

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 81 Session of 2009

INTRODUCED BY EARLL AND FERLO, JANUARY 29, 2009

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, JUNE 23, 2009

AN ACT

1 Amending the act of April 12, 1951 (P.L.90, No.21), entitled, as
2 reenacted, "An act relating to alcoholic liquors, alcohol and
3 malt and brewed beverages; amending, revising, consolidating
4 and 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 further defining for the definition of "eligible entity" and
18 adding definitions; further providing for general powers of
19 the board, for wine marketing and for Sunday retail sales by
20 Pennsylvania Liquor Stores; and, in licenses and regulations
21 relating to liquor, alcohol and malt and brewed beverages,
22 further providing for interlocking businesses prohibited, for
23 number and kinds of licenses allowed same licensee and, for
24 unlawful acts relative to liquor, malt and brewed beverages
25 and licenses issued AND FOR LIMITED WINERIES.



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

28 Section 1. The definition of "eligible entity" in section
29 102 of the act of April 12, 1951 (P.L.90, No.21), known as the

1 Liquor Code, reenacted and amended June 29, 1987 (P.L.32,
2 No.14), and amended November 29, 2006 (P.L.1421, No.155), is
3 amended and the section is amended by adding definitions to
4 read:

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

8 * * *

9 "Eligible entity" shall mean a city of the third class, a
10 hospital, a church, a synagogue, a volunteer fire company, a
11 volunteer ambulance company, a volunteer rescue squad, a unit of
12 a nationally chartered club which has been issued a club liquor
13 license, a club in a city of the third class which has been
14 issued a club liquor license and which, as of December 31, 2002,
15 has been in existence for at least 100 years, a library, a
16 nationally accredited Pennsylvania nonprofit zoological
17 institution licensed by the United States Department of
18 Agriculture, a nonprofit agricultural association in existence
19 for at least ten years, a bona fide sportsmen's club in
20 existence for at least ten years, a nationally chartered
21 veterans' organization and any affiliated lodge or subdivision
22 of such organization, a fraternal benefit society that is
23 licensed to do business in this Commonwealth and any affiliated
24 lodge or subdivision of such fraternal benefit society, a museum
25 operated by a nonprofit corporation in a city of the third class
26 or township of the first class, a nonprofit corporation engaged
27 in the performing arts in a city of the third class, borough or
28 in an incorporated town, an arts council, a nonprofit
29 corporation that operates an arts facility or museum in a city
30 of the third class in the county of the fourth class, a

1 nonprofit organization as defined under section 501(c)(3) of the
2 Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. §
3 501(c)(3)) whose purpose is to protect the architectural
4 heritage of boroughs and which has been recognized as such by a
5 municipal resolution, a nonprofit organization as defined under
6 section 501(c)(3) of the Internal Revenue Code of 1986 (Public
7 Law 99-514, 26 U.S.C. § 501(c)(3)) conducting a regatta in a
8 city of the second class with the permit to be used on State
9 park grounds or conducting a family-oriented celebration as part
10 of Welcome America in a city of the first class on property
11 leased from that city for more than fifty years, a nonprofit
12 organization as defined under section 501(c)(3) of the Internal
13 Revenue Code of 1986 (26 U.S.C. § 501(c)(3)) whose purpose is to
14 raise funds for the research and treatment of cystic fibrosis, a
15 nonprofit organization as defined under section 501(c)(3) of the
16 Internal Revenue Code of 1986 (26 U.S.C. § 501(c)(3)) whose
17 purpose is to educate the public on issues dealing with
18 watershed conservation, a nonprofit organization as defined
19 under section 501(c)(3) of the Internal Revenue Code of 1986
20 (Public Law 99-514, 26 U.S.C. § 501(c)(3)) whose purpose is to
21 provide equine assisted activities for children and adults with
22 special needs, a nonprofit economic development agency in a city
23 of the second class with the primary function to serve as an
24 economic generator for the greater southwestern Pennsylvania
25 region by attracting and supporting film, television and related
26 media industry projects and coordinating government and business
27 offices in support of a production, a county tourist promotion
28 agency as defined in section 3(1) of the act of April 28, 1961
29 (P.L.111, No.50), known as the "Tourist Promotion Law," and
30 located in a city of the third class in a county of the fourth

