

## AMENDMENTS TO HOUSE BILL NO. 790

Sponsor: SENATOR FERLO

Printer's No. 2139

1 Amend Bill, page 1, lines 1 through 28; page 2, lines 1  
2 through 60, by striking out all of said lines on said pages and  
3 inserting  
4 Amending the act of April 12, 1951 (P.L.90, No.21), entitled, as  
5 reenacted and amended, "An act relating to alcoholic liquors,  
6 alcohol and malt and brewed beverages; amending, revising,  
7 consolidating and changing the laws relating thereto;  
8 regulating and restricting the manufacture, purchase, sale,  
9 possession, consumption, importation, transportation,  
10 furnishing, holding in bond, holding in storage, traffic in  
11 and use of alcoholic liquors, alcohol and malt and brewed  
12 beverages and the persons engaged or employed therein;  
13 defining the powers and duties of the Pennsylvania Liquor  
14 Control Board; providing for the establishment and operation  
15 of State liquor stores, for the payment of certain license  
16 fees to the respective municipalities and townships, for the  
17 abatement of certain nuisances and, in certain cases, for  
18 search and seizure without warrant; prescribing penalties and  
19 forfeitures; providing for local option, and repealing  
20 existing laws," further providing for definitions, for  
21 general powers of board, for specific subjects on which board  
22 may adopt regulations, for board to establish State Liquor  
23 Stores, for selection of personnel, for when sales may be  
24 made at Pennsylvania Liquor Stores, for sales by Pennsylvania  
25 Liquor Stores, for authority to issue liquor licenses to  
26 hotels, restaurants and clubs, for sale of malt or brewed  
27 beverages by liquor licensees, for malt and brewed beverages  
28 manufacturers', distributors' and importing distributors'  
29 licenses, for shipment of wine and for unlawful acts relative  
30 to liquor, malt and brewed beverages and licensees.

31 Amend Bill, page 191, lines 7 through 30; pages 192 through  
32 250, lines 1 through 30; page 251, lines 1 through 20, by  
33 striking out all of said lines on said pages and inserting

34 Section 1. The definitions of "distributor" and "importing  
35 distributor" in section 102 of the act of April 12, 1951  
36 (P.L.90, No.21), known as the Liquor Code, reenacted and amended  
37 June 29, 1987 (P.L.32, No.14) and amended May 31, 1996 (P.L.312,  
38 No.49), are amended and the section is amended by adding

1 definitions to read:

2 Section 102. Definitions.--The following words or phrases,  
3 unless the context clearly indicates otherwise, shall have the  
4 meanings ascribed to them in this section:

5 \* \* \*

6 "Big-box retail store" shall mean a place which sells a wide  
7 variety of merchandise, including automotive supplies,  
8 housewares, electronics, home furnishings, apparel, health and  
9 beauty supplies and perishable and nonperishable food items, in  
10 bulk and/or individual quantities, and which has an area under  
11 one roof of one hundred thousand square feet or more.

12 \* \* \*

13 "Convenience store" shall mean a place which primarily sells  
14 food prepared for consumption on and off the premises, and  
15 nonfood items, and may sell liquid fuels for use in motor  
16 vehicles, having an area under one roof of more than one  
17 thousand square feet but less than ten thousand square feet.

18 \* \* \*

19 "Distributor" shall mean any person licensed by the board to  
20 engage in the purchase only from Pennsylvania manufacturers and  
21 from importing distributors and the resale of malt or brewed  
22 beverages, except to importing distributors and distributors, in  
23 the original sealed containers as prepared for the market by the  
24 manufacturer at the place of manufacture, but not for  
25 consumption on the premises where sold, and in quantities of not  
26 less than a case or original containers containing one hundred  
27 twenty-eight ounces or more which may be sold separately, except  
28 as otherwise provided for herein.

29 \* \* \*

30 "Grocery store" shall mean a reputable place operated by a  
31 person of good repute, which primarily sells food, supplies for  
32 the table and food products for human consumption off the  
33 premises and which has an area under one roof of ten thousand  
34 square feet or more.

35 \* \* \*

36 "Importing distributor" shall mean any person licensed by the  
37 board to engage in the purchase from manufacturers and other  
38 persons located outside this Commonwealth and from persons  
39 licensed as manufacturers of malt or brewed beverages and  
40 importing distributors under this act, and the resale of malt or  
41 brewed beverages in the original sealed containers as prepared  
42 for the market by the manufacturer at the place of manufacture,  
43 but not for consumption on the premises where sold, and in  
44 quantities of not less than a case or original containers  
45 containing one hundred twenty-eight ounces or more which may be  
46 sold separately, except as otherwise provided for herein.

47 \* \* \*

48 "Pharmacy" shall mean any place having an area under one roof  
49 of at least eight thousand square feet or more that is properly  
50 issued a permit or license by the State Board of Pharmacy where  
51 drugs, devices and diagnostic agents for human or animal

1 consumption are stored, dispensed or compounded.

