

LIQUOR CODE - OMNIBUS AMENDMENTS  
Act of Jun. 25, 2010, P.L. 217, No. 35

Cl. 47

Session of 2010  
No. 2010-35

HB 48

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 wine marketing, for sacramental wine licenses, fees, privileges and restrictions, for interlocking businesses prohibited, for number and kinds of licenses allowed same licensee, for limiting number of retail licenses to be issued in each county, for licenses issued and for limited wineries.

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

Section 1. The definitions of "eligible entity," "performing arts facilities" and "public venue" 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.41) and amended December 20, 2000 (P.L.992, No.141), November 29, 2006 (P.L.1421, No.155) and July 16, 2007 (P.L.107, No.34), are 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, borough 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 **or a township of the second class** and which has been recognized as such by a municipal resolution, 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, 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 raise funds for the research and treatment of cystic fibrosis, 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, 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 provide equine assisted activities for children and adults with special needs, a nonprofit economic development agency in a city of the second class with the primary function to serve as an economic generator for the greater southwestern Pennsylvania region by attracting and supporting film, television and related media industry projects and coordinating government and business offices in support of a production, a county tourist promotion agency as defined in section 3(1) of the act of April 28, 1961 (P.L.111, No.50), known as the "Tourist Promotion Law," and located in a city of the third class in a county of the fourth class or located in a township of the second class in a county of the fifth class, a junior league in a third class county that is a nonprofit organization as defined under section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. § 501(c)(3)) that is comprised of women whose purpose is exclusively educational and charitable in promoting the volunteerism of women and developing and participating in community projects and that has been in existence for over seventy years [or], **a nonprofit organization as defined under section 501(c)(3) of the Internal Revenue Code of 1986 which is located in counties of the second class A or of the third class and whose purpose is the education and promotion of American history**, a nonprofit organization as defined under section [501(C)(6)] **501(c)(6)** of the Internal Revenue Code of 1986 which is located in a city of the third class in a county of the third class and whose purpose is to support business and industry, **a brewery which has been issued a license to manufacture malt or brewed beverages and has been in existence for at least 100 years or a club recognized by Rotary International which is located in a county of the fourth class and whose purpose is to provide service to others, to promote high ethical standards and to advance world understanding, goodwill and peace through its fellowship of business, professional and community leaders 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)) which is located in a borough in a county of the third class and whose purpose is to promote mushrooms while supporting local and regional charities.**

\* \* \*

"Performing arts facilities" shall mean those halls or theaters in which live musical, concert, dance, ballet and legitimate play book-length productions are performed. Performing arts facilities shall not mean those halls or theaters in which burlesque shows or reviews are performed. If the operator of the performing arts facility is a nonprofit entity, the facility must have seating for at least [five hundred (500)] **two hundred fifty (250)** people; otherwise, the facility must have seating for at least twenty-five hundred (2,500) people.

\* \* \*

"Public venue" shall mean a stadium, arena, convention center, museum, amphitheater or similar structure. If the public venue is a cruise terminal owned or leased by a port authority created under the act of June 12, 1931 (P.L.575, No.200), entitled "An act providing for joint action by Pennsylvania and New Jersey in the development of the ports on the lower Delaware River, and the improvement of the facilities for transportation across the river; authorizing the Governor, for these purposes, to enter into an agreement with New Jersey; creating The Delaware River Joint Commission and specifying the powers and duties thereof, including the power to finance projects by the issuance of revenue bonds; transferring to the new commission all the powers of the Delaware River Bridge Joint Commission; and making an appropriation," it shall have no permanent seating requirement. If the public venue is an open-air amphitheater owned by a port authority created under the act of December 6, 1972 (P.L.1392, No.298), known as the "Third Class City Port Authority Act," it shall have no permanent seating requirement. If the public venue is owned by a political subdivision, a municipal authority, the Commonwealth, an authority created under the act of July 29, 1953 (P.L.1034, No.270), known as the "Public Auditorium Authorities Law," an authority created under Article XXV-A of the act of July 28, 1953 (P.L.723, No.230), known as the "Second Class County Code," an art museum established under the authority of the act of April 6, 1791 (3 Sm.L.20, No.1536), entitled "An act to confer on certain associations of the citizens of this commonwealth the powers and immunities of corporations, or bodies politic in law," or an authority created under Article XXIII (n) or (o) of the act of August 9, 1955 (P.L.323, No.130), known as "The County Code," it shall have permanent seating for at least one thousand (1,000) people; otherwise, it shall have permanent seating for at least two thousand (2,000) people. The term shall also mean any regional history center, multipurpose cultural and science facility, museum or convention or trade show center, regardless of owner and seating capacity, that has a floor area of at least sixty thousand (60,000) square feet in one building. The term shall also mean a convention or conference center owned by a city of the third class or a university which is a member of the Pennsylvania State System of Higher Education which is operated by a university foundation or alumni association, regardless of seating capacity, that has a floor area of at least fifteen thousand (15,000) square feet in one building. **The term shall also mean a visitor center, regardless of floor area or seating capacity, that was established under the authority of the Gateway Visitor Center Authorization Act of 1999 (Public Law 106-131, 113 Stat. 1678, 16 U.S.C. § 407m).**