1 class or located in a township of the second class in a county
2 of the fifth class, a junior league in a third class county that
3 is a nonprofit organization as defined under section 501(c)(3)
4 of the Internal Revenue Code of 1986 (26 U.S.C. § 501(c)(3))
5 that is comprised of women whose purpose is exclusively
6 educational and charitable in promoting the volunteerism of
7 women and developing and participating in community projects and
8 that has been in existence for over seventy years, a nonprofit
9 organization as defined under section 501(c)(3) of the Internal
10 Code of 1986 which is located in counties of the second class A
11 and of the third class and whose purpose is the education and
12 promotion of American history [or], a nonprofit organization as ←
13 defined under section [501(C)(6)] 501(c)(6) of the Internal
14 Revenue Code of 1986 which is located in a city of the third
15 class in a county of the third class and whose purpose is to
16 support business and industry OR A BREWERY WHICH HAS BEEN ISSUED ←
17 A LICENSE TO MANUFACTURE MALT OR BREWED BEVERAGES AND HAS BEEN
18 IN EXISTENCE FOR AT LEAST 100 YEARS.

19 * * *

20 "Satellite wine store" shall mean a wine kiosk operated by
21 the Pennsylvania Liquor Control Board, together with the space
22 in which it is located.

23 * * *

24 Section 2. Section 207 of the act is amended by adding a
25 subsection to read:

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

28 * * *

29 (1) To establish and implement a customer relations
30 marketing program for the purpose of offering incentives, such

1 as coupons or discounts on certain products, to customers of the
2 board.

3 Section 3. Section 215 of the act, amended December 30, 2003
4 (P.L.423, No.59), is amended to read:

5 Section 215. Wine and Spirits Marketing.--

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

16 SECTION 3.1. SECTION 301 OF THE ACT IS AMENDED TO READ: ←

17 SECTION 301. BOARD TO ESTABLISH STATE LIQUOR STORES.--(A)
18 THE BOARD SHALL ESTABLISH, OPERATE AND MAINTAIN AT SUCH PLACES
19 THROUGHOUT THE COMMONWEALTH AS IT SHALL DEEM ESSENTIAL AND
20 ADVISABLE, STORES TO BE KNOWN AS "PENNSYLVANIA LIQUOR STORES,"
21 FOR THE SALE OF LIQUOR AND ALCOHOL IN ACCORDANCE WITH THE
22 PROVISIONS OF AND THE REGULATIONS MADE UNDER THIS ACT; EXCEPT
23 THAT NO STORE NOT SO ALREADY LOCATED SHALL BE LOCATED WITHIN
24 THREE HUNDRED FEET OF ANY ELEMENTARY OR SECONDARY SCHOOL, NOR
25 WITHIN A DRY MUNICIPALITY WITHOUT THERE FIRST HAVING BEEN A
26 REFERENDUM APPROVING SUCH LOCATION, NOR SHALL ANY SUCH STORE
27 HAVE AN INTERIOR CONNECTION OR INTERIOR PASSAGEWAY WITH AN
28 ESTABLISHMENT THAT ALLOWS ITS PATRONS TO BRING THEIR OWN LIQUOR
29 OR ALCOHOL FOR CONSUMPTION ON THE PREMISES WHETHER OR NOT THE
30 ESTABLISHMENT POSSESSES A LICENSE ISSUED BY THE BOARD. WHEN THE

