

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1902 Session of 2017

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

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, DECEMBER 6, 2017

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 PENNSYLVANIA LIQUOR CONTROL BOARD, FURTHER PROVIDING FOR
18 ENFORCEMENT; in liquor, alcohol and malt and brewed beverages
19 licenses and regulations, further providing for interlocking <--
20 business prohibited, FOR BREWERIES, FOR UNLAWFUL ACTS
21 RELATIVE TO MALT OR BREWED BEVERAGES AND LICENSEES and for <--
22 unlawful acts relative to liquor, malt and brewed beverages
23 and licensees; AND MAKING RELATED REPEALS.

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

26 ~~Section 1. Section 411(d) and (e) of the act of April 12,~~ <--
27 ~~1951 (P.L.90, No.21), known as the Liquor Code, amended June 8,~~

1 ~~2016 (P.L.273, No.39) and November 15, 2016 (P.L.1286, No.166),~~  
2 ~~are amended to read:~~

3 SECTION 1. SECTION 211 OF THE ACT OF APRIL 12, 1951 (P.L.90, <--  
4 NO.21), KNOWN AS THE LIQUOR CODE, IS AMENDED BY ADDING A  
5 SUBSECTION TO READ:

6 SECTION 211. ENFORCEMENT.--\* \* \*

7 (G) THE FOLLOWING SHALL APPLY:

8 (1) AN INDIVIDUAL WHO IS UNDER TWENTY-ONE YEARS OF AGE MAY  
9 PURCHASE, ATTEMPT TO PURCHASE, POSSESS OR TRANSPORT LIQUOR OR  
10 MALT OR BREWED BEVERAGES IF ALL OF THE FOLLOWING APPLY:

11 (I) THE INDIVIDUAL IS AT LEAST EIGHTEEN YEARS OF AGE.

12 (II) THE INDIVIDUAL IS AN OFFICER, EMPLOYE OR INTERN OF THE  
13 BUREAU OF LIQUOR CONTROL ENFORCEMENT OF THE PENNSYLVANIA STATE  
14 POLICE.

15 (III) THE INDIVIDUAL HAS COMPLETED TRAINING SPECIFIED BY THE  
16 BUREAU.

17 (IV) THE INDIVIDUAL IS ACTING WITHIN THE SCOPE OF PRESCRIBED  
18 DUTIES.

19 (V) THE INDIVIDUAL IS ACTING UNDER THE DIRECT CONTROL OR  
20 SUPERVISION OF A BUREAU OFFICER WHO IS AN ADULT.

21 (2) INDIVIDUALS UNDER TWENTY-ONE YEARS OF AGE MAY NOT  
22 CONSUME LIQUOR OR MALT OR BREWED BEVERAGES.

23 (3) THE PENNSYLVANIA STATE POLICE SHALL PROMULGATE  
24 REGULATIONS PRESCRIBING THE MANNER IN WHICH COMPLIANCE CHECKS  
25 ARE TO BE PERFORMED. COMPLIANCE CHECKS UNDER THIS SUBSECTION  
26 SHALL BE CONDUCTED IN A MANNER CONSISTENT WITH THE REGULATIONS.  
27 REGULATIONS SHALL REQUIRE, AT A MINIMUM, ALL OF THE FOLLOWING:

28 (I) PRIOR TO PARTICIPATION IN THE COMPLIANCE CHECK, THE  
29 OFFICER, EMPLOYE OR INTERN SHALL UNDERGO TRAINING APPROVED BY  
30 THE BUREAU OF LIQUOR CONTROL ENFORCEMENT.

1 (II) A PERSON LICENSED TO SELL LIQUOR OR MALT OR BREWED  
2 BEVERAGES THAT IS FOUND TO BE IN COMPLIANCE WITH 18 PA.C.S. §  
3 6308 (RELATING TO PURCHASE, CONSUMPTION, POSSESSION OR  
4 TRANSPORTATION OF LIQUOR OR MALT OR BREWED BEVERAGES) OR 6310  
5 (RELATING TO INDUCEMENT OF MINORS TO BUY LIQUOR OR MALT OR  
6 BREWED BEVERAGES) DURING A COMPLIANCE CHECK SHALL BE NOTIFIED IN  
7 WRITING OF THE COMPLIANCE CHECK AND THE DETERMINATION OF  
8 COMPLIANCE.

