
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 926 Session of
1997

INTRODUCED BY BRIGHTBILL, AFFLERBACH, EARLL, PICCOLA, HART,
THOMPSON, WOZNIAK, HECKLER AND O'PAKE, APRIL 16, 1997

AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF
REPRESENTATIVES, AS AMENDED, MARCH 30, 1998

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 alcoholic cider; further providing for
18 ~~breweries and for~~ TRANSFERS OF CERTAIN LICENSES AND FOR ←
19 limited wineries; providing for construction and
20 applicability; and making repeals.

21 The General Assembly of the Commonwealth of Pennsylvania
22 hereby enacts as follows:

23 Section 1. The definition of "malt or brewed beverages" in
24 section 102 of the act of April 12, 1951 (P.L.90, No.21), known
25 as the Liquor Code, reenacted and amended June 29, 1987 (P.L.32,

1 No.14), is amended and the section is amended by adding a
2 definition to read:

3 Section 102. Definitions.--The following words or phrases,
4 unless the context clearly indicates otherwise, shall have the
5 meanings ascribed to them in this section:

6 * * *

7 "Alcoholic cider" shall mean a beverage which may contain
8 carbonation in an amount not to exceed three hundred ninety-two
9 one thousandths (.392) of a gram per one hundred (100)
10 milliliters and flavors, produced through alcoholic fermentation
11 of only apples or apple juice, consisting of at least one-half
12 of one (.5%) per centum, but ~~not greater than five and one half~~ <—
13 ~~(5.5%)~~ NO MORE THAN SIX (6%) per centum, alcohol by volume and <—
14 sold or offered for sale as alcoholic cider and not as a wine, a
15 wine product, or as a substitute for wine, in bottles, cases,
16 kegs, cans or other suitable containers of the type used for the
17 sale of malt or brewed beverages in this Commonwealth.

18 * * *

19 "Malt or Brewed Beverages" [means] shall mean any beer, lager
20 beer, ale, porter or similar fermented malt beverage containing
21 one-half of one (.5%) per centum or more of alcohol by volume,
22 by whatever name such beverage may be called, and shall mean
23 alcoholic cider.

24 * * *

25 ~~Section 2. Section 446(2) of the act is amended to read:~~ <—

26 ~~Section 446. Breweries. Holders of a brewery license 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~~

1 ~~between the hours of one o'clock postmeridian and ten o'clock~~
2 ~~postmeridian, irrespective of the volume of food sales if the~~
3 ~~licensed premises are at a stadium or arena location.~~

4 * * *

5 SECTION 2. SECTION 468(A) AND (C) OF THE ACT ARE AMENDED TO <—
6 READ:

7 SECTION 468. LICENSES NOT ASSIGNABLE; TRANSFERS.--(A) (1)
8 LICENSES ISSUED UNDER THIS ARTICLE MAY NOT BE ASSIGNED. THE
9 BOARD, UPON PAYMENT OF THE TRANSFER FILING FEE [AND THE
10 EXECUTION OF A NEW BOND], IS HEREBY AUTHORIZED TO TRANSFER ANY
11 LICENSE ISSUED BY IT UNDER THE PROVISIONS OF THIS ARTICLE FROM
12 ONE PERSON TO ANOTHER OR FROM ONE PLACE TO ANOTHER, OR BOTH,
13 WITHIN THE SAME MUNICIPALITY, AND IF THE APPLICANT IS A UNIT OF
14 A NONPROFIT NATIONALLY CHARTERED CLUB, THE BOARD IS HEREBY
15 AUTHORIZED TO TRANSFER SUCH LICENSE TO A PLACE IN ANY OTHER
16 MUNICIPALITY WITHIN THE SAME COUNTY IF THE SALE OF LIQUOR OR
17 MALT AND BREWED BEVERAGES ARE LEGAL IN SUCH OTHER MUNICIPALITY
18 AS THE BOARD MAY DETERMINE. PRIOR TO THE APPROVAL OF AN
19 APPLICATION FOR TRANSFER BY A UNIT OF A NONPROFIT NATIONALLY
20 CHARTERED CLUB THE BOARD SHALL MAKE AN AFFIRMATIVE FINDING, UPON
21 PROOF SUBMITTED BY THE APPLICANT, AND AFTER INVESTIGATION BY THE
22 BOARD, THAT AT THE TIME THE APPLICATION FOR TRANSFER IS MADE THE
23 CLUB CONTINUES TO HOLD A VALID NATIONAL CHARTER AND CONTINUES TO
24 FUNCTION IN FACT AS A CLUB AS DEFINED IN SECTION 102. THE BOARD,
25 IN ITS DISCRETION, MAY TRANSFER AN EXISTING RESTAURANT RETAIL
26 DISPENSER OR CLUB LICENSE FROM ONE MUNICIPALITY TO ANOTHER IN
27 THE SAME COUNTY REGARDLESS OF THE QUOTA LIMITATIONS PROVIDED FOR
28 IN THIS ACT, IF SALES OF LIQUOR OR MALT AND BREWED BEVERAGES ARE
29 LEGAL IN SUCH OTHER MUNICIPALITY AND IF THE RESTAURANT RETAIL
30 DISPENSER OR CLUB LOST THE USE OF THE BUILDING IN WHICH IT WAS

