

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1204 Session of 2015

INTRODUCED BY MOUL, O'BRIEN, SONNEY, MILLARD, READSHAW,
M. K. KELLER, GABLER AND GIBBONS, MAY 13, 2015

REFERRED TO COMMITTEE ON LIQUOR CONTROL, MAY 13, 2015

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," in
17 licenses and regulations, liquor, alcohol and malt and brewed
18 beverages, further providing for interlocking business
19 prohibited, for number and kinds of licenses allowed same
20 licensee and for interlocking business prohibited; and, in
21 distilleries, wineries, bonded warehouses, bailees for hire
22 and transporters for hire, further providing for limited
23 wineries.

24 The General Assembly of the Commonwealth of Pennsylvania
25 hereby enacts as follows:

26 Section 1. Section 411(e) of the act of April 12, 1951
27 (P.L.90, No.21), known as the Liquor Code, reenacted and amended
28 June 29, 1987 (P.L.32, No.14) and amended December 22, 2011

1 (P.L.530, No.113), is amended to read:

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

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

19 The purpose of this section is to require a separation of the
20 financial and business interests between manufacturers and
21 holders of hotel or restaurant liquor licenses and, as herein
22 provided, of club licenses, issued under this article, and no
23 person shall, by any device whatsoever, directly or indirectly,
24 evade the provisions of the section. But in view of existing
25 economic conditions, nothing contained in this section shall be
26 construed to prohibit the ownership of property or conflicting
27 interest by a manufacturer of any place occupied by a licensee
28 under this article after the manufacturer has continuously owned
29 and had a conflicting interest in such place for a period of at
30 least five years prior to July eighteenth, one thousand nine

1 hundred thirty-five: Provided, however, That this clause shall
2 not prohibit any hotel, restaurant or club liquor licensee from
3 owning land which is leased to, and the buildings thereon owned
4 by, a holder of a retail dispenser's license; and nothing in
5 this clause shall prevent the issuance of a retail dispenser's
6 license to a lessee of such lands who owns the buildings
7 thereon: And, provided further, That nothing contained in this
8 section shall be construed to prohibit any hotel, restaurant,
9 retail dispenser or club licensee or any officer, director or
10 stockholder, agent or employe of any such licensee from having a
11 financial or other interest, directly or indirectly in the
12 ownership or leasehold of any property or the equipment of any
13 property or any mortgage lien against same, used, leased by an
14 importer or sacramental wine licensee for the exclusive purpose
15 of maintaining commercial offices and on the condition that said
16 property is not used for the storage or sale of liquor or malt
17 or brewed beverages in any quantity: And, provided further, That
18 nothing contained in this section shall prohibit an officer or
19 member of a licensed privately owned private golf course
20 catering club from having an interest in a limited winery
21 license: And, provided further, That nothing contained in this
22 section shall be construed to prohibit a member of the governing
23 board of a public authority created under subdivision (n) of
24 Article XXIII of the act of August 9, 1955 (P.L.323, No.130),
25 known as "The County Code," from having an interest in a
26 distributor or importing distributor license notwithstanding the
27 fact that the public authority has an interest in one or more
28 retail licenses or acts as a landlord for one or more retail
29 licenses: And, provided further, That, nothing in this section
30 may prohibit an employe of a hotel or restaurant licensee from

1 having an interest in any property used by a limited winery
2 licensee or in guaranteeing any loans, or lending any moneys,
3 providing credit or giving anything of value to a limited winery
4 licensee or its officers, directors and shareholders, provided
5 that the person also is not an officer of or does not have any
6 interest in or exercise any control over any other licensed
7 entity that engages in any sales to or from the licensee: And,
8 provided further, That, notwithstanding any other provision of
9 this section, an entity may acquire both a manufacturer's
10 license or a limited winery license and a hotel, restaurant or
11 retail dispenser license for use at the same location and more
12 than one location may be so licensed[.]: And, provided further,
13 That, notwithstanding any other provision of this section, the
14 holder of a limited winery license may also hold and operate
15 under a hotel liquor license, a restaurant liquor license or a
16 retail dispenser license on premises other than the limited
17 winery's licensed premises. The licenses and a person's interest
18 in the licenses or in the entity holding the licenses shall not
19 be subject to this section. Provided further, That, a person who
20 is a holder of five per centum (5%) or less of securities or
21 other interests in a publicly or privately held domestic or
22 foreign corporation, partnership, limited liability company or
23 other form of legal entity owning a restaurant liquor license or
24 retail dispenser's license shall not be deemed to possess a
25 financial interest and is not subject to the provisions of this
26 section, provided that the person is not an officer of, employe
27 of or does not have any interest in or exercise any control over
28 any other licensed entity that engages in any sales to or from
29 the restaurant liquor or retail dispenser licensee in which the
30 person holds the five per centum (5%) or less interest.

