

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1346 Session of 2019

INTRODUCED BY MASSER, TURZAI, PYLE, ROTHMAN, RYAN, WHEELAND, BARRAR, SCHMITT, DUNBAR, REESE, STAATS, KAIL, STRUZZI, JOZWIAK, SIMMONS, BERNSTINE, MIHALEK, MILLARD, MACKENZIE, GAYDOS, KEEFER, GREINER AND HEFFLEY, APRIL 29, 2019

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, MAY 13, 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 and liquor, alcohol and malt and
18 brewed beverages, further providing for wine expanded permits
19 and providing for purchase of wine by license or permit
20 holders from private wholesalers.

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

23 ~~Section 1. Section 415(f) of the act of April 12, 1951~~ <--

24 ~~(P.L.90, No.21), known as the Liquor Code, is amended to read:~~

25 ~~Section 415. Wine Expanded Permits. * * *~~

1 SECTION 1. SECTION 415 (A) (2), (D) AND (F) OF THE ACT OF
2 APRIL 12, 1951 (P.L.90, NO.21), KNOWN AS THE LIQUOR CODE, ARE
3 AMENDED TO READ:

4 SECTION 415. WINE EXPANDED PERMITS.-- (A) * * *

5 (2) NOTHING IN THIS SECTION MAY AFFECT THE ABILITY OF AN
6 EXISTING LICENSEE TO OPERATE WITHIN THE SCOPE OF ITS CURRENT
7 LICENSE AS AUTHORIZED BY THIS ACT[, EXCEPT THAT NO SALES OF WINE
8 FOR OFF-PREMISES CONSUMPTION MAY TAKE PLACE BY A WINE EXPANDED
9 PERMIT HOLDER AFTER ELEVEN O'CLOCK POSTMERIDIAN OF ANY DAY UNTIL
10 THE LICENSEE'S PERMITTED HOURS OF OPERATION UNDER SECTION 406 OF
11 THE NEXT DAY, INCLUDING SUNDAYS IF THE LICENSEE HAS A PERMIT
12 AUTHORIZED UNDER SECTION 406(A) (3)].

13 * * *

14 (D) A WINE EXPANDED PERMIT HOLDER MAY SELL FOR OFF-PREMISES
15 CONSUMPTION, IN A SINGLE TRANSACTION, UP TO THREE THOUSAND
16 (3,000) MILLILITERS OF WINE. THE SALES FOR OFF-PREMISES
17 CONSUMPTION MAY OCCUR AT ANY TIME THE PERMIT HOLDER IS OTHERWISE
18 AUTHORIZED TO SELL ALCOHOL FOR ON-PREMISES CONSUMPTION.

19 * * *

20 [(f) A wine expanded permit holder may not sell a wine
21 product for off-premises consumption at a price less than the
22 licensee's purchase price from the board of the wine product.]

23 * * *

24 Section 2. The act is amended by adding a section to read:

25 Section 417. Purchase of Wine by License or Permit Holders
26 from Private Wholesalers.--(a) Notwithstanding any other
27 provision of this act to the contrary, the holder of a license
28 or permit for the sale of wine for on-premises or off-premises
29 consumption under this act may purchase wine from a private
30 wholesaler, and the private wholesaler may sell wine to the

1 holder of the license or permit.

2 (b) (1) A private wholesaler that sells wine to a holder of
3 a license or permit under subsection (a) shall collect and remit
4 to the Department of Revenue all applicable taxes.

5 (2) The private wholesaler shall be considered a State
6 Liquor Store for the purpose of collecting and remitting taxes
7 under Article II of the act of March 4, 1971 (P.L.6, No.2),
8 known as the "Tax Reform Code of 1971," for wine sold for on-
9 premises consumption by the holder of the license or permit.

10 (3) The emergency State tax imposed under the act of June 9,
11 1936 (1st Sp.Sess., P.L.13, No.4), entitled "An act imposing an
12 emergency State tax on liquor, as herein defined, sold by the
13 Pennsylvania Liquor Control Board; providing for the collection
14 and payment of such tax; and imposing duties upon the Department
15 of Revenue and the Pennsylvania Liquor Control Board," shall be
16 included in the price of wine for sale by the private
17 wholesaler. The emergency State tax may not be assessed at the
18 point of sale to consumers.

19 (c) The sale of wine for off-premises consumption by a
20 holder of a license or permit under this act shall be considered
21 a "purchase at retail" under section 201(f) of the "Tax Reform
22 Code of 1971," a "sale at retail" under section 201(k) of the
23 "Tax Reform Code of 1971" or a "use" under section 201(o) of the
24 "Tax Reform Code of 1971."

25 (d) A holder of a license or permit for the sale of wine for
26 off-premises consumption under this act may, when filing the
27 required returns under Article II of the "Tax Reform Code of
28 1971," request a credit of any taxes paid under subsection (b)
29 for wine sold for off-premises consumption and for which taxes
30 were remitted to the Department of Revenue under subsection (b).

1 The department may promulgate rules or regulations and prescribe
2 forms as may be necessary to implement the provisions of this
3 subsection.

4 (e) For wine sold or purchased under subsection (a), the
5 board shall have no authority to take any of the following
6 actions:

7 (1) Determine what wine products may be sold or purchased.

8 (2) Set the price at which wine products may be sold at
9 wholesale or by retail licensees in this Commonwealth.

10 (f) As used in this section, the term "private wholesaler"
11 shall include any of the following: SHALL: <--

12 (1) INCLUDE ANY OF THE FOLLOWING:

13 ~~(1)~~ (I) A vendor, a broker or an importer that is licensed <--
14 or permitted under this act.

15 ~~(2)~~ (II) A wholesaler that holds an appropriate license or <--
16 permit in another state and holds a basic permit issued by the
17 Federal Government.

18 ~~(3)~~ (III) A manufacturer properly licensed or permitted <--
19 under this act to sell wine to the board.

20 (2) NOT INCLUDE A LIMITED WINERY. <--

21 Section 3. This act shall take effect in 60 days.