

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1615 Session of 2021

INTRODUCED BY TOPPER, JUNE 11, 2021

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, JULY 7, 2022

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 licenses and regulations and liquor, alcohol and malt and
18 brewed beverages, further providing for breweries, FOR <--
19 RENEWAL OF LICENSES AND TEMPORARY PROVISIONS FOR LICENSEES IN
20 ARMED SERVICE AND FOR RIGHTS OF MUNICIPALITIES PRESERVED.

21 The General Assembly of the Commonwealth of Pennsylvania
22 hereby enacts as follows:

23 Section 1. Section 446(a) (1), (2) and (3) of the act of
24 April 12, 1951 (P.L.90, No.21), known as the Liquor Code, are
25 amended and subsection (a) is amended by adding a paragraph to
26 read:

27 Section 446. Breweries.--(a) Holders of a brewery license

1 may:

2 (1) Sell malt or brewed beverages [produced at the location  
3 and owned by the brewery] as provided in this section under such  
4 conditions and regulations as the board may enforce[, to  
5 individuals for consumption on the licensed premises in any  
6 container or package of any volume and to hotel, restaurant,  
7 club and public service liquor licensees. Malt] ~~The following~~ <--  
8 ~~shall apply~~ AS FOLLOWS: <--

9 (i) Malt or brewed beverages produced [for the holder of a  
10 brewery license under a contract brewing agreement with an out-  
11 of-State manufacturer may be sold to a nonlicensee for on-  
12 premises or off-premises consumption, except that sales to a  
13 licensee must be distributed as provided under section 431(b).]  
14 by a brewery at the brewery location or under a contract brewing  
15 agreement or alternating proprietorship with an in-State  
16 manufacturer may be sold by the brewery to nonlicensees for on-  
17 premises or off-premises consumption and to licensees who are  
18 authorized to resell malt or brewed beverages. Sales to  
19 licensees under this paragraph shall comply with the provisions  
20 of this act. Malt or brewed beverages produced for the brewery  
21 under a contract brewing agreement or alternating proprietorship  
22 with an out-of-State manufacturer may only be distributed as  
23 provided under paragraph (3).

24 ~~(ii) A brewery located in a second class city with retail~~ <--  
25 ~~sales prior to June 1, 2017, may sell malt or brewed beverages~~  
26 ~~produced under a contract brewing agreement with an in state or~~  
27 ~~out of State manufacturer to nonlicensees for on premises or~~  
28 ~~off premises consumption. If the brewery uses storage locations~~  
29 ~~granted to the brewery under section 431(a.2) for distribution~~  
30 ~~or retail sales, the brewery may only sell malt or brewed~~

1 ~~beverages as provided under paragraph (3).~~

2 (II) A BREWERY WITH A CONTRACT BREWING AGREEMENT WITH AN <--  
3 OUT-OF-STATE MANUFACTURER PRIOR TO THE EFFECTIVE DATE OF THIS  
4 PARAGRAPH MAY SELL MALT OR BREWED BEVERAGES TO NONLICENSEES FOR  
5 ON-PREMISES OR OFF-PREMISES CONSUMPTION. THESE SALES ARE IN  
6 ADDITION TO THE SALES AUTHORIZED BY THIS PARAGRAPH AND ARE NOT  
7 SUBJECT TO THE DISTRIBUTION REQUIREMENTS SET FORTH IN PARAGRAPH  
8 (3). IF THE BREWERY USES STORAGE LOCATIONS GRANTED TO THE  
9 BREWERY UNDER SECTION 431(A.2) FOR DISTRIBUTION OR RETAIL SALES  
10 BEYOND THOSE STORAGE LOCATIONS ALREADY USED FOR DISTRIBUTION OR  
11 RETAIL SALES PRIOR TO THE EFFECTIVE DATE OF THIS PARAGRAPH, THE  
12 BREWERY MAY ONLY SELL MALT OR BREWED BEVERAGES AS PROVIDED UNDER  
13 PARAGRAPH (3).

14 (2) Operate a restaurant or brewery pub on the licensed  
15 premises under such conditions and regulations as the board may  
16 enforce: Provided, however, That sales on Sunday may be made  
17 irrespective of the volume of food sales if the licensed  
18 premises are at a public venue location. [The] In addition to  
19 the sales authorized under paragraph (1), the holder of a  
20 brewery license may sell wines, alcoholic cider and fermented  
21 fruit beverages produced by the holder of a limited winery  
22 license, malt or brewed beverages produced by a manufacturer  
23 licensed by the board and liquor produced by a limited  
24 distillery or distillery licensed by the board: Provided,  
25 however, That said wines, malt or brewed beverages produced by  
26 another manufacturer and liquor must be consumed at the licensed  
27 premises. In addition, the combined sales of wine, malt or  
28 brewed beverages produced by another manufacturer and liquor may  
29 not, on a yearly basis, exceed fifty per centum (50%) of the on-  
30 premises sales of the brewery's own malt or brewed beverages for

1 the preceding calendar year: however, if a brewery did not  
2 operate for an entire calendar year during the preceding year,  
3 then its combined sales of wine, malt or brewed beverages  
4 produced by another manufacturer and liquor may not, on a yearly  
5 basis, exceed fifty per centum (50%) of the on-premises sales of  
6 the brewery's own malt or brewed beverages for that year.

