

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 790 Session of
2013

INTRODUCED BY TURZAI, SAYLOR, EVANKOVICH, REESE, SACCONI,
STEVENSON, MAJOR, LAWRENCE, GINGRICH, DUNBAR, GREINER,
AUMENT, HELM, MUSTIO, BLOOM, C. HARRIS, REGAN, GROVE, KAMPF,
CORBIN, MACKENZIE, REED, MCGINNIS, KNOWLES, EVERETT,
GILLESPIE, MOUL, KILLION, MILLER AND MILNE, MARCH 11, 2013

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,
MARCH 20, 2013

AN ACT

1 Amending the act of April 12, 1951 (P.L.90, No.21), entitled, as
2 reenacted, "An act relating to alcoholic liquors, alcohol and
3 malt and brewed beverages; amending, revising, consolidating
4 and changing the laws relating thereto; regulating and
5 restricting the manufacture, purchase, sale, possession,
6 consumption, importation, transportation, furnishing, holding
7 in bond, holding in storage, traffic in and use of alcoholic
8 liquors, alcohol and malt and brewed beverages and the
9 persons engaged or employed therein; defining the powers and
10 duties of the Pennsylvania Liquor Control Board; providing
11 for the establishment and operation of State liquor stores,
12 for the payment of certain license fees to the respective
13 municipalities and townships, for the abatement of certain
14 nuisances and, in certain cases, for search and seizure
15 without warrant; prescribing penalties and forfeitures;
16 providing for local option, and repealing existing laws," in
17 preliminary provisions, further providing for definitions and
18 for interpretation; in the Pennsylvania Liquor Control Board,
19 further providing for general powers, providing for fee
20 adjustment by regulation and further providing for subject of
21 regulations and for wine and spirits marketing; in
22 Pennsylvania Liquor Stores, further providing for
23 establishment and for sales; providing for wine and spirits
24 distribution; in licensing, providing for issuance of wine
25 and spirits retail licenses, fees, taxes, for
26 postqualification of selected applicants and for wine and
27 spirits retail licensee statement of conditions, further
28 providing for authority, for issuance, for transfer or
29 extension, for fees, for sales and restrictions, for wine

1 auction permits and for importers' licenses; in licensing,
2 providing for grocery store licenses, convenience store
3 licenses; in licensing, further providing for malt and brewed
4 beverages licenses; and further providing for distributor
5 package reform permit, providing for authority to issue
6 liquor licenses to grocery stores, for applications for
7 grocery store retail license, for issuance or transfer of
8 grocery store liquor licenses; providing for sales by liquor
9 licensees and restrictions; further providing for sales by
10 grocery store retail licensees and restriction; in licensing,
11 providing for enhanced distributors licenses; in licensing,
12 further providing for license applications, for license
13 restrictions, for sales, storage and purchase restrictions,
14 for interlocking business, for breweries, for county
15 limitations, for administrative proceedings, for
16 assignability, for renewal and temporary provisions, for
17 sanctions, for local option, for responsible alcohol
18 management, for ~~for~~ unlawful acts and for hours of operation; <--
19 in licensing, providing for unlawful acts AND FOR LICENSEES <--
20 AND TAXES; in licensing, further providing for penalties and
21 for vacation of premises; in distilleries, wineries, bonded
22 warehouses, bailees and transporters, further providing for
23 limited wineries, for distilleries and for license fees;
24 ~~providing for emergency State tax; and making a related~~ <--
25 ~~repeal~~ AND PROVIDING FOR SUPPLEMENTAL PROVISIONS. <--

26 The General Assembly of the Commonwealth of Pennsylvania
27 hereby enacts as follows:

28 Section 1. Section 102 of the act of April 12, 1951 (P.L.90,
29 No.21), known as the Liquor Code, reenacted and amended June 29,
30 1987 (P.L.32, No.14), is amended by adding definitions to read:

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

34 "Affiliate" or "person affiliated with" shall mean a person
35 that directly or indirectly, through one or more intermediaries,
36 controls, is controlled by or is under common control with a
37 specified person.

38 * * *

39 "Blended brand valuation" shall mean, for any particular
40 brand of liquor, the sum of the wholesale profit margin on each
41 product of a brand.

42 * * *

1 "Brand of liquor" shall mean a liquor product or series of
2 liquor products produced by a single manufacturer.

3 * * *

4 "Change in control" shall mean, for purposes of wholesale or
5 retail licensees as defined in this section, the acquisition by
6 a person or group of persons acting in concert of more than
7 twenty per centum of a licensee's securities or other ownership
8 interests, with the exception of any ownership interest of the
9 person that existed at the time of initial licensing, or more
10 than twenty per centum of the securities or other ownership
11 interests of a corporation or other legal entity which owns,
12 directly or indirectly, at least twenty per centum of the
13 securities or other ownership interests of the licensee.

14 * * *

15 "Commission" shall mean the State Civil Service Commission.

16 * * *

17 "Controlling interest" shall mean as follows:

18 (1) For a publicly traded legal entity, an interest in a
19 legal entity, applicant or licensee whereby a person's sole
20 voting rights under State law or corporate articles or bylaws
21 entitles the person to elect or appoint one or more of the
22 members of the board of directors or other governing board or
23 the ownership, directly or indirectly, of five per centum or
24 more of the securities of the publicly traded corporation.

25 (2) For a privately held corporation, partnership, limited
26 liability company or other form of privately held legal entity,
27 the holding of any securities in the legal entity.

28 * * *

29 "Department" shall mean the Department of General Services of
30 the Commonwealth.

1 * * *

2 "Displaced employee" shall mean a salaried employee of the
3 board whose employment is terminated as a sole and direct result
4 of the implementation of Article III-A. The term shall not
5 include a person who is terminated for cause or who retires or
6 resigns, is furloughed or is otherwise separated from employment
7 for any other reason. The term excludes intermittent liquor
8 store clerks and seasonal liquor store clerks.

9 * * *

10 "Grocery store" shall mean a reputable place operated by
11 persons of good repute, which primarily sells food, supplies for
12 the table and food products for human consumption off the
13 premises and which has an area under one roof of ten thousand
14 (10,000) square feet or more.

15 "Growler" shall mean a refillable glass container that holds
16 a minimum of sixty-four fluid ounces for malt or brewed
17 beverages.

18 * * *

19 "Heritage State Stores" shall mean the number of State
20 stores, as determined by the board, located in any given county
21 as of the effective date of this definition.

22 * * *

23 "Institution of higher education" shall mean a public or
24 private institution within this Commonwealth authorized by the
25 Department of Education to grant a certificate, associate degree
26 or higher degree. The term includes a branch or satellite campus
27 of the institution.

28 * * *

29 "Retail licensee" shall mean a person that holds a wine and
30 spirits retail license issued pursuant to section 311-A.

1 * * *

2 "Variable pricing" shall mean, for purposes of the wholesale
3 sale of liquor, any disparity in the price of an item sold to
4 one licensee as compared to the price of the same item to
5 another licensee or a licensee of a different classification.
6 The term shall not include discounts for volume purchases.

7 * * *

8 "Wholesale acquisition factor" shall mean a factor of 2.5
9 applied to the wholesale profit margin of a brand of liquor in
10 determining a wholesale license fee.

11 "Wholesale licensee" shall mean a person that holds a wine
12 and spirits wholesale license issued pursuant to section
13 321.1-A.

14 "Wholesale profit margin" shall mean, for any particular
15 liquor product, twenty per centum of the total of costs of goods
16 sold of the product in the Commonwealth over the most recent 12-
17 month period for which information is available.

18 * * *

19 "Wine and spirits retail license" shall mean a license issued
20 by the department or the board authorizing a person to sell and
21 distribute wine and spirits to the public for off the premises
22 consumption.

23 "Wine and spirits wholesale license" shall mean a license
24 issued by the department or the board authorizing a person to
25 sell and distribute liquor on a wholesale basis to THE BOARD
26 UNTIL ALL RETAIL LICENSES HAVE BEEN ISSUED IN ACCORDANCE WITH
27 ARTICLE III-A AND TO retail licensees and other licensees under
28 this act.

29 * * *

30 Section 2. Section 104(c) and (d) of the act, amended

<--

December 7, 1990 (P.L.622, No.160) and December 20, 1996
(P.L.1513, No.196), is amended to read:

Section 104. Interpretation of Act.--* * *

(c) Except as otherwise expressly provided, the purpose of this act is to prohibit the manufacture of and transactions in liquor, alcohol and malt or brewed beverages which take place in this Commonwealth, except by and under the [control] regulatory authority of the board as herein specifically provided, and every section and provision of the act shall be construed accordingly; to provide a structure in this Commonwealth for a distribution system, including the [establishment of Pennsylvania liquor stores and] licensing of wine and spirits wholesalers, wine and spirits retailers, importing distributors and distributors; and to preserve manufacturers of liquor and alcohol and malt and brewed beverages selling those products within this Commonwealth. The provisions of this act dealing with the manufacture, importation, sale, distribution and disposition of liquor, alcohol and malt or brewed beverages within the Commonwealth through [the instrumentality of the board,] licensees and otherwise, provide the means by which such control shall be made effective. This act shall not be construed as forbidding, affecting or regulating any transaction which is not subject to the legislative authority of this Commonwealth.

(d) The provisions of this act are intended to create a system for distribution [that shall include the fixing of prices for] of liquor and alcohol and controls placed on [prices for] the sale and distribution of malt and brewed beverages, and each of which shall be construed as integral to the preservation of the system, without which system the Commonwealth's control of the sale of liquor and alcohol and malt and brewed beverages and

1 the Commonwealth's promotion of its policy of temperance and
2 responsible conduct with respect to alcoholic beverages would
3 not be possible.

4 * * *

5 Section 3. Section 207 of the act, amended February 21, 2002
6 (P.L.103, No.10), November 30, 2004 (P.L.1727, No.221) and
7 December 8, 2004 (P.L.1810, No.239), is amended to read:

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

10 (a) To buy, import or have in its possession for sale and
11 sell liquor, alcohol, corkscrews, wine and liquor accessories,
12 trade publications, gift cards, gift certificates, wine- or
13 liquor-scented candles and wine glasses in the manner set forth
14 in this act: Provided, however, That all purchases shall be made
15 subject to the approval of the State Treasurer, or his
16 designated deputy. The board shall buy liquor and alcohol at the
17 lowest price and in the greatest variety reasonably obtainable.
18 The board's authority to exercise the powers granted pursuant to
19 this subsection is subject to the limitations set forth in
20 Article III-A of this act.

21 (b) To control the manufacture, possession, sale,
22 consumption, importation, use, storage, transportation and
23 delivery of liquor, alcohol and malt or brewed beverages in
24 accordance with the provisions of this act, and to fix the
25 wholesale and retail prices at which liquors and alcohol shall
26 be sold at Pennsylvania Liquor Stores. Prices shall be
27 proportional with prices paid by the board to its suppliers and
28 shall reflect any advantage obtained through volume purchases by
29 the board. The board may establish a preferential price
30 structure for wines produced within this Commonwealth for the

1 promotion of such wines, as long as the price structure is
2 uniform within each class of wine purchased by the board. The
3 board shall require each Pennsylvania manufacturer and each
4 nonresident manufacturer of liquors, other than wine, selling
5 such liquors to the board, which are not manufactured in this
6 Commonwealth, to make application for and be granted a permit by
7 the board before such liquors not manufactured in this
8 Commonwealth shall be purchased from such manufacturer. Each
9 such manufacturer shall pay for such permit a fee which, in the
10 case of a manufacturer of this Commonwealth, shall be equal to
11 that required to be paid, if any, by a manufacturer or
12 wholesaler of the state, territory or country of origin of the
13 liquors, for selling liquors manufactured in Pennsylvania, and
14 in the case of a nonresident manufacturer, shall be equal to
15 that required to be paid, if any, in such state, territory or
16 country by Pennsylvania manufacturers doing business in such
17 state, territory or country. In the event that any such
18 manufacturer shall, in the opinion of the board, sell or attempt
19 to sell liquors to the board through another person for the
20 purpose of evading this provision relating to permits, the board
21 shall require such person, before purchasing liquors from him or
22 it, to take out a permit and pay the same fee as hereinbefore
23 required to be paid by such manufacturer. All permit fees so
24 collected shall be paid into the State Stores Fund. The board
25 shall not purchase any alcohol or liquor fermented, distilled,
26 rectified, compounded or bottled in any state, territory or
27 country, the laws of which result in prohibiting the importation
28 therein of alcohol or liquor, fermented, distilled, rectified,
29 compounded or bottled in Pennsylvania. The board's authority to
30 exercise the powers granted pursuant to this subsection is

1 subject to the limitations set forth in Article III-A of this
2 act.

3 [(c) To determine the municipalities within which
4 Pennsylvania Liquor Stores shall be established and the
5 locations of the stores within such municipalities.]

6 (d) To grant and issue all licenses and to grant, issue,
7 suspend and revoke all permits authorized to be issued under
8 this act.

9 (e) (1) Through the [Department of General Services] <--
10 department as agent, to lease and furnish and equip such
11 buildings, rooms and other accommodations as shall be required
12 for the operation of this act.

13 (2) THE DEPARTMENT SHALL NOT RELOCATE A PENNSYLVANIA LIQUOR <--
14 STORE AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH.

15 (f) To appoint, fix the compensation and define the powers
16 and duties of such managers, officers, inspectors, examiners,
17 clerks and other employes as shall be required for the operation
18 of this act, subject to the provisions of The Administrative
19 Code of 1929 and the Civil Service Act.

20 (g) To determine the nature, form and capacity of all
21 packages and original containers to be used for containing
22 liquor, alcohol or malt or brewed beverages.

23 (h) Without in any way limiting or being limited by the
24 foregoing, to do all such things and perform all such acts as
25 are deemed necessary or advisable for the purpose of carrying
26 into effect the provisions of this act and the regulations made
27 thereunder.

28 (i) From time to time, to make such regulations not
29 inconsistent with this act as it may deem necessary for the
30 efficient administration of this act. The board shall cause such

1 regulations to be published and disseminated throughout the
2 Commonwealth in such manner as it shall deem necessary and
3 advisable or as may be provided by law. Such regulations adopted
4 by the board shall have the same force as if they formed a part
5 of this act.

6 (j) By regulation, to provide for the use of a computerized
7 referral system to assist consumers in locating special items at
8 Pennsylvania Liquor Stores and for the use of electronic
9 transfer of funds and credit cards for the purchase of liquor
10 and alcohol at Pennsylvania Liquor Stores. The board's authority
11 to exercise the powers granted pursuant to this subsection is
12 subject to the limitations set forth in Article III-A of this
13 act.

14 (k) To issue grants to various entities for alcohol
15 education and prevention efforts.

16 (l) To close Pennsylvania Liquor Stores as directed under
17 Article III-A of this act.

18 (m) The board may implement a delivery system as a means of
19 providing product to all licensees under this act.

20 Section 4. The act is amended by adding a section to read:

21 Section 207.1. Adjustment of Fees by Regulation.--(a)
22 Notwithstanding any provision of this act or the act of April 9,
23 1929 (P.L.177, No.175), known as "The Administrative Code of
24 1929," to the contrary, all fees required under this act shall
25 be fixed by the board by regulation and shall be subject to the
26 act of June 25, 1982 (P.L.633, No.181), known as the "Regulatory
27 Review Act."

