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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1902 Session of  
2017

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INTRODUCED BY A. HARRIS, P. COSTA, THOMAS, STAATS, MILLARD,  
CHARLTON, JAMES, BARRAR, PICKETT, JOZWIAK AND MEHAFFIE,  
NOVEMBER 6, 2017

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REFERRED TO COMMITTEE ON LIQUOR CONTROL, NOVEMBER 6, 2017

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AN ACT

1 Amending the act of April 12, 1951 (P.L.90, No.21), entitled "An  
2 act relating to alcoholic liquors, alcohol and malt and  
3 brewed beverages; amending, revising, consolidating and  
4 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 liquor, alcohol and malt and brewed beverages licenses and  
18 regulations, further providing for interlocking business  
19 prohibited and for unlawful acts relative to liquor, malt and  
20 brewed beverages and licensees.

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

23 Section 1. Section 411(d) and (e) of the act of April 12,  
24 1951 (P.L.90, No.21), known as the Liquor Code, amended June 8,  
25 2016 (P.L.273, No.39) and November 15, 2016 (P.L.1286, No.166),  
26 are amended to read:

1 Section 411. Interlocking Business Prohibited.--\* \* \*

2 (d) Excepting as herein provided, no hotel licensee,  
3 restaurant licensee or club licensee, and no officer, director,  
4 stockholder, agent or employe of any such licensee shall in any  
5 wise be interested, either directly or indirectly, [in the  
6 ownership or leasehold of any property or the equipment of any  
7 property or any mortgage lien against the same, used by a  
8 manufacturer in manufacturing liquor or malt or brewed  
9 beverages; nor shall any hotel, restaurant or club licensee, or  
10 any officer, director, stockholder, agent or employe of any such  
11 licensee, either directly or indirectly,] lend any moneys,  
12 credit, or give anything of value or the equivalent thereof, to  
13 any manufacturer for equipping, fitting out, or maintaining and  
14 conducting, either in whole or in part, an establishment used  
15 for the manufacture of liquor or malt or brewed beverages.

16 (e) Except as herein provided, no hotel, restaurant, retail  
17 dispenser or club licensee, and no officer, director or  
18 stockholder, agent or employe of any such licensee shall in any  
19 wise be interested, directly or indirectly, in the ownership or  
20 leasehold of any property or the equipment of any property or  
21 any mortgage lien against the same, used by a distributor,  
22 importing distributor, or by an importer or sacramental wine  
23 licensee, in the conduct of his business; nor shall any hotel,  
24 restaurant, retail dispenser or club licensee, or any officer,  
25 director, stockholder, agent or employe of any such licensee,  
26 either directly or indirectly, lend any moneys, credit, or give  
27 anything of value or the equivalent thereof, to any distributor,  
28 importing distributor, importer or sacramental wine licensee,  
29 for equipping, fitting out, or maintaining and conducting,  
30 either in whole or in part, an establishment used in the conduct

1 of his business.

2 The purpose of this section is to require a separation of the  
3 financial and business interests between manufacturers and  
4 holders of hotel or restaurant liquor licenses and, as herein  
5 provided, of club licenses, issued under this article, and no  
6 person shall, by any device whatsoever, directly or indirectly,  
7 evade the provisions of the section. But in view of existing  
8 economic conditions, nothing contained in this section shall be  
9 construed to prohibit the ownership of property or conflicting  
10 interest by a manufacturer of any place occupied by a licensee  
11 under this article after the manufacturer has continuously owned  
12 and had a conflicting interest in such place for a period of at  
13 least five years prior to July eighteenth, one thousand nine  
14 hundred thirty-five: Provided, however, That this clause shall  
15 not prohibit any hotel, restaurant or club liquor licensee, or  
16 any officer, director or stockholder of any such licensee, from  
17 owning land or buildings which are leased to a holder of a  
18 retail dispenser's license, [a distillery license or a limited  
19 distillery license] or a manufacturer's license: And, provided  
20 further, That nothing contained in this section shall be  
21 construed to prohibit any hotel, restaurant, retail dispenser or  
22 club licensee or any officer, director or stockholder, agent or  
23 employe of any such licensee from having a financial or other  
24 interest, directly or indirectly in [the ownership or leasehold  
25 of any property or] the equipment of any property or any  
26 mortgage lien against same, used, leased by an importer or  
27 sacramental wine licensee for the exclusive purpose of  
28 maintaining commercial offices and on the condition that said  
29 property is not used for the storage or sale of liquor or malt  
30 or brewed beverages in any quantity: And, provided further, That

