
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 633 Session of
2013

INTRODUCED BY PETRI, D. COSTA, EVERETT, GINGRICH, GRELL, GROVE,
M. K. KELLER, MAHER, MILLARD, O'BRIEN, SANTARSIERO, WATSON,
YOUNGBLOOD, MOUL AND MARSICO, FEBRUARY 8, 2013

REFERRED TO COMMITTEE ON LIQUOR CONTROL, FEBRUARY 8, 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, for
18 unlawful acts relative to liquor, malt and brewed beverages
19 and licensees, for licenses issued and for limited wineries.

20 The General Assembly of the Commonwealth of Pennsylvania

21 hereby enacts as follows:

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

26 Section 488. Shipment of Wine into Commonwealth.--(a) The

1 shipment of wine from [out-of-State] a direct wine shipper to
2 residents of this Commonwealth is prohibited, except as
3 otherwise provided for in this section.

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

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

20 (1) [Not ship more than nine liters per month on the
21 Internet order of any person in this Commonwealth.] File a
22 written application with the board in such form and containing
23 such information as the board shall require. A completed
24 application shall contain a true and correct copy of the
25 applicant's current license or certificate of operating
26 authority issued by the board or by another state. The applicant
27 must provide documentation that it has obtained a sales tax
28 license from the Pennsylvania Department of Revenue. The
29 licensing period for a direct wine shipper license shall be
30 established under section 402. An applicant for the license

1 shall adhere to the provisions of section 477. The application,
2 renewal and filing fee for the license shall be as prescribed by
3 the board. Notwithstanding this provision, if an applicant, at
4 the time of the initial application for the license, holds a
5 valid limited winery license issued by the board, the applicant
6 may not be required to pay the application fee prescribed by the
7 board. If an applicant properly renews its limited winery
8 license, as provided for in section 517, the applicant shall not
9 be required to pay the renewal fee prescribed by the board.

10 (2) Report to the board each [year] month the total [of]
11 number of bottles sold and shipped during the preceding calendar
12 month, the size of those bottles, the name brand of each wine in
13 the shipments, the quantities of each wine included in the
14 shipments and the price of each item included in the shipments,
15 for all wine shipped within and into this Commonwealth in the
16 preceding calendar [year] month.

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

21 (4) Be deemed to have submitted to the jurisdiction of the
22 board, any other State agency and the courts of this
23 Commonwealth for purposes of enforcement of this section and any
24 related laws, rules or regulations, including the collection and
25 remission of taxes as required under this section.

26 (e) [A direct shipper may ship wine on the Internet order of
27 a resident into this Commonwealth provided that the wine is
28 shipped to a Pennsylvania Liquor Store selected by the resident.
29 The wine] Wine sold by a direct shipper pursuant to this section
30 will be subject to [taxes in the same manner as wine sold

1 directly by the board. The wine will not be released by the
2 State store until all moneys due, including all taxes and fees,
3 have been paid by the resident.] the sales and use tax imposed
4 by section 202 of the act of March 4, 1971 (P.L.6, No.2), known
5 as the "Tax Reform Code of 1971."

6 (f) [A person shall sign an affidavit provided by the
7 Pennsylvania Liquor Store where the wine was delivered to
8 stating that the wine will only be used for the person's
9 personal use.] A direct wine shipper shall only ship wine
10 pursuant to this section provided that the resident placing the
11 order has provided the shipper with a written or electronic
12 acknowledgment that the wine is for personal consumption only
13 and not for resale. Any person who resells wine obtained under
14 this section commits a misdemeanor of the second degree. A
15 direct wine shipper shall:

16 (1) Ensure that all containers of wine shipped directly to a
17 resident of this Commonwealth are conspicuously labeled with the
18 words "CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE TWENTY-ONE (21)
19 OR OLDER REQUIRED FOR DELIVERY."

20 (2) Ensure that shipments shall be delivered by an entity
21 holding a valid transporter-for-hire license issued by the board
22 and that the transporter-for-hire may not deliver any wine
23 unless it does all of the following:

24 (i) Obtains the signature of the recipient of the wine upon
25 delivery.

