

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL**No. 81** Session of
2009

INTRODUCED BY EARLL AND FERLO, JANUARY 29, 2009

SENATE AMENDMENTS TO HOUSE AMENDMENTS, APRIL 19, 2010

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, 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
30 Liquor Code, reenacted and amended June 29, 1987 (P.L.32,

1 No.14), and amended November 29, 2006 (P.L.1421, No.155), is
2 amended and the section is amended by adding definitions to
3 read:

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

7 * * *

8 "Eligible entity" shall mean a city of the third class, a
9 hospital, a church, a synagogue, a volunteer fire company, a
10 volunteer ambulance company, a volunteer rescue squad, a unit of
11 a nationally chartered club which has been issued a club liquor
12 license, a club in a city of the third class which has been
13 issued a club liquor license and which, as of December 31, 2002,
14 has been in existence for at least 100 years, a library, a
15 nationally accredited Pennsylvania nonprofit zoological
16 institution licensed by the United States Department of
17 Agriculture, a nonprofit agricultural association in existence
18 for at least ten years, a bona fide sportsmen's club in
19 existence for at least ten years, a nationally chartered
20 veterans' organization and any affiliated lodge or subdivision
21 of such organization, a fraternal benefit society that is
22 licensed to do business in this Commonwealth and any affiliated
23 lodge or subdivision of such fraternal benefit society, a museum
24 operated by a nonprofit corporation in a city of the third class
25 or township of the first class, a nonprofit corporation engaged
26 in the performing arts in a city of the third class, borough or
27 in an incorporated town, an arts council, a nonprofit
28 corporation that operates an arts facility or museum in a city
29 of the third class in the county of the fourth class, a
30 nonprofit organization as defined under section 501(c)(3) of the

1 Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. §
2 501(c)(3)) whose purpose is to protect the architectural
3 heritage of boroughs OR A TOWNSHIP OF THE SECOND CLASS and which ←
4 has been recognized as such by a municipal resolution, a
5 nonprofit organization as defined under section 501(c)(3) of the
6 Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. §
7 501(c)(3)) conducting a regatta in a city of the second class
8 with the permit to be used on State park grounds or conducting a
9 family-oriented celebration as part of Welcome America in a city
10 of the first class on property leased from that city for more
11 than fifty years, a nonprofit organization as defined under
12 section 501(c)(3) of the Internal Revenue Code of 1986 (26
13 U.S.C. § 501(c)(3)) whose purpose is to raise funds for the
14 research and treatment of cystic fibrosis, a nonprofit
15 organization as defined under section 501(c)(3) of the Internal
16 Revenue Code of 1986 (26 U.S.C. § 501(c)(3)) whose purpose is to
17 educate the public on issues dealing with watershed
18 conservation, a nonprofit organization as defined under section
19 501(c)(3) of the Internal Revenue Code of 1986 (Public Law
20 99-514, 26 U.S.C. § 501(c)(3)) whose purpose is to provide
21 equine assisted activities for children and adults with special
22 needs, a nonprofit economic development agency in a city of the
23 second class with the primary function to serve as an economic
24 generator for the greater southwestern Pennsylvania region by
25 attracting and supporting film, television and related media
26 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, AMENDED JULY 9, 1976 ←
17 (P.L.527, NO.125), is amended to read:

18 Section 301. Board to Establish State Liquor Stores.--(a)
19 The board shall establish, operate and maintain at such places
20 throughout the Commonwealth as it shall deem essential and
21 advisable, stores to be known as "Pennsylvania Liquor Stores,"
22 for the sale of liquor and alcohol in accordance with the
23 provisions of and the regulations made under this act; except
24 that no store not so already located shall be located within
25 three hundred feet of any elementary or secondary school, nor
26 SHALL ANY STORE NOT SO ALREADY LOCATED BE LOCATED ←
27 municipality without there first having been a referendum
28 approving such location, ~~nor shall any such store have an~~ ←

29 ~~interior connection or interior passageway with an establishment~~
30 ~~that allows its patrons to bring their own liquor or alcohol for~~