1 LOCATED DUE TO GOVERNMENTAL EXERCISE OF THE RIGHT OF EMINENT
2 DOMAIN AND NO OTHER SUITABLE BUILDING CAN BE FOUND IN THE FIRST
3 MUNICIPALITY.

4 (2) (I) THE BOARD, IN ITS DISCRETION, MAY TRANSFER AN
5 EXISTING RESTAURANT LIQUOR LICENSE OR A RETAIL DISPENSER LICENSE
6 FROM ONE MUNICIPALITY TO ANOTHER MUNICIPALITY OF THE SAME COUNTY
7 OR IN A CONTIGUOUS COUNTY REGARDLESS OF THE QUOTA LIMITATIONS
8 PROVIDED FOR IN THIS ACT, IF:

9 (A) SALES OF LIQUOR OR MALT AND BREWED BEVERAGES ARE LEGAL
10 IN SUCH OTHER MUNICIPALITY;

11 (B) THE LOCATION IN THE SAME COUNTY OR A CONTIGUOUS COUNTY
12 IS AN INDOOR BOWLING CENTER; AND

13 (C) THE RESTAURANT LIQUOR LICENSE OR A RETAIL DISPENSER
14 LICENSE IS CURRENTLY LOCATED IN AN AREA WHICH HAS BEEN
15 DESIGNATED AS BLIGHTED.

16 (II) FOR PURPOSES OF THIS SUBSECTION, A PROPERTY SHALL BE
17 DETERMINED TO BE BLIGHTED IF IT IS ANY OF THE FOLLOWING:

18 (A) REAL PROPERTY WITHIN OR OUTSIDE A CERTIFIED
19 REDEVELOPMENT AREA DETERMINED TO BE BLIGHTED PROPERTY UNDER THE
20 ACT OF MAY 24, 1945 (P.L.991, NO.385), KNOWN AS THE "URBAN
21 REDEVELOPMENT LAW";

22 (B) ANY PROPERTY DECLARED TO BE BLIGHTED BY A PENNSYLVANIA
23 LOCAL GOVERNMENT OR ITS AGENCY; OR

24 (C) ANY PROPERTY WHICH IS LOCATED WITHIN A REDEVELOPMENT
25 AREA, WHEN ONE OF THE STATED PURPOSES OF DESIGNATION AS A
26 REDEVELOPMENT AREA IS TO REMOVE BLIGHT, DESIGNATED BY A LOCAL
27 GOVERNMENT OR ITS AGENCIES UNDER THE "URBAN REDEVELOPMENT LAW."