28 (b) The board shall be authorized to increase license fees
29 by regulation under the following conditions:

30 (1) If the revenues raised by the fees imposed under this

1 act are not sufficient to meet all expenditures of the board
2 over a two-year period, the board shall increase the fees by
3 regulation, subject to the "Regulatory Review Act," so that the
4 projected revenues will meet projected expenditures.

5 (2) If the board determines that the fees established by the
6 board under subsection (a) are inadequate to meet the minimum
7 enforcement efforts required under this act, the board, after
8 consultation with the enforcement bureau, and subject to the
9 "Regulatory Review Act," shall increase the fees by regulation
10 in an amount so that adequate revenues are raised to meet the
11 required expenditures.

12 (c) All acts or parts of acts are repealed insofar as they
13 are inconsistent with this section.

14 Section 5. Section 208 of the act is amended to read:

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

19 [(a) The equipment and management of Pennsylvania Liquor
20 Stores and warehouses in which liquor and alcohol are kept or
21 sold, and the books and records to be kept therein.]

22 (b) The duties and conduct of the officers and employees of
23 the board.

24 [(c) The purchase, as provided in this act, of liquor and
25 alcohol, and its supply to Pennsylvania Liquor Stores.

26 (d) The classes, varieties and brands of liquor and alcohol
27 to be kept and sold in Pennsylvania Liquor Stores. In making
28 this determination the board shall meet not less than twice a
29 year.

30 (e) The issuing and distribution of price lists for the

1 various classes, varieties or brands of liquor and alcohol kept
2 for sale by the board under this act.]

3 (f) The labeling of liquor and alcohol sold under this act
4 and of liquor and alcohol lawfully acquired by any person prior
5 to January first, one thousand nine hundred thirty-four.

6 (g) Forms to be used for the purposes of this act.

7 (h) The issuance of licenses and permits and the conduct,
8 management, sanitation and equipment of places licensed or
9 included in permits.

10 [(i) The place and manner of depositing the receipts of
11 Pennsylvania Liquor Stores and the transmission of balances to
12 the Treasury Department through the Department of Revenue.

13 (j) The solicitation by resident or nonresident vendors of
14 liquor from Pennsylvania licensees and other persons of orders
15 for liquor to be sold through the Pennsylvania Liquor Stores
16 and, in the case of nonresident vendors, the collection
17 therefrom of license fees for such privilege at the same rate as
18 provided herein for importers' licenses.]

19 Section 5.1. Section 211(c) of the act, amended October 5,
20 1994 (P.L.537, No.80), is amended to read:

21 Section 211. Enforcement.--* * *

22 (c) The Pennsylvania State Police Commissioner shall assign
23 State Police Officers to such [supervisory and other] capacities <--
24 in the enforcement bureau as he deems necessary. All other
25 personnel of the enforcement bureau shall be civilians.
26 Notwithstanding any other provision of law, a State Police
27 officer assigned to the enforcement bureau may not be counted
28 against the complement of officers as prescribed in section 205
29 of the act of April 9, 1929 (P.L.177, No.175), known as "The
30 Administrative Code of 1929."

1 * * *

2 Section 6. Section 215 of the act, amended June 25, 2010
3 (P.L.217, No.35), is repealed:

4 [Section 215. Wine and Spirits Marketing.--

5 (e) The board is authorized to participate in or sponsor
6 wine and spirits events for the purpose of educating consumers
7 as to the wines and spirits available in this Commonwealth. The
8 wine and spirits to be used for the event may be acquired
9 through the State store system or may be donated from outside
10 this Commonwealth. Participation in the tastings may be
11 conditioned on the purchase of a ticket to the event. The event
12 may include events occurring on premises licensed by the board,
13 and the board may sell wine and spirits for off-premises
14 consumption in an area designated by the board for such sale.]

15 Section 7. Section 301 of the act is amended to read:

16 Section 301. Board to Establish State Liquor Stores.--(a)
17 The board shall [establish,] operate and maintain at such places
18 throughout the Commonwealth as it shall deem essential and
19 advisable, stores to be known as "Pennsylvania Liquor Stores,"
20 for the sale of liquor and alcohol in accordance with the
21 provisions of and the regulations made under this act[; except
22 that no store not so already located shall be located within
23 three hundred feet of any elementary or secondary school, nor
24 within a dry municipality without there first having been a
25 referendum approving such location. When the board shall have
26 determined upon the location of a liquor store in any
27 municipality, it shall give notice of such location by public
28 advertisement in two newspapers of general circulation. In
29 cities of the first class, the location shall also be posted for
30 a period of at least fifteen days following its determination by

1 the board as required in section 403(g) of this act. The notice
2 shall be posted in a conspicuous place on the outside of the
3 premises in which the proposed store is to operate or, in the
4 event that a new structure is to be built in a similarly visible
5 location. If, within five days after the appearance of such
6 advertisement, or of the last day upon which the notice was
7 posted, fifteen or more taxpayers residing within a quarter of a
8 mile of such location, or the City Solicitor of the city of the
9 first class, shall file a protest with the court of common pleas
10 of the county averring that the location is objectionable
11 because of its proximity to a church, a school, or to private
12 residences, the court shall forthwith hold a hearing affording
13 an opportunity to the protestants and to the board to present
14 evidence. The court shall render its decision immediately upon
15 the conclusion of the testimony and from the decision there
16 shall be no appeal. If the court shall determine that the
17 proposed location is undesirable for the reasons set forth in
18 the protest, the board shall abandon it and find another
19 location. The board may establish, operate and maintain such
20 establishments for storing and testing liquors as it shall deem
21 expedient to carry out its powers and duties under this act],
22 and subject to the limitations set forth in Article III-A of
23 this act.

24 (b) The board may lease the necessary premises for such
25 stores or establishments, but all such leases shall be made
26 through the [Department of General Services] department as agent
27 of the board. The board, through the [Department of General
28 Services] department, shall have authority to purchase such
29 equipment and appointments as may be required in the operation
30 of such stores or establishments.

1 Section 7.1. Section 304 of the act, amended December 8,
2 2004 (P.L.1810, No.239), is amended to read:

3 Section 304. When Sales May Be Made at Pennsylvania Liquor
4 Stores.--(a) Except as provided for in subsection (b), every
5 Pennsylvania Liquor Store shall be open for business week days,
6 except holidays as that term is defined in section 102. The
7 board may, with the approval of the Governor, temporarily close
8 any store in any municipality.

9 (b) Certain Pennsylvania Liquor Stores operated by the board
10 shall be open for Sunday retail sales between the hours of
11 [noon] nine o'clock antemeridian and [five] nine o'clock
12 postmeridian, except that no Sunday sales shall occur on Easter
13 Sunday or Christmas day. The board shall open [up to twenty-five
14 per centum of the total number of] Pennsylvania Liquor Stores at
15 its discretion for Sunday sales as provided for in this
16 subsection. The board shall submit yearly reports to the
17 Appropriations and the Law and Justice Committees of the Senate
18 and the Appropriations and the Liquor Control Committees of the
19 House of Representatives summarizing the total dollar value of
20 sales under this section.

21 Section 8. Section 305 of the act, amended May 8, 2003
22 (P.L.1, No.1), July 17, 2003 (P.L.63, No.15), May 8, 2003
23 (P.L.1, No.1), December 8, 2004 (P.L.1810, No.239), July 6, 2005
24 (P.L.135, No.39) and July 5, 2012 (P.L.1007, No.116), is amended
25 to read:

26 Section 305. Sales by Pennsylvania Liquor Stores.--(a) The
27 board shall in its discretion determine where and what classes,
28 varieties and brands of liquor and alcohol it shall make
29 available to the public and where such liquor and alcohol will
30 be sold. Every Pennsylvania Liquor Store shall be authorized to

1 sell combination packages. If a person desires to purchase a
2 class, variety or brand of liquor or alcohol not currently
3 available from the board, he or she may place a special order
4 for such item so long as the order is for two or more bottles.
5 The board may require a reasonable deposit from the purchaser as
6 a condition for accepting the order. The customer shall be
7 notified immediately upon the arrival of the goods.

8 In computing the retail price of such special orders for
9 liquor or alcohol, the board shall not include the cost of
10 freight or shipping before applying the mark-up and taxes but
11 shall add the freight or shipping charges to the price after the
12 mark-up and taxes have been applied.

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

17 During the retail divestiture process as provided in Article
18 III-A, the board shall continue to take and process special
19 liquor orders for residents and licensees of the board, and may
20 establish a protocol by which pre-paid orders may be picked up
21 at either a Pennsylvania Liquor Store or from the licensed
22 premises of a wine and spirits retail licensee. A wine and
23 spirits retail licensee is authorized to assess a handling fee
24 for this purpose. Any product not claimed at a wine and spirits
25 retail store by the purchaser shall be returned to the board
26 after ten days notice of arrival was sent to the purchaser.

27 (b) [Every] UNTIL THE WHOLESALE DIVESTITURE PROCESS AS <--
28 PROVIDED IN ARTICLE III-A IS COMPLETE, EVERY Pennsylvania Liquor
29 Store shall sell liquors at wholesale to wine and spirits retail
30 licensees, grocery stores, hotels, restaurants, clubs, and

1 railroad, pullman and steamship companies licensed under this
2 act; and, under the regulations of the board, to pharmacists
3 duly licensed and registered under the laws of the Commonwealth,
4 and to manufacturing pharmacists, and to reputable hospitals
5 approved by the board, or chemists. Sales to licensees shall be
6 made at a price that includes a discount of [ten] fourteen per
7 centum from the retail price. The board may sell to registered
8 pharmacists only such liquors as conform to the Pharmacopoeia of
9 the United States, the National Formulary, or the American
10 Homeopathic Pharmacopoeia. The board may sell at special prices
11 under the regulations of the board, to United States Armed
12 Forces facilities which are located on United States Armed
13 Forces installations and are conducted pursuant to the authority
14 and regulations of the United States Armed Forces. All other
15 sales by such stores shall be at retail. A person entitled to
16 purchase liquor at wholesale prices may purchase the liquor at
17 any Pennsylvania Liquor Store upon tendering cash, check or
18 credit card for the full amount of the purchase. For this
19 purpose, the board shall issue a discount card to each licensee
20 identifying such licensee as a person authorized to purchase
21 liquor at wholesale prices. Such discount card shall be retained
22 by the licensee. The board may contract through the Commonwealth
23 bidding process for delivery to wholesale licensees at the
24 expense of the licensee receiving the delivery.

25 (c) Whenever any checks issued in payment of liquor or
26 alcohol purchased from State Liquor Stores by persons holding
27 wholesale purchase permit cards issued by the board shall be
28 returned to the board as dishonored, the board shall charge a
29 fee of five dollars per hundred dollars or fractional part
30 thereof, plus all protest fees, to the maker of such check

1 submitted to the board. Failure to pay the face amount of the
2 check in full and all charges thereon as herein required within
3 ten days after demand has been made by the board upon the maker
4 of the check shall be cause for revocation or suspension of any
5 license issued by the board to the person who issued such check
6 and the cancellation of the wholesale purchase permit card held
7 by such person.

8 (d) No liquor or alcohol package shall be opened on the
9 premises of a Pennsylvania Liquor Store. No manager or other
10 employe of the board employed in a Pennsylvania Liquor Store
11 shall allow any liquor or alcohol to be consumed on the store
12 premises, nor shall any person consume any liquor or alcohol on
13 such premises, except liquor and alcohol which is part of a
14 tasting conducted pursuant to the board's regulations. Such
15 tastings may also be conducted in the board's headquarters or
16 regional offices.

17 (e) The board may sell tax exempt alcohol to the
18 Commonwealth of Pennsylvania and to persons to whom the board
19 shall, by regulation to be promulgated by it, issue special
20 permits for the purchase of such tax exempt alcohol.

21 Such permits may be issued to the United States or any
22 governmental agency thereof, to any university or college of
23 learning, any laboratory for use exclusively in scientific
24 research, any hospital, sanitorium, eleemosynary institution or
25 dispensary; to physicians, dentists, veterinarians and
26 pharmacists duly licensed and registered under the laws of the
27 Commonwealth of Pennsylvania; to manufacturing chemists and
28 pharmacists or other persons for use in the manufacture or
29 compounding of preparations unfit for beverage purposes.

30 (f) Every purchaser of liquor, alcohol, corkscrews, wine or

1 liquor accessories, trade publications, gift cards, gift
2 certificates, wine- or liquor-scented candles or wine glasses
3 from a Pennsylvania Liquor Store shall receive a numbered
4 receipt which shall show the price paid therefor and such other
5 information as the board may prescribe. Copies of all receipts
6 issued by a Pennsylvania Liquor Store shall be retained by and
7 shall form part of the records of such store.

8 [(g) The board is hereby authorized and empowered to adopt
9 and enforce appropriate rules and regulations to insure the
10 equitable wholesale and retail sale and distribution, through
11 the Pennsylvania Liquor Stores, of available liquor and alcohol
12 at any time when the demand therefor is greater than the
13 supply.]

14 (h) Every Pennsylvania Liquor Store shall sell gift
15 certificates and gift cards which may be redeemed for any
16 product sold by the board. In addition, the board may sell
17 corkscrews, wine and liquor accessories, wine- or liquor-scented
18 candles, trade publications and wine sleeves at Pennsylvania
19 Liquor Stores.

20 (i) Notwithstanding any other provision of law to the
21 contrary, the board may sell wine in containers having a
22 capacity of sixty liters or less.

23 Section 9. The act is amended by adding an article to read:

24 ARTICLE III-A

25 WINE AND SPIRITS DISTRIBUTION

26 SUBARTICLE A

27 GENERAL PROVISIONS

28 Section 301-A. Scope of article.

29 This article relates to the privatization of liquor
30 distribution in this Commonwealth.

1 Section 302-A. Legislative intent.

2 The General Assembly finds and declares as follows:

3 (1) The wholesale and retail of liquor should no longer
4 be by the Commonwealth, but rather by private persons
5 licensed and regulated by the Commonwealth.

6 (2) The health and welfare of the citizens of this
7 Commonwealth will be adequately protected by the regulation
8 of private licensees through strict enforcement of laws and
9 rules relating to the purchase and sale of liquor.

10 (3) The sale of liquor through wholesale and retail
11 licensees will provide residents with improved customer
12 convenience, and will provide an opportunity for competitive
13 pricing and enhanced product selection.

14 (4) Modernization of the retail sale of wine AND SPIRITS <--
15 through new outlets for consumption off the premises will
16 further enhance customer convenience.

17 (5) This article will improve operation and efficiency
18 of State government.

19 (6) The authorization of wine and spirits wholesale and
20 retail licenses is intended to continue the generation of
21 revenue to the Commonwealth related to the wholesale and
22 retail sale of liquor.

23 (7) The transition to a privately-owned and privately-
24 operated wholesale and retail liquor distribution system
25 should be accomplished in a manner that protects the public
26 through regulation and policing of all activities involved in
27 the wholesale and retail sale of liquor.

