

## AMENDMENTS TO HOUSE BILL NO. 790

Sponsor: REPRESENTATIVE P. COSTA

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1 Amend Bill, page 1, lines 1 through 29; page 2, lines 1  
2 through 51, by striking out all of said lines on said pages and  
3 inserting

4 Amending the act of April 12, 1951 (P.L.90, No.21), entitled, as  
5 reenacted, "An act relating to alcoholic liquors, alcohol and  
6 malt and brewed beverages; amending, revising, consolidating  
7 and changing the laws relating thereto; regulating and  
8 restricting the manufacture, purchase, sale, possession,  
9 consumption, importation, transportation, furnishing, holding  
10 in bond, holding in storage, traffic in and use of alcoholic  
11 liquors, alcohol and malt and brewed beverages and the  
12 persons engaged or employed therein; defining the powers and  
13 duties of the Pennsylvania Liquor Control Board; providing  
14 for the establishment and operation of State liquor stores,  
15 for the payment of certain license fees to the respective  
16 municipalities and townships, for the abatement of certain  
17 nuisances and, in certain cases, for search and seizure  
18 without warrant; prescribing penalties and forfeitures;  
19 providing for local option, and repealing existing laws,"  
20 further providing for general powers of the Pennsylvania  
21 Liquor Control Board, for board to establish State liquor  
22 stores, for when sales may be made at Pennsylvania Liquor  
23 Stores, for sales by Pennsylvania Liquor Stores, for shipment  
24 of wine into Commonwealth and for limited wineries.

25 Amend Bill, page 2, lines 54 and 55; pages 3 through 243,  
26 lines 1 through 30; page 244, lines 1 through 21, by striking  
27 out all of said lines on said pages and inserting

28 Section 1. Section 207(b) and (e) of the act of April 12,  
29 1951 (P.L.90, No.21), known as the Liquor Code, reenacted and  
30 amended June 29, 1987 (P.L.32, No.14), are amended to read:

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

33 \* \* \*

34 (b) To control the manufacture, possession, sale,

1 consumption, importation, use, storage, transportation and  
2 delivery of liquor, alcohol and malt or brewed beverages in  
3 accordance with the provisions of this act, and to fix the  
4 wholesale and retail prices at which liquors and alcohol shall  
5 be sold at Pennsylvania Liquor Stores. Prices shall be  
6 [proportional with prices paid by the board to its suppliers and  
7 shall reflect any advantage obtained through volume purchases by  
8 the board. The board may establish a preferential price  
9 structure for wines produced within this Commonwealth for the  
10 promotion of such wines, as long as the price structure is  
11 uniform within each class of wine purchased by the board.] as  
12 set forth by the board so long as the price of a particular item  
13 is uniform throughout this Commonwealth. This pricing provision  
14 shall not apply to special liquor orders authorized under  
15 section 305(a). The board shall require each Pennsylvania  
16 manufacturer and each nonresident manufacturer of liquors, other  
17 than wine, selling such liquors to the board, which are not  
18 manufactured in this Commonwealth, to make application for and  
19 be granted a permit by the board before such liquors not  
20 manufactured in this Commonwealth shall be purchased from such  
21 manufacturer. Each such manufacturer shall pay for such permit a  
22 fee which, in the case of a manufacturer of this Commonwealth,  
23 shall be equal to that required to be paid, if any, by a  
24 manufacturer or wholesaler of the state, territory or country of  
25 origin of the liquors, for selling liquors manufactured in  
26 Pennsylvania, and in the case of a nonresident manufacturer,  
27 shall be equal to that required to be paid, if any, in such  
28 state, territory or country by Pennsylvania manufacturers doing  
29 business in such state, territory or country. In the event that  
30 any such manufacturer shall, in the opinion of the board, sell  
31 or attempt to sell liquors to the board through another person  
32 for the purpose of evading this provision relating to permits,  
33 the board shall require such person, before purchasing liquors  
34 from him or it, to take out a permit and pay the same fee as  
35 hereinbefore required to be paid by such manufacturer. All  
36 permit fees so collected shall be paid into the State Stores  
37 Fund. The board shall not purchase any alcohol or liquor  
38 fermented, distilled, rectified, compounded or bottled in any  
39 state, territory or country, the laws of which result in  
40 prohibiting the importation therein of alcohol or liquor,  
41 fermented, distilled, rectified, compounded or bottled in  
42 Pennsylvania.

43 \* \* \*

44 (e) [Through the Department of General Services as agent,  
45 to] To lease and furnish and equip such buildings, rooms and  
46 other accommodations as shall be required for the operation of  
47 this act.