2 Section 1.1. Section 207(a), (b), (f) and (h) of the act,  
3 amended November 30, 2004 (P.L.1727, No.221) and December 8,  
4 2004 (P.L.1810, No.239), are amended and the section is amended  
5 by adding subsections to read:

6 Section 207. General Powers of Board.--Under this act, the  
7 board shall have the power and its duty shall be:

8 (a) To buy, import or have in its possession for sale and  
9 sell liquor, alcohol, corkscrews, wine and liquor accessories,  
10 trade publications, gift cards, gift certificates, wine- or  
11 liquor-scented candles and wine glasses in the manner set forth  
12 in this act: Provided, however, That all purchases shall be made  
13 subject to the approval of the State Treasurer, or his  
14 designated deputy. The board shall buy liquor and alcohol at the  
15 lowest price and in the greatest variety reasonably obtainable.  
16 The sales may be to a person or entity that is located either  
17 inside or outside this Commonwealth.

18 (b) To control the manufacture, possession, sale,  
19 consumption, importation, use, storage, transportation and  
20 delivery of liquor, alcohol and malt or brewed beverages in  
21 accordance with the provisions of this act, and to fix the  
22 wholesale and retail prices at which liquors and alcohol shall  
23 be sold at Pennsylvania Liquor Stores. Prices shall be  
24 [proportional with prices paid by the board to its suppliers and  
25 shall reflect any advantage obtained through volume purchases by  
26 the board.] as set forth by the board so long as the price of a  
27 particular item is uniform throughout this Commonwealth and that  
28 the markup may not be less than twenty-five percent (25%) or  
29 more than thirty-five percent (35%). The board may impose  
30 logistical fees and round up to the nearest nine-hundredth of a  
31 dollar after applying the other taxes and fees. Prices may not  
32 be changed on any wine or spirit product more than once in any  
33 six-month period. The board may establish a preferential price  
34 structure for wines produced within this Commonwealth for the  
35 promotion of such wines, as long as the price structure is  
36 uniform within each class of wine purchased by the board. The  
37 board shall require each Pennsylvania manufacturer and each  
38 nonresident manufacturer of liquors, other than wine, selling  
39 such liquors to the board, which are not manufactured in this  
40 Commonwealth, to make application for and be granted a permit by  
41 the board before such liquors not manufactured in this  
42 Commonwealth shall be purchased from such manufacturer. Each  
43 such manufacturer shall pay for such permit a fee which, in the  
44 case of a manufacturer of this Commonwealth, shall be equal to  
45 that required to be paid, if any, by a manufacturer or  
46 wholesaler of the state, territory or country of origin of the  
47 liquors, for selling liquors manufactured in Pennsylvania, and  
48 in the case of a nonresident manufacturer, shall be equal to  
49 that required to be paid, if any, in such state, territory or  
50 country by Pennsylvania manufacturers doing business in such  
51 state, territory or country. In the event that any such

1 manufacturer shall, in the opinion of the board, sell or attempt  
2 to sell liquors to the board through another person for the  
3 purpose of evading this provision relating to permits, the board  
4 shall require such person, before purchasing liquors from him or  
5 it, to take out a permit and pay the same fee as hereinbefore  
6 required to be paid by such manufacturer. All permit fees so  
7 collected shall be paid into the State Stores Fund. The board  
8 shall not purchase any alcohol or liquor fermented, distilled,  
9 rectified, compounded or bottled in any state, territory or  
10 country, the laws of which result in prohibiting the importation  
11 therein of alcohol or liquor, fermented, distilled, rectified,  
12 compounded or bottled in Pennsylvania.

13 \* \* \*

14 (f) To appoint, fix the compensation and define the powers  
15 and duties of such managers, officers, inspectors, examiners,  
16 clerks and other employes as shall be required for the operation  
17 of this act, subject to the provisions of The Administrative  
18 Code of 1929 and the Civil Service Act. However, the board may  
19 hire a limited number of retail wine specialists on an at-will  
20 basis to be employed at up to twenty-five percent (25%) of the  
21 total number of Pennsylvania Liquor Stores. Notwithstanding any  
22 other provision of law to the contrary, a retail wine specialist  
23 shall not be considered a member of the classified service, as  
24 that term is defined in the act of August 5, 1941 (P.L.752,  
25 No.286), known as the "Civil Service Act," except as set forth  
26 in this act. A retail wine specialist shall be considered a  
27 State employe for purposes of 71 Pa.C.S. Pt. XXV (relating to  
28 retirement for State employees and officers). The board shall  
29 establish a system of classification and compensation of its  
30 retail wine specialists and they shall not be subject to the  
31 provisions of the act of April 9, 1929 (P.L.177, No.175), known  
32 as "The Administrative Code of 1929," as to classification and  
33 compensation for its employes, and shall conduct its activities  
34 consistent with the practices and procedures of Commonwealth  
35 agencies. The board shall adhere to the provisions of 51 Pa.C.S.  
36 Ch. 71 (relating to veterans' preference), as they relate to  
37 noncivil service positions. This subsection may not be construed  
38 to alter, remove or bar current or new employees from a  
39 collective bargaining agreement. Individuals employed prior to  
40 the effective date of subsection (n) shall retain their civil  
41 service status.

