

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1479 Session of 2011

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

AS REPORTED FROM COMMITTEE ON LIQUOR CONTROL, HOUSE OF REPRESENTATIVES, AS AMENDED, MAY 11, 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 AND FOR REVOCATION AND SUSPENSION OF LICENSES ←
22 AND FINES.

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

25 Section 1. Section 211(a) of act of April 12, 1951 (P.L.90, ←
26 No.21), known as the Liquor Code, reenacted and amended June 29, ←
27 1987 (P.L.32, No.14), is amended by adding a paragraph to read: ←
28 Section 211. Enforcement. (a) There is created within the

1 ~~Pennsylvania State Police a Bureau of Liquor Control Enforcement~~  
2 ~~which shall be responsible for enforcing this act and any~~  
3 ~~regulations promulgated pursuant thereto. Officers and~~  
4 ~~investigators assigned to the bureau shall have the power and~~  
5 ~~their duty shall be:~~

6 \* \* \*

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

13 \* \* \*

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

16 SECTION 1. SECTIONS 431(C), 444(C) AND 445 OF THE ACT OF  
17 APRIL 12, 1951 (P.L.90, NO.21), KNOWN AS THE LIQUOR CODE,  
18 REENACTED AND AMENDED JUNE 29, 1987 (P.L.32, NO.14), ARE AMENDED  
19 TO READ:

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

22 (c) The aforesaid licenses shall be issued only to reputable  
23 individuals, partnerships and associations who are, or whose  
24 members are, citizens of the United States and [have for two  
25 years prior to the date of their applications been] are  
26 residents of the Commonwealth of Pennsylvania or to reputable  
27 corporations organized or duly registered under the laws of the  
28 Commonwealth of Pennsylvania. Such licenses shall be issued to  
29 corporations duly organized or registered under the laws of the  
30 Commonwealth of Pennsylvania only when it appears that all of

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

17 \* \* \*

18 Section 444. Malt or Brewed Beverages Manufactured Outside  
19 This Commonwealth.--\* \* \*

20 (c) Any malt or brewed beverages manufactured outside of  
21 Pennsylvania which are sold, transported or possessed in  
22 Pennsylvania contrary to any such regulations or orders of the  
23 board, or without the payment of the fees herein required, shall  
24 be considered contraband and shall be ~~+~~confiscated by the board ←  
25 and disposed of in the same manner as any other illegal liquor  
26 or malt or brewed beverages~~+~~, PROVIDED THAT, IF THE POTENTIAL ←  
27 VIOLATION IS OF SECTION 445 OR ANY ASSOCIATED REGULATION, SUCH  
28 MALT OR BREWED BEVERAGES SHALL BE left on the licensed premises  
29 where found under orders not to sell such contraband until such  
30 time as the malt or brewed beverage manufacturer comes into

1 compliance with Pennsylvania's regulations or until the licensee  
2 holding the contraband can return it to the manufacturer and be  
3 fully reimbursed.

4 \* \* \*

5 Section 445. Brand Registration.--(a) No brand or brands of  
6 malt or brewed beverages shall be offered, sold or delivered to  
7 any trade buyer within this Commonwealth unless the manufacturer  
8 thereof shall first submit an application in the form and manner  
9 prescribed by the board for the registration of the said brand  
10 or brands of malt beverages, together with an annual filing fee  
11 not to exceed twenty-five dollars (\$25) for each brand  
12 registration requested. In the event an out-of-State or foreign  
13 manufacturer of malt or brewed beverages has granted franchise  
14 rights to any person for the sale and distribution of its brand  
15 products but which person is not licensed to sell and distribute  
16 the same in this Commonwealth, said such person shall  
17 nevertheless be required to register the involved brand before  
18 offering the same for sale in Pennsylvania. It is further  
19 conditioned that the person holding such franchise rights shall,  
20 together with its application for brand registration, file with  
21 the board copies of all agreements between it and the  
22 Pennsylvania importing distributor appointed by such person to  
23 sell and distribute the brands of malt or brewed beverages as  
24 provided by sections 431 and 492. Such agreement shall contain  
25 the manufacturer's consent and approval to the appointment of  
26 the Pennsylvania importing distributor and the rights conferred  
27 thereunder.

28 (b) The board shall employ a malt beverage compliance  
29 officer whose duties shall include REVIEWING LABEL REGISTRATION ←  
30 TO ENSURE COMPLIANCE WITH THIS ACT AND investigating reports of

1 unregistered brands of malt or brewed beverages being sold by  
2 licensees in addition to any other duties the board shall assign  
3 the officer. If the malt beverage compliance officer finds that  
4 a licensee is selling malt or brewed beverages that are  
5 unregistered in this Commonwealth, he shall give the  
6 manufacturer of the malt or brewed beverages written notice that  
7 the manufacturer has ten days to register the malt or brewed  
8 beverages with the board. During that ten-day period in which  
9 the manufacturer has to come into compliance with brand  
10 registration, the unregistered malt or brewed beverages shall  
11 remain on the licensee's premises but may not be sold. Should  
12 the manufacturer fail to register the malt or brewed beverages  
13 with the board within ten days, the manufacturer shall be  
14 required to remove the unregistered malt or brewed beverages  
15 from the licensee's premises and reimburse the licensee for all  
16 unregistered products that cannot be sold in this Commonwealth.

17 (c) Any person filing a report pursuant to section 2004 of  
18 the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform  
19 Code of 1971, shall, within seven days of filing the report with  
20 the Department of Revenue, file the same report with the board.  
21 The board shall maintain these reports online, where they will  
22 be accessible to the general public, within fourteen days of  
23 their receipt.

24 SECTION 2. SECTION 471 OF THE ACT IS AMENDED BY ADDING A  
25 SUBSECTION TO READ:

26 SECTION 471. REVOCATION AND SUSPENSION OF LICENSES; FINES.--  
27 \* \* \*

28 (F) UPON BECOMING AWARE OF A POTENTIAL VIOLATION OF SECTION  
29 445 OR ANY ASSOCIATED REGULATION, THE ENFORCEMENT BUREAU SHALL  
30 GIVE WRITTEN NOTICE TO EACH LICENSEE WHO MIGHT BE IN VIOLATION



1 OF THIS SECTION OR ITS CORRESPONDING REGULATION. IF THE  
2 POTENTIAL VIOLATION HAS BEEN CURED WITHIN TEN DAYS OF RECEIPT OF  
3 THE WRITTEN NOTICE, THE ENFORCEMENT BUREAU SHALL TAKE NO FURTHER  
4 ACTION AGAINST THE LICENSEE. IF THE POTENTIAL VIOLATION HAS NOT  
5 BEEN CURED WITHIN TEN DAYS OF RECEIPT OF THE NOTICE, THE  
6 ENFORCEMENT BUREAU SHALL PROCEED IN ACCORDANCE WITH SUBSECTION  
7 (A).

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