

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 121 Session of 2013

INTRODUCED BY SONNEY, SAYLOR, EVERETT, O'BRIEN, P. COSTA, WATSON, R. BROWN, MILLARD, BARRAR, MUSTIO, LUCAS, MACKENZIE, MOUL, GROVE, OBERLANDER AND WHITE, JANUARY 16, 2013

REFERRED TO COMMITTEE ON LIQUOR CONTROL, JANUARY 16, 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 shipment of wine into Commonwealth and
 18 for limited wineries.

19 The General Assembly of the Commonwealth of Pennsylvania
 20 hereby enacts as follows:

21 Section 1. Section 488 of the act of April 12, 1951 (P.L.90,
 22 No.21), known as the Liquor Code, reenacted and amended June 29,
 23 1987 (P.L.32, No.14) and added February 21, 2002 (P.L.103,
 24 No.10), is amended to read:

25 Section 488. Shipment of Wine [into Commonwealth].--(a) The

1 shipment of wine [from out-of-State] to residents of this
2 Commonwealth [is prohibited, except as otherwise provided for
3 in] shall be governed by this section.

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

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

21 (1) File an application with the board.

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

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

26 (4) Provide documentation to the board which evidences that
27 the applicant has obtained a sales tax license from the
28 Department of Revenue.

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

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

2 (1) [Not ship more than nine liters per month on the
3 Internet order of any person in this Commonwealth.] On a
4 quarterly basis, pay to the Department of Revenue all taxes due
5 on sales to residents of this Commonwealth. The amount of such
6 taxes shall be calculated as if the sale were in this
7 Commonwealth at the locations where delivery is made.

8 (2) Report to the board each year the total of wine shipped
9 [into] to residents of this Commonwealth in the preceding
10 calendar year.

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

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

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

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

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

30 (e) A direct shipper may ship wine on the [Internet] order

1 of a resident into this Commonwealth provided that the wine [is
2 shipped to a Pennsylvania Liquor Store selected by the resident.
3 The wine will be subject to taxes in the same manner as wine
4 sold directly by the board. The wine will not be released by the
5 State store until all moneys due, including all taxes and fees,
6 have been paid by the resident.] will be subject to to all taxes
7 due on sales to residents of this Commonwealth with the amount
8 of such taxes to be calculated as if the sale were in this
9 Commonwealth at the location where delivery is made.

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

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

19 (h) The board shall submit [monthly] annual reports to the
20 Appropriations Committee and the Law and Justice Committee of
21 the Senate and to the Appropriations Committee and the Liquor
22 Control Committee of the House of Representatives summarizing
23 the number of direct shipper licenses issued by the board[,] and
24 the quantity of wine sold by direct wine shippers pursuant to
25 this section [and the total dollar value of sales under this
26 section].

27 (i) The term "wine" as used in this section shall mean
28 liquor which is fermented from grapes and other fruits, having
29 alcoholic content of twenty-four per centum or less. The term
30 "wine" shall not include malt or brewed beverages nor shall wine

1 include any products containing alcohol derived from malt,
2 grain, cereal, molasses or cactus.

3 (j) The term "direct wine shipper" as used in this section
4 shall mean a person who holds a direct wine shipper license as
5 provided for in this section and includes a limited winery.

6 Section 2. Section 505.2(a) of the act is amended by adding
7 a clause to read:

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

11 * * *

12 (2.1) Notwithstanding any other provision of this act or law
13 to the contrary, only ship wine to residents of this
14 Commonwealth in accordance with the provisions of section 488.

15 * * *

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