
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 1994 Session of
1975

INTRODUCED BY MANDERINO, J. B. KELLY III AND MUSTO,
NOVEMBER 25, 1975

REFERRED TO COMMITTEE ON LIQUOR CONTROL, NOVEMBER 26, 1975

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,"
17 providing for wholesale discounts; creating a new class of
18 licenses entitled "retail store licenses" and increasing
19 certain filing fees.

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

22 Section 1. Section 102, act of April 12, 1951 (P.L.90,
23 No.21), known as the "Liquor Code," is amended by adding
24 definitions to read:

25 Section 102. Definitions.--The following words or phrases,
26 unless the context clearly indicates otherwise, shall have the

1 meanings ascribed to them in this section:

2 * * *

3 "Retail store" shall mean a store whose principal business is
4 the sale of food at retail for consumption off the premises, or
5 a department store.

6 "Retail store licensee" shall mean any person licensed by the
7 board to engage in the purchase only from distributors and the
8 resale of either malt or brewed beverages, or wine, purchased
9 from State liquor stores, except to importing distributors and
10 distributors for consumption off the premises where sold.

11 * * *

12 Section 2. Clause (b) of section 207 of the act, amended
13 July 27, 1973 (P.L.247, No.70), is amended to read:

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

16 * * *

17 (b) To control the manufacture, possession, sale,
18 consumption, importation, use, storage, transportation and
19 delivery of liquor, alcohol and malt or brewed beverages in
20 accordance with the provisions of this act, and to fix the
21 wholesale and retail prices at which liquors and alcohol shall
22 be sold at Pennsylvania Liquor Stores: Provided, That in fixing
23 the sale prices, the board shall not give any preference or make
24 any discrimination as to classes, brands or otherwise, except to
25 the extent and for the length of time necessary to sell such
26 classes or brands in compliance with any Federal action freezing
27 or otherwise controlling the price of said classes or brands, or
28 except where special sales are deemed necessary to move
29 unsaleable merchandise, or except where the addition of a
30 service or handling charge to the fixed sales price of any

1 merchandise in the same comparable price bracket, regardless of
2 class, brand or otherwise, is, in the opinion of the board,
3 required for the efficient operation of the State store system.
4 If the board allows a wholesale discount to any person licensed
5 by the board to engage in the retail sale of liquor, the amount
6 of such discount shall be twenty-five per centum of the retail
7 price set by the board. The board shall require each
8 Pennsylvania manufacturer and each nonresident manufacturer of
9 liquors, other than wine, selling such liquors to the board,
10 which are not manufactured in this Commonwealth, to make
11 application for and be granted a permit by the board before such
12 liquors not manufactured in this Commonwealth shall be purchased
13 from such manufacturer. Each such manufacturer shall pay for
14 such permit a fee which, in the case of a manufacturer of this
15 Commonwealth, shall be equal to that required to be paid, if
16 any, by a manufacturer or wholesaler of the state, territory or
17 country of origin of the liquors, for selling liquors
18 manufactured in Pennsylvania, and in the case of a nonresident
19 manufacturer, shall be equal to that required to be paid, if
20 any, in such state, territory or country by Pennsylvania
21 manufacturers doing business in such state, territory or
22 country. In the event that any such manufacturer shall, in the
23 opinion of the board, sell or attempt to sell liquors to the
24 board through another person for the purpose of evading this
25 provision relating to permits, the board shall require such
26 person, before purchasing liquors from him or it, to take out a
27 permit and pay the same fee as hereinbefore required to be paid
28 by such manufacturer. All permit fees so collected shall be paid
29 into the State Stores Fund. The board shall not purchase any
30 alcohol or liquor fermented, distilled, rectified, compounded or

1 bottled in any state, territory or country, the laws of which
2 result in prohibiting the importation therein of alcohol or
3 liquor, fermented, distilled, rectified, compounded or bottled
4 in Pennsylvania.

5 * * *

6 Section 3. The section heading and subsections (b) and (c)
7 of section 431 of the act, subsection (b) amended October 9,
8 1967 (P.L.395, No.179), and subsection (c) amended May 5, 1970
9 (P.L.342, No.110), are amended and the section is amended by
10 adding a subsection to read:

11 Section 431. Malt and Brewed Beverages Manufacturers',
12 Distributors', [and] Importing Distributors' and Retail Store
13 Licenses.--* * *

14 (b) The board shall issue to any reputable person who
15 applies therefor, pays the license fee hereinafter prescribed,
16 and files the bond hereinafter required, a distributor's or
17 importing distributor's license for the place which such person
18 desires to maintain for the sale of malt or brewed beverages,
19 not for consumption on the premises where sold, and in
20 quantities of not less than twenty-four containers, each
21 container holding seven fluid ounces or more, or twelve
22 containers, each container holding twenty-four fluid ounces or
23 more, except original containers containing one hundred twenty-
24 eight ounces or more which may be sold separately and such
25 containers to be the original containers as prepared for the
26 market by the manufacturer at the place of manufacture: And
27 provided further, That the board shall have the discretion to
28 refuse a license to any person or to any corporation,
29 partnership or association if such person, or any officer or
30 director of such corporation, or any member or partner of such

1 partnership or association shall have been convicted or found
2 guilty of a felony within a period of five years immediately
3 preceding the date of application for the said license.