1 ~~consumption on the premises whether or not the establishment~~
2 ~~possesses a license issued by the board, NOR SHALL ANY STORE NOT~~ ←
3 ~~SO ALREADY LOCATED HAVE AN INTERIOR CONNECTION WITH ANOTHER~~
4 ~~BUSINESS, UNLESS THE OTHER BUSINESS HAS A POLICY THAT PROHIBITS~~
5 ~~THE CONSUMPTION OF ALCOHOL ON THE PREMISES OR PORTIONS OF THE~~
6 ~~PREMISES THAT ARE NOT LICENSED BY THE BOARD. ANY STORE WHICH~~
7 ~~CURRENTLY HAS AN INTERIOR CONNECTION WITH ANOTHER BUSINESS THAT~~
8 ~~ALLOWS THE CONSUMPTION OF ALCOHOL ON THE PREMISES OR PORTIONS OF~~
9 ~~THE PREMISES THAT ARE NOT LICENSED BY THE BOARD MUST CEASE~~
10 ~~OPERATING UPON EXPIRATION OF THE CURRENT LEASE OR BY JANUARY 31,~~
11 ~~2015, WHICHEVER OCCURS FIRST, UNLESS THE OTHER BUSINESS CEASES~~
12 ~~THE POLICY OF ALLOWING CONSUMPTION OF ALCOHOL ON THE PREMISES OR~~
13 ~~PORTIONS OF THE PREMISES THAT ARE NOT LICENSED BY THE BOARD; ANY~~
14 ~~STORE WHICH HAS AN INTERIOR CONNECTION WITH ANOTHER BUSINESS~~
15 ~~WHICH HAD A POLICY THAT PROHIBITED THE CONSUMPTION OF ALCOHOL ON~~
16 ~~THE PREMISES OR PORTIONS OF THE PREMISES THAT ARE NOT LICENSED~~
17 ~~BY THE BOARD MUST BE RELOCATED AT THE END OF THE LEASE TERM IF~~
18 ~~THE OTHER BUSINESS SUBSEQUENTLY CHANGES ITS POLICY OR FAILS TO~~
19 ~~ENFORCE ITS POLICY.~~ When the board shall have determined upon
20 the location of a liquor store in any municipality, it shall
21 give notice of such location by public advertisement in two
22 newspapers of general circulation. In cities of the first class,
23 the location shall also be posted for a period of at least
24 fifteen days following its determination by the board as
25 required in section 403(g) of this act. The notice shall be
26 posted in a conspicuous place on the outside of the premises in
27 which the proposed store is to operate or, in the event that a
28 new structure is to be built in a similarly visible location.
29 If, within five days after the appearance of such advertisement,
30 or of the last day upon which the notice was posted, fifteen or

1 more taxpayers residing within a quarter of a mile of such
2 location, or the City Solicitor of the city of the first class,
3 shall file a protest with the court of common pleas of the
4 county averring that the location is objectionable because of
5 its proximity to a church, a school, or to private residences,
6 the court shall forthwith hold a hearing affording an
7 opportunity to the protestants and to the board to present
8 evidence. The court shall render its decision immediately upon
9 the conclusion of the testimony and from the decision there
10 shall be no appeal. If the court shall determine that the
11 proposed location is undesirable for the reasons set forth in
12 the protest, the board shall abandon it and find another
13 location. The board may establish, operate and maintain such
14 establishments for storing and testing liquors as it shall deem
15 expedient to carry out its powers and duties under this act.

16 (b) The board may lease the necessary premises for such
17 stores or establishments, but all such leases shall be made
18 through the Department of General Services as agent of the
19 board. The board, through the Department of General Services,
20 shall have authority to purchase such equipment and appointments
21 as may be required in the operation of such stores or
22 establishments.

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

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

1 (b) Certain Pennsylvania Liquor Stores operated by the board
2 shall be open for Sunday retail sales between the hours of noon
3 and five o'clock postmeridian, except that no Sunday sales shall
4 occur on Easter Sunday or Christmas day. The board shall open up
5 to twenty-five per centum of the total number of Pennsylvania
6 Liquor Stores at its discretion for Sunday sales as provided for
7 in this subsection. The twenty-five per centum limitation shall
8 not apply to the board's operation of satellite wine kiosks. The
9 board shall submit yearly reports to the Appropriations and the
10 Law and Justice Committees of the Senate and the Appropriations
11 and the Liquor Control Committees of the House of
12 Representatives summarizing the total dollar value of sales
13 under this section.