1 nothing contained in this section shall prohibit an officer or  
2 member of a licensed privately owned private golf course  
3 catering club from having an interest in a limited winery  
4 license: And, provided further, That nothing contained in this  
5 section shall be construed to prohibit a member of the governing  
6 board of a public authority created under subdivision (n) of  
7 Article XXIII of the act of August 9, 1955 (P.L.323, No.130),  
8 known as "The County Code," from having an interest in a  
9 distributor or importing distributor license notwithstanding the  
10 fact that the public authority has an interest in one or more  
11 retail licenses or acts as a landlord for one or more retail  
12 licenses: And, provided further, That, nothing in this section  
13 may prohibit an employe of a hotel or restaurant licensee from  
14 having an interest in any property used by a limited winery  
15 licensee or in guaranteeing any loans, or lending any moneys,  
16 providing credit or giving anything of value to a limited winery  
17 licensee or its officers, directors and shareholders, provided  
18 that the person also is not an officer of or does not have any  
19 interest in or exercise any control over any other licensed  
20 entity that engages in any sales to or from the licensee: And,  
21 provided further, That, notwithstanding any other provision of  
22 this section, an entity may acquire both a manufacturer's  
23 license or a limited winery license and a hotel, restaurant or  
24 retail dispenser license for use at the same location and more  
25 than one location may be so licensed. And, provided further,  
26 That, notwithstanding any other provision of this section, an  
27 entity licensed as a limited winery may hold and operate a  
28 restaurant liquor license at one of its additional, board-  
29 approved locations instead of at its primary location where  
30 manufacturing occurs. The licenses and a person's interest in

1 the licenses or in the entity holding the licenses shall not be  
2 subject to this section. Provided further, That, a person who is  
3 a holder of ten per centum (10%) or less of securities or other  
4 interests in a publicly or privately held domestic or foreign  
5 corporation, partnership, limited liability company or other  
6 form of legal entity owning a retail license shall not be deemed  
7 to possess a financial interest and is not subject to the  
8 provisions of this section, provided that the person is not an  
9 officer of, employe of or does not have any interest in or  
10 exercise any control over any other licensed entity that engages  
11 in any sales to or from the retail licensee in which the person  
12 holds the ten per centum (10%) or less interest[.]: And,  
13 provided further, That nothing in this section shall prohibit a  
14 person who has an ownership interest in a limited winery license  
15 from being employed by an entity that holds a hotel, restaurant,  
16 eating place or club license if the person is not employed as an  
17 alcohol service personnel or as manager.

18 \* \* \*

19 Section 2. Section 493(11) of the act is amended to read:

20 Section 493. Unlawful Acts Relative to Liquor, Malt and  
21 Brewed Beverages and Licensees.--The term "licensee," when used  
22 in this section, shall mean those persons licensed under the  
23 provisions of Article IV, unless the context clearly indicates  
24 otherwise.

25 It shall be unlawful--

26 \* \* \*

27 (11) Licensees Employed by Others. For any hotel, restaurant  
28 or club liquor licensee, or any malt or brewed beverage  
29 licensee, or any officer, servant, agent or employe of such  
30 licensee, to be at the same time employed, directly or

1 indirectly, by any distributor, importing distributor,  
2 manufacturer, importer or vendor licensee or any out of State  
3 manufacturer. It shall also be unlawful for any distributor or  
4 importing distributor, or any officer, servant, agent or employe  
5 of such licensee, to be at the same time employed, directly or  
6 indirectly, by any other distributor, importing distributor,  
7 manufacturer, importer, vendor, out of State manufacturer, hotel  
8 restaurant, malt or brewed beverage licensee, or club liquor  
9 licensee. It shall also be unlawful for any manufacturer,  
10 importer, or vendor licensee, or any out of State manufacturer,  
11 or any officer, servant, agent or employe of such licensee or  
12 manufacturer, to be at the same time employed, directly or  
13 indirectly, by any hotel, restaurant or club liquor licensee or  
14 any malt or brewed beverage licensee or any distributor or  
15 importing distributor licensee. Nothing in this subsection shall  
16 be construed to prohibit a manufacturer or limited winery  
17 licensee, or any officer, servant, agent or employe of such  
18 licensee, to be employed at the same time by a hotel, restaurant  
19 or retail dispenser licensee if the hotel, restaurant or retail  
20 dispenser licensee is located at the manufacturer or limited  
21 winery premises pursuant to section 443. For the purposes of  
22 this subsection, an officer, servant, agent or employe of a  
23 licensee or manufacturer is an individual who has either an  
24 ownership interest in the licensee or manufacturer or who  
25 receives compensation for his or her work on behalf of the  
26 licensee or manufacturer[.]: Provided further, That nothing in  
27 this section shall prohibit a person who has an ownership  
28 interest in a limited winery license from being employed by an  
29 entity that holds a hotel, restaurant, eating place or club  
30 license if the person is not employed as an alcohol service

1 personnel or as manager.

2 \* \* \*

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