
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1993 Session of
2019

INTRODUCED BY ROTHMAN, BARRAR, BERNSTINE, CALTAGIRONE, MIHALEK,
STAATS, KEEFER, O'NEAL, WHEELAND, BURGOS, SAYLOR AND ECKER,
OCTOBER 25, 2019

REFERRED TO COMMITTEE ON LIQUOR CONTROL, OCTOBER 25, 2019

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 for liquor, alcohol and malt and
18 brewed beverages, further providing for malt and brewed
19 beverages manufactures', distributors' and importing
20 distributors' licenses, for unlawful acts relative to liquor,
21 alcohol and liquor licensees and for unlawful acts relative
22 to malt or brewed beverages and licensees; and, in
23 distilleries, wineries, bonded warehouses, bailees for hire
24 and transporters for hire, further providing for exemptions.

25 The General Assembly of the Commonwealth of Pennsylvania

26 hereby enacts as follows:

27 Section 1. Section 431(b) of the act of April 12, 1951

28 (P.L.90, No.21), known as the Liquor Code, is amended to read:

1 Section 431. Malt and Brewed Beverages Manufacturers',
2 Distributors' and Importing Distributors' Licenses.--* * *

3 (b) The board shall issue to any reputable person who
4 applies therefor, and pays the license fee hereinafter
5 prescribed, a distributor's or importing distributor's license
6 for the place which such person desires to maintain for the sale
7 of malt or brewed beverages, not for consumption on the premises
8 where sold, and in quantities of not less than a case or
9 original containers containing one hundred twenty-eight ounces
10 or more which may be sold separately as prepared for the market
11 by the manufacturer at the place of manufacture. In addition, a
12 distributor license holder may sell malt or brewed beverages in
13 any amount to a person not licensed by the board for off-
14 premises consumption[.], except that distributors shall not
15 deliver frozen or partially frozen malt or brewed beverage
16 products unless the products are delivered in the original
17 package as provided by the manufacturer. The sales shall not be
18 required to be in the package configuration designated by the
19 manufacturer and may be sold in refillable growlers. The board
20 shall have the discretion to refuse a license to any person or
21 to any corporation, partnership or association if such person,
22 or any officer or director of such corporation, or any member or
23 partner of such partnership or association shall have been
24 convicted or found guilty of a felony within a period of five
25 years immediately preceding the date of application for the said
26 license: And provided further, That, in the case of any new
27 license or the transfer of any license to a new location, the
28 board may, in its discretion, grant or refuse such new license
29 or transfer if such place proposed to be licensed is within
30 three hundred feet of any church, hospital, charitable

1 institution, school or public playground, or if such new license
2 or transfer is applied for a place which is within two hundred
3 feet of any other premises which is licensed by the board: And
4 provided further, That the board shall refuse any application
5 for a new license or the transfer of any license to a new
6 location if, in the board's opinion, such new license or
7 transfer would be detrimental to the welfare, health, peace and
8 morals of the inhabitants of the neighborhood within a radius of
9 five hundred feet of the place proposed to be licensed. The
10 board shall not license the area where liquid fuels or oil is
11 sold. No sales of liquid fuels or oil may be made from a
12 licensee's licensed premises. A licensed premises may not have
13 an interior connection with a location that sells liquid fuels
14 or oil unless it first receives permission from the board for
15 the interior connection. The approval shall be required
16 regardless of whether the licensee or another party is the
17 entity selling the liquid fuels or oil. The board may enter into
18 an agreement with the applicant concerning additional
19 restrictions on the license in question. If the board and the
20 applicant enter into such an agreement, such agreement shall be
21 binding on the applicant. Failure by the applicant to adhere to
22 the agreement will be sufficient cause to form the basis for a
23 citation under section 471 and for the nonrenewal of the license
24 under section 470. If the board enters into an agreement with an
25 applicant concerning additional restrictions, those restrictions
26 shall be binding on subsequent holders of the license until the
27 license is transferred to a new location or until the board
28 enters into a subsequent agreement removing those restrictions.
29 If the application in question involves a location previously
30 licensed by the board, then any restrictions imposed by the

1 board on the previous license at that location shall be binding
2 on the applicant unless the board enters into a new agreement
3 rescinding those restrictions. The board shall require notice to
4 be posted on the property or premises upon which the licensee or
5 proposed licensee will engage in sales of malt or brewed
6 beverages. This notice shall be similar to the notice required
7 of hotel, restaurant and club liquor licensees.