9 (III) A PERSON LICENSED TO SELL LIQUOR OR MALT OR BREWED  
10 BEVERAGES THAT IS FOUND TO BE NONCOMPLIANT WITH 18 PA.C.S. §  
11 6308 OR 6310 DURING A COMPLIANCE CHECK SHALL BE IMMEDIATELY  
12 VERBALLY ADVISED BY THE SUPERVISING BUREAU OFFICER AND SHALL BE  
13 NOTIFIED IN WRITING OF THE FAILURE TO COMPLY WITHIN TEN WORKING  
14 DAYS OF THE DATE OF THE COMPLIANCE CHECK.

15 (4) THE PROVISIONS OF THIS SUBSECTION SHALL EXPIRE DECEMBER  
16 31, 2022.

17 SECTION 2. SECTION 411(D) AND (E) OF THE ACT, AMENDED JUNE  
18 8, 2016 (P.L.273, NO.39) AND NOVEMBER 15, 2016 (P.L.1286,  
19 NO.166), ARE AMENDED TO READ:

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

21 (d) Excepting as herein provided, no hotel licensee,  
22 restaurant licensee or club licensee, and no officer, director,  
23 stockholder, agent or employe of any such licensee shall [in any <--  
24 wise be interested, either directly or indirectly, †in the <--  
25 ownership or leasehold of any property or the equipment of any  
26 property or any mortgage lien against the same, used by a  
27 manufacturer in manufacturing liquor or malt or brewed  
28 beverages; nor shall any hotel, restaurant or club licensee, or  
29 any officer, director, stockholder, agent or employe of any such  
30 licensee], either directly or indirectly, † lend any moneys, <--

1 credit, or give anything of value or the equivalent thereof, to  
2 any manufacturer for equipping, fitting out, or maintaining and  
3 conducting, either in whole or in part, an establishment used  
4 for the manufacture of liquor or malt or brewed beverages.

5 (e) Except as herein provided, no hotel, restaurant, retail  
6 dispenser or club licensee, and no officer, director or  
7 stockholder, agent or employe of any such licensee shall in any  
8 wise be interested, directly or indirectly, in the ownership or  
9 leasehold of any property or the equipment of any property or  
10 any mortgage lien against the same, used by a distributor,  
11 importing distributor, or by an importer or sacramental wine  
12 licensee, in the conduct of his business; nor shall any hotel,  
13 restaurant, retail dispenser or club licensee, or any officer,  
14 director, stockholder, agent or employe of any such licensee,  
15 either directly or indirectly, lend any moneys, credit, or give  
16 anything of value or the equivalent thereof, to any distributor,  
17 importing distributor, importer or sacramental wine licensee,  
18 for equipping, fitting out, or maintaining and conducting,  
19 either in whole or in part, an establishment used in the conduct  
20 of his business.

21 The purpose of this section is to require a separation of the  
22 financial and business interests between manufacturers and  
23 holders of hotel or restaurant liquor licenses and, as herein  
24 provided, of club licenses, issued under this article, and no  
25 person shall, by any device whatsoever, directly or indirectly,  
26 evade the provisions of the section. But in view of existing  
27 economic conditions, nothing contained in this section shall be  
28 construed to prohibit the ownership of property or conflicting  
29 interest by a manufacturer of any place occupied by a licensee  
30 under this article after the manufacturer has continuously owned

