

---

THE GENERAL ASSEMBLY OF PENNSYLVANIA

---

SENATE BILL

No. 1346 Session of  
2020

---

INTRODUCED BY KILLION, MENSCH, PITTMAN AND YUDICHAK,  
OCTOBER 5, 2020

---

REFERRED TO LAW AND JUSTICE, OCTOBER 5, 2020

---

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 distilleries, wineries, bonded warehouses, bailees for hire  
18 and transporters for hire, providing for limited distributor  
19 license.

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

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

24 Section 505.5. Limited Distributor License.--(a) Holders of  
25 a limited distributor license may:

26 (1) Distribute and deliver special-order products directly

1 to licensees of all types and, subject to the annual shipment  
2 limitations specified under section 488(b), to consumers in  
3 this Commonwealth.

4 (2) Determine the sales price of special-order products  
5 offered for sale to licensees and consumers, which price shall  
6 not be subject to the mark-up under section 305(a) or the  
7 logistic, transportation and merchandising handling fee imposed  
8 by the board.

9 (3) Establish minimum order quantities for direct delivery  
10 and assess shipping and handling fees for third-party shipments.

11 (b) In order to be eligible for a limited distributor  
12 license, the applicant must have total annual revenue of less  
13 than twenty million dollars (\$20,000,000) derived from sales  
14 within this Commonwealth.

15 (c) Prior to issuing a limited distributor license, the  
16 board shall require an applicant to:

17 (1) File an application with the board.

18 (2) Pay a registration fee of seven hundred dollars (\$700),  
19 pro-rated quarterly based on the application filing date.

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

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

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

27 (d) The holder of a limited distributor license shall do all  
28 of the following:

29 (1) Report to the board each year the total of special-order  
30 products shipped to customers in the preceding calendar year.

1 (2) Permit the board, the enforcement bureau or the  
2 Secretary of Revenue, or their designated representatives, to  
3 perform an audit of the holder's records upon request.

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

8 (4) Allow customers to place orders for special-order  
9 products by mail, telephone or on the Internet.

10 (5) Require proof of age of the recipient, in a manner or  
11 format approved by the board, before a special-order product is  
12 shipped to a customer.

13 (6) Ensure that all boxes or exterior containers of special-  
14 order products shipped directly to a customer are conspicuously  
15 labeled with the words "CONTAINS ALCOHOL: SIGNATURE OF PERSON 21  
16 YEARS OF AGE OR OLDER REQUIRED FOR DELIVERY."

17 (7) Ensure that the delivery of special-order products  
18 ordered through the limited distributor occurs by vehicle  
19 registered in accordance with regulations of the board or  
20 through licensed transporters.

21 (8) Pay to the Department of Revenue all taxes due on sales  
22 to customers. The amount of the taxes shall be calculated as if  
23 the sales were in this Commonwealth at the locations where  
24 delivery was made. The special-order products delivered under  
25 this section shall be subject to only the following:

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

29 (ii) The sales and use tax imposed by Article XXXI-B of the  
30 act of July 28, 1953 (P.L.723, No.230), known as the "Second

1 Class County Code."

2 (iii) The sales and use tax imposed by the act of June 5,  
3 1991 (P.L.9, No.6), known as the "Pennsylvania Intergovernmental  
4 Cooperation Authority Act for Cities of the First Class."

5 (iv) The wine excise tax imposed under section 488(j).

6 (9) Annually renew its license by paying a renewal fee of  
7 three hundred eighty-five dollars (\$385).

8 (e) Any person who resells a special-order product obtained  
9 under this section commits a misdemeanor of the second degree. A  
10 person convicted of selling or offering to sell any special-  
11 order product in violation of this section shall, in addition to  
12 any other penalty prescribed by law, be sentenced to pay a fine  
13 of four dollars (\$4) per fluid ounce for each container of a  
14 special-order product found on the premises where the sale was  
15 made or attempted. The amount of fine per container shall be  
16 based on the capacity of the container when full, whether or not  
17 it is full at the time of sale or attempted sale. All special-  
18 order products found on the premises shall be confiscated. The  
19 prohibition on reselling special-order products shall not apply  
20 to any entity who is licensed to resell special-order products  
21 and who acquires the special-order product from a limited  
22 distributor licensed under section 505.2.

23 (f) The wine excise tax specified under section 488(j) is  
24 imposed and assessed on all special-order products sold and  
25 delivered under this section. The tax shall be collected by the  
26 limited distributor from the purchaser and shall be paid to the  
27 department as provided under this section. Unless otherwise  
28 specified, the tax shall be assessed, collected and enforced by  
29 the department in the same manner as the tax under Article II of  
30 the Tax Reform Code of 1971.

1 (g) Receipts from the tax under subsection (f) shall be  
2 deposited into the General Fund.

3 (h) The board may promulgate such rules and regulations as  
4 are necessary to implement and enforce the provisions of this  
5 section.

6 (i) As used in this section:

7 "Consumer" shall mean an individual who is a resident of this  
8 Commonwealth, is at least twenty-one (21) years of age and  
9 purchases wine for the resident's personal use and not for  
10 resale.

11 "Special-order product" shall mean wine or spirits not  
12 maintained in inventory by the board but that can be sourced  
13 through a coordinated process with suppliers and shipped to  
14 board store locations for pickup by the licensee or consumers,  
15 or they may be delivered or shipped directly to licensees and  
16 consumers. Minimum orders for direct delivery may be established  
17 by suppliers and appropriate shipping and handling fees may also  
18 be assessed for excess shipping or delivery costs.

19 Section 2. This act shall take effect immediately.