8 Except as hereinafter provided, such license shall authorize
9 the holder thereof to sell or deliver malt or brewed beverages
10 in quantities above specified anywhere within the Commonwealth
11 of Pennsylvania, which, in the case of distributors, have been
12 purchased only from persons licensed under this act as
13 manufacturers or importing distributors, and in the case of
14 importing distributors, have been purchased from manufacturers
15 or persons outside this Commonwealth engaged in the legal sale
16 of malt or brewed beverages or from manufacturers or importing
17 distributors licensed under this article. In the case of an
18 importing distributor, the holder of such a license shall be
19 authorized to store and repackage malt or brewed beverages owned
20 by a manufacturer at a segregated portion of a warehouse or
21 other storage facility authorized by section 441(d) and operated
22 by the importing distributor within its appointed territory and
23 deliver such beverages to another importing distributor who has
24 been granted distribution rights by the manufacturer as provided
25 herein. The importing distributor shall be permitted to receive
26 a fee from the manufacturer for any related storage, repackaging
27 or delivery services. In the case of a bailee for hire hired by
28 a manufacturer, the holder of such a permit shall be authorized:
29 to receive, store and repackage malt or brewed beverages
30 produced by that manufacturer for sale by that manufacturer to

1 importing distributors to whom that manufacturer has given
2 distribution rights pursuant to this subsection or to purchasers
3 outside this Commonwealth for delivery outside this
4 Commonwealth; or to ship to that manufacturer's storage
5 facilities outside this Commonwealth. The bailee for hire shall
6 be permitted to receive a fee from the manufacturer for any
7 related storage, repackaging or delivery services. The bailee
8 for hire shall, as required in Article V of this act, keep
9 complete and accurate records of all transactions, inventory,
10 receipts and shipments and make all records and the licensed
11 areas available for inspection by the board and for the
12 Pennsylvania State Police, Bureau of Liquor Control Enforcement,
13 during normal business hours.

14 Each out of State manufacturer of malt or brewed beverages
15 whose products are sold and delivered in this Commonwealth shall
16 give distributing rights for such products in designated
17 geographical areas to specific importing distributors, and such
18 importing distributor shall not sell or deliver malt or brewed
19 beverages manufactured by the out of State manufacturer to any
20 person issued a license under the provisions of this act whose
21 licensed premises are not located within the geographical area
22 for which he has been given distributing rights by such
23 manufacturer. In addition, the holder of a distributor license
24 may not sell or deliver malt or brewed beverages to any licensee
25 whose licensed premises is located within the designated
26 geographical area granted to an importing distributor other than
27 the importing distributor that sold the malt or brewed beverages
28 to the distributor. If the licensee purchasing the malt or
29 brewed beverages from the distributor license holder holds
30 multiple licenses or operates at more than one location, then

1 the malt or brewed beverages may not be consumed or sold at
2 licensed premises located within the designated geographical
3 area granted to an importing distributor other than the
4 importing distributor that sold the malt or brewed beverages to
5 the distributor. Should a licensee accept the delivery of malt
6 or brewed beverages or transfer malt or brewed beverages in
7 violation of this section, said licensee shall be subject to a
8 suspension of his license for at least thirty days: Provided,
9 That the importing distributor holding such distributing rights
10 for such product shall not sell or deliver the same to another
11 importing distributor without first having entered into a
12 written agreement with the said secondary importing distributor
13 setting forth the terms and conditions under which such products
14 are to be resold within the territory granted to the primary
15 importing distributor by the manufacturer.

