

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1549 Session of 2019

INTRODUCED BY MIHALEK, GABLER, MASSER, REESE, PICKETT, KAUFFMAN, DUNBAR, GROVE, RYAN, STAATS, WEBSTER, BERNSTINE, CONKLIN, OTTEN, STRUZZI, FEE, HEFFLEY, THOMAS AND KAIL, JUNE 3, 2019

AS REPORTED FROM COMMITTEE ON FINANCE, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 5, 2019

AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An
2 act relating to tax reform and State taxation by codifying
3 and enumerating certain subjects of taxation and imposing
4 taxes thereon; providing procedures for the payment,
5 collection, administration and enforcement thereof; providing
6 for tax credits in certain cases; conferring powers and
7 imposing duties upon the Department of Revenue, certain
8 employers, fiduciaries, individuals, persons, corporations
9 and other entities; prescribing crimes, offenses and
10 penalties," in sales and use tax, further providing for
11 definitions and for imposition of tax; AND, IN SPECIAL TAXING <--
12 AUTHORITY, FURTHER PROVIDING FOR SPECIAL TAXING AUTHORITY.

13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 Section 1. Section 201(g) of the act of March 4, 1971
16 (P.L.6, No.2), known as the Tax Reform Code of 1971, is amended
17 by adding a subclause and the section is amended by adding
18 clauses to read:

19 Section 201. Definitions.--* * *

20 (g) "Purchase price."

21 * * *

22 (9) The purchase price of "malt or brewed beverages" sold by

1 a "manufacturer of malt or brewed beverages" directly to the
2 ultimate consumer for consumption on premises shall be twenty-
3 five per cent of the retail SALES price of the product sold to <--
4 the ultimate consumer "MALT OR BREWED BEVERAGES" SOLD for <--
5 consumption on premises.

6 * * *

7 (eee) "Liquor." Liquor as that term is defined in the
8 "Liquor Code."

9 (fff) "Malt or brewed beverages." Malt or brewed beverages
10 as that term is defined in the "Liquor Code."

11 (ggg) "Manufacturer of malt or brewed beverages."
12 Manufacturer of malt or brewed beverages as that term is defined
13 in the "Liquor Code."

14 (hhh) "Retail dispenser." Retail dispenser as that term is
15 defined in the "Liquor Code."

16 (iii) "Retail liquor licensee." A retail liquor license for
17 any premises kept or operated by a hotel, restaurant or club
18 issued by the Pennsylvania Liquor Control Board.

19 Section 2. Section 202 of the act is amended by adding a
20 clause to read:

21 Section 202. Imposition of Tax.--* * *

22 (h) (1) Notwithstanding any other provision of this <--
23 article, ~~tax~~ THE TAX SHALL BE IMPOSED ON A MANUFACTURER OF MALT <--
24 OR BREWED BEVERAGES with respect to sales of malt or brewed
25 beverages sold by a manufacturer of malt or brewed beverages
26 directly to the ultimate consumer for consumption on premises
27 shall be imposed on the manufacturer at the time of the sale to <--
28 the ultimate consumer within this Commonwealth and shall be paid
29 and reported by the manufacturer to the department in the time
30 and manner provided in this article.

1 (2) THE TAX IMPOSED UNDER PARAGRAPH (1) SHALL BE PAID AND
2 REPORTED BY THE MANUFACTURER OF MALT OR BREWED BEVERAGES TO THE
3 DEPARTMENT IN THE TIME AND MANNER PROVIDED IN THIS ARTICLE.

4 (3) NOTWITHSTANDING ANY LAW TO THE CONTRARY, NOTHING IN THIS
5 CLAUSE SHALL PREVENT A LOCAL GOVERNMENT AUTHORIZED TO IMPOSE A
6 LOCAL ALCOHOLIC BEVERAGE TAX UNDER THE ACT OF JUNE 10, 1971
7 (P.L.153, NO.7), KNOWN AS THE FIRST CLASS SCHOOL DISTRICT LIQUOR
8 SALES TAX ACT OF 1971, OR 53 PA.C.S. § 8602 (RELATING TO LOCAL
9 FINANCIAL SUPPORT), FROM IMPOSING A LOCAL ALCOHOLIC BEVERAGE TAX
10 ON THE SALE AT RETAIL MADE BY A MANUFACTURER OF MALT OR BREWED
11 BEVERAGES TO THE ULTIMATE CONSUMER FOR CONSUMPTION ON PREMISES.

