

LEGISLATIVE REFERENCE BUREAU

AMENDMENTS TO HOUSE BILL NO. 189

Sponsor:

Printer's No. 181

1 Amend Bill, page 1, line 17, by striking out the comma after
2 "definitions" and inserting a semicolon

3 Amend Bill, page 1, line 19, by striking out the comma after
4 "Board" and inserting a semicolon

5 Amend Bill, page 1, line 21, by striking out the comma after
6 "stores" and inserting a semicolon

7 Amend Bill, page 1, line 22, by inserting after
8 "Commonwealth"

9 , providing for the Pennsylvania Wine Marketing and Research
10 Program Board, and further providing for unlawful acts
11 relative to liquor, alcohol and liquor licensees;

12 Amend Bill, page 1, lines 27 and 28; page 2, lines 1 and 2;
13 by striking out all of said lines on said pages and inserting

14 Section 1. The definition of "direct shipper" in section 102
15 of the act of April 12, 1951 (P.L.90, No.21), known as the
16 Liquor Code, reenacted and amended June 29, 1987 (P.L.32,
17 No.14), added February 21, 2002 (P.L.103, No.10), is amended to
18 read:

19 Amend Bill, page 2, lines 7 through 30; pages 3 and 4, lines
20 1 through 30; page 5, lines 1 through 15; by striking out all of
21 said lines on said pages and inserting

22 "Direct wine shipper" shall mean a person [outside this
23 Commonwealth who obtains a license from] licensed as a producer
24 of wine by the board [to accept] or by another state or country
25 that accepts orders placed for wine from within this
26 Commonwealth. [by the Internet and who ships or facilitates in
27 any way shipment of wine by a delivery agent or common carrier

1 to a Pennsylvania Liquor Store.] The term includes a limited
2 winery.

3 Amend Bill, page 7, line 4, by inserting after "amended"
4 and the section is amended by adding a subsection

5 Amend Bill, page 7, lines 19 and 20, by striking out "shall
6 not exceed" and inserting
7 is equal to

8 Amend Bill, page 7, line 22, by inserting after "applied."

9 In addition to the ten per centum mark-up, the board shall
10 impose handling fees on special orders which come to rest at a
11 store, in the same manner that it imposes them on the other
12 alcohol that it sells.

13 A licensed importer or a licensed vendor may place special
14 orders on behalf of customers and may deliver the orders to
15 customers. The orders do not need to come to rest at a store,
16 but delivery may not occur until payment for the order has been
17 forwarded to the board and the board has authorized the delivery
18 of the order. A handling fee may not be assessed on an order
19 delivered directly to a customer. Liability for special orders
20 that do not come to rest at a store, shall, until the order is
21 delivered to the customer, remain with the licensed importer or
22 licensed vendor that placed the order on behalf of the customer.
23 The board shall, by January 1, 2017, implement a procedure for
24 processing special orders which do not come to rest at a store.
25 The board may continue to accept special orders at its stores
26 even after the procedure is implemented.

27 Amend Bill, page 7, by inserting between lines 26 and 27

28 (a.1) The board may refuse to process a special order and
29 preclude a vendor or importer from processing a special order,
30 if it appears that the special order is for an item
31 substantially similar to an item that is on the monthly list the
32 board publishes under section 488(c) or if the board believes
33 that demand for the item is such that it should be made
34 available generally. If the processing of a special order is
35 refused or precluded under this subsection, the item shall be
36 made available through the board in the amount and manner the
37 board deems appropriate.

38 Amend Bill, page 8, line 5, by inserting a bracket before
39 "to"

40 Amend Bill, page 8, line 5, by inserting a bracket after
41 "contrary"

1 Amend Bill, page 8, line 5, by inserting after "state"
2 or country

3 Amend Bill, page 8, line 9, by inserting after "of]"
4 up to 36 cases of up to nine liters per case in a calendar
5 year of

6 Amend Bill, page 8, line 13, by striking out the bracket
7 before "Each"

8 Amend Bill, page 8, line 15, by inserting a bracket before
9 "A"

10 Amend Bill, page 8, line 18, by striking out all of said line
11 and inserting
12 Internet order is placed.]
13 (c.1) Prior to issuing a direct wine

