

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 189 Session of 2015

INTRODUCED BY SONNEY, BARRAR, D. COSTA, ELLIS, GRELL, A. HARRIS, JAMES, KILLION, KNOWLES, MACKENZIE, MARSICO, MILLARD, O'BRIEN, O'NEILL, SAINATO, SAYLOR, DeLUCA, SIMMONS, OBERLANDER, KIRKLAND, TRUITT, MOUL, GIBBONS, KORTZ, FARRY, MICCARELLI AND DAVIS, JANUARY 23, 2015

SENATOR MCILHINNEY, LAW AND JUSTICE, IN SENATE, AS AMENDED, JUNE 16, 2015

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 in Pennsylvania Liquor Control Board, further providing for <--
 19 general powers of the Pennsylvania Liquor Control Board; in <--
 20 Pennsylvania liquor stores, further providing for sales by <--
 21 Pennsylvania liquor stores; in licenses and regulations, <--
 22 further providing for shipment of wine into Commonwealth, <--
 23 PROVIDING FOR THE PENNSYLVANIA WINE MARKETING AND RESEARCH
 24 PROGRAM BOARD, AND FURTHER PROVIDING FOR UNLAWFUL ACTS
 25 RELATIVE TO LIQUOR, ALCOHOL AND LIQUOR LICENSEES; and, in
 26 distilleries, wineries, warehouses, bailees and transporters,
 27 further providing for limited wineries.

28 The General Assembly of the Commonwealth of Pennsylvania

1 hereby enacts as follows:

2 ~~Section 1. The definition of "eligible entity" in section <--~~
3 ~~102 of the act of April 12, 1951 (P.L.90, No.21), known as the~~
4 ~~Liquor Code, reenacted and amended June 29, 1987 (P.L.32, No.14)~~
5 ~~and amended July 5, 2012 (P.L.1007, No.116), is amended to read:~~

6 SECTION 1. THE DEFINITION OF "DIRECT SHIPPER" IN SECTION 102 <--
7 OF THE ACT OF APRIL 12, 1951 (P.L.90, NO.21), KNOWN AS THE
8 LIQUOR CODE, REENACTED AND AMENDED JUNE 29, 1987 (P.L.32, NO.14)
9 AND ADDED FEBRUARY 21, 2002 (P.L.103, NO.10), IS AMENDED TO
10 READ:

11 Section 102. Definitions.--The following words or phrases,
12 unless the context clearly indicates otherwise, shall have the
13 meanings ascribed to them in this section:

14 * * *

15 ~~"Eligible entity" shall mean a city of the third class, a <--~~
16 ~~hospital, a church, a synagogue, a volunteer fire company, a~~
17 ~~volunteer ambulance company, a volunteer rescue squad, a unit of~~
18 ~~a nationally chartered club which has been issued a club liquor~~
19 ~~license, a club which has been issued a club liquor license and~~
20 ~~which, as of December 31, 2002, has been in existence for at~~
21 ~~least 100 years, a library, a nationally accredited Pennsylvania~~
22 ~~nonprofit zoological institution licensed by the United States~~
23 ~~Department of Agriculture, a nonprofit agricultural association~~
24 ~~in existence for at least ten years, a bona fide sportsmen's~~
25 ~~club in existence for at least ten years, a nationally chartered~~
26 ~~veterans' organization and any affiliated lodge or subdivision~~
27 ~~of such organization, a fraternal benefit society that is~~
28 ~~licensed to do business in this Commonwealth and any affiliated~~
29 ~~lodge or subdivision of such fraternal benefit society, a museum~~
30 ~~operated by a nonprofit corporation, a nonprofit corporation~~

~~1 engaged in the performing arts, an arts council, a nonprofit
2 corporation that operates an arts facility or museum, a
3 nonprofit organization as defined under section 501(c)(3) of the
4 Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. §
5 501(c)(3)) whose purpose is to protect the architectural
6 heritage of boroughs or a township of the second class and which
7 has been recognized as such by a municipal resolution, a
8 nonprofit organization as defined under section 501(c)(3) of the
9 Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. §
10 501(c)(3)) conducting a regatta in a city of the second class
11 with the permit to be used on State park grounds or conducting a
12 family oriented celebration as part of Welcome America in a city
13 of the first class on property leased from that city for more
14 than fifty years, a nonprofit organization as defined under
15 section 501(c)(3) of the Internal Revenue Code of 1986 (26
16 U.S.C. § 501(c)(3)) whose purpose is to raise funds for the
17 research and treatment of cystic fibrosis, a nonprofit
18 organization as defined under section 501(c)(3) of the Internal
19 Revenue Code of 1986 (26 U.S.C. § 501(c)(3)) whose purpose is to
20 educate the public on issues dealing with watershed
21 conservation, a nonprofit organization as defined under section
22 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-
23 514, 26 U.S.C. § 501(c)(3)) whose purpose is to provide equine
24 assisted activities for children and adults with special needs,
25 a nonprofit economic development agency in a city of the second
26 class with the primary function to serve as an economic
27 generator for the greater southwestern Pennsylvania region by
28 attracting and supporting film, television and related media
29 industry projects and coordinating government and business
30 offices in support of a production, a county tourist promotion~~