28 (8) The establishment of wine and spirits wholesale and
29 retail licenses is intended to provide broad economic
30 opportunities to the citizens of this Commonwealth and to be

1 implemented in such a manner as to prevent monopolization by
2 establishing reasonable restrictions on the control of
3 wholesale and retail licensees.

4 (9) The transition to a privately-owned and privately-
5 operated wholesale and retail liquor distribution system
6 should be accomplished in a manner that minimizes disruption
7 of services to the public.

8 (10) In conjunction with the transition to privately-
9 owned and privately-operated liquor wholesalers and retail
10 liquor stores, this article is intended to modernize the
11 retail sale of wine AND SPIRITS through new outlets for
12 consumption off the premises, further enhancing customer
13 convenience.

<--

14 (11) With the transition to a privately-owned and
15 privately-operated wholesale and retail liquor distribution
16 system, and with the addition of new licensing
17 classifications, it is necessary to enhance alcohol education
18 and enforcement efforts to:

19 (i) ensure against the illegal sale of alcohol;

20 (ii) prevent and combat the illegal consumption of
21 alcohol by minors and visibly intoxicated persons; and

22 (iii) discourage the intemperate use of alcohol.

23 (12) Participation in the wholesale and retail sale of
24 liquor by a wholesale or retail licensee is a privilege,
25 conditioned upon the proper and continued qualification of
26 the licensee and upon the discharge of the affirmative
27 responsibility of the licensee to provide the department and
28 the board with assistance and information necessary to assure
29 that the policies declared by this article are achieved.

30 Section 303-A. Transition to private distribution system,

powers and duties of the department and the board.

(a) Orderly transition.--The department and the board have the power and duty to implement this article and effect an orderly transition to a privately-owned and privately-operated wholesale and retail liquor distribution system in this Commonwealth in a manner which is consistent with this article and the laws of this Commonwealth and which seeks to maintain uninterrupted service to the public.

(b) Retail transition.--

(1) The board, IN CONSULTATION WITH THE DEPARTMENT, shall have the authority to issue wine and spirits retail licenses and wine and spirits wholesale licenses, provided that the wine and spirits wholesale licenses are not issued until one year after the effective date of this section. The department shall engage the services of a consultant to assist the committee in effectuating the intent of this section. The department shall not be bound by the procedural constraints or requirements of 62 Pa.C.S. Pt. I (relating to Commonwealth Procurement Code) in hiring the consultant. THE DEPARTMENT SHALL CONTRACT WITH FINANCIAL, LEGAL AND OTHER ADVISORS AS ARE NECESSARY TO ASSIST THE DEPARTMENT AND THE BOARD IN EFFECTUATING THE ADDITION OF THIS ARTICLE. SUCH CONTRACTS SHALL NOT BE SUBJECT TO THE PROVISIONS OF 62 PA.C.S. CH. 5 (RELATING TO SOURCE SELECTION AND CONTRACT FORMATION). <--

(2) The divestiture of the board's retail operations shall be accomplished through the issuance of 1,200 wine and spirits retail licenses that shall be allocated by county. ~~Six~~ AS THE STATE LIQUOR STORES WIND DOWN OPERATIONS, SIX hundred wine and spirits retail licenses may be issued by the <--

~~board as the State liquor stores wind down operations in a~~
~~county. The~~ WHICH SHALL BE ALLOCATED BY COUNTY. THE
ADDITIONAL licenses shall be issued if the department
determines, in cooperation with the board, that the retail
licenses are necessary for consumer convenience. After the
determination, the retail licenses shall be issued first to
distributor licensees and then on a first-come, first-served
basis. Each successful applicant shall be thoroughly
investigated to determine whether the person is a reputable
and responsible person suitable to be licensed to sell liquor
in this Commonwealth.

(3) As licenses are awarded in a given county, the board
shall determine the necessity of winding down operations in
State stores in the ~~region~~ COUNTY and, as it becomes
necessary, terminate applicable lease agreements,
redistribute or furlough store personnel and dispose of
remaining inventory and store property.

(c) Wholesale transition.--

(1) Twelve months after the effective date of this
section, IN CONSULTATION WITH ITS ADVISORS AND THE BOARD, the
department shall transition the board's wholesale
distribution of liquor to privately-owned and privately-
operated wholesale licensees.

(2) The divestiture of the board's wholesale operations
shall be accomplished through the issuance of wine and
spirits wholesale licenses by brand of liquor, which shall be
subject to an application process as set forth in this
article. The transition must fully divest the board of all
operations relating to the wholesale distribution of liquor
within six months of the commencement of wholesale

1 divestiture.

2 (d) Cooperation required.--

3 (1) The board shall fully cooperate with the department
4 or its ~~consultant~~ ADVISORS in all aspects of implementation <--
5 of this article and shall provide the department or its
6 consultant with all records and information in the possession
7 of the board upon request.

8 (2) The board shall devote sufficient resources to
9 planning and preparation for the divestiture of its wholesale
10 and retail functions.

11 (3) The board shall use its best efforts in coordinating
12 with the department or its ~~consultant~~ ADVISORS, wine and <--
13 spirits retail licensees and wine and spirits wholesale
14 licensees so as to maintain uninterrupted service to the
15 residents of this Commonwealth during divestiture.

16 (e) Prohibition.--The board shall not engage in wholesale
17 distribution of liquor following completion of the wholesale
18 transition to a private distribution system.

19 Section 304-A. Reports to the General Assembly.

20 One year after the effective date of this section, and each
21 year thereafter until the board has been fully divested of its
22 wholesale and retail operations, the board, in cooperation with
23 the department, shall submit to the Secretary of the Senate and
24 the Chief Clerk of the House of Representatives, a report on
25 wholesale and retail alcohol sales in this Commonwealth and the
26 implementation of this article, including:

27 (1) the total revenue earned by the issuance of licenses
28 under this article;

29 (2) the distribution and sale of brands through private
30 wholesalers;

1 (3) the net profit or loss of each wine and spirits
2 retail licensed premise and State liquor store in this
3 Commonwealth; and

4 (4) the status of the ongoing transition, including
5 store closures and employee displacement.

6 Section 305-A. Temporary regulations.

7 (a) Promulgation.--In order to facilitate the prompt
8 implementation of this article, regulations promulgated by the
9 department shall be deemed temporary regulations which shall
10 expire no later than five years following the effective date of
11 this section. The department may promulgate temporary
12 regulations not subject to:

13 (1) sections 201, 202 and 203 of the act of July 31,
14 1968 (P.L.769, No.240), referred to as the Commonwealth
15 Documents Law; or

16 (2) the act of June 25, 1982 (P.L.633, No.181), known as
17 the Regulatory Review Act.

18 (b) Expiration.--The authority provided to the department to
19 adopt temporary regulations under subsection (a) shall expire on
20 January 1, 2018.

21 SUBARTICLE B

22 WINE AND SPIRITS RETAIL LICENSES

23 Section 311-A. Issuance of wine and spirits retail licenses,
24 fees, taxes.

25 (a) Sale of retail licenses.--The board may award not more
26 than 1,200 wine and spirits retail licenses to qualified
27 applicants, provided that when the State stores close in a given
28 county because the wine and spirits retail licenses have
29 commenced operation, the department, in cooperation with the
30 board, shall determine if it is necessary to issue additional

1 wine and spirits retail licenses for customer convenience and
2 access. If the department determines more wine and spirits
3 retail licenses are needed, the department may AUTHORIZE THE <--
4 BOARD TO issue not more than 600 additional wine and spirits
5 retail licenses.

6 (b) License classification.--Wine and spirits retail
7 licenses shall be awarded as follows:

8 (1) For the first 12 months after the enactment of this
9 section, the board shall receive applications from
10 distributor licensees licensed under section 431. A
11 distributor licensee applying for a wine and spirits retail
12 license must operate out of a facility with a minimum of
13 1,500 square feet of retail space and dedicate a minimum of
14 50% of shelf space for the sale of malt and brewed beverages.

15 (2) At the conclusion of the 12-month period under
16 paragraph (1), the board may issue the remaining wine and
17 spirits retail licenses on a first-come, first-served basis.
18 A private wine and spirits retail licensee must operate in a
19 facility with not less than 1,500 square feet of retail
20 space.

21 (c) License allocation.--

22 (1) The board, IN CONSULTATION WITH THE DEPARTMENT AND <--
23 ITS ADVISORS, shall allocate the aggregate number of wine and
24 spirits retail licenses to be available in each county.

25 (2) A county may not be allocated fewer wine and spirits
26 retail licenses than the number of licensed distributors in
27 the county PROVIDED THAT THE WINE AND SPIRITS RETAIL LICENSES <--
28 SHALL BE EVENLY DISTRIBUTED THROUGHOUT THE COUNTY ON A PER
29 CAPITA BASIS.

30 (3) A wine and spirits retail licensee may determine

1 whether it will sell wine or spirits or both. If a wine and
2 spirits retail licensee elects to sell either wine or
3 spirits, the board shall consider that one wine and spirits
4 retail license and only the licensee will have the ability to
5 pay an additional fee in the future to sell both wine and
6 spirits.

7 (d) License application.--An applicant for a wine and
8 spirits retail license shall file a written application with the
9 board in the form and containing the information as the board
10 shall prescribe from time to time, which must be accompanied by
11 a filing fee and license fee as prescribed under subsection (f).
12 An application must contain:

13 (1) a description of the part of the premises for which
14 the applicant desires a license;

15 (2) whether the applicant desires to sell wine, spirits
16 or both on the licensed premises. Notwithstanding any other
17 provision of this act, an applicant that chooses to sell wine
18 or spirits may make application at a later date to the board
19 to sell both products and be granted that authority after
20 paying the proper fees; and

21 (3) other information that the board may prescribe.
22 The board may not require physical alterations, improvements or
23 changes to the licensed premises until the wine and spirits
24 license application has been approved.

25 (e) Other licenses.--Nothing in this act shall prohibit a
26 wine and spirits retail licensee from receiving:

27 (1) a distributor license under section 431 that
28 authorizes the licensee to sell malt and brewed beverages for
29 consumption off the premises;~~or~~

30 (2) a restaurant liquor license or a retail dispenser

<--

1 license as long as the restaurant or retail dispenser does
2 not have an interior connection to or with the wine and
3 spirits retail licensed premises-; OR

<--

4 (3) AN IMPORTING DISTRIBUTOR LICENSE UNDER SECTION 431
5 THAT AUTHORIZES THE LICENSEE TO SELL MALT OR BREWED BEVERAGES
6 AT WHOLESALE SO LONG AS THE IMPORTING DISTRIBUTOR DOES NOT
7 OBTAIN A WINE AND SPIRITS WHOLESALE LICENSE.

8 (f) License fees.--The fees for a wine and spirits retail
9 license are as follows:

10 (1) For a distributor licensed under section 431 making
11 application for a wine and spirits retail license:

12 (i) For the privilege of selling wine, the board
13 shall require the following fees:

14 (A) For a county of the first or second class,
15 \$30,000.

16 (B) For a county of the second class A or third
17 class, \$37,500.

18 (C) For a county of the fourth or fifth class,
19 \$22,500.

20 (D) For a county of the sixth or seventh class,
21 \$15,000.

22 (E) For a county of the eighth class, \$7,500.

23 (ii) For the privilege of selling spirits, the board
24 shall require the following fees:

25 (A) For a county of the first or second class,
26 \$52,500.

27 (B) For a county of the second class A or third
28 class, \$60,000.

29 (C) For a county of the fourth or fifth class,
30 \$45,000.

1 (D) For a county of the sixth or seventh class,
2 \$37,500.

3 (E) For a county of the eighth class, \$30,000.

4 (iii) For the privilege of selling both wine and
5 spirits, the board shall require a fee equal to the sum
6 of the fees listed above by county. Nothing in this act
7 shall prevent a licensee who initially makes application
8 to sell either wine or spirits from adding the other
9 product at a later date so long as application is made to
10 the board and the proper fees are paid.

11 (2) For an unlicensed entity making application for a
12 wine and spirits retail license:

13 (i) For the privilege of selling wine, the board
14 shall require the following fees:

15 (A) For a county of the first or second class,
16 \$165,000.

17 (B) For a county of the second class A or third
18 class, \$187,500.

19 (C) For a county of the fourth or fifth class,
20 \$142,500.

21 (D) For a county of the sixth or seventh class,
22 \$120,000.

23 (E) For a county of the eighth class, \$97,500.

24 (ii) For the privilege of selling spirits, the board
25 shall require the following fees:

26 (A) For a county of the first or second class,
27 \$232,500.

28 (B) For a county of the second class A or third
29 class, \$262,500.

30 (C) For a county of the fourth or fifth class,

1 \$202,500.

2 (D) For a county of the sixth or seventh class,
3 \$172,500.

4 (E) For a county of the eighth class, \$142,500.

5 (iii) For the privilege of selling both wine and
6 spirits, the board shall require a fee equal to the sum
7 of the fees listed above by county. Nothing in this act
8 shall prevent a licensee who initially makes application
9 to sell either wine or spirits from adding the other
10 product at a later date so long as application is made to
11 the board and the proper fees are paid.

12 (3) A restaurant or hotel licensee in good standing that
13 applies for a retail wine and spirits license shall pay the
14 same amount for the license as a distributor.

15 (4) The board may not require a distributor making
16 application for a wine and spirits retail license to pay the
17 fees in full prior to issuance of the license. A distributor
18 making application for a wine and spirits license has 48
19 months from the issuance of the license to pay to the board
20 the licensing fees plus a fee of 5%. If the licensee fails to
21 make a payment to the board on a monthly basis, the board
22 shall revoke the wine and spirits retail license and offer it
23 on a first-come, first-served basis.

24 ~~(g) Taxes.~~

<--

25 ~~(1) Wine and spirits retail licensees shall be required~~
26 ~~to obtain a sales tax permit from the Department of Revenue.~~

27 ~~(2) Wine and spirits retail licensees shall collect and~~
28 ~~remit to the Department of Revenue all applicable taxes.~~

29 ~~(3) A wine and spirits retail licensee shall be~~
30 ~~considered a Pennsylvania Liquor Store for the purpose of~~

~~collecting and remitting taxes under the act of March 4, 1971~~
~~(P.L. 6, No. 2), known as the Tax Reform Code of 1971. A wine~~
~~and spirits retail licensee may not be required to pay the~~
~~sales tax when making wholesale purchases but shall collect~~
~~the tax at retail.~~

Section 312-A. Postqualification of selected applicants.

(a) Investigation.--Upon selection of an applicant under
section 303-A, the Bureau of Licensing of the board shall
conduct an investigation of an applicant based upon the
information submitted to evaluate whether:

(1) the applicant qualifies as a reputable, responsible
and suitable person to hold a wine and spirits retail license
and operate a wine and spirits store;

(2) the applicant proposes an acceptable facility and
location for a wine and spirits store; and

(3) the planned operation of the applicant complies with
this article.

(b) Authority of the board.--The board may:

(1) require additional information from an applicant;
and

(2) conduct onsite inspections, as necessary, to
complete the postqualification process.

(c) Agreement.--The board may enter into an agreement with
the Pennsylvania State Police or the Office of Inspector General
to:

(1) assist the board in the conduct of an investigation
under this section; and

(2) provide for the reimbursement of a cost incurred for
providing assistance.