42 \* \* \*

43 (h) Without in any way limiting or being limited by the  
44 foregoing, to do all such things and perform all such acts as  
45 are deemed necessary or advisable for the purpose of carrying  
46 into effect the provisions of this act and the regulations made  
47 thereunder. Notwithstanding any other provision of law to the  
48 contrary, the board is authorized to purchase all goods and  
49 services in its sole discretion which are deemed necessary to  
50 perform all such acts. The board is authorized to set policy and  
51 promulgate regulations providing for the procurement of such

1 goods and services.

2 \* \* \*

3 (l) To establish and implement a customer relations  
4 marketing program for the purpose of offering incentives, such  
5 as coupons or discounts on certain products, to customers of the  
6 board.

7 (m) Notwithstanding any other provision of law, to enter  
8 into agreements with governmental units of this Commonwealth and  
9 other states for the purchase or sale of goods or services with,  
10 from or to the governmental units.

11 (n) To operate Pennsylvania Liquor Stores by itself or in  
12 partnership with grocery stores and other private entities that  
13 are licensed by the board. The board may not make a contract or  
14 partner with a convenience store, pharmacy or big-box retail  
15 store.

16 Section 2. Sections 208(c), 301 and 302 of the act are  
17 amended to read:

18 Section 208. Specific Subjects on Which Board May Adopt  
19 Regulations.--Subject to the provisions of this act and without  
20 limiting the general power conferred by the preceding section,  
21 the board may make regulations regarding:

22 \* \* \*

23 (c) The purchase, as provided in this act, of liquor and  
24 alcohol, and its supply to Pennsylvania Liquor Stores and the  
25 procurement of all other goods and services which are deemed  
26 necessary by the board, in its sole discretion, to perform all  
27 such acts.

28 \* \* \*

29 Section 301. Board to Establish State Liquor Stores.--(a)  
30 The board shall, either by itself or in partnership with one or  
31 more private entities, establish, operate and maintain at such  
32 places throughout the Commonwealth as it shall deem essential  
33 and advisable, stores to be known as "Pennsylvania Liquor  
34 Stores," for the sale of liquor and alcohol in accordance with  
35 the provisions of and the regulations made under this act;  
36 except that no store not so already located shall be located  
37 within three hundred feet of any elementary or secondary school,  
38 nor within a dry municipality without there first having been a  
39 referendum approving such location. When the board shall have  
40 determined upon the location of a liquor store in any  
41 municipality, it shall give notice of such location by public  
42 advertisement in two newspapers of general circulation. In  
43 cities of the first class, the location shall also be posted for  
44 a period of at least fifteen days following its determination by  
45 the board as required in section 403(g) of this act. The notice  
46 shall be posted in a conspicuous place on the outside of the  
47 premises in which the proposed store is to operate or, in the  
48 event that a new structure is to be built in a similarly visible  
49 location. If, within five days after the appearance of such  
50 advertisement, or of the last day upon which the notice was  
51 posted, fifteen or more taxpayers residing within a quarter of a

1 mile of such location, or the City Solicitor of the city of the  
2 first class, shall file a protest with the court of common pleas  
3 of the county averring that the location is objectionable  
4 because of its proximity to a church, a school, or to private  
5 residences, the court shall forthwith hold a hearing affording  
6 an opportunity to the protestants and to the board to present  
7 evidence. The court shall render its decision immediately upon  
8 the conclusion of the testimony and from the decision there  
9 shall be no appeal. If the court shall determine that the  
10 proposed location is undesirable for the reasons set forth in  
11 the protest, the board shall abandon it and find another  
12 location. The board may establish, operate and maintain such  
13 establishments for storing and testing liquors as it shall deem  
14 expedient to carry out its powers and duties under this act.

15 (b) The board may lease the necessary premises for such  
16 stores or establishments, but all such leases shall be made  
17 through the Department of General Services as agent of the  
18 board. The board, through the Department of General Services,  
19 shall have authority to purchase such equipment and appointments  
20 as may be required in the operation of such stores or  
21 establishments.

22 (c) If the board chooses to establish a Pennsylvania Liquor  
23 Store in partnership with one or more private entities, it shall  
24 be subject to the following:

25 (1) if the liquor store is located within another business,  
26 the alcohol purchased at the liquor store must be paid for at  
27 the Pennsylvania Liquor Store;

28 (2) the board and its partner or partners may coordinate  
29 advertising and promotions;

30 (3) the board and its partner or partners may discount the  
31 price of an item, including alcohol, and may condition the  
32 discount on the purchase of another item from the board or its  
33 partner or partners; and

34 (4) the board may base its lease payments in whole or in  
35 part on the amount of alcohol sold at the location.

36 Section 302. Selection of Personnel.--Officers and employes  
37 of the board, except for retail wine specialists and as herein  
38 otherwise provided, shall be appointed and employed subject to  
39 the provisions of the Civil Service Act.

