

LIQUOR CODE - POWERS AND DUTIES OF PENNSYLVANIA LIQUOR CONTROL
BOARD, WINE MARKETING, SALES ON SAINT PATRICK'S DAY AND WINE
PURCHASED FOR CONSUMPTION AT A RESTAURANT

Act of Dec. 30, 2003, P.L. 423, No. 59

Cl. 47

Session of 2003

No. 2003-59

HB 1279

AN ACT

Amending the act of April 12, 1951 (P.L.90, No.21), entitled, as reenacted, "An act relating to alcoholic liquors, alcohol and malt and brewed beverages; amending, revising, consolidating and changing the laws relating thereto; regulating and restricting the manufacture, purchase, sale, possession, consumption, importation, transportation, furnishing, holding in bond, holding in storage, traffic in and use of alcoholic liquors, alcohol and malt and brewed beverages and the persons engaged or employed therein; defining the powers and duties of the Pennsylvania Liquor Control Board; providing for the establishment and operation of State liquor stores, for the payment of certain license fees to the respective municipalities and townships, for the abatement of certain nuisances and, in certain cases, for search and seizure without warrant; prescribing penalties and forfeitures; providing for local option, and repealing existing laws," further providing for definitions, for powers and duties of the Pennsylvania Liquor Control Board, for wine marketing, for sales on Saint Patrick's Day and for wine purchased for consumption at a restaurant.

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

Section 1. The definition of "eligible entity" in section 102 of the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code, reenacted and amended June 29, 1987 (P.L.32, No.14) and amended July 17, 2003 (P.L.63, No.15), is amended to read:

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

* * *

"Eligible entity" shall mean a city of the third class, a hospital, a church, a synagogue, a volunteer fire company, a volunteer ambulance company, a volunteer rescue squad, a unit of a nationally chartered club which has been issued a club liquor license, a club in a city of the third class which has been issued a club liquor license and which, as of December 31, 2002, has been in existence for at least 100 years, a library, a nationally accredited Pennsylvania nonprofit zoological institution licensed by the United States Department of Agriculture, a nonprofit agricultural association in existence for at least ten years, a bona fide sportsmen's club in existence for at least ten years, a nationally chartered veterans' organization and any affiliated lodge or subdivision of such organization, a fraternal benefit society that is licensed to do business in this Commonwealth and any affiliated lodge or subdivision of such fraternal benefit society, a museum operated by a nonprofit corporation in a city of the third class or township of the first class, a nonprofit corporation engaged in the performing arts in a city of the third

class or in an incorporated town, an arts council, a nonprofit corporation that operates an arts facility or museum in a city of the third class in the county of the fourth class, a nonprofit organization as defined under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)) whose purpose is to protect the architectural heritage of boroughs and which has been recognized as such by a municipal resolution, [or] a nonprofit organization as defined under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)) conducting a regatta in a city of the second class with the permit to be used on State park grounds or conducting a family-oriented celebration as part of Welcome America in a city of the first class on property leased from that city for more than fifty years[.], **or a nonprofit organization as defined under section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. § 501(c)(3)) whose purpose is to educate the public on issues dealing with watershed conservation.**

* * *

Section 2. Section 207(a) of the act is amended to read:

Section 207. General Powers of Board.--Under this act, the board shall have the power and its duty shall be:

(a) To buy, import or have in its possession for sale[,] and sell liquor [and alcohol], **alcohol, corkscrews, wine and liquor accessories, trade publications and wine glasses** in the manner set forth in this act: Provided, however, That all purchases shall be made subject to the approval of the State Treasurer, or his designated deputy. The board shall buy liquor and alcohol at the lowest price and in the greatest variety reasonably obtainable.

* * *

Section 3. Section 215 of the act, amended or added December 9, 2002 (P.L.1653, No.212) and July 17, 2003 (P.L.63, No.15), is amended to read:

Section 215. Wine Marketing.--[(a) There is hereby established within the board the Bureau of Wine which shall be responsible for the purchasing and the wholesale and retail marketing of premium wines so as to make these wines available to Pennsylvania consumers at competitive prices and in a convenient atmosphere.

(b) The management of the bureau shall be vested in a director, who shall be assisted by such other personnel as the board deems necessary.

(d) (2) The term "wine," as used in this section, shall mean liquor which is fermented from grapes and other fruits, having alcoholic content of twenty-four per centum or less. The term "wine" shall not include malt or brewed beverages, nor shall wine include any products containing alcohol derived from malt, grain, cereal, molasses or cactus.]

(e) The board is authorized to participate in or sponsor wine events for the purpose of educating consumers as to the wines available in this Commonwealth. The wine to be used for the event may be acquired through the State store system or may be donated from outside this Commonwealth. Participation in the tastings may be conditioned on the purchase of a ticket to the event. The event may include events occurring on premises licensed by the board, and the board may sell wine for off-premises consumption in an area designated by the board for such sale.

Section 4. Section 305(f) of the act is amended to read:

Section 305. Sales by Pennsylvania Liquor Stores.--* * *

(f) Every purchaser of liquor [or alcohol], **alcohol, corkscrews, wine or liquor accessories, trade publications or wine glasses** from a Pennsylvania Liquor Store shall receive a numbered receipt which shall show the price paid therefor[,] and such other information as the board may prescribe. Copies of all receipts issued by a

Pennsylvania Liquor Store shall be retained by and shall form part of the records of such store.