28 (III) A RESTAURANT LIQUOR LICENSE OR A RETAIL DISPENSER
29 LICENSE WHICH IS TRANSFERRED TO AN INDOOR BOWLING CENTER MAY NOT
30 BE TRANSFERRED AGAIN FOR FIVE YEARS UNLESS THAT TRANSFER IS IN

1 CONJUNCTION WITH THE SALE OF THE BOWLING BUSINESS. IN THE CASE
2 OF DISTRIBUTOR AND IMPORTING DISTRIBUTOR LICENSES, THE BOARD MAY
3 TRANSFER ANY SUCH LICENSE FROM ITS PLACE IN A MUNICIPALITY TO A
4 PLACE IN ANY OTHER MUNICIPALITY WITHIN THE SAME COUNTY, OR FROM
5 ONE PLACE TO ANOTHER PLACE WITHIN THE SAME MUNICIPALITY, OR
6 EXCHANGE A DISTRIBUTOR LICENSE FOR AN IMPORTING DISTRIBUTOR
7 LICENSE OR AN IMPORTING DISTRIBUTOR LICENSE FOR A DISTRIBUTOR
8 LICENSE, IF THE BUILDING FOR WHICH THE LICENSE IS TO BE ISSUED
9 HAS, IN THE CASE OF AN IMPORTING DISTRIBUTOR LICENSE, AN AREA
10 UNDER ONE ROOF OF TWO THOUSAND FIVE HUNDRED SQUARE FEET AND, IN
11 THE CASE OF A DISTRIBUTOR LICENSE, AN AREA UNDER ONE ROOF OF ONE
12 THOUSAND SQUARE FEET: AND PROVIDED, THAT, IN THE CASE OF ALL
13 TRANSFERS OF DISTRIBUTOR OR IMPORTING DISTRIBUTOR LICENSES,
14 WHETHER FROM A PLACE WITHIN THE SAME MUNICIPALITY TO ANOTHER
15 PLACE WITHIN THE SAME MUNICIPALITY OR FROM A PLACE IN A
16 MUNICIPALITY TO A PLACE IN ANY OTHER MUNICIPALITY WITHIN THE
17 SAME COUNTY, AND, IN THE CASE OF AN EXCHANGE OF A DISTRIBUTOR
18 LICENSE FOR AN IMPORTING DISTRIBUTOR LICENSE OR AN IMPORTING
19 DISTRIBUTOR LICENSE FOR A DISTRIBUTOR LICENSE, THE PREMISES TO
20 BE AFFECTED BY THE TRANSFER OR EXCHANGE SHALL CONTAIN AN OFFICE
21 SEPARATE AND APART FROM THE REMAINDER OF THE PREMISES TO BE
22 LICENSED FOR THE PURPOSE OF KEEPING RECORDS, REQUIRED BY THE
23 BOARD, ADEQUATE TOILET FACILITIES FOR EMPLOYES OF THE LICENSEE
24 AND AN ENTRANCE ON A PUBLIC THOROUGHFARE: PROVIDED, HOWEVER,
25 THAT IN THE EVENT THAT THE MAJORITY OF THE VOTING ELECTORS OF A
26 MUNICIPALITY, AT AN ELECTION HELD UNDER THE PROVISIONS OF ANY
27 LAW SO EMPOWERING THEM TO DO, SHALL VOTE AGAINST THE ISSUANCE OF
28 DISTRIBUTOR OR IMPORTING DISTRIBUTOR LICENSES IN SUCH
29 MUNICIPALITY, THE BOARD IS HEREBY AUTHORIZED TO TRANSFER ANY
30 SUCH DISTRIBUTOR OR IMPORTING DISTRIBUTOR LICENSE FROM ITS PLACE

1 IN SUCH MUNICIPALITY TO A PLACE IN ANY OTHER MUNICIPALITY WITHIN
2 THE SAME COUNTY, UPON APPLICATION PRIOR TO THE EXPIRATION OF ANY
3 SUCH LICENSE AND UPON PAYMENT OF THE TRANSFER FILING FEE [AND
4 THE EXECUTION OF A NEW BOND]; BUT NO TRANSFER SHALL BE MADE TO A
5 PERSON WHO WOULD NOT HAVE BEEN ELIGIBLE TO RECEIVE THE LICENSE
6 ORIGINALLY NOR FOR THE TRANSACTION OF BUSINESS AT A PLACE FOR
7 WHICH THE LICENSE COULD NOT LAWFULLY HAVE BEEN ISSUED
8 ORIGINALLY, NOR, EXCEPT AS HEREIN PROVIDED, TO A PLACE AS TO
9 WHICH A LICENSE HAS BEEN REVOKED.

