



## Liquor Law Alert

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PENNSYLVANIA OFFICE OF

**NORRIS McLAUGHLIN & MARCUS, P.A.**

### Common Sense Liquor Law Changes Which Support Local Businesses

On June 28, 2011 Governor Corbett signed House Bill 148 which amends the Pennsylvania Liquor Code in ways which add considerable flexibility to various alcohol purveyors. Restaurants, bars, caterers, breweries, and wineries will see increased freedom to operate with the changes to the Code. Licensees, retail customers, and local economies will all enjoy the benefits of these changes.

#### Happy Hours

Happy hour just got happier and a bit longer. The traditional happy hour as originally conceived as lasting only one hour has long disappeared. Most bars and restaurants take advantage of their ability under the Code to provide happy hour for two hours per day. Now bars and restaurants will have more freedom to decide the happiest times of their week.

The daily limit on happy hours of retail licensees is extended from two consecutive hours per day to four hours per day. The 14 hour per week happy hour limit however is not extended, therefore some scheduling choices will have to be made. For instance, an establishment may choose not to have happy hour on Tuesday or Wednesday and have four hour happy hours on Friday and Saturday. Another likely option is for an establishment to have extended happy hours during a popular sporting event, for instance a Monday night football game, and cut happy hour time from different days to stay under the 14 hour cap. So the next time you are catching an Eagles or Phillies game at your favorite spot, you may be enjoying happy hour the entire time you watch.

The changes to the Code prohibit establishments from discounting drinks between midnight and closing and require them to post notice of happy hour schedules seven days in advance. These additional restrictions are a fair tradeoff for the added flexibility of extending happy hour to 4 hours in a day.

#### Musikfest Relief

Over the years, liquor control enforcement has threatened to enforce a rule of law in Northampton County during Musikfest concerning open containers. Due to a Northampton County Court of Common Pleas ruling, local restaurants and bars were not permitted to serve malt beverages in open containers to festival patrons for take-out. This ruling in Northampton County was contrary to the Pennsylvania Liquor Control Board's interpretation of the Liquor Code indicating that restaurants

and bars in all other counties except Northampton were allowed to serve beer in open containers for take-out. Finally, the Pennsylvania legislature solved any issue by enacting provisions which clearly state that restaurants and bars in and around Musikfest can serve beer in open containers. This provision does not apply to wine or liquor.

### **Catering**

Finally customers will not be forced to be responsible for purchasing and transporting liquor to their own catered event and can rely on their caterer. Bars, hotels, and restaurants which have liquor licenses and provide catering services may now obtain catering licenses which will allow them to sell alcoholic beverages when they provide food for off-site events. The changes to the Code will not allow catering companies that don't have liquor licenses the ability to sell alcohol. Allowing establishments, which already have liquor licenses and provide off-site catering, the ability to provide alcohol to those events is a reasonable extension. It will make event planning easier for customers and increase business of those providing catering services.

### **Farmer's Market**

It's the time of the year for farmer's markets. Everyone enjoys being able to shop outside for the freshest vegetables and fruits while enjoying the weather and supporting their local farmers. With the rise of the farm-to-table food movement, farmer's markets are more popular than ever. These venues are about to get even more popular with the recent changes to the Code.

The Code changes establish a farmer's market permit for wineries. A limited winery may obtain a permit to participate in farmer's markets throughout the year to sell alcoholic cider or wine by the bottle or case. The license also provides that samples may be offered free of charge at farmer's markets. A proper application and annual fee of \$250 is required for any winery seeking such a license. Written notice of the date, times, and location of the farmer's markets need to be provided by the winery to the enforcement bureau at least two weeks prior to the event.

Allowing limited wineries to provide tastings of their wines and to sell wine at farmer's markets will be a nice addition to the traditional agricultural fair already offered at these locales. Farmer's markets will provide a wholesome venue for small vineyards to showcase their local craft and will bring even more people out to the markets to support local economies. Farmer's markets are a natural platform to market Pennsylvania's agricultural roots and local vineyards will be a welcome addition.

### **Brand Registration**

Pennsylvania has some of the best microbreweries and small breweries in the entire nation. Not only is the quality of their product superb but the number of microbrewers located in Pennsylvania is very high when compared to other states. Micro-brewed beer has become so popular that the breweries themselves have become tourist destinations bringing revenue into local economies. Microbreweries provide a quality product while maintaining and showcasing local Pennsylvania roots. Pennsylvania has recognized the importance of this young and growing industry and has decided to support it with the newest Code changes.

The changes to the Code adjusts the fees pertaining to brand registration of malt or brewed beverages. The annual filing fee for each malt or brewed beverage registration will not exceed \$75 for each brand registered. The more interesting provision, which will greatly assist microbreweries, provides that up to twenty brands may be registered for a single annual fee of \$150 as long as one hundred barrels or less of each brand is produced on an annual basis. These changes were drafted by our firm's Liquor Law Group acting on behalf of the Brewers of Pennsylvania.

Microbreweries produce a wide variety of brands throughout the year with some breweries even brewing well over twenty brands in a year. Prior to the fee changes, microbreweries would be saddled with much higher brand registration fees than a national brewery which produces many fewer brands. Now microbreweries can pay a flat fee for up to twenty brands without the burden of excessive brand registration fees. Microbreweries are an important part of local Pennsylvania economies and this fee change will support the growth and prosperity of these small brewers. They will continue to be able to produce their wide variety of brands now with more reasonable fees and everyone will continue to be able to enjoy their seasonal favorites.

The Code changes also include the Pennsylvania Liquor Control Board (Pa.L.C.B.) appointing a Malt Beverage Compliance Officer to police brand registrations. Furthermore, State Liquor Control Enforcement Officers are no longer permitted to confiscate unregistered beer found at the retail level.

This *Liquor Law Alert* was written by **Theodore J. Zeller, III**. A member attorney with Tallman, Hudders & Sorrentino, the Pennsylvania Office of Norris McLaughlin & Marcus, P.A., Ted has extensive experience in alcoholic beverage law, commercial transactions including related real estate transactions, and litigation. In addition to representing restaurants, hotels, stadiums, and distributors, Ted represents the Brewers of Pennsylvania, a non-profit entity made up of the largest and smallest breweries in the state. If you have any questions regarding the information in this alert or any other related matters, please feel free to contact Ted by email at [tzeller@thslaw.com](mailto:tzeller@thslaw.com).

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