

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1477 Session of 2013

INTRODUCED BY MOUL, EVERETT, HELM, MILLARD AND MULLERY, JUNE 4, 2013

AS REPORTED FROM COMMITTEE ON LIQUOR CONTROL, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 26, 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," IN <--
17 LIQUOR AND ALCOHOL, FURTHER PROVIDING FOR INTERLOCKING
18 BUSINESS PROHIBITED; IN MALT AND BREWED BEVERAGES, FURTHER
19 PROVIDING FOR NUMBER AND KINDS OF LICENSES ALLOWED SAME
20 LICENSEE AND FOR INTERLOCKING BUSINESS PROHIBITED; AND, in
21 distilleries, wineries, bonded warehouses, bailees for hire
22 and transporters for hire, further providing for limited
23 wineries.

24 The General Assembly of the Commonwealth of Pennsylvania
25 hereby enacts as follows:

26 ~~Section 1. Section 505.2(a) of the act of April 12, 1951 <--~~
27 ~~(P.L.90, No.21), known as the Liquor Code, reenacted and amended~~
28 ~~June 29, 1987 (P.L.32, No.14), is amended by adding a paragraph~~

1 ~~to read:~~

2 SECTION 1. SECTION 411(E) OF THE ACT OF APRIL 12, 1951 <--  
3 (P.L.90, NO.21), KNOWN AS THE LIQUOR CODE, REENACTED AND AMENDED  
4 JUNE 29, 1987 (P.L.32, NO.14) AND AMENDED DECEMBER 22, 2011  
5 (P.L.530, NO.113), IS AMENDED TO READ:

6 SECTION 411. INTERLOCKING BUSINESS PROHIBITED.--\* \* \*

7 (E) EXCEPT AS HEREIN PROVIDED, NO HOTEL, RESTAURANT, RETAIL  
8 DISPENSER OR CLUB LICENSEE, AND NO OFFICER, DIRECTOR OR  
9 STOCKHOLDER, AGENT OR EMPLOYE OF ANY SUCH LICENSEE SHALL IN ANY  
10 WISE BE INTERESTED, DIRECTLY OR INDIRECTLY, IN THE OWNERSHIP OR  
11 LEASEHOLD OF ANY PROPERTY OR THE EQUIPMENT OF ANY PROPERTY OR  
12 ANY MORTGAGE LIEN AGAINST THE SAME, USED BY A DISTRIBUTOR,  
13 IMPORTING DISTRIBUTOR, OR BY AN IMPORTER OR SACRAMENTAL WINE  
14 LICENSEE, IN THE CONDUCT OF HIS BUSINESS; NOR SHALL ANY HOTEL,  
15 RESTAURANT, RETAIL DISPENSER OR CLUB LICENSEE, OR ANY OFFICER,  
16 DIRECTOR, STOCKHOLDER, AGENT OR EMPLOYE OF ANY SUCH LICENSEE,  
17 EITHER DIRECTLY OR INDIRECTLY, LEND ANY MONEYS, CREDIT, OR GIVE  
18 ANYTHING OF VALUE OR THE EQUIVALENT THEREOF, TO ANY DISTRIBUTOR,  
19 IMPORTING DISTRIBUTOR, IMPORTER OR SACRAMENTAL WINE LICENSEE,  
20 FOR EQUIPPING, FITTING OUT, OR MAINTAINING AND CONDUCTING,  
21 EITHER IN WHOLE OR IN PART, AN ESTABLISHMENT USED IN THE CONDUCT  
22 OF HIS BUSINESS.

23 THE PURPOSE OF THIS SECTION IS TO REQUIRE A SEPARATION OF THE  
24 FINANCIAL AND BUSINESS INTERESTS BETWEEN MANUFACTURERS AND  
25 HOLDERS OF HOTEL OR RESTAURANT LIQUOR LICENSES AND, AS HEREIN  
26 PROVIDED, OF CLUB LICENSES, ISSUED UNDER THIS ARTICLE, AND NO  
27 PERSON SHALL, BY ANY DEVICE WHATSOEVER, DIRECTLY OR INDIRECTLY,  
28 EVADE THE PROVISIONS OF THE SECTION. BUT IN VIEW OF EXISTING  
29 ECONOMIC CONDITIONS, NOTHING CONTAINED IN THIS SECTION SHALL BE  
30 CONSTRUED TO PROHIBIT THE OWNERSHIP OF PROPERTY OR CONFLICTING