1 ~~agency as defined in section 3(1) of the act of April 28, 1961~~
2 ~~(P.L.111, No.50), known as the "Tourist Promotion Law," a junior~~
3 ~~league that is a nonprofit organization as defined under section~~
4 ~~501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. §~~
5 ~~501(c)(3)) that is comprised of women whose purpose is~~
6 ~~exclusively educational and charitable in promoting the~~
7 ~~volunteerism of women and developing and participating in~~
8 ~~community projects and that has been in existence for over~~
9 ~~seventy years, a nonprofit organization as defined under section~~
10 ~~501(c)(3) of the Internal Revenue Code of 1986 and whose purpose~~
11 ~~is the education and promotion of American history, a nonprofit~~
12 ~~organization as defined under section 501(c)(6) of the Internal~~
13 ~~Revenue Code of 1986 whose purpose is to support business and~~
14 ~~industry, a brewery which has been issued a license to~~
15 ~~manufacture malt or brewed beverages and has been in existence~~
16 ~~for at least 100 years or a club recognized by Rotary~~
17 ~~International and whose purpose is to provide service to others,~~
18 ~~to promote high ethical standards and to advance world~~
19 ~~understanding, goodwill and peace through its fellowship of~~
20 ~~business, professional and community leaders or a nonprofit~~
21 ~~organization as defined under section 501(c)(3) of the Internal~~
22 ~~Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3))~~
23 ~~whose purpose is to promote mushrooms while supporting local and~~
24 ~~regional charities, a museum operated by a not for profit~~
25 ~~corporation in a city of the second class A, a nonprofit~~
26 ~~organization as defined under section 501(c)(3) of the Internal~~
27 ~~Revenue Code of 1986 which is located in a city of the second~~
28 ~~class A and has as its purpose economic and community~~
29 ~~development, a nonprofit organization as defined under section~~
30 ~~501(c)(3) or (6) of the Internal Revenue Code of 1986 that is~~

~~1 located in a city of the third class in a county of the fifth
2 class, a nonprofit social service organization defined under
3 section 501(c) (3) of the Internal Revenue Code of 1986 located
4 in a county of the third class whose purpose is to serve
5 individuals and families in that county of the third class, a
6 nonprofit organization as defined under section 501(c) (3) of the
7 Internal Revenue Code of 1986 whose main purpose is to
8 temporarily foster stray and unwanted animals and match them to
9 suitable permanent homes or a nonprofit organization as defined
10 under section 501(c) (3) of the Internal Revenue Code of 1986 who
11 operates either a Main Street Program or Elm Street Program
12 recognized by the Commonwealth, the National Trust for Historic
13 Preservation or both, a nonprofit radio station that is a member
14 of the National Public Radio network, a nonprofit public
15 television station that is a member of the Pennsylvania Public
16 Television Network or a nonprofit organization as defined under
17 section 501(c) (3) of the Internal Revenue Code of 1986 whose
18 purpose is to promote awareness, education and research and to
19 provide a support system for patients with neutropenia and their
20 families through a national resource network or a nonprofit
21 organization as defined under section 501(c) (3) of the Internal
22 Revenue Code of 1986 whose purpose is to allocate funds for
23 research to expedite a cure for achromatopsia.~~

24 "DIRECT WINE SHIPPER" SHALL MEAN A PERSON [OUTSIDE THIS <--
25 COMMONWEALTH WHO OBTAINS A LICENSE FROM] LICENSED AS A PRODUCER
26 OF WINE BY THE BOARD [TO ACCEPT] OR BY ANOTHER STATE OR COUNTRY
27 THAT ACCEPTS ORDERS PLACED FOR WINE FROM WITHIN THIS
28 COMMONWEALTH. [BY THE INTERNET AND WHO SHIPS OR FACILITATES IN
29 ANY WAY SHIPMENT OF WINE BY A DELIVERY AGENT OR COMMON CARRIER
30 TO A PENNSYLVANIA LIQUOR STORE.] THE TERM INCLUDES A LIMITED