26 (ii) Verifies by inspecting a valid form of photo
27 identification, as provided for in section 495(a), that the
28 recipient is at least twenty-one (21) years of age.

29 (iii) Determines that the recipient is not visibly
30 intoxicated at the time of delivery.

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

5 (g.1) On a quarterly basis, a direct wine shipper shall
6 provide to the Pennsylvania Department of Revenue, with a copy
7 to the board, an accounting of the taxes collected pursuant to
8 this section. All taxes collected by the direct wine shipper
9 shall be remitted to the Pennsylvania Department of Revenue on a
10 quarterly basis. A direct wine shipper shall permit the board,
11 the enforcement bureau or the Pennsylvania Department of
12 Revenue, any additional information deemed necessary to ensure
13 compliance with this section.

14 (h) The board shall submit monthly reports to the
15 Appropriations Committee and the Law and Justice Committee of
16 the Senate and to the Appropriations Committee and the Liquor
17 Control Committee of the House of Representatives summarizing
18 the number of direct shipper licenses issued by the board, the
19 quantity of wine sold pursuant to this section and the total
20 dollar value of sales under this section.

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

27 (j) A direct wine shipper license shall be subject to the
28 citation process set forth in section 471.

29 (k) A shipment of wine direct to a person in this
30 Commonwealth from a person who does not possess a direct wine

1 shipper license from the board is prohibited. A person who
2 knowingly makes, participates in, transports, imports or
3 receives such shipment commits a misdemeanor.

4 (1) An applicant for a direct wine shipper license shall
5 obtain a tax bond in the amount of one thousand dollars
6 (\$1,000).

7 Section 2. Section 493 of the act is amended by adding a
8 paragraph to read:

9 Section 493. Unlawful Acts Relative to Liquor, Malt and
10 Brewed Beverages and Licensees.--The term "licensee," when used
11 in this section, shall mean those persons licensed under the
12 provisions of Article IV, unless the context clearly indicates
13 otherwise.

14 It shall be unlawful--

15 * * *

16 (35) Sale of wine received by direct shipment. For a
17 licensee to sell or offer to sell wine purchased or acquired
18 from a direct wine shipper pursuant to the authority of section
19 488.

20 Section 3. Section 505 of the act, amended June 25, 2010
21 (P.L.217, No.35), is amended to read:

22 Section 505. Licenses Issued.--Upon receipt of the
23 application in the form herein provided and the proper fees, the
24 board may grant to such applicant a license to engage in, (a)
25 the operation of a limited winery or a winery; or, (b) the
26 manufacturing, producing, distilling, developing, or using in
27 the process of manufacturing, denaturing, redistilling,
28 recovering, rectifying, blending and reusing of alcohol and
29 liquor; or, (c) the holding in bond of alcohol and liquor; or,
30 (d) the holding in storage, as bailee for hire, of alcohol,

1 liquor and malt or brewed beverages; or, (e) the transporting
2 for hire of alcohol, liquor and malt or brewed beverages. Such
3 licenses may be transferred from one person to another or from
4 one location to another, or both. Every applicant for a transfer
5 of such licenses shall file a written application with the
6 board, together with a filing fee of five hundred fifty dollars
7 (\$550) if the transfer is to a new location, six hundred fifty
8 dollars (\$650) if the transfer is to a new person, or seven
9 hundred dollars (\$700) if the transfer is to a new person for
10 use at a new location. Whenever such a license is transferred,
11 no license or other fees shall be required from the persons to
12 whom such transfer is made for the portion of the license period
13 for which the license fee has been paid by the transferor. Every
14 applicant for renewal of such licenses shall file a written
15 application with the board together with an application
16 surcharge of seven hundred dollars (\$700).

17 Section 4. Section 505.2(a) of the act is amended by adding
18 a paragraph to read:

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

22 * * *

23 (2.1) Notwithstanding any other provision of this act or law
24 to the contrary, only ship wine to residents of this
25 Commonwealth in accordance with the provisions of section 488. A
26 sale to a licensee of the board shall take place on the licensed
27 premises of the limited winery. A limited winery is prohibited
28 from shipping or delivering wine sold to licensees of the board.

29 * * *

30 Section 5. This act shall take effect in 60 days.