

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 13, by striking out the bracket
4 before "Each"

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

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

11 Amend Bill, page 8, lines 19 and 20, by striking out "the
12 person seeking the license" and inserting
13 an applicant

14 Amend Bill, page 8, line 25, by striking out ", if
15 applicable" and inserting
16 or country

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

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

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

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

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

26 Amend Bill, page 10, lines 2 and 3, by striking out "],
27 including the collection" in line 2 and all of line 3

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

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

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

19 (8)

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

22 of one hundred dollars (\$100)

23 Amend Bill, page 10, line 14, by inserting a bracket before
24 "A"

25 Amend Bill, page 10, line 14, by striking out the bracket
26 before "Internet"

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

29 Amend Bill, page 10, line 15, by striking out the bracket
30 before "is"

31 Amend Bill, page 10, lines 20 through 30; page 11, lines 1
32 through 8; by striking out "delivered under the authority" in
33 line 20, all of lines 21 through 30 on page 10 and all of lines
34 1 through 8 on page 11

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

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

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

15 Amend Bill, page 12, line 1, by inserting a bracket after
16 "cactus."

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

19 (j) A wine excise tax is imposed and assessed at the rate of
20 one dollar (\$1.00) per gallon on all wine sold and delivered
21 under this section. The tax shall be collected by the direct
22 wine shipper from the purchaser and shall be paid to the
23 department as provided under this section. Unless otherwise
24 specified, the tax shall be assessed, collected and enforced by
25 the department in the same manner as the tax under Article II of
26 the "Tax Reform Code of 1971."

27 (k) Receipts from the tax under subsection (j) shall be
28 deposited into the General Fund. Annually, the amount of two
29 hundred and fifty thousand dollars (\$250,000) shall be
30 transferred from the General Fund to a restricted account within
31 the General Fund. The money in the restricted account is
32 appropriated on a continuing basis to the Pennsylvania Wine
33 Marketing and Research Program Board for the purpose of awarding
34 grants under section 488.1.

35 (1) A transporter for hire shall:

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

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

41 Section 5. The act is amended by adding a section to read:

42 Section 488.1. Pennsylvania Wine Marketing and Research
43 Program Board.--(a) Notwithstanding any other provision of law,
44 the Pennsylvania Wine Marketing and Research Program Board

1 shall, in addition to the members appointed by the Secretary of
2 Agriculture under 3 Pa.C.S. § 4504(a) (relating to commodity
3 marketing board), be composed of four members appointed by the
4 General Assembly as follows:

5 (1) One individual appointed by the President pro tempore of
6 the Senate.

7 (2) One individual appointed by the Minority Leader of the
8 Senate.

9 (3) One individual appointed by the Speaker of the House of
10 Representatives.

11 (4) One individual appointed by the Minority Leader of the
12 House of Representatives.

13 (b) The members appointed under subsection (a) shall:

14 (1) Except as provided under this section, serve on the same
15 terms and conditions as members appointed by the Secretary of
16 Agriculture.

17 (2) Be residents of this Commonwealth.

18 (3) Have substantial experience or expertise in the
19 Pennsylvania wine industry.

20 (4) Serve at the pleasure of the appointing authority.

21 (c) Appointing authorities under subsection (a) shall
22 appoint initial members within thirty (30) days of the effective
23 date of this section.

24 (d) In addition to duties imposed under other laws, the
25 Pennsylvania Wine Marketing and Research Program Board shall do
26 all of the following:

27 (1) Meet as often as necessary but at least annually.

28 (2) Adopt guidelines establishing the procedure by which an
29 entity may submit an application for grant funding under this
30 section to the Pennsylvania Wine Marketing and Research Program
31 Board.

32 (3) Have the following duties as to awarding grants:

33 (i) Award grants to entities for the purpose of increasing
34 the production of Pennsylvania-made wines and enhancing the
35 Pennsylvania wine industry through promotion, marketing and
36 research-based programs and projects.

37 (ii) Allocate grants through a competitive grant review
38 process established by the Pennsylvania Wine Marketing and
39 Research Program Board. The application for a grant shall
40 include:

41 (A) the purpose for which the grant shall be utilized;

42 (B) information indicating need for the grant;

43 (C) an estimated budget;

44 (D) methods for measuring outcomes; and

45 (E) any other criteria as the board may require.

46 (iii) Require grant recipients to provide the Pennsylvania
47 Wine Marketing and Research Program Board with full and complete
48 access to all records relating to the performance of the grant
49 and to submit at the time and in the form as may be prescribed
50 truthful and accurate information that the Pennsylvania Wine
51 Marketing and Research Program Board may require.