
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 2257 Session of
1995

INTRODUCED BY CHADWICK, DECEMBER 7, 1995

SENATOR TILGHMAN, APPROPRIATIONS, IN SENATE, RE-REPORTED AS
AMENDED, NOVEMBER 20, 1996

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 an investigative unit; ~~and further providing~~ <—
18 ~~for special occasion permits, for advertising of prices of~~
19 ~~alcoholic beverages, AND, FOR RECORDS OF IMPORTING~~ <—
20 DISTRIBUTORS AND FOR FEE SURCHARGES; AND PROVIDING for <—
21 distributors' and importing distributors' restrictions on
22 sales of malt or brewed beverages, for prices of malt or
23 brewed beverages, for Sunday sales of alcoholic beverages AND <—
24 for distribution of malt and brewed beverages.; ~~for~~ <—
25 ~~forfeiture of property illegally possessed or used, for~~
26 ~~minimum quantities sellable and for motor vehicle licenses to~~
27 ~~be revoked.~~

28 The General Assembly of the Commonwealth of Pennsylvania

1 hereby enacts as follows:

2 Section 1. Section 104(d) of the act of April 12, 1951
3 (P.L.90, No.21), known as the Liquor Code, reenacted and amended
4 June 29, 1987 (P.L.32, No.14) and amended December 7, 1990
5 (P.L.622, No.160), is amended to read:

6 Section 104. Interpretation of Act.--* * *

7 (d) The provisions of this act are intended to create a
8 system for distribution that shall include the fixing of prices
9 for liquor and alcohol ~~and~~; controls placed on prices for malt <—
10 and brewed beverages; and ~~controls placed on advertisement of~~ <—
11 ~~prices of alcoholic beverages, each of~~ which shall be construed
12 as integral to the preservation of the system, without which
13 system the Commonwealth's control of the sale of liquor and
14 alcohol and malt and brewed beverages, and the Commonwealth's
15 promotion of its policy of temperance and responsible conduct
16 with respect to alcoholic beverages, would not be possible.

17 * * *

18 Section 2. The act is amended by adding a section to read:

19 Section 216. Investigative Unit.--(a) The board shall
20 establish an investigative unit that shall be responsible for
21 implementing and monitoring compliance with the provisions of
22 and regulations made under this act relating to malt or brewed
23 beverages and the malt or brewed beverage industry.

24 (b) The investigative unit shall, among other things:

25 (1) handle notifications concerning price introductions and
26 changes;

27 (2) receive and make recommendations to the board concerning
28 applications to rescind price discounts;

29 (3) provide assistance to the board concerning reports and
30 investigations the board desires or is required to provide;

1 (4) handle applications for brand registration; and
2 (5) handle copies of franchise or territorial agreements
3 submitted by importing distributors.

4 (c) Management of the unit shall be vested in a director,
5 who shall be assisted by other personnel as the board deems
6 necessary. The director shall report to the board secretary.

7 ~~Section 3. Section 408.4(a) of the act, amended April 29,~~ <—
8 ~~1994 (P.L.212, No.30) and October 5, 1994 (P.L.522, No.77), is~~
9 ~~amended to read:~~

10 ~~Section 408.4. Special Occasion Permits. (a) Upon~~
11 ~~application of any hospital, church, synagogue, volunteer fire~~
12 ~~company, volunteer ambulance company, volunteer rescue squad,~~
13 ~~nonprofit agricultural association in existence for at least ten~~
14 ~~years, bona fide sportsmen's club in existence for at least ten~~
15 ~~years, nationally chartered veterans' organization and any~~
16 ~~affiliated lodge or subdivision of such organization, fraternal~~
17 ~~benefit society that is licensed to do business in this~~
18 ~~Commonwealth and any affiliated lodge or subdivision of such~~
19 ~~fraternal benefit society, or the auxiliary of any of the~~
20 ~~foregoing, and upon payment of the prescribed fee for special~~
21 ~~occasion permits under section 614 A of the act of April 9, 1929~~
22 ~~(P.L.177, No.175), known as "The Administrative Code of 1929,"~~
23 ~~the board shall issue a special occasion permit good for a~~
24 ~~period of not more than five consecutive or nonconsecutive days:~~
25 ~~Provided, however, That the five nonconsecutive days shall be~~
26 ~~used in a three month period measured from the date of the first~~
27 ~~day. Special occasion permits may also be issued to a museum~~
28 ~~operated by a nonprofit corporation in a city of the third class~~
29 ~~or township of the first class or a nonprofit corporation~~
30 ~~engaged in the performing arts in a city of the third class or~~

