AMENDMENTS TO HOUSE BILL NO. 763

Sponsor: SENATOR STEFANO

Printer's No. 1328

Amend Bill, page 1, line 21, by inserting after "licensees,"

for interlocking business prohibited,

Amend Bill, page 1, line 23, by inserting after "LICENSEES"

, for unlawful acts relative to liquor, malt and brewed beverages and licensees

Amend Bill, page 2, lines 2 through 4, by striking out all of said lines and inserting

Section 1. Sections 401(a), 406(a)(4) and 407(a) of the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code, are amended to read:

Amend Bill, page 3, line 26, by striking out "LIQUOR OR"

Amend Bill, page 4, by inserting between lines 16 and 17

Section 2. Section 411(e) of the act is amended and the section is amended by adding a subsection to read:

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

(e) Except as herein provided, no hotel, restaurant, retail dispenser or club licensee, and no officer, director or stockholder, agent or employe of any such licensee shall in any wise be interested, directly or indirectly, in the ownership or leasehold of any property or the equipment of any property or any mortgage lien against the same, used by a distributor, importing distributor, or by an importer or sacramental wine licensee, in the conduct of his business; nor shall any hotel, restaurant, retail dispenser or club licensee, or any officer, director, stockholder, agent or employe of any such licensee, either directly or indirectly, lend any moneys, credit, or give anything of value or the equivalent thereof, to any distributor, importing distributor, importer or sacramental wine licensee, for equipping, fitting out, or maintaining and conducting, either in whole or in part, an establishment used in the conduct of his business.

The purpose of this section is to require a separation of the financial and business interests between manufacturers and

holders of hotel or restaurant liquor licenses and, as herein provided, of club licenses, issued under this article, and no person shall, by any device whatsoever, directly or indirectly, evade the provisions of the section. But in view of existing economic conditions, nothing contained in this section shall be construed to prohibit the ownership of property or conflicting interest by a manufacturer of any place occupied by a licensee under this article after the manufacturer has continuously owned and had a conflicting interest in such place for a period of at least five years prior to July eighteenth, one thousand nine hundred thirty-five: Provided, however, That this clause shall not prohibit any hotel, restaurant or club liquor licensee, or any officer, director or stockholder of any such licensee, from owning land or buildings which are leased to a holder of a retail dispenser's license or a manufacturer's license: And, provided further, That nothing contained in this section shall be construed to prohibit any hotel, restaurant, retail dispenser or club licensee or any officer, director or stockholder, agent or employe of any such licensee from having a financial or other interest, directly or indirectly in the ownership or leasehold of any property or the equipment of any property or any mortgage lien against same, used, leased by an importer or sacramental wine licensee for the exclusive purpose of maintaining commercial offices and on the condition that said property is not used for the storage or sale of liquor or malt or brewed beverages in any quantity: And, provided further, That nothing contained in this section shall prohibit an officer or member of a licensed privately owned private golf course catering club from having an interest in a limited winery license: And, provided further, That nothing contained in this section shall be construed to prohibit a member of the governing board of a public authority created under subdivision (n) of Article XXIII of the act of August 9, 1955 (P.L.323, No.130), known as "The County Code," from having an interest in a distributor or importing distributor license notwithstanding the fact that the public authority has an interest in one or more retail licenses or acts as a landlord for one or more retail licenses: And, provided further, That, nothing in this section may prohibit an employe of a hotel or restaurant licensee from guaranteeing any loans, or lending any moneys, providing credit or giving anything of value to a limited winery licensee or its officers, directors and shareholders, provided that the person also is not an officer of or does not have any interest in or exercise any control over any other licensed entity that engages in any sales to or from the licensee: And, provided further, That, notwithstanding any other provision of this section, an entity may acquire both a manufacturer's license or a limited winery license and a hotel, restaurant or retail dispenser license for use at the same location and more than one location may be so licensed. And, provided further, That, notwithstanding any other provision of this section, an entity licensed as a limited

winery may hold and operate a restaurant liquor license at one of its additional, board-approved locations instead of at its primary location where manufacturing occurs. The licenses and a person's interest in the licenses or in the entity holding the licenses shall not be subject to this section. Provided further, That, a person who is a holder of ten per centum (10%) or less of securities or other interests in a publicly or privately held domestic or foreign corporation, partnership, limited liability company or other form of legal entity owning a retail license shall not be deemed to possess a financial interest and is not subject to the provisions of this section, provided that the person is not an officer of, employe of or does not have any interest in or exercise any control over any other licensed entity that engages in any sales to or from the retail licensee in which the person holds the ten per centum (10%) or less interest.[: And, provided further, That nothing in this section shall prohibit a person who has an ownership interest in a limited winery license from being employed by an entity that holds a hotel, restaurant, eating place or club license if the person is not employed as alcohol service personnel or as manager.]

(e.1) Nothing in subsection (e) shall prohibit any of the following:

(1) A person who has an ownership interest in a limited winery license from being employed by an entity that holds a hotel, restaurant, eating place or club license if the person is not employed as alcohol service personnel or as manager.

(2) A person who has an ownership interest in a brewery license from being employed by an entity that holds a hotel, restaurant, eating place or club license if the person has no job duties or responsibilities on, or connected with, the licensed premises in any capacity.

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Section 3. Section 442(a)(1), 492(7), 493(11) and 499(a.1)(4) of the act are amended to read:

Amend Bill, page 5, by inserting between lines 18 and 19

Section 493. Unlawful Acts Relative to Liquor, Malt and Brewed Beverages and Licensees.--The term "licensee," when used in this section, shall mean those persons licensed under the provisions of Article IV, unless the context clearly indicates otherwise.

It shall be unlawful--

* * *

(11) Licensees Employed by Others. For any hotel, restaurant or club liquor licensee, or any malt or brewed beverage licensee, or any officer, servant, agent or employe of such licensee, to be at the same time employed, directly or indirectly, by any distributor, importing distributor, manufacturer, importer or vendor licensee or any out of State

manufacturer. It shall also be unlawful for any distributor or importing distributor, or any officer, servant, agent or employe of such licensee, to be at the same time employed, directly or indirectly, by any other distributor, importing distributor, manufacturer, importer, vendor, out of State manufacturer, hotel restaurant, malt or brewed beverage licensee, or club liquor licensee. It shall also be unlawful for any manufacturer, importer, or vendor licensee, or any out of State manufacturer, or any officer, servant, agent or employe of such licensee or manufacturer, to be at the same time employed, directly or indirectly, by any hotel, restaurant or club liquor licensee or any malt or brewed beverage licensee or any distributor or importing distributor licensee. Nothing in this subsection shall be construed to prohibit a manufacturer or limited winery licensee, or any officer, servant, agent or employe of such licensee, to be employed at the same time by a hotel, restaurant or retail dispenser licensee if the hotel, restaurant or retail dispenser licensee is located at the manufacturer or limited winery premises pursuant to section 443. For the purposes of this subsection, an officer, servant, agent or employe of a licensee or manufacturer is an individual who has either an ownership interest in the licensee or manufacturer or who receives compensation for his or her work on behalf of the licensee or manufacturer: Provided further, That nothing in this section shall prohibit a person who has an ownership interest in a limited winery license from being employed by an entity that holds a hotel, restaurant, eating place or club license if the person is not employed as alcohol service personnel or as a manager[.]: And, provided further, That nothing in this section shall prohibit a person who has an ownership interest in a brewery license from being employed by an entity that holds a hotel, restaurant, eating place or club license if the person has no job duties or responsibilities on, or connected with, the licensed premises in any capacity.

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Amend Bill, page 5, line 28, by striking out "2" and inserting

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