1 INTEREST BY A MANUFACTURER OF ANY PLACE OCCUPIED BY A LICENSEE  
2 UNDER THIS ARTICLE AFTER THE MANUFACTURER HAS CONTINUOUSLY OWNED  
3 AND HAD A CONFLICTING INTEREST IN SUCH PLACE FOR A PERIOD OF AT  
4 LEAST FIVE YEARS PRIOR TO JULY EIGHTEENTH, ONE THOUSAND NINE  
5 HUNDRED THIRTY-FIVE: PROVIDED, HOWEVER, THAT THIS CLAUSE SHALL  
6 NOT PROHIBIT ANY HOTEL, RESTAURANT OR CLUB LIQUOR LICENSEE FROM  
7 OWNING LAND WHICH IS LEASED TO, AND THE BUILDINGS THEREON OWNED  
8 BY, A HOLDER OF A RETAIL DISPENSER'S LICENSE; AND NOTHING IN  
9 THIS CLAUSE SHALL PREVENT THE ISSUANCE OF A RETAIL DISPENSER'S  
10 LICENSE TO A LESSEE OF SUCH LANDS WHO OWNS THE BUILDINGS  
11 THEREON: AND, PROVIDED FURTHER, THAT NOTHING CONTAINED IN THIS  
12 SECTION SHALL BE CONSTRUED TO PROHIBIT ANY HOTEL, RESTAURANT,  
13 RETAIL DISPENSER OR CLUB LICENSEE OR ANY OFFICER, DIRECTOR OR  
14 STOCKHOLDER, AGENT OR EMPLOYE OF ANY SUCH LICENSEE FROM HAVING A  
15 FINANCIAL OR OTHER INTEREST, DIRECTLY OR INDIRECTLY IN THE  
16 OWNERSHIP OR LEASEHOLD OF ANY PROPERTY OR THE EQUIPMENT OF ANY  
17 PROPERTY OR ANY MORTGAGE LIEN AGAINST SAME, USED, LEASED BY AN  
18 IMPORTER OR SACRAMENTAL WINE LICENSEE FOR THE EXCLUSIVE PURPOSE  
19 OF MAINTAINING COMMERCIAL OFFICES AND ON THE CONDITION THAT SAID  
20 PROPERTY IS NOT USED FOR THE STORAGE OR SALE OF LIQUOR OR MALT  
21 OR BREWED BEVERAGES IN ANY QUANTITY: AND, PROVIDED FURTHER, THAT  
22 NOTHING CONTAINED IN THIS SECTION SHALL PROHIBIT AN OFFICER OR  
23 MEMBER OF A LICENSED PRIVATELY OWNED PRIVATE GOLF COURSE  
24 CATERING CLUB FROM HAVING AN INTEREST IN A LIMITED WINERY  
25 LICENSE: AND, PROVIDED FURTHER, THAT NOTHING CONTAINED IN THIS  
26 SECTION SHALL BE CONSTRUED TO PROHIBIT A MEMBER OF THE GOVERNING  
27 BOARD OF A PUBLIC AUTHORITY CREATED UNDER SUBDIVISION (N) OF  
28 ARTICLE XXIII OF THE ACT OF AUGUST 9, 1955 (P.L.323, NO.130),  
29 KNOWN AS "THE COUNTY CODE," FROM HAVING AN INTEREST IN A  
30 DISTRIBUTOR OR IMPORTING DISTRIBUTOR LICENSE NOTWITHSTANDING THE