4 The board shall issue to any reputable person who operates a
5 retail store, a retail store license for the premises at which
6 he operates such retail store, such license to permit the sale
7 at retail of either malt or brewed beverages, or wine, or both,
8 for consumption off the premises where sold in quantities of not
9 more than twelve containers, each container holding seven fluid
10 ounces or more or six containers, each container holding twenty-
11 four fluid ounces or more, or an aggregate of one hundred forty-
12 four fluid ounces and in the case of wine, in quantities of less
13 than two hundred eighty-eight fluid ounces. The board shall only
14 issue such a retail store license where business of the
15 applicant had total gross sales in excess of fifty thousand
16 dollars (\$50,000) per annum for the year preceding the year in
17 which such application is made: Provided, however, That upon
18 application therefor the board shall issue a temporary retail
19 store license to any such reputable person who has not engaged
20 in the operation of a retail store for one year preceding the
21 year of application, where the applicant is able to show to the
22 satisfaction of the board the reasonable probability of total
23 gross sales of fifty thousand dollars (\$50,000) for his first
24 year of business. The temporary retail store license shall be
25 effective for one year from the date of issuance, at which time
26 the board shall issue to the holder thereof a retail store
27 license if the holder of the temporary retail store license is
28 otherwise eligible.

29 A retail store licensee who establishes or maintains more
30 than one location for a retail store shall be issued a separate

1 retail store license or temporary license for each such
2 location, providing the retail store at each location qualifies
3 under the total gross sales requirements herein established.

4 In any municipality where by vote of the electors the sale of
5 either malt or brewed beverages, or wine or both by distributors
6 or importing distributors is not permitted, a retail store
7 license or temporary license shall not be issued or reissued.

8 Except as hereinafter provided, such license shall authorize
9 the holder thereof to sell or deliver malt or brewed beverages,
10 or wine or both as herein provided, in quantities above
11 specified anywhere within the Commonwealth of Pennsylvania,
12 which, in the case of distributors, have been purchased only
13 from persons licensed under this act as manufacturers, or
14 importing distributors, and in the case of importing
15 distributors, have been purchased from manufacturers or persons
16 outside this Commonwealth engaged in the legal sale of malt or
17 brewed beverages, or from manufacturers, or importing
18 distributors licensed under this article and in the case of
19 retail store licensees, have been purchased from distributors,
20 or in the case of wine, purchased from a State liquor store.

21 Each out of State manufacturer of malt or brewed beverages
22 whose products are sold and delivered in this Commonwealth shall
23 give distributing rights for such products in designated
24 geographical areas to specific importing distributors, and such
25 importing distributor shall not sell or deliver malt or brewed
26 beverages manufactured by the out of State manufacturer to any
27 person issued a license under the provisions of this act whose
28 licensed premises are not located within the geographical area
29 for which he has been given distributing rights by such
30 manufacturer: Provided, That the importing distributor holding

1 such distributing rights for such product shall not sell or
2 deliver the same to another importing distributor without first
3 having entered into a written agreement with the said secondary
4 importing distributor setting forth the terms and conditions
5 under which such products are to be resold within the territory
6 granted to the primary importing distributor by the
7 manufacturer.

8 When a Pennsylvania manufacturer of malt or brewed beverages
9 licensed under this article, names or constitutes a distributor
10 or importing distributor as the primary or original supplier of
11 his product, he shall also designate the specific geographical
12 area for which the said distributor or importing distributor is
13 given distributing rights, and such distributor or importing
14 distributor shall not sell or deliver the products of such
15 manufacturer to any person issued a license under the provisions
16 of this act whose licensed premises are not located within the
17 geographical area for which distributing rights have been given
18 to the distributor and importing distributor by the said
19 manufacturer: Provided, That the importing distributor holding
20 such distributing rights for such product shall not sell or
21 deliver the same to another importing distributor without first
22 having entered into a written agreement with the said secondary
23 importing distributor setting forth the terms and conditions
24 under which such products are to be resold within the territory
25 granted to the primary importing distributor by the
26 manufacturer. Nothing herein contained shall be construed to
27 prevent any manufacturer from authorizing the importing
28 distributor holding the distributing rights for a designated
29 geographical area from selling the products of such manufacturer
30 to another importing distributor also holding distributing

1 rights from the same manufacturer for another geographical area,
2 providing such authority be contained in writing and a copy
3 thereof be given to each of the importing distributors so
4 affected.