14 Amend Bill, page 8, lines 19 and 20, by striking out "the
15 person seeking the license" and inserting
16 an applicant

17 Amend Bill, page 8, line 25, by striking out ", if
18 applicable" and inserting
19 or country

20 Amend Bill, page 8, line 26, by striking out "to the board"

21 Amend Bill, page 9, line 1, by inserting after "shall"
22 do all of the following

23 Amend Bill, page 9, lines 3 through 21, by striking out "On
24 a" in line 3 and all of lines 4 through 21

25 Amend Bill, page 9, line 25, by striking out ", the
26 enforcement bureau"

27 Amend Bill, page 10, line 2, by striking out the bracket
28 before the period after "regulations"

29 Amend Bill, page 10, lines 2 and 3, by striking out "],__

1 including the collection" in line 2 and all of line 3

2 Amend Bill, page 10, line 5, by striking out "any"

3 Amend Bill, page 10, by inserting between lines 11 and 12

4 (7) Pay to the Department of Revenue all taxes due on sales
5 to residents of this Commonwealth. The amount of the taxes shall
6 be calculated as if the sales were in this Commonwealth at the
7 locations where delivery was made. The wine delivered under
8 this subsection shall be subject to only the following:

9 (i) The sales and use tax imposed by section 202 and Article
10 II-B of the act of March 4, 1971 (P.L.6, No.2), known as the
11 "Tax Reform Code of 1971."

12 (ii) The sales and use tax imposed by Article XXXI-B of the
13 act of July 28, 1953 (P.L.723, No.230), known as the "Second
14 Class County Code."

15 (iii) The sales and use tax imposed by the act of June 5,
16 1991 (P.L.9, No.6), known as the "Pennsylvania Intergovernmental
17 Cooperation Authority Act for Cities of the First Class."

18 (iv) The wine excise tax imposed under subsection (j).

19 Amend Bill, page 10, line 12, by striking out "(7)" and
20 inserting

21 (8)

22 Amend Bill, page 10, line 13, by striking out "established by
23 the board" and inserting

24 of one hundred dollars (\$100)

25 Amend Bill, page 10, line 14, by inserting a bracket before
26 "A"

27 Amend Bill, page 10, line 14, by striking out the bracket
28 before "Internet"

29 Amend Bill, page 10, line 14, by striking out the bracket
30 after "Internet"

31 Amend Bill, page 10, line 15, by striking out the bracket
32 before "is"

33 Amend Bill, page 10, lines 20 through 30; page 11, lines 1
34 through 8; by striking out "delivered under the authority" in

1 line 20, all of lines 21 through 30 on page 10 and all of lines
2 1 through 8 on page 11

3 Amend Bill, page 11, line 13, by inserting after "degree."

4 A person convicted of selling or offering to sell any wine
5 in violation of this section shall, in addition to any other
6 penalty prescribed by law, be sentenced to pay a fine of four
7 dollars (\$4) per fluid ounce for each container of wine found on
8 the premises where the sale was made or attempted. The amount of
9 fine per container shall be based on the capacity of the
10 container when full, whether or not it is full at the time of
11 sale or attempted sale. All wine found on the premises shall be
12 confiscated. The prohibition on reselling wine shall not apply
13 to any entity who is licensed to resell wine and who acquires
14 the wine from a limited winery licensed under section 505.2.

15 Amend Bill, page 11, line 26, by inserting a bracket before
16 "(i)"

17 Amend Bill, page 12, line 1, by inserting a bracket after
18 "cactus."

19 Amend Bill, page 12, lines 2 through 4, by striking out all
20 of said lines and inserting

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
31 hundred and fifty thousand dollars (\$250,000) shall be
32 transferred from the General Fund to a restricted account within
33 the General Fund. The money in the restricted account is
34 appropriated on a continuing basis to the Pennsylvania Wine
35 Marketing and Research Program Board for the purpose of awarding
36 grants under section 488.1.

37 (l) A transporter for hire shall:

38 (1) keep records as required under section 512 pertaining to
39 the direct shipment of wine; and

40 (2) permit the board and the enforcement bureau, or their
41 designated representatives, to inspect the records under section
42 513.