1 and had a conflicting interest in such place for a period of at  
2 least five years prior to July eighteenth, one thousand nine  
3 hundred thirty-five: Provided, however, That this clause shall  
4 not prohibit any hotel, restaurant or club liquor licensee, or  
5 any officer, director or stockholder of any such licensee, from  
6 owning land or buildings which are leased to a holder of a  
7 retail dispenser's license, [a distillery license or a limited  
8 distillery license] or a manufacturer's license: And, provided  
9 further, That nothing contained in this section shall be  
10 construed to prohibit any hotel, restaurant, retail dispenser or  
11 club licensee or any officer, director or stockholder, agent or  
12 employe of any such licensee from having a financial or other  
13 interest, directly or indirectly in ~~the~~ ownership or leasehold <--  
14 of any property or ~~the~~ equipment of any property or any <--  
15 mortgage lien against same, used, leased by an importer or  
16 sacramental wine licensee for the exclusive purpose of  
17 maintaining commercial offices and on the condition that said  
18 property is not used for the storage or sale of liquor or malt  
19 or brewed beverages in any quantity: And, provided further, That  
20 nothing contained in this section shall prohibit an officer or  
21 member of a licensed privately owned private golf course  
22 catering club from having an interest in a limited winery  
23 license: And, provided further, That nothing contained in this  
24 section shall be construed to prohibit a member of the governing  
25 board of a public authority created under subdivision (n) of  
26 Article XXIII of the act of August 9, 1955 (P.L.323, No.130),  
27 known as "The County Code," from having an interest in a  
28 distributor or importing distributor license notwithstanding the  
29 fact that the public authority has an interest in one or more  
30 retail licenses or acts as a landlord for one or more retail

1 licenses: And, provided further, That, nothing in this section  
2 may prohibit an employe of a hotel or restaurant licensee from  
3 [having an interest in any property used by a limited winery <--  
4 licensee or in] guaranteeing any loans, or lending any moneys, <--  
5 providing credit or giving anything of value to a limited winery  
6 licensee or its officers, directors and shareholders, provided  
7 that the person also is not an officer of or does not have any  
8 interest in or exercise any control over any other licensed  
9 entity that engages in any sales to or from the licensee: And,  
10 provided further, That, notwithstanding any other provision of  
11 this section, an entity may acquire both a manufacturer's  
12 license or a limited winery license and a hotel, restaurant or  
13 retail dispenser license for use at the same location and more  
14 than one location may be so licensed. And, provided further,  
15 That, notwithstanding any other provision of this section, an  
16 entity licensed as a limited winery may hold and operate a  
17 restaurant liquor license at one of its additional, board-  
18 approved locations instead of at its primary location where  
19 manufacturing occurs. The licenses and a person's interest in  
20 the licenses or in the entity holding the licenses shall not be  
21 subject to this section. Provided further, That, a person who is  
22 a holder of ten per centum (10%) or less of securities or other  
23 interests in a publicly or privately held domestic or foreign  
24 corporation, partnership, limited liability company or other  
25 form of legal entity owning a retail license shall not be deemed  
26 to possess a financial interest and is not subject to the  
27 provisions of this section, provided that the person is not an  
28 officer of, employe of or does not have any interest in or  
29 exercise any control over any other licensed entity that engages  
30 in any sales to or from the retail licensee in which the person

1 holds the ten per centum (10%) or less interest[.]: And,  
2 provided further, That nothing in this section shall prohibit a  
3 person who has an ownership interest in a limited winery license  
4 from being employed by an entity that holds a hotel, restaurant,  
5 eating place or club license if the person is not employed as an<--  
6 alcohol service personnel or as manager.

7 \* \* \*

8 SECTION 3. SECTION 446(A) (1) OF THE ACT, AMENDED NOVEMBER <--  
9 15, 2016 (P.L.1286, NO.166), IS AMENDED TO READ:

10 SECTION 446. BREWERIES.--(A) HOLDERS OF A BREWERY LICENSE  
11 MAY:

12 (1) SELL MALT OR BREWED BEVERAGES PRODUCED AT THE LOCATION  
13 AND OWNED BY THE BREWERY UNDER SUCH CONDITIONS AND REGULATIONS  
14 AS THE BOARD MAY ENFORCE, TO INDIVIDUALS FOR CONSUMPTION ON THE  
15 LICENSED PREMISES IN ANY CONTAINER OR PACKAGE OF ANY VOLUME AND  
16 TO HOTEL, RESTAURANT, CLUB AND PUBLIC SERVICE LIQUOR LICENSEES.  
17 MALT OR BREWED BEVERAGES PRODUCED FOR THE HOLDER OF A BREWERY  
18 LICENSE UNDER A CONTRACT BREWING AGREEMENT WITH AN OUT-OF-STATE  
19 MANUFACTURER MAY BE SOLD TO A NONLICENSEE FOR ON-PREMISE OR OFF-  
20 PREMISE CONSUMPTION, EXCEPT THAT SALES TO A LICENSEE MUST BE  
21 DISTRIBUTED AS PROVIDED UNDER SECTION 431(B).