1 FACT THAT THE PUBLIC AUTHORITY HAS AN INTEREST IN ONE OR MORE  
2 RETAIL LICENSES OR ACTS AS A LANDLORD FOR ONE OR MORE RETAIL  
3 LICENSES: AND, PROVIDED FURTHER, THAT, NOTHING IN THIS SECTION  
4 MAY PROHIBIT AN EMPLOYE OF A HOTEL OR RESTAURANT LICENSEE FROM  
5 HAVING AN INTEREST IN ANY PROPERTY USED BY A LIMITED WINERY  
6 LICENSEE OR IN GUARANTEEING ANY LOANS, OR LENDING ANY MONEYS,  
7 PROVIDING CREDIT OR GIVING ANYTHING OF VALUE TO A LIMITED WINERY  
8 LICENSEE OR ITS OFFICERS, DIRECTORS AND SHAREHOLDERS, PROVIDED  
9 THAT THE PERSON ALSO IS NOT AN OFFICER OF OR DOES NOT HAVE ANY  
10 INTEREST IN OR EXERCISE ANY CONTROL OVER ANY OTHER LICENSED  
11 ENTITY THAT ENGAGES IN ANY SALES TO OR FROM THE LICENSEE: AND,  
12 PROVIDED FURTHER, THAT, NOTWITHSTANDING ANY OTHER PROVISION OF  
13 THIS SECTION, AN ENTITY MAY ACQUIRE BOTH A MANUFACTURER'S  
14 LICENSE OR A LIMITED WINERY LICENSE AND A HOTEL, RESTAURANT OR  
15 RETAIL DISPENSER LICENSE FOR USE AT THE SAME LOCATION AND MORE  
16 THAN ONE LOCATION MAY BE SO LICENSED[.]: AND, PROVIDED FURTHER,  
17 THAT, NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE  
18 HOLDER OF A LIMITED WINERY LICENSE MAY ALSO HOLD AND OPERATE  
19 UNDER A HOTEL LIQUOR LICENSE, A RESTAURANT LIQUOR LICENSE OR A  
20 RETAIL DISPENSER LICENSE ON PREMISES OTHER THAN THE LIMITED  
21 WINERY'S LICENSED PREMISES. THE LICENSES AND A PERSON'S INTEREST  
22 IN THE LICENSES OR IN THE ENTITY HOLDING THE LICENSES SHALL NOT  
23 BE SUBJECT TO THIS SECTION. PROVIDED FURTHER, THAT, A PERSON WHO  
24 IS A HOLDER OF FIVE PER CENTUM (5%) OR LESS OF SECURITIES OR  
25 OTHER INTERESTS IN A PUBLICLY OR PRIVATELY HELD DOMESTIC OR  
26 FOREIGN CORPORATION, PARTNERSHIP, LIMITED LIABILITY COMPANY OR  
27 OTHER FORM OF LEGAL ENTITY OWNING A RESTAURANT LIQUOR LICENSE OR  
28 RETAIL DISPENSER'S LICENSE SHALL NOT BE DEEMED TO POSSESS A  
29 FINANCIAL INTEREST AND IS NOT SUBJECT TO THE PROVISIONS OF THIS  
30 SECTION, PROVIDED THAT THE PERSON IS NOT AN OFFICER OF, EMPLOYE

1 OF OR DOES NOT HAVE ANY INTEREST IN OR EXERCISE ANY CONTROL OVER  
2 ANY OTHER LICENSED ENTITY THAT ENGAGES IN ANY SALES TO OR FROM  
3 THE RESTAURANT LIQUOR OR RETAIL DISPENSER LICENSEE IN WHICH THE  
4 PERSON HOLDS THE FIVE PER CENTUM (5%) OR LESS INTEREST.

5 SECTION 2. SECTION 438(C) OF THE ACT, AMENDED JUNE 25, 2010  
6 (P.L.217, NO.35), IS AMENDED TO READ:

7 SECTION 438. NUMBER AND KINDS OF LICENSES ALLOWED SAME  
8 LICENSEE.--\* \* \*

9 (C) NO PERSON SHALL POSSESS MORE THAN ONE CLASS OF LICENSE,  
10 EXCEPT THAT A HOLDER OF A RETAIL DISPENSER'S LICENSE MAY ALSO BE  
11 A HOLDER OF A RETAIL LIQUOR LICENSE: PROVIDED, HOWEVER, THAT  
12 NOTHING CONTAINED IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT  
13 A MEMBER OF THE GOVERNING BOARD OF A PUBLIC AUTHORITY CREATED  
14 UNDER SUBDIVISION (N) OF ARTICLE XXIII OF THE ACT OF AUGUST 9,  
15 1955 (P.L.323, NO.130), KNOWN AS "THE COUNTY CODE," FROM HAVING  
16 AN INTEREST IN A DISTRIBUTOR OR IMPORTING DISTRIBUTOR LICENSE  
17 NOTWITHSTANDING THE FACT THAT THE PUBLIC AUTHORITY HAS AN  
18 INTEREST IN ONE OR MORE RETAIL LICENSES OR ACTS AS A LANDLORD  
19 FOR ONE OR MORE RETAIL LICENSES: AND, PROVIDED FURTHER, THAT,  
20 NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, AN ENTITY  
21 MAY ACQUIRE BOTH A MANUFACTURER'S LICENSE OR A LIMITED WINERY  
22 LICENSE AND A HOTEL, RESTAURANT OR RETAIL DISPENSER LICENSE FOR  
23 USE AT THE SAME LOCATION AND MORE THAN ONE LOCATION MAY BE SO  
24 LICENSED[.]: AND, PROVIDED FURTHER, THAT, NOTWITHSTANDING ANY  
25 OTHER PROVISION OF THIS SECTION, THE HOLDER OF A LIMITED WINERY  
26 LICENSE MAY ALSO HOLD AND OPERATE UNDER A HOTEL LIQUOR LICENSE,  
27 A RESTAURANT LIQUOR LICENSE OR A RETAIL DISPENSER LICENSE ON  
28 PREMISES OTHER THAN THE LIMITED WINERY'S LICENSED PREMISES. THE  
29 LICENSES AND A PERSON'S INTEREST IN THE LICENSES OR IN THE  
30 ENTITY HOLDING THE LICENSES SHALL NOT BE SUBJECT TO THIS