7 (3) Use brewery storage and distribution facilities for the  
8 purpose of receiving, storing and distributing malt or brewed  
9 beverages manufactured outside this Commonwealth [if], including  
10 malt or brewed beverages produced for the brewery under a  
11 contract brewing agreement or alternating proprietorship with an  
12 out-of-State manufacturer, so long as the beverages are  
13 distributed in this Commonwealth only through specific importing  
14 distributors who shall have first been given distributing rights  
15 for such products in designated geographical areas through the  
16 distribution system required for out-of-State manufacturers  
17 under section [431(b)] 431 as well as all other pertinent  
18 sections of this act. The manufacturer of the beverages must  
19 comply with section 444.

20 \* \* \*

21 (5) Nothing in paragraphs (2) and (3) shall be construed to  
22 impact the status of existing or future distribution contracts  
23 or rights under this act.

24 \* \* \*

25 ~~Section 2. This act shall take effect in 60 days~~ <--

26 ~~IMMEDIATELY.~~ <--

27 SECTION 2. SECTION 470(A)(1) OF THE ACT IS AMENDED TO READ: <--

28 SECTION 470. RENEWAL OF LICENSES; TEMPORARY PROVISIONS FOR  
29 LICENSEES IN ARMED SERVICE.--(A) (1) ALL APPLICATIONS FOR  
30 VALIDATION OR RENEWAL OF LICENSES UNDER THE PROVISIONS OF THIS

1 ARTICLE SHALL BE FILED AT LEAST SIXTY DAYS BEFORE THE EXPIRATION  
2 DATE OF SAME, ALONG WITH TAX CLEARANCE FROM THE DEPARTMENT OF  
3 REVENUE AND THE DEPARTMENT OF LABOR AND INDUSTRY, THE REQUISITE  
4 LICENSE AND FILING FEES, AND, EXCEPT AS PROVIDED UNDER PARAGRAPH  
5 (2), SHALL INCLUDE AN APPLICATION SURCHARGE OF SEVEN HUNDRED  
6 DOLLARS (\$700.00): PROVIDED, HOWEVER, THAT THE BOARD, IN ITS  
7 DISCRETION, MAY ACCEPT NUNC PRO TUNC A RENEWAL APPLICATION FILED  
8 LESS THAN SIXTY DAYS BEFORE THE EXPIRATION DATE OF THE LICENSE  
9 WITH THE REQUIRED FEES, UPON REASONABLE CAUSE SHOWN AND THE  
10 PAYMENT OF AN ADDITIONAL FILING FEE OF ONE HUNDRED DOLLARS  
11 (\$100.00) FOR LATE FILING: AND PROVIDED FURTHER, THAT EXCEPT  
12 WHERE THE FAILURE TO FILE A RENEWAL APPLICATION ON OR BEFORE THE  
13 EXPIRATION DATE HAS CREATED A LICENSE QUOTA VACANCY AFTER SAID  
14 EXPIRATION DATE WHICH HAS BEEN FILLED BY THE ISSUANCE OF A NEW  
15 LICENSE, AFTER SUCH EXPIRATION DATE, BUT BEFORE THE BOARD HAS  
16 RECEIVED A RENEWAL APPLICATION NUNC PRO TUNC WITHIN THE TIME  
17 PRESCRIBED HEREIN THE BOARD, IN ITS DISCRETION, MAY, AFTER  
18 HEARING, ACCEPT A RENEWAL APPLICATION FILED WITHIN TWO YEARS  
19 AFTER THE EXPIRATION DATE OF THE LICENSE WITH THE REQUIRED FEES  
20 UPON THE PAYMENT OF AN ADDITIONAL FILING FEE OF TWO HUNDRED  
21 FIFTY DOLLARS (\$250.00) FOR LATE FILING. WHERE ANY SUCH RENEWAL  
22 APPLICATION IS FILED LESS THAN SIXTY DAYS BEFORE THE EXPIRATION  
23 DATE, OR SUBSEQUENT TO THE EXPIRATION DATE, NO LICENSE SHALL  
24 ISSUE UPON THE FILING OF THE RENEWAL APPLICATION UNTIL THE  
25 MATTER IS FINALLY DETERMINED BY THE BOARD AND IF AN APPEAL IS  
26 TAKEN FROM THE BOARD'S ACTION THE COURTS SHALL NOT ORDER THE  
27 ISSUANCE OF THE RENEWAL LICENSE UNTIL FINAL DETERMINATION OF THE  
28 MATTER BY THE COURTS. THE BOARD MAY ENTER INTO AN AGREEMENT WITH  
29 THE APPLICANT CONCERNING ADDITIONAL RESTRICTIONS ON THE LICENSE  
30 IN QUESTION. IF THE BOARD AND THE APPLICANT ENTER INTO SUCH AN