22 \* \* \*

23 SECTION 4. SECTION 492 OF THE ACT IS AMENDED BY ADDING A  
24 PARAGRAPH TO READ:

25 SECTION 492. UNLAWFUL ACTS RELATIVE TO MALT OR BREWED  
26 BEVERAGES AND LICENSEES.--

27 IT SHALL BE UNLAWFUL--

28 \* \* \*

29 (22) SELLING OR DISTRIBUTING OF MALT OR BREWED BEVERAGES.  
30 FOR THE HOLDER OF A BREWERY LICENSE TO SELL OR DISTRIBUTE MALT

1 OR BREWED BEVERAGES EXCEPT AS PROVIDED UNDER SECTION 446(A)(1).

2 Section ~~2~~ 5. Section 493(11) of the act is amended to read: <--

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

8 It shall be unlawful--

9 \* \* \*

10 (11) Licensees Employed by Others. For any hotel, restaurant  
11 or club liquor licensee, or any malt or brewed beverage  
12 licensee, or any officer, servant, agent or employe of such  
13 licensee, to be at the same time employed, directly or  
14 indirectly, by any distributor, importing distributor,  
15 manufacturer, importer or vendor licensee or any out of State  
16 manufacturer. It shall also be unlawful for any distributor or  
17 importing distributor, or any officer, servant, agent or employe  
18 of such licensee, to be at the same time employed, directly or  
19 indirectly, by any other distributor, importing distributor,  
20 manufacturer, importer, vendor, out of State manufacturer, hotel  
21 restaurant, malt or brewed beverage licensee, or club liquor  
22 licensee. It shall also be unlawful for any manufacturer,  
23 importer, or vendor licensee, or any out of State manufacturer,  
24 or any officer, servant, agent or employe of such licensee or  
25 manufacturer, to be at the same time employed, directly or  
26 indirectly, by any hotel, restaurant or club liquor licensee or  
27 any malt or brewed beverage licensee or any distributor or  
28 importing distributor licensee. Nothing in this subsection shall  
29 be construed to prohibit a manufacturer or limited winery  
30 licensee, or any officer, servant, agent or employe of such

1 licensee, to be employed at the same time by a hotel, restaurant  
2 or retail dispenser licensee if the hotel, restaurant or retail  
3 dispenser licensee is located at the manufacturer or limited  
4 winery premises pursuant to section 443. For the purposes of  
5 this subsection, an officer, servant, agent or employe of a  
6 licensee or manufacturer is an individual who has either an  
7 ownership interest in the licensee or manufacturer or who  
8 receives compensation for his or her work on behalf of the  
9 licensee or manufacturer[.]: Provided further, That nothing in  
10 this section shall prohibit a person who has an ownership  
11 interest in a limited winery license from being employed by an  
12 entity that holds a hotel, restaurant, eating place or club  
13 license if the person is not employed as an alcohol service <--  
14 personnel or as manager.

15 \* \* \*

16 ~~Section 3 5. This act shall take effect in 60 days.~~ <--

17 SECTION 6. REPEALS ARE AS FOLLOWS: <--

18 (1) THE GENERAL ASSEMBLY DECLARES THAT THE REPEAL UNDER  
19 PARAGRAPHS (2) AND (3) ARE NECESSARY TO EFFECTUATE THE  
20 ADDITION OF SECTION 211(G) OF THE ACT.

21 (2) 18 PA.C.S. §§ 6308(E) AND 6310(C) ARE REPEALED.

22 (3) SECTION 2 OF THE ACT OF DECEMBER 3, 2002 (P.L.1144,  
23 NO.141), ENTITLED "AN ACT AMENDING TITLE 18 (CRIMES AND  
24 OFFENSES) OF THE PENNSYLVANIA CONSOLIDATED STATUTES, FURTHER  
25 PROVIDING FOR PURCHASE, CONSUMPTION, POSSESSION OR  
26 TRANSPORTATION OF LIQUOR OR MALT OR BREWED BEVERAGES AND FOR  
27 INDUCEMENT OF MINORS TO BUY LIQUOR OR MALT OR BREWED  
28 BEVERAGES," IS REPEALED.

29 SECTION 7. THIS ACT SHALL TAKE EFFECT IMMEDIATELY.