5 (c) The aforesaid licenses, except retail store licenses or
6 temporary licenses, shall be issued only to reputable
7 individuals, partnerships and associations who are, or whose
8 members are, citizens of the United States and have for two
9 years prior to the date of their applications been residents of
10 the Commonwealth of Pennsylvania or to reputable corporations
11 organized or duly registered under the laws of the Commonwealth
12 of Pennsylvania. Such licenses shall be issued to corporations
13 duly organized or registered under the laws of the Commonwealth
14 of Pennsylvania only when it appears that all of the officers
15 and directors of the corporation are citizens of the United
16 States and have been residents of the Commonwealth of
17 Pennsylvania for a period of at least two years prior to the
18 date of application, and that at least fifty-one per centum of
19 the capital stock of such corporation is actually owned by
20 individuals who are citizens of the United States and have been
21 residents of the Commonwealth of Pennsylvania for a period of at
22 least two years prior to the date of application: Provided, That
23 the provisions of this subsection with respect to residence
24 requirements shall not apply to individuals, partners, officers,
25 directors and owners of capital stock, of corporations licensed
26 or applying for licenses as manufacturers of malt or brewed
27 beverages, nor shall the provisions of this subsection with
28 respect to stockholder requirements apply to corporations
29 licensed or applying for licenses as manufacturers of malt or
30 brewed beverages.

1 (d) Retail store licenses or temporary licenses shall be
2 issued only to reputable individuals, partnerships and
3 associations who are, or whose members are, citizens of the
4 United States, or to reputable corporations organized or duly
5 registered under the laws of the Commonwealth of Pennsylvania.
6 Such licenses shall be issued to corporations duly organized or
7 registered under the laws of the Commonwealth of Pennsylvania
8 only when it appears that all of the officers and directors of
9 the corporation are citizens of the United States.

10 Section 4. Subsection (a) of section 434 of the act is
11 amended to read:

12 Section 434. License Year.--(a) Licenses issued under this
13 article to distributors, importing distributors, retail store
14 licensees and retail dispensers shall, unless revoked in the
15 manner provided in this act, be valid for the license year which
16 may be established by the board for the particular license
17 district in which the license issues.

18 * * *

19 Section 5. Section 435 of the act, amended September 28,
20 1961 (P.L.1728, No.702), is amended to read:

21 Section 435. Filing of Applications for Distributors',
22 Importing Distributors', Retail Store, and Retail Dispensers'
23 Licenses; Filing Fee.--Every person intending to apply for a
24 distributor's, importing distributor's, retail store, temporary
25 retail store, or retail dispenser's license, as aforesaid, in
26 any municipality of this Commonwealth, shall file with the board
27 his or its application. All such applications shall be filed at
28 a time to be fixed by the board for the particular license
29 district as set up by the board under the provisions of this
30 act. The applicant shall, at the time of filing the application

1 and bond, pay said board the filing fee of [twenty dollars
2 (\$20)] seventy-five dollars (\$75) or in the case of a renewal,
3 thirty-five dollars (\$35), as hereinafter specified.

4 Section 6. The act is amended by adding a section to read:

5 Section 436.1 Application for Retail Store Licenses or
6 Temporary Licenses.--Application for retail store licenses or
7 temporary licenses shall contain such information as the board
8 may require to determine eligibility of the applicant.

9 Section 7. The first paragraph and clause (h) of section 439
10 of the act, clause (h) amended September 28, 1961 (P.L.1728,
11 No.702), are amended and the section is amended by adding a
12 clause to read:

13 Section 439. Malt or Brewed Beverage License Fees.--No
14 public service license and no license to any manufacturer,
15 distributor, importing distributor, retail store or retail
16 dispenser shall be issued under the provisions of this
17 subdivision (B) until the licensee shall have first paid an
18 annual license fee as follows:

19 * * *

20 (c.1) In the case of a retail store license, the fee for a
21 temporary license shall be five hundred dollars (\$500). The
22 annual fee for each retail store license shall be five hundred
23 dollars (\$500).

24 * * *

25 (h) The fee for filing applications for licenses shall be
26 seventy-five dollars (\$75) and for renewals shall be [twenty
27 dollars (\$20)] thirty-five dollars (\$35) which, together with
28 fees for transfers, shall be paid to the board.