12 SECTION 3. SECTION 201-B(B), (C), (D) AND (E) (1) OF THE ACT
13 ARE AMENDED AND THE SECTION IS AMENDED BY ADDING A SUBSECTION TO
14 READ:

15 SECTION 201-B. SPECIAL TAXING AUTHORITY.

16 * * *

17 (A.1) ADDITIONAL TAX ON MALT OR BREWED BEVERAGES SOLD BY
18 MANUFACTURERS OF MALT OR BREWED BEVERAGES.--

19 (1) A CITY OF THE FIRST CLASS MAY ELECT TO IMPOSE A TAX
20 ON THE SALE AT RETAIL OF MALT OR BREWED BEVERAGES SOLD BY A
21 MANUFACTURER OF MALT OR BREWED BEVERAGES DIRECTLY TO THE
22 ULTIMATE CONSUMER FOR CONSUMPTION OFF PREMISES, AS THOSE
23 TERMS ARE DEFINED IN SECTION 201.

24 (2) THE TAX IMPOSED UNDER PARAGRAPH (1) SHALL BE IN
25 ADDITION TO THE TAXES AUTHORIZED UNDER SECTION 503(A) AND (B)
26 OF THE ACT OF JUNE 5, 1991 (P.L.9, NO.6), KNOWN AS THE
27 PENNSYLVANIA INTERGOVERNMENTAL COOPERATION AUTHORITY ACT FOR
28 CITIES OF THE FIRST CLASS, SECTION 202(A) AND (B) AND
29 SUBSECTION (A).

30 (3) A TAX IMPOSED UNDER PARAGRAPH (1) ON SALES OR USES

1 SHALL BE PAID TO AND RECEIVED BY THE DEPARTMENT OF REVENUE
2 AND, ALONG WITH INTEREST AND PENALTIES, LESS ANY REFUNDS AND
3 CREDITS PAID, SHALL BE CREDITED TO THE LOCAL SALES AND USE
4 TAX FUND CREATED UNDER THE PENNSYLVANIA INTERGOVERNMENTAL
5 COOPERATION AUTHORITY ACT FOR CITIES OF THE FIRST CLASS.
6 MONEY IN THE FUND SHALL BE DISBURSED AS PROVIDED IN SECTION
7 509 OF THE PENNSYLVANIA INTERGOVERNMENTAL COOPERATION
8 AUTHORITY ACT FOR CITIES OF THE FIRST CLASS.

9 (B) RATE.--

10 (1) THE TAX AUTHORIZED UNDER SUBSECTION (A) SHALL BE
11 IMPOSED AND COLLECTED AT THE RATE OF 1% AND SHALL BE COMPUTED
12 AS SET FORTH IN SECTION 503(E) (2) OF THE PENNSYLVANIA
13 INTERGOVERNMENTAL COOPERATION AUTHORITY ACT FOR CITIES OF THE
14 FIRST CLASS.

15 (2) THE TAX AUTHORIZED UNDER SUBSECTION (A.1) SHALL BE
16 IMPOSED AND COLLECTED AT A RATE OF 2%.