1 ~~an incorporated town for a period of not more than six~~
2 ~~nonconsecutive or ten consecutive days at the prescribed fee for~~
3 ~~special occasion permits under section 614 A of "The~~
4 ~~Administrative Code of 1929."~~

5 * * *

6 Section 4 3. Section 431(d)(2) of the act is amended AND THE <—
7 SECTION IS AMENDED BY ADDING A SUBSECTION to read:

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

10 (d) * * *

11 (2) After January 1, 1980, no manufacturer shall enter into
12 any agreement with more than one distributor or importing
13 distributor for the purpose of establishing more than one
14 agreement for designated brand or brands of malt or brewed
15 beverages in any one territory. Each franchise territory which
16 is granted by a manufacturer shall be geographically contiguous.
17 All importing distributors shall maintain sufficient records to
18 evidence compliance of this section. With regard to any
19 territorial distribution authority granted to an importing
20 distributor by a manufacturer of malt or brewed beverages after
21 January 1, 1996, the records shall establish that each and every
22 case of a brand of malt or brewed beverages for which the
23 importing distributor is assigned was sold, resold, stored,
24 delivered or transported by the importing distributor, either
25 from a point or to a point within the assigned geographically
26 contiguous territory, to any person or persons, whether such
27 person or persons are licensed by this act or not licensed by
28 this act.

29 * * *

30 (E) IN ADDITION TO THE FEES UNDER SECTION 614-A OF THE ACT <—

1 OF APRIL 9, 1929 (P.L.177, NO.175), KNOWN AS "THE ADMINISTRATIVE
2 CODE OF 1929," THE BOARD SHALL ASSESS A FEE SURCHARGE OF NINETY-
3 FIVE DOLLARS (\$95) FOR A DISTRIBUTOR'S LICENSE AND A FEE
4 SURCHARGE OF FOUR HUNDRED SEVENTY DOLLARS (\$470) FOR AN
5 IMPORTING DISTRIBUTOR'S LICENSE, AND A FEE SURCHARGE OF SEVENTY-
6 FIVE DOLLARS (\$75) FOR BRAND REGISTRATION. MONEY COLLECTED UNDER
7 THIS SUBSECTION SHALL BE PLACED IN A RESTRICTED ACCOUNT IN THE
8 STATE STORES FUND. THE BOARD MAY USE THE MONEY IN THIS ACCOUNT
9 TO IMPLEMENT SECTION 216.

10 ~~Section 5. Section 440 of the act, amended August 17, 1965~~ <—
11 ~~(P.L.346, No.182), is amended to read:~~

12 ~~Section 440. Sales by Manufacturers of Malt or Brewed~~
13 ~~Beverages; Minimum Quantities. No manufacturer shall sell any~~
14 ~~malt or brewed beverages for consumption on the premises where~~
15 ~~sold, nor sell or deliver any such malt or brewed beverages in~~
16 ~~other than original containers approved as to capacity by the~~
17 ~~board, nor in quantities of less than a case of twenty four~~
18 ~~containers, each container holding seven fluid ounces or more,~~
19 ~~or a case of fifteen or more containers, each container holding~~
20 ~~twenty two fluid ounces or more, or a case of twelve containers,~~
21 ~~each container holding twenty four fluid ounces or more, except~~
22 ~~original containers containing one hundred twenty eight ounces~~
23 ~~or more which may be sold separately; nor shall any manufacturer~~
24 ~~maintain or operate within the Commonwealth any place or places~~
25 ~~other than the place or places covered by his or its license~~
26 ~~where malt or brewed beverages are sold or where orders are~~
27 ~~taken.~~

