

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1003 Session of
2013

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REFERRED TO COMMITTEE ON LIQUOR CONTROL, MARCH 14, 2013

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,"
17 further providing for general powers of the Pennsylvania
18 Liquor Control Board, for when sales may be made at
19 Pennsylvania Liquor Stores, for sales by Pennsylvania Liquor
20 Stores, for shipment of wine into Commonwealth and for
21 limited wineries.

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

24 Section 1. Section 207(b) of the act of April 12, 1951

1 (P.L.90, No.21), known as the Liquor Code, reenacted and amended
2 June 29, 1987 (P.L.32, No.14), is amended to read:

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

5 * * *

6 (b) To control the manufacture, possession, sale,
7 consumption, importation, use, storage, transportation and
8 delivery of liquor, alcohol and malt or brewed beverages in
9 accordance with the provisions of this act, and to fix the
10 wholesale and retail prices at which liquors and alcohol shall
11 be sold at Pennsylvania Liquor Stores. Prices shall be
12 [proportional with prices paid by the board to its suppliers and
13 shall reflect any advantage obtained through volume purchases by
14 the board. The board may establish a preferential price
15 structure for wines produced within this Commonwealth for the
16 promotion of such wines, as long as the price structure is
17 uniform within each class of wine purchased by the board.] as
18 set forth by the board so long as the price of a particular item
19 is uniform throughout this Commonwealth and the mark-up does not
20 exceed thirty per centum. This pricing provision shall not apply
21 to special liquor orders authorized under section 305(a).

22 The board shall require each Pennsylvania manufacturer and each
23 nonresident manufacturer of liquors, other than wine, selling
24 such liquors to the board, which are not manufactured in this
25 Commonwealth, to make application for and be granted a permit by
26 the board before such liquors not manufactured in this
27 Commonwealth shall be purchased from such manufacturer. Each
28 such manufacturer shall pay for such permit a fee which, in the
29 case of a manufacturer of this Commonwealth, shall be equal to
30 that required to be paid, if any, by a manufacturer or

1 wholesaler of the state, territory or country of origin of the
2 liquors, for selling liquors manufactured in Pennsylvania, and
3 in the case of a nonresident manufacturer, shall be equal to
4 that required to be paid, if any, in such state, territory or
5 country by Pennsylvania manufacturers doing business in such
6 state, territory or country. In the event that any such
7 manufacturer shall, in the opinion of the board, sell or attempt
8 to sell liquors to the board through another person for the
9 purpose of evading this provision relating to permits, the board
10 shall require such person, before purchasing liquors from him or
11 it, to take out a permit and pay the same fee as hereinbefore
12 required to be paid by such manufacturer. All permit fees so
13 collected shall be paid into the State Stores Fund. The board
14 shall not purchase any alcohol or liquor fermented, distilled,
15 rectified, compounded or bottled in any state, territory or
16 country, the laws of which result in prohibiting the importation
17 therein of alcohol or liquor, fermented, distilled, rectified,
18 compounded or bottled in Pennsylvania.

19 * * *

20 Section 2. Section 304(b) of the act, amended December 8,
21 2004 (P.L.1810, No.239), is amended to read:

22 Section 304. When Sales May Be Made at Pennsylvania Liquor
23 Stores.--* * *

24 (b) Certain Pennsylvania Liquor Stores operated by the board
25 shall be open for Sunday retail sales between the hours of
26 [noon] nine o'clock antemeridian and [five] nine o'clock
27 postmeridian, except that no Sunday sales shall occur on Easter
28 Sunday or Christmas day. The board shall open [up to twenty-five
29 per centum of the total number of Pennsylvania Liquor Stores at
30 its discretion] as many Pennsylvania Liquor Stores as it deems

1 necessary for Sunday sales as provided for in this subsection.
2 The board shall submit yearly reports to the Appropriations and
3 the Law and Justice Committees of the Senate and the
4 Appropriations and the Liquor Control Committees of the House of
5 Representatives summarizing the total dollar value of sales
6 under this section.

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

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

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

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

1 * * *

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

4 Section 488. Shipment of Wine [into Commonwealth].--(a) The
5 shipment of wine [from out-of-State] to residents of this
6 Commonwealth [is prohibited, except as otherwise provided for
7 in] shall be governed by this section.

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

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

25 (1) File an application with the board.

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

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

30 (4) Provide documentation to the board which evidences that

1 the applicant has obtained a sales tax license from the
2 Department of Revenue.

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

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

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

26 (2) Report to the board each year the total of wine shipped
27 [into] to residents of this Commonwealth in the preceding
28 calendar year.

29 (3) Permit the board, the enforcement bureau or the
30 Secretary of Revenue, or their designated representatives, to

1 perform an audit of the [out-of-State] direct wine shipper's
2 records upon request.

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

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

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

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

18 (e) A direct shipper may ship wine on the [Internet] order
19 of a resident into this Commonwealth provided that the wine [is
20 shipped to a Pennsylvania Liquor Store selected by the resident.
21 The wine will be subject to taxes in the same manner as wine
22 sold directly by the board. The wine will not be released by the
23 State store until all moneys due, including all taxes and fees,
24 have been paid by the resident.] delivered under the authority
25 of this section will be subject to the sales and use tax imposed
26 by section 202 of the "Tax Reform Code of 1971," the sales and
27 use tax imposed by Article XXXI-B of the "Second Class County
28 Code," the sales and use tax imposed by the "Pennsylvania
29 Intergovernmental Cooperation Authority Act for Cities of the
30 First Class," and the emergency State tax imposed on wines sold

1 by the board under the act of June 9, 1936 (1st Sp. Sess.,
2 P.L.13, No.4).

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.