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

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

17 (e) Except as herein provided, no hotel, restaurant, retail
18 dispenser or club licensee, and no officer, director or
19 stockholder, agent or employe of any such licensee shall in any
20 wise be interested, directly or indirectly, in the ownership or
21 leasehold of any property or the equipment of any property or
22 any mortgage lien against the same, used by a distributor,
23 importing distributor, or by an importer or sacramental wine
24 licensee, in the conduct of his business; nor shall any hotel,
25 restaurant, retail dispenser or club licensee, or any officer,
26 director, stockholder, agent or employe of any such licensee,
27 either directly or indirectly, lend any moneys, credit, or give
28 anything of value or the equivalent thereof, to any distributor,
29 importing distributor, importer or sacramental wine licensee,
30 for equipping, fitting out, or maintaining and conducting,

1 either in whole or in part, an establishment used in the conduct
2 of his business.

3 The purpose of this section is to require a separation of the
4 financial and business interests between manufacturers and
5 holders of hotel or restaurant liquor licenses and, as herein
6 provided, of club licenses, issued under this article, and no
7 person shall, by any device whatsoever, directly or indirectly,
8 evade the provisions of the section. But in view of existing
9 economic conditions, nothing contained in this section shall be
10 construed to prohibit the ownership of property or conflicting
11 interest by a manufacturer of any place occupied by a licensee
12 under this article after the manufacturer has continuously owned
13 and had a conflicting interest in such place for a period of at
14 least five years prior to July eighteenth, one thousand nine
15 hundred thirty-five: Provided, however, That this clause shall
16 not prohibit any hotel, restaurant or club liquor licensee from
17 owning land which is leased to, and the buildings thereon owned
18 by, a holder of a retail dispenser's license; and nothing in
19 this clause shall prevent the issuance of a retail dispenser's
20 license to a lessee of such lands who owns the buildings
21 thereon: And, provided further, That nothing contained in this
22 section shall be construed to prohibit any hotel, restaurant,
23 retail dispenser or club licensee or any officer, director or
24 stockholder, agent or employe of any such licensee from having a
25 financial or other interest, directly or indirectly in the
26 ownership or leasehold of any property or the equipment of any
27 property or any mortgage lien against same, used, leased by an
28 importer or sacramental wine licensee for the exclusive purpose
29 of maintaining commercial offices and on the condition that said
30 property is not used for the storage or sale of liquor or malt

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

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

19 (c) No person shall possess more than one class of license,
20 except that a holder of a retail dispenser's license may also be
21 a holder of a retail liquor license[.]: Provided, however, That
22 nothing contained in this section shall be construed to prohibit
23 a member of the governing board of a public authority created
24 under subdivision (n) of Article XXIII of the act of August 9,
25 1955 (P.L.323, No.130), known as "The County Code," from having
26 an interest in a distributor or importing distributor license
27 notwithstanding the fact that the public authority has an
28 interest in one or more retail licenses or acts as a landlord
29 for one or more retail licenses: And, provided further, That
30 notwithstanding any other provision of this section, an entity

1 may acquire both a manufacturer's license or a limited winery
2 license and a hotel, restaurant or retail dispenser license for
3 use at the same location and more than one location may be so
4 licensed. The licenses and a person's interest in the licenses
5 or in the entity holding the licenses shall not be subject to
6 this section.

