

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 189 Session of 2015

INTRODUCED BY SONNEY, BARRAR, D. COSTA, ELLIS, GRELL, A. HARRIS, JAMES, KILLION, KNOWLES, MACKENZIE, MARSICO, MILLARD, O'BRIEN, O'NEILL, SAINATO, SAYLOR AND DeLUCA, JANUARY 23, 2015

REFERRED TO COMMITTEE ON LIQUOR CONTROL, JANUARY 23, 2015

AN ACT

1 Amending the act of April 12, 1951 (P.L.90, No.21), entitled, as
 2 reenacted, "An act relating to alcoholic liquors, alcohol and
 3 malt and brewed beverages; amending, revising, consolidating
 4 and 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 preliminary provisions, further providing for definitions, in
 18 Pennsylvania Liquor Control Board, further providing for
 19 general powers of the Pennsylvania Liquor Control Board, in
 20 Pennsylvania liquor stores, further providing for sales by
 21 Pennsylvania liquor stores, in licenses and regulations,
 22 further providing for shipment of wine into Commonwealth and,
 23 in distilleries, wineries, warehouses, bailees and
 24 transporters, further providing for limited wineries.

25 The General Assembly of the Commonwealth of Pennsylvania
 26 hereby enacts as follows:

27 Section 1. The definition of "eligible entity" in section
 28 102 of the act of April 12, 1951 (P.L.90, No.21), known as the

1 Liquor Code, reenacted and amended June 29, 1987 (P.L.32, No.14)
2 and amended July 5, 2012 (P.L.1007, No.116), is amended to read:

3 Section 102. Definitions.--The following words or phrases,
4 unless the context clearly indicates otherwise, shall have the
5 meanings ascribed to them in this section:

6 * * *

7 "Eligible entity" shall mean a city of the third class, a
8 hospital, a church, a synagogue, a volunteer fire company, a
9 volunteer ambulance company, a volunteer rescue squad, a unit of
10 a nationally chartered club which has been issued a club liquor
11 license, a club which has been issued a club liquor license and
12 which, as of December 31, 2002, has been in existence for at
13 least 100 years, a library, a nationally accredited Pennsylvania
14 nonprofit zoological institution licensed by the United States
15 Department of Agriculture, a nonprofit agricultural association
16 in existence for at least ten years, a bona fide sportsmen's
17 club in existence for at least ten years, a nationally chartered
18 veterans' organization and any affiliated lodge or subdivision
19 of such organization, a fraternal benefit society that is
20 licensed to do business in this Commonwealth and any affiliated
21 lodge or subdivision of such fraternal benefit society, a museum
22 operated by a nonprofit corporation, a nonprofit corporation
23 engaged in the performing arts, an arts council, a nonprofit
24 corporation that operates an arts facility or museum, a
25 nonprofit organization as defined under section 501(c)(3) of the
26 Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. §
27 501(c)(3)) whose purpose is to protect the architectural
28 heritage of boroughs or a township of the second class and which
29 has been recognized as such by a municipal resolution, a
30 nonprofit organization as defined under section 501(c)(3) of the

1 Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. §
2 501(c)(3)) conducting a regatta in a city of the second class
3 with the permit to be used on State park grounds or conducting a
4 family-oriented celebration as part of Welcome America in a city
5 of the first class on property leased from that city for more
6 than fifty years, a nonprofit organization as defined under
7 section 501(c)(3) of the Internal Revenue Code of 1986 (26
8 U.S.C. § 501(c)(3)) whose purpose is to raise funds for the
9 research and treatment of cystic fibrosis, a nonprofit
10 organization as defined under section 501(c)(3) of the Internal
11 Revenue Code of 1986 (26 U.S.C. § 501(c)(3)) whose purpose is to
12 educate the public on issues dealing with watershed
13 conservation, a nonprofit organization as defined under section
14 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-
15 514, 26 U.S.C. § 501(c)(3)) whose purpose is to provide equine
16 assisted activities for children and adults with special needs,
17 a nonprofit economic development agency in a city of the second
18 class with the primary function to serve as an economic
19 generator for the greater southwestern Pennsylvania region by
20 attracting and supporting film, television and related media
21 industry projects and coordinating government and business
22 offices in support of a production, a county tourist promotion
23 agency as defined in section 3(1) of the act of April 28, 1961
24 (P.L.111, No.50), known as the "Tourist Promotion Law," a junior
25 league that is a nonprofit organization as defined under section
26 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. §
27 501(c)(3)) that is comprised of women whose purpose is
28 exclusively educational and charitable in promoting the
29 volunteerism of women and developing and participating in
30 community projects and that has been in existence for over