1 WINERY.

2 * * *

3 Section 2. Section 207(b) of the act is amended to read:

4 Section 207. General Powers of Board.--Under this act, the
5 board shall have the power and its duty shall be:

6 * * *

7 (b) To control the manufacture, possession, sale,
8 consumption, importation, use, storage, transportation and
9 delivery of liquor, alcohol and malt or brewed beverages in
10 accordance with the provisions of this act, and to fix the
11 wholesale and retail prices at which liquors and alcohol shall
12 be sold at Pennsylvania Liquor Stores. Prices shall be
13 proportional with prices paid by the board to its suppliers and
14 shall reflect any advantage obtained through volume purchases by
15 the board. This proportional pricing provision shall not apply
16 to special liquor orders authorized under section 305(a) of this
17 act. The board may establish a preferential price structure for
18 wines produced within this Commonwealth for the promotion of
19 such wines, as long as the price structure is uniform within
20 each class of wine purchased by the board. The board shall
21 require each Pennsylvania manufacturer and each nonresident
22 manufacturer of liquors, other than wine, selling such liquors
23 to the board, which are not manufactured in this Commonwealth,
24 to make application for and be granted a permit by the board
25 before such liquors not manufactured in this Commonwealth shall
26 be purchased from such manufacturer. Each such manufacturer
27 shall pay for such permit a fee which, in the case of a
28 manufacturer of this Commonwealth, shall be equal to that
29 required to be paid, if any, by a manufacturer or wholesaler of
30 the state, territory or country of origin of the liquors, for

1 selling liquors manufactured in Pennsylvania, and in the case of
2 a nonresident manufacturer, shall be equal to that required to
3 be paid, if any, in such state, territory or country by
4 Pennsylvania manufacturers doing business in such state,
5 territory or country. In the event that any such manufacturer
6 shall, in the opinion of the board, sell or attempt to sell
7 liquors to the board through another person for the purpose of
8 evading this provision relating to permits, the board shall
9 require such person, before purchasing liquors from him or it,
10 to take out a permit and pay the same fee as hereinbefore
11 required to be paid by such manufacturer. All permit fees so
12 collected shall be paid into the State Stores Fund. The board
13 shall not purchase any alcohol or liquor fermented, distilled,
14 rectified, compounded or bottled in any state, territory or
15 country, the laws of which result in prohibiting the importation
16 therein of alcohol or liquor, fermented, distilled, rectified,
17 compounded or bottled in Pennsylvania.

18 * * *

19 Section 3. Section 305(a) of the act, amended May 8, 2003
20 (P.L.1, No.1), is amended AND THE SECTION IS AMENDED BY ADDING A <--
21 SUBSECTION to read:

22 Section 305. Sales by Pennsylvania Liquor Stores.--(a) The
23 board shall in its discretion determine where and what classes,
24 varieties and brands of liquor and alcohol it shall make
25 available to the public and where such liquor and alcohol will
26 be sold. Every Pennsylvania Liquor Store shall be authorized to
27 sell combination packages. If a person desires to purchase a
28 class, variety or brand of liquor or alcohol not currently
29 available from the board, he or she may place a special order
30 for such item so long as the order is for two or more bottles.

1 The board may require a reasonable deposit from the purchaser as
2 a condition for accepting the order. The customer shall be
3 notified immediately upon the arrival of the goods.

4 In computing the retail price of such special orders for
5 liquor or alcohol, the board shall not include the cost of
6 freight or shipping before applying [the] a mark-up that shall <--
7 not exceed IS EQUAL TO ten per centum of the cost of the product <--
8 and taxes but shall add the freight or shipping charges to the
9 price after the mark-up and taxes have been applied. IN ADDITION <--
10 TO THE TEN PER CENTUM MARK-UP, THE BOARD SHALL IMPOSE HANDLING
11 FEES ON SPECIAL ORDERS WHICH COME TO REST AT A STORE, IN THE
12 SAME MANNER THAT IT IMPOSES THEM ON THE OTHER ALCOHOL THAT IT
13 SELLS.