48 \* \* \*

49 Section 2. Section 301 of the act is amended to read:

50 Section 301. Board to Establish State Liquor Stores.--(a)

51 The board shall establish, operate and maintain at such places

1 throughout the Commonwealth as it shall deem essential and  
2 advisable, stores to be known as "Pennsylvania Liquor Stores,"  
3 for the sale of liquor and alcohol in accordance with the  
4 provisions of and the regulations made under this act; except  
5 that no store not so already located shall be located within  
6 three hundred feet of any elementary or secondary school, nor  
7 within a dry municipality without there first having been a  
8 referendum approving such location. When the board shall have  
9 determined upon the location of a liquor store in any  
10 municipality, it shall give notice of such location by public  
11 advertisement in two newspapers of general circulation. In  
12 cities of the first class, the location shall also be posted for  
13 a period of at least fifteen days following its determination by  
14 the board as required in section 403(g) of this act. The notice  
15 shall be posted in a conspicuous place on the outside of the  
16 premises in which the proposed store is to operate or, in the  
17 event that a new structure is to be built in a similarly visible  
18 location. If, within five days after the appearance of such  
19 advertisement, or of the last day upon which the notice was  
20 posted, fifteen or more taxpayers residing within a quarter of a  
21 mile of such location, or the City Solicitor of the city of the  
22 first class, shall file a protest with the court of common pleas  
23 of the county averring that the location is objectionable  
24 because of its proximity to a church, a school, or to private  
25 residences, the court shall forthwith hold a hearing affording  
26 an opportunity to the protestants and to the board to present  
27 evidence. The court shall render its decision immediately upon  
28 the conclusion of the testimony and from the decision there  
29 shall be no appeal. If the court shall determine that the  
30 proposed location is undesirable for the reasons set forth in  
31 the protest, the board shall abandon it and find another  
32 location. The board may establish, operate and maintain such  
33 establishments for storing and testing liquors as it shall deem  
34 expedient to carry out its powers and duties under this act.

35 (b) The board may lease the necessary premises for such  
36 stores or establishments[, but all such leases shall be made  
37 through the Department of General Services as agent of the  
38 board. The board, through the Department of General Services,]  
39 and shall have authority to purchase such equipment and  
40 appointments as may be required in the operation of such stores  
41 or establishments.

42 Section 3. Section 304(b) of the act, amended December 8,  
43 2004 (P.L.1810, No.239), is amended to read:

44 Section 304. When Sales May Be Made at Pennsylvania Liquor  
45 Stores.--\* \* \*

46 (b) Certain Pennsylvania Liquor Stores operated by the board  
47 shall be open for Sunday retail sales between the hours of  
48 [noon] nine o'clock antemeridian and [five] nine o'clock  
49 postmeridian, except that no Sunday sales shall occur on Easter  
50 Sunday or Christmas day. The board shall open [up to twenty-five  
51 per centum of the total number of Pennsylvania Liquor Stores at

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

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

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

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

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

32 \* \* \*

33 Section 5. Section 488 of the act, added February 21, 2002  
34 (P.L.103, No.10), is amended to read:

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

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

48 (c) [Each month, the board shall publish on the Internet a  
49 list of all classes, varieties and brands of wine available for  
50 sale in the Pennsylvania Liquor Stores. A person holding a  
51 direct shipper license may ship only those classes, varieties

1 and brands of wine not included on the list at the time an  
2 Internet order is placed.] Prior to issuing a direct wine  
3 shipper license, the board shall require the person seeking the  
4 license to:

5 (1) File an application with the board.

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

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

10 (4) Provide documentation to the board which evidences that  
11 the applicant has obtained a sales tax license from the  
12 Department of Revenue.

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

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

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

36 (2) Report to the board each year the total of wine shipped  
37 [into] to residents of this Commonwealth in the preceding  
38 calendar year.

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

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

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

51 (6) Ensure that all boxes or exterior containers of wine

1 shipped directly to a resident of this Commonwealth are  
2 conspicuously labeled with the words "CONTAINS ALCOHOL:  
3 SIGNATURE OF PERSON 21 YEARS OF AGE OR OLDER REQUIRED FOR  
4 DELIVERY."

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

7 (e) A direct shipper may ship wine on the [Internet] order  
8 of a resident into this Commonwealth provided that the wine [is  
9 shipped to a Pennsylvania Liquor Store selected by the resident.  
10 The wine will be subject to taxes in the same manner as wine  
11 sold directly by the board. The wine will not be released by the  
12 State store until all moneys due, including all taxes and fees,  
13 have been paid by the resident.] delivered under the authority  
14 of this section will be subject to the sales and use tax imposed  
15 by section 202 of the "Tax Reform Code of 1971," the sales and  
16 use tax imposed by Article XXXI-B of the "Second Class County  
17 Code," the sales and use tax imposed by the "Pennsylvania  
18 Intergovernmental Cooperation Authority Act for Cities of the  
19 First Class," and the emergency State tax imposed on wines sold  
20 by the board under the act of June 9, 1936 (1st Sp. Sess.,  
21 P.L.13, No.4).

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

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

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

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

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

37 (h) The board shall submit [monthly] annual reports to the  
38 Appropriations Committee and the Law and Justice Committee of  
39 the Senate and to the Appropriations Committee and the Liquor  
40 Control Committee of the House of Representatives summarizing  
41 the number of direct shipper licenses issued by the board[, ] and  
42 the quantity of wine sold by direct wine shippers pursuant to  
43 this section [and the total dollar value of sales under this  
44 section].

45 (i) The term "wine" as used in this section shall mean  
46 liquor which is fermented from grapes and other fruits, having  
47 alcoholic content of twenty-four per centum or less. The term  
48 "wine" shall not include malt or brewed beverages nor shall wine  
49 include any products containing alcohol derived from malt,  
50 grain, cereal, molasses or cactus.

51 (j) The term "direct wine shipper" as used in this section

1 shall mean a person who holds a direct wine shipper license as  
2 provided for in this section and includes a limited winery.

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

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

8 \* \* \*

9 (2.1) Notwithstanding any other provision of this act or law  
10 to the contrary, only ship wine to residents of this  
11 Commonwealth in accordance with the provisions of section 488.

12 \* \* \*

13 Section 7. This act shall take effect in 60 days.