29 * * *

30 Section 8. Subsection (a) of section 461 of the act, amended

1 June 9, 1972 (P.L.379, No.108), is amended to read:

2 Section 461. Limiting Number of Retail Licenses To Be Issued
3 In Each Municipality.--(a) No licenses shall hereafter be
4 granted by the board for the retail sale of malt or brewed
5 beverages or the retail sale of liquor and malt or brewed
6 beverages in excess of one of such licenses of any class for
7 each two thousand inhabitants in any municipality, exclusive of
8 licenses granted to airport restaurants, municipal golf courses
9 and hotels, as defined in this section, retail stores and clubs;
10 but at least one such license may be granted in each
11 municipality and in each part of a municipality where such
12 municipality is split so that each part thereof is separated by
13 another municipality, except in municipalities where the
14 electors have voted against the granting of any retail licenses.
15 Nothing contained in this section shall be construed as denying
16 the right to the board to renew or to transfer existing retail
17 licenses of any class notwithstanding that the number of such
18 licensed places in a municipality shall exceed the limitation
19 hereinbefore prescribed; but where such number exceeds the
20 limitation prescribed by this section, no new license, except
21 for hotels, municipal golf courses, retail stores and airport
22 restaurants as defined in this section, shall be granted so long
23 as said limitation is exceeded.

24 * * *

25 Section 9. Subsection (d) of section 465 of the act is
26 amended by adding a clause to read:

27 Section 465. All Licensees to Furnish Bond.--* * *

28 (d) The penal sum of the respective bonds filed under the
29 provisions of this section shall be as follows:

30 * * *

1 (8) Retail store licenses, two thousand dollars (\$2,000) for
2 each license or temporary license subject to a maximum of five
3 thousand dollars (\$5,000) for any holder of more than one
4 license or temporary license.

5 * * *

6 Section 10. Clauses (4) and (16) of section 492 of the act
7 are amended and the section is amended by adding clauses to
8 read:

9 Section 492. Unlawful Acts Relative to Malt or Brewed
10 Beverages and Licensees.--

11 It shall be unlawful--

12 * * *

13 (4) Sunday Sales of Malt or Brewed Beverages by
14 Manufacturers, Importing Distributors, [or] Distributors or
15 Retail Store Licensees. For any manufacturer of malt or brewed
16 beverages, importing distributor, [or] distributor or retail
17 store licensee, or the servants, agents or employes of the same,
18 to sell, trade or barter in malt or brewed beverages or wine
19 between the hours of twelve o'clock midnight of any Saturday and
20 two o'clock in the forenoon of the following Monday, and for any
21 retail store licensee or the servants, agents or employes of the
22 same, to sell malt or brewed beverages or wine on any weekday
23 between the hours of two o'clock antemeridian and seven o'clock
24 antemeridian.

25 * * *

26 (16) Distributors, Retail Store Licensees and Importing
27 Distributors Failing to Keep Records. For any importing
28 distributor, retail store licensee, or distributor engaged in
29 the sale of products, other than either malt or brewed
30 beverages, or wine or both, to fail to keep such complete

1 separate records covering in every respect his transactions in
2 either malt or brewed beverages or wine or both as the board
3 shall by regulation require.

4 * * *

5 (18) Deliveries by Retail Store Licensees. For retail store
6 licensees to make deliveries of malted or brewed beverages or
7 wine off the premises.

8 (19) Sales Below Cost by Retail Store Licensees. For retail
9 store licensees to sell malted or brewed beverages, or wine
10 below their wholesale cost.

11 Section 11. Clause (15) of section 493 of the act, amended
12 June 14, 1957 (P.L.322, No.170), is amended to read:

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

18 It shall be unlawful--

19 * * *

20 (15) Cashing Pay Roll, Public Assistance, Unemployment
21 Compensation or Any Other Relief Checks. For any licensee or his
22 servants, agents or employes to cash pay roll checks or to cash,
23 receive, handle or negotiate in any way Public Assistance,
24 Unemployment Compensation or any other relief checks. This
25 provision shall not apply to retail store licensees.

26 * * *

27 Section 12. Section 5 of the act of May 13, 1915 (P.L.286,
28 No.177), known as the "Child Labor Law," is repealed in so far
29 as it prohibits the employment of minors from selling or
30 handling either malt or brewed beverages, or wine or both

1 provided (1) that such minors are not engaged in the actual
2 selling of either malt or brewed beverages, or wine or both to
3 customers, (2) that minors are employed by a person holding a
4 retail store license issued under the Pennsylvania Liquor
5 Control Board, and (3) that an adult acting in a supervisory
6 capacity is on the licensed premises.

7 Section 13. This act shall take effect one year from the
8 date of final enactment.