14 A LICENSED IMPORTER OR A LICENSED VENDOR MAY PLACE SPECIAL
15 ORDERS ON BEHALF OF CUSTOMERS AND MAY DELIVER THE ORDERS TO
16 CUSTOMERS. THE ORDERS DO NOT NEED TO COME TO REST AT A STORE,
17 BUT DELIVERY MAY NOT OCCUR UNTIL PAYMENT FOR THE ORDER HAS BEEN
18 FORWARDED TO THE BOARD AND THE BOARD HAS AUTHORIZED THE DELIVERY
19 OF THE ORDER. A HANDLING FEE MAY NOT BE ASSESSED ON AN ORDER
20 DELIVERED DIRECTLY TO A CUSTOMER. LIABILITY FOR SPECIAL ORDERS
21 THAT DO NOT COME TO REST AT A STORE, SHALL, UNTIL THE ORDER IS
22 DELIVERED TO THE CUSTOMER, REMAIN WITH THE LICENSED IMPORTER OR
23 LICENSED VENDOR THAT PLACED THE ORDER ON BEHALF OF THE CUSTOMER.
24 THE BOARD SHALL, BY JANUARY 1, 2017, IMPLEMENT A PROCEDURE FOR
25 PROCESSING SPECIAL ORDERS WHICH DO NOT COME TO REST AT A STORE.
26 THE BOARD MAY CONTINUE TO ACCEPT SPECIAL ORDERS AT ITS STORES
27 EVEN AFTER THE PROCEDURE IS IMPLEMENTED.

28 Unless the customer pays for and accepts delivery of any such
29 special order within ten days after notice of arrival, the store
30 may place it in stock for general sale and the customer's

1 deposit shall be forfeited.

2 (A.1) THE BOARD MAY REFUSE TO PROCESS A SPECIAL ORDER AND <--
3 PRECLUDE A VENDOR OR IMPORTER FROM PROCESSING A SPECIAL ORDER,
4 IF IT APPEARS THAT THE SPECIAL ORDER IS FOR AN ITEM
5 SUBSTANTIALLY SIMILAR TO AN ITEM THAT IS ON THE MONTHLY LIST THE
6 BOARD PUBLISHES UNDER SECTION 488(C) OR IF THE BOARD BELIEVES
7 THAT DEMAND FOR THE ITEM IS SUCH THAT IT SHOULD BE MADE
8 AVAILABLE GENERALLY. IF THE PROCESSING OF A SPECIAL ORDER IS
9 REFUSED OR PRECLUDED UNDER THIS SUBSECTION, THE ITEM SHALL BE
10 MADE AVAILABLE THROUGH THE BOARD IN THE AMOUNT AND MANNER THE
11 BOARD DEEMS APPROPRIATE.

12 * * *

13 Section 4. Section 488 of the act, added February 21, 2002
14 (P.L.103, No.10), is amended to read:

15 Section 488. Shipment of Wine [into Commonwealth].--(a) The
16 shipment of wine [from out-of-State] to residents of this
17 Commonwealth [is prohibited, except as otherwise provided for
18 in] shall be governed by this section.

19 (b) Notwithstanding any other provision of this act or law
20 [to the contrary], a person licensed by the board or another <--
21 state OR COUNTRY as a producer[, supplier, importer, wholesaler, <--
22 distributor or retailer] of wine and who obtains a direct wine
23 shipper license as provided for in this section may ship [up to
24 nine liters per month of] UP TO THIRTY-SIX CASES OF UP TO NINE <--
25 LITERS PER CASE IN A CALENDAR YEAR OF any wine [not included on
26 the list provided for in subsection (c)] on the [Internet] order
27 of any resident of this Commonwealth who is at least twenty-one
28 (21) years of age for such resident's personal use and not for
29 resale.

30 (c) †Each month, the board shall publish on the Internet a <--

1 list of all classes, varieties and brands of wine available for
2 sale in the Pennsylvania Liquor Stores. [A person holding a <--
3 direct shipper license may ship only those classes, varieties
4 and brands of wine not included on the list at the time an
5 ~~Internet order is placed.] Prior to issuing a direct wine <--
6 INTERNET ORDER IS PLACED.] <--~~

7 (C.1) PRIOR TO ISSUING A DIRECT WINE shipper license, the
8 board shall require the person seeking the license AN APPLICANT <--
9 to:

10 (1) File an application with the board.

11 (2) Pay a one hundred dollar (\$100) registration fee.