1 BOARD SHALL HAVE DETERMINED UPON THE LOCATION OF A LIQUOR STORE
2 IN ANY MUNICIPALITY, IT SHALL GIVE NOTICE OF SUCH LOCATION BY
3 PUBLIC ADVERTISEMENT IN TWO NEWSPAPERS OF GENERAL CIRCULATION.
4 IN CITIES OF THE FIRST CLASS, THE LOCATION SHALL ALSO BE POSTED
5 FOR A PERIOD OF AT LEAST FIFTEEN DAYS FOLLOWING ITS
6 DETERMINATION BY THE BOARD AS REQUIRED IN SECTION 403(G) OF THIS
7 ACT. THE NOTICE SHALL BE POSTED IN A CONSPICUOUS PLACE ON THE
8 OUTSIDE OF THE PREMISES IN WHICH THE PROPOSED STORE IS TO
9 OPERATE OR, IN THE EVENT THAT A NEW STRUCTURE IS TO BE BUILT IN
10 A SIMILARLY VISIBLE LOCATION. IF, WITHIN FIVE DAYS AFTER THE
11 APPEARANCE OF SUCH ADVERTISEMENT, OR OF THE LAST DAY UPON WHICH
12 THE NOTICE WAS POSTED, FIFTEEN OR MORE TAXPAYERS RESIDING WITHIN
13 A QUARTER OF A MILE OF SUCH LOCATION, OR THE CITY SOLICITOR OF
14 THE CITY OF THE FIRST CLASS, SHALL FILE A PROTEST WITH THE COURT
15 OF COMMON PLEAS OF THE COUNTY AVERRING THAT THE LOCATION IS
16 OBJECTIONABLE BECAUSE OF ITS PROXIMITY TO A CHURCH, A SCHOOL, OR
17 TO PRIVATE RESIDENCES, THE COURT SHALL FORTHWITH HOLD A HEARING
18 AFFORDING AN OPPORTUNITY TO THE PROTESTANTS AND TO THE BOARD TO
19 PRESENT EVIDENCE. THE COURT SHALL RENDER ITS DECISION
20 IMMEDIATELY UPON THE CONCLUSION OF THE TESTIMONY AND FROM THE
21 DECISION THERE SHALL BE NO APPEAL. IF THE COURT SHALL DETERMINE
22 THAT THE PROPOSED LOCATION IS UNDESIRABLE FOR THE REASONS SET
23 FORTH IN THE PROTEST, THE BOARD SHALL ABANDON IT AND FIND
24 ANOTHER LOCATION. THE BOARD MAY ESTABLISH, OPERATE AND MAINTAIN
25 SUCH ESTABLISHMENTS FOR STORING AND TESTING LIQUORS AS IT SHALL
26 DEEM EXPEDIENT TO CARRY OUT ITS POWERS AND DUTIES UNDER THIS
27 ACT.

28 (B) THE BOARD MAY LEASE THE NECESSARY PREMISES FOR SUCH
29 STORES OR ESTABLISHMENTS, BUT ALL SUCH LEASES SHALL BE MADE
30 THROUGH THE DEPARTMENT OF GENERAL SERVICES AS AGENT OF THE

1 BOARD. THE BOARD, THROUGH THE DEPARTMENT OF GENERAL SERVICES,
2 SHALL HAVE AUTHORITY TO PURCHASE SUCH EQUIPMENT AND APPOINTMENTS
3 AS MAY BE REQUIRED IN THE OPERATION OF SUCH STORES OR
4 ESTABLISHMENTS.

5 Section 4. Section 304 of the act, amended December 8, 2004
6 (P.L.1810, No.239), is amended to read:

7 Section 304. When Sales May Be Made at Pennsylvania Liquor
8 Stores.--(a) Except as provided for in subsection (b), every
9 Pennsylvania Liquor Store shall be open for business week days,
10 except holidays as that term is defined in section 102. The
11 board may, with the approval of the Governor, temporarily close
12 any store in any municipality.

13 (b) Certain Pennsylvania Liquor Stores operated by the board
14 shall be open for Sunday retail sales between the hours of noon
15 and five o'clock postmeridian, except that no Sunday sales shall
16 occur on Easter Sunday or Christmas day. The board shall open up
17 to twenty-five per centum of the total number of Pennsylvania
18 Liquor Stores at its discretion for Sunday sales as provided for
19 in this subsection. The twenty-five per centum limitation shall
20 not apply to the board's operation of satellite wine kiosks. The
21 board shall submit yearly reports to the Appropriations and the
22 Law and Justice Committees of the Senate and the Appropriations
23 and the Liquor Control Committees of the House of
24 Representatives summarizing the total dollar value of sales
25 under this section.

26 Section 5. Sections 411(e) and 438(c) of the act are amended
27 to read:

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

29 (e) Except as herein provided, no hotel, restaurant, retail
30 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 from
29 owning land which is leased to, and the buildings thereon owned
30 by, a holder of a retail dispenser's license; and nothing in