\* \* \*

Section 2. Section 215 of the act, amended December 30, 2003 (P.L.423, No.59), is amended to read:

Section 215. Wine **and Spirits** Marketing.--

(e) The board is authorized to participate in or sponsor wine **and spirits** events for the purpose of educating consumers as to the wines **and spirits** available in this Commonwealth. The wine **and spirits** 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 **and spirits** for off-premises consumption in an area designated by the board for such sale.

Section 3. Section 409 of the act, amended December 21, 1998 (P.L.1202, No.155) and December 9, 2002 (P.L.1653, No.212), is amended to read:

Section 409. Sacramental Wine Licenses; Fees; Privileges; Restrictions.--(a) Subject to the provisions of this act in general and more particularly to the following provisions of this section, the board shall issue sacramental wine licenses to qualified applicants.

(b) Every applicant for a sacramental wine license shall file a written application with the board in such form as the board shall from time to time prescribe, which shall be accompanied by a filing fee **and a license 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," and a license fee of one hundred dollars.] **1929.** Every such application shall contain a description of the premises for which the applicant desires a license and shall set forth such other material information as may be required by the board.

(c) If the applicant is a natural person, his application must show that he is a citizen of the United States or a resident alien and a resident of this Commonwealth. If the applicant is an association or partnership, each and every member of the association or partnership must be a citizen of the United States or a resident alien and a resident of this Commonwealth. If the applicant is a corporation, the application must show that the corporation was created under the laws of Pennsylvania or holds a certificate of authority to transact business in Pennsylvania, and that all officers, directors and stockholders are citizens of the United States or resident aliens.

(d) [Holders] **Except as otherwise provided under subsection (d.1), holders** of such licenses may purchase from manufacturers or bring or import into this Commonwealth wine to be used for sacramental or religious purposes only, and bottle and sell the same to priests, clergymen and rabbis for use in the cathedral, church, synagogue or temple, or for sustaining members of the congregation or members of the faith who attend religious services, duly certified by such priests, clergymen or rabbis. The sale and use of wine for sacramental or religious purposes shall be subject to and in accordance with the regulations of the board.

**(d.1) In addition to the privileges conferred under subsection (d), the holder of a sacramental wine license who owns or operates an eating place or a restaurant may sell food for consumption on or off the premises and sell for consumption on the premises only the wine that it may acquire and sell pursuant to its license. In addition, the holder of a sacramental wine 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 that was consumed on the premises and so long as the bottle is resealed.**

(e) [Any] **Except as provided under subsection (d.1), any** wine purchased under the authority of this section shall not be used for any other than sacramental or religious purposes. Sacramental wine may not be sold by any person except the holder of a sacramental wine license.

(f) Every sacramental wine licensee shall maintain on the licensed premises such records as the board may prescribe. No deliveries of sacramental wine shall be made unless and until an

order therefor is on file at the principal place of business in Pennsylvania. All shipments into Pennsylvania of wine to be used [for sacramental or religious purposes] **as prescribed in this section** shall be consigned to the principal place of business maintained by the licensee.