12 (3) Provide to the board a true copy of the applicant's
13 current alcoholic beverage license issued by the board or
14 another state, if applicable OR COUNTRY. <--

15 (4) Provide documentation to the board which evidences that <--
16 the applicant has obtained a sales tax license from the
17 Department of Revenue.

18 (5) Provide the board with any other information that the
19 board deems necessary and appropriate.

20 (d) [An out-of-State] A direct wine shipper shall DO ALL OF <--
21 THE FOLLOWING:

22 [(1) †Not ship more than nine liters per month on the <--
23 Internet order of any person in this Commonwealth.] On a <--
24 quarterly basis, pay to the Department of Revenue all taxes due
25 on sales to residents of this Commonwealth. Notwithstanding any
26 other provision of law to the contrary, the wine delivered under
27 the authority of this section will be subject to the sales and
28 use tax imposed by section 202 of the act of March 4, 1971
29 (P.L.6, No.2), known as the "Tax Reform Code of 1971," the sales
30 and use tax imposed by Article XXXI B of the act of July 28,

1 ~~1953 (P.L.723, No.230), known as the "Second Class County Code,"~~
2 ~~the sales and use tax imposed by the act of June 5, 1991 (P.L.9,~~
3 ~~No.6), known as the "Pennsylvania Intergovernmental Cooperation~~
4 ~~Authority Act for Cities of the First Class," and the emergency~~
5 ~~State tax imposed on wines sold by the board under the act of~~
6 ~~June 9, 1936 (1st Sp. Sess., P.L.13, No.4), entitled "An act~~
7 ~~imposing an emergency State tax on liquor, as herein defined,~~
8 ~~sold by the Pennsylvania Liquor Control Board; providing for the~~
9 ~~collection and payment of such tax; and imposing duties upon the~~
10 ~~Department of Revenue and the Pennsylvania Liquor Control~~
11 ~~Board."~~

12 (2) Report to the board each year the total of wine shipped
13 [into] to residents of this Commonwealth in the preceding
14 calendar year.

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

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

24 (5) Require proof of age of the recipient, in a manner or
25 format approved by the board, before any wine is shipped to a <--
26 resident of this Commonwealth.

27 (6) Ensure that all boxes or exterior containers of wine
28 shipped directly to a resident of this Commonwealth are
29 conspicuously labeled with the words "CONTAINS ALCOHOL:
30 SIGNATURE OF PERSON 21 YEARS OF AGE OR OLDER REQUIRED FOR

1 DELIVERY."

2 (7) PAY TO THE DEPARTMENT OF REVENUE ALL TAXES DUE ON SALES <--
3 TO RESIDENTS OF THIS COMMONWEALTH. THE AMOUNT OF THE TAXES SHALL
4 BE CALCULATED AS IF THE SALES WERE IN THIS COMMONWEALTH AT THE
5 LOCATIONS WHERE DELIVERY WAS MADE. THE WINE DELIVERED UNDER
6 THIS SUBSECTION SHALL BE SUBJECT TO ONLY THE FOLLOWING:

7 (I) THE SALES AND USE TAX IMPOSED BY SECTION 202 AND ARTICLE
8 II-B OF THE ACT OF MARCH 4, 1971 (P.L.6, NO.2), KNOWN AS THE
9 "TAX REFORM CODE OF 1971."

10 (II) THE SALES AND USE TAX IMPOSED BY ARTICLE XXXI-B OF THE
11 ACT OF JULY 28, 1953 (P.L.723, NO.230), KNOWN AS THE "SECOND
12 CLASS COUNTY CODE."

13 (III) THE SALES AND USE TAX IMPOSED BY THE ACT OF JUNE 5,
14 1991 (P.L.9, NO.6), KNOWN AS THE "PENNSYLVANIA INTERGOVERNMENTAL
15 COOPERATION AUTHORITY ACT FOR CITIES OF THE FIRST CLASS."

16 (IV) THE WINE EXCISE TAX IMPOSED UNDER SUBSECTION (J).

