

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 282 Session of 2017

INTRODUCED BY A. HARRIS, P. COSTA, BAKER, RAVENSTAHL, MILLARD,
D. COSTA AND STAATS, FEBRUARY 1, 2017

REFERRED TO COMMITTEE ON LIQUOR CONTROL, FEBRUARY 1, 2017

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," in
17 licenses and regulations, liquor, alcohol and malt and brewed
18 beverages, further providing for malt and brewed beverages
19 manufacturers', distributors' and importing distributors'
20 licenses; providing for applicability; and making an
21 inconsistent repeal.

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

24 Section 1. Section 431(b) of the act of April 12, 1951
25 (P.L.90, No.21), known as the Liquor Code, reenacted and amended
26 November 15, 2016 (P.L.1286, No.166), is amended to read:

27 Section 431. Malt and Brewed Beverages Manufacturers',

1 Distributors' and Importing Distributors' Licenses.--* * *

2 (b) The board shall issue to any reputable person who
3 applies therefor, and pays the license fee hereinafter
4 prescribed, a distributor's or importing distributor's license
5 for the place which such person desires to maintain for the sale
6 of malt or brewed beverages, not for consumption on the premises
7 where sold, and in quantities of not less than a case or
8 original containers containing one hundred twenty-eight ounces
9 or more which may be sold separately as prepared for the market
10 by the manufacturer at the place of manufacture. In addition, a
11 distributor license holder may sell malt or brewed beverages in
12 any amount to a person not licensed by the board for off-
13 premises consumption. The sales shall not be required to be in
14 the package configuration designated by the manufacturer and may
15 be sold in refillable growlers. The board shall have the
16 discretion to refuse a license to any person or to any
17 corporation, partnership or association if such person, or any
18 officer or director of such corporation, or any member or
19 partner of such partnership or association shall have been
20 convicted or found guilty of a felony within a period of five
21 years immediately preceding the date of application for the said
22 license: And provided further, That, in the case of any new
23 license or the transfer of any license to a new location, the
24 board may, in its discretion, grant or refuse such new license
25 or transfer if such place proposed to be licensed is within
26 three hundred feet of any church, hospital, charitable
27 institution, school or public playground, or if such new license
28 or transfer is applied for a place which is within two hundred
29 feet of any other premises which is licensed by the board: And
30 provided further, That the board shall refuse any application

1 for a new license or the transfer of any license to a new
2 location if, in the board's opinion, such new license or
3 transfer would be detrimental to the welfare, health, peace and
4 morals of the inhabitants of the neighborhood within a radius of
5 five hundred feet of the place proposed to be licensed. The
6 board shall not license the area where liquid fuels or oil is
7 sold. No sales of liquid fuels or oil may be made from a
8 licensee's licensed premises. A licensed premises may not have
9 an interior connection with a location that sells liquid fuels
10 or oil unless it first receives permission from the board for
11 the interior connection. The approval shall be required
12 regardless of whether the licensee or another party is the
13 entity selling the liquid fuels or oil. The board may enter into
14 an agreement with the applicant concerning additional
15 restrictions on the license in question. If the board and the
16 applicant enter into such an agreement, such agreement shall be
17 binding on the applicant. Failure by the applicant to adhere to
18 the agreement will be sufficient cause to form the basis for a
19 citation under section 471 and for the nonrenewal of the license
20 under section 470. If the board enters into an agreement with an
21 applicant concerning additional restrictions, those restrictions
22 shall be binding on subsequent holders of the license until the
23 license is transferred to a new location or until the board
24 enters into a subsequent agreement removing those restrictions.
25 If the application in question involves a location previously
26 licensed by the board, then any restrictions imposed by the
27 board on the previous license at that location shall be binding
28 on the applicant unless the board enters into a new agreement
29 rescinding those restrictions. The board shall require notice to
30 be posted on the property or premises upon which the licensee or

1 proposed licensee will engage in sales of malt or brewed
2 beverages. This notice shall be similar to the notice required
3 of hotel, restaurant and club liquor licensees.

4 Except as hereinafter provided, such license shall authorize
5 the holder thereof to sell or deliver malt or brewed beverages
6 in quantities above specified anywhere within the Commonwealth
7 of Pennsylvania, which, in the case of distributors, have been
8 purchased only from persons licensed under this act as
9 manufacturers or importing distributors, and in the case of
10 importing distributors, have been purchased from manufacturers
11 or persons outside this Commonwealth engaged in the legal sale
12 of malt or brewed beverages or from manufacturers or importing
13 distributors licensed under this article. In the case of an
14 importing distributor, the holder of such a license shall be
15 authorized to store and repackage malt or brewed beverages owned
16 by a manufacturer at a segregated portion of a warehouse or
17 other storage facility authorized by section 441(d) and operated
18 by the importing distributor within its appointed territory and
19 deliver such beverages to another importing distributor who has
20 been granted distribution rights by the manufacturer as provided
21 herein. The importing distributor shall be permitted to receive
22 a fee from the manufacturer for any related storage, repackaging
23 or delivery services. In the case of a bailee for hire hired by
24 a manufacturer, the holder of such a permit shall be authorized:
25 to receive, store and repackage malt or brewed beverages
26 produced by that manufacturer for sale by that manufacturer to
27 importing distributors to whom that manufacturer has given
28 distribution rights pursuant to this subsection or to purchasers
29 outside this Commonwealth for delivery outside this
30 Commonwealth; or to ship to that manufacturer's storage

