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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 609 Session of  
2017

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INTRODUCED BY BREWSTER, ARGALL, SCAVELLO, WHITE, VULAKOVICH,  
BOSCOLA AND STEFANO, APRIL 13, 2017

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REFERRED TO LAW AND JUSTICE, APRIL 13, 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 licenses and regulations relating to liquor, alcohol and malt  
18 and brewed beverages, further providing for malt and brewed  
19 beverages manufacturers', distributors' and importing  
20 distributors' licenses.

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

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

26 Section 431. Malt and Brewed Beverages Manufacturers',  
27 Distributors' and Importing Distributors' Licenses.--\* \* \*

1 (b) The following apply:

2 (1) 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 (2) Except as hereinafter provided, such license shall  
5 authorize the holder thereof to sell or deliver malt or brewed  
6 beverages in quantities above specified anywhere within the  
7 Commonwealth of Pennsylvania, which, in the case of  
8 distributors, have been purchased only from persons licensed  
9 under this act as manufacturers or importing distributors, and  
10 in the case of importing distributors, have been purchased from  
11 manufacturers or persons outside this Commonwealth engaged in  
12 the legal sale of malt or brewed beverages or from manufacturers  
13 or importing distributors licensed under this article. In the  
14 case of an importing distributor, the holder of such a license  
15 shall be authorized to store and repackage malt or brewed  
16 beverages owned by a manufacturer at a segregated portion of a  
17 warehouse or other storage facility authorized by section 441(d)  
18 and operated by the importing distributor within its appointed  
19 territory and deliver such beverages to another importing  
20 distributor who has been granted distribution rights by the  
21 manufacturer as provided herein. The importing distributor shall  
22 be permitted to receive a fee from the manufacturer for any  
23 related storage, repackaging or delivery services. In the case  
24 of a bailee for hire hired by a manufacturer, the holder of such  
25 a permit shall be authorized: to receive, store and repackage  
26 malt or brewed beverages produced by that manufacturer for sale  
27 by that manufacturer to importing distributors to whom that  
28 manufacturer has given distribution rights pursuant to this  
29 subsection or to purchasers outside this Commonwealth for  
30 delivery outside this Commonwealth; or to ship to that

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

10 (3) Each out of State manufacturer of malt or brewed  
11 beverages whose products are sold and delivered in this  
12 Commonwealth shall give distributing rights for such products in  
13 designated geographical areas to specific importing  
14 distributors, and such importing distributor shall not sell or  
15 deliver malt or brewed beverages manufactured by the out of  
16 State manufacturer to any person issued a license under the  
17 provisions of this act whose licensed premises are not located  
18 within the geographical area for which he has been given  
19 distributing rights by such manufacturer. In addition, the  
20 holder of a distributor license may not sell or deliver malt or  
21 brewed beverages to any licensee whose licensed premises is  
22 located within the designated geographical area granted to an  
23 importing distributor other than the importing distributor that  
24 sold the malt or brewed beverages to the distributor. Nothing in  
25 this clause shall preclude a distributor from delivering to a  
26 licensee whose licensed premises is located within:

27 (i) The same county that the distributor is located.

28 (ii) A county contiguous to the county that the distributor  
29 is located.

30 (iii) A forty-five-mile radius of the licensed premises of

1 the distributor.

2     (4) If the licensee purchasing the malt or brewed beverages  
3 from the distributor license holder holds multiple licenses or  
4 operates at more than one location, then the malt or brewed  
5 beverages may not be consumed or sold at licensed premises  
6 located within the designated geographical area granted to an  
7 importing distributor other than the importing distributor that  
8 sold the malt or brewed beverages to the distributor. Should a  
9 licensee accept the delivery of malt or brewed beverages or  
10 transfer malt or brewed beverages in violation of this section,  
11 said licensee shall be subject to [a suspension of his license  
12 for at least thirty days] the penalties under section 494:

13 Provided, That the importing distributor holding such  
14 distributing rights for such product shall not sell or deliver  
15 the same to another importing distributor without first having  
16 entered into a written agreement with the said secondary  
17 importing distributor setting forth the terms and conditions  
18 under which such products are to be resold within the territory  
19 granted to the primary importing distributor by the  
20 manufacturer.

21     (5) When a Pennsylvania manufacturer of malt or brewed  
22 beverages licensed under this article names or constitutes a  
23 distributor or importing distributor as the primary or original  
24 supplier of his product, he shall also designate the specific  
25 geographical area for which the said distributor or importing  
26 distributor is given distributing rights, and such distributor  
27 or importing distributor shall not sell or deliver the products  
28 of such manufacturer to any person issued a license under the  
29 provisions of this act whose licensed premises are not located  
30 within the geographical area for which distributing rights have

1 been given to the distributor and importing distributor by the  
2 said manufacturer. In addition, the holder of a distributor  
3 license may not sell or deliver malt or brewed beverages to a  
4 licensee whose licensed premises is located within the  
5 designated geographical area granted to an importing distributor  
6 other than the importing distributor that sold the malt or  
7 brewed beverages to the distributor. Nothing in this clause  
8 shall preclude a distributor from delivering to a licensee whose  
9 licensed premises is located within:

10 (i) The same county that the distributor is located.

11 (ii) A county contiguous to the county that the distributor  
12 is located.

13 (iii) A forty-five-mile radius of the licensed premises of  
14 the distributor.

15 (6) If the licensee purchasing the malt or brewed beverages  
16 from the distributor license holder holds multiple licenses or  
17 operates at more than one location, the malt or brewed beverages  
18 may not be consumed or sold at licensed premises located within  
19 the designated geographical area granted to an importing  
20 distributor other than the importing distributor that sold the  
21 malt or brewed beverages to the distributor. If a licensee  
22 accepts the delivery of malt or brewed beverages or transfers  
23 malt or brewed beverages in violation of this section, the  
24 licensee shall be subject to [suspension of his license for at  
25 least thirty days] the suspension under section 494: Provided,  
26 That the importing distributor holding such distributing rights  
27 for such product shall not sell or deliver the same to another  
28 importing distributor without first having entered into a  
29 written agreement with the said secondary importing distributor  
30 setting forth the terms and conditions under which such products

1 are to be resold within the territory granted to the primary  
2 importing distributor by the manufacturer. Nothing herein  
3 contained shall be construed to prevent any manufacturer from  
4 authorizing the importing distributor holding the distributing  
5 rights for a designated geographical area from selling the  
6 products of such manufacturer to another importing distributor  
7 also holding distributing rights from the same manufacturer for  
8 another geographical area, providing such authority be contained  
9 in writing and a copy thereof be given to each of the importing  
10 distributors so affected.

11 \* \* \*

12 Section 2. This act shall take effect immediately.