40 Section 3. Section 304(b) of the act, amended December 8,  
41 2004 (P.L.1810, No.239), is amended to read:

42 Section 304. When Sales May Be Made at Pennsylvania Liquor  
43 Stores.--\* \* \*

44 (b) [Certain] Pennsylvania Liquor Stores operated by the  
45 board [shall] may be open for Sunday retail sales [between the  
46 hours of noon and five o'clock postmeridian], except that no  
47 Sunday sales shall occur on Easter Sunday or Christmas day. [The  
48 board shall open up to twenty-five per centum of the total  
49 number of Pennsylvania Liquor Stores at its discretion for  
50 Sunday sales as provided for in this subsection. The board shall  
51 submit yearly reports to the Appropriations and the Law and

Justice Committees of the Senate and the Appropriations and the Liquor Control Committees of the House of Representatives summarizing the total dollar value of sales under this section.]

Section 4. Section 305(a) and (b) of the act, amended May 8, 2003 (P.L.1, No.1) and July 6, 2005 (P.L.135, No.39), are amended to read:

Section 305. Sales by Pennsylvania Liquor Stores.--(a) The board shall in its discretion determine where and what classes, varieties and brands of liquor and alcohol it shall make available to the public and where such liquor and alcohol will be sold. Every Pennsylvania Liquor Store shall be authorized to sell combination packages. If a person desires to purchase a class, variety or brand of liquor or alcohol not currently available from the board, he or she may place a special order for such item so long as the order is for two or more bottles. The board may require a reasonable deposit from the purchaser as a condition for accepting the order. The customer shall be notified immediately upon the arrival of the goods.

In computing the retail price of such special orders for liquor or alcohol, the board shall not include the cost of freight or shipping before applying [the] a mark-up calculated at fifty per centum of the markup under section 207(b) and taxes but shall add the freight or shipping charges to the price after the mark-up and taxes have been applied.

Unless the customer pays for and accepts delivery of any such special order within ten days after notice of arrival, the store may place it in stock for general sale and the customer's deposit shall be forfeited.

(b) Every Pennsylvania Liquor Store shall sell liquors at wholesale to hotels, restaurants, clubs, and railroad, pullman and steamship companies licensed under this act; and, under the regulations of the board, to pharmacists duly licensed and registered under the laws of the Commonwealth, and to manufacturing pharmacists, and to reputable hospitals approved by the board, or chemists. Sales to licensees shall be made at a price that includes a discount of [ten] sixteen per centum from the retail price. The board may sell to registered pharmacists only such liquors as conform to the Pharmacopoeia of the United States, the National Formulary, or the American Homeopathic Pharmacopoeia. The board may sell at special prices under the regulations of the board, to United States Armed Forces facilities which are located on United States Armed Forces installations and are conducted pursuant to the authority and regulations of the United States Armed Forces. All other sales by such stores shall be at retail. A person entitled to purchase liquor at wholesale prices may purchase the liquor at any Pennsylvania Liquor Store upon tendering cash, check or credit card for the full amount of the purchase. For this purpose, the board shall issue a discount card to each licensee identifying such licensee as a person authorized to purchase liquor at wholesale prices. Such discount card shall be retained by the

1 licensee. The board may contract through the Commonwealth  
2 bidding process for delivery to wholesale licensees at the  
3 expense of the licensee receiving the delivery.

4 \* \* \*

5 Section 5. Section 401(a) of the act, amended December 22,  
6 2011 (P.L.530, No.113), is amended to read:

7 Section 401. Authority to Issue Liquor Licenses to Hotels,  
8 Restaurants and Clubs.--(a) Subject to the provisions of this  
9 act and regulations promulgated under this act, the board shall  
10 have authority to issue a retail liquor license for any premises  
11 kept or operated by a hotel, restaurant or club and specified in  
12 the license entitling the hotel, restaurant or club to purchase  
13 liquor from a Pennsylvania Liquor Store and to keep on the  
14 premises such liquor and, subject to the provisions of this act  
15 and the regulations made thereunder, to sell the same and also  
16 malt or brewed beverages to guests, patrons or members for  
17 consumption on the hotel, restaurant or club premises. Such  
18 licensees with an interior connection to a grocery store,