16 When a Pennsylvania manufacturer of malt or brewed beverages
17 licensed under this article names or constitutes a distributor
18 or importing distributor as the primary or original supplier of
19 his product, he shall also designate the specific geographical
20 area for which the said distributor or importing distributor is
21 given distributing rights, and such distributor or importing
22 distributor shall not sell or deliver the products of such
23 manufacturer to any person issued a license under the provisions
24 of this act whose licensed premises are not located within the
25 geographical area for which distributing rights have been given
26 to the distributor and importing distributor by the said
27 manufacturer. In addition, the holder of a distributor license
28 may not sell or deliver malt or brewed beverages to a licensee
29 whose licensed premises is located within the designated
30 geographical area granted to an importing distributor other than

1 the importing distributor that sold the malt or brewed beverages
2 to the distributor. If the licensee purchasing the malt or
3 brewed beverages from the distributor license holder holds
4 multiple licenses or operates at more than one location, the
5 malt or brewed beverages may not be consumed or sold at licensed
6 premises located within the designated geographical area granted
7 to an importing distributor other than the importing distributor
8 that sold the malt or brewed beverages to the distributor. If a
9 licensee accepts the delivery of malt or brewed beverages or
10 transfers malt or brewed beverages in violation of this section,
11 the licensee shall be subject to suspension of his license for
12 at least thirty days: Provided, That the importing distributor
13 holding such distributing rights for such product shall not sell
14 or deliver the same to another importing distributor without
15 first having entered into a written agreement with the said
16 secondary importing distributor setting forth the terms and
17 conditions under which such products are to be resold within the
18 territory granted to the primary importing distributor by the
19 manufacturer. Nothing herein contained shall be construed to
20 prevent any manufacturer from authorizing the importing
21 distributor holding the distributing rights for a designated
22 geographical area from selling the products of such manufacturer
23 to another importing distributor also holding distributing
24 rights from the same manufacturer for another geographical area,
25 providing such authority be contained in writing and a copy
26 thereof be given to each of the importing distributors so
27 affected.

28 * * *

29 Section 2. Sections 491(1) and 492(2) and (3) of the act are
30 amended and the sections are amended by adding clauses to read:

1 Section 491. Unlawful Acts Relative to Liquor, Alcohol and
2 Liquor Licensees.--

3 It shall be unlawful--

4 (1) Sales of Liquor. ~~[For]~~ Except as provided under clause
5 (1.1), for any person, by himself or by an employe or agent, to
6 expose or keep for sale, or directly or indirectly, or upon any
7 pretense or upon any device, to sell or offer to sell any liquor
8 within this Commonwealth, except in accordance with the
9 provisions of this act and the regulations of the board. This
10 clause shall not be construed to prohibit hospitals, physicians,
11 dentists or veterinarians who are licensed and registered under
12 the laws of this Commonwealth from administering liquor in the
13 regular course of their professional work and taking into
14 account the cost of the liquor so administered in making charges
15 for their professional service, or a pharmacist duly licensed
16 and registered under the laws of this Commonwealth from
17 dispensing liquor on a prescription of a duly licensed
18 physician, dentist or veterinarian, or selling medical
19 preparations containing alcohol, or using liquor in compounding
20 prescriptions or medicines and making a charge for the liquor
21 used in such medicines, or a manufacturing pharmacist or chemist
22 from using liquor in manufacturing preparations unfit for
23 beverage purposes and making a charge for the liquor so used.
24 All such liquors so administered or sold by hospitals,
25 physicians, dentists, veterinarians, pharmacists or chemists
26 shall conform to the Pharmacopoeia of the United States, the
27 National Formulary, or the American Homeopathic Pharmacopoeia.
28 This clause shall not be construed to prohibit an executor or an
29 administrator of a decedent's estate from selling privately or
30 at public auction liquor which was an asset of the decedent.

1 This clause shall not be construed to prohibit the practice by a
2 bed and breakfast homestead or inn of providing one bottle of
3 wine to its paying guests at check-in while in an overnight
4 status so long as that wine is produced by a licensed limited
5 winery as provided for under section 505.2. For purposes of this
6 paragraph, a "bed and breakfast homestead or inn" shall mean a
7 private residence that contains ten or fewer bedrooms used for
8 providing overnight accommodations to the public and in which
9 breakfast is the only meal served and is included in the charge
10 for the room. This clause shall not be construed to prohibit the
11 practice of a business which is principally engaged in the sale
12 of gift baskets within this Commonwealth to sell a gift basket
13 containing nonliquor items and no more than one bottle of wine
14 which has been lawfully purchased from the board, so long as
15 that wine is produced by a licensed limited winery as provided
16 for under section 505.2 and provided that delivery of the gift
17 basket shall be by a licensed transporter for hire, which shall
18 keep records as required under section 512 pertaining to the
19 direct shipment of wine, and provided that the business complies
20 with the provisions of section 488 relative to requiring proof
21 of age and labeling advising that the package contains alcohol.
22 The board shall establish regulations to ensure that State taxes
23 from the sales will be paid by the estate from the proceeds of
24 the sale. The board may not prohibit a sale of liquor for the
25 reason that it was not lawfully acquired prior to January 1,
26 1934 or has not been purchased from a Pennsylvania Liquor Store
27 or in compliance with Pennsylvania law.