(d) Protocol for objections.--The board shall establish

1 protocol for receiving written objections from residents,
2 churches, hospitals, charitable institutions, schools and public
3 playgrounds that are located near a proposed wine and spirits
4 store location. The board may consider a written objection in
5 the postqualification investigation of applicants. An objector
6 under this paragraph may not appeal the decision of the board.

7 (e) Investigative fee.--The board may charge a fee to an
8 applicant to recover the costs directly related to the board's
9 investigation within the postqualification process.

10 (f) Acceptance of qualifications.--The qualifications of an
11 applicant shall be accepted by the board if the investigation by
12 the board reveals the following:

13 (1) the applicant and its officers, directors and
14 principals, if any, are of good repute, responsible and
15 suitable for operating a wine and spirits store; and

16 (2) the applicant possesses sufficient financial
17 resources to:

18 (i) operate a wine and spirits store;

19 (ii) pay taxes due; and

20 (iii) meet financial obligations;

21 (3) the applicant possesses sufficient business
22 experience to operate a wine and spirits store;

23 (4) the proposed facilities comply with the operational
24 requirements of the statement of conditions under this
25 article; and

26 (5) the proposed location within the community is
27 suitable.

28 (g) Issuance of license.--If a selected applicant's
29 qualifications are accepted by the board, the board shall
30 qualify the applicant and issue a wine and spirits retail

1 license to the applicant upon the occurrence of the following:

2 (1) execution and delivery to the board of the statement
3 of conditions required under section 305-A 313-A; <--

4 (2) payment of the license fee by certified check or
5 wire transfer to a designated restricted account established
6 in the State Stores Fund. A distributor licensed under
7 section 431 that obtains a wine and spirits retail license
8 has 48 months to pay the license fee;

9 (3) payment of an outstanding investigation fee; and

10 (4) fulfillment of other conditions required by the
11 board.

12 (h) Approval of qualifications.--If the qualifications of
13 the applicant are approved by the board under subsection (f),
14 the board shall issue a wine and spirits retail license to the
15 successful applicant consistent with the requirements of
16 subsection (g).

17 (i) License not entitlement.--

18 (1) This article is not intended to establish an
19 entitlement to a wine and spirits retail license. A wine and
20 spirits retail license is a privilege between the board and
21 the licensee.

22 (2) Between the licensee and a third party, a wine and
23 spirits retail license is property.

24 (j) Terms of licensure.--

25 (1) A wine and spirits retail license is in effect
26 unless the board:

27 (i) revokes, suspends or fails to renew the license;

28 or

29 (ii) revokes the operating authority of the licensee
30 under the license requirements of this article.

1 (2) A wine and spirits retail license is subject to
2 renewal every two years consistent with this article.

3 (3) This subsection does not relieve a wine and spirits
4 retail licensee of the affirmative duty to notify the board
5 of a change relating to the status of its license or to other
6 information contained in the application materials on file
7 with the board.

8 Section 313-A. Wine and spirits retail licensee statement of
9 conditions.

10 (a) Statement of conditions.--The board shall develop a
11 statement of conditions to be executed by a wine and spirits
12 retail licensee governing the operations of the wine and spirits
13 licensee.

14 (b) Conditions.--In addition to other conditions the board
15 deems necessary or appropriate for a specific wine and spirits
16 retail licensee, a statement of conditions under this section
17 shall include, at a minimum, the following conditions and impose
18 the following obligations and requirements:

19 (1) Under section 493.2, a wine and spirits retail
20 licensee may not sell or distribute liquor to an individual
21 under 21 years of age or to an individual who is visibly
22 intoxicated.

23 (2) A wine and spirits retail licensee may not operate a
24 retail wine and spirits store located within:

25 (i) three hundred feet of an elementary or secondary
26 school without the approval of the department or board;
27 or

28 (ii) a municipality that voted to preclude the
29 establishment of a State liquor store, unless the
30 municipality subsequently votes to permit the board to

1 issue a wine and spirits retail license.

2 (3) A wine and spirits retail licensee's wine and
3 spirits store and the facilities involved in its retail
4 operations, including a change to the facilities during the
5 term of the license, are subject to:

6 (i) inspection and investigation by the board and
7 enforcement bureau; and

8 (ii) approval of the board and enforcement bureau.

9 (4) A wine and spirits retail licensee shall maintain
10 adequate security to protect the licensee's inventory from
11 unauthorized sale or diversion and prevent its unauthorized
12 distribution.

13 (5) Unless specifically authorized in this act or with
14 the prior approval of the board, a wine and spirits retail
15 licensee may not engage in a separate business activity upon
16 a licensed premises where retail liquor operations are
17 conducted.

18 (6) A wine and spirits retail licensee shall notify the
19 board within 15 days of a change in persons holding an
20 interest in the wine and spirits license.

21 (7) A wine and spirits retail licensee shall notify the
22 board within 15 days of becoming aware of an arrest, criminal
23 indictment or conviction by the following:

24 (i) if the licensee is an individual, the licensee;

25 (ii) if the licensee is a partnership, a partner;

26 (iii) if the licensee is an association, a member;

27 (iv) if the licensee is a corporation, an officer, a
28 director or a shareholder in the corporation; and

29 (v) an affiliate of the licensee.

30 (8) A wine and spirits retail licensee shall notify the

1 board within 15 days of becoming aware of a violation of this
2 article by an individual listed in paragraph (7).

3 (9) The premises of a wine and spirits store must be a
4 self-contained unit with limited customer access dedicated to
5 the sale of liquor and related merchandise. Except for a
6 licensee that also holds a distributor license, a wine and
7 spirits store may not have an interior connection with
8 another business or with a residential building except as
9 approved by the board. A purchase of wine and spirits must be
10 paid for at a location within the confines of the licensed
11 premises.

12 (10) A wine and spirits retail licensee shall configure
13 its premises in a manner and with adequate safeguards to
14 ensure that:

15 (i) liquor products are secure; and

16 (ii) the licensed area may not be accessed during
17 prohibited hours of operation.

18 (11) A wine and spirits retail licensee may not hold,
19 directly or indirectly, more than five wine and spirits
20 retail locations within this Commonwealth or more than one
21 wine and spirits retail license within a county.

22 (12) A wine and spirits store may sell liquor for
23 consumption off the premises and related merchandise within
24 the licensed area of the store. A sale of related merchandise
25 within the licensed area may not exceed 30% of the gross
26 annual sales of a wine and spirits store. Unless the wine and
27 spirits retail licensee operates another license that
28 authorizes the sale of malt and brewed beverages for
29 consumption off the premises in the same licensed area, a
30 wine and spirits store may not sell malt or brewed beverages

1 within its licensed premises.

2 (13) A wine and spirits retail licensee shall make the
3 premises and the facilities involved in the retail operation
4 and the business and financial books and records of the
5 retail operation available at any time for inspection and
6 audit by the board and the enforcement bureau. The board
7 shall promulgate regulations regarding the records that a
8 wine and spirits retail licensee must maintain in its
9 licensed premises.

10 (14) A wine and spirits retail licensee may sell wine or
11 spirits between 9 a.m. and 11 p.m. of any day except Sunday
12 to a person that is not licensed under this act.

13 (15) In addition to the hours authorized under paragraph
14 (14), a wine and spirits retail licensee may, upon purchasing
15 a permit from the board at an annual fee of \$1,000, sell wine
16 or spirits on Sunday between the hours of 9 a.m. and 9 p.m.
17 to persons not licensed under this act.

18 (16) A wine and spirits retail licensee may not employ
19 an individual under 18 years of age to work on the licensed
20 premises. An employee of a wine and spirits retail licensee
21 under 21 years of age may not engage in the sale of liquor.

22 (17) A wine and spirits retail licensee that is a
23 corporation, a limited liability company, a limited
24 partnership, a partnership, an association or other legal
25 entity must be organized under the laws of this Commonwealth.

26 (18) A wine and spirits retail licensee who is an
27 individual must be a citizen of the United States and a
28 resident of this Commonwealth.

29 (19) A wine and spirits retail licensee shall:

30 (i) comply with the responsible alcohol management

1 program training under section 471.1; and

2 (ii) ensure that the wine and spirits store managers
3 and employees who may engage in the sale of liquor attend
4 the responsible alcohol management training within six
5 months of commencing employment.

6 (20) A wine and spirits retail licensee may place its
7 license in safekeeping for a period not to exceed two years:

8 (i) pending transfer of the license from person-to-
9 person or place-to-place or both; or

10 (ii) during renovation of the premises where retail
11 operations are conducted.

12 (21) A wine and spirits retail license that remains in
13 safekeeping for a period that exceeds two years shall be
14 forfeited and resold by the board in a manner consistent with
15 this subarticle.

16 (22) Except as set forth in paragraph (16), an
17 individual under 21 years of age may not enter the licensed
18 area of a wine and spirits retail licensee unless accompanied
19 by an adult.

20 (23) A wine and spirits retail licensee shall utilize a
21 transaction scan device to verify the age of an individual
22 who appears to be under 35 years of age before making a sale
23 of liquor. A wine and spirits retail licensee may not sell or
24 share data from the use of a transaction scan device provided
25 that the licensee may use the data to show the board or
26 enforcement bureau that the licensee is in compliance with
27 this article. As used in this paragraph, the term
28 "transaction scan device" means a device capable of
29 deciphering, in an electronically readable format, the
30 information encoded on the magnetic strip or bar code of an

identification card under section 495(a).

(24) A wine and spirits retail licensee may not sell a liquor product at a price less than its underlying cost.

(25) A wine and spirits retail licensee may not provide tasting samples of liquor on the premises where retail operations are conducted except in the manner set forth in the board's regulations related to tasting samples provided by sponsors.

(26) A wine and spirits retail licensee may not require a customer to purchase a membership or pay a fee in order to purchase products, including wine and spirits, from the premises.

(27) In an inquiry or investigation by the board or the enforcement bureau, a wine and spirits retail licensee shall cooperate fully and provide requested information.

(c) Sanctions.--

(1) A wine and spirits retail licensee that fails to abide by a condition contained in the licensee's statement of conditions or commits a violation of this act or other Federal or State law is subject to citation by the enforcement bureau.

(2) A citation under paragraph (1) may result in:

(i) a fine or suspension or license revocation;

(ii) nonrenewal of a license;

(iii) revocation of ~~temporary~~ operating authority;

or

(iv) another penalty authorized under sections 471 and 494.

SUBARTICLE C

DIVESTITURE OF WHOLESALE LIQUOR DISTRIBUTION

1 Section 321-A. Wholesale divestiture.

2 (a) Utilization.--In effectuating the intent of this
3 article, the department shall utilize the authority provided
4 under section 305-A and any other powers of the department, with
5 the full cooperation and assistance of the board.

6 (b) Establishment.--On the effective date of this section,
7 the department shall establish all of the following:

8 (1) An application process and schedule for the
9 investigation and award of wine and spirits wholesale
10 licenses under this article.

11 (2) A blended brand valuation for each brand of liquor
12 available for sale in this Commonwealth.

13 (3) Procedures and standards governing the relationship
14 between wine and spirits wholesale licensees and
15 manufacturers and the ability and terms upon which that
16 relationship may be terminated.

17 (c) Coordination.--

18 (1) The department shall:

19 (i) coordinate scheduling so that wine and spirits
20 wholesale license applications may be received, processed
21 and investigated by the board's Bureau of Licensing
22 during the retail divestiture process; and

23 (ii) begin a coordinated effort to allow the board
24 to issue licenses 12 months from the effective date of
25 this section.

26 (2) The department must fully divest the board of all
27 operations relating to the wholesale distribution of liquor
28 within six months of commencing wholesale divestiture.

29 Section 321.1-A. Issuance of wine and spirits wholesale
30 licenses.

1 (a) Authorization.--The board may issue wine and spirits
2 wholesale licenses under the following conditions:

3 (1) The following shall apply:

4 (i) One wine and spirits wholesale license may be
5 issued by the board to each qualified applicant.

6 (ii) A wine and spirits wholesale license shall
7 authorize the holder to sell and distribute brands of
8 liquor, as proposed by an applicant and approved by the
9 department, to wine and spirits retail licensees and
10 other licensees of the board authorized to sell or
11 distribute liquor under this act, to United States Armed
12 Forces facilities located on United States Armed Forces
13 installations within this Commonwealth and to the holder
14 of a wholesale alcohol purchase permit issued by the
15 board.

16 (iii) The alcoholic products shipped into this
17 Commonwealth must be delivered to the wholesaler's
18 licensed premises. Upon delivery, the products shall be
19 unloaded, inventoried and remain on the licensed premises
20 for 48 hours before delivery is made to a retailer.
21 During that time period, the board may inspect and
22 inventory wholesale warehouses to verify taxes that are
23 required to be paid on the products.

24 (2) Subject to the conditions and restrictions of this
25 subarticle, wine and spirits wholesale licensees may sell and
26 distribute more than one brand of liquor under the same wine
27 and spirits wholesale license.

28 (3) Upon application by a wine and spirits wholesale
29 licensee, the board may amend its initial authorization under
30 a wine and spirits wholesale license to include additional

1 brands of liquor or exclude previously-approved brands of
2 liquor.

3 (b) Wine and spirits wholesale license fee.--

4 (1) On the effective date of this section, the
5 department shall determine the wine and spirits wholesale
6 license fee for each brand of liquor sold at wholesale by the
7 board through its State liquor stores or via special liquor
8 order for a continuous period of at least one year. The
9 license fee shall be equal to the blended brand valuation for
10 each brand of liquor authorized by the wine and spirits
11 wholesale license multiplied by the wholesale acquisition
12 factor.

13 (2) The department shall publish a notice in the <--
14 Pennsylvania Bulletin and on its Internet website of the wine
15 and spirits wholesale license fee for each brand of liquor
16 determined under paragraph (1). The department shall
17 establish deadlines within which an applicant must submit an
18 application for a wine and spirits wholesale license for the
19 brands of liquor specified by the applicant.

20 (3) The department must receive the required license fee
21 for the brands of liquor specified by the applicant before a
22 wine and spirits wholesale license is issued by the board to
23 a successful applicant.

24 (c) Brands not previously sold.--

25 (1) For brands of liquor that have not been sold by the
26 board at State liquor stores or via special liquor order for
27 a continuous period of at least one year, the department
28 shall calculate the blended brand valuation utilizing sales
29 data for any portion of the year that the brand was sold in
30 this Commonwealth, after consulting with the board on the

1 most recent sales trends of the brand, both within and
2 outside this Commonwealth.

3 (2) If, during the term of a wine and spirits wholesale
4 license, a wine and spirits wholesale licensee proposes to
5 sell and distribute a new brand of liquor not previously sold
6 in this Commonwealth, the wine and spirits wholesale licensee
7 shall apply to the board for permission to sell the brand and
8 pay an additional license fee determined in accordance with
9 this section. In calculating the blended brand valuation for
10 the new products, the board shall evaluate available sales
11 data in other markets or sales trends of similar products
12 either within or outside this Commonwealth.

13 (d) Term.--

14 (1) A wine and spirits wholesale license, after payment
15 of the required license fee, shall be in effect unless
16 suspended, revoked or not renewed under this article.

17 (2) The license of a wine and spirits wholesale licensee
18 in good standing shall be renewed every two years under this
19 article.