1 Section 5. The act is amended by adding a section to read:
2 Section 488.1. Pennsylvania Wine Marketing and Research
3 Program Board.--(a) Notwithstanding any other provision of law,
4 the Pennsylvania Wine Marketing and Research Program Board
5 shall, in addition to the members appointed by the Secretary of
6 Agriculture under 3 Pa.C.S. § 4504(a) (relating to commodity
7 marketing board), be composed of four members appointed by the
8 General Assembly as follows:
9 (1) One individual appointed by the President pro tempore of
10 the Senate.
11 (2) One individual appointed by the Minority Leader of the
12 Senate.
13 (3) One individual appointed by the Speaker of the House of
14 Representatives.
15 (4) One individual appointed by the Minority Leader of the
16 House of Representatives.
17 (b) The members appointed under subsection (a) shall:
18 (1) Except as provided under this section, serve on the same
19 terms and conditions as members appointed by the Secretary of
20 Agriculture.
21 (2) Be residents of this Commonwealth.
22 (3) Have substantial experience or expertise in the
23 Pennsylvania wine industry.
24 (4) Serve at the pleasure of the appointing authority.
25 (c) Appointing authorities under subsection (a) shall
26 appoint initial members within thirty (30) days of the effective
27 date of this section.
28 (d) In addition to duties imposed under other laws, the
29 Pennsylvania Wine Marketing and Research Program Board shall do
30 all of the following:
31 (1) Meet as often as necessary but at least annually.
32 (2) Adopt guidelines establishing the procedure by which an
33 entity may submit an application for grant funding under this
34 section to the Pennsylvania Wine Marketing and Research Program
35 Board.
36 (3) Have the following duties as to awarding grants:
37 (i) Award grants to entities for the purpose of increasing
38 the production of Pennsylvania-made wines and enhancing the
39 Pennsylvania wine industry through promotion, marketing and
40 research-based programs and projects.
41 (ii) Allocate grants through a competitive grant review
42 process established by the Pennsylvania Wine Marketing and
43 Research Program Board. The application for a grant shall
44 include:
45 (A) the purpose for which the grant shall be utilized;
46 (B) information indicating need for the grant;
47 (C) an estimated budget;
48 (D) methods for measuring outcomes; and
49 (E) any other criteria as the board may require.
50 (iii) Require grant recipients to provide the Pennsylvania
51 Wine Marketing and Research Program Board with full and complete

1 access to all records relating to the performance of the grant
2 and to submit at the time and in the form as may be prescribed
3 truthful and accurate information that the Pennsylvania Wine
4 Marketing and Research Program Board may require.

5 (iv) Conduct a thorough annual evaluation of each program
6 for which a grant under this section is made. The Pennsylvania
7 Wine Marketing and Research Program Board shall seek repayment
8 of funds if the Pennsylvania Wine Marketing and Research Program
9 Board determines that funds are not utilized for the original
10 stated purpose.

11 (v) Submit an annual report to the General Assembly
12 detailing all actions of the Pennsylvania Wine Marketing and
13 Research Program Board and grants awarded under this section.

14 Section 6. Section 491(11) of the act, amended February 21,
15 2002 (P.L.103, No.10) and December 9, 2002 (P.L.1653, No.212),
16 is amended to read:

17 Section 491. Unlawful Acts Relative to Liquor, Alcohol and
18 Liquor Licensees.--

19 It shall be unlawful--

20 * * *

21 (11) Importation of Liquor. For any person, other than the
22 board or the holder of a sacramental wine license, an importer's
23 license or a direct wine shipper's license, to import any liquor
24 whatsoever into this Commonwealth, but this section shall not be
25 construed to prohibit railroad and pullman companies from
26 purchasing and selling liquors purchased outside the
27 Commonwealth in their dining, club and buffet cars which are
28 covered by public service liquor licenses and which are operated
29 in this Commonwealth.

30 * * *

31 Amend Bill, page 12, line 5, by striking out "5" and
32 inserting

33 7

34 Amend Bill, page 12, lines 12 and 13, by striking out "to
35 residents of this Commonwealth"

36 Amend Bill, page 12, line 15, by striking out "6" and
37 inserting

38 8

