

AMENDMENTS TO HOUSE BILL NO. 1033

Sponsor: SENATOR McILHINNEY

Printer's No. 1702

1 Amend Bill, page 1, lines 18 and 19, by striking out
2 "providing for wine or spirits enhanced" in line 18 and all of
3 line 19 and inserting
4 further providing for interlocking business prohibited and for
5 unlawful acts relative to liquor, malt and brewed beverages
6 and licensees.

7 Amend Bill, page 1, lines 22 through 26; page 2, lines 1
8 through 30; page 3, lines 1 through 27; by striking out all of
9 said lines on said pages and inserting

10 Section 1. Section 411(d) and (e) of the act of April 12,
11 1951 (P.L.90, No.21), known as the Liquor Code, amended June 8,
12 2016 (P.L.273, No.39) and November 15, 2016 (P.L.1286, No.166),
13 are amended to read:

14 Section 411. Interlocking Business Prohibited.--* * *
15 (d) Excepting as herein provided, no [hotel licensee,
16 restaurant licensee or club licensee, and no officer, director,
17 stockholder, agent or employe of any such licensee shall in any
18 wise be interested, either directly or indirectly, in the
19 ownership or leasehold of any property or the equipment of any
20 property or any mortgage lien against the same, used by a
21 manufacturer in manufacturing liquor or malt or brewed
22 beverages; nor shall any] hotel, restaurant or club licensee, or
23 any officer, director, stockholder, agent or employe of any such
24 licensee, either directly or indirectly, lend any moneys,
25 credit, or give anything of value or the equivalent thereof, to
26 any manufacturer for equipping, fitting out, or maintaining and
27 conducting, either in whole or in part, an establishment used
28 for the manufacture of liquor or malt or brewed beverages.
29 Notwithstanding any other provision of this section, a hotel,
30 restaurant or club licensee, or any officer, director,
31 stockholder, agent or employe of any such licensee, may act as
32 landlord or lessor to a manufacturer licensee.

33 (e) Except as herein provided, no hotel, restaurant, retail
34 dispenser or club licensee, and no officer, director or

1 stockholder, agent or employe of any such licensee shall in any
2 wise be interested, directly or indirectly, in the ownership or
3 leasehold of any property or the equipment of any property or
4 any mortgage lien against the same, used by a distributor,
5 importing distributor, or by an importer or sacramental wine
6 licensee, in the conduct of his business; nor shall any hotel,
7 restaurant, retail dispenser or club licensee, or any officer,
8 director, stockholder, agent or employe of any such licensee,
9 either directly or indirectly, lend any moneys, credit, or give
10 anything of value or the equivalent thereof, to any distributor,
11 importing distributor, importer or sacramental wine licensee,
12 for equipping, fitting out, or maintaining and conducting,
13 either in whole or in part, an establishment used in the conduct
14 of his business.

15 The purpose of this section is to require a separation of the
16 financial and business interests between manufacturers and
17 holders of hotel or restaurant liquor licenses and, as herein
18 provided, of club licenses, issued under this article, and no
19 person shall, by any device whatsoever, directly or indirectly,
20 evade the provisions of the section. But in view of existing
21 economic conditions, nothing contained in this section shall be
22 construed to prohibit the ownership of property or conflicting
23 interest by a manufacturer of any place occupied by a licensee
24 under this article after the manufacturer has continuously owned
25 and had a conflicting interest in such place for a period of at
26 least five years prior to July eighteenth, one thousand nine
27 hundred thirty-five: Provided, however, That this clause shall
28 not prohibit any hotel, restaurant or club liquor licensee, or
29 any officer, director or stockholder of any such licensee, from
30 owning land or buildings which are leased to a holder of a
31 retail dispenser's license[, a distillery license or a limited
32 distillery license] or a manufacturer's license: And, provided
33 further, That nothing contained in this section shall be
34 construed to prohibit any hotel, restaurant, retail dispenser or
35 club licensee or any officer, director or stockholder, agent or
36 employe of any such licensee from having a financial or other
37 interest, directly or indirectly in the ownership or leasehold
38 of any property or the equipment of any property or any mortgage
39 lien against same, used, leased by an importer or sacramental
40 wine licensee for the exclusive purpose of maintaining
41 commercial offices and on the condition that said property is
42 not used for the storage or sale of liquor or malt or brewed
43 beverages in any quantity: And, provided further, That nothing
44 contained in this section shall prohibit an officer or member of
45 a licensed privately owned private golf course catering club
46 from having an interest in a limited winery license: And,
47 provided further, That nothing contained in this section shall
48 be construed to prohibit a member of the governing board of a
49 public authority created under subdivision (n) of Article XXIII
50 of the act of August 9, 1955 (P.L.323, No.130), known as "The
51 County Code," from having an interest in a distributor or

