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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 1060 Session of  
2015

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INTRODUCED BY SCAVELLO, FONTANA, SCARNATI, VOGEL, COSTA,  
RAFFERTY, STEFANO AND VULAKOVICH, NOVEMBER 13, 2015

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REFERRED TO LAW AND JUSTICE, NOVEMBER 13, 2015

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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 providing for special permits for breweries.

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

20 Section 1. Section 446 of the act of April 12, 1951 (P.L.90,  
21 No.21), known as the Liquor Code, reenacted and amended June 29,  
22 1987 (P.L.32, No.14), and amended December 22, 2011 (P.L.530,  
23 No.113) and July 5, 2012 (P.L.1007, No.116), is amended to read:

24 Section 446. Breweries.--(a) Holders of a brewery license  
25 may:

1 (1) Sell malt or brewed beverages produced and owned by the  
2 brewery under such conditions and regulations as the board may  
3 enforce, to individuals for consumption on the licensed premises  
4 in any container or package of any volume and to hotel,  
5 restaurant, club and public service liquor licensees.

6 (2) Operate a restaurant or brewery pub on the licensed  
7 premises under such conditions and regulations as the board may  
8 enforce: Provided, however, That sales on Sunday may be made  
9 irrespective of the volume of food sales if the licensed  
10 premises are at a public venue location. The holder of a brewery  
11 license may sell at its brewery pub premises Pennsylvania wines  
12 it has purchased from either the holder of a Pennsylvania  
13 limited winery license or from the board: Provided, however,  
14 That said wines must be consumed at the licensed brewery pub  
15 premises.

16 (3) Use brewery storage and distribution facilities for the  
17 purpose of receiving, storing and distributing malt or brewed  
18 beverages manufactured outside this Commonwealth if the  
19 beverages are distributed in this Commonwealth only through  
20 specific importing distributors who shall have first been given  
21 distributing rights for such products in designated geographical  
22 areas through the distribution system required for out-of-State  
23 manufacturers under section 431(b) as well as all other  
24 pertinent sections of this act. The manufacturer of the  
25 beverages must comply with section 444.

26 (4) Apply for and hold a hotel liquor license, a restaurant  
27 liquor license or a malt and brewed beverages retail license to  
28 sell for consumption at the restaurant or brewery pub on the  
29 licensed brewery premises, liquor, wine and malt or brewed  
30 beverages regardless of the place of manufacture, under the same

1 conditions and regulations as any other hotel liquor license,  
2 restaurant liquor license or malt and brewed beverages retail  
3 license, but must brew at least two hundred fifty barrels per  
4 year. Each holder of a brewery license who receives a hotel  
5 liquor license, a restaurant liquor license or a malt or brewed  
6 beverages retail license to operate a brew pub shall not sell  
7 directly to any person licensed by this act, except if any malt  
8 or brewed beverage is to be distributed in this Commonwealth it  
9 shall be only through specific importing distributors who shall  
10 have first been given distributing rights for such products in  
11 designated geographical areas through the distribution system  
12 required for out-of-State manufacturers under section 431(b) as  
13 well as all other pertinent sections of this act.

14 (b) The holder of a brew pub license may obtain an off-  
15 premises catering permit subject to section 493(33) to hold a  
16 catered function off the licensed premises and on otherwise  
17 unlicensed premises where the licensee may sell wine produced by  
18 a licensed limited winery and malt or brewed beverages produced  
19 by the brewery by the glass, open bottle or other container  
20 together with food, and in any mixture, for consumption on those  
21 premises. Functions conducted under the authority of the permit  
22 shall be subject to the following:

23 (1) alcohol may be provided only during the days and hours  
24 that the license holder may otherwise sell alcohol;

25 (2) all servers at the off premises catered function shall  
26 be in compliance with the responsible alcohol management  
27 provisions under section 471.1;

28 (3) each catered function shall last no longer than one day  
29 and not more than fifty catered functions may be held each  
30 calendar year by each license holder for use with a particular

1 license;

2 (4) a catered function shall not be held at a location that  
3 is already subject to the applicant's or another licensee's  
4 license;

5 (5) a permit shall not be issued to an applicant whose  
6 license is in safekeeping;

7 (6) a permit shall not be issued to a location that is  
8 subject to a pending objection by the director of the Bureau of  
9 Licensing or the board under section 470(a.1);

10 (7) a permit shall not be issued to a location that is  
11 subject to a pending license suspension under section 471 or the  
12 one-year prohibition on the issuance or transfer of a license  
13 under section 471(b);

14 (8) no alcohol may be taken from the permitted location by  
15 any patron, but the applicant may transport alcohol to and from  
16 its licensed premises to the proposed premises;

17 (9) written notice of the catered function as enumerated in  
18 paragraph (10) shall be provided to the local police and the  
19 enforcement bureau at least seven days in advance of the event;

20 (10) written notice shall be provided to the board at least  
21 thirty days prior to a catered function. Written notice must  
22 include the location of the function, time of the function, host  
23 of the function, general information regarding the guests  
24 expected at the function as well as any information the board  
25 shall from time to time prescribe. The board may, in its  
26 discretion, waive the thirty-day notice period for a catered  
27 function if:

28 (i) the applicant has previously conducted functions that  
29 meet the requirements of this act;

30 (ii) the applicant is a licensee in good standing with the

1 board;

2 (iii) notification was received at least fourteen days prior  
3 to the catered function; and

4 (iv) the applicant pays a late fee of one hundred dollars  
5 (\$100);

6 (11) the board shall, in its discretion, approve or  
7 disapprove a catered function if the applicant fails to provide  
8 timely notice of the catered function, does not intend to  
9 conduct a function that meets the requirements of this act or  
10 has previously conducted a function that did not meet the  
11 requirements of this act;

