

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 281 Session of 2019

INTRODUCED BY SIMMONS, ROTHMAN, BERNSTINE, JAMES, MACKENZIE, REESE, HILL-EVANS, ORTITAY, MILLARD, KORTZ, BARRAR AND STAATS, JANUARY 30, 2019

REFERRED TO COMMITTEE ON LIQUOR CONTROL, JANUARY 30, 2019

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 and liquor, alcohol and malt and
 18 brewed beverages, providing for shipment of spirits and
 19 making an editorial change.

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

22 Section 1. The heading of Subarticle C.1 of Article IV of
 23 the act of April 12, 1951 (P.L.90, No.21), known as the Liquor
 24 Code, is amended to read:

25 (C.1) Shipment of Wine and Spirits.

26 Section 2. The act is amended by adding a section to read:

1 Section 489. Shipment of Spirits.--(a) The shipment of
2 spirits to residents of this Commonwealth shall be governed by
3 this section.

4 (b) Notwithstanding any other provision of this act or law,
5 a person licensed by the board or another state or country as a
6 producer or manufacturer of spirits and who obtains a direct
7 spirits shipper license as provided for in this section may ship
8 no more than nine liters of spirits per month in a calendar year
9 on the order of any resident of this Commonwealth who is at
10 least twenty-one (21) years of age for the resident's personal
11 use and not for resale.

12 (c) Each month, the board shall publish on the publicly
13 accessible Internet website a list of all classes, varieties and
14 brands of spirits available for sale in the Pennsylvania Liquor
15 Stores.

16 (c.1) Prior to issuing a direct spirits shipper license, the
17 board shall require an applicant to:

18 (1) File an application with the board.

19 (2) Pay a registration fee of two hundred fifty dollars
20 (\$250).

21 (3) Provide to the board a true copy of the applicant's
22 current alcoholic beverage license issued by the board or
23 another state or country.

24 (4) Provide documentation which evidences that the applicant
25 has obtained a sales tax license from the Department of Revenue.

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

28 (d) A direct spirits shipper shall do all of the following:

29 (1) Report to the board each year the total of spirits
30 shipped to residents of this Commonwealth in the preceding

1 calendar year.

2 (2) Permit the board, the enforcement bureau or the
3 Secretary of Revenue or their designated representatives to
4 perform an audit of the direct spirits shipper's records upon
5 request.

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

10 (4) Require proof of age of the recipient, in a manner or
11 format approved by the board, before spirits are shipped to a
12 resident of this Commonwealth.

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

18 (6) Pay to the Department of Revenue all taxes due on sales
19 to residents of this Commonwealth. The amount of the taxes shall
20 be calculated as if the sales were in this Commonwealth at the
21 locations where delivery was made. The spirits delivered under
22 this subsection shall be subject to only the following:

23 (i) The sales and use tax imposed by section 202 and Article
24 II-B of the act of March 4, 1971 (P.L.6, No.2), known as the Tax
25 Reform Code of 1971.

26 (ii) The sales and use tax imposed by Article XXXI-B of the
27 act of July 28, 1953 (P.L.723, No.230), known as the Second
28 Class County Code.

29 (iii) The sales and use tax imposed by the act of June 5,
30 1991 (P.L.9, No.6), known as the Pennsylvania Intergovernmental

1 Cooperation Authority Act for Cities of the First Class.

2 (iv) The spirits excise tax imposed under subsection (h).

3 (7) Annually renew its license by paying a renewal fee of
4 two hundred fifty dollars (\$250).

5 (e) Any person who resells spirits obtained under this
6 section commits a misdemeanor of the second degree. A person
7 convicted of selling or offering to sell any spirits in
8 violation of this section shall, in addition to any other
9 penalty prescribed by law, be sentenced to pay a fine of four
10 dollars (\$4) per fluid ounce for each container of spirits found
11 on the premises where the sale was made or attempted. The amount
12 of fine per container shall be based on the capacity of the
13 container when full, whether or not it is full at the time of
14 sale or attempted sale. All spirits found on the premises shall
15 be confiscated. The prohibition on reselling spirits shall not
16 apply to any entity who is licensed to resell spirits and who
17 acquires the spirits from a licensee under section 505.4.

18 (f) The board may promulgate rules and regulations as are
19 necessary to implement and enforce the provisions of this
20 section.

21 (g) The board shall submit annual reports to the
22 Appropriations Committee of the Senate, the Law and Justice
23 Committee of the Senate, the Appropriations Committee of the
24 House of Representatives and the Liquor Control Committee of the
25 House of Representatives summarizing the number of direct
26 spirits shipper licenses issued by the board and the quantity of
27 spirits sold by direct spirits shippers pursuant to this
28 section.

29 (h) A spirits excise tax is imposed and assessed at the rate
30 of four dollars and fifty cents (\$4.50) per gallon on all

1 spirits sold and delivered under this section. The tax shall be
2 collected by the direct spirits shipper from the purchaser and
3 shall be paid to the department. Unless otherwise specified, the
4 tax shall be assessed, collected and enforced by the department
5 in the same manner as the tax under Article II of the Tax Reform
6 Code of 1971.

7 (i) Delivery shall be by a licensed transporter for hire.

8 The licensed transporter for hire shall:

9 (1) keep records as required under section 512 pertaining to
10 the direct shipment of spirits; and

11 (2) permit the board and the enforcement bureau, or their
12 designated representatives, to inspect the records under section
13 513.

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