

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2868 Session of 2022

INTRODUCED BY MUSTELLO, OCTOBER 6, 2022

REFERRED TO COMMITTEE ON LIQUOR CONTROL, OCTOBER 6, 2022

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 transporters for
 19 hire.

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. Transporters for Hire.--(a) Except as
 25 provided under subsection (b), a person who transports alcohol
 26 for hire within this Commonwealth shall obtain a Transporter-
 27 for-Hire Class A license, a Transporter-for-Hire Class B

1 license, a Transporter-for-Hire Class C license or a
2 Transporter-for-Hire Class D license from the board as provided
3 under this section.

4 (b) Alcohol may be transported without a transporter-for-
5 hire license under any of the following conditions:

6 (1) If the alcohol in question is denatured alcohol.

7 (2) If the alcohol in question is for the personal use of,
8 and not for resale by, the transporter.

9 (3) If transportation is by a licensee of the board whose
10 license or permit authorizes the transportation of liquor, malt
11 or brewed beverages or alcohol in the regular operation of the
12 licensee's business.

13 (4) If transportation is by a person who transports alcohol
14 through this Commonwealth commercially and not for delivery
15 within this Commonwealth, including transportation accomplished
16 by scheduled common air carriers of mail and passengers and by
17 common carriers by railroad, subject to regulation by the
18 Pennsylvania Public Utility Commission. Transportation under
19 this paragraph shall be subject to the following conditions:

20 (i) The operator of the vehicle shall have in the operator's
21 possession at all times while in this Commonwealth an invoice
22 and a bill of lading or waybill showing the brand name, size and
23 number of containers of liquor, malt or brewed beverages or
24 alcohol being transported, which shall be produced for
25 inspection upon the request of a police officer, board employee
26 or enforcement officer.

27 (ii) The cargo must remain intact and upon the same vehicle
28 or conveyance while in this Commonwealth, unless prevented by an
29 accident or other similarly uncontrollable circumstance.

30 (5) If there is no charge associated with the transportation

1 of the alcohol.

2 (6) If the malt or brewed beverages, wine or liquor are
3 being transported by hand, without the use of a motorized
4 vehicle, by a person employed by the licensee or transporter-
5 for-hire licensee from the licensed premises to a customer
6 located in his or her vehicle who had previously ordered and
7 paid for the alcohol online or paid for the alcohol in person in
8 the licensed premises, provided that the customer's vehicle is
9 located at a designated curbside location outside the licensed
10 premises or otherwise in close proximity to the exterior of the
11 building housing the licensed premises.

12 (c) (1) Each transporter-for-hire license application shall
13 be submitted to the board and shall be in the form and manner
14 prescribed by the board. The application shall be accompanied by
15 application and license fees as provided under section 614-A of
16 the act of April 9, 1929 (P.L.177, No.175), known as The
17 Administrative Code of 1929. The license shall be issued for the
18 calendar year, and the license fee shall be prorated quarterly,
19 as provided under section 508.

20 (2) A Transporter-for-Hire Class D license application shall
21 be subject to the same fees as a Transporter-for-Hire Class A
22 license, but shall also be subject to a ten thousand dollar
23 (\$10,000) initial surcharge and an annual renewal of one
24 thousand dollars (\$1,000). A Transporter-for-Hire Class D
25 license shall only be available to a person who is primarily
26 engaged in the business of transporting and delivering items.

27 (d) The board shall issue a transporter-for-hire license as
28 follows:

29 (1) A Transporter-for-Hire Class A license shall authorize
30 the holder to engage in the commercial transportation of all

1 forms of alcohol to or from points located in this Commonwealth.

2 (2) A Transporter-for-Hire Class B license shall authorize
3 the holder to engage in the commercial transportation of malt or
4 brewed beverages only, to or from points located in this
5 Commonwealth.

6 (3) A Transporter-for-Hire Class C license shall authorize
7 the holder to engage a fleet of vehicles in the commercial
8 transportation of all forms of alcohol to or from points located
9 in this Commonwealth.

10 (4) A Transporter-for-Hire Class D license shall authorize
11 the holder to engage in the commercial transportation of all
12 forms of alcohol to or from points located in this Commonwealth.

13 The following shall apply:

14 (i) A Transporter-for-Hire Class D license holder may accept
15 alcohol beverage orders on behalf of licensees and permittees
16 who are authorized to sell alcohol beverages for off-premises
17 consumption, for delivery to unlicensed customers only. Such
18 orders may be placed through telephonic orders or through web-
19 based platforms owned and operated by the licensee, the
20 Transporter-for-Hire Class D license holder or a third party,
21 provided that the sale of alcohol is made solely by the
22 licensee. Orders made by unlicensed purchasers and delivered by
23 a Transporter-for-Hire Class D license holder on behalf of a
24 licensee or made under subsection (b)(6) without the necessity
25 of a transporter-for-hire permit shall not require an in-person
26 exchange of consideration or presentation of identification for
27 proof of age on a licensed premises.

