
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 438 Session of
2017

INTRODUCED BY REESE, TURZAI, BENNINGHOFF, DIAMOND, DOWLING,
DUNBAR, EVANKOVICH, EVERETT, FRITZ, GREINER, GROVE,
A. HARRIS, IRVIN, JOZWIAK, KAMPF, MARSHALL, MCGINNIS,
MILLARD, ORTITAY, ROTHMAN, SACCONI, SANKEY, SAYLOR, TOPPER,
WALSH AND WARD, FEBRUARY 10, 2017

REFERRED TO COMMITTEE ON LIQUOR CONTROL, FEBRUARY 10, 2017

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 preliminary provisions, further providing for definitions;
18 and, in licenses and regulations and liquor, alcohol and malt
19 and brewed beverages, providing for spirit expanded permits.

20 The General Assembly of the Commonwealth of Pennsylvania

21 hereby enacts as follows:

22 Section 1. Section 102 of the act of April 12, 1951 (P.L.90,
23 No.21), known as the Liquor Code, is amended by adding a
24 definition to read:

25 Section 102. Definitions.--The following words or phrases,

1 unless the context clearly indicates otherwise, shall have the
2 meanings ascribed to them in this section:

3 * * *

4 "Spirits" shall mean any beverage which contains alcohol
5 obtained by distillation, mixed with water or other substance in
6 solution, and includes brandy, rum, whiskey, gin or other
7 spirituous liquors, and such liquors when rectified, blended or
8 otherwise mixed with alcohol or other substances.

9 * * *

10 Section 2. The act is amended by adding a section to read:

11 Section 417. Spirit Expanded Permits.--(a) The following
12 apply:

13 (1) The board shall issue a spirit expanded permit to a
14 person holding and possessing a valid restaurant liquor license
15 or hotel liquor license.

16 (2) Nothing in this section may affect the ability of an
17 existing licensee to operate within the scope of its current
18 license as authorized by this act, except that no sales of
19 spirits for off-premises consumption may take place by a spirit
20 expanded permit holder after eleven o'clock postmeridian of any
21 day until the licensee's permitted hours of operation under
22 section 406 of the next day, including Sundays if the licensee
23 has a permit authorized under sections 406(a)(3) and 432(f).

24 (3) A spirit expanded permit may not be issued to a license
25 holder whose underlying license is subject to a pending
26 objection by the director of the Bureau of Licensing or the
27 board under section 470(a.1), until the matter is decided, so
28 long as the underlying license is authorized to operate.
29 Notwithstanding any other provision of law, a holder of a spirit
30 expanded permit may continue to operate under the permit if its

1 underlying license is objected to by the director of the Bureau
2 of Licensing or the board under section 470(a.1), until the
3 matter is decided.

4 (4) If the board has approved the operation of another
5 business which has an inside passage or communication to or with
6 the licensed premises, the sale and purchase of spirits shall be
7 confined strictly to the premises, in a specifically designated
8 area covered by the license. The purchase of goods obtained from
9 the unlicensed area of the premises shall be permitted in the
10 licensed area.

11 (5) For purposes of selling spirits for off-premises
12 consumption, a holder of a spirit expanded permit is not subject
13 to section 493(14).

14 (6) A spirit expanded permit holder shall comply with the
15 responsible alcohol management provisions under section 471.1.

16 (7) A spirit expanded permit holder may store spirits in a
17 noncontiguous area that is not accessible to the public and is:

18 (i) locked at all times when not being accessed by the
19 licensees' employes;

20 (ii) not accessible to employes under eighteen years of age;
21 and

22 (iii) identified by dimensions and locations on forms
23 submitted to the board.

24 (8) A spirit expanded permit holder shall utilize a
25 transaction scan device to verify the age of an individual who
26 appears to be under thirty-five years of age before making a
27 sale of spirits. A spirit expanded permit holder may not sell or
28 share data from the use of a transaction scan device, provided
29 that the licensee may use the data to show the enforcement
30 bureau of the board that the licensee is in compliance with this

1 act. As used in this paragraph, the term "transaction scan
2 device" means a device capable of deciphering, in an
3 electronically readable format, the information encoded on the
4 magnetic strip or bar code of an identification card under
5 section 495(a).

6 (9) A sale of spirits by a spirit expanded permit holder
7 shall be made through a register which is well designated with
8 signage, which is staffed at all times, which is staffed by a
9 sales clerk who is at least eighteen years of age and has been
10 trained under section 471.1 and which utilizes a transaction
11 scan device for the sale. The sale of spirits may not occur at a
12 point of sale where the customer scans the customer's own
13 purchases.

14 (b) The application and renewal fee for a spirit expanded
15 permit shall be as follows:

16 (1) For a spirit expanded permit issued to licensees, an
17 initial application fee of two thousand dollars (\$2,000).

18 (2) An annual renewal fee equal to two per centum of the
19 cost of spirits purchased from the board for off-premises
20 consumption.

21 (c) Notwithstanding the provisions of section 802, all fees
22 paid to the board under this section shall be paid into the
23 State Treasury for deposit as follows:

24 (1) All moneys shall be deposited in the State Stores Fund.

25 (2) Every June 1, all moneys deposited under paragraph (1)
26 shall be transferred to the General Fund.

27 (d) A spirit expanded permit holder may sell for off-
28 premises consumption, in a single transaction, up to three
29 thousand (3,000) milliliters of spirits.

30 (e) The following apply:

1 (1) Spirit expanded permit holders shall comply with the
2 provisions of section 201(f), (k) and (o) of the act of March 4,
3 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971,
4 regarding the purchase of spirits from a Pennsylvania Liquor
5 Store.

6 (2) The sale of spirits by a spirit expanded permit holder
7 for off-premises consumption shall be considered a "purchase at
8 retail" under section 201(f) of the Tax Reform Code of 1971, a
9 "sale at retail" under section 201(k) of the Tax Reform Code of
10 1971 or a "use" under section 201(o) of the Tax Reform Code of
11 1971.

12 (3) A spirit expanded permit holder may, when filing its
13 required returns under Article II of the Tax Reform Code of
14 1971, request a credit of any taxes paid in accordance with
15 paragraph (1) for spirits sold for off-premises consumption and
16 for which taxes were remitted to the department under paragraph
17 (2).

18 (f) A spirit expanded permit holder may not sell a spirit
19 product for off-premises consumption at a price less than the
20 licensee's purchase price from the board of the spirit product.

21 (g) A spirit expanded permit holder may not sell a private
22 label product.

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