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

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

10 (g) The purpose of this section is to require a separation
11 of the financial and business interests between the various
12 classes of business regulated by subdivision (B) of this
13 article, and no person or corporation shall, by any device
14 whatsoever, directly or indirectly, evade the provisions of this
15 section. But in view of existing economic conditions, nothing
16 contained in this section shall be construed to prohibit the
17 ownership of property or conflicting interest by a malt or
18 brewed beverage manufacturer of any place occupied by a
19 distributor, importing distributor or retail dispenser after the
20 manufacturer has continuously owned and had a conflicting
21 interest in such place for a period of at least five years prior
22 to the eighteenth day of July, one thousand nine hundred thirty-
23 five: Provided, however, That a holder of a manufacturer's
24 license under section 431(a) who is eligible to operate a
25 brewery pub under section 446(2) or a limited winery as provided
26 for under section 505.2 may also hold and operate under a hotel
27 liquor license, a restaurant liquor license or a malt and brewed
28 beverages retail license on the manufacturer's or limited
29 winery's licensed premises. The hotel liquor license or
30 restaurant liquor license or the malt and brewed beverages

1 retail license shall be acquired by the manufacturer or limited
2 winery subject to section 461 and shall satisfy all requirements
3 for each respective license[.]: And, provided further, 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.

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

16 Section 7. Section 493(24)(ii) of the act, amended November
17 29, 2006 (P.L.1421, No.155), is amended to read:

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

23 It shall be unlawful--

24 * * *

25 (24) * * *

26 (ii) Notwithstanding subclause (i) or any other provision of
27 law, a holder of a restaurant license that is also approved to
28 hold a slot machine license or a conditional slot machine
29 license under 4 Pa.C.S. Part II (relating to gaming) may give
30 liquor and malt or brewed beverages free of charge to any person

1 actively engaged in playing a slot machine.

2 (iii) Notwithstanding subclause (i) or any other provision
3 of law, the board may establish and implement a customer
4 relations marketing program for the purpose of offering
5 incentives, such as coupons or discounts on certain products
6 which may be conditioned upon the purchase of liquor, to
7 customers of the board.

8 * * *

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

11 Section 505. Licenses Issued.--Upon receipt of the
12 application in the form herein provided and the proper fees, the
13 board may grant to such applicant a license to engage in, (a)
14 the operation of a limited winery or a winery; or, (b) the
15 manufacturing, producing, distilling, developing, or using in
16 the process of manufacturing, denaturing, redistilling,
17 recovering, rectifying, blending and reusing of alcohol and
18 liquor; or, (c) the holding in bond of alcohol and liquor; or,
19 (d) the holding in storage, as bailee for hire, of alcohol,
20 liquor and malt or brewed beverages; or, (e) the transporting
21 for hire of alcohol, liquor and malt or brewed beverages. Such
22 licenses may be transferred from one person to another or from
23 one location to another, or both. Every applicant for a transfer
24 of such licenses shall file a written application with the
25 board, together with a filing fee of five hundred fifty dollars
26 (\$550) if the transfer is to a new location, six hundred fifty
27 dollars (\$650) if the transfer is to a new person, or seven
28 hundred dollars (\$700) if the transfer is to a new person for
29 use at a new location. Whenever such a license is transferred,
30 no license or other fees shall be required from the persons to

1 whom such transfer is made for the portion of the license period
2 for which the license fee has been paid by the transferor.

3 Section 9. Section 505.2(a) of the act is amended by adding
4 a clause to read:

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

8 * * *

9 (6.4) Store alcoholic cider, wine and wine coolers produced
10 by the limited winery at no more than two (2) board-approved
11 locations other than the licensed premises and those premises
12 referenced in clause (3) pertaining to the five (5) board-
13 approved locations for the sale of wine, with no bottling or
14 production requirement at those additional locations and under
15 such conditions and regulations as the board may enforce. If two
16 (2) or more businesses will operate out of the same storage
17 facility, the limited winery must designate specific and
18 distinct areas for its storage. The limited winery's designated
19 storage area must be secured and no one other than the licensee
20 and his employees may be allowed access to the storage area. No
21 board-approved manager will be necessary for the storage
22 facility. The limited winery must fill out an application for
23 such an additional board-approved storage location, and such
24 location shall count as one of the two permitted for each
25 limited winery. The limited winery is responsible for keeping
26 only its own complete records. A limited winery may be cited for
27 a violation of the recordkeeping requirements of sections 512
28 and 513 pertaining to its own records only.

29 * * *

30 Section 10. This act shall take effect in 60 days.