

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

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# HOUSE BILL

## No. 2429 Session of 2012

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INTRODUCED BY SANTONI, TAYLOR, FRANKEL, BRENNAN, GIBBONS,  
HARHAI, HARKINS, KORTZ, KOTIK, LONGIETTI, STURLA, DALEY,  
PAYNE, M. O'BRIEN, VULAKOVICH, EVERETT, PRESTON, WHITE,  
MAHONEY, JAMES, PASHINSKI, GEIST, FABRIZIO AND NEILSON,  
JUNE 4, 2012

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AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,  
OCTOBER 1, 2012

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## 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 providing for special permits for breweries.

18 The General Assembly of the Commonwealth of Pennsylvania  
19 hereby enacts as follows:

20 Section 1. Section 446 of the act of April 12, 1951 (P.L.90,  
21 No.21), known as the Liquor Code, reenacted and amended June 29,  
22 1987 (P.L.32, No.14) and amended December 22, 2011 (P.L.530,  
23 No.113), is amended to read:

1       Section 446.   Breweries.--(a)   Holders of a brewery license  
2   may:

3       (1)   Sell malt or brewed beverages produced and owned by the  
4   brewery under such conditions and regulations as the board may  
5   enforce, to individuals for consumption on the licensed premises  
6   in any container or package of any volume and to hotel,  
7   restaurant, club and public service liquor licensees.

8       (2)   Operate a restaurant or brewery pub on the licensed  
9   premises under such conditions and regulations as the board may  
10   enforce: Provided, however, That sales on Sunday may be made  
11   irrespective of the volume of food sales if the licensed  
12   premises are at a public venue location. The holder of a brewery  
13   license may sell at its brewery pub premises Pennsylvania wines  
14   it has purchased from either the holder of a Pennsylvania  
15   limited winery license or from the board: Provided, however,  
16   That said wines must be consumed at the licensed brewery pub  
17   premises.

18       (3)   Use brewery storage and distribution facilities for the  
19   purpose of receiving, storing and distributing malt or brewed  
20   beverages manufactured outside this Commonwealth if the  
21   beverages are distributed in this Commonwealth only through  
22   specific importing distributors who shall have first been given  
23   distributing rights for such products in designated geographical  
24   areas through the distribution system required for out-of-State  
25   manufacturers under section 431(b) as well as all other  
26   pertinent sections of this act. The manufacturer of the  
27   beverages must comply with section 444.

28       (4)   Apply for and hold a hotel liquor license, a restaurant  
29   liquor license or a malt and brewed beverages retail license to  
30   sell for consumption at the restaurant or brewery pub on the

1 licensed brewery premises, liquor, wine and malt or brewed  
2 beverages regardless of the place of manufacture, under the same  
3 conditions and regulations as any other hotel liquor license,  
4 restaurant liquor license or malt and brewed beverages retail  
5 license, but must brew at least two hundred fifty barrels per  
6 year. Each holder of a brewery license who receives a hotel  
7 liquor license, a restaurant liquor license or a malt or brewed  
8 beverages retail license to operate a brew pub shall not sell  
9 directly to any person licensed by this act, except if any malt  
10 or brewed beverage is to be distributed in this Commonwealth it  
11 shall be only through specific importing distributors who shall  
12 have first been given distributing rights for such products in  
13 designated geographical areas through the distribution system  
14 required for out-of-State manufacturers under section 431(b) as  
15 well as all other pertinent sections of this act.

16 (b) The holder of a brew pub license may obtain an off-  
17 premises catering permit subject to section 493(33) to hold a  
18 catered function off the licensed premises and on otherwise  
19 unlicensed premises where the licensee may sell wine produced by  
20 a licensed limited winery and malt or brewed beverages produced  
21 by the brewery by the glass, open bottle or other container, and  
22 in any mixture, for consumption on those premises. Functions  
23 conducted under the authority of the permit shall be subject to  
24 the following:

25 (1) alcohol may be provided only during the days and hours  
26 that the license holder may otherwise sell alcohol;

27 (2) all servers at the off premises catered function shall  
28 be in compliance with the responsible alcohol management  
29 provisions under section 471.1;

30 (3) each catered function shall last no longer than one day

1 and not more than fifty catered functions may be held each  
2 calendar year by each license holder for use with a particular  
3 license;

4 (4) a catered function shall not be held at a location that  
5 is already subject to the applicant's or another licensee's  
6 license;

7 (5) a permit shall not be issued to an applicant whose  
8 license is in safekeeping;

9 (6) a permit shall not be issued to a location that is  
10 subject to a pending objection by the director of the Bureau of  
11 Licensing or the board under section 470(a.1);

12 (7) a permit shall not be issued to a location that is  
13 subject to a pending license suspension under section 471 or the  
14 one-year prohibition on the issuance or transfer of a license  
15 under section 471(b);

16 (8) no alcohol may be taken from the permitted location, but  
17 the applicant may transport alcohol to and from its licensed  
18 premises to the proposed premises; and

19 (9) written notice of the date, time and location of the  
20 catered function shall be provided to the local police or if  
21 there is no local police force to the enforcement bureau at  
22 least forty-eight hours in advance of the event.

