
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1138 Session of
2022

INTRODUCED BY LAUGHLIN, YUDICHAK, BOSCOLA, MARTIN, MENSCH AND
STEFANO, MARCH 11, 2022

REFERRED TO LAW AND JUSTICE, MARCH 11, 2022

AN ACT

1 Amending the act of April 12, 1951 (P.L.90, No.21), entitled "An
2 act relating to alcoholic liquors, alcohol and malt and
3 brewed beverages; amending, revising, consolidating and
4 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 and liquor, alcohol and malt and
18 brewed beverages, further providing for sales by liquor
19 licensees and restrictions and repealing provisions related
20 to extension of licensed service area and issuance of off-
21 premises catering permits.

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

24 Section 1. Section 406 of the act of April 12, 1951 (P.L.90,
25 No.21), known as the Liquor Code, is amended by adding a
26 subsection to read:

27 Section 406. Sales by Liquor Licensees; Restrictions.--* * *

1 (k) Notwithstanding any provision of this act, a person
2 holding and possessing a valid restaurant or hotel liquor
3 license may sell prepared beverages and mixed drinks for off-
4 premises consumption. The following shall apply:

5 (1) Except as provided in this paragraph and paragraph (3),
6 nothing in this section shall affect the ability of a licensee
7 to operate within the scope of the licensee's current license as
8 authorized by this act, provided, however, that no sales of
9 prepared beverages and mixed drinks for off-premises consumption
10 may take place after eleven o'clock postmeridian of any day
11 until the licensee's permitted hours of operation under this
12 section of the next day, including Sundays if the licensee has a
13 permit authorized under subsection (a) (3) and section 432(f).

14 (2) The following licensees are prohibited from selling
15 prepared beverages and mixed drinks for off-premises consumption
16 under this section:

17 (i) A licensee whose underlying license is subject to a
18 pending objection by the director of the Bureau of Licensing or
19 the board under section 470(a.1), until the matter is decided.

20 (ii) A licensee whose underlying license has been suspended
21 under section 1799.6-E of the act of April 9, 1929 (P.L.343,
22 No.176), known as "The Fiscal Code."

23 (iii) A licensee that has an interior connection to a
24 grocery store, convenience store or department store.

25 (3) For purposes of selling prepared beverages and mixed
26 drinks for off-premises consumption, a licensed premises shall
27 not be subject to section 493(14).

28 (4) A licensee selling prepared beverages and mixed drinks
29 for off-premises consumption shall utilize a transaction scan
30 device to verify the age of an individual who appears to be

1 under thirty-five (35) years of age before making a sale of
2 prepared beverages and mixed drinks for off-premises
3 consumption. A licensee may not sell or share consumers'
4 personal data from the use of a transaction scan device,
5 provided that the licensee may share the data with the
6 enforcement bureau of the board as evidence that the licensee is
7 in compliance with this paragraph.

8 (5) A licensee selling prepared beverages or mixed drinks
9 for off-premises consumption shall prominently post a warning
10 sign in a manner that puts consumers on notice of the
11 restrictions on alcoholic beverages under 75 Pa.C.S. § 3809
12 (relating to restriction on alcoholic beverages).

13 (6) A prepared beverage or mixed drink for off-premises
14 consumption must be affixed with a label identifying that the
15 product contains alcohol.

16 (7) An employe of a licensee selling prepared beverages or
17 mixed drinks for off-premises consumption, including any
18 mixologist, bartender, waiter or other employe authorized to
19 combine spirits or mixes for prepared beverages or mixed drinks,
20 shall prepare or mix the prepared beverages or mixed drinks on
21 the licensed premises at the point of sale.

22 (8) As used in this subsection, the following words and
23 phrases shall have the meanings given to them in this paragraph
24 unless the context clearly indicates otherwise:

25 "Convenience store." A retail business that sells a range of
26 everyday items, including coffee, groceries, snack foods,
27 confectionery, soft drinks, tobacco products, over-the-counter
28 drugs, toiletries, gasoline and magazines.

29 "Department store." A retail establishment offering a wide
30 range of consumer goods in different areas of the store, which

1 may include food items.

2 "Grocery store." A retail business that primarily sells a
3 wide variety of fresh and packaged foods, beverages and other
4 items to be consumed or used off of the store premises.

5 "Transaction scan device." A device capable of deciphering,
6 in an electronically readable format, the information encoded on
7 the magnetic strip, chip or bar code of an identification card
8 under section 495(a).

9 Section 2. Section 417 of the act is repealed:

10 [Section 417. Extension of Licensed Service Area and
11 Issuance of Off-premises Catering Permits.--(a) The following
12 shall apply:

13 (1) Notwithstanding any provision of this act, a person
14 holding and possessing a valid restaurant or hotel liquor
15 license that lost more than twenty-five per centum (25%) of the
16 person's average monthly total sales, including alcohol sales,
17 as a result of restrictions imposed during the COVID-19 disaster
18 emergency, may sell prepared beverages and mixed drinks for off-
19 premises consumption where meals prepared for pickup or curbside
20 pickup are also available.

21 (2) Except as provided in this paragraph and paragraph (4),
22 nothing in this section shall affect the ability of a licensee
23 to operate within the scope of its current license as authorized
24 by this act, provided, however, that no sales of prepared
25 beverages and mixed drinks for off-premises consumption shall
26 take place after eleven o'clock postmeridian of any day until
27 the licensee's permitted hours of operation under section 406 of
28 the next day, including Sundays if the licensee has a permit
29 authorized under sections 406(a) (3) and 432(f).