19 convenience store or big-box retail store, other than clubs,  
20 shall be permitted to sell malt or brewed beverages for  
21 consumption off the premises where sold in quantities of not  
22 more than one hundred ninety-two fluid ounces in a single sale  
23 to one person as provided for in section 407. A licensee without  
24 an interior connection to a grocery store, convenience store or  
25 big-box retail store, other than clubs, selling malt or brewed  
26 beverages for consumption off premises may not sell more than  
27 three hundred eighty-four ounces in not more than twenty-four  
28 original bottles or cans in a single sale to one person as  
29 provided for in section 407, Provided, That the licensee may not  
30 sell a package as prepared for sale or distribution by the  
31 manufacturer containing more than twelve bottles or cans. Such  
32 licenses shall be known as hotel liquor licenses, restaurant  
33 liquor licenses and club liquor licenses, respectively. No  
34 person who holds any public office that involves the duty to  
35 enforce any of the penal laws of the United States, this  
36 Commonwealth or of any political subdivision of this  
37 Commonwealth may have any interest in a hotel or restaurant  
38 liquor license. This prohibition applies to anyone with arrest  
39 authority, including, but not limited to, United States  
40 attorneys, State attorneys general, district attorneys, sheriffs  
41 and police officers. This prohibition shall also apply to  
42 magisterial district judges, judges or any other individuals who  
43 can impose a criminal sentence. This prohibition does not apply  
44 to members of the General Assembly, township supervisors, city  
45 councilpersons, mayors without arrest authority and any other  
46 public official who does not have the ability to arrest or the  
47 ability to impose a criminal sentence. This section does not  
48 apply if the proposed premises are located outside the  
49 jurisdiction of the individual in question.

50 \* \* \*

51 Section 6. Section 407(a) of the act, amended June 28, 2011



(P.L.55, No.11), is amended to read:

Section 407. Sale of Malt or Brewed Beverages by Liquor Licensees.--(a) Every liquor license issued to a hotel, restaurant, club, or a railroad, pullman or steamship company under this subdivision (A) for the sale of liquor shall authorize the licensee to sell malt or brewed beverages at the same places but subject to the same restrictions and penalties as apply to sales of liquor, except that licensees with an interior connection to a grocery store, convenience store or big-box retail store, other than clubs, may sell malt or brewed beverages for consumption off the premises where sold in quantities of not more than one hundred ninety-two fluid ounces in a single sale to one person. A licensee without an interior connection to a grocery store, convenience store or big-box retail store, other than clubs, selling malt or brewed beverages for consumption off premises may not sell more than three hundred eighty-four ounces in not more than twenty-four original bottles or cans in a single sale to one person, Provided, That the licensee may not sell a package as prepared for sale or distribution by the manufacturer containing more than twelve bottles or cans. The sales may be made in either open or closed containers, Provided, however, That a municipality may adopt an ordinance restricting open containers in public places. No licensee under this subdivision (A) shall at the same time be the holder of any other class of license, except a retail dispenser's license authorizing the sale of malt or brewed beverages only.

\* \* \*

Section 7. Section 431(b) of the act, amended December 8, 2004 (P.L.1810, No.239), is amended and the section is amended by adding a subsection to read:

Section 431. Malt and Brewed Beverages Manufacturers', Distributors' and Importing Distributors' Licenses.--\* \* \*

(b) The board shall issue to any reputable person who applies therefor, and pays the license fee hereinafter prescribed, a distributor's or importing distributor's license for the place which such person desires to maintain for the sale of malt or brewed beverages, not for consumption on the premises where sold, and except as provided for under subsection (g), in quantities of not less than a case or original containers containing one hundred twenty-eight ounces or more which may be sold separately as prepared for the market by the manufacturer at the place of manufacture. The board shall have the discretion to refuse a license to any person or to any corporation, partnership or association if such person, or any officer or director of such corporation, or any member or partner of such partnership or association shall have been convicted or found guilty of a felony within a period of five years immediately preceding the date of application for the said license: And provided further, That, in the case of any new license or the transfer of any license to a new location, the board may, in its

1 discretion, grant or refuse such new license or transfer if such  
2 place proposed to be licensed is within three hundred feet of  
3 any church, hospital, charitable institution, school or public  
4 playground, or if such new license or transfer is applied for a  
5 place which is within two hundred feet of any other premises  
6 which is licensed by the board: And provided further, That the  
7 board shall refuse any application for a new license or the  
8 transfer of any license to a new location if, in the board's  
9 opinion, such new license or transfer would be detrimental to  
10 the welfare, health, peace and morals of the inhabitants of the  
11 neighborhood within a radius of five hundred feet of the place  
12 proposed to be licensed. The board shall refuse any application  
13 for a new license or the transfer of any license to a location  
14 where the sale of liquid fuels or oil is conducted. The board  
15 may enter into an agreement with the applicant concerning  
16 additional restrictions on the license in question. If the board  
17 and the applicant enter into such an agreement, such agreement  
18 shall be binding on the applicant. Failure by the applicant to  
19 adhere to the agreement will be sufficient cause to form the  
20 basis for a citation under section 471 and for the nonrenewal of  
21 the license under section 470. If the board enters into an  
22 agreement with an applicant concerning additional restrictions,  
23 those restrictions shall be binding on subsequent holders of the  
24 license until the license is transferred to a new location or  
25 until the board enters into a subsequent agreement removing  
26 those restrictions. If the application in question involves a  
27 location previously licensed by the board, then any restrictions  
28 imposed by the board on the previous license at that location  
29 shall be binding on the applicant unless the board enters into a  
30 new agreement rescinding those restrictions. The board shall  
31 require notice to be posted on the property or premises upon  
32 which the licensee or proposed licensee will engage in sales of  
33 malt or brewed beverages. This notice shall be similar to the  
34 notice required of hotel, restaurant and club liquor licensees.

