

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 728 Session of 2019

INTRODUCED BY KEARNEY, SANTARSIERO, FARNESE, KILLION, BREWSTER AND MENSCH, JUNE 7, 2019

REFERRED TO LAW AND JUSTICE, JUNE 7, 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 relating to liquor, alcohol and malt
 18 and brewed beverages, providing for deed restrictions.

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

21 Section 1. The act of April 12, 1951 (P.L.90, No.21), known
 22 as the Liquor Code, is amended by adding a section to read:

23 Section 472.6. Deed Restrictions.--(a) The General Assembly
 24 finds and declares as follows:

25 (1) The 21st Amendment to the Constitution of the United
 26 States was passed by Congress on February 20, 1933, and ratified

1 on December 5, 1933. The Supreme Court, in *Granholm v. Heald*,
2 544 U.S. 460, 484 (2005), stated "The aim of the Twenty-first
3 Amendment was to allow States to maintain an effective and
4 uniform system for controlling liquor by regulating its
5 transportation, importation, and use."

6 (2) It is the public policy of this Commonwealth to exercise
7 its police powers for the protection of the public welfare,
8 health, peace and morals of the people of the Commonwealth as
9 more fully set forth in section 104.

10 (3) The purpose of a referendum held under section 472 is to
11 determine the will of the electors with respect to the granting
12 of various licenses or permits or to the establishment,
13 operation and maintenance of a liquor store.

14 (4) Many alcohol-related deed restrictions were added to
15 deeds prior to the enactment of this act and regulations
16 promulgated under this act.

17 (5) The provisions of this section relating to deed
18 restrictions are intended to give effect to a referendum that
19 passes by a majority vote under section 472 despite one or more
20 properties having an alcohol-related deed restriction that
21 pertains to the referendum question. The majority vote indicates
22 the will of the electors and changed circumstances within the
23 municipality where the referendum was held.

24 (6) This section is not intended to remove an alcohol-
25 related deed restriction from the property of an owner who does
26 not wish to have the restriction removed from his or her deed.

27 (b) A person may not enforce an alcohol-related deed
28 restriction on a property located within a municipality if all
29 of the following apply:

30 (1) A referendum held under section 472 within the

1 municipality received a majority of "yes" votes.

2 (2) The alcohol-related deed restriction's initial recording
3 in the chain of title was prior to the year 1933.

4 (3) A portion of an alcohol-related deed restriction
5 prohibits the activities authorized as a result of the
6 referendum.

7 (c) An owner whose real property has a recorded alcohol-
8 related deed restriction that pertains to the referendum
9 question under section 472 need not execute an agreement for
10 release of the alcohol-related deed restriction and may retain
11 the alcohol-related deed restriction on the owner's property.
12 The retention shall only apply to that owner's property and
13 shall not impart or retain the owner's ability to enforce the
14 alcohol-related deed restriction on any other property within
15 the municipality or part of the municipality where the
16 referendum was held.

17 (d) An alcohol-related deed restriction that is
18 unenforceable under subsection (b) may not become enforceable as
19 a result of an subsequent referendum.

20 (e) As used in this section, the following words and phrases
21 shall have the meanings given to them in this subsection unless
22 the context clearly indicates otherwise:

23 "Alcohol-related deed restriction" shall mean a provision or
24 clause within a deed restriction that specifically restricts,
25 regulates or prohibits manufacturing, purchasing, selling,
26 dispensing, possessing, consuming, importing, transporting or
27 furnishing of alcoholic liquors, alcohol or malt and brewed
28 beverages. A deed restriction that generally precludes
29 commercial activity without reference to alcoholic liquors,
30 alcohol or malt or brewed beverages shall not be an alcohol-

1 related deed restriction.

2 Section 2. This act shall take effect in 60 days.