17 (C) COLLECTION.--THE TAX AUTHORIZED UNDER [SUBSECTION (A)]
18 SUBSECTIONS (A) AND (A.1) SHALL BE ADMINISTERED, COLLECTED,
19 DEPOSITED AND DISBURSED IN THE SAME MANNER AS THE TAX IMPOSED
20 UNDER CHAPTER 5 OF THE PENNSYLVANIA INTERGOVERNMENTAL
21 COOPERATION AUTHORITY ACT FOR CITIES OF THE FIRST CLASS, AND THE
22 SITUS OF THE TAX SHALL BE DETERMINED IN ACCORDANCE WITH THE
23 PENNSYLVANIA INTERGOVERNMENTAL COOPERATION AUTHORITY ACT FOR
24 CITIES OF THE FIRST CLASS AND ARTICLE II-A. THE DEPARTMENT OF
25 REVENUE SHALL USE THE MONEY RECEIVED FROM THE TAX AUTHORIZED
26 UNDER CHAPTER 5 OF THE PENNSYLVANIA INTERGOVERNMENTAL
27 COOPERATION AUTHORITY ACT FOR CITIES OF THE FIRST CLASS TO COVER
28 COSTS FOR THE ADMINISTRATION OF THE TAX AUTHORIZED UNDER
29 [SUBSECTION (A)] SUBSECTIONS (A) AND (A.1). THE DEPARTMENT OF
30 REVENUE SHALL NOT RETAIN ANY ADDITIONAL AMOUNTS FOR THE COST OF

1 COLLECTING THE TAX AUTHORIZED UNDER [SUBSECTION (A)] SUBSECTIONS
2 (A) AND (A.1). NO ADDITIONAL FEE SHALL BE CHARGED FOR A LICENSE
3 OR LICENSE RENEWAL OTHER THAN THE LICENSE OR RENEWAL FEE
4 AUTHORIZED AND IMPOSED UNDER ARTICLE II.

5 (D) MUNICIPAL ACTION.--IN ORDER TO IMPOSE THE TAX UNDER
6 SUBSECTIONS (A) AND (A.1), THE GOVERNING BODY OF THE CITY SHALL
7 ADOPT AN ORDINANCE STATING THE TAX RATE. THE ORDINANCE MAY BE
8 ADOPTED PRIOR TO THE EFFECTIVE DATE OF THIS SUBSECTION. THE
9 ORDINANCE SHALL TAKE EFFECT NO EARLIER THAN 20 DAYS AFTER THE
10 ADOPTION OF THE ORDINANCE OR 20 DAYS AFTER THE EFFECTIVE DATE OF
11 THIS SECTION, WHICHEVER IS LATER. A CERTIFIED COPY OF THE CITY
12 ORDINANCE SHALL BE DELIVERED TO THE DEPARTMENT OF REVENUE WITHIN
13 TEN DAYS PRIOR TO OR AFTER THE EFFECTIVE DATE OF THE ORDINANCE.
14 A CERTIFIED COPY OF AN ORDINANCE TO REPEAL THE TAX AUTHORIZED
15 UNDER [SUBSECTION (A)] SUBSECTIONS (A) AND (A.1) SHALL BE
16 DELIVERED TO THE DEPARTMENT OF REVENUE AT LEAST 30 DAYS PRIOR TO
17 THE EFFECTIVE DATE OF REPEAL.

18 (E) USE OF TAX RECEIPTS.--

19 (1) MONEY RECEIVED BY THE CITY FROM THE LEVY, ASSESSMENT
20 AND COLLECTION OF THE TAX AUTHORIZED UNDER [SUBSECTION (A)]
21 SUBSECTIONS (A) AND (A.1) MAY ONLY BE PAID TO A SCHOOL
22 DISTRICT OF THE FIRST CLASS IN AN AMOUNT OF UP TO
23 \$120,000,000 IF THE SECRETARY OF EDUCATION HAS MADE A
24 DETERMINATION, IN THE FORM OF AN ANNUAL CERTIFICATION
25 PUBLISHED IN THE PENNSYLVANIA BULLETIN, THAT THE SCHOOL
26 DISTRICT OF THE FIRST CLASS HAS, IN THE JUDGMENT OF THE
27 SECRETARY OF EDUCATION, BEGAN IMPLEMENTATION OF REFORMS THAT
28 PROVIDE FOR FISCAL STABILITY, EDUCATIONAL IMPROVEMENT AND
29 OPERATIONAL CONTROL.

30 * * *

1 Section 3 4. This act shall take effect in 60 days.

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