1 importing distributor license notwithstanding the fact that the
2 public authority has an interest in one or more retail licenses
3 or acts as a landlord for one or more retail licenses: And,
4 provided further, That, nothing in this section may prohibit an
5 employe of a hotel or restaurant licensee from [having an
6 interest in any property used by a limited winery licensee or
7 in] guaranteeing any loans, or lending any moneys, providing
8 credit or giving anything of value to a limited winery licensee
9 or its officers, directors and shareholders, provided that the
10 person also is not an officer of or does not have any interest
11 in or exercise any control over any other licensed entity that
12 engages in any sales to or from the licensee: And, provided
13 further, That, notwithstanding any other provision of this
14 section, an entity may acquire both a manufacturer's license or
15 a limited winery license and a hotel, restaurant or retail
16 dispenser license for use at the same location and more than one
17 location may be so licensed. And, provided further, That,
18 notwithstanding any other provision of this section, an entity
19 licensed as a limited winery may hold and operate a restaurant
20 liquor license at one of its additional, board-approved
21 locations instead of at its primary location where manufacturing
22 occurs. The licenses and a person's interest in the licenses or
23 in the entity holding the licenses shall not be subject to this
24 section. Provided further, That, a person who is a holder of ten
25 per centum (10%) or less of securities or other interests in a
26 publicly or privately held domestic or foreign corporation,
27 partnership, limited liability company or other form of legal
28 entity owning a retail license shall not be deemed to possess a
29 financial interest and is not subject to the provisions of this
30 section, provided that the person is not an officer of, employe
31 of or does not have any interest in or exercise any control over
32 any other licensed entity that engages in any sales to or from
33 the retail licensee in which the person holds the ten per centum
34 (10%) or less interest. Provided further, That nothing in this
35 section shall prohibit a person who has an ownership interest in
36 a limited winery license from being employed by an entity that
37 holds a hotel, restaurant, eating place or club license so long
38 as the person is not employed as alcohol service personnel or as
39 a manager.

40 * * *

41 Section 2. Section 493(11) of the act is amended to read:

42 Section 493. Unlawful Acts Relative to Liquor, Malt and
43 Brewed Beverages and Licensees.--The term "licensee," when used
44 in this section, shall mean those persons licensed under the
45 provisions of Article IV, unless the context clearly indicates
46 otherwise.

47 It shall be unlawful--

48 * * *

49 (11) Licensees Employed by Others. For any hotel, restaurant
50 or club liquor licensee, or any malt or brewed beverage
51 licensee, or any officer, servant, agent or employe of such

1 licensee, to be at the same time employed, directly or
2 indirectly, by any distributor, importing distributor,
3 manufacturer, importer or vendor licensee or any out of State
4 manufacturer. It shall also be unlawful for any distributor or
5 importing distributor, or any officer, servant, agent or employe
6 of such licensee, to be at the same time employed, directly or
7 indirectly, by any other distributor, importing distributor,
8 manufacturer, importer, vendor, out of State manufacturer, hotel
9 restaurant, malt or brewed beverage licensee, or club liquor
10 licensee. It shall also be unlawful for any manufacturer,
11 importer, or vendor licensee, or any out of State manufacturer,
12 or any officer, servant, agent or employe of such licensee or
13 manufacturer, to be at the same time employed, directly or
14 indirectly, by any hotel, restaurant or club liquor licensee or
15 any malt or brewed beverage licensee or any distributor or
16 importing distributor licensee. Nothing in this subsection shall
17 be construed to prohibit a manufacturer or limited winery
18 licensee, or any officer, servant, agent or employe of such
19 licensee, to be employed at the same time by a hotel, restaurant
20 or retail dispenser licensee if the hotel, restaurant or retail
21 dispenser licensee is located at the manufacturer or limited
22 winery premises pursuant to section 443. For the purposes of
23 this subsection, an officer, servant, agent or employe of a
24 licensee or manufacturer is an individual who has either an
25 ownership interest in the licensee or manufacturer or who
26 receives compensation for his or her work on behalf of the
27 licensee or manufacturer. Nothing in this section shall prohibit
28 a person who has an ownership interest in a limited winery
29 license from being employed by an entity that holds a hotel,
30 restaurant, eating place or club license so long as the person
31 is not employed as alcohol service personnel or as a manager.

32 * * *

33 Section 3. This act shall take effect in 60 days.