

CHAPTER 276
FORMERLY
HOUSE BILL NO. 405

AN ACT TO AMEND TITLE 4 OF THE DELAWARE CODE RELATING TO ALCOHOL.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Subchapter II, of Chapter 5, of Title 4 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 512G. Shipment of Alcoholic Beverages Between Commonly Owned Entities.

(a) Any entity licensed in this State pursuant to §§ 512A, 512B, 512C or 512E of this title, or any out of state supplier licensed pursuant to § 501 of this title who, as determined by the Commissioner, would meet the requirements of §§ 512A, 512B, 512C or 512E of this title if it were located in this state, is permitted to sell or ship alcoholic beverages they manufacture to an entity licensed in this State pursuant to §§ 512A, 512B, 512C or 512E of this title subject to all of the following conditions:

(1) The shipping and receiving licensees must be under common-ownership and control and must both apply for and receive a permit pursuant to this section.

(2) A licensee must apply for a permit with the Commissioner setting forth the nature of its license, naming the licensees or out of state suppliers that it desires to ship to directly or receive alcoholic beverages from directly, and such other information as the Commissioner may require.

(3) The Commissioner shall determine if a licensee meets the requirements of §§ 512A, 512B, 512C or 512E of this title and is otherwise qualified for a permit pursuant to this section.

(4) If the Commissioner determines the licensee is eligible, the Commissioner shall issue a permit to the licensee.

(5) A permit holder under this section shall be permitted to sell product properly received under the terms of its permit as though it were manufactured at its premises, in accordance with the terms and conditions of its license, so long as it is permitted to manufacture that type of alcohol.

(b) As used in this section, “common ownership and control” means that the shipping and receiving licensees applying for a permit under this section manufacture and sell the same brands of alcoholic liquor that each such licensee desires to ship to directly or receive from directly the other, share at least a majority of the same directors, officers, members, or other fiduciaries, and are owned 51 percent or more by one person. It shall be permitted for the interest of 51 percent or more in the shipping licensee and the interest of 51 percent or more in the receiving licensee to be held by more than one person, but only if one of the following is satisfied:

(1) One person is an individual and the other person(s) is one or more trusts, the beneficiaries of which include such individual, such individual’s spouse, or such individual’s lineal descendants; or

(2) Each person is one or more trusts established by the same settlor for the benefit of the settlor, the settlor’s spouse, or the settlor’s lineal descendants, and are managed by the same fiduciaries; or

(3) Such interests are held by the same individuals.

(c) For the purposes of this §512G, person shall be defined as set forth in 6 Del. C. § 1-201(27).

Approved June 27, 2018