

Change Is Brewing In Pennsylvania

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The last twelve months have brought sweeping reform to the laws that control the way in which alcohol is sold in Pennsylvania. In June of last year, Governor Wolf signed off on what is commonly known as Act 39 of 2016. Act 39 changed over 30 sections of the Liquor Code, and added many more. Several months later, in November of 2016, Act 166 of 2016 was signed into law, further modifying the Liquor Code. These changes reflect a widely-held belief that Pennsylvania's antiquated system for the distribution and sales of alcohol to Pennsylvania consumers is long overdue for change.

With the uptick in popularity of beer and spirits made by craft, or independent, breweries and distilleries, Acts 39 and 166 opened the door of opportunity for Pennsylvania's manufacturers of beer and spirits. Licensed breweries and distilleries can now sell, for on-premises consumption, wines produced by Pennsylvania-licensed limited wineries, liquor produced by Pennsylvania-licensed limited distilleries, and malt or brewed beverages from Pennsylvania-licensed breweries. Breweries and distilleries were previously limited to selling only their own products, giving restaurant liquor licensees the advantage of providing customers with a full range of alcoholic beverage options. Acts 39 and 166 evened the playing field by affording manufacturers the opportunity to similarly provide customers with a more widely appealing beverage menu.

Acts 39 and 166 also granted producers of wine and malt or brewed beverages the ability to apply for an additional license that allows them to ship their products directly to Pennsylvania residents. Thus, a wine producer licensed by Pennsylvania or another state can now apply for a Direct Wine Shipper ("DWS") license, which will allow it to ship up to 36 cases (or nine liters) of wine per calendar year to a Pennsylvania resident (who is over 21), for that resident's personal use. Similarly, a wholesaler or retailer of malt or brewed beverages licensed by another state can apply for a Direct Malt or Brewed Beverage Shipper ("DBS") license. The DBS license permits its holder to ship a maximum of 192 fluid ounces per month of any malt or brewed beverage upon the order of any Pennsylvania resident (who is over 21) for such resident's personal use. For those consumers who enjoy variety, these changes open up the possibility for membership in a beer-of-the-month and/or wine-of-the-month club (with proper licensure by the shipper), and being able to try wines from all over the country without leaving their homes.

One of the biggest changes for consumers resulting from Acts 39 and 166 is the availability of wine-to-go at liquor-licensed restaurants. In order to sell wine, a liquor-licensed restaurant must apply for a Wine Expanded Permit ("WEP") from the PLCB. Once approved for the WEP, a restaurant can then sell wine by the bottle for off-premises consumption, limited to three liters in one transaction. Prior to this modification of the Liquor Code, restaurant licensees could only sell wine by the glass or bottle for consumption on the premises, with an allowance for taking leftover wine home if the customer paid for but did not finish a whole bottle of wine with a meal. Now, restaurants that obtain the WEP can offer customers the option of purchasing a bottle of wine to take home.

These changes have increased demand for restaurant liquor licenses, which are limited in quantity due to the population-based quota system. There has been a surge in grocery stores and convenience stores obtaining these licenses, primarily due to the consumer-driven demand for convenient access to beer and now, wine. Act 39 also authorized the PLCB to auction off expired restaurant liquor licenses across the Commonwealth to meet this demand. The notion that customers can do their grocery shopping and get a six-pack of beer or a bottle of wine under the same roof is novel for Pennsylvanians, but very appealing. Residents of the Commonwealth are accustomed to having to patronize a grocery store for food, a gas station for gas, a state store for liquor or wine, and a beer distributor for malt or brewed beverages. This increasing desire and demand for one-stop-shopping has caused many grocery and convenience stores to create restaurant spaces within their stores, to fulfill the requirements of the Liquor Code that require seating for at least thirty people and availability of food within that space, in order to be eligible for a restaurant liquor license.

With the ongoing efforts of our legislature to modernize the Liquor Code, it is important for licensees to stay informed about changes to the Liquor Code to stay compliant and to take advantage of potentially lucrative opportunities. For consumers, it is a matter of knowing the easiest way to get your beverage of choice.

WRITTEN BY:



Michelle R. Calvert

Partner

Tel: (717) 685-6480

Email: mcalvert@barley.com