(g) Any such license may be suspended or revoked by the board upon proof satisfactory to it that the licensee has violated any law of this Commonwealth or any regulation of the board relating to liquor and alcohol. The procedure in such cases shall be the same as for the revocation and suspension of hotel, restaurant and club licenses.

**(h) For purposes of this section the term "sacramental wine" shall mean any wine that is clearly marked on the bottle by the manufacturer as being produced or manufactured in accordance with religious law, practice or custom.**

Section 4. Sections 411(e) and 438(c) of the act are amended to read:

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

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

The purpose of this section is to require a separation of the financial and business interests between manufacturers and holders of hotel or restaurant liquor licenses and, as herein provided, of club licenses, issued under this article, and no person shall, by any device whatsoever, directly or indirectly, evade the provisions of the section. But in view of existing economic conditions, nothing contained in this section shall be construed to prohibit the ownership of property or conflicting interest by a manufacturer of any place occupied by a licensee under this article after the manufacturer has continuously owned and had a conflicting interest in such place for a period of at least five years prior to July eighteenth, one thousand nine hundred thirty-five: Provided, however, That this clause shall not prohibit any hotel, restaurant or club liquor licensee from owning land which is leased to, and the buildings thereon owned by, a holder of a retail dispenser's license; and nothing in this clause shall prevent the issuance of a retail dispenser's license to a lessee of such lands who owns the buildings thereon: And, provided further, That nothing contained in this section shall be construed to prohibit any hotel, restaurant, retail dispenser or club licensee or any officer, director or stockholder, agent or employe of any such licensee from having a financial or other interest, directly or indirectly in the ownership or leasehold of any property or the equipment of any property or any mortgage lien against same, used, leased by an importer or sacramental wine licensee for the exclusive purpose of maintaining commercial offices and on the condition that said property is not used for the storage or sale of liquor or malt or brewed beverages in any quantity[.]: **And, provided further, That nothing contained in this section shall prohibit an officer or member of a licensed privately owned private golf course catering**

club from having an interest in a limited winery license : And, provided further, That nothing contained in this section shall be construed to prohibit a member of the governing board of a public authority created under subdivision (n) of Article XXIII of the act of August 9, 1955 (P.L.323, No.130), known as "The County Code," from having an interest in a distributor or importing distributor license notwithstanding the fact that the public authority has an interest in one or more retail licenses or acts as a landlord for one or more retail licenses: And, provided further, That, notwithstanding any other provision of this section, an entity may acquire both a manufacturer's license or a limited winery license and a hotel, restaurant or retail dispenser license for use at the same location and more than one location may be so licensed. The licenses and a person's interest in the licenses or in the entity holding the licenses shall not be subject to this section.

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

(c) No person shall possess more than one class of license, except that a holder of a retail dispenser's license may also be a holder of a retail liquor license: **Provided, however, That nothing contained in this section shall be construed to prohibit a member of the governing board of a public authority created under subdivision (n) of Article XXIII of the act of August 9, 1955 (P.L.323, No.130), known as "The County Code," from having an interest in a distributor or importing distributor license notwithstanding the fact that the public authority has an interest in one or more retail licenses or acts as a landlord for one or more retail licenses : And, provided further, That, notwithstanding any other provision of this section, an entity may acquire both a manufacturer's license or a limited winery license and a hotel, restaurant or retail dispenser license for use at the same location and more than one location may be so licensed. The licenses and a person's interest in the licenses or in the entity holding the licenses shall not be subject to this section.**

Section 5. Section 443(g) of the act, amended May 31, 1996 (P.L.312, No.49), is amended to read:

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

(g) The purpose of this section is to require a separation of the financial and business interests between the various classes of business regulated by subdivision (B) of this article, and no person or corporation shall, by any device whatsoever, directly or indirectly, evade the provisions of this section. But in view of existing economic conditions, nothing contained in this section shall be construed to prohibit the ownership of property or conflicting interest by a malt or brewed beverage manufacturer of any place occupied by a distributor, importing distributor or retail dispenser after the manufacturer has continuously owned and had a conflicting interest in such place for a period of at least five years prior to the eighteenth day of July, one thousand nine hundred thirty-five: **Provided, however, That a holder of a manufacturer's license under section 431(a) who is eligible to operate a brewery pub under section 446(2) or a limited winery as provided for under section 505.2 may also hold and operate under a hotel liquor license, a restaurant liquor license or a malt and brewed beverages retail license on the manufacturer's or limited winery's licensed premises. The hotel liquor license or restaurant liquor license or the malt and brewed beverages retail license shall be acquired by the manufacturer or limited winery subject to section 461 and shall satisfy all requirements for each respective license: And, provided further, That nothing contained in this section shall be construed to prohibit a member of the governing board of a public authority created under subdivision (n) of Article XXIII of the act of August**