35 Except as hereinafter provided, such license shall authorize  
36 the holder thereof to sell or deliver malt or brewed beverages  
37 in quantities above specified anywhere within the Commonwealth  
38 of Pennsylvania, which, in the case of distributors, have been  
39 purchased only from persons licensed under this act as  
40 manufacturers or importing distributors, and in the case of  
41 importing distributors, have been purchased from manufacturers  
42 or persons outside this Commonwealth engaged in the legal sale  
43 of malt or brewed beverages or from manufacturers or importing  
44 distributors licensed under this article. In the case of an  
45 importing distributor, the holder of such a license shall be  
46 authorized to store and repackage malt or brewed beverages owned  
47 by a manufacturer at a segregated portion of a warehouse or  
48 other storage facility authorized by section 441(d) and operated  
49 by the importing distributor within its appointed territory and  
50 deliver such beverages to another importing distributor who has  
51 been granted distribution rights by the manufacturer as provided

1 herein. The importing distributor shall be permitted to receive  
2 a fee from the manufacturer for any related storage, repackaging  
3 or delivery services. In the case of a bailee for hire hired by  
4 a manufacturer, the holder of such a permit shall be authorized:  
5 to receive, store and repackage malt or brewed beverages  
6 produced by that manufacturer for sale by that manufacturer to  
7 importing distributors to whom that manufacturer has given  
8 distribution rights pursuant to this subsection or to purchasers  
9 outside this Commonwealth for delivery outside this  
10 Commonwealth; or to ship to that manufacturer's storage  
11 facilities outside this Commonwealth. The bailee for hire shall  
12 be permitted to receive a fee from the manufacturer for any  
13 related storage, repackaging or delivery services. The bailee  
14 for hire shall, as required in Article V of this act, keep  
15 complete and accurate records of all transactions, inventory,  
16 receipts and shipments and make all records and the licensed  
17 areas available for inspection by the board and for the  
18 Pennsylvania State Police, Bureau of Liquor Control Enforcement,  
19 during normal business hours.

20 Each out of State manufacturer of malt or brewed beverages  
21 whose products are sold and delivered in this Commonwealth shall  
22 give distributing rights for such products in designated  
23 geographical areas to specific importing distributors, and such  
24 importing distributor shall not sell or deliver malt or brewed  
25 beverages manufactured by the out of State manufacturer to any  
26 person issued a license under the provisions of this act whose  
27 licensed premises are not located within the geographical area  
28 for which he has been given distributing rights by such  
29 manufacturer. Should a licensee accept the delivery of such malt  
30 or brewed beverages in violation of this section, said licensee  
31 shall be subject to a suspension of his license for at least  
32 thirty days: Provided, That the importing distributor holding  
33 such distributing rights for such product shall not sell or  
34 deliver the same to another importing distributor without first  
35 having entered into a written agreement with the said secondary  
36 importing distributor setting forth the terms and conditions  
37 under which such products are to be resold within the territory  
38 granted to the primary importing distributor by the  
39 manufacturer.

40 When a Pennsylvania manufacturer of malt or brewed beverages  
41 licensed under this article names or constitutes a distributor  
42 or importing distributor as the primary or original supplier of  
43 his product, he shall also designate the specific geographical  
44 area for which the said distributor or importing distributor is  
45 given distributing rights, and such distributor or importing  
46 distributor shall not sell or deliver the products of such  
47 manufacturer to any person issued a license under the provisions  
48 of this act whose licensed premises are not located within the  
49 geographical area for which distributing rights have been given  
50 to the distributor and importing distributor by the said  
51 manufacturer: Provided, That the importing distributor holding

1 such distributing rights for such product shall not sell or  
2 deliver the same to another importing distributor without first  
3 having entered into a written agreement with the said secondary  
4 importing distributor setting forth the terms and conditions  
5 under which such products are to be resold within the territory  
6 granted to the primary importing distributor by the  
7 manufacturer. Nothing herein contained shall be construed to  
8 prevent any manufacturer from authorizing the importing  
9 distributor holding the distributing rights for a designated  
10 geographical area from selling the products of such manufacturer  
11 to another importing distributor also holding distributing  
12 rights from the same manufacturer for another geographical area,  
13 providing such authority be contained in writing and a copy  
14 thereof be given to each of the importing distributors so  
15 affected.

16 \* \* \*

17 (g) (1) In addition to being able to sell a case as  
18 provided for under subsection (b), a distributor or importing  
19 distributor may break the bulk of a case and sell units of the  
20 case in quantities not less than forty-two ounces, provided the  
21 distributor or importing distributor sells a package prepared  
22 for sale by the manufacturer of no more than twelve units. A  
23 distributor or importing distributor may sell the packages in  
24 any quantity.