1 SECTION.

2 SECTION 3. SECTION 443(G) OF THE ACT, AMENDED DECEMBER 22,  
3 2011 (P.L.530, NO.113), IS AMENDED TO READ:

4 SECTION 443. INTERLOCKING BUSINESS PROHIBITED.--\* \* \*

5 (G) THE PURPOSE OF THIS SECTION IS TO REQUIRE A SEPARATION  
6 OF THE FINANCIAL AND BUSINESS INTERESTS BETWEEN THE VARIOUS  
7 CLASSES OF BUSINESS REGULATED BY SUBDIVISION (B) OF THIS  
8 ARTICLE, AND NO PERSON OR CORPORATION SHALL, BY ANY DEVICE  
9 WHATSOEVER, DIRECTLY OR INDIRECTLY, EVADE THE PROVISIONS OF THIS  
10 SECTION. BUT IN VIEW OF EXISTING ECONOMIC CONDITIONS, NOTHING  
11 CONTAINED IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT THE  
12 OWNERSHIP OF PROPERTY OR CONFLICTING INTEREST BY A MALT OR  
13 BREWED BEVERAGE MANUFACTURER OF ANY PLACE OCCUPIED BY A  
14 DISTRIBUTOR, IMPORTING DISTRIBUTOR OR RETAIL DISPENSER AFTER THE  
15 MANUFACTURER HAS CONTINUOUSLY OWNED AND HAD A CONFLICTING  
16 INTEREST IN SUCH PLACE FOR A PERIOD OF AT LEAST FIVE YEARS PRIOR  
17 TO THE EIGHTEENTH DAY OF JULY, ONE THOUSAND NINE HUNDRED THIRTY-  
18 FIVE: PROVIDED, HOWEVER, THAT A HOLDER OF A MANUFACTURER'S  
19 LICENSE UNDER SECTION 431(A) WHO IS ELIGIBLE TO OPERATE A  
20 BREWERY PUB UNDER SECTION 446(2) OR A LIMITED WINERY AS PROVIDED  
21 FOR UNDER SECTION 505.2 MAY ALSO HOLD AND OPERATE UNDER A HOTEL  
22 LIQUOR LICENSE, A RESTAURANT LIQUOR LICENSE OR A MALT AND BREWED  
23 BEVERAGES RETAIL LICENSE ON THE MANUFACTURER'S OR LIMITED  
24 WINERY'S LICENSED PREMISES[.]: AND, PROVIDED FURTHER, THAT,  
25 NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE HOLDER  
26 OF A LIMITED WINERY LICENSE MAY ALSO HOLD AND OPERATE UNDER A  
27 HOTEL LIQUOR LICENSE, A RESTAURANT LIQUOR LICENSE OR A RETAIL  
28 DISPENSER LICENSE ON PREMISES OTHER THAN THE LIMITED WINERY'S  
29 LICENSED PREMISES. THE HOTEL LIQUOR LICENSE OR RESTAURANT LIQUOR  
30 LICENSE OR THE MALT AND BREWED BEVERAGES RETAIL LICENSE SHALL BE