1 seventy years, a nonprofit organization as defined under section
2 501(c)(3) of the Internal Revenue Code of 1986 and whose purpose
3 is the education and promotion of American history, a nonprofit
4 organization as defined under section 501(c)(6) of the Internal
5 Revenue Code of 1986 whose purpose is to support business and
6 industry, a brewery which has been issued a license to
7 manufacture malt or brewed beverages and has been in existence
8 for at least 100 years or a club recognized by Rotary
9 International and whose purpose is to provide service to others,
10 to promote high ethical standards and to advance world
11 understanding, goodwill and peace through its fellowship of
12 business, professional and community leaders or a nonprofit
13 organization as defined under section 501(c)(3) of the Internal
14 Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3))
15 whose purpose is to promote mushrooms while supporting local and
16 regional charities, a museum operated by a not-for-profit
17 corporation in a city of the second class A, a nonprofit
18 organization as defined under section 501(c)(3) of the Internal
19 Revenue Code of 1986 which is located in a city of the second
20 class A and has as its purpose economic and community
21 development, a nonprofit organization as defined under section
22 501(c)(3) or (6) of the Internal Revenue Code of 1986 that is
23 located in a city of the third class in a county of the fifth
24 class, a nonprofit social service organization defined under
25 section 501(c)(3) of the Internal Revenue Code of 1986 located
26 in a county of the third class whose purpose is to serve
27 individuals and families in that county of the third class, a
28 nonprofit organization as defined under section 501(c)(3) of the
29 Internal Revenue Code of 1986 whose main purpose is to
30 temporarily foster stray and unwanted animals and match them to

1 suitable permanent homes or a nonprofit organization as defined
2 under section 501(c)(3) of the Internal Revenue Code of 1986 who
3 operates either a Main Street Program or Elm Street Program
4 recognized by the Commonwealth, the National Trust for Historic
5 Preservation or both, a nonprofit radio station that is a member
6 of the National Public Radio network, a nonprofit public
7 television station that is a member of the Pennsylvania Public
8 Television Network or a nonprofit organization as defined under
9 section 501(c)(3) of the Internal Revenue Code of 1986 whose
10 purpose is to promote awareness, education and research and to
11 provide a support system for patients with neutropenia and their
12 families through a national resource network or a nonprofit
13 organization as defined under section 501(c)(3) of the Internal
14 Revenue Code of 1986 whose purpose is to allocate funds for
15 research to expedite a cure for achromatopsia.

16 * * *

17 Section 2. Section 207(b) of the act is amended to read:

18 Section 207. General Powers of Board.--Under this act, the
19 board shall have the power and its duty shall be:

20 * * *

21 (b) To control the manufacture, possession, sale,
22 consumption, importation, use, storage, transportation and
23 delivery of liquor, alcohol and malt or brewed beverages in
24 accordance with the provisions of this act, and to fix the
25 wholesale and retail prices at which liquors and alcohol shall
26 be sold at Pennsylvania Liquor Stores. Prices shall be
27 proportional with prices paid by the board to its suppliers and
28 shall reflect any advantage obtained through volume purchases by
29 the board. This proportional pricing provision shall not apply
30 to special liquor orders authorized under section 305(a) of this

1 act. The board may establish a preferential price structure for
2 wines produced within this Commonwealth for the promotion of
3 such wines, as long as the price structure is uniform within
4 each class of wine purchased by the board. The board shall
5 require each Pennsylvania manufacturer and each nonresident
6 manufacturer of liquors, other than wine, selling such liquors
7 to the board, which are not manufactured in this Commonwealth,
8 to make application for and be granted a permit by the board
9 before such liquors not manufactured in this Commonwealth shall
10 be purchased from such manufacturer. Each such manufacturer
11 shall pay for such permit a fee which, in the case of a
12 manufacturer of this Commonwealth, shall be equal to that
13 required to be paid, if any, by a manufacturer or wholesaler of
14 the state, territory or country of origin of the liquors, for
15 selling liquors manufactured in Pennsylvania, and in the case of
16 a nonresident manufacturer, shall be equal to that required to
17 be paid, if any, in such state, territory or country by
18 Pennsylvania manufacturers doing business in such state,
19 territory or country. In the event that any such manufacturer
20 shall, in the opinion of the board, sell or attempt to sell
21 liquors to the board through another person for the purpose of
22 evading this provision relating to permits, the board shall
23 require such person, before purchasing liquors from him or it,
24 to take out a permit and pay the same fee as hereinbefore
25 required to be paid by such manufacturer. All permit fees so
26 collected shall be paid into the State Stores Fund. The board
27 shall not purchase any alcohol or liquor fermented, distilled,
28 rectified, compounded or bottled in any state, territory or
29 country, the laws of which result in prohibiting the importation
30 therein of alcohol or liquor, fermented, distilled, rectified,

1 compounded or bottled in Pennsylvania.