20 (3) Nothing under this subsection shall be construed to
21 relieve a wine and spirits wholesale licensee of the
22 affirmative duty to notify the board of changes relating to
23 any of the following:

24 (i) The status of its license.

25 (ii) Information contained in the application
26 materials on file with the department or the board.

27 Section 322-A. Application for wine and spirits wholesale
28 license.

29 (a) Applications.--An application for a wine and spirits
30 wholesale license shall be submitted on a form and in a manner

1 as required by the board.

2 (b) Eligibility.--A person may be eligible to apply for a
3 wine and spirits wholesale license if the person satisfies all
4 of the following:

5 (1) Neither the applicant nor any affiliate of the
6 applicant has applied for or holds a wine and spirits retail
7 license or other license which authorizes the retail sale of
8 wine and spirits to consumers.

9 (2) The applicant is organized under the laws of this
10 Commonwealth if it is any of the following:

11 (i) A corporation.

12 (ii) A limited liability company.

13 (iii) A limited partnership.

14 (iv) A partnership.

15 (v) An association.

16 (vi) A legal entity other than a legal entity listed
17 under this paragraph.

18 (3) The applicant is a citizen of the United States and
19 a resident of this Commonwealth if that applicant is a
20 natural person.

21 (4) Neither the applicant nor any affiliate of the
22 applicant, executive officer, director or general or limited
23 partner of the applicant or person holding, directly or
24 indirectly, a controlling interest in the applicant has been
25 convicted of a crime listed under subsection (d)(10).

26 (c) Other licenses.--Nothing under this act shall prohibit:

27 (1) A properly licensed importing distributor of malt
28 and brewed beverages from applying for and, if approved,
29 being issued a wine and spirits wholesale license.

30 (2) The holder of a limited winery license, a limited

1 distillery license or a distillery license issued by the
2 board from acquiring a wine and spirits wholesale license.

3 (d) General requirements.--In addition to any other
4 information required under this article or by the department or
5 the board, the applicant for a wine and spirits wholesale
6 license shall include the following:

7 (1) The name, address and tax identification number of
8 the applicant.

9 (2) A statement as to whether the applicant is an
10 individual, corporation, limited liability company, limited
11 partnership, partnership or association and, if the applicant
12 is not an individual, the state of incorporation or
13 organization.

14 (3) If the applicant is not an individual, the name and
15 residence address of each executive officer, director,
16 general or limited partner or person holding a controlling
17 interest in the applicant.

18 (4) If the applicant is an association, the name and
19 residence address of each person constituting the
20 association.

21 (5) A list of the brands of liquor the applicant
22 proposes to engage in wholesale distribution on a Statewide
23 basis.

24 (6) A sworn statement that the applicant has entered
25 into a contractual relationship with one or more liquor
26 manufacturers, importers or vendors of record for the
27 distribution in this Commonwealth of a brand or brands of
28 liquor, regardless of whether the contractual relationship is
29 contingent upon the board issuing a wine and spirits
30 wholesale license to the applicant.

1 (7) The proposed location and proof of ownership or
2 lease for the wholesale operation, including proposed
3 warehouses, if available.

4 (8) Floor plans for any facility proposed to be used in
5 wholesale operations and existing design plans for any
6 facility that is planned, but not yet constructed, to the
7 extent the floor plans are available.

8 (9) Information disclosing all arrests of and all
9 citations issued for nonsummary offenses to an applicant and
10 any affiliate of the applicant, executive officer, director
11 or general or limited partner of the applicant or person
12 holding a controlling interest in the applicant. The
13 information shall include:

14 (i) A brief description of the circumstances
15 surrounding the arrest or issuance of the citation.

16 (ii) The specific offense charged or cited.

17 (iii) The ultimate disposition of the charge or
18 citation, including the details of a dismissal, plea
19 bargain, conviction, sentence, pardon, expungement or
20 order of Accelerated Rehabilitative Disposition.

21 (10) A sworn statement that the applicant and any
22 affiliate of the applicant, or any executive officer,
23 director or general or limited partner of the applicant or
24 person holding a controlling interest in the applicant have
25 never been convicted:

26 (i) of a crime involving fraud, moral turpitude or
27 racketeering within a period of ten years immediately
28 preceding the date of the application;

29 (ii) of a felony or equivalent crime; or

30 (iii) in a Federal or state tribunal, including this

1 Commonwealth, of the violation of a Federal or state
2 liquor law.

3 (11) A statement that the applicant intends to
4 continuously operate as a wine and spirits wholesale licensee
5 for the duration of the license term and to use its best
6 efforts to provide a level of service, including product
7 availability, reasonably equivalent to the level of service
8 currently provided by the Commonwealth.

9 (12) A financial statement or letter of credit in a form
10 and containing information determined by the department to
11 indicate the applicant's financial capability to operate the
12 wholesale operation and the estimated volume of wholesale
13 business to be conducted annually.

14 (13) A current tax certificate issued by the Department
15 of Revenue showing the amount of taxes owed to the
16 Commonwealth for the applicant and any affiliate of the
17 applicant, executive officer, director or general or limited
18 partner of the applicant or person holding a controlling
19 interest in the applicant.

20 (14) A signature and verification by oath or affirmation
21 or under penalty of unsworn falsification to authorities by
22 one of the following:

23 (i) The applicant, if the applicant is a natural
24 person.

25 (ii) A person specifically authorized by the legal
26 entity to sign the application, if the applicant is a
27 legal entity. Written evidence of the authority to sign
28 must be attached to the signature and verification.

29 (e) Additional information.--An applicant shall, during the
30 application process, provide any other information determined to

1 be appropriate by the department.

2 (f) Amended application.--If a change occurs in any
3 information provided to the department or the board as part of
4 the application process, the applicant shall immediately notify
5 the department or the board of the change and timely provide
6 amended information to the department or the board in a form and
7 manner determined by the department or the board.

8 (g) Application fees and investigative costs.--

9 (1) An application filing fee of \$10,000 shall be due
10 upon application for a wine and spirits wholesale license.
11 The application filing fee shall be refunded if, due to no
12 fault of the applicant, the wine and spirits wholesale
13 license is not approved.

14 (2) The department shall establish, charge and collect
15 fees from an applicant to recover the costs directly related
16 to the board's review and investigation of the application
17 for a wine and spirits wholesale license. The board shall
18 have the same authority relating to fees as to applications
19 for renewal.

20 Section 323-A. Review and investigation of application.

21 (a) Completeness of application.--

22 (1) The following shall apply:

23 (i) The department may not consider an incomplete
24 application and shall notify the applicant in writing if
25 an application is incomplete.

26 (ii) An application shall be considered incomplete
27 if it does not include all applicable fees and all
28 information and accompanying documentation required by
29 the department. Unpaid taxes identified on the tax
30 certificate required to be filed under section

1 322-A(d)(13) must be paid before the application is
2 considered complete.

3 (2) A notification of incompleteness shall state the
4 deficiencies in the application that must be corrected prior
5 to consideration of the merits of the application.

6 (3) The applicant must be afforded a reasonable period
7 of time, as determined by the department, to cure the
8 deficiencies.

9 (4) If the applicant fails to timely cure noticed
10 deficiencies within the time specified by the department, the
11 application shall be deemed denied by the department without
12 further action.

13 (b) Investigation.--After receipt of an application for a
14 wine and spirits wholesale license and a determination that the
15 application is complete, the department shall provide the
16 application to the board's Bureau of Licensing to conduct an
17 investigation of the applicant. The investigation shall include
18 and the applicant shall have the burden of demonstrating the
19 following:

20 (1) The truth and veracity of the information provided
21 in the application.

22 (2) The applicant's cooperation and the cooperation of
23 any affiliate of the applicant and any executive officer,
24 director or general or limited partner of the applicant or
25 person holding a controlling interest in the applicant in the
26 application process and with any request by the department or
27 the board for any information deemed necessary for licensure.

28 (3) The good character, reputation and suitability of
29 the applicant and any affiliate of the applicant, executive
30 officer, director or general or limited partner of the

1 applicant or person holding a controlling interest in the
2 applicant.

3 (4) The applicant possesses sufficient financial
4 resources to:

5 (i) Operate as a wine and spirits wholesale
6 licensee.

7 (ii) Pay all taxes due and owing to the
8 Commonwealth.

9 (iii) Assume liability for the safe operation of the
10 wholesale operations.

11 (5) The applicant possesses sufficient financial
12 resources and experience to create and maintain a successful
13 and efficient wholesale operation that provides service at a
14 level that is reasonably equivalent to the level of service
15 currently provided in this Commonwealth on the effective date
16 of this section.

17 (6) The applicant has entered into a contractual
18 relationship with one or more licensed manufacturers,
19 importers or vendors of record for the distribution in this
20 Commonwealth of a brand or brands of liquor regardless of
21 whether the contractual relationship is contingent upon the
22 board issuing a wine and spirits wholesale license to the
23 applicant.

24 (7) The physical facilities proposed to be used in the
25 applicant's wholesale operations are located and designed to:

26 (i) assure that all warehouses are located within
27 this Commonwealth and licensed for the storage of liquor;

28 (ii) function as a self-contained unit, with limited
29 customer access;

30 (iii) not have any interior connection with any

other business or with any residential building without
prior department or board approval;

(iv) provide adequate security to protect the
applicant's inventory from unauthorized sale or
diversion; and

(v) protect the public interest.

(c) Assistance with investigations.--The ~~department~~ BOARD <--
may enter into an agreement with the Pennsylvania State Police
or the Office of Inspector General to assist the ~~department~~ <--
BOARD in conducting investigations under this section and to <--
provide for the reimbursement of actual costs incurred for
providing the assistance. The ~~department~~ BOARD may establish, <--
charge and collect fees from an applicant to recover the costs
of investigation.

Section 324-A. Issuance of licenses.

(a) Notification.--Upon completion of the investigation
under section 323-A, the board shall inform the department of
the results of its investigation. The ~~department~~ BOARD shall <--
inform the applicant in writing of its decision to approve or
deny the application.

(b) Approval.--If the application is approved, the
department shall require the successful applicant to pay the
license fee, as required under section 321.1-A, based on the
brand licensing fees established under section 321.1-A for the
brands of liquor approved for the applicant.

(c) Denial.--

(1) If an application is denied, the ~~department~~ BOARD <--
shall provide the applicant with the specific reasons for the
denial in the written notification required under subsection
(a).

1 (2) The applicant shall be entitled to a hearing on the
2 denial, if a hearing is requested within ten days of the
3 ~~department's~~ BOARD'S notification and the request is in <--
4 writing on a form and in a manner determined by the
5 department BOARD. <--

6 (3) A hearing under this subsection shall be conducted
7 in accordance with 2 Pa.C.S. Ch. 5 Subch. A (relating to
8 practice and procedure of Commonwealth agencies).

9 (d) Issuance.--After approval of an application, the board
10 shall issue a wine and spirits wholesale license to the
11 applicant for the exclusive privilege to sell approved brands of
12 liquor in this Commonwealth, if the applicant has completed all
13 of the following:

14 (1) Paid the wine and spirits wholesale license fee
15 required under this article. Payment must be made by
16 certified check or wire transfer to a designated restricted
17 account in The State Stores Fund.

18 (2) Paid outstanding application or investigation fees.

19 (3) Executed and delivered to the board the statement of
20 conditions required under section 325-A.

21 (4) Repurchased from the board remaining marketable
22 inventory of the brands authorized under its license which
23 are owned by the board at the board's purchase order cost and
24 paid applicable taxes due and an administrative fee
25 determined by the board. The wine and spirits wholesale
26 licensee shall coordinate, at its own cost, the removal of
27 remaining product owned by the board.

28 (5) Fulfilled any other conditions required by the
29 department or the board or provided for under this article.

30 (e) License as privilege.--

1 (1) Nothing under this article is intended or may be
2 construed to create an entitlement to a wine and spirits
3 wholesale license.

4 (2) The authorization to participate in the distribution
5 and sale of liquor as a wine and spirits wholesale licensee
6 is a privilege conditioned upon this article.

7 (f) Termination of board's authority.--

8 (1) Except as set forth in paragraph (2), if a wine and
9 spirits wholesale license has been issued for a particular
10 brand of liquor, the board may not engage in the sale of that
11 brand of liquor.

12 (2) The board may coordinate the repurchase of remaining
13 board inventory of brands as provided under Subarticle D.

14 (3) The board's Bureau of Licensing shall provide
15 adequate notice to the board's Bureau of Supply Chain that a
16 wine and spirits wholesale license application is ready for
17 license approval to insure that appropriate inventory
18 reduction can be effectuated without causing a shortage of
19 the brand at issue.

20 Section 325-A. Wine and spirits wholesale licensee statement of
21 conditions.

22 (a) Statement of conditions.--The department, in
23 consultation with the board, shall develop a statement of
24 conditions to be executed by each wine and spirits wholesale
25 licensee governing the operation of the wine and spirits
26 wholesale licensee.

27 (b) Conditions, restrictions and prohibited acts.--In
28 addition to any other conditions the department, in consultation
29 with the board, deems necessary or appropriate for a specific
30 wine and spirits wholesale licensee or which may be mandated for

all licensees through regulations of the department or the board, the statement of conditions under subsection (a) shall include the following:

(1) A wine and spirits wholesale licensee may not sell liquor to a person, except a person specified in section 321.1-A(a)(1).

(2) A wine and spirits wholesale licensee must serve all licensees eligible to purchase and resell liquor under this act and must make liquor available for sale to those licensees under the same pricing structure.

(3) Except for a wine and spirits wholesale licensee that holds an importing distributor license under section 431, a wine and spirits wholesale licensee may not sell malt or brewed beverages.

(4) A wine and spirits wholesale licensee may not engage in conduct that would constitute any of the following:

(i) Variable pricing.

(ii) Unfair or deceptive trade practices proscribed under Federal or State law or regulation.

(iii) Intentional exclusion of competing brands of liquor from the marketplace.

(5) A wine and spirits wholesale licensee may only sell and distribute liquor products in this Commonwealth that are subject to a contractual relationship between the wine and spirits wholesale licensee and one or more licensed manufacturers or importers of wine and spirits.

(6) (i) A wine and spirits wholesale licensee shall do all of the following:

(A) Acquire liquor exclusively from:

(I) a licensed manufacturer or importer of

1 wine and spirits with whom the wine and spirits
2 wholesale licensee has the contractual authority
3 to sell at wholesale as provided under this act;
4 or

5 (II) an entity affiliated with the wine and
6 spirits wholesale licensee.

7 (B) Keep a detailed log of wholesale liquor
8 transactions, including acquisitions of liquor from
9 an entity listed under clause (A) and sales to
10 licensees under this act.

11 (ii) If liquor is acquired from an entity affiliated
12 with the wine and spirits wholesale licensee, the entity
13 shall, for taxation purposes, be considered a licensed
14 manufacturer or importer of wine and spirits.

15 (7) A wine and spirits wholesale licensee's licensed
16 premises and all facilities involved in its wholesale
17 operations, including any changes to the facilities during
18 the term of the license, shall be subject to the inspection,
19 investigation and approval of the department or the board or
20 the enforcement bureau.

21 (8) A wine and spirits wholesale licensee shall maintain
22 adequate security to protect the licensee's inventory from
23 unauthorized sale, removal or theft and prevent its
24 unauthorized distribution.