1 facilities outside this Commonwealth. The bailee for hire shall
2 be permitted to receive a fee from the manufacturer for any
3 related storage, repackaging or delivery services. The bailee
4 for hire shall, as required in Article V of this act, keep
5 complete and accurate records of all transactions, inventory,
6 receipts and shipments and make all records and the licensed
7 areas available for inspection by the board and for the
8 Pennsylvania State Police, Bureau of Liquor Control Enforcement,
9 during normal business hours.

10 Each out of State manufacturer of malt or brewed beverages
11 whose products are sold and delivered in this Commonwealth shall
12 give distributing rights for such products in designated
13 geographical areas to specific importing distributors, and such
14 importing distributor shall not sell or deliver malt or brewed
15 beverages manufactured by the out of State manufacturer to any
16 person issued a license under the provisions of this act whose
17 licensed premises are not located within the geographical area
18 for which he has been given distributing rights by such
19 manufacturer. In addition, the holder of a distributor license
20 may not sell or deliver malt or brewed beverages to any licensee
21 whose licensed premises is located within the designated
22 geographical area granted to an importing distributor other than
23 the importing distributor that sold the malt or brewed beverages
24 to the distributor. If the licensee purchasing the malt or
25 brewed beverages from the distributor license holder holds
26 multiple licenses or operates at more than one location, then
27 the malt or brewed beverages may not be consumed or sold at
28 licensed premises located within the designated geographical
29 area granted to an importing distributor other than the
30 importing distributor that sold the malt or brewed beverages to

1 the distributor. Should a licensee accept the delivery of malt
2 or brewed beverages or transfer malt or brewed beverages in
3 violation of this section, said licensee shall be subject to a
4 suspension of his license for at least thirty days: Provided,
5 That the importing distributor holding such distributing rights
6 for such product shall not sell or deliver the same to another
7 importing distributor without first having entered into a
8 written agreement with the said secondary importing distributor
9 setting forth the terms and conditions under which such products
10 are to be resold within the territory granted to the primary
11 importing distributor by the manufacturer.

12 When a Pennsylvania manufacturer of malt or brewed beverages
13 licensed under this article names or constitutes a distributor
14 or importing distributor as the primary or original supplier of
15 his product, he shall also designate the specific geographical
16 area for which the said distributor or importing distributor is
17 given distributing rights, and such distributor or importing
18 distributor shall not sell or deliver the products of such
19 manufacturer to any person issued a license under the provisions
20 of this act whose licensed premises are not located within the
21 geographical area for which distributing rights have been given
22 to the distributor and importing distributor by the said
23 manufacturer. In addition, the holder of a distributor license
24 may not sell or deliver malt or brewed beverages to a licensee
25 whose licensed premises is located within the designated
26 geographical area granted to an importing distributor other than
27 the importing distributor that sold the malt or brewed beverages
28 to the distributor. If the licensee purchasing the malt or
29 brewed beverages from the distributor license holder holds
30 multiple licenses or operates at more than one location, the

1 malt or brewed beverages may not be consumed or sold at licensed
2 premises located within the designated geographical area granted
3 to an importing distributor other than the importing distributor
4 that sold the malt or brewed beverages to the distributor. If a
5 licensee accepts the delivery of malt or brewed beverages or
6 transfers malt or brewed beverages in violation of this section,
7 the licensee shall be subject to [suspension of his license for
8 at least thirty days] a fine of not more than one thousand
9 dollars (\$1,000): Provided, That the importing distributor
10 holding such distributing rights for such product shall not sell
11 or deliver the same to another importing distributor without
12 first having entered into a written agreement with the said
13 secondary importing distributor setting forth the terms and
14 conditions under which such products are to be resold within the
15 territory granted to the primary importing distributor by the
16 manufacturer. Nothing herein contained shall be construed to
17 prevent any manufacturer from authorizing the importing
18 distributor holding the distributing rights for a designated
19 geographical area from selling the products of such manufacturer
20 to another importing distributor also holding distributing
21 rights from the same manufacturer for another geographical area,
22 providing such authority be contained in writing and a copy
23 thereof be given to each of the importing distributors so
24 affected.

25 * * *

26 Section 2. The amendment of the last two paragraphs of
27 section 431(b) in the act of November 15, 2016 (P.L.1286,
28 No.166) shall apply beginning April 30, 2017.

29 Section 3. Repeals are as follows:

30 (1) The General Assembly declares that the repeal under

1 paragraph (2) is necessary to effectuate section 2 of this
2 act.

3 (2) Section 17 of the act of November 15, 2016
4 (P.L.1286, No.166) is repealed insofar as it is inconsistent
5 with the provisions of section 2 of this act.

6 Section 4. Sections 2 and 3 of this act shall be retroactive
7 to November 15, 2016.

8 Section 5. This act shall take effect immediately.