



Pennsylvania Manufacturers Permitted to Produce Alcoholic Cider

In addition to producing malt or brewed beverages manufacturers with a G or GP licenses are also permitted to produce alcoholic cider. The definition of Malt or Brewed Beverages includes alcoholic cider.

47 P.S. § 4-446(a)1 provides: Holders of a brewery license may sell malt or brewed beverages produced and owned by the brewery under such conditions and regulations as the board may enforce, to individuals for consumption on the licensed premises in any container or package of any volume and to hotel, restaurant, club and public service liquor licensees

47 P.S. § 1-102 provides: "Malt or Brewed Beverages" shall mean any beer, lager beer, ale, porter or similar fermented malt beverage containing one-half of one per centum or more of alcohol by volume, by whatever name such beverage may be called, and shall mean alcoholic cider.

Advisory Opinion 2008-074 stated that G and GP licenses were permitted to produce and manufacture alcoholic cider. The Opinion provides:

"A brewery license ("G") allows the holder to produce and manufacture malt or brewed beverages. 'Malt or Brewed Beverages,' as defined in the Liquor Code, means "any beer, lager beer, ale, porter or similar fermented malt beverage containing one-half of one per centum or more of alcohol by volume, by whatever name such beverage may be called, and shall mean alcoholic cider." [47 P.S. § 1-102]. A brewery pub license ("GP") allows the holder of a brewery license to operate a restaurant or brewery pub within or immediately adjacent to the brewery premises. [47 P.S. § 4-446]. It allows sales for on-premises consumption of the beer produced and owned by the brewery, and sales for off-premises consumption of its products not to exceed one hundred ninety-two (192) fluid ounces in a single sale. Holders of brewery pub licenses are also permitted to sell Pennsylvania-made wines for on-premises consumption. [47 P.S. § 4-446(2)]. Therefore, a brewery pub licensee may ferment and sell alcoholic cider as defined above."

Similarly Opinion 2007-005 provides:

"Alcoholic cider is defined in the Liquor Code as meaning "a beverage which may contain carbonation in an amount not to exceed three hundred ninety-two one thousandths of a gram per one hundred milliliters and flavors, produced through alcoholic fermentation of only apples or apple juice, consisting of at least one-half of one per centum, but not greater than five and one-half per centum, alcohol by volume and sold or offered for sale as alcoholic cider and not as a wine, a wine product or as a substitute for wine, in bottles, cases, kegs, cans or other suitable containers of the type used for the sale of malt or brewed beverages in this Commonwealth." [47 P.S. § 1-102]. Thus, it would be permissible for you to manufacture alcoholic cider under the brewery license which you have applied for so long as the cider meets the definition set forth above."

Section 1 of HB 2267 amends the definition of Alcoholic Cider under 47 P.S. § 1-102 as follows:

"Alcoholic cider" shall mean a beverage which may contain carbonation in an amount not to exceed three hundred ninety-two one thousandths of a gram per one hundred milliliters and flavors, produced through alcoholic fermentation of [only apples] any fruit or [apple] fruit juice, consisting of at least one-half of one per centum, but not greater than five and one-half per centum, alcohol by volume and sold or offered for sale as alcoholic cider and not as a wine, a wine product or as a substitute for wine, in bottles, cases, kegs, cans or other suitable containers of the type used for the sale of malt or brewed beverages in this Commonwealth.

As the definition for "Malt or Brewed Beverages" under 47 P.S. § 1-102 was not amended by HB 2267 and still includes Alcoholic Cider; G and GP licensees are still allowed to produce and manufacture Alcoholic Cider as long

as the cider meets the definition under 47 P.S. § 1-102. HB 2267 amended that definition to allow for cider to be produced from fruit besides apples. Ciders may be an interesting way for brewers to expand their product lines beyond beer. For assistance with brewery taxes, or any other liquor or business matters, please contact Ted Zeller at tzeller@nmmlaw.com or Brian Slough at bslough@nmmlaw.com.