage facility, the limited winery
39 must designate specific and distinct areas for its storage. The
40 limited winery's designated storage area must be secured and no
41 one other than the licensee and his employees may be allowed
42 access to the storage area. No board-approved manager will be
43 necessary for the storage facility. The limited winery must fill
44 out an application for such an additional board-approved storage
45 location, and such location shall count as one of the two
46 permitted for each limited winery. The limited winery is
47 responsible for keeping only its own complete records. A limited
48 winery may be cited for a violation of the recordkeeping
49 requirements of sections 512 and 513 pertaining to its own
50 records only.

51 (b) The total production of alcoholic ciders, fermented

1 fruit beverages, mead, wine and wine coolers by a limited winery
2 may not exceed two hundred thousand (200,000) gallons per year.

3 * * *

4 Section 505.4. Limited Distilleries and Distilleries.--* * *

5 (b) (1) The board may issue a limited distillery license
6 that will allow the holder thereof to operate a distillery that
7 shall not exceed production of one hundred thousand (100,000)
8 gallons of distilled liquor per year. The holder of the license
9 may manufacture and sell bottled liquors produced on the
10 licensed premises to the board, to entities licensed by the
11 board and to the public between the hours of nine o'clock
12 antemeridian and eleven o'clock postmeridian so long as a
13 specific code of distilled liquor which is listed for sale as a
14 stock item by the board in State liquor stores may not be
15 offered for sale at a licensed limited distillery location at a
16 price which is lower than that charged by the board and under
17 such conditions and regulations as the board may enforce. The
18 holder of a limited distillery license may not sell a product or
19 a substantially similar product which is listed for sale as a
20 stock item by the board in State Liquor Stores to a licensee at
21 a price which is lower than that charged by the board and under
22 such conditions and regulations as the board may enforce. The
23 holder of a limited distillery license may also sell wine [and],
24 alcoholic cider and fermented fruit beverages produced by a
25 licensed limited winery, liquor produced by a licensed
26 distillery or limited distillery and malt or brewed beverages
27 produced by a licensed brewery for on-premises consumption. The
28 combined sales of wine, malt or brewed beverages and liquor
29 produced by another licensed distillery or limited distillery
30 may not, on a yearly basis, exceed fifty per centum of the on-
31 premises sales of the limited distillery's own sales of liquor
32 for the preceding calendar year: however, if a limited
33 distillery did not operate for an entire calendar year during
34 the preceding year, then its combined sales of wine, malt or
35 brewed beverages and liquor produced by another licensed
36 distillery or limited distillery may not, on a yearly basis,
37 exceed fifty per centum of the on-premises sales of the limited
38 distillery's own liquor for that year.

39 * * *

40 (8) At the discretion of the board the holder of a limited
41 distillery license may obtain a special permit to participate in
42 [alcoholic cider,] liquor and food expositions off the licensed
43 premises. A special permit shall be issued upon proper
44 application and payment of a fee of thirty dollars (\$30) per day
45 for each day of permitted use, not to exceed thirty (30)
46 consecutive days. The total number of days for all the special
47 permits may not exceed one hundred (100) days in any calendar
48 year. A special permit shall entitle the holder to engage in the
49 sale by the glass, by the bottle or in case lots of liquor
50 produced by the permittee under the authority of a limited
51 distillery license. Holders of special permits may provide

1 tasting samples of liquor in individual portions not to exceed
2 one and one-half (1.5) fluid ounces. Samples at [alcoholic
3 cider,] liquor and food expositions may be sold or offered free
4 of charge. Except as provided in this clause, limited
5 distilleries utilizing special permits shall be governed by all
6 applicable provisions of this act as well as by all applicable
7 regulations or conditions adopted by the board. For the purposes
8 of this clause, ["alcoholic cider, liquor] "liquor and food
9 expositions" are defined as affairs held indoors or outdoors
10 with the intent of promoting Pennsylvania products by educating
11 those in attendance of the availability, nature and quality of
12 Pennsylvania-produced [alcoholic ciders and] liquors in
13 conjunction with suitable food displays, demonstrations and
14 sales. [Alcoholic cider, liquor] Liquor and food expositions may
15 also include activities other than [alcoholic cider,] liquor and
16 food displays, including arts and crafts, musical activities,
17 cultural exhibits, agricultural exhibits and farmers markets.

18 * * *

19 (c) (1) The holder of a distillery license as issued under
20 section 505 may sell bottled liquors produced on the licensed
21 premises to the board, to entities licensed by the board and to
22 the public between the hours of nine o'clock antemeridian and
23 eleven o'clock postmeridian so long as a specific code of
24 distilled liquor which is listed for sale as a stock item by the
25 board in State liquor stores may not be offered for sale at a
26 licensed distillery location at a price which is lower than that
27 charged by the board and under such conditions and regulations
28 as the board may enforce. The holder of a distillery license may
29 not sell a product or a substantially similar product which is
30 listed for sale as a stock item by the board in State Liquor
31 Stores to a licensee at a price which is lower than that charged
32 by the board and under such conditions and regulations as the
33 board may enforce. The holder of a distillery license may also
34 sell its liquor, wine [and], alcoholic cider and fermented fruit
35 beverages produced by a licensed limited winery, liquor produced
36 by a licensed distillery or limited distillery and malt or
37 brewed beverages produced by a licensed brewery for on-premises
38 consumption. The combined sales of wine, malt or brewed
39 beverages and liquor produced by another licensed distillery or
40 limited distillery may not, on a yearly basis, exceed fifty per
41 centum of the on-premises sales of the distillery's own sales of
42 liquor for the preceding calendar year: however, if a distillery
43 did not operate for an entire calendar year during the preceding
44 year, then its combined sales of wine, malt or brewed beverages
45 and liquor produced by another licensed distillery or limited
46 distillery may not, on a yearly basis, exceed fifty per centum
47 of the on-premises sales of the distillery's own liquor for that
48 year.

49 * * *

50 Section 1001. Construction and Applicability.--(a) Except
51 as provided in subsection (b), unless the context clearly

1 indicates otherwise, a reference to "malt or brewed beverages"
2 in a statute shall be construed to include alcoholic cider and
3 fermented fruit beverages.

4 (b) Regardless of context, a reference to "malt or brewed
5 beverages" in Article XX of the act of March 4, 1971 (P.L.6,
6 No.2), known as the "Tax Reform Code of 1971," shall be
7 construed to include alcoholic cider and fermented fruit
8 beverages.

9 (c) Except as provided in subsection (d), unless the context
10 clearly indicates otherwise, a reference to "wine" in a statute
11 shall be construed to exclude alcoholic cider and fermented
12 fruit beverages.

13 (d) Regardless of context, a reference to "wine" in the act
14 of December 5, 1933 (Sp.Sess., P.L.38, No.6), known as the
15 "Spirituous and Vinous Liquor Tax Law," shall be construed to
16 exclude alcoholic cider and fermented fruit beverages.

17 Amend Bill, page 2, line 16, by striking out "2" and
18 inserting

19 3