17 ~~(7)~~ (8) Annually renew its license by paying a renewal fee <--
18 established by the board OF ONE HUNDRED DOLLARS (\$100). <--

19 [(e) A direct shipper may ship wine on the {Internet} order <--
20 of a resident into this Commonwealth provided that the wine {is <--
21 shipped to a Pennsylvania Liquor Store selected by the resident.
22 The wine will be subject to taxes in the same manner as wine
23 sold directly by the board. The wine will not be released by the
24 State store until all moneys due, including all taxes and fees,
25 have been paid by the resident.] ~~delivered under the authority <--~~
26 ~~of this section will be subject to the sales and use tax imposed~~
27 ~~by section 202 of the Tax Reform Code of 1971, the sales and use~~
28 ~~tax imposed by Article XXXI B of the Second Class County Code,~~
29 ~~the sales and use tax imposed by the Pennsylvania~~
30 ~~Intergovernmental Cooperation Authority Act for Cities of the~~

1 ~~First Class, and the emergency State tax imposed on wines sold~~
2 ~~by the board under the act of June 9, 1936 (1st Sp. Sess.,~~
3 ~~P.L.13, No.4), entitled "An act imposing an emergency State tax~~
4 ~~on liquor, as herein defined, sold by the Pennsylvania Liquor~~
5 ~~Control Board; providing for the collection and payment of such~~
6 ~~tax; and imposing duties upon the Department of Revenue and the~~
7 ~~Pennsylvania Liquor Control Board."~~

8 ~~(e.1) A transporter for hire shall:~~

9 ~~(1) keep records as required under section 512 pertaining to~~
10 ~~the direct shipment of wine; and~~

11 ~~(2) permit the board and the enforcement bureau, or their~~
12 ~~designated representatives, to inspect such records in~~
13 ~~accordance with section 513.~~

14 (f) [A person shall sign an affidavit provided by the
15 Pennsylvania Liquor Store where the wine was delivered to
16 stating that the wine will only be used for the person's
17 personal use.] Any person who resells wine obtained under this
18 section commits a misdemeanor of the second degree. A PERSON <--

19 CONVICTED OF SELLING OR OFFERING TO SELL ANY WINE IN VIOLATION
20 OF THIS SECTION SHALL, IN ADDITION TO ANY OTHER PENALTY
21 PRESCRIBED BY LAW, BE SENTENCED TO PAY A FINE OF FOUR DOLLARS
22 (\$4) PER FLUID OUNCE FOR EACH CONTAINER OF WINE FOUND ON THE
23 PREMISES WHERE THE SALE WAS MADE OR ATTEMPTED. THE AMOUNT OF
24 FINE PER CONTAINER SHALL BE BASED ON THE CAPACITY OF THE
25 CONTAINER WHEN FULL, WHETHER OR NOT IT IS FULL AT THE TIME OF
26 SALE OR ATTEMPTED SALE. ALL WINE FOUND ON THE PREMISES SHALL BE
27 CONFISCATED. THE PROHIBITION ON RESELLING WINE SHALL NOT APPLY
28 TO ANY ENTITY WHO IS LICENSED TO RESELL WINE AND WHO ACQUIRES
29 THE WINE FROM A LIMITED WINERY LICENSED UNDER SECTION 505.2.

30 (g) The board may promulgate such rules and regulations as

1 are necessary to implement and enforce the provisions of this
2 section. [The board may charge the resident a fee to cover the
3 cost associated with processing the Internet order.]

4 (h) The board shall submit [monthly] annual reports to the
5 Appropriations Committee and the Law and Justice Committee of
6 the Senate and to the Appropriations Committee and the Liquor
7 Control Committee of the House of Representatives summarizing
8 the number of direct shipper licenses issued by the board[,] and
9 the quantity of wine sold by direct wine shippers pursuant to
10 this section [and the total dollar value of sales under this
11 section].

12 [(i) The term "wine" as used in this section shall mean <--
13 liquor which is fermented from grapes and other fruits, having
14 alcoholic content of twenty-four per centum or less. The term
15 "wine" shall not include malt or brewed beverages nor shall wine
16 include any products containing alcohol derived from malt,
17 grain, cereal, molasses or cactus.] <--

18 ~~(j) The term "direct wine shipper" as used in this section <--
19 shall mean a person who holds a direct wine shipper license as
20 provided for in this section and includes a limited winery.~~ <--

21 (J) A WINE EXCISE TAX IS IMPOSED AND ASSESSED AT THE RATE OF <--
22 ONE DOLLAR (\$1.00) PER GALLON ON ALL WINE SOLD AND DELIVERED
23 UNDER THIS SECTION. THE TAX SHALL BE COLLECTED BY THE DIRECT
24 WINE SHIPPER FROM THE PURCHASER AND SHALL BE PAID TO THE
25 DEPARTMENT AS PROVIDED UNDER THIS SECTION. UNLESS OTHERWISE
26 SPECIFIED, THE TAX SHALL BE ASSESSED, COLLECTED AND ENFORCED BY
27 THE DEPARTMENT IN THE SAME MANNER AS THE TAX UNDER ARTICLE II OF
28 THE "TAX REFORM CODE OF 1971." <--