* * *

Section 5. Section 406(a) and (e) of the act, amended May 31, 1996 (P.L.312, No.49), December 20, 2000 (P.L.992, No.141), May 8, 2003 (P.L.1, No.1) and July 17, 2003 (P.L.63, No.15), are amended to read:

Section 406. Sales by Liquor Licensees; Restrictions.--(a) (1)

Every hotel, restaurant or club liquor licensee may sell liquor and malt or brewed beverages by the glass, open bottle or other container, and in any mixture, for consumption only in that part of the hotel or restaurant habitually used for the serving of food to guests or patrons, or in a bowling alley that is immediately adjacent to and under the same roof as a restaurant, and in the case of hotels, to guests, and in the case of clubs, to members, in their private rooms in the hotel or club. No club licensee nor its officers, servants, agents or employes, other than one holding a catering license, shall sell any liquor or malt or brewed beverages to any person except a member of the club. The holder of a restaurant license located in a hotel may sell liquor or malt or brewed beverages for consumption in that part of the restaurant habitually used for the serving of meals to patrons and also to guests in private guest rooms in the hotel. For the purpose of this paragraph, any person who is an active member of another club which is chartered by the same state or national organization shall have the same rights and privileges as members of the particular club. For the purpose of this paragraph, any person who is an active member of any volunteer firefighting company, association or group of this Commonwealth, whether incorporated or unincorporated, shall upon the approval of any club composed of volunteer firemen licensed under this act, have the same social rights and privileges as members of such licensed club. For the purposes of this paragraph, the term "active member" shall not include a social member. Any club licensee which is either an incorporated unit of a national veterans' organization or an affiliated organization as defined in section 461.1 shall be permitted to sell liquor or malt or brewed beverages to any active member of another unit which is chartered by the same national veterans' organization or to any member of a nationally chartered auxiliary associated with the same national veterans' organization.

(2) Hotel and restaurant liquor licensees, airport restaurant liquor licensees, municipal golf course restaurant liquor licensees and privately-owned public golf course restaurant licensees may sell liquor and malt or brewed beverages only after seven o'clock antemeridian of any day until two o'clock antemeridian of the following day, except Sunday, and except as hereinafter provided, may sell liquor and malt or brewed beverages on Sunday between the hours of twelve o'clock midnight and two o'clock antemeridian.

(3) Hotel and restaurant liquor licensees, airport restaurant liquor licensees, municipal golf course restaurant liquor licensees and privately-owned public golf course restaurant licensees whose sales of food and nonalcoholic beverages are equal to thirty per centum or more of the combined gross sales of both food and alcoholic beverages may sell liquor and malt or brewed beverages on Sunday between the hours of eleven o'clock antemeridian and two o'clock antemeridian Monday upon purchase of a special permit from the board at an annual fee as prescribed in section 614-A of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929."

(4) Hotel and restaurant liquor licensees, airport restaurant liquor licensees, municipal golf course restaurant liquor licensees and privately-owned public golf course restaurant licensees which do not qualify for and purchase such special permit, their servants,

agents or employes may sell liquor and malt or brewed beverages only after seven o'clock antemeridian of any day and until two o'clock antemeridian of the following day, and shall not sell after two o'clock antemeridian on Sunday. No club licensee or its servants, agents or employes may sell liquor or malt or brewed beverages between the hours of three o'clock antemeridian and seven o'clock antemeridian on any day. No public service liquor licensee or its servants, agents, or employes may sell liquor or malt or brewed beverages between the hours of two o'clock antemeridian and seven o'clock antemeridian on any day.

(6) Notwithstanding any provisions to the contrary, whenever the thirty-first day of December [or Saint Patrick's Day] falls on a Sunday, every hotel or restaurant liquor licensee, their servants, agents or employes may sell liquor and malt or brewed beverages on any such day after one o'clock postmeridian and until two o'clock antemeridian of the following day.

(6.1) Notwithstanding any provisions to the contrary, whenever Saint Patrick's Day falls on a Sunday, every hotel or restaurant liquor licensee, their servants, agents or employes may sell liquor and malt or brewed beverages on any such day after seven o'clock antemeridian and until two o'clock antemeridian of the following day.

* * *

(e) The holder of a hotel license or the holder of a restaurant license located in a hotel may allow persons to transport liquor or malt or brewed beverages from the licensed portion of the premises to the unlicensed portion of the premises, so long as the liquor or malt or brewed beverages remain on the hotel property. In addition, a holder of a restaurant or club license located on a golf course may sell, furnish or give liquor or malt or brewed beverages on the unlicensed portion of the golf course so long as the liquor or malt or brewed beverages remain on the restaurant, club or golf course. The holder of a restaurant license located immediately adjacent to and under the same roof of a bowling center may allow persons to transport liquor or malt or brewed beverages from the licensed portion of the premises to the unlicensed portion of the premises, so long as the liquor or malt or brewed beverages remain within the bowling center. **In addition, the holder of a hotel license or a restaurant license may allow persons who have purchased but only partially consumed a bottle of wine on the premises to remove the bottle from the premises so long as the bottle was purchased in conjunction with a meal which was consumed on the premises and so long as the bottle is resealed. For purposes of this subsection, "wine" shall have the meaning given to it under section 488(i). For purposes of this subsection, "meal" shall mean food prepared on the premises, sufficient to constitute breakfast, lunch or dinner; it shall not mean a snack, such as pretzels, popcorn, chips or similar food.**

Section 6. This act shall take effect immediately.

APPROVED--The 30th day of December, A. D. 2003.

EDWARD G. RENDELL