

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 41 Session of 2023

INTRODUCED BY MUSTELLO, ARMANINI, KEEFER, LEADBETER, MERCURI, ROWE AND SMITH, MARCH 7, 2023

REFERRED TO COMMITTEE ON LIQUOR CONTROL, MARCH 7, 2023

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-

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

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

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

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

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

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

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

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

1 (5) If there is no charge associated with the transportation  
2 of the alcohol.

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

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

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

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

30 (1) A Transporter-for-Hire Class A license shall authorize

1 the holder to engage in the commercial transportation of all  
2 forms of alcohol to or from points located in this Commonwealth.

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

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

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

14 The following shall apply:

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

29 (ii) A Transporter-for-Hire Class D license holder may  
30 accept alcohol beverage orders on behalf of the board for

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

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

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

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

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

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

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

22 (i) For purposes of the sales limits on wine provided under  
23 section 415, a Transporter-for-Hire Class D license holder may  
24 accept and forward orders for no more than three thousand  
25 (3,000) milliliters of wine per day per customer per selling  
26 wine expanded permit holder. The Transporter-for-Hire Class D  
27 license holder must use a transaction scan device to verify the  
28 age of the customer prior to delivering the wine in question and  
29 must provide the wine expanded permit holder with the results of  
30 that scan, upon request. A wine expanded permit holder may use

1 the data of that scan to fulfill the similar requirement  
2 provided under section 415(a)(8).

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

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

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

27 (m) Notwithstanding any other provision of law, a selling  
28 licensee, selling permittee or the board shall not be criminally  
29 or civilly liable for sales or service of alcohol to a minor or  
30 to a visibly intoxicated person if the order for the alcohol in

1 question was processed by a Transporter-for-Hire Class D license  
2 holder unless the selling licensee, selling permittee or the  
3 board knew or should have known that the alcohol was being  
4 purchased by or delivered to a minor or visibly intoxicated  
5 person.

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

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