1 this clause shall prevent the issuance of a retail dispenser's
2 license to a lessee of such lands who owns the buildings
3 thereon: And, provided further, That nothing contained in this
4 section shall be construed to prohibit any hotel, restaurant,
5 retail dispenser or club licensee or any officer, director or
6 stockholder, agent or employe of any such licensee from having a
7 financial or other interest, directly or indirectly in the
8 ownership or leasehold of any property or the equipment of any
9 property or any mortgage lien against same, used, leased by an
10 importer or sacramental wine licensee for the exclusive purpose
11 of maintaining commercial offices and on the condition that said
12 property is not used for the storage or sale of liquor or malt
13 or brewed beverages in any quantity[.]: And, provided further,
14 That nothing contained in this section shall be construed to
15 prohibit a member of the governing board of a public authority
16 created under subdivision (n) of Article XXIII of the act of
17 August 9, 1955 (P.L.323, No.130), known as "The County Code,"
18 from having an interest in a distributor or importing
19 distributor license notwithstanding the fact that the public
20 authority has an interest in one or more retail licenses or acts
21 as a landlord for one or more retail licenses: And, provided
22 further, That notwithstanding any other provision of this
23 section, an entity may acquire both a manufacturer's license or
24 a limited winery license and a hotel, restaurant or retail
25 dispenser license for use at the same location and more than one
26 location may be so licensed. The licenses and a person's
27 interest in the licenses or in the entity holding the licenses
28 shall not be subject to this section.

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

1 (c) No person shall possess more than one class of license,
2 except that a holder of a retail dispenser's license may also be
3 a holder of a retail liquor license[.]: Provided, however, That
4 nothing contained in this section shall be construed to prohibit
5 a member of the governing board of a public authority created
6 under subdivision (n) of Article XXIII of the act of August 9,
7 1955 (P.L.323, No.130), known as "The County Code," from having
8 an interest in a distributor or importing distributor license
9 notwithstanding the fact that the public authority has an
10 interest in one or more retail licenses or acts as a landlord
11 for one or more retail licenses: And, provided further, That
12 notwithstanding any other provision of this section, an entity
13 may acquire both a manufacturer's license or a limited winery
14 license and a hotel, restaurant or retail dispenser license for
15 use at the same location and more than one location may be so
16 licensed. The licenses and a person's interest in the licenses
17 or in the entity holding the licenses shall not be subject to
18 this section.

19 Section 6. Section 443(g) of the act, amended May 31, 1996
20 (P.L.312, No.49), is amended to read:

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

22 (g) The purpose of this section is to require a separation
23 of the financial and business interests between the various
24 classes of business regulated by subdivision (B) of this
25 article, and no person or corporation shall, by any device
26 whatsoever, directly or indirectly, evade the provisions of this
27 section. But in view of existing economic conditions, nothing
28 contained in this section shall be construed to prohibit the
29 ownership of property or conflicting interest by a malt or
30 brewed beverage manufacturer of any place occupied by a

1 distributor, importing distributor or retail dispenser after the
2 manufacturer has continuously owned and had a conflicting
3 interest in such place for a period of at least five years prior
4 to the eighteenth day of July, one thousand nine hundred thirty-
5 five: Provided, however, That a holder of a manufacturer's
6 license under section 431(a) who is eligible to operate a
7 brewery pub under section 446(2) or a limited winery as provided
8 for under section 505.2 may also hold and operate under a hotel
9 liquor license, a restaurant liquor license or a malt and brewed
10 beverages retail license on the manufacturer's or limited
11 winery's licensed premises. The hotel liquor license or
12 restaurant liquor license or the malt and brewed beverages
13 retail license shall be acquired by the manufacturer or limited
14 winery subject to section 461 and shall satisfy all requirements
15 for each respective license[.]: And, provided further, That
16 nothing contained in this section shall be construed to prohibit
17 a member of the governing board of a public authority created
18 under subdivision (n) of Article XXIII of the act of August 9,
19 1955 (P.L.323, No.130), known as "The County Code," from having
20 an interest in a distributor or importing distributor license
21 notwithstanding the fact that the public authority has an
22 interest in one or more retail licenses or acts as a landlord
23 for one or more retail licenses.

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

28 Section 7. Section 493(24)(ii) of the act, amended November
29 29, 2006 (P.L.1421, No.155), is amended to read:

30 Section 493. Unlawful Acts Relative to Liquor, Malt and

1 Brewed Beverages and Licensees.--The term "licensee," when used
2 in this section, shall mean those persons licensed under the
3 provisions of Article IV, unless the context clearly indicates
4 otherwise.

5 It shall be unlawful--

6 * * *

7 (24) * * *

8 (ii) Notwithstanding subclause (i) or any other provision of
9 law, a holder of a restaurant license that is also approved to
10 hold a slot machine license or a conditional slot machine
11 license under 4 Pa.C.S. Part II (relating to gaming) may give
12 liquor and malt or brewed beverages free of charge to any person
13 actively engaged in playing a slot machine.