1 AGREEMENT, SUCH AGREEMENT SHALL BE BINDING ON THE APPLICANT.  
2 FAILURE BY THE APPLICANT TO ADHERE TO THE AGREEMENT WILL BE  
3 SUFFICIENT CAUSE TO FORM THE BASIS FOR A CITATION UNDER SECTION  
4 471 AND FOR THE NONRENEWAL OF THE LICENSE UNDER THIS SECTION. A  
5 RENEWAL APPLICATION WILL NOT BE CONSIDERED FILED UNLESS  
6 ACCOMPANIED BY THE REQUISITE FILING AND LICENSE FEES AND ANY  
7 ADDITIONAL FILING FEE REQUIRED BY THIS SECTION. UNLESS THE BOARD  
8 SHALL HAVE GIVEN TEN DAYS' PREVIOUS NOTICE TO THE APPLICANT OF  
9 OBJECTIONS TO THE RENEWAL OF HIS LICENSE, BASED UPON VIOLATION  
10 BY THE LICENSEE OR HIS SERVANTS, AGENTS OR EMPLOYEES OF ANY OF  
11 THE LAWS OF THE COMMONWEALTH OR REGULATIONS OF THE BOARD  
12 RELATING TO THE MANUFACTURE, TRANSPORTATION, USE, STORAGE,  
13 IMPORTATION, POSSESSION OR SALE OF LIQUORS, ALCOHOL OR MALT OR  
14 BREWED BEVERAGES, OR THE CONDUCT OF A LICENSED ESTABLISHMENT, OR  
15 UNLESS THE APPLICANT HAS BY HIS OWN ACT BECOME A PERSON OF ILL  
16 REPUTE, OR UNLESS THE PREMISES DO NOT MEET THE REQUIREMENTS OF  
17 THIS ACT OR THE REGULATIONS OF THE BOARD, THE LICENSE OF A  
18 LICENSEE SHALL BE RENEWED. NOTWITHSTANDING ANY OTHER PROVISION  
19 OF THIS ACT, A NOISE VIOLATION SHALL NOT BE THE SOLE BASIS FOR  
20 OBJECTION BY THE BOARD TO THE RENEWAL OF A LICENSE UNLESS THE  
21 LICENSEE HAS RECEIVED [~~SIX~~] THREE PRIOR ADJUDICATED NOISE  
22 CITATIONS WITHIN A TWENTY-FOUR-MONTH PERIOD.

23 \* \* \*

24 SECTION 3. SECTION 493.1(E) (1) AND (2) OF THE ACT ARE  
25 AMENDED AND THE SUBSECTION IS AMENDED BY ADDING A PARAGRAPH TO  
26 READ:

27 SECTION 493.1. RIGHTS OF MUNICIPALITIES PRESERVED.--\* \* \*

28 (E) (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE  
29 CONTRARY EXCEPT AS PROVIDED UNDER PARAGRAPH (3), THE HOLDER OF A  
30 [~~LIMITED WINERY~~] LICENSE UNDER THIS ACT THAT IS LOCATED IN A

1 CLASS 2A THROUGH 8 COUNTY MAY USE OR PERMIT TO BE USED INSIDE OR  
2 OUTSIDE OF THE LICENSED PREMISES A LOUDSPEAKER OR SIMILAR DEVICE  
3 WHEREBY THE SOUND OF MUSIC OR OTHER ENTERTAINMENT, OR THE  
4 ADVERTISEMENT THEREOF, DOES NOT EXCEED 75 DECIBELS BEYOND THE  
5 LICENSEE'S PROPERTY LINE.

6 (2) THE PROVISIONS OF [SUBSECTION (A)] PARAGRAPH (1) SHALL  
7 ONLY APPLY:

8 (I) FROM TEN O'CLOCK ANTEMERIDIAN UNTIL [EIGHT] NINE O'CLOCK  
9 POSTMERIDIAN ON EVERY DAY EXCEPT FRIDAYS AND SATURDAYS; AND

10 (II) FROM TEN O'CLOCK ANTEMERIDIAN UNTIL [TEN] TWELVE  
11 O'CLOCK [POSTMERIDIAN] ANTEMERIDIAN ON FRIDAYS OR SATURDAYS.

12 \* \* \*

13 (4) THE BUREAU OF LIQUOR CONTROL ENFORCEMENT OF THE  
14 PENNSYLVANIA STATE POLICE SHALL ENFORCE THE PROVISIONS OF THIS  
15 SUBSECTION.

16 SECTION 4. THIS ACT SHALL TAKE EFFECT IMMEDIATELY.