28 ~~Section 6. Section 441(a) and (b) of the act, amended August~~
29 ~~17, 1965 (P.L.346, No.182), are amended and the section is~~
30 ~~amended by adding subsections to read:~~

1 SECTION 4. SECTION 441 OF THE ACT IS AMENDED BY ADDING A <—
2 SUBSECTION TO READ:

3 Section 441. Distributors' and Importing Distributors'
4 Restrictions on Sales, Storage, Etc.--~~(a) No distributor or~~ <—
5 ~~importing distributor shall purchase, receive or resell any malt~~
6 ~~or brewed beverages except:~~

7 ~~(1) in the original containers as prepared for the market by~~
8 ~~the manufacturer at the place of manufacture[.]; or~~

9 ~~(2) in a case of identical containers repackaged in the~~
10 ~~manner described by subsection (f).~~

11 ~~(b) No distributor or importing distributor shall sell any~~
12 ~~malt or brewed beverages in quantities of less than a case of~~
13 ~~twenty four containers, each container holding seven fluid~~
14 ~~ounces or more, or a case of fifteen or more containers, each~~
15 ~~container holding twenty two fluid ounces or more, or a case of~~
16 ~~twelve containers, each container holding twenty four fluid~~
17 ~~ounces or more, except original containers containing one~~
18 ~~hundred twenty eight ounces or more which may be sold~~
19 ~~separately: Provided, That no malt or brewed beverages sold or~~
20 ~~delivered shall be consumed upon the premises of the distributor~~
21 ~~or importing distributor, or in any place provided for such~~
22 ~~purpose by such distributor or importing distributor.~~

23 * * *

24 ~~(f) (1) To salvage one or more saleable cases from one or~~
25 ~~more damaged cases, cartons or packages of malt or brewed~~
26 ~~beverages, a distributor or importing distributor may repackage,~~
27 ~~consequent to inadvertent damage, and sell a case, carton or~~
28 ~~package of identical units of malt or brewed beverages.~~

29 ~~(2) Repackaging is permissible only to the extent made~~
30 ~~necessary by inadvertent damage. Repackaging not consequent to~~

1 ~~damage is prohibited.~~

2 ~~(3) For purposes of this subsection, "identical units" are~~
3 ~~undamaged bottles or cans of identical brand, package and~~
4 ~~volume.~~

5 * * *

<—

6 (g) All malt or brewed beverages purchased by an importing
7 distributor from a Pennsylvania manufacturer of malt or brewed
8 beverages or from any person located outside this Commonwealth
9 for resale shall be invoiced to the importing distributor, shall
10 come physically into the possession of such importing
11 distributor and shall be unloaded into and distributed from the
12 licensed premises of such importing distributor. The board may
13 act to further define and control the storage and distribution
14 of malt or brewed beverages in conformity with this section and
15 this act.

16 Section 7 5. Section 447 of the act, added December 7, 1990
17 (P.L.622, No.160), is amended to read:

<—

18 Section 447. Price Changes of Malt and Brewed Beverages.--

19 (a) (1) The purpose of this section is to [regulate the manner
20 in which prices of malt or brewed beverages are changed by the
21 manufacturers, importing distributors and other distributors and
22 other distributors and to provide] effect and promote the intent
23 of the General Assembly, expressed in section 104 of this act
24 and in this section, by regulating the manner in which wholesale
25 prices of malt or brewed beverages are changed by a
26 manufacturer, importing distributor and distributor and by
27 providing for the retention and the furnishing of records of
28 price changes by such manufacturers, importing distributors and
29 distributors. By forbidding manufacturers, importing
30 distributors and distributors from providing short-term price

1 wholesale discounts, it is the intent of the General Assembly to
2 discourage increased consumption and irresponsible conduct
3 resulting from impulse buying, price promotion or the natural
4 elasticity of demand relative to price.