1 ACQUIRED BY THE MANUFACTURER OR LIMITED WINERY SUBJECT TO  
2 SECTION 461 AND SHALL SATISFY ALL REQUIREMENTS FOR EACH  
3 RESPECTIVE LICENSE: AND, PROVIDED FURTHER, THAT NOTHING  
4 CONTAINED IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT A  
5 MEMBER OF THE GOVERNING BOARD OF A PUBLIC AUTHORITY CREATED  
6 UNDER SUBDIVISION (N) OF ARTICLE XXIII OF THE ACT OF AUGUST 9,  
7 1955 (P.L.323, NO.130), KNOWN AS "THE COUNTY CODE," FROM HAVING  
8 AN INTEREST IN A DISTRIBUTOR OR IMPORTING DISTRIBUTOR LICENSE  
9 NOTWITHSTANDING THE FACT THAT THE PUBLIC AUTHORITY HAS AN  
10 INTEREST IN ONE OR MORE RETAIL LICENSES OR ACTS AS A LANDLORD  
11 FOR ONE OR MORE RETAIL LICENSES.

12 A PERSON WHO IS A HOLDER OF FIVE PER CENTUM (5%) OR LESS OF  
13 SECURITIES OR OTHER INTERESTS IN A PUBLICLY OR PRIVATELY HELD  
14 DOMESTIC OR FOREIGN CORPORATION, PARTNERSHIP, LIMITED LIABILITY  
15 COMPANY OR OTHER FORM OF LEGAL ENTITY OWNING A RESTAURANT LIQUOR  
16 LICENSE OR RETAIL DISPENSER'S LICENSE SHALL NOT BE DEEMED TO  
17 POSSESS A FINANCIAL INTEREST AND IS NOT SUBJECT TO THE  
18 PROVISIONS OF THIS SECTION, PROVIDED THAT THE PERSON IS NOT AN  
19 OFFICER OF, EMPLOYE OF OR DOES NOT HAVE ANY INTEREST IN OR  
20 EXERCISE ANY CONTROL OVER ANY OTHER LICENSED ENTITY THAT ENGAGES  
21 IN ANY SALES TO OR FROM THE RESTAURANT LIQUOR OR RETAIL  
22 DISPENSER LICENSEE IN WHICH THE PERSON HOLDS THE FIVE PER CENTUM  
23 (5%) OR LESS INTEREST.

24 THE TERM "MANUFACTURER" AS USED IN THIS SECTION SHALL INCLUDE  
25 MANUFACTURERS OF MALT OR BREWED BEVERAGES AS DEFINED IN THIS ACT  
26 AND ANY PERSON MANUFACTURING ANY MALT OR BREWED BEVERAGES  
27 OUTSIDE OF THIS COMMONWEALTH.

28 SECTION 4. SECTION 505.2(A) OF THE ACT IS AMENDED BY ADDING  
29 A PARAGRAPH TO READ:

30 Section 505.2. Limited Wineries.--(a) In the interest of

1 promoting tourism and recreational development in Pennsylvania,  
2 holders of a limited winery license may:

3 \* \* \*

4 ~~(5.1) Apply for and hold a hotel liquor license, a~~ <--  
5 ~~restaurant liquor license or a malt and brewed beverages retail~~  
6 ~~license for a premises not located on or near the licensed~~  
7 ~~limited winery premises under the same conditions and~~  
8 ~~regulations as any other hotel liquor license, restaurant liquor~~  
9 ~~license or malt and brewed beverages retail license and subject~~  
10 ~~to the limitation on the issuance of such licenses pursuant to~~  
11 ~~section 461. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE~~ <--  
12 ~~CONTRARY, APPLY FOR AND HOLD HOTEL LIQUOR LICENSES, RESTAURANT~~  
13 ~~LIQUOR LICENSES OR RETAIL DISPENSER LICENSES FOR PREMISES OTHER~~  
14 ~~THAN THE LICENSED LIMITED WINERY PREMISES UNDER THE SAME~~  
15 ~~CONDITIONS AND REGULATIONS AS ANY OTHER HOTEL LIQUOR LICENSE,~~  
16 ~~RESTAURANT LIQUOR LICENSE OR RETAIL DISPENSER LICENSE AND~~  
17 ~~SUBJECT TO THE LIMITATION ON THE ISSUANCE OF SUCH LICENSES~~  
18 ~~PURSUANT TO SECTIONS 461 AND 472.~~

19 \* \* \*

20 Section 2 5. This act shall take effect in 60 days. <--