30 (3) The following licensees are prohibited from selling

1 prepared beverages and mixed drinks for off-premises consumption
2 under this section:

3 (i) A licensee whose underlying license is subject to a
4 pending objection by the director of the Bureau of Licensing or
5 the board under section 470(a.1), until the matter is decided.

6 (ii) A licensee whose underlying license has been suspended
7 under section 1799.6-E of the act of April 9, 1929 (P.L.343,
8 No.176), known as "The Fiscal Code."

9 (4) For purposes of selling prepared beverages and mixed
10 drinks for off-premises consumption, a licensed premises shall
11 not be subject to section 493(14).

12 (5) Within sixty (60) days of the effective date of this
13 section, a licensee selling prepared beverages and mixed drinks
14 for off-premises consumption shall begin utilizing a transaction
15 scan device to verify the age of an individual who appears to be
16 under thirty-five (35) years of age before making a sale of
17 prepared beverages and mixed drinks for off-premises
18 consumption. A licensee may not sell or share consumers'
19 personal data from the use of a transaction scan device,
20 provided that the licensee may share the data with the
21 enforcement bureau of the board as evidence that the licensee is
22 in compliance with this paragraph.

23 (6) A licensee selling prepared beverages or mixed drinks
24 for off-premises consumption shall prominently post a warning
25 sign in a manner that puts consumers on notice of the
26 restrictions on alcoholic beverages under 75 Pa.C.S. § 3809
27 (relating to restriction on alcoholic beverages), and that the
28 prepared beverages and mixed drinks packaged for sale by the
29 licensee are open containers and may only be transported by the
30 driver of a motor vehicle in the vehicle's trunk or in some

1 other area of the vehicle that is not occupied by the driver or
2 passengers.

3 (a.1) Notwithstanding any other provision of this act, the
4 following shall apply to the temporary extension of the licensed
5 premises:

6 (1) Upon receipt of a request from a licensed club, catering
7 club, restaurant, retail dispenser, hotel, limited distillery,
8 distillery, brewery or limited winery, the board may temporarily
9 extend the licensed premises of the applicant to include any
10 outside serving area that is:

11 (i) immediately adjacent to the existing licensed areas; or

12 (ii) within one thousand feet of the main licensed building,
13 notwithstanding that the area to be temporarily licensed and the
14 main licensed building are separated by a public thoroughfare.

15 (2) The board shall grant immediate operating authority to
16 the applicant to use the outside area subject to the request
17 while the board processes the request.

18 (3) The operating authority under this subsection shall be
19 terminated if:

20 (i) a valid protest is received; or

21 (ii) the board determines that the proposed area does not
22 meet the requirements of this act and board regulations for the
23 licensing of the area in question.

24 (4) A filing fee may not be required from an applicant under
25 this subsection.

26 (5) The board may require the applicant to provide any
27 information that the board deems relevant.

28 (a.2) The following shall apply to the issuance of off-
29 premises catering permits:

30 (1) The board may authorize an unlimited number of off-

1 premises catered functions to entities that qualify for the
2 permits under this act.

3 (2) An application fee may not be required from an entity
4 requesting a catering permit under this subsection.

5 (3) An application for a catering permit under this
6 subsection shall not need to be submitted prior to March 1 of
7 that calendar year.

8 (4) A five-hour limit on catered functions shall not apply
9 to a catering permit under this subsection.

10 (5) Each requirement under this act applicable to a catered
11 function that is not specifically waived under this subsection
12 shall apply.

13 (a.3) Subsections (a.1) and (a.2) shall expire December 31,
14 2024.

15 (b) Notwithstanding any other provision of this section or
16 provision of law to the contrary, a licensee selling prepared
17 beverages and mixed drinks for off-premises consumption may only
18 do so during the COVID-19 disaster emergency and during the
19 mitigation period after the termination of the disaster
20 emergency in which a licensee is operating at less than sixty
21 per centum (60%) capacity.

22 (c) A licensee may sell liquor to another licensee qualified
23 to sell prepared beverages and mixed drinks under this section.
24 The licensee shall notify the board in writing advising it of
25 the name of the licensee and identifying any product sold to
26 that licensee, as well as the description of the liquor,
27 including brand names, sizes and numbers of containers sold to
28 another licensee. The sales may only occur during the COVID-19
29 disaster emergency and during the mitigation period after the
30 termination of the disaster emergency in which a licensee is

1 operating at less than sixty per centum (60%) capacity.

2 (d) As used in this section, the following words and phrases
3 shall have the meanings given to them in this subsection unless
4 the context clearly indicates otherwise:

5 "COVID-19 disaster emergency" shall mean the proclamation of
6 disaster emergency issued by the Governor on March 6, 2020,
7 published at 50 Pa.B. 1644 (March 21, 2020), and any renewal of
8 the state of disaster emergency.

9 "Licensee" shall mean a person holding and possessing a valid
10 restaurant or hotel liquor license authorized to sell prepared
11 beverages or mixed drinks for off-premise consumption under
12 subsection (a)(1).

13 "Transaction scan device" shall mean a device capable of
14 deciphering, in an electronically readable format, the
15 information encoded on the magnetic strip, chip or bar code of
16 an identification card under section 495(a).]

17 Section 3. This act shall take effect immediately.