5 (2) Any manufacturer, importing distributor or distributor
6 [who] which reduces the price on any package of any brand of
7 malt or brewed [beverages] beverage sold for resale within this
8 Commonwealth may further reduce the price at any time, but any
9 reduction shall continue in full force and effect for at least
10 one hundred [eighty] twenty days from the date on which the last
11 such reduced price becomes effective, except [for the meeting of
12 competition as set forth in subsection (b)]. However, such
13 reduced price may be increased during such one hundred eighty-
14 day period to reflect any tax increase on malt or brewed
15 beverages.] that price may be increased earlier:

16 (i) to reflect any tax increase on malt or brewed beverages;

17 (ii) in the manner described in subsection (b), if the
18 increase was effected to meet competition; or

19 (iii) with permission of the board granted in the manner
20 described in subsection (c).

21 (3) If [a manufacturer,] an importing distributor or
22 distributor of malt or brewed beverages lowers the wholesale
23 price on any package of any brand of malt or brewed beverages to
24 one importing distributor or distributor or retail licensee
25 within [this Commonwealth, the manufacturer,] the geographic
26 area for which he possesses distribution rights for that
27 product, the importing distributor or distributor shall lower
28 the wholesale price on such package of such brand offered or
29 sold to all other importing distributors or distributors or
30 retail licensees within [this Commonwealth] the geographic area

1 by a like amount. Any importing distributor or distributor who
2 lowers the wholesale price on any package of any brand of malt
3 or brewed beverages shall file a notice of the lowered price
4 with the Commonwealth no later than seven days of such change
5 and retain a record of the lowered price for at least two years
6 from the date of filing. If such [manufacturer,] importing
7 distributor or distributor, having lowered the wholesale price
8 on a package of a brand pursuant to this section, subsequently
9 raises the wholesale price on such package of such brand to one
10 importing distributor or distributor or retail licensee within
11 [this Commonwealth, such manufacturer,] the geographic area for
12 which he possesses distribution rights for that product, the
13 importing distributor or distributor shall raise the wholesale
14 price on such package of such brand offered or sold to all other
15 importing distributors or distributors or retail licensees
16 within [this Commonwealth] the geographic area by a like amount.

17 (4) No importing distributor or distributor shall be
18 required by any manufacturer or importing distributor to reduce
19 the resale price of any package of any brand of malt or brewed
20 beverages by an amount greater than the amount by which such
21 manufacturer or importing distributor has reduced the wholesale
22 price on such package of such brand to such importing
23 distributor or distributor.

24 (5) Every importing distributor and distributor receiving a
25 price reduction on any package of any brand of malt or brewed
26 beverages pursuant to this section shall reduce his price by a
27 like amount to all classes of customers.

28 (6) Manufacturers [of malt or brewed beverages] shall notify
29 importing distributors and distributors, in writing, of any
30 [price reductions, prices on newly introduced brand or packages

1 and subsequent increases after expiration of one hundred eighty
2 days, if any, at least fifteen days in advance of such price
3 changes.]:

4 (i) price reduction with respect to any malt or brewed
5 beverage;

6 (ii) price of a new brand or package of a malt or brewed
7 beverage; or

8 (iii) price increase subsequent to a price reduction at
9 least fifteen days before such reduced, new or increased price
10 becomes effective.

11 (b) If [a] any manufacturer, importing distributor or
12 distributor has reduced the wholesale price [on] of any package
13 of any brand of malt or brewed beverages, any other
14 manufacturer, importing distributor or distributor may reduce
15 the wholesale price on the same or similar package [of such
16 brand in order to meet competition. Such price reduction shall
17 be no greater than the price reduction being met. All such price
18 reductions to meet competition shall continue in full force and
19 effect for the balance of the one hundred eighty-day period
20 during which the price reduction being met is required to remain
21 in full force and effect.] or competing brand to meet
22 competition, which reduction shall:

23 (1) not exceed the reduction to which it responds; and

24 (2) continue in full force and effect until the earlier of:

25 (i) the one hundred twentieth day after the date on which
26 the reduction to which it responds became effective; or

27 (ii) the lawful rescission of the reduction to which it
28 responds.