25 (9) As follows:

26 (i) Except as provided under paragraph (1), a wine
27 and spirits wholesale licensee may not engage in a
28 separate business activity on a premises on which
29 wholesale liquor operations are conducted without prior
30 approval of the board.

1 (ii) A wine and spirits wholesale licensee which
2 holds an importing distributor license may engage in
3 sales of malt or brewed beverages under this act.

4 (10) A wine and spirits wholesale licensee shall collect
5 and remit to the Department of Revenue all applicable taxes.

6 (11) A wine and spirits wholesale licensee shall be
7 considered a State liquor store for the purpose of collecting
8 and remitting taxes under ARTICLE II OF the act of March 4, <--
9 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971,
10 from persons licensed to sell liquor for consumption on the
11 premises under Article IV.

12 (12) A wine and spirits wholesale licensee shall notify
13 the board within 15 days of a change in a person holding a
14 controlling interest in the licensee.

15 (13) A wine and spirits wholesale licensee shall notify
16 the board within 15 days of becoming aware of an arrest,
17 criminal indictment or conviction by the licensee, an
18 affiliate of the licensee or an executive officer, director
19 or general or limited partner of the licensee or person
20 holding a controlling interest in the licensee.

21 (14) A wine and spirits wholesale licensee shall notify
22 the board within 15 days of becoming aware of a violation of
23 this act by the licensee, an affiliate of the licensee or an
24 executive officer, director or general or limited partner of
25 the licensee, person holding a controlling interest in the
26 licensee or employee of the licensee.

27 (15) As follows:

28 (i) A wine and spirits wholesale licensee may not
29 operate in a manner which constitutes a violation of
30 Federal or State law, including antitrust or other unfair

1 trade practices, or creates a monopolistic liquor
2 distribution system in this Commonwealth.

3 (ii) If a wine and spirits wholesale licensee seeks
4 to be approved by the department or the board to
5 distribute additional brands of liquor which would give
6 the licensee a control of more than 50% of the liquor
7 distributed in the wholesale market of this Commonwealth,
8 in terms of gross dollar sales, the board shall convene a
9 hearing to determine whether approval of the proposed
10 application for additional brands would constitute a
11 violation of antitrust or other unfair trade practice
12 laws, or would create a monopolistic liquor distribution
13 system in this Commonwealth.

14 (iii) The board is authorized to promulgate
15 regulations providing for the procedure for hearings
16 under subparagraph (ii).

17 (16) A wine and spirits wholesale licensee shall make
18 the licensed premises, all of the facilities involved in the
19 wholesale operation and all of the business and financial
20 books and records of the wholesale operation available at any
21 time for inspection and audit by the department, the board or
22 the enforcement bureau. The board shall promulgate
23 regulations regarding the records that a licensee must
24 maintain on its premises.

25 (17) A wine and spirits wholesale licensee shall
26 cooperate fully in an inquiry or investigation by the
27 department or the board or the enforcement bureau and provide
28 information requested by the department, the board or the
29 enforcement bureau.

30 (18) A wine and spirits wholesale licensee which is a

corporation, a limited liability company, limited
partnership, partnership, association or other legal entity
must be organized under the laws of this Commonwealth.

(19) A wine and spirits wholesale licensee which is a
natural person must be a citizen of the United States and a
resident of this Commonwealth.

(c) Sanctions.--A wine and spirits wholesale licensee that
fails to abide by a condition contained in the licensee's
statement of conditions or commits a violation of this act or
Federal or State law:

(1) shall be subject to citation by the enforcement
bureau; and

(2) may be subject to:

(i) a fine, suspension or license revocation;

(ii) nonrenewal of the license or revocation of
temporary operating authority; or

(iii) other penalties authorized under sections 471
and 494.

Section 326-A. Loss of rights to wholesale brands of liquor.

The department, IN CONSULTATION WITH THE BOARD, shall
establish procedures and standards governing the relationship
between wine and spirits wholesale licensees and manufacturers
and the ability and terms upon which that relationship may be
terminated. The procedures and standards shall incorporate the
following principles:

(1) As follows:

(i) A manufacturer having a contract, including all
written or oral agreements, understandings or other
arrangements with a wine and spirits wholesale licensee
for the distribution in this Commonwealth of a brand of

<--

1 liquor may terminate the distribution rights and transfer
2 the rights to another wine and spirits wholesale licensee
3 upon the voluntary agreement of both licensees.

4 (ii) If a voluntary termination and transfer occurs,
5 the manufacturer shall provide written notice to the
6 board indicating that affected wine and spirits wholesale
7 licensees have both agreed to the termination and
8 transfer. A copy of the notification to the board shall
9 be provided to both licensees.

10 (2) If a wine and spirits wholesale licensee does not
11 agree to the termination or transfer of its distribution
12 rights, the manufacturer may only terminate or transfer the
13 rights upon payment to the terminated licensee of reasonable
14 compensation.

15 (3) A voluntary or involuntary termination and transfer
16 of the right to distribute the brand of liquor shall comply
17 with this section.

18 Section 327-A. Transfer of brands of liquor.

19 (a) Prohibition.--No brand of liquor offered for sale in
20 this Commonwealth may be transferred to a different wine and
21 spirits wholesale licensee without prior approval from the
22 board.

23 (b) Transfer fee.--An application to the board to transfer
24 the right to distribute a brand of liquor shall be subject to an
25 application fee equal to 1% of the initial license fee
26 attributable to the brand of liquor or \$1,000, whichever is
27 greater.

28 SUBARTICLE D

29 CLOSURE OF STATE LIQUOR STORES

30 AND ASSISTANCE FOR DISPLACED EMPLOYEES

1 Section 331-A. Closure of State liquor stores.

2 (a) Process for closure.--

3 (1) The board shall review the viability of a store
4 located within a county where the number of privately owned
5 and privately operated wine and spirits retail licenses plus
6 the number of grocery store licenses equal the number of
7 Heritage State Stores.

8 (2) Where the number of Heritage State Stores equals the
9 number of privately owned and privately operated wine and
10 spirits retail licenses plus the grocery store licenses, the
11 board shall provide a rationale to the department for the
12 continued operation or closure of a store located in a
13 county.

14 (3) A Heritage State Store designated for closure shall
15 cease operations within 60 days.

16 (4) Where the number of privately owned and privately
17 operated wine and spirits retail licenses plus the grocery
18 store licenses exceed the number of Heritage State Stores by
19 a factor of two, the Heritage State Stores within a county
20 must close within six months.

21 (5) The board may not operate fewer than 100 Heritage
22 State Stores within this Commonwealth.

23 (b) Disposition of liquor.--The board shall arrange for the
24 disposition of the liquor remaining in inventory at a designated
25 store. In order to effectuate this subsection, the board may, in
26 consultation with the department, do any of the following:

27 (1) Coordinate with the vendor of record for the
28 repurchase products by the vendor of record.

29 (2) Sell products to newly licensed wine and spirits
30 retail licensees.

1 (3) Transport products for sale at another operating
2 State liquor store.

3 (c) Disposition of nonliquor State-owned property.--The
4 department, in consultation with the board, shall establish a
5 procedure for the sale of the nonliquor inventory, property and
6 fixtures of all State liquor stores consistent with 62 Pa.C.S.
7 Ch. 15 (relating to supply management). Wine and spirits retail
8 licensees shall have the opportunity to bid on the items to be
9 sold or otherwise participate in the sale. All proceeds from the
10 sales shall be deposited into The State Stores Fund.

11 (d) Pennsylvania Liquor Store leases.--The board shall
12 provide immediate notice to the lessor upon receipt of the
13 department's notice to close a designated Pennsylvania Liquor
14 Store.

15 (e) Hiring restrictions.--

16 (1) Notwithstanding any other provision of this act and <--
17 except as provided under subsection (f), the board may not
18 hire additional salaried or wage employees for the purpose of
19 staffing its retail operations, including its bureau of
20 marketing and retail operations, unless explicitly authorized
21 by the department.

22 (2) Paragraph (1) shall not prohibit the board from
23 hiring personnel, with approval from the department, to
24 adequately staff its Bureau of Supply Chain for the purpose
25 of transitioning its retail and wholesale operations to
26 licensees of this article.

27 (f) Limited authority to hire temporary workers.--

<--

28 (1) Notwithstanding any other provision of law and
29 except as provided under paragraph (3), the board, with the
30 approval of the department, may temporarily staff a State

~~liquor store which has not been designated for closure under this section, if staffing and service levels would be otherwise compromised. The board may utilize the services of an employment agency to carry out this paragraph.~~

~~(2) The act of August 5, 1941 (P.L.752, No.286), known as the Civil Service Act, shall not apply to temporary employees hired under paragraph (1).~~

~~(3) The board may not employ temporary workers at a State liquor store if the board determines the State store must close.~~

~~(4) A temporary worker engaged by the board under this subsection shall not be considered a displaced employee.~~

Section 331.1-A. Licensee service centers.

~~The board shall work collaboratively with the department and the retail divestiture strategy committee to ensure that an adequate number of stores designated for sales to licensees or licensee service center locations are maintained during the retail and wholesale divestiture process so that licensees are able to timely acquire products sold by the board.~~ <--

Section 332-A. Transition assistance committee.

(a) Formation.--

(1) On the effective date of this section, the department shall designate individuals to serve on a committee for the purpose of managing the staffing transition and displacement of employees during the divestiture process.

(2) The committee, which shall be chaired by a representative from the department, shall involve the participation of the Office of Administration, the Civil Service Commission, the Department of Labor and Industry and the board's bureau of human resources, to ensure a

1 coordinated approach to allocating personnel and assisting
2 displaced employees during the transition to find an
3 appropriate position.

4 ~~(3) The committee may engage the services of a third~~ <--
5 ~~party administrator to assist in administering the duties~~
6 ~~under paragraph (2). The procedural constraints of 62 Pa.C.S.~~
7 ~~Pt. I (relating to Commonwealth Procurement Code) shall not~~
8 ~~apply to this paragraph.~~

9 (3) THE DEPARTMENT SHALL CONTRACT WITH ADVISORS <--
10 NECESSARY TO ASSIST THE DEPARTMENT AND THE BOARD IN
11 ADMINISTERING THE DUTIES UNDER PARAGRAPH (2). THE CONTRACTS
12 SHALL NOT BE SUBJECT TO THE PROVISIONS OF 62 PA.C.S. CH. 5
13 (RELATING TO SOURCE SELECTION AND CONTRACT FORMATION).

14 (b) Counseling and placement.--The committee shall
15 coordinate with the Office of Administration to provide
16 counseling and other general assistance to employees of the
17 board who are displaced to transition the employees to other
18 employment in either the public or private sector.

19 (c) Transition funding.--The costs for the programs provided
20 under this subarticle shall be paid for out of the proceeds from
21 the divestiture of the board's wholesale and retail operations.
22 Section 333-A. Preference in public employment hiring.

23 (a) Civil service examinations.--

24 (1) A displaced employee who successfully passes a civil
25 service appointment examination shall be marked or graded an
26 additional three points above the mark or grade credited for
27 the examination if all of the following apply:

28 (i) The examination is for a paid position
29 administered under the act of August 5, 1941 (P.L.752,
30 No.286), known as the Civil Service Act, and in the

1 classified service existing under the commission's
2 jurisdiction.

3 (ii) The employee establishes the qualifications
4 required by law for appointment to the position.

5 (2) The total mark or grade, including the mark-up under
6 paragraph (1), obtained by the displaced employee shall
7 represent the final mark or grade of the employee and shall
8 determine the employee's standing on any eligibility list
9 certified or furnished to the appointing power.

10 (3) THE THREE ADDITIONAL POINTS AWARDED UNDER PARAGRAPH <--
11 (1) SHALL BE IN ADDITION TO ANY POINTS THAT SHALL BE AFFORDED
12 TO A VETERAN MEETING THE REQUIREMENTS OF 51 PA.C.S. § 7103
13 (RELATING TO ADDITIONAL POINTS IN GRADING CIVIL SERVICE
14 EXAMINATIONS).

15 (b) Certification.--The commission shall require the board
16 to certify a list of displaced employees under subsection (a).
17 Placement on the list by the board shall establish eligibility
18 for the preference granted under subsection (a).

19 (c) Noncivil service positions.--If a paid State position
20 does not require a civil service examination, a displaced
21 employee, possessing the requisite qualifications and who is
22 eligible for appointment to a paid State position in offices
23 under the Governor's jurisdiction within the executive branch
24 shall be given a preference in the appointment by the appointing
25 authority OVER NONVETERAN CANDIDATES. <--

26 (d) (Reserved).

27 (e) Eligibility.--

28 (1) A displaced employee's eligibility for the mark-up
29 provided under subsection (a) and for the preference for
30 noncivil service positions provided under subsection (c)

1 shall cease upon the occurrence of one of the following:

2 (i) The displaced employee's appointment or hiring
3 into a position in the classified service existing under
4 the commission's jurisdiction or into a paid State
5 position where no civil service examination is required.

6 (ii) Four years from the effective date of this
7 section.

8 (2) In order to be eligible for the mark-up provided
9 under subsection (a) and for the preference for noncivil
10 service positions provided under subsection (c), a displaced
11 worker must be terminated as a sole and direct result of the
12 decision to cease wholesale and retail operations under this
13 article and must work until the final day set by the board
14 for that employee's job function.

15 Section 334-A. Career training and post-secondary education
16 grant eligibility.

17 (a) Eligibility.--A displaced employee shall be eligible for
18 a two-year grant for attending a program of instruction at an
19 institution of higher education, including career training and
20 adult education courses of study, within one year of the date of
21 displacement from State service in the following amount:

22 (1) two thousand dollars per year for attendance on a
23 full-time basis; or

24 (2) one thousand dollars per year for attendance on a
25 part-time basis.

26 (b) Certification.--The board shall certify the list of
27 displaced employees to the ~~agency~~ PENNSYLVANIA HIGHER EDUCATION <--
28 ASSISTANCE AGENCY.

29 (c) Grant award.--The agency shall make a determination of
30 grant eligibility and shall pay the grant directly to the

1 institution of higher education attended by the displaced
2 employee in a manner consistent with the ~~agency's~~ PENNSYLVANIA <--
3 HIGHER EDUCATION ASSISTANCE AGENCY'S regulations.

4 Section 335-A. Reemployment tax credit.

5 (a) Eligibility.--

6 (1) A displaced employee shall be eligible for a two-
7 year reemployment tax credit voucher in the amount of \$2,000
8 per taxable year.

9 (2) The voucher under paragraph (1) shall be made
10 available to each displaced employee upon termination of
11 employment.

12 (3) Each voucher under paragraph (1) shall be certified
13 by the board before the voucher is provided to the displaced
14 employee.

15 (4) The Department of Revenue shall be informed of each
16 displaced employee to whom a voucher under paragraph (1) has
17 been provided.

18 (b) Transfer of voucher.--An employer in this Commonwealth
19 who employs a displaced employee on a full-time basis may, upon
20 transfer of the voucher from the employee to the employer, use
21 the voucher as a credit against the State tax liability of the
22 employer, if the employer can demonstrate the following:

23 (1) The employee for whom the tax credit is being sought
24 was displaced from the board within 12 months of being
25 employed by the employer.