29 (K) RECEIPTS FROM THE TAX UNDER SUBSECTION (J) SHALL BE
30 DEPOSITED INTO THE GENERAL FUND. ANNUALLY, THE AMOUNT OF TWO

1 HUNDRED AND FIFTY THOUSAND DOLLARS (\$250,000) SHALL BE
2 TRANSFERRED FROM THE GENERAL FUND TO A RESTRICTED ACCOUNT WITHIN
3 THE GENERAL FUND. THE MONEY IN THE RESTRICTED ACCOUNT IS
4 APPROPRIATED ON A CONTINUING BASIS TO THE PENNSYLVANIA WINE
5 MARKETING AND RESEARCH PROGRAM BOARD FOR THE PURPOSE OF AWARDING
6 GRANTS UNDER SECTION 488.1.

7 (L) A TRANSPORTER FOR HIRE SHALL:

8 (1) KEEP RECORDS AS REQUIRED UNDER SECTION 512 PERTAINING TO
9 THE DIRECT SHIPMENT OF WINE; AND

10 (2) PERMIT THE BOARD AND THE ENFORCEMENT BUREAU, OR THEIR
11 DESIGNATED REPRESENTATIVES, TO INSPECT THE RECORDS UNDER SECTION
12 513.

13 SECTION 5. THE ACT IS AMENDED BY ADDING A SECTION TO READ:

14 SECTION 488.1. PENNSYLVANIA WINE MARKETING AND RESEARCH
15 PROGRAM BOARD.--(A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW,
16 THE PENNSYLVANIA WINE MARKETING AND RESEARCH PROGRAM BOARD
17 SHALL, IN ADDITION TO THE MEMBERS APPOINTED BY THE SECRETARY OF
18 AGRICULTURE UNDER 3 PA.C.S. § 4504(A) (RELATING TO COMMODITY
19 MARKETING BOARD), BE COMPOSED OF FOUR MEMBERS APPOINTED BY THE
20 GENERAL ASSEMBLY AS FOLLOWS:

21 (1) ONE INDIVIDUAL APPOINTED BY THE PRESIDENT PRO TEMPORE OF
22 THE SENATE.

23 (2) ONE INDIVIDUAL APPOINTED BY THE MINORITY LEADER OF THE
24 SENATE.

25 (3) ONE INDIVIDUAL APPOINTED BY THE SPEAKER OF THE HOUSE OF
26 REPRESENTATIVES.

27 (4) ONE INDIVIDUAL APPOINTED BY THE MINORITY LEADER OF THE
28 HOUSE OF REPRESENTATIVES.

29 (B) THE MEMBERS APPOINTED UNDER SUBSECTION (A) SHALL:

30 (1) EXCEPT AS PROVIDED UNDER THIS SECTION, SERVE ON THE SAME

1 TERMS AND CONDITIONS AS MEMBERS APPOINTED BY THE SECRETARY OF
2 AGRICULTURE.

3 (2) BE RESIDENTS OF THIS COMMONWEALTH.

4 (3) HAVE SUBSTANTIAL EXPERIENCE OR EXPERTISE IN THE
5 PENNSYLVANIA WINE INDUSTRY.

6 (4) SERVE AT THE PLEASURE OF THE APPOINTING AUTHORITY.

7 (C) APPOINTING AUTHORITIES UNDER SUBSECTION (A) SHALL
8 APPOINT INITIAL MEMBERS WITHIN THIRTY DAYS OF THE EFFECTIVE DATE
9 OF THIS SECTION.

10 (D) IN ADDITION TO DUTIES IMPOSED UNDER OTHER LAWS, THE
11 PENNSYLVANIA WINE MARKETING AND RESEARCH PROGRAM BOARD SHALL DO
12 ALL OF THE FOLLOWING:

13 (1) MEET AS OFTEN AS NECESSARY BUT AT LEAST ANNUALLY.

14 (2) ADOPT GUIDELINES ESTABLISHING THE PROCEDURE BY WHICH AN
15 ENTITY MAY SUBMIT AN APPLICATION FOR GRANT FUNDING UNDER THIS
16 SECTION TO THE PENNSYLVANIA WINE MARKETING AND RESEARCH PROGRAM
17 BOARD.

