

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 AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, JUNE 11, 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 "malt or brewed
4 beverages" sold for consumption on premises.

5 * * *

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

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

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

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

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

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

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

21 (h) (1) Notwithstanding any other provision of this
22 article, THE ACT OF JULY 28, 1953 (P.L.723, NO.230), KNOWN AS <--
23 THE SECOND CLASS COUNTY CODE, OR CHAPTER 6 OF THE ACT OF JUNE 5,
24 1991 (P.L.9, NO.6), KNOWN AS THE PENNSYLVANIA INTERGOVERNMENTAL
25 COOPERATION AUTHORITY ACT FOR CITIES OF THE FIRST CLASS, the tax
26 shall be imposed on a manufacturer of malt or brewed beverages
27 with respect to sales of malt or brewed beverages sold by a
28 manufacturer of malt or brewed beverages directly to the
29 ultimate consumer for consumption on premises.

30 (2) The tax imposed under paragraph (1) shall be paid and

1 reported by the manufacturer of malt or brewed beverages to the
2 department in the time and manner provided in this article.

3 (3) Notwithstanding any law to the contrary, nothing in this
4 clause shall prevent a local government authorized to impose a
5 local alcoholic beverage tax under the act of June 10, 1971
6 (P.L.153, No.7), known as the First Class School District Liquor
7 Sales Tax Act of 1971, or 53 Pa.C.S. § 8602 (relating to local
8 financial support), from imposing a local alcoholic beverage tax
9 on the sale at retail made by a manufacturer of malt or brewed
10 beverages to the ultimate consumer for consumption on premises.

11 Section 3. Section 201-B(b), (c), (d) and (e) (1) of the act
12 are amended and the section is amended by adding a subsection to
13 read:

14 Section 201-B. Special taxing authority.

15 * * *

16 (a.1) Additional tax on malt or brewed beverages sold by
17 manufacturers of malt or brewed beverages.--

18 (1) A city of the first class may elect to impose a tax
19 on the sale at retail of malt or brewed beverages sold by a
20 manufacturer of malt or brewed beverages directly to the
21 ultimate consumer for consumption off premises, as those
22 terms are defined in section 201.

23 (2) The tax imposed under paragraph (1) shall be in
24 addition to the taxes authorized under section 503(a) and (b)
25 of the act of June 5, 1991 (P.L.9, No.6), known as the
26 Pennsylvania Intergovernmental Cooperation Authority Act for
27 Cities of the First Class, section 202(a) and (b) and
28 subsection (a).

29 (3) A tax imposed under paragraph (1) on sales or uses
30 shall be paid to and received by the Department of Revenue

1 and, along with interest and penalties, less any refunds and
2 credits paid, shall be credited to the Local Sales and Use
3 Tax Fund created under the Pennsylvania Intergovernmental
4 Cooperation Authority Act for Cities of the First Class.
5 Money in the fund shall be disbursed as provided in section
6 509 of the Pennsylvania Intergovernmental Cooperation
7 Authority Act for Cities of the First Class.

8 (4) THE PAYMENT OF THE TAX IMPOSED UNDER PARAGRAPH (1) <--
9 SHALL ELIMINATE THE NEED FOR THE ULTIMATE CONSUMER TO REMIT A
10 SALES OR USE TAX ON THE RELATED TRANSACTION OR UPON THE
11 SUBSEQUENT USE OF THE MALT OR BREWED BEVERAGES.

12 (b) Rate.--

13 (1) The tax authorized under subsection (a) shall be
14 imposed and collected at the rate of 1% and shall be computed
15 as set forth in section 503(e) (2) of the Pennsylvania
16 Intergovernmental Cooperation Authority Act for Cities of the
17 First Class.

18 (2) The tax authorized under subsection (a.1) shall be
19 imposed and collected at a rate of 2%.

20 (c) Collection.--The tax authorized under [subsection (a)]
21 subsections (a) and (a.1) shall be administered, collected,
22 deposited and disbursed in the same manner as the tax imposed
23 under Chapter 5 of the Pennsylvania Intergovernmental
24 Cooperation Authority Act for Cities of the First Class, and the
25 situs of the tax shall be determined in accordance with the
26 Pennsylvania Intergovernmental Cooperation Authority Act for
27 Cities of the First Class and Article II-A. The Department of
28 Revenue shall use the money received from the tax authorized
29 under Chapter 5 of the Pennsylvania Intergovernmental
30 Cooperation Authority Act for Cities of the First Class to cover

1 costs for the administration of the tax authorized under
2 [subsection (a)] subsections (a) and (a.1). The Department of
3 Revenue shall not retain any additional amounts for the cost of
4 collecting the tax authorized under [subsection (a)] subsections
5 (a) and (a.1). No additional fee shall be charged for a license
6 or license renewal other than the license or renewal fee
7 authorized and imposed under Article II.

8 (d) Municipal action.--In order to impose the tax under
9 subsections (a) and (a.1), the governing body of the city shall
10 adopt an ordinance stating the tax rate. The ordinance may be
11 adopted prior to the effective date of this subsection. The
12 ordinance shall take effect no earlier than 20 days after the
13 adoption of the ordinance or 20 days after the effective date of
14 this section, whichever is later. A certified copy of the city
15 ordinance shall be delivered to the Department of Revenue within
16 ten days prior to or after the effective date of the ordinance.
17 A certified copy of an ordinance to repeal the tax authorized
18 under [subsection (a)] subsections (a) and (a.1) shall be
19 delivered to the Department of Revenue at least 30 days prior to
20 the effective date of repeal.

21 (e) Use of tax receipts.--

22 (1) Money received by the city from the levy, assessment
23 and collection of the tax authorized under [subsection (a)]
24 subsections (a) and (a.1) may only be paid to a school
25 district of the first class in an amount of up to
26 \$120,000,000 if the Secretary of Education has made a
27 determination, in the form of an annual certification
28 published in the Pennsylvania Bulletin, that the school
29 district of the first class has, in the judgment of the
30 Secretary of Education, began implementation of reforms that

1 provide for fiscal stability, educational improvement and
2 operational control.

3 * * *

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