25 (2) Before a distributor or importing distributor breaks the  
26 bulk of a case for the purpose of selling units, the distributor  
27 or importing distributor shall inspect the case for damage and  
28 appropriate production date. When the distributor or importing  
29 distributor breaks the bulk of a case for the purpose of selling  
30 units of the case, the distributor or importing distributor  
31 bears the risk of loss and is responsible for the destruction of  
32 any malt and brewed beverages that violate the manufacturer's  
33 specifications relating to sales by a certain date or within a  
34 number of days of the production date.

35 (3) As used in this subsection the term "unit" means an  
36 undamaged bottle or can from a case.

37 Section 8. Section 488 of the act, added February 21, 2002  
38 (P.L.103, No.10), is amended to read:

39 Section 488. Shipment of Wine [into Commonwealth].--(a) The  
40 shipment of wine [from out-of-State] to residents of this  
41 Commonwealth [is prohibited, except as otherwise provided for  
42 in] shall be governed by this section.

43 (b) Notwithstanding any other provision of this act or law  
44 to the contrary, a person licensed by the board or another state  
45 as a producer[, supplier, importer, wholesaler, distributor or  
46 retailer] of wine and who obtains a direct wine shipper license  
47 as provided for in this section may ship up to [nine] eighteen  
48 liters per month of any wine [not included on the list provided  
49 for in subsection (c) on] upon the Internet, telephone or mail  
50 order of any resident of this Commonwealth who is at least  
51 twenty-one (21) years of age for such resident's personal use

1 and not for resale.

2 (c) Each month, the board shall publish on the Internet a  
3 list of all classes, varieties and brands of wine available for  
4 sale in the Pennsylvania Liquor Stores. [A person holding a  
5 direct shipper license may ship only those classes, varieties  
6 and brands of wine not included on the list at the time an  
7 Internet order is placed.]

8 (c.1) Prior to issuing a direct wine shipper license, the  
9 board shall require the person seeking the license to:

10 (1) File an application with the board.

11 (2) Pay a one hundred dollar (\$100) registration fee.

12 (3) Provide to the board a true copy of its current  
13 alcoholic beverage license issued by the board or another state,  
14 if applicable.

15 (4) Provide the board with any other information the board  
16 deems necessary and appropriate.

17 (5) Provide documentation which evidences that it has  
18 obtained a sales tax license from the Department of Revenue.

19 (d) [An out-of-State] A direct wine shipper shall:

20 (1) Not ship more than [nine] eighteen liters per month [on]  
21 upon the Internet, telephone or mail order of any person in this  
22 Commonwealth.

23 (2) Report to the board each year the total of wine shipped  
24 [into] to residents of this Commonwealth in the preceding  
25 calendar year.

26 (3) Permit the board or the Secretary of Revenue, or their  
27 designated representatives, to perform an audit of the [out-of-  
28 State] direct wine shipper's records upon request.

29 (4) Be deemed to have submitted to the jurisdiction of the  
30 board, any other State agency and the courts of this  
31 Commonwealth for purposes of enforcement of this section and any  
32 related laws, rules or regulations.

33 (5) Require proof of age of the recipient in a manner or  
34 format approved by the board before any wine is shipped to a  
35 resident of this Commonwealth.

36 (6) Ensure that all boxes or exterior containers of wine  
37 shipped directly to a resident in this Commonwealth are  
38 conspicuously labeled with the words "CONTAINS ALCOHOL:  
39 SIGNATURE OF PERSON 21 YEARS OF AGE OR OLDER REQUIRED FOR  
40 DELIVERY."

41 (7) Collect and remit to the Department of Revenue all taxes  
42 due on sales to residents of this Commonwealth. The amount of  
43 such taxes shall be calculated as if the sales were in this  
44 Commonwealth at the locations where delivery is made, including  
45 the emergency State tax on liquor imposed under the act of June  
46 9, 1936 (1st Sp.Sess., P.L.13, No.4), entitled "An act imposing  
47 an emergency State tax on liquor, as herein defined, sold by the  
48 Pennsylvania Liquor Control Board; providing for the collection  
49 and payment of such tax; and imposing duties upon the Department  
50 of Revenue and the Pennsylvania Liquor Control Board," the sales  
51 and use tax imposed under Article II of the act of March 4, 1971

1 (P.L.6, No.2), known as the "Tax Reform Code of 1971," the sales  
2 and use tax imposed under Article XXXI-B of the act of July 28,  
3 1953 (P.L.723, No.230), known as the "Second Class County Code,"  
4 the sales and use tax imposed under the act of June 5, 1991  
5 (P.L.9, No.6), known as the "Pennsylvania Intergovernmental  
6 Cooperation Authority Act for Cities of the First Class," and  
7 the sales and use tax imposed under section 1003 of the act of  
8 December 18, 1984 (P.L.1005, No.205), known as the "Municipal  
9 Pension Plan Funding Standard and Recovery Act."

10 (8) Annually renew its license by paying a renewal fee  
11 established by the board.

