

January 9, 2018

Summary of Act 75 of 2017

On December 22, 2017, Governor Wolf signed House Bill No. 1902 into law, now known as Act 75 of 2017 (Act 75).

Act 75 made changes to five sections of the Liquor Code. The changes are summarized below. The Act also repealed two subsections of the Crimes Code. References to the sections/subsections impacted can be found at the end of each paragraph. All changes were effective immediately upon the Governor's signature.

If you have any questions about what these changes mean, or about other provisions of the Liquor Code, you may contact the PLCB's Office of Chief Counsel at 717-783-9454 or ra-lblegal@pa.gov.

Compliance Checks

Act 75 added a subsection to the enforcement provisions of the Liquor Code. It authorizes the Pennsylvania State Police, Bureau of Liquor Control Enforcement (BLCE) to use minors to purchase, attempt to purchase, possess or transport liquor or malt or brewed beverages as part of compliance checks at licensed establishments, under certain conditions. Those conditions are that the minor is at least eighteen years of age; is an officer, employee or intern of the BLCE; has completed specified training by the BLCE; is acting within the scope of his/her duties; and is under the direct supervision or control of a BLCE agent who is at least twenty-one years old. The minor may not consume liquor or malt or brewed beverages.

Act 75 requires the Pennsylvania State Police to promulgate regulations defining how the compliance checks will be conducted. These regulations must at least include the following requirements: that minors participating in the compliance checks have training approved by the BLCE; that licensees that are compliant must be notified in writing of their compliance; and that licensees that are not compliant must be immediately notified by the supervising BLCE officer of the non-compliance and also notified in writing of non-compliance within ten working days.

This new subsection expires on December 31, 2022. (47 P.S. § 2-211(g)).

The BLCE has been conducting minor compliance checks since 2002 when such checks were first authorized by the Crimes Code. Provisions regarding minor compliance checks were found previously in sections 6308(e) and 6310(c) of the Crimes Code. (18 Pa. C.S. §§ 6308(e), 6310(c)). These two provisions have been repealed by Act 75.

Breweries

Act 75 amended section 446(a)(1) of the Liquor Code to make it clear that malt or brewed beverages produced by a brewery at its location may be sold to non-licensees for consumption on the brewery's licensed premises in any container/package in any amount; it may also sell its malt or brewed beverages to hotel, restaurant, club and public service liquor licensees. (47 P.S. § 4-446(a)(1)).

Act 75 also provides that malt or brewed beverages produced for the holder of a brewery license under a contract brewing agreement with an out-of-state brewery may be sold to a non-licensee for on-premise or off-premise consumption. Sales to a licensee must be distributed under the three-tier system specified in section 431(b) of the Liquor Code. (47 P.S. § 4-446(a)(1)).

Act 75 also amended section 492(22) of the Liquor Code so that it conforms with above. (47 P.S. § 4-492(22)).

Interlocking Interests

Act 75 amended section 411 of the Liquor Code, which, in part, prohibits a person from simultaneously holding an interest in both a retail license, like a hotel or restaurant, and acting as a landlord to a manufacturing license, like a brewery or limited winery. The amendments remove this restriction. Now, the holder of a retail (hotel, restaurant, or club) license and/or its officers, directors, and stockholders are permitted to lease land or buildings to the holder of a manufacturer license. (47 P.S. § 4-411(d), (e)).

Sections 411(e) and 493 of the Liquor Code were also amended by the act to allow a person who has an ownership interest in a limited winery license to be employed by an entity that holds a hotel, restaurant, eating place, or club license, so long as the person is not employed as alcohol service personnel or as manager. (47 P.S. §§ 4-411(e), 4-493(11)).