18 (3) HAVE THE FOLLOWING DUTIES AS TO AWARDING GRANTS:

19 (I) AWARD GRANTS TO ENTITIES FOR THE PURPOSE OF INCREASING
20 THE PRODUCTION OF PENNSYLVANIA-MADE WINES AND ENHANCING THE
21 PENNSYLVANIA WINE INDUSTRY THROUGH PROMOTION, MARKETING AND
22 RESEARCH-BASED PROGRAMS AND PROJECTS.

23 (II) ALLOCATE GRANTS THROUGH A COMPETITIVE GRANT REVIEW
24 PROCESS ESTABLISHED BY THE PENNSYLVANIA WINE MARKETING AND
25 RESEARCH PROGRAM BOARD. THE APPLICATION FOR A GRANT SHALL
26 INCLUDE:

27 (A) THE PURPOSE FOR WHICH THE GRANT SHALL BE UTILIZED;

28 (B) INFORMATION INDICATING NEED FOR THE GRANT;

29 (C) AN ESTIMATED BUDGET;

30 (D) METHODS FOR MEASURING OUTCOMES; AND

1 (E) ANY OTHER CRITERIA AS THE BOARD MAY REQUIRE.
2 (III) REQUIRE GRANT RECIPIENTS TO PROVIDE THE PENNSYLVANIA
3 WINE MARKETING AND RESEARCH PROGRAM BOARD WITH FULL AND COMPLETE
4 ACCESS TO ALL RECORDS RELATING TO THE PERFORMANCE OF THE GRANT
5 AND TO SUBMIT AT THE TIME AND IN THE FORM AS MAY BE PRESCRIBED
6 TRUTHFUL AND ACCURATE INFORMATION THAT THE PENNSYLVANIA WINE
7 MARKETING AND RESEARCH PROGRAM BOARD MAY REQUIRE.

8 (IV) CONDUCT A THOROUGH ANNUAL EVALUATION OF EACH PROGRAM
9 FOR WHICH A GRANT UNDER THIS SECTION IS MADE. THE PENNSYLVANIA
10 WINE MARKETING AND RESEARCH PROGRAM BOARD SHALL SEEK REPAYMENT
11 OF FUNDS IF THE PENNSYLVANIA WINE MARKETING AND RESEARCH PROGRAM
12 BOARD DETERMINES THAT FUNDS ARE NOT UTILIZED FOR THE ORIGINAL
13 STATED PURPOSE.

14 (V) SUBMIT AN ANNUAL REPORT TO THE GENERAL ASSEMBLY
15 DETAILING ALL ACTIONS OF THE PENNSYLVANIA WINE MARKETING AND
16 RESEARCH PROGRAM BOARD AND GRANTS AWARDED UNDER THIS SECTION.

17 SECTION 6. SECTION 491(11) OF THE ACT, AMENDED FEBRUARY 21,
18 2002 (P.L.103, NO.10) AND DECEMBER 9, 2002 (P.L.1653, NO.212),
19 IS AMENDED TO READ:

20 SECTION 491. UNLAWFUL ACTS RELATIVE TO LIQUOR, ALCOHOL AND
21 LIQUOR LICENSEES.--

22 IT SHALL BE UNLAWFUL--

23 * * *

24 (11) IMPORTATION OF LIQUOR. FOR ANY PERSON, OTHER THAN THE
25 BOARD OR THE HOLDER OF A SACRAMENTAL WINE LICENSE, AN IMPORTER'S
26 LICENSE OR A DIRECT WINE SHIPPER'S LICENSE, TO IMPORT ANY LIQUOR
27 WHATSOEVER INTO THIS COMMONWEALTH, BUT THIS SECTION SHALL NOT BE
28 CONSTRUED TO PROHIBIT RAILROAD AND PULLMAN COMPANIES FROM
29 PURCHASING AND SELLING LIQUORS PURCHASED OUTSIDE THE
30 COMMONWEALTH IN THEIR DINING, CLUB AND BUFFET CARS WHICH ARE

1 COVERED BY PUBLIC SERVICE LIQUOR LICENSES AND WHICH ARE OPERATED
2 IN THIS COMMONWEALTH.

3 * * *

4 Section ~~5~~ 7. Section 505.2(a) of the act is amended by <--
5 adding a clause to read:

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

9 * * *

10 (2.1) Notwithstanding any other provision of this act or law
11 to the contrary, only ship wine to residents of this <--
12 Commonwealth in accordance with the provisions of section 488.

13 * * *

14 Section ~~6~~ 8. This act shall take effect in 60 days. <--