

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1615 Session of 2021

INTRODUCED BY TOPPER, JUNE 11, 2021

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, OCTOBER 25, 2021

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, further providing for breweries and for <--
19 unlawful acts relative to malt or brewed beverages and
20 licensees.

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

23 ~~Section 1. Sections 446(a)(1), (2) and (3) and 492(22) of~~ <--
24 ~~the act of April 12, 1951 (P.L.90, No.21), known as the Liquor~~
25 ~~Code, are amended to read:~~

26 SECTION 1. SECTION 446(A)(1), (2) AND (3) OF THE ACT OF <--
27 APRIL 12, 1951 (P.L.90, NO.21), KNOWN AS THE LIQUOR CODE, ARE

1 AMENDED AND SUBSECTION (A) IS AMENDED BY ADDING A PARAGRAPH TO
2 READ:

3 Section 446. Breweries.--(a) Holders of a brewery license
4 may:

5 (1) Sell malt or brewed beverages [produced at the location
6 and owned by the brewery] as provided in this section under such
7 conditions and regulations as the board may enforce[, to
8 individuals for consumption on the licensed premises in any
9 container or package of any volume and to hotel, restaurant,
10 club and public service liquor licensees]. Malt] THE FOLLOWING <--

11 SHALL APPLY:

12 (I) MALT or brewed beverages produced [for the holder of a
13 brewery license under a contract brewing agreement with an out-
14 of-State manufacturer may be sold to a nonlicensee for on-
15 premises or off-premises consumption, except that sales to a
16 licensee must be distributed as provided under section 431(b).]
17 by a brewery at the brewery location or under a contract brewing
18 agreement OR ALTERNATING PROPRIETORSHIP with an in-State <--
19 manufacturer may be sold by the brewery to nonlicensees for on- <--
20 premise ON-PREMISES or off-premise OFF-PREMISES consumption and <--
21 to licensees who are authorized to resell malt or brewed
22 beverages. Sales to licensees under this paragraph shall comply
23 with the provisions of this act. Malt or brewed beverages
24 produced for the brewery under a contract brewing agreement OR <--
25 ALTERNATING PROPRIETORSHIP with an out-of-State manufacturer may
26 only be distributed as provided under paragraph (3).

27 (II) A BREWERY LOCATED IN A SECOND-CLASS CITY WITH RETAIL <--
28 SALES PRIOR TO JUNE 1, 2017, MAY SELL MALT OR BREWED BEVERAGES
29 PRODUCED UNDER A CONTRACT BREWING AGREEMENT WITH AN IN-STATE OR
30 OUT-OF-STATE MANUFACTURER TO NONLICENSEES FOR ON-PREMISES OR

1 OFF-PREMISES CONSUMPTION. IF THE BREWERY USES STORAGE LOCATIONS
2 GRANTED TO THE BREWERY UNDER SECTION 431(A.2) FOR DISTRIBUTION
3 OR RETAIL SALES, THE BREWERY MAY ONLY SELL MALT OR BREWED
4 BEVERAGES AS PROVIDED UNDER PARAGRAPH (3).

5 (2) Operate a restaurant or brewery pub on the licensed
6 premises under such conditions and regulations as the board may
7 enforce: Provided, however, That sales on Sunday may be made
8 irrespective of the volume of food sales if the licensed
9 premises are at a public venue location. [The] In addition to
10 the sales authorized under paragraph (1), the holder of a
11 brewery license may sell wines, alcoholic cider and fermented
12 fruit beverages produced by the holder of a limited winery
13 license, malt or brewed beverages produced by a manufacturer
14 licensed by the board and liquor produced by a limited
15 distillery or distillery licensed by the board: Provided,
16 however, That said wines, malt or brewed beverages produced by
17 another manufacturer and liquor must be consumed at the licensed
18 premises. In addition, the combined sales of wine, malt or
19 brewed beverages produced by another manufacturer and liquor may
20 not, on a yearly basis, exceed fifty per centum (50%) of the on-
21 premises sales of the brewery's own malt or brewed beverages for
22 the preceding calendar year: however, if a brewery did not
23 operate for an entire calendar year during the preceding year,
24 then its combined sales of wine, malt or brewed beverages
25 produced by another manufacturer and liquor may not, on a yearly
26 basis, exceed fifty per centum (50%) of the on-premises sales of
27 the brewery's own malt or brewed beverages for that year.

28 (3) Use brewery storage and distribution facilities for the
29 purpose of receiving, storing and distributing malt or brewed
30 beverages manufactured outside this Commonwealth [if], including

1 malt or brewed beverages produced for the brewery under a
2 contract brewing agreement OR ALTERNATING PROPRIETORSHIP with an <--
3 out-of-State manufacturer, so long as the beverages are
4 distributed in this Commonwealth only through specific importing
5 distributors who shall have first been given distributing rights
6 for such products in designated geographical areas through the
7 distribution system required for out-of-State manufacturers
8 under section **[431(b)]** 431 as well as all other pertinent <--
9 sections of this act. The manufacturer of the beverages must
10 comply with section 444.

11 * * *

12 ~~Section 492. Unlawful Acts Relative to Malt or Brewed~~ <--
13 ~~Beverages and Licensees.~~

14 ~~It shall be unlawful~~

15 ~~* * *~~

16 ~~(22) Selling or Distributing of Malt or Brewed Beverages.~~
17 ~~For the holder of a brewery license to sell or distribute malt~~
18 ~~or brewed beverages except as provided under [section 446(a)(1)]~~
19 ~~sections 431(b) and 446(a).~~

20 (5) NOTHING IN PARAGRAPHS (2) AND (3) SHALL BE CONSTRUED TO <--
21 IMPACT THE STATUS OF EXISTING OR FUTURE DISTRIBUTION CONTRACTS
22 OR RIGHTS UNDER THIS ACT.

23 * * *

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