26 (2) The former board employee has been employed by the
27 employer seeking the tax credit on a full-time basis for a
28 period not less than one year.

29 (c) Voucher submittal.--The employer shall submit the tax
30 credit voucher to the Department of Revenue with the information

1 required under subsection (b)(1) and (2) to claim a tax credit
2 against the employer's liability for a tax identified under
3 subsection (d)(2).

4 (d) Amount of credit.--

5 (1) An employer may claim a reemployment tax credit for
6 each job filled by a displaced employee of \$2,000 per
7 taxable year for a maximum of two taxable years.

8 (2) An employer may apply the reemployment tax credit to
9 100% of the employer's:

10 (i) State corporate net income tax, capital stock
11 and franchise tax or the personal tax of a shareholder of
12 the company if the company is a Pennsylvania S
13 corporation.

14 (ii) Insurance premiums tax, gross receipts tax,
15 bank and trust company shares tax, mutual thrift
16 institutions tax or title insurance companies shares tax.

17 (iii) Any combination of the taxes under
18 subparagraphs (i) and (ii).

19 (3) A displaced employee whose subsequent employment is
20 terminated with an employer and who has utilized the
21 reemployment tax credit voucher to claim a one-year \$2,000
22 tax credit may transfer the voucher to a new employer who may
23 use the remaining \$2,000 tax credit as a claim against the
24 employer's tax liability for taxes identified under paragraph
25 (2).

26 (4) The term of the reemployment tax credit voucher may
27 not exceed two years from the date the voucher is provided to
28 the qualified displaced employee.

29 Section 336-A. Protection of existing benefits.

30 (a) Contract benefits.--Nothing under this section shall be

1 deemed to affect:

2 (1) Pension benefits accrued prior to the date of
3 separation occurring as a sole and direct result of the
4 divestiture of the board's wholesale and retail operations
5 under this article.

6 (2) Payment of an accrued benefit derived from the terms
7 of a preexisting collective bargaining agreement payable upon
8 separation from employment.

9 (b) Collective bargaining.--As a result of the preferential
10 hiring benefits, the tax credit for subsequent employers and the
11 protection of benefits arising from an employee's pension or
12 from a preexisting collective bargaining agreement under this
13 section, the board shall be deemed to have satisfied all
14 obligations to bargain over the ~~effects~~ IMPACT of the decision <--
15 to cease wholesale and retail operations under this article
16 which may arise under: <--

17 ~~(1) the act of June 1, 1937 (P.L.1168, No.294), known as~~
18 ~~the Pennsylvania Labor Relations Act; or~~

19 ~~(2) the act of July 23, 1970 (P.L.563, No.195), known as~~
20 the Public Employe Relations Act.

21 (c) Local regulation.--This article supersedes a local
22 regulation, ordinance or resolution of a political subdivision
23 regarding notice to displaced workers.

24 SUBARTICLE E

25 MISCELLANEOUS PROVISIONS

26 Section 341-A. License renewals.

27 (a) Renewal.--

28 (1) Wine and spirits licenses issued under this article
29 shall be subject to renewal every two years, with validation.

30 (2) The application for renewal shall be submitted on a

1 form provided by the board at least 30 days prior to the
2 expiration of the wine and spirits license and shall include,
3 at a minimum, an update of the information contained in the
4 initial and prior renewal applications and the payment of any
5 renewal fee required under this article.

6 (3) A wine and spirits license for which a completed
7 renewal application and fee has been received by the board
8 shall continue to be valid until the board sends written
9 notification to the licensee that the board has denied the
10 renewal of the license.

11 (b) Fee.--

12 (1) A renewal fee of \$1,000 shall be due upon
13 application for the renewal or validation of a wine and
14 spirits retail license.

15 (2) A renewal fee of \$5,000 shall be due upon
16 application for the renewal or validation of a wine and
17 spirits wholesale license.

18 (3) The board may adjust the renewal fee to ensure that
19 the fee adequately recovers the costs associated with
20 investigating the renewal application.

21 (c) Renewal hearings.--The director of the board's Bureau of
22 Licensing may object to the renewal of licenses issued under
23 this article pursuant to the same authority granted under
24 section 470. Hearings and appeals arising from the objections
25 shall be conducted in accordance with section 464.

26 (d) Revocation of operating authority.--

27 (1) The board may revoke the operating authority of a
28 wine and spirits license issued under this article if it
29 finds that the licensee or any of its affiliates, executive
30 officers, directors or general or limited partners or persons

holding a controlling interest in the licensee:

(i) is in violation of any provision of this act;

(ii) has furnished the board with false or
misleading information; or

(iii) is no longer reputable or suitable for
licensure.

(2) If a wine and spirits license is revoked or not
renewed, the wine and spirits licensee's authorization to
conduct business as a wine and spirits licensee shall
immediately cease until the board notifies the licensee that
the operating authority has been reinstated.

(e) Affirmative duty.--Nothing under this section shall
relieve a wine and spirits licensee of the affirmative duty to
notify the board of changes relating to the status of its
license or to other information contained in the application
materials filed with the board.

Section 342-A. Revocation, suspension and fines.

(a) Authority of enforcement bureau.--The enforcement bureau
shall have the authority to issue a citation against a wine and
spirits licensee in the same manner as under section 471. The
bureau may issue a citation to the licensee based on the
following conduct:

(1) The licensee violated any of the following:

(i) A provision of this act.

(ii) The regulations of the board.

(iii) The licensee's signed statement of conditions.

(iv) The licensee violated any other law of this
Commonwealth.

(2) The licensee knowingly presented to the board false,
incomplete or misleading information.

1 (3) The licensee pleaded guilty, entered a plea of nolo
2 contendere or has been found guilty of a felony by a judge or
3 jury in a Federal or State court.

4 (4) The licensee failed to operate the business or to
5 provide a reasonable level of consumer service.

6 (5) The licensee failed to remit taxes as required.

7 (b) Administrative Law Judge.--Enforcement matters shall be
8 heard by an administrative judge in the same manner as under
9 section 471. The administrative law judge may issue a fine and
10 either suspend or revoke the license. Appeals may be taken in
11 the same manner as under section 471.

12 (c) Sales prohibited.--No person may sell liquor at a
13 premises if any of the following apply:

14 (1) The wine and spirits license applicable to that
15 premises has been suspended or revoked or has expired.

16 (2) The operating authority for the wine and spirits
17 license has been revoked.

18 (d) Public sale.--If a wine and spirits retail license is
19 revoked, forfeited or surrendered under this article, the board
20 shall conduct a sale of the license, consistent with this
21 article.

22 Section 343-A. Sale, assignment or transfer of license.

23 (a) Prohibition.--No person may sell, assign or transfer
24 their interest in a wine and spirits license granted under this
25 article to another person until the board has received,
26 investigated and approved a transfer application. If the license
27 is a wine and spirits retail license, the wine and spirits
28 licensee must have been in continuous operation for at least one
29 year prior to the date of the application to transfer the
30 license.

1 (b) Compliance.--Any person to whom a wine and spirits
2 license is transferred must comply with this article prior to
3 the transfer of the license.

4 (c) Transfer fee.--

5 (1) The transfer of a wine and spirits license shall be
6 subject to a transfer fee equal to 1% of the license fee paid
7 for the license and shall be paid as a condition of the
8 transfer of the license.

9 (2) The transfer fee applicable to the transfer of
10 brands of liquor under section 327-A(b) shall not apply to
11 the transfer of a wine and spirits wholesale license.

12 (3) A wine and spirits retail license may not be
13 transferred to another location outside the county in which
14 it was initially issued.

15 (d) Change of control.--For the purposes of this section, a
16 change of control of a wine and spirits wholesale or retail
17 licensee shall be deemed to be a sale, assignment or transfer of
18 a wine and spirits wholesale or retail license. A wine and
19 spirits wholesale or retail licensee must notify the board
20 immediately upon becoming aware of a proposed or contemplated
21 change of control.

22 Section 344-A. The State Stores Fund.

23 All fees, assessments, bid amounts or other charges paid by
24 wine and spirits license applicants or licensees shall be paid
25 or transferred into a restricted account WHICH IS HEREBY
26 ESTABLISHED in The State Stores Fund. FUNDS IN THE RESTRICTED
27 ACCOUNT SHALL BE USED FOR PROGRAMS UNDER SUBARTICLE D AND ANY
28 OTHER USE SPECIFIED BY STATUTE. Any fines collected by the
29 administrative law judge from the licensees shall be remitted to
30 the enforcement bureau for continued enforcement efforts.

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1 Section 345-A. Return of fee or bid.

2 (a) Wine and spirits wholesale license fee.--The entire wine
3 and spirits wholesale license fee paid by a wine and spirits
4 wholesale licensee under section 324-A(d)(1) shall be returned
5 if this article is amended or otherwise altered by an act of the
6 General Assembly within five years of the effective date of this
7 section to change provisions relating to the loss of rights to
8 wholesale brands of liquors under section 326-A.

9 (b) Wine and spirits retail licensee fee or bid amount.--The
10 entire wine and spirits retail license fee or retail bid amount
11 paid by a wine and spirits retail licensee shall be returned if
12 this article is amended or otherwise altered by an act of the
13 General Assembly within five years of the effective date of this
14 section to authorize additional wine and spirits retail licenses
15 under section 311.1-A.

16 Section 10. Section 401 of the act, amended December 22,
17 2011 (P.L.530, No.113), is amended to read:

18 Section 401. Authority to Issue Liquor Licenses to Hotels,
19 Restaurants and Clubs.--(a) Subject to the provisions of this
20 act and regulations promulgated under this act, the board shall
21 have authority to issue a retail liquor license for any premises
22 kept or operated by a hotel, restaurant or club and specified in
23 the license entitling the hotel, restaurant or club to purchase
24 liquor from a Pennsylvania Liquor Store or a wine and spirits
25 wholesale licensee and to keep on the premises such liquor and,
26 subject to the provisions of this act and the regulations made
27 thereunder, to sell the same and also malt or brewed beverages
28 to guests, patrons or members for consumption on the hotel,
29 restaurant or club premises. Such licensees, other than clubs,
30 shall be permitted to sell malt or brewed beverages for

1 consumption off the premises where sold in quantities of not
2 more than one hundred ninety-two fluid ounces in a single sale
3 to one person as provided for in section 407 unless the licensee
4 acquires a retail package reform permit issued by the board
5 under section 407(c). Such licenses shall be known as hotel
6 liquor licenses, restaurant liquor licenses and club liquor
7 licenses, respectively. No person who holds any public office
8 that involves the duty to enforce any of the penal laws of the
9 United States, this Commonwealth or of any political subdivision
10 of this Commonwealth may have any interest in a hotel or
11 restaurant liquor license. This prohibition applies to anyone
12 with arrest authority, including, but not limited to, United
13 States attorneys, State attorneys general, district attorneys,
14 sheriffs and police officers. This prohibition shall also apply
15 to magisterial district judges, judges or any other individuals
16 who can impose a criminal sentence. This prohibition does not
17 apply to members of the General Assembly, township supervisors,
18 city councilpersons, mayors without arrest authority and any
19 other public official who does not have the ability to arrest or
20 the ability to impose a criminal sentence. This section does not
21 apply if the proposed premises are located outside the
22 jurisdiction of the individual in question.

23 (b) The board may issue to any club which caters to groups
24 of non-members, either privately or for functions, a catering
25 license, and the board shall, by its rules and regulations,
26 define what constitutes catering under this subsection except
27 that any club which is issued a catering license shall not be
28 prohibited from catering on Sundays during the hours which the
29 club may lawfully serve liquor, malt or brewed beverages.

30 Section 10.1. The act is amended by adding sections to read:

1 Section 401.1. Authority to Issue Liquor Licenses to Grocery
2 Stores.--(a) Subject to the provisions of this act and
3 regulations promulgated under this act, the board shall have
4 authority to issue a retail liquor license for any premises kept
5 or operated by a grocery store and specified in the license
6 entitling the grocery store to:

7 (1) Purchase wine from a Pennsylvania ~~Liquor Store~~ LIQUOR <--
8 WHOLESALE LICENSEE, a wine and spirits store and any person
9 licensed by the board as a producer of wine and subject to
10 section 505.2.

11 (2) Keep on the premises such wine and, subject to the
12 provisions of this act and the regulations made hereunder, to
13 sell the same to patrons for consumption off the licensed
14 premises.

15 (b) Licenses issued under this section shall be known as
16 grocery store retail liquor licenses.

17 (c) No individual who holds any public office that involves
18 the duty to enforce any of the penal laws of the United States,
19 this Commonwealth or of any political subdivision of this
20 Commonwealth may have any interest in a grocery store retail
21 liquor license. This prohibition applies to an individual with
22 arrest authority, including, but not limited to, police
23 officers, sheriffs, district attorneys, State attorneys general
24 and United States attorneys. This prohibition shall also apply
25 to magisterial district judges, judges or any other individuals
26 who may impose a criminal sentence. This prohibition does not
27 apply to members of the General Assembly, township supervisors,
28 city councilpersons, mayors without arrest authority and any
29 other public official who does not have the ability to arrest or
30 the ability to impose a criminal sentence. An individual subject

1 to this prohibition may have an interest in a grocery store
2 retail liquor license if the proposed premises are located
3 outside the jurisdiction of the individual.

4 Section 403.1. Applications for Grocery Store Retail
5 License.--(a) Every applicant for a grocery store retail
6 license or for the transfer of an existing license to another
7 premises not then licensed shall file a written application with
8 the board in such form and containing such information as the
9 board shall from time to time prescribe, which shall be
10 accompanied by a filing fee and an annual license fee as set
11 forth in section 406.1 of this act. Every such application shall
12 contain a description of that part of the grocery store for
13 which the applicant desires a license and shall set forth such
14 other material information, description or plan of that part of
15 the grocery store where it is proposed to keep and sell liquor
16 as may be required by the regulations of the board. The
17 descriptions, information and plans referred to in this
18 subsection shall show the grocery store, or the proposed
19 location for the construction of a grocery store, at the time
20 the application is made, and shall show any alterations proposed
21 to be made thereto, or the new building proposed to be
22 constructed after the approval by the board of the application
23 for a license or for the transfer of an existing license to
24 another premises not then licensed. No physical alterations,
25 improvements or changes shall be required to be made to any
26 grocery store, nor shall any new building for any such purpose
27 be required to be constructed until approval of the application
28 for license or for the transfer of an existing license to
29 another premises not then licensed by the board. After approval
30 of the application, the licensee shall make the physical

alterations, improvements and changes to the licensed premises,
or shall construct the new building in the manner specified by
the board at the time of approval, and the licensee shall not
transact any business under the license until the board has
approved the completed physical alterations, improvements and
changes to the licensed premises, or the completed construction
of the new building as conforming to the specifications required
by the board at the time of issuance or transfer of the license,
and is satisfied that the establishment is a grocery store as
defined by this act. The board may require that all such
alterations or construction or conformity to definition be
completed within six months from the time of issuance or
transfer of the license. Failure to comply with these
requirements shall be considered cause for revocation of the
license. No such license shall be transferable between the time
of issuance or transfer of the license and the approval of the
completed alterations or construction by the board and full
compliance by the licensee with the requirements of this act
unless full compliance is impossible for reasons beyond the
licensee's control, in which event, the license may be
transferred by the board as provided in this act.