9, 1955 (P.L.323, No.130), known as "The County Code," from having an interest in a distributor or importing distributor license notwithstanding the fact that the public authority has an interest in one or more retail licenses or acts as a landlord for one or more retail licenses.

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

Section 6. Section 461(c)(9) of the act, amended July 16, 2007 (P.L.107, No.34), is amended to read:

Section 461. Limiting Number of Retail Licenses To Be Issued In Each County.--\* \* \*

(c) The word "hotel" as used in this section shall mean any reputable place operated by a responsible person of good reputation where the public may, for a consideration, obtain sleeping accommodations, and which shall have the following number of bedrooms and requirements in each case--at least one-half of the required number of bedrooms shall be regularly available to transient guests seven days weekly, except in resort areas; at least one-third of such bedrooms shall be equipped with hot and cold water, a lavatory, commode, bathtub or shower and a clothes closet; and an additional one-third of the total of such required rooms shall be equipped with lavatory and commode:

\* \* \*

(9) Upon application to and subject to inspection by the board, hotel licensees under clause (8) of this subsection shall no longer be required to maintain bedrooms for public accommodation. [However, areas required and designated as bedrooms for public accommodation prior to the effective date of this clause may not subsequently be used as licensed serving area.] Such area may be used as licensed storage area **or serving area** consistent with this act and existing regulations.

\* \* \*

Section 7. Section 505 of the act, amended December 21, 1998 (P.L.1202, No.155), is amended to read:

Section 505. Licenses Issued.--Upon receipt of the application in the form herein provided and the proper fees, the board may grant to such applicant a license to engage in, (a) the operation of a limited winery or a winery; or, (b) the manufacturing, producing, distilling, developing, or using in the process of manufacturing, denaturing, redistilling, recovering, rectifying, blending and reusing of alcohol and liquor; or, (c) the holding in bond of alcohol and liquor; or, (d) the holding in storage, as bailee for hire, of alcohol, liquor and malt or brewed beverages; or, (e) the transporting for hire of alcohol, liquor and malt or brewed beverages. **Such licenses may be transferred from one person to another or from one location to another, or both. Every applicant for a transfer of such licenses shall file a written application with the board, together with a filing fee of five hundred fifty dollars (\$550) if the transfer is to a new location, six hundred fifty dollars (\$650) if the transfer is to a new person, or seven hundred dollars (\$700) if the transfer is to a new person for use at a new location. Whenever such a license is transferred, no license or other fees shall be required from the persons to whom such transfer is made for the portion of the license period for which the license fee has been paid by the transferor.**

Section 8. Section 505.2(a) of the act is amended by adding a clause to read:

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

\* \* \*

(6.4) Store alcoholic cider, wine and wine coolers produced by the limited winery at no more than two (2) board-approved locations other than the licensed premises and those premises referenced in clause (3) pertaining to the five (5) board-approved locations for the sale of wine, with no bottling or production requirement at those additional locations and under such conditions and regulations as the board may enforce. If two (2) or more businesses will operate out of the same storage facility, the limited winery must designate specific and distinct areas for its storage. The limited winery's designated storage area must be secured and no one other than the licensee and his employees may be allowed access to the storage area. No board-approved manager will be necessary for the storage facility. The limited winery must fill out an application for such an additional board-approved storage location, and such location shall count as one of the two permitted for each limited winery. The limited winery is responsible for keeping only its own complete records. A limited winery may be cited for a violation of the recordkeeping requirements of sections 512 and 513 pertaining to its own records only.

\* \* \*

Section 9. This act shall take effect immediately.

APPROVED--The 25th day of June, A.D. 2010.

EDWARD G. RENDELL