

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1479 Session of 2011

INTRODUCED BY PAYNE, HELM, KILLION AND WAGNER, MAY 9, 2011

REFERRED TO COMMITTEE ON LIQUOR CONTROL, MAY 9, 2011

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 providing for enforcement, for malt and brewed  
 18 beverages manufacturers', distributors' and importing  
 19 distributors' licenses, for malt or brewed beverages  
 20 manufactured outside this Commonwealth and for brand  
 21 registration.

22 The General Assembly of the Commonwealth of Pennsylvania  
 23 hereby enacts as follows:

24 Section 1. Section 211(a) of act of April 12, 1951 (P.L.90,  
 25 No.21), known as the Liquor Code, reenacted and amended June 29,  
 26 1987 (P.L.32, No.14), is amended by adding a paragraph to read:

27 Section 211. Enforcement.--(a) There is created within the  
 28 Pennsylvania State Police a Bureau of Liquor Control Enforcement

1 which shall be responsible for enforcing this act and any  
2 regulations promulgated pursuant thereto. Officers and  
3 investigators assigned to the bureau shall have the power and  
4 their duty shall be:

5 \* \* \*

6 (8) Nothing in this act shall be construed to grant the  
7 Pennsylvania State Police Bureau of Liquor Control Enforcement  
8 the authority to investigate allegations of licensees selling  
9 unregistered malt or brewed beverages. The authority to  
10 investigate unregistered malt or brewed beverages rests with the  
11 malt beverage compliance officer pursuant to section 445(b).

12 \* \* \*

13 Section 2. Sections 431(c), 444(c) and 445 of the act are  
14 amended to read:

15 Section 431. Malt and Brewed Beverages Manufacturers',  
16 Distributors' and Importing Distributors' Licenses.--\* \* \*

17 (c) The aforesaid licenses shall be issued only to reputable  
18 individuals, partnerships and associations who are, or whose  
19 members are, citizens of the United States and [have for two  
20 years prior to the date of their applications been] are  
21 residents of the Commonwealth of Pennsylvania or to reputable  
22 corporations organized or duly registered under the laws of the  
23 Commonwealth of Pennsylvania. Such licenses shall be issued to  
24 corporations duly organized or registered under the laws of the  
25 Commonwealth of Pennsylvania only when it appears that all of  
26 the officers and directors of the corporation are citizens of  
27 the United States and [have been] are residents of the  
28 Commonwealth of Pennsylvania [for a period of at least two years  
29 prior to the date of application], and that at least fifty-one  
30 per centum of the capital stock of such corporation is actually

1 owned by individuals who are citizens of the United States and  
2 [have been] are residents of the Commonwealth of Pennsylvania  
3 [for a period of at least two years prior to the date of  
4 application]: Provided, That the provisions of this subsection  
5 with respect to residence requirements shall not apply to  
6 individuals, partners, officers, directors and owners of capital  
7 stock, of corporations licensed or applying for licenses as  
8 manufacturers of malt or brewed beverages, nor shall the  
9 provisions of this subsection with respect to stockholder  
10 requirements apply to corporations licensed or applying for  
11 licenses as manufacturers of malt or brewed beverages.

12 \* \* \*

13 Section 444. Malt or Brewed Beverages Manufactured Outside  
14 This Commonwealth.--\* \* \*

15 (c) Any malt or brewed beverages manufactured outside of  
16 Pennsylvania which are sold, transported or possessed in  
17 Pennsylvania contrary to any such regulations or orders of the  
18 board, or without the payment of the fees herein required, shall  
19 be considered contraband and shall be [confiscated by the board  
20 and disposed of in the same manner as any other illegal liquor  
21 or malt or brewed beverages] left on the licensed premises where  
22 found under orders not to sell such contraband until such time  
23 as the malt or brewed beverage manufacturer comes into  
24 compliance with Pennsylvania's regulations or until the licensee  
25 holding the contraband can return it to the manufacturer and be  
26 fully reimbursed.

27 \* \* \*

28 Section 445. Brand Registration.--(a) No brand or brands of  
29 malt or brewed beverages shall be offered, sold or delivered to  
30 any trade buyer within this Commonwealth unless the manufacturer

1 thereof shall first submit an application in the form and manner  
2 prescribed by the board for the registration of the said brand  
3 or brands of malt beverages, together with an annual filing fee  
4 not to exceed twenty-five dollars (\$25) for each brand  
5 registration requested. In the event an out-of-State or foreign  
6 manufacturer of malt or brewed beverages has granted franchise  
7 rights to any person for the sale and distribution of its brand  
8 products but which person is not licensed to sell and distribute  
9 the same in this Commonwealth, said such person shall  
10 nevertheless be required to register the involved brand before  
11 offering the same for sale in Pennsylvania. It is further  
12 conditioned that the person holding such franchise rights shall,  
13 together with its application for brand registration, file with  
14 the board copies of all agreements between it and the  
15 Pennsylvania importing distributor appointed by such person to  
16 sell and distribute the brands of malt or brewed beverages as  
17 provided by sections 431 and 492. Such agreement shall contain  
18 the manufacturer's consent and approval to the appointment of  
19 the Pennsylvania importing distributor and the rights conferred  
20 thereunder.

21 (b) The board shall employ a malt beverage compliance  
22 officer whose duties shall include investigating reports of  
23 unregistered brands of malt or brewed beverages being sold by  
24 licensees in addition to any other duties the board shall assign  
25 the officer. If the malt beverage compliance officer finds that  
26 a licensee is selling malt or brewed beverages that are  
27 unregistered in this Commonwealth, he shall give the  
28 manufacturer of the malt or brewed beverages written notice that  
29 the manufacturer has ten days to register the malt or brewed  
30 beverages with the board. During that ten-day period in which

1 the manufacturer has to come into compliance with brand  
2 registration, the unregistered malt or brewed beverages shall  
3 remain on the licensee's premises but may not be sold. Should  
4 the manufacturer fail to register the malt or brewed beverages  
5 with the board within ten days, the manufacturer shall be  
6 required to remove the unregistered malt or brewed beverages  
7 from the licensee's premises and reimburse the licensee for all  
8 unregistered products that cannot be sold in this Commonwealth.

9 (c) Any person filing a report pursuant to section 2004 of  
10 the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform  
11 Code of 1971, shall, within seven days of filing the report with  
12 the Department of Revenue, file the same report with the board.  
13 The board shall maintain these reports online, where they will  
14 be accessible to the general public, within fourteen days of  
15 their receipt.

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