2 * * *

3 Section 3. Section 305(a) of the act, amended May 8, 2003
4 (P.L.1, No.1), is amended to read:

5 Section 305. Sales by Pennsylvania Liquor Stores.--(a) The
6 board shall in its discretion determine where and what classes,
7 varieties and brands of liquor and alcohol it shall make
8 available to the public and where such liquor and alcohol will
9 be sold. Every Pennsylvania Liquor Store shall be authorized to
10 sell combination packages. If a person desires to purchase a
11 class, variety or brand of liquor or alcohol not currently
12 available from the board, he or she may place a special order
13 for such item so long as the order is for two or more bottles.
14 The board may require a reasonable deposit from the purchaser as
15 a condition for accepting the order. The customer shall be
16 notified immediately upon the arrival of the goods.

17 In computing the retail price of such special orders for
18 liquor or alcohol, the board shall not include the cost of
19 freight or shipping before applying [the] a mark-up that shall
20 not exceed ten per centum of the cost of the product and taxes
21 but shall add the freight or shipping charges to the price after
22 the mark-up and taxes have been applied.

23 Unless the customer pays for and accepts delivery of any such
24 special order within ten days after notice of arrival, the store
25 may place it in stock for general sale and the customer's
26 deposit shall be forfeited.

27 * * *

28 Section 4. Section 488 of the act, added February 21, 2002
29 (P.L.103, No.10), is amended to read:

30 Section 488. Shipment of Wine [into Commonwealth].--(a) The

1 shipment of wine [from out-of-State] to residents of this
2 Commonwealth [is prohibited, except as otherwise provided for
3 in] shall be governed by this section.

4 (b) Notwithstanding any other provision of this act or law
5 to the contrary, a person licensed by the board or another state
6 as a producer[, supplier, importer, wholesaler, distributor or
7 retailer] of wine and who obtains a direct wine shipper license
8 as provided for in this section may ship [up to nine liters per
9 month of] any wine [not included on the list provided for in
10 subsection (c)] on the [Internet] order of any resident of this
11 Commonwealth who is at least twenty-one (21) years of age for
12 such resident's personal use and not for resale.

13 (c) [Each month, the board shall publish on the Internet a
14 list of all classes, varieties and brands of wine available for
15 sale in the Pennsylvania Liquor Stores. A person holding a
16 direct shipper license may ship only those classes, varieties
17 and brands of wine not included on the list at the time an
18 Internet order is placed.] Prior to issuing a direct wine
19 shipper license, the board shall require the person seeking the
20 license to:

21 (1) File an application with the board.

22 (2) Pay a one hundred dollar (\$100) registration fee.

23 (3) Provide to the board a true copy of the applicant's
24 current alcoholic beverage license issued by the board or
25 another state, if applicable.

26 (4) Provide documentation to the board which evidences that
27 the applicant has obtained a sales tax license from the
28 Department of Revenue.

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

1 (d) [An out-of-State] A direct wine shipper shall:

2 (1) [Not ship more than nine liters per month on the
3 Internet order of any person in this Commonwealth.] On a
4 quarterly basis, pay to the Department of Revenue all taxes due
5 on sales to residents of this Commonwealth. Notwithstanding any
6 other provision of law to the contrary, the wine delivered under
7 the authority of this section will be subject to the sales and
8 use tax imposed by section 202 of the act of March 4, 1971
9 (P.L.6, No.2), known as the "Tax Reform Code of 1971," the sales
10 and use tax imposed by Article XXXI-B of the act of July 28,
11 1953 (P.L.723, No.230), known as the "Second Class County Code,"
12 the sales and use tax imposed by the act of June 5, 1991 (P.L.9,
13 No.6), known as the "Pennsylvania Intergovernmental Cooperation
14 Authority Act for Cities of the First Class," and the emergency
15 State tax imposed on wines sold by the board under the act of
16 June 9, 1936 (1st Sp. Sess., P.L.13, No.4), entitled "An act
17 imposing an emergency State tax on liquor, as herein defined,
18 sold by the Pennsylvania Liquor Control Board; providing for the
19 collection and payment of such tax; and imposing duties upon the
20 Department of Revenue and the Pennsylvania Liquor Control
21 Board."