10 (3) NO LICENSE SHALL BE TRANSFERRED TO ANY PLACE OR PROPERTY
11 UPON WHICH IS LOCATED AS A BUSINESS THE SALE OF LIQUID FUELS AND
12 OIL. EXCEPT IN CASES OF EMERGENCY SUCH AS DEATH, SERIOUS
13 ILLNESS, OR CIRCUMSTANCES BEYOND THE CONTROL OF THE LICENSEE, AS
14 THE BOARD MAY DETERMINE SUCH CIRCUMSTANCES TO JUSTIFY ITS
15 ACTION, TRANSFERS OF LICENSES MAY BE MADE ONLY AT TIMES FIXED BY
16 THE BOARD. IN THE CASE OF THE DEATH OF A LICENSEE, THE BOARD MAY
17 TRANSFER THE LICENSE TO THE SURVIVING SPOUSE OR PERSONAL
18 REPRESENTATIVE OR TO A PERSON DESIGNATED BY HIM. FROM ANY
19 REFUSAL TO GRANT A TRANSFER OR UPON THE GRANT OF ANY TRANSFER,
20 THE PARTY AGGRIEVED SHALL HAVE THE RIGHT OF APPEAL TO THE PROPER
21 COURT IN THE MANNER HEREINBEFORE PROVIDED.

22 * * *

23 (C) (1) THE TERM "NONPROFIT NATIONALLY CHARTERED CLUB" SHALL
24 MEAN ANY CLUB WHICH DOES NOT CONTEMPLATE PECUNIARY GAIN OR
25 PROFIT, INCIDENTAL OR OTHERWISE, HAVING A NATIONAL CHARTER.

26 (2) THE TERM "UNIT OF A NONPROFIT NATIONALLY CHARTERED CLUB"
27 SHALL MEAN ANY POST, BRANCH, LODGE OR OTHER SUBORDINATE UNIT OF
28 A NONPROFIT NATIONALLY CHARTERED CLUB.

29 (3) THE TERM "INDOOR BOWLING CENTER" SHALL MEAN AN ENCLOSED
30 FACILITY OF AT LEAST TWELVE THOUSAND SQUARE FEET WITH A MINIMUM

1 OF EIGHTEEN BOWLING LANES AND WHICH HAS AS ITS PRIMARY FOCUS THE
2 OFFERING OF BOWLING AS A RECREATIONAL ACTIVITY TO THE GENERAL
3 PUBLIC.

4 * * *

5 Section ~~3-2~~ 3. Section 505.2 of the act, amended April 29, <—
6 1994 (P.L.212, No.30) and May 31, 1996 (P.L.312, No.49), is
7 amended to read:

8 Section 505.2. Limited Wineries.--In the interest of
9 promoting tourism and recreational development in Pennsylvania,
10 holders of a limited winery license may:

11 (1) Produce alcoholic ciders, wines and wine coolers only
12 from fruits grown in Pennsylvania in an amount not to exceed two
13 hundred thousand (200,000) gallons per year.

14 (2) Sell alcoholic cider, wine and wine coolers produced by
15 the limited winery or purchased in bulk in bond from another
16 Pennsylvania limited winery on the licensed premises, under such
17 conditions and regulations as the board may enforce, to the
18 board, to individuals and to hotel, restaurant, club and public
19 service liquor licensees, and to Pennsylvania winery licensees:
20 Provided, That a limited winery shall not, in any calendar year,
21 purchase alcoholic cider or wine produced by other limited
22 wineries in an amount in excess of fifty (50%) per centum of the
23 alcoholic cider or wine produced by the purchasing limited
24 winery in the preceding calendar year.