28 (1.1) It shall not be a violation of clause (1) if a person,
29 not located on licensed premises, operates a telephonic, web-
30 based or other electronic ordering system by which the person

1 facilitates orders and deliveries of wine on behalf of a
2 licensee. Delivery under this section may be made by an
3 independent contractor of the person and shall only be made to
4 recipients who are at least 21 years of age. The recipient's age
5 shall be verified prior to the recipient taking possession of
6 the wine. The person may provide telephonic, web-based or other
7 electronic ordering systems on behalf of multiple licensees.
8 Wine sold through orders taken by the person: (i) shall be
9 lawfully obtained by the licensee, and (ii) shall come from
10 inventory located on the licensee's premises. The person
11 coordinating the sales shall transfer or transmit the
12 purchaser's payment for the purchase of wine prior to the
13 licensee releasing the wine for delivery, and the licensee shall
14 be considered the seller of the wine. A licensee, its agents and
15 employees, may deliver and carry to the vehicles of the
16 licensee's customers, located outdoors in an area immediately
17 adjacent to and designated for the deliveries, alcohol lawfully
18 purchased by the customer while the customer is either
19 physically present and located on the licensed premises or
20 places an order via a telephonic, web-based or other electronic
21 ordering system. A licensee shall verify the age of the
22 recipient prior to placing any alcoholic beverage in the
23 purchaser's vehicle.

24 * * *

25 Section 492. Unlawful Acts Relative to Malt or Brewed
26 Beverages and Licensees.--

27 It shall be unlawful--

28 * * *

29 (2) Sales of Malt or Brewed Beverages for Consumption on the
30 Premises. [For] Except as provided under clause (2.1), for any

1 person, to sell to another for consumption upon the premises
2 where sold or to permit another to consume upon the premises
3 where sold, any malt or brewed beverages, unless such person
4 holds a valid retail dispenser license or a valid liquor license
5 issued by the board authorizing the sale of malt or brewed
6 beverages for consumption upon such premises.

7 (2.1) It shall not be a violation of clause (2) if a person,
8 not located on licensed premises, operates a telephonic, web-
9 based or other electronic ordering system by which the person
10 facilitates orders and deliveries of malt or brewed beverages on
11 behalf of a licensee. Delivery under this section may be made by
12 an independent contractor of the person and shall only be made
13 to recipients who are at least 21 years of age. The recipient's
14 age shall be verified prior to the recipients taking possession
15 of the malt or brewed beverage. The person may provide
16 telephonic, web-based or other electronic ordering system on
17 behalf of multiple licensees. Malt or brewed beverages sold
18 through orders taken by the person: (i) shall be lawfully
19 obtained by the licensee, and (ii) shall come from inventory
20 located on the licensee's premises. The person shall transfer or
21 transmit the purchaser's payment for the purchase of malt or
22 brewed beverages prior to the licensee releasing the malt or
23 brewed beverages for delivery, and the licensee shall be
24 considered the seller of the malt or brewed beverages. A
25 licensee, its agents and employees, may deliver and carry to the
26 vehicles of the licensee's customers, located outdoors in an
27 area immediately adjacent to and designated for the deliveries,
28 alcohol lawfully purchased by the customer while the customer is
29 either physically present and located on the licensed premises
30 or places its order via a telephonic, web-based or other

1 electronic ordering system. A licensee shall verify the age of
2 the recipient prior to placing any alcoholic beverage in the
3 recipient's vehicle.