14 (iii) Notwithstanding subclause (i) or any other provision
15 of law, the board may establish and implement a customer
16 relations marketing program for the purpose of offering
17 incentives, such as coupons or discounts on certain products
18 which may be conditioned upon the purchase of liquor, to
19 customers of the board.

20 * * *

21 Section 8. Section 505 of the act, amended December 21, 1998
22 (P.L.1202, No.155), is amended to read:

23 Section 505. Licenses Issued.--Upon receipt of the
24 application in the form herein provided and the proper fees, the
25 board may grant to such applicant a license to engage in, (a)
26 the operation of a limited winery or a winery; or, (b) the
27 manufacturing, producing, distilling, developing, or using in
28 the process of manufacturing, denaturing, redistilling,
29 recovering, rectifying, blending and reusing of alcohol and
30 liquor; or, (c) the holding in bond of alcohol and liquor; or,

1 (d) the holding in storage, as bailee for hire, of alcohol,
2 liquor and malt or brewed beverages; or, (e) the transporting
3 for hire of alcohol, liquor and malt or brewed beverages. Such
4 licenses may be transferred from one person to another or from
5 one location to another, or both. Every applicant for a transfer
6 of such licenses shall file a written application with the
7 board, together with a filing fee of five hundred fifty dollars
8 (\$550) if the transfer is to a new location, six hundred fifty
9 dollars (\$650) if the transfer is to a new person, or seven
10 hundred dollars (\$700) if the transfer is to a new person for
11 use at a new location. Whenever such a license is transferred,
12 no license or other fees shall be required from the persons to
13 whom such transfer is made for the portion of the license period
14 for which the license fee has been paid by the transferor.

15 SECTION 9. SECTION 505.2(A) OF THE ACT IS AMENDED BY ADDING
16 A CLAUSE TO READ: ←

17 SECTION 505.2. LIMITED WINERIES.--(A) IN THE INTEREST OF
18 PROMOTING TOURISM AND RECREATIONAL DEVELOPMENT IN PENNSYLVANIA,
19 HOLDERS OF A LIMITED WINERY LICENSE MAY:

20 * * *

21 (6.4) STORE ALCOHOLIC CIDER, WINE AND WINE COOLERS PRODUCED
22 BY THE LIMITED WINERY AT NO MORE THAN TWO (2) BOARD-APPROVED
23 LOCATIONS OTHER THAN THE LICENSED PREMISES AND THOSE PREMISES
24 REFERENCED IN CLAUSE (3) PERTAINING TO THE FIVE (5) BOARD-
25 APPROVED LOCATIONS FOR THE SALE OF WINE, WITH NO BOTTLING OR
26 PRODUCTION REQUIREMENT AT THOSE ADDITIONAL LOCATIONS AND UNDER
27 SUCH CONDITIONS AND REGULATIONS AS THE BOARD MAY ENFORCE. IF TWO
28 (2) OR MORE BUSINESSES WILL OPERATE OUT OF THE SAME STORAGE
29 FACILITY, THE LIMITED WINERY MUST DESIGNATE SPECIFIC AND
30 DISTINCT AREAS FOR ITS STORAGE. THE LIMITED WINERY'S DESIGNATED

1 STORAGE AREA MUST BE SECURED AND NO ONE OTHER THAN THE LICENSEE
2 AND HIS EMPLOYEES MAY BE ALLOWED ACCESS TO THE STORAGE AREA. NO
3 BOARD-APPROVED MANAGER WILL BE NECESSARY FOR THE STORAGE
4 FACILITY. THE LIMITED WINERY MUST FILL OUT AN APPLICATION FOR
5 SUCH AN ADDITIONAL BOARD-APPROVED STORAGE LOCATION, AND SUCH
6 LOCATION SHALL COUNT AS ONE OF THE TWO PERMITTED FOR EACH
7 LIMITED WINERY. THE LIMITED WINERY IS RESPONSIBLE FOR KEEPING
8 ONLY ITS OWN COMPLETE RECORDS. A LIMITED WINERY MAY BE CITED FOR
9 A VIOLATION OF THE RECORDKEEPING REQUIREMENTS OF SECTIONS 512
10 AND 513 PERTAINING TO ITS OWN RECORDS ONLY.

11 * * *

12 Section 9 10. This act shall take effect in 60 days.