23 (c) (1) Holders of a brewery license may obtain a special  
24 permit to participate in malt or brewed beverages and food  
25 expositions off the licensed premises. A special permit shall be  
26 issued upon proper application and payment of a fee of thirty  
27 dollars (\$30.00) per day for each day of permitted use, not to  
28 exceed thirty consecutive days. The total number of days for all  
29 the special permits may not exceed one hundred days in any  
30 calendar year. A special permit shall entitle the holder to

engage in the sale by the glass, bottle or package not to exceed  
one hundred forty-four fluid ounces of malt or brewed beverages  
produced by the permittee under the authority of its brewery  
license. Holders of special permits may provide tasting samples  
of malt or brewed beverages in individual portions not to exceed  
four fluid ounces. Samples at malt or brewed beverages and food  
expositions may be sold or offered free of charge. Except as  
provided herein, breweries utilizing special permits shall be  
governed by all applicable provisions of this act as well as by  
all applicable regulations or conditions adopted by the board.  
For purposes of this clause, "malt or brewed beverages and food  
expositions" are defined as affairs held indoors or outdoors  
with the intent of educating those in attendance of the  
availability, nature and quality of malt or brewed beverages in  
conjunction with suitable food displays, demonstrations and  
sales. Malt or brewed beverages and food expositions may also  
include activities other than malt or brewed beverages and food  
displays, including arts and crafts, musical activities,  
cultural exhibits, agricultural exhibits and farmers markets.

(2) At the discretion of the board, obtain a farmers market  
permit. The permit shall entitle the holder to participate in  
more than one farmers market at any given time and an unlimited  
number throughout the year and sell malt or brewed beverages  
produced under the authority of the underlying brewery license  
by the bottle or package not to exceed one hundred forty-four  
ounces. Samples not to exceed four fluid ounces per brand of  
malt or brewed beverages may be offered free of charge. A  
farmers market permit shall be issued upon proper application  
and payment of an annual fee of two hundred fifty dollars  
(\$250.00). A permit holder may participate in more than one

farmers market at any given time. Sales by permit holders shall take place during the standard hours of operation of the farmers market. Written notice of the date, times and location the permit is to be used at shall be provided by the permit holder to the enforcement bureau at least two (2) weeks prior to the event. Except as provided in this subsection, breweries utilizing farmers market permits shall be governed by all applicable provisions of this act as well as by all applicable regulations adopted by the board.

The term "farmers market" as used in this section shall include any building, structure or other place:

(i) owned, leased or otherwise in the possession of a person, municipal corporation or public or private organization;

(ii) used or intended to be used by two or more farmers or an association of farmers, who are certified by the Department of Agriculture to participate in the Farmers Market Nutrition Program subject to 7 CFR Pt. 249 (relating to Senior Farmers' Market Nutrition Program (SFMNP)), for the purpose of selling agricultural commodities produced in this Commonwealth directly to consumers;

(iii) which is physically located within this Commonwealth;  
and

(iv) which is not open for business more than twelve hours each day.

(3) The special permit, as well as the farmers market permit authorized by this section, are only available to breweries who ~~produce less than twenty five thousand barrels per year.~~ QUALIFY AS A MANUFACTURER AS AUTHORIZED UNDER SECTION 431(A) AND WHO HAS NOT NAMED OR CONSTITUTED A DISTRIBUTOR OR IMPORTING DISTRIBUTOR AS A PRIMARY OR ORIGINAL SUPPLIER OF THE PRODUCT UNDER SECTION



1 431(B). Only malt or brewed beverages for which the brewery is  
2 responsible for paying the malt beverage tax shall be considered  
3 in calculating the total number of barrels produced each year.  
4 All brands of malt or brewed beverages sold or provided under  
5 the authority of the special permit as well as the farmers  
6 market permit must be registered as set forth by this act.

7       Section 2. This act shall take effect in 60 days.