25 (3) Separately or in conjunction with other limited
26 wineries, sell alcoholic cider, wine and wine coolers produced
27 by the limited winery on no more than five (5) board-approved
28 locations other than the licensed premises, with no bottling or
29 production requirement at those additional board-approved
30 locations and under such conditions and regulations as the board

1 may enforce, to the board, to individuals and to hotel,
2 restaurant, club and public service liquor licensees.

3 (4) At the discretion of the board, obtain a special [wine]
4 permit to participate in alcoholic cider, wine and food
5 expositions off the licensed premises. A special [wine] permit
6 shall be issued upon proper application and payment of a fee of
7 thirty dollars (\$30) per day for each day of permitted use, not
8 to exceed five (5) consecutive days. A limited winery may not
9 obtain more than five (5) special [wine] permits in any calendar
10 year. The total number of days for all the special permits may
11 not exceed ten (10) days in any calendar year. A special [wine]
12 permit shall entitle the holder to engage in the sale of
13 alcoholic cider or wine produced by the bottle or in case lots
14 by the permittee under the authority of a limited winery
15 license. Holders of special [wine] permits may provide tasting
16 samples of wines in individual portions not to exceed one (1)
17 fluid ounce. Samples at alcoholic cider, wine and food
18 expositions may be sold or offered free of charge. Except as
19 provided herein, limited wineries utilizing special [wine]
20 permits shall be governed by all applicable provisions of this
21 act as well as by all applicable regulations or conditions
22 adopted by the board.

23 For the purposes of this clause, "alcoholic cider, wine and
24 food expositions" are defined as affairs held indoors or
25 outdoors with the primary intent of educating those in
26 attendance of the availability, nature and quality of
27 Pennsylvania-produced alcoholic ciders and wines in conjunction
28 with suitable food displays, demonstrations and sales. [Wine]
29 Alcoholic cider, wine and food expositions may also include
30 activities other than alcoholic cider, wine and food displays,

1 including arts and crafts, musical activities, cultural
2 exhibits, agricultural exhibits and similar activities.

3 (5) Apply for and hold a hotel liquor license, a restaurant
4 liquor license or a malt and brewed beverages retail license to
5 sell for consumption at the restaurant or limited winery on the
6 licensed winery premises, liquor, wine and malt or brewed
7 beverages regardless of the place of manufacture under the same
8 conditions and regulations as any other hotel liquor license,
9 restaurant liquor license or malt and brewed beverages retail
10 license.

11 Section ~~4-3~~ 4. The act is amended by adding an article to ←
12 read:

13 ARTICLE X.

14 MISCELLANEOUS PROVISIONS.

15 Section 1001. Construction and Applicability.--(a) Except
16 as provided in subsection (b), unless the context clearly
17 indicates otherwise, a reference to "malt or brewed beverages"
18 in a statute shall be construed to include alcoholic cider.

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

23 (c) Except as provided in subsection (d), unless the context
24 clearly indicates otherwise, a reference to "wine" in a statute
25 shall be construed to exclude alcoholic cider.

26 (d) Regardless of context, a reference to "wine" in the act
27 of December 5, 1933 (Sp.Sess., P.L.38, No.6), known as the
28 "Spirituous and Vinous Liquor Tax Law," shall be construed to
29 exclude alcoholic cider.

30 Section ~~5-4~~ 5. The following acts and parts of acts are ←

1 repealed insofar as they are inconsistent with this act:

2 Act of December 5, 1933 (Sp.Sess., P.L.38, No.6), known as
3 the Spirituous and Vinous Liquor Tax Law.

4 Article XX of the act of March 4, 1971 (P.L.6, No.2), known
5 as the Tax Reform Code of 1971.

6 Section ~~6-5~~ 6. Pennsylvania Liquor Stores may continue to <—
7 sell alcoholic cider within its inventory after the effective
8 date of this act, until the alcoholic cider within its current
9 inventory is depleted. The Pennsylvania Liquor Control Board
10 shall not purchase additional alcoholic cider after the
11 effective date of this act.

12 Section ~~7-6~~ 7. This act shall take effect in 60 days. <—