4 (3) Sales of Malt or Brewed Beverages Not for Consumption on
5 the Premises. [For] Except as provided under clause (3.1), for
6 any person, to sell to another any malt or brewed beverages not
7 for consumption upon the premises where sold, unless such person
8 holds a valid license permitting such sale.

9 (3.1) It shall not be a violation of clause (3) if a person,
10 not located on the licensed premises operates a telephonic, web-
11 based or other electronic ordering system by which the person
12 facilitates orders and deliveries of malt or brewed beverages on
13 behalf of an importing distributor or distributor licensee.
14 Delivery under this section may be made by an independent
15 contractor of the person and shall only be made to recipients
16 who are at least 21 years of age. The recipient's age shall be
17 verified prior to the recipient taking possession of the malt or
18 brewed beverages. The person may provide telephonic, web-based
19 or other electronic ordering systems on behalf of multiple
20 licensees. Malt and brewed beverages sold through orders taken
21 by the person: (i) shall be lawfully obtained by the importing
22 distributor or distributor, and (ii) shall come from inventory
23 located on the importing distributor's or distributor's licensed
24 premises. The person coordinating the sales shall transfer or
25 transmit the purchaser's payment for the purchase of malt or
26 brewed beverages prior to the importing distributor or
27 distributor releasing malt or brewed beverages for delivery, and
28 the importing distributor or distributor shall be considered the
29 seller of the malt or brewed beverages. An importing distributor
30 or distributor, its agents and employees, may deliver and carry

1 to the vehicles of the importing distributor's or distributor's
2 customers, located outdoors in an area immediately adjacent to
3 and designated for the deliveries, malt or brewed beverages
4 lawfully purchased by the customer while the customer is either
5 physically present and located on the licensed premises, or
6 places its order via a telephonic, web-based or other electronic
7 ordering system. The importing distributor or distributor shall
8 verify the age of the recipient prior to placing any malt or
9 brewed beverage in the recipient's vehicle.

10 * * *

11 Section 3. Section 502 of the act is amended to read:

12 Section 502. Exemptions.--(a) No license hereunder shall be
13 required from any registered pharmacist; or a physician licensed
14 by the State Board of Medicine; or any person who makes and
15 sells vinegar, nonalcoholic cider and fruit juices; or any
16 person who manufactures, stores, sells or transports methanol,
17 propanol, butanol and amanol; or any person who conducts a
18 wholesale drug business; or any person who manufactures
19 alcoholic preparations not fit for use as a beverage, other than
20 denatured alcohol or for beverage purposes; any person engaged
21 in the manufacture; possession or sale of patent, patented or
22 proprietary medicines, toilet, medicinal or antiseptic
23 preparations unfit for beverage purposes, or solutions or
24 flavoring extracts or syrups unfit for beverage purposes; or any
25 person who manufactures or sells paints, varnishes, enamels,
26 lacquers, stains or paint, or varnish removing or reducing
27 compounds, or wood fillers; or any person who manufactures any
28 substance where the alcohol or any liquor is changed into other
29 chemical substances and does not appear in the finished product
30 as alcohol or liquor; or any common carrier by railroad which is

1 subject to regulation by the Pennsylvania Public Utility
2 Commission of the Commonwealth of Pennsylvania, or scheduled
3 common carriers by air of mail and passengers; or any person who
4 sells, stores or transports alcohol or liquor completely
5 denatured, as specified by the board; or any person licensed
6 under Article IV for malt and brewed beverages who manufactures,
7 distills or otherwise produces alcohol as a byproduct of the
8 manufacture of any reduced alcohol or nonalcohol malt or brewed
9 beverage if the byproduct is not intended nor used as a beverage
10 for human consumption except as part of the malt or brewed
11 beverage.

12 (b) Notwithstanding any other provision of this act, a
13 transporter-for-hire may deliver wine, sold by the licensee in
14 the licensee's licensed premises or by a telephonic, web-based
15 or other electronic ordering system transaction. Sales under
16 this subsection shall not be subject to section 415(a)(4), (8)
17 or (9), if, on behalf of the licensee, the transporter-for-hire
18 verifies the recipient's age at the time of delivery. A licensee
19 shall be considered the seller of the wine delivered for the
20 licensee by a transporter-for-hire.

21 Section 4. This act shall take effect in 60 days.