12 (12) if a catered function is scheduled to occur on private  
13 property, the owner of that property is deemed to have submitted  
14 to the jurisdiction of the enforcement bureau, and the warrant  
15 required by section 211(a)(2) of this act shall not be necessary  
16 for the enforcement bureau to enter and search the premises  
17 during the function or any activities related to the function;

18 (13) no catered function may be held for more than five  
19 hours per day and must end by midnight;

20 (14) neither the owner of the property nor the applicant may  
21 sell tickets to a catered function unless one of the following  
22 conditions is met:

23 (i) the applicant has contracted with an eligible entity for  
24 the function, and the function is being used to raise money for  
25 the eligible entity's organization;

26 (ii) the applicant has contracted with a nonprofit  
27 organization as defined under section 501(c)(3) of the Internal  
28 Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)),  
29 for an event which has the sole purpose of raising funds for  
30 that nonprofit organization; or

1 (iii) the applicant has contracted with an organization that  
2 holds tax exempt status under section 527 of the Internal  
3 Revenue Code of 1986;

4 (15) the catered function location shall be subject to  
5 section 493(34) of this act;

6 (16) catered functions may not be held in locations that are  
7 subject to a pending, protested transfer application;

8 (17) a permit may not be issued to a license holder whose  
9 license is subject to a pending objection by the director of the  
10 Bureau of Licensing or the board under section 470(a.1);

11 (18) a permit shall not be issued to a licensee for use in  
12 any location that is mobile; and

13 (19) a permit shall not be issued for use on any location  
14 used for parking at a sports event or concert event.

15 (c) (1) Holders of a brewery license may obtain a special  
16 permit to participate in malt or brewed beverages and food  
17 expositions off the licensed premises. A special permit shall be  
18 issued upon proper application and payment of a fee of thirty  
19 dollars (\$30) per day for each day of permitted use, not to  
20 exceed thirty consecutive days. The total number of days for all  
21 the special permits may not exceed one hundred days in any  
22 calendar year. A special permit shall entitle the holder to  
23 engage in the sale by the glass, growler, bottle or package not  
24 to exceed one hundred forty-four fluid ounces of malt or brewed  
25 beverages produced by the permittee under the authority of its  
26 brewery license. Holders of special permits may provide tasting  
27 samples of malt or brewed beverages in individual portions not  
28 to exceed four fluid ounces. Samples at malt or brewed beverages  
29 and food expositions may be sold or offered free of charge.  
30 Except as provided herein, breweries utilizing special permits

1 shall be governed by all applicable provisions of this act as  
2 well as by all applicable regulations or conditions adopted by  
3 the board. For purposes of this clause, "malt or brewed  
4 beverages and food expositions" are defined as affairs held  
5 indoors or outdoors with the intent of educating those in  
6 attendance of the availability, nature and quality of malt or  
7 brewed beverages in conjunction with suitable food displays,  
8 demonstrations and sales. Malt or brewed beverages and food  
9 expositions may also include activities other than malt or  
10 brewed beverages and food displays, including arts and crafts,  
11 musical activities, cultural exhibits, agricultural exhibits and  
12 farmers markets.

13 (2) The holder of a brewery license may, at the discretion  
14 of the board, obtain a farmers market permit. The permit shall  
15 entitle the holder to participate in more than one farmers  
16 market at any given time and an unlimited number throughout the  
17 year and sell malt or brewed beverages produced under the  
18 authority of the underlying brewery license by the growler,  
19 bottle or package not to exceed one hundred forty-four ounces.  
20 Samples not to exceed four fluid ounces per brand of malt or  
21 brewed beverages may be offered free of charge. A farmers market  
22 permit shall be issued upon proper application and payment of an  
23 annual fee of two hundred fifty dollars (\$250). A permit holder  
24 may participate in more than one farmers market at any given  
25 time. Sales by permit holders shall take place during the  
26 standard hours of operation of the farmers market. Written  
27 notice of the date, times and location the permit is to be used  
28 and shall be provided by the permit holder to the enforcement  
29 bureau at least two (2) weeks prior to the event. Except as  
30 provided in this subsection, breweries utilizing farmers market

1 permits shall be governed by all applicable provisions of this  
2 act as well as by all applicable regulations adopted by the  
3 board.

4 The term "farmers market" as used in this section shall  
5 include any building, structure or other place:

6 (i) owned, leased or otherwise in the possession of a  
7 person, municipal corporation or public or private organization;

8 (ii) used or intended to be used by two or more farmers or  
9 an association of farmers, who are certified by the Department  
10 of Agriculture to participate in the Farmers Market Nutrition  
11 Program subject to 7 CFR Pt. 249 (relating to Senior Farmers'  
12 Market Nutrition Program (SFMNP)), for the purpose of selling  
13 agricultural commodities produced in this Commonwealth directly  
14 to consumers;

15 (iii) which is physically located within this Commonwealth;  
16 and

17 (iv) which is not open for business more than twelve hours  
18 each day.

19 (3) The special permit, as well as the farmers market permit  
20 authorized by this section, are only available to breweries who  
21 qualify as a manufacturer as authorized under section 431(a) and  
22 who has not named or constituted a distributor or importing  
23 distributor as a primary or original supplier of the product  
24 under section 431(b). Only malt or brewed beverages for which  
25 the brewery is responsible for paying the malt beverage tax  
26 shall be considered in calculating the total number of barrels  
27 produced each year. All brands of malt or brewed beverages sold  
28 or provided under the authority of the special permit as well as  
29 the farmers market permit must be registered as set forth by  
30 this act.

1        The term "growler" as used in this section shall mean a  
2 refillable container that holds a minimum of sixty-four fluid  
3 ounces of malt or brewed beverages.

4        Section 2. This act shall take effect in 60 days.