22 (2) Report to the board each year the total of wine shipped
23 [into] to residents of this Commonwealth in the preceding
24 calendar year.

25 (3) Permit the board, the enforcement bureau or the
26 Secretary of Revenue, or their designated representatives, to
27 perform an audit of the [out-of-State] direct wine shipper's
28 records upon request.

29 (4) Be deemed to have submitted to the jurisdiction of the
30 board, any other State agency and the courts of this

1 Commonwealth for purposes of enforcement of this section and any
2 related laws, rules or regulations[.], including the collection
3 and remission of taxes as required under this section.

4 (5) Require proof of age of the recipient, in a manner or
5 format approved by the board, before any wine is shipped to a
6 resident of this Commonwealth.

7 (6) Ensure that all boxes or exterior containers of wine
8 shipped directly to a resident of this Commonwealth are
9 conspicuously labeled with the words "CONTAINS ALCOHOL:
10 SIGNATURE OF PERSON 21 YEARS OF AGE OR OLDER REQUIRED FOR
11 DELIVERY."

12 (7) Annually renew its license by paying a renewal fee
13 established by the board.

14 (e) A direct shipper may ship wine on the [Internet] order
15 of a resident into this Commonwealth provided that the wine [is
16 shipped to a Pennsylvania Liquor Store selected by the resident.
17 The wine will be subject to taxes in the same manner as wine
18 sold directly by the board. The wine will not be released by the
19 State store until all moneys due, including all taxes and fees,
20 have been paid by the resident.] delivered under the authority
21 of this section will be subject to the sales and use tax imposed
22 by section 202 of the Tax Reform Code of 1971, the sales and use
23 tax imposed by Article XXXI-B of the Second Class County Code,
24 the sales and use tax imposed by the Pennsylvania
25 Intergovernmental Cooperation Authority Act for Cities of the
26 First Class, and the emergency State tax imposed on wines sold
27 by the board under the act of June 9, 1936 (1st Sp. Sess.,
28 P.L.13, No.4), entitled "An act imposing an emergency State tax
29 on liquor, as herein defined, sold by the Pennsylvania Liquor
30 Control Board; providing for the collection and payment of such

1 tax; and imposing duties upon the Department of Revenue and the
2 Pennsylvania Liquor Control Board."

3 (e.1) A transporter for hire shall:

4 (1) keep records as required under section 512 pertaining to
5 the direct shipment of wine; and

6 (2) permit the board and the enforcement bureau, or their
7 designated representatives, to inspect such records in
8 accordance with section 513.

9 (f) [A person shall sign an affidavit provided by the
10 Pennsylvania Liquor Store where the wine was delivered to
11 stating that the wine will only be used for the person's
12 personal use.] Any person who resells wine obtained under this
13 section commits a misdemeanor of the second degree.

14 (g) The board may promulgate such rules and regulations as
15 are necessary to implement and enforce the provisions of this
16 section. [The board may charge the resident a fee to cover the
17 cost associated with processing the Internet order.]

18 (h) The board shall submit [monthly] annual reports to the
19 Appropriations Committee and the Law and Justice Committee of
20 the Senate and to the Appropriations Committee and the Liquor
21 Control Committee of the House of Representatives summarizing
22 the number of direct shipper licenses issued by the board[,] and
23 the quantity of wine sold by direct wine shippers pursuant to
24 this section [and the total dollar value of sales under this
25 section].

26 (i) The term "wine" as used in this section shall mean
27 liquor which is fermented from grapes and other fruits, having
28 alcoholic content of twenty-four per centum or less. The term
29 "wine" shall not include malt or brewed beverages nor shall wine
30 include any products containing alcohol derived from malt,

1 grain, cereal, molasses or cactus.

2 (j) The term "direct wine shipper" as used in this section
3 shall mean a person who holds a direct wine shipper license as
4 provided for in this section and includes a limited winery.

5 Section 5. Section 505.2(a) of the act is amended by adding
6 a clause to read:

7 Section 505.2. Limited Wineries.--(a) In the interest of
8 promoting tourism and recreational development in Pennsylvania,
9 holders of a limited winery license may:

10 * * *

11 (2.1) Notwithstanding any other provision of this act or law
12 to the contrary, only ship wine to residents of this
13 Commonwealth in accordance with the provisions of section 488.

14 * * *

15 Section 6. This act shall take effect in 60 days.