

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 790 Session of 2011

INTRODUCED BY EARLL, PIPPY, BAKER, VANCE, WAUGH, ERICKSON,  
MENSCH AND PICCOLA, MARCH 8, 2011

REFERRED TO LAW AND JUSTICE, MARCH 8, 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 shipment of wine into Commonwealth.

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

20 Section 1. Section 488 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 added February 21, 2002 (P.L.103,  
23 No.10), is amended to read:

24 Section 488. Shipment of Wine [into Commonwealth].--(a) The  
25 shipment of wine [from out-of-State] to residents of this

1 Commonwealth [is prohibited, except as otherwise provided for  
2 in] shall be governed by this section.

3 (b) Notwithstanding any other provision of this act or law  
4 to the contrary, a person licensed by the board or another state  
5 as a producer, supplier, importer, wholesaler, distributor or  
6 retailer of wine and who obtains a direct wine shipper license  
7 as provided for in this section may ship up to [nine] eighteen  
8 liters per month of any wine [not included on the list provided  
9 for in subsection (c)] on the Internet, telephone or mail order  
10 of any resident of this Commonwealth who is at least twenty-one  
11 (21) years of age for such resident's personal use and not for  
12 resale.

13 (c) Each month, the board shall publish on the Internet a  
14 list of all classes, varieties and brands of wine available for  
15 sale in the Pennsylvania Liquor Stores. A person holding a  
16 direct shipper license may ship only those classes, varieties  
17 and brands of wine not included on the list at the time an  
18 Internet order is placed.

19 (c.1) Prior to issuing a direct wine shipper license, the  
20 board shall require the person seeking the license to:

21 (1) File an application with the board.

22 (2) Pay a one hundred dollar (\$100) registration fee.

23 (3) Provide to the board a true copy of its current  
24 alcoholic beverage license issued by the board or another state,  
25 if applicable.

26 (4) Provide the board with any other information the board  
27 deems necessary and appropriate.

28 (d) [An out-of-State] A direct wine shipper shall:

29 (1) Not ship more than [nine] eighteen liters per month on  
30 the Internet or mail order of any person in this Commonwealth.

1 (2) Report to the board each year the total of wine shipped  
2 [into] to residents of this Commonwealth in the preceding  
3 calendar year.

4 (3) Permit the board or the Secretary of Revenue, or their  
5 designated representatives, to perform an audit of the [out-of-  
6 State] direct wine shipper's records upon request.

7 (4) Be deemed to have submitted to the jurisdiction of the  
8 board, any other State agency and the courts of this  
9 Commonwealth for purposes of enforcement of this section and any  
10 related laws, rules or regulations.

11 (5) Require proof of age of the recipient, in a manner or  
12 format approved by the board before any wine is shipped to a  
13 resident of this Commonwealth.

14 (6) Ensure that all boxes or exterior containers of wine  
15 shipped directly to a resident in this Commonwealth are  
16 conspicuously labeled with the words "CONTAINS ALCOHOL:  
17 SIGNATURE OF PERSON 21 YEARS OF AGE OR OLDER REQUIRED FOR  
18 DELIVERY."

19 (7) Annually pay to the Department of Revenue all taxes due  
20 on sales to residents of this Commonwealth in the preceding  
21 calendar year and the amount of such taxes shall be calculated  
22 as if the sale were in this Commonwealth at the location where  
23 delivery is made.

24 (8) Be licensed by the state in which it operates and has a  
25 bonded winery permit or bonded wine cellar permit from the  
26 United States Alcohol and Tobacco Tax and Trade Bureau.

27 (9) Annually renew its license by paying a renewal fee  
28 established by the board.

29 (e) A direct shipper may ship wine on the Internet or mail  
30 order of a resident into this Commonwealth provided that the

1 wine [is shipped to a Pennsylvania Liquor Store selected by the  
2 resident. The wine will be subject to taxes in the same manner  
3 as wine sold directly by the board. The wine will not be  
4 released by the State store until all moneys due, including all  
5 taxes and fees, have been paid by the resident.] will be subject  
6 to all taxes due on sales to residents of this Commonwealth with  
7 the amount of such taxes to be calculated as if the sale were in  
8 this Commonwealth at the location where delivery is made.

9 (f) [A person shall sign an affidavit provided by the  
10 Pennsylvania Liquor Store where the wine was delivered to  
11 stating that the wine will only be used for the person's  
12 personal use.] Any person who resells wine obtained under this  
13 section commits a misdemeanor of the second degree.

14 (g) The board may promulgate such rules and regulations as  
15 are necessary to implement and enforce the provisions of this  
16 section. [The board may charge the resident a fee to cover the  
17 cost associated with processing the Internet order.]

18 (h) The board shall submit [monthly] annual reports to the  
19 Appropriations Committee and the Law and Justice Committee of  
20 the Senate and to the Appropriations Committee and the Liquor  
21 Control Committee of the House of Representatives summarizing  
22 the number of direct shipper licenses issued by the board[, ] and  
23 the quantity of wine sold by direct wine shippers pursuant to  
24 this section [and the total dollar value of sales under this  
25 section].

26 (i) The term "wine" as used in this section shall mean  
27 liquor which is fermented from grapes and other fruits, having  
28 alcoholic content of twenty-four per centum or less. The term  
29 "wine" shall not include malt or brewed beverages nor shall wine  
30 include any products containing alcohol derived from malt,

1 grain, cereal, molasses or cactus.

2 (j) The term "direct wine shipper" as used in this section  
3 shall mean a wine producer who holds a direct wine shipper  
4 license as provided in this section and includes a limited  
5 winery.

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