29 (c) [Notwithstanding any other provision of this section,
30 the board shall have the authority, upon application by a

1 manufacturer, importing distributor or distributor, to permit
2 such] A manufacturer, importing distributor or distributor [to]
3 may change the price within a time period of less than one
4 hundred [eighty] ~~twenty~~ days from when the price went into
5 effect [upon an appropriate showing that market conditions
6 warrant a change in price.] ~~if market conditions, or any other~~
7 good cause, support the change. The manufacturer, importing
8 distributor or distributor shall notify the board within forty-
9 eight hours of the change of such price. The board shall set a
10 hearing date as soon as practicable and shall rule on whether
11 the manufacturer, importing distributor or distributor has made
12 an appropriate showing which supports the price change. If the
13 manufacturer, importing distributor or distributor fails to show
14 good cause, it shall reimburse the difference between the
15 original and increased price to those who purchased the malt or
16 brewed beverage.

17 (d) The board shall monitor the filings deriving from
18 subsection (a)(3) and the applications deriving from subsection
19 (c). The board shall, no less frequently than four times each
20 year, consider at a regularly or specially scheduled meeting the
21 issue of whether the Commonwealth's policy of temperance and
22 responsible conduct with respect to alcoholic beverages is being
23 effected and promoted by this act, including, without
24 limitation, this section and sections 492(18), 493(8), ~~(18)~~ and <—
25 (22) and 498 of this article and by the board's regulations,
26 including, without limitation, to those regulations restricting
27 retail licensees' discount pricing practices. The board shall,
28 no less frequently than once each year, provide to the General
29 Assembly a report with respect to the board's findings, which
30 report shall contain a summary of the filing and applications

1 deriving from this section.

2 Section & 6. Section 492(4) of the act is amended to read: <—

3 Section 492. Unlawful Acts Relative to Malt or Brewed
4 Beverages and Licensees.--

5 It shall be unlawful--

6 * * *

7 (4) [Sunday Sales of Malt or Brewed Beverages by] Activities
8 of Manufacturers, Importing Distributors or Distributors on
9 Sunday. For any manufacturer of malt or brewed beverages,
10 importing distributor or distributor, or the servants, agents or
11 employes of the same, to sell[, trade or barter in] malt or
12 brewed beverages between the hours of twelve o'clock midnight of
13 any Saturday and two o'clock in the forenoon of the following
14 Monday. Notwithstanding any other provision of this section,
15 delivery or receiving of malt or brewed beverages shall be
16 permissible on Sunday after prior arrangement as follows:

17 (i) A manufacturer may deliver to any importing distributor
18 or distributor to which the manufacturer has granted wholesale
19 distribution rights for the manufacturer's product.

20 (ii) An importing distributor or distributor may deliver to
21 any organization to which a special occasion permit has been
22 issued between the hours of nine o'clock antemeridian and five
23 o'clock postmeridian.

24 (iii) An importing distributor or distributor may deliver to
25 anyone not licensed under this act between the hours of nine
26 o'clock antemeridian and five o'clock postmeridian. The term
27 "prior arrangement" shall mean that malt or brewed beverages
28 having a total sale price, excluding any deposits or credits,
29 exceeding two hundred fifty dollars (\$250) have been ordered,
30 invoiced and paid for in full at the seller's licensed premises

1 before the Sunday of delivery.

2 * * *

3 SECTION 7. THE PROVISIONS OF THIS AMENDATORY ACT ARE <—
4 NONSEVERABLE. IF ANY PROVISION OF THIS ACT OR ITS APPLICATION TO
5 ANY PERSON OR CIRCUMSTANCE IS HELD INVALID, THE REMAINING
6 PROVISIONS OR APPLICATIONS OF THIS ACT ARE VOID.

7 Section ~~9-7~~ 8. This act shall take effect in 60 days. <—