12 (e) A direct shipper may ship wine [on] upon the Internet,  
13 telephone or mail order of a resident into this Commonwealth  
14 provided that the wine [is shipped to a Pennsylvania Liquor  
15 Store selected by the resident. The wine will be subject to  
16 taxes in the same manner as wine sold directly by the board. The  
17 wine will not be released by the State store until all moneys  
18 due, including all taxes and fees, have been paid by the  
19 resident.] will be subject to all taxes due on sales to  
20 residents of this Commonwealth with the amount of such taxes to  
21 be calculated as if the sale were in this Commonwealth at the  
22 location where delivery is made.

23 (f) [A person shall sign an affidavit provided by the  
24 Pennsylvania Liquor Store where the wine was delivered to  
25 stating that the wine will only be used for the person's  
26 personal use.] Any person who resells wine obtained under this  
27 section commits a misdemeanor of the second degree.

28 (g) The board may promulgate such rules and regulations as  
29 are necessary to implement and enforce the provisions of this  
30 section. [The board may charge the resident a fee to cover the  
31 cost associated with processing the Internet order.]

32 (h) The board shall submit [monthly] annual reports to the  
33 Appropriations Committee and the Law and Justice Committee of  
34 the Senate and to the Appropriations Committee and the Liquor  
35 Control Committee of the House of Representatives summarizing  
36 the number of direct shipper licenses issued by the board[,] and  
37 the quantity of wine sold by direct wine shippers pursuant to  
38 this section [and the total dollar value of sales under this  
39 section].

40 (i) The term "wine" as used in this section shall mean  
41 liquor which is fermented from grapes and other fruits, having  
42 alcoholic content of twenty-four per centum or less. The term  
43 "wine" shall not include malt or brewed beverages nor shall wine  
44 include any products containing alcohol derived from malt,  
45 grain, cereal, molasses or cactus.

46 (j) The term "direct wine shipper" as used in this section  
47 shall mean a wine producer who holds a direct wine shipper  
48 license as provided in this section and includes a limited  
49 winery.

50 Section 9. Section 493(24) of the act, amended November 29,  
51 2006 (P.L.1421, No.155), is amended to read:

1 Section 493. Unlawful Acts Relative to Liquor, Malt and  
2 Brewed Beverages and Licensees.--The term "licensee," when used  
3 in this section, shall mean those persons licensed under the  
4 provisions of Article IV, unless the context clearly indicates  
5 otherwise.

6 It shall be unlawful--

7 \* \* \*

8 (24) (i) Things of Value Offered as Inducement. Except as  
9 provided in subclause (ii), for any licensee under the  
10 provisions of this article, or the board or any manufacturer, or  
11 any employe or agent of a manufacturer, licensee or of the  
12 board, to offer to give anything of value or to solicit or  
13 receive anything of value as a premium for the return of caps,  
14 stoppers, corks, stamps or labels taken from any bottle, case,  
15 barrel or package containing liquor or malt or brewed beverage,  
16 or to offer or give or solicit or receive anything of value as a  
17 premium or present to induce directly the purchase of liquor or  
18 malt or brewed beverage, or for any licensee, manufacturer or  
19 other person to offer or give to trade or consumer buyers any  
20 prize, premium, gift or other inducement to purchase liquor or  
21 malt or brewed beverages, except advertising novelties of  
22 nominal value which the board shall define. This section shall  
23 not prevent any manufacturer or any agent of a manufacturer from  
24 offering and honoring coupons which offer monetary rebates on  
25 purchases of wines and spirits through State Liquor Stores or  
26 purchases of malt or brewed beverages through distributors and  
27 importing distributors in accordance with conditions or  
28 regulations established by the board. The board may redeem  
29 coupons offered by a manufacturer or an agent of a manufacturer  
30 at the time of purchase. Coupons offered by a manufacturer or an  
31 agent of a manufacturer shall not be redeemed without proof of  
32 purchase. This section shall not apply to the return of any  
33 monies specifically deposited for the return of the original  
34 container to the owners thereof.

35 (ii) Notwithstanding subclause (i) or any other provision of  
36 law, a holder of a restaurant license that is also approved to  
37 hold a slot machine license or a conditional slot machine  
38 license under 4 Pa.C.S. Part II (relating to gaming) may give  
39 liquor and malt or brewed beverages free of charge to any person  
40 actively engaged in playing a slot machine.

41 (iii) Notwithstanding subclause (i) or any other provision  
42 of law, the board may establish and implement a customer  
43 relations marketing program for the purpose of offering  
44 incentives, such as coupons or discounts on certain products  
45 that may be conditioned upon the purchase of liquor, to  
46 customers of the board.

47 (iv) Notwithstanding subclause (i) or any other provision of  
48 law, nothing may prevent the board, in its discretion and while  
49 in partnership with one or more private entities as permitted  
50 under section 207(n), from offering coupons or discounts that  
51 are conditioned on the purchase of liquor products or other

1 items by customers in order to promote the liquor products or  
2 other items.

3 \* \* \*

4 (35) Sale of wine received by direct shipment. For any  
5 licensee to sell or offer to sell any wine purchased or acquired  
6 from a direct wine shipper under the authority of section 488.

7 Section 10. This act shall take effect in 60 days.