28 (ii) A Transporter-for-Hire Class D license holder may
29 accept alcohol beverage orders on behalf of the board for
30 delivery to unlicensed customers only. Such orders may be placed

1 through telephonic orders or through web-based platforms owned
2 and operated by the board, the Transporter-for-Hire Class D
3 license holder or a third party, provided that the sale of
4 alcohol is made solely by the board. Payments for the alcohol
5 may be accepted by the Transporter-for-Hire Class D license
6 holder from unlicensed purchasers only and the payments shall be
7 transferred directly to the licensed seller or to the board in
8 the normal course of business.

9 (iii) A Transporter-for-Hire Class D license holder must
10 enter into a written agreement with the selling licensee or
11 selling permittee authorizing the transporter to provide
12 delivery services to the licensee or permittee prior to
13 providing delivery services, and the Transporter-for-Hire Class
14 D license holder must enter into a written agreement with the
15 board authorizing the transporter to provide delivery services
16 prior to providing delivery services. A copy of each agreement
17 shall be maintained by the Transporter-for-Hire Class D license
18 holder, selling licensee and selling permittee as a business
19 record and shall be made available upon request to the board and
20 to the enforcement bureau.

21 (e) A transporter-for-hire license holder shall maintain and
22 keep, in hard copy or electronic media consistent with generally
23 accepted accounting procedures, for a period of at least two (2)
24 years, complete and accurate daily records of transactions
25 conducted under the authority of the license and shall take
26 reasonable steps to protect personally identifiable information,
27 consistent with applicable law. Records shall be subject to
28 inspection by authorized representatives of the board and
29 enforcement bureau. Copies of reports or forms required by
30 Federal or State governmental agencies related to the licensed

1 operation shall be maintained for a period of two (2) years
2 unless required to be maintained for a longer period by the
3 Federal or State agency. The reports or forms shall also be open
4 to inspection by authorized representatives of the board and
5 enforcement bureau.

6 (f) A transporter-for-hire license holder who is delivering
7 alcohol to a nonlicensee must require proof of age of the
8 recipient, in a manner or format approved by the board, before
9 delivering the alcohol.

10 (g) All transporter-for-hire employees or agents that
11 deliver alcohol to nonlicensees shall qualify as servers under
12 the responsible alcohol management online training program
13 authorized under section 471.1 or an approved alternative
14 training program.

15 (h) For purposes of the sales limits on malt or brewed
16 beverages provided under sections 407 and 442, a Transporter-
17 for-Hire Class D license holder may accept and forward orders
18 for no more than one hundred ninety-two (192) fluid ounces of
19 malt or brewed beverages per day per customer per selling
20 licensee.

21 (i) For purposes of the sales limits on wine provided under
22 section 415, a Transporter-for-Hire Class D license holder may
23 accept and forward orders for no more than three thousand (3000)
24 milliliters of wine per day per customer per selling wine
25 expanded permit holder. The Transporter-for-Hire Class D license
26 holder must use a transaction scan device to verify the age of
27 the customer prior to delivering the wine in question and must
28 provide the wine expanded permit holder with the results of that
29 scan, upon request. A wine expanded permit holder may use the
30 data of that scan to fulfill the similar requirement provided

1 under section 415(a)(8).

2 (j) Each driver for a transporter-for-hire license holder
3 shall carry in the vehicle used in the operation of the business
4 documentation showing their name, address, including the street
5 name and number as shown on the license, and the license number
6 as shown on the license and must be able to readily produce the
7 documentation upon demand of a law enforcement official or other
8 authorized agency. The license identification number shall be
9 preceded by the letters "P.L.C.B."

10 (k) While transporting alcohol beverages, a driver for a
11 transporter-for-hire license holder shall maintain in each
12 vehicle documentation, in the form of an order or invoice or
13 similar documentation, which may be in electronic or paper form,
14 indicating the name and address of the licensee for whom the
15 driver is making a delivery and the purchaser to whom the driver
16 is making a delivery. The documentation shall be available for
17 inspection by the board and the enforcement bureau at all times.

18 (l) A transporter-for-hire license holder shall be
19 considered a "licensee" for purposes of section 493. A
20 transporter-for-hire license holder that violates section
21 493(1), violates the provisions of this section related to
22 alcohol service personnel training, recordkeeping or fails to
23 enter into the written agreement as provided under subsection
24 (d)(4), shall be subject to the citation process outlined in
25 section 471.

26 (m) Notwithstanding any other provision of law, a selling
27 licensee, selling permittee or the board shall not be criminally
28 or civilly liable for sales or service of alcohol to a minor or
29 to a visibly intoxicated person if the order for the alcohol in
30 question was processed by a Transporter-for-Hire Class D license

1 holder unless the selling licensee, selling permittee or the
2 board knew or should have known that the alcohol was being
3 purchased by or delivered to a minor or visibly intoxicated
4 person.

5 (n) For the purposes of this section, a "selling licensee"
6 or "selling permittee" is the holder of a license or permit
7 issued by the board which authorizes the sale of malt or brewed
8 beverages, wine or liquor and who sells malt or brewed
9 beverages, wine or liquor to a Transporter-for-Hire Class D
10 license holder.

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