1 Section 2. Section 438(c) of the act, amended June 25, 2010
2 (P.L.217, No.35), is amended to read:

3 Section 438. Number and Kinds of Licenses Allowed Same
4 Licensee.--* * *

5 (c) No person shall possess more than one class of license,
6 except that a holder of a retail dispenser's license may also be
7 a holder of a retail liquor license: Provided, however, That
8 nothing contained in this section shall be construed to prohibit
9 a member of the governing board of a public authority created
10 under subdivision (n) of Article XXIII of the act of August 9,
11 1955 (P.L.323, No.130), known as "The County Code," from having
12 an interest in a distributor or importing distributor license
13 notwithstanding the fact that the public authority has an
14 interest in one or more retail licenses or acts as a landlord
15 for one or more retail licenses: And, provided further, That,
16 notwithstanding any other provision of this section, an entity
17 may acquire both a manufacturer's license or a limited winery
18 license and a hotel, restaurant or retail dispenser license for
19 use at the same location and more than one location may be so
20 licensed[.]: And, provided further, That, notwithstanding any
21 other provision of this section, the holder of a limited winery
22 license may also hold and operate under a hotel liquor license,
23 a restaurant liquor license or a retail dispenser license on
24 premises other than the limited winery's licensed premises. The
25 licenses and a person's interest in the licenses or in the
26 entity holding the licenses shall not be subject to this
27 section.

28 Section 3. Section 443(g) of the act, amended December 22,
29 2011 (P.L.530, No.113), is amended to read:

30 Section 443. Interlocking Business Prohibited.--* * *

1 (g) The purpose of this section is to require a separation
2 of the financial and business interests between the various
3 classes of business regulated by subdivision (B) of this
4 article, and no person or corporation shall, by any device
5 whatsoever, directly or indirectly, evade the provisions of this
6 section. But in view of existing economic conditions, nothing
7 contained in this section shall be construed to prohibit the
8 ownership of property or conflicting interest by a malt or
9 brewed beverage manufacturer of any place occupied by a
10 distributor, importing distributor or retail dispenser after the
11 manufacturer has continuously owned and had a conflicting
12 interest in such place for a period of at least five years prior
13 to the eighteenth day of July, one thousand nine hundred thirty-
14 five: Provided, however, That a holder of a manufacturer's
15 license under section 431(a) who is eligible to operate a
16 brewery pub under section 446(2) or a limited winery as provided
17 for under section 505.2 may also hold and operate under a hotel
18 liquor license, a restaurant liquor license or a malt and brewed
19 beverages retail license on the manufacturer's or limited
20 winery's licensed premises[.]: And, provided further, That,
21 notwithstanding any other provision of this section, the holder
22 of a limited winery license may also hold and operate under a
23 hotel liquor license, a restaurant liquor license or a retail
24 dispenser license on premises other than the limited winery's
25 licensed premises. The hotel liquor license or restaurant liquor
26 license or the malt and brewed beverages retail license shall be
27 acquired by the manufacturer or limited winery subject to
28 section 461 and shall satisfy all requirements for each
29 respective license: And, provided further, That nothing
30 contained in this section shall be construed to prohibit a

1 member of the governing board of a public authority created
2 under subdivision (n) of Article XXIII of the act of August 9,
3 1955 (P.L.323, No.130), known as "The County Code," from having
4 an interest in a distributor or importing distributor license
5 notwithstanding the fact that the public authority has an
6 interest in one or more retail licenses or acts as a landlord
7 for one or more retail licenses.

8 A person who is a holder of five per centum (5%) or less of
9 securities or other interests in a publicly or privately held
10 domestic or foreign corporation, partnership, limited liability
11 company or other form of legal entity owning a restaurant liquor
12 license or retail dispenser's license shall not be deemed to
13 possess a financial interest and is not subject to the
14 provisions of this section, provided that the person is not an
15 officer of, employe of or does not have any interest in or
16 exercise any control over any other licensed entity that engages
17 in any sales to or from the restaurant liquor or retail
18 dispenser licensee in which the person holds the five per centum
19 (5%) or less interest.

20 The term "manufacturer" as used in this section shall include
21 manufacturers of malt or brewed beverages as defined in this act
22 and any person manufacturing any malt or brewed beverages
23 outside of this Commonwealth.

24 Section 4. Section 505.2(a) of the act is amended by adding
25 a paragraph to read:

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

29 * * *

30 (5.1) Notwithstanding any other provision of law to the

1 contrary, apply for and hold hotel liquor licenses, restaurant
2 liquor licenses or retail dispenser licenses for premises other
3 than the licensed limited winery premises under the same
4 conditions and regulations as any other hotel liquor license,
5 restaurant liquor license or retail dispenser license and
6 subject to the limitation on the issuance of such licenses
7 pursuant to sections 461 and 472.

8 * * *

9 Section 5. This act shall take effect in 60 days