(b) If the applicant is a natural person, the applicant's
application must show that the applicant is a citizen of the
United States and has been a resident of this Commonwealth for
at least two years immediately preceding the applicant's
application.

(c) If the applicant is a corporation, the application must
show that the corporation was created under the laws of this
Commonwealth or holds a certificate of authority to transact
business in this Commonwealth, that all officers, directors and

1 stockholders are citizens of the United States and that the
2 manager of the grocery store retail license is a citizen of the
3 United States.

4 (d) Each application shall be signed and verified by oath or
5 affirmation by the owner, if a natural person, or, in the case
6 of an association, by a member or partner thereof, or, in the
7 case of a corporation, by an executive officer thereof or any
8 person specifically authorized by the corporation to sign the
9 application, to which shall be attached written evidence of his
10 authority.

11 (e) Every applicant for a new license or for the transfer of
12 an existing license shall post, for a period of at least thirty
13 days beginning with the day the application is filed with the
14 board, in a conspicuous place on the outside of the premises or
15 at the proposed new location for which the license is applied, a
16 notice of such application. The notice shall be in such form, be
17 of such size and contain such provisions as the board may
18 require by its regulations. Proof of the posting of such notice
19 shall be filed with the board. The posting requirement imposed
20 by this subsection shall not apply to license applications
21 submitted for public venues.

22 (f) If any false statement is intentionally made in any part
23 of the application, the affiant shall be deemed guilty of a
24 misdemeanor and, upon conviction, shall be subject to the
25 penalties provided by this article.

26 (g) Upon receipt of an application for a new license or
27 transfer of an existing license to a new location, the board
28 shall immediately notify, in writing, the municipality in which
29 the premises proposed to be licensed are located.

30 Section 11. Section 404 of the act, amended January 6, 2006

1 (P.L.1, No.1), is amended to read:

2 Section 404. Issuance, Transfer or Extension of Hotel,
3 Restaurant and Club Liquor Licenses.--Upon receipt of the
4 application and the proper fees, and upon being satisfied of the
5 truth of the statements in the application that the applicant is
6 the only person in any manner pecuniarily interested in the
7 business so asked to be licensed and that no other person will
8 be in any manner pecuniarily interested therein during the
9 continuance of the license, except as hereinafter permitted, and
10 that the applicant is a person of good repute, that the premises
11 applied for meet all the requirements of this act and the
12 regulations of the board, that the applicant seeks a license for
13 a hotel, restaurant or club, as defined in this act, and that
14 the issuance of such license is not prohibited by any of the
15 provisions of this act, the board shall, in the case of a hotel
16 or restaurant, grant and issue to the applicant a liquor
17 license, and in the case of a club may, in its discretion, issue
18 or refuse a license: Provided, however, That in the case of any
19 new license or the transfer of any license to a new location or
20 the extension of an existing license to cover an additional area
21 the board may, in its discretion, grant or refuse such new
22 license, transfer or extension if such place proposed to be
23 licensed is within three hundred feet of any church, hospital,
24 charitable institution, school, or public playground, or if such
25 new license, transfer or extension is applied for a place which
26 is within two hundred feet of any other premises which is
27 licensed by the board: And provided further, That the board's
28 authority to refuse to grant a license because of its proximity
29 to a church, hospital, charitable institution, public playground
30 or other licensed premises shall not be applicable to license

1 applications submitted for public venues or performing arts
2 facilities: And provided further, That the board shall refuse
3 any application for a new license, the transfer of any license
4 to a new location or the extension of an existing license to
5 cover an additional area if, in the board's opinion, such new
6 license, transfer or extension would be detrimental to the
7 welfare, health, peace and morals of the inhabitants of the
8 neighborhood within a radius of five hundred feet of the place
9 proposed to be licensed: And provided further, That the board
10 shall have the discretion to refuse a license to any person or
11 to any corporation, partnership or association if such person,
12 or any officer or director of such corporation, or any member or
13 partner of such partnership or association shall have been
14 convicted or found guilty of a felony within a period of five
15 years immediately preceding the date of application for the said
16 license. [The board shall refuse any application for a new
17 license, the transfer of any license to a new location or the
18 extension of any license to cover an additional area where the
19 sale of liquid fuels or oil is conducted.] The board may enter
20 into an agreement with the applicant concerning additional
21 restrictions on the license in question. If the board and the
22 applicant enter into such an agreement, such agreement shall be
23 binding on the applicant. Failure by the applicant to adhere to
24 the agreement will be sufficient cause to form the basis for a
25 citation under section 471 and for the nonrenewal of the license
26 under section 470. If the board enters into an agreement with an
27 applicant concerning additional restrictions, those restrictions
28 shall be binding on subsequent holders of the license until the
29 license is transferred to a new location or until the board
30 enters into a subsequent agreement removing those restrictions.

1 If the application in question involves a location previously
2 licensed by the board, then any restrictions imposed by the
3 board on the previous license at that location shall be binding
4 on the applicant unless the board enters into a new agreement
5 rescinding those restrictions. The board may, in its discretion,
6 refuse an application for an economic development license under
7 section 461(b.1) or an application for an intermunicipal
8 transfer of a license if the board receives a protest from the
9 governing body of the receiving municipality. The receiving
10 municipality of an intermunicipal transfer or an economic
11 development license under section 461(b.1) may file a protest
12 against the transfer of a license into its municipality, and the
13 receiving municipality shall have standing in a hearing to
14 present testimony in support of or against the issuance or
15 transfer of a license. Upon any opening in any quota, an
16 application for a new license shall only be filed with the board
17 for a period of six months following said opening.

18 Section 11.1. The act is amended by adding a section to
19 read:

20 Section 404.1. Issuance or Transfer of Grocery Store Liquor
21 Licenses.--Upon receipt of the application and the proper fees,
22 and upon being satisfied of the truth of the statements in the
23 application that the applicant is the only person in any manner
24 pecuniarily interested in the business so asked to be licensed
25 and that no other person will be in any manner pecuniarily
26 interested therein during the continuance of the license, except
27 as hereinafter permitted, and that the applicant is a person of
28 good repute, that the premises applied for meet all the
29 requirements of this act and the regulations of the board, that
30 the applicant seeks a license for a grocery store, as defined in

1 this act, and that the issuance of such license is not
2 prohibited by any of the provisions of this act, the board shall
3 grant and issue to the applicant a liquor license: Provided,
4 however, That in the case of any new license or the transfer of
5 any license to a new location the board may, in its discretion,
6 grant or refuse such new license, transfer or extension if such
7 place proposed to be licensed is within three hundred feet of
8 any church, hospital, charitable institution, school, or public
9 playground, or if such new license, transfer or extension is
10 applied for a place which is within two hundred feet of any
11 other premises which is licensed by the board: And provided
12 further, That the board shall refuse any application for a new
13 license, the transfer of any license to a new location or the
14 extension of an existing license to cover an additional area if,
15 in the board's opinion, such new license, transfer or extension
16 would be detrimental to the welfare, health, peace and morals of
17 the inhabitants of the neighborhood within a radius of five
18 hundred feet of the place proposed to be licensed: And provided
19 further, That the board shall have the discretion to refuse a
20 license to any person or to any corporation, partnership or
21 association if such person, or any officer or director of such
22 corporation, or any member or partner of such partnership or
23 association shall have been convicted or found guilty of a
24 felony within a period of five years immediately preceding the
25 date of application for the said license. The board may enter
26 into an agreement with the applicant concerning additional
27 restrictions on the license in question. If the board and the
28 applicant enter into such an agreement, such agreement shall be
29 binding on the applicant. Failure by the applicant to adhere to
30 the agreement will be sufficient cause to form the basis for a

1 citation under section 471 and for the nonrenewal of the license
2 under section 470. If the board enters into an agreement with an
3 applicant concerning additional restrictions, those restrictions
4 shall be binding on subsequent holders of the license until the
5 license is transferred to a new location or until the board
6 enters into a subsequent agreement removing those restrictions.
7 If the application in question involves a location previously
8 licensed by the board, then any restrictions imposed by the
9 board on the previous license at that location shall be binding
10 on the applicant unless the board enters into a new agreement
11 rescinding those restrictions.

12 Section 12. Section 405(c) of the act, amended April 29,
13 1994 (P.L.212, No.30), is amended to read:

14 Section 405. License Fees.--* * *

15 (c) All license fees authorized under this section shall be
16 collected by the board for the use of the municipalities in
17 which such fees were collected[.] if the municipalities receive
18 services from a municipal police department. Fees collected in
19 municipalities that do not receive service from a municipal
20 police department must be transferred to the enforcement bureau
21 for continued enforcement efforts.

22 * * *

23 Section 13. Section 406(a)(3) and (e)(1) of the act, amended
24 December 22, 2011 (P.L.530, No.113), are amended and subsection
25 (e) is amended by adding a paragraph to read:

26 Section 406. Sales by Liquor Licensees; Restrictions.--(a)

27 * * *

28 (3) Hotel and restaurant liquor licensees, municipal golf
29 course restaurant liquor licensees and privately-owned public
30 golf course restaurant licensees may sell liquor and malt or

1 brewed beverages on Sunday between the hours of [eleven] nine
2 o'clock antemeridian and two o'clock antemeridian Monday upon
3 purchase of a special permit from the board at an annual fee as
4 prescribed in section 614-A of the act of April 9, 1929
5 (P.L.177, No.175), known as "The Administrative Code of 1929."
6 Notwithstanding this provision, a licensee holding such a permit
7 may begin selling liquor and malt or brewed beverages on Sunday
8 between the hours of nine o'clock antemeridian and eleven
9 o'clock antemeridian provided that the licensee offers a meal
10 beginning at nine o'clock antemeridian. Airport restaurant
11 liquor licensees may sell liquor and malt or brewed beverages on
12 Sunday between the hours of seven o'clock antemeridian and two
13 o'clock antemeridian Monday upon purchase of a special permit
14 from the board at an annual fee as prescribed in section 614-A
15 of the act of April 9, 1929 (P.L.177, No.175), known as "The
16 Administrative Code of 1929."

17 * * *

18 (e) (1) The holder of a hotel license or the holder of a
19 restaurant license located in a hotel may allow persons to
20 transport liquor or malt or brewed beverages from the licensed
21 portion of the premises to the unlicensed portion of the
22 premises, so long as the liquor or malt or brewed beverages
23 remain on the hotel property. In addition, a holder of a
24 restaurant or club license located on a golf course may sell,
25 furnish or give liquor or malt or brewed beverages on the
26 unlicensed portion of the golf course so long as the liquor or
27 malt or brewed beverages remain on the restaurant, club or golf
28 course. The holder of a restaurant license located immediately
29 adjacent to and under the same roof of a bowling center may
30 allow persons to transport liquor or malt or brewed beverages

1 from the licensed portion of the premises to the unlicensed
2 portion of the premises, so long as the liquor or malt or brewed
3 beverages remain within the bowling center. [In addition, the
4 holder of a hotel license or a restaurant license may allow
5 persons who have purchased but only partially consumed a bottle
6 of wine on the premises to remove the bottle from the premises
7 so long as the bottle was purchased in conjunction with a meal
8 which was consumed on the premises and so long as the bottle is
9 resealed.] Notwithstanding this paragraph, the holder of a hotel
10 license or a restaurant license may sell up to six bottles of
11 wine for consumption off the licensed premises so long as the
12 bottles remain sealed and the holder has obtained a wine-to-go
13 permit as authorized under section 493(35). In addition, the
14 holder of a hotel license or a restaurant license may allow a
15 person who has purchased but only partially consumed a bottle of
16 spirits on the premises to remove the bottle from the premises
17 so long as the bottle is resealed. For purposes of this
18 subsection, "wine" shall have the meaning given to it under
19 section 488(i). For purposes of this section and section 432,
20 "meal" shall mean food prepared on the premises, sufficient to
21 constitute breakfast, lunch or dinner; it shall not mean a
22 snack, such as pretzels, popcorn, chips or similar food.

23 * * *

24 (3) The holder of a restaurant license whose premises has an
25 interior connection to a grocery store may allow a purchase of
26 beer and wine for consumption off the premises to be paid for at
27 a point of sale other than a point of sale located on the
28 licensed premises.

29 Section 13.1. The act is amended by adding a section to
30 read:

1 Section 406.2. Sales by Grocery Store Retail Licensees and
2 Restrictions.--(a) Every grocery store retail licensee may sell
3 wine for consumption off the licensed premises from any location
4 within the licensed premises. Educational information regarding
5 the types of products sold by the grocery store retail licensee
6 and regarding the responsible consumption of alcohol shall be
7 displayed and readily available wherever wine is displayed.
8 Grocery store retail licensees may display the alcohol products
9 they offer for sale on shelving units and systems, and in or on
10 refrigerated cases and equipment, within the discretion of the
11 licensee, provided that such displays are not designed to
12 attract minors and, provided further, that the manner and method
13 of display allows access by all customers, including the
14 physically dependent.

15 ~~(b) Grocery store retail licensees may sell wine in any~~ <--
16 ~~quantity for consumption off the licensed premises.~~

17 (B) GROCERY STORE RETAIL LICENSEES MAY SELL NO MORE THAN <--
18 TWELVE BOTTLES OF WINE IN A SINGLE SALE FOR CONSUMPTION OFF THE
19 LICENSED PREMISES.

20 (c) Grocery store retail licensees may not charge a
21 membership fee in order for customers to make purchases from the
22 grocery store.

23 (d) Sales by grocery store retail licensees shall be made
24 via grocery store registers, well designated with signage and
25 manned by sales clerks who are at least eighteen years of age
26 and have been RAMP-trained and utilizing a transaction scan
27 device for any purchases. AT NO TIME SHALL THE PURCHASE OF WINE <--
28 OCCUR AT A POINT OF SALE WHERE THE CUSTOMER SCANS HIS OWN
29 PURCHASES. ALL SALES OF WINE SHALL OCCUR AT A POINT OF SALE
30 MANNED BY A SALES CLERK AT ALL TIMES.

1 (e) Grocery store retail licensees may store alcohol in a
2 storage area or storage areas not accessible to the public
3 provided such storage areas are:

4 (1) locked at all times when not being accessed by the
5 licensees' employees; and

6 (2) identified by dimensions and location on forms submitted
7 in advance to the board.

8 (f) Grocery store retail licensees may sell wine from seven
9 o'clock antemeridian until eleven o'clock postmeridian every day
10 except Sunday.

11 (g) Grocery store retail licensees may sell wine from nine
12 o'clock antemeridian until eleven o'clock postmeridian on
13 Sundays upon submission to the board of a Sunday sales permit
14 application and fee of one thousand five hundred dollars
15 (\$1,500) per year.

16 (h) Grocery store retail licensees shall be permitted to
17 hold:

18 (1) Tastings at any location in the grocery store, provided
19 the tastings are in compliance with the provisions and
20 regulations regarding tastings held on restaurant licensed
21 premises.

22 (2) Educational classes, including cooking classes, "how to"
23 classes, seminars and the like, regarding the proper or
24 recommended use, consumption, identification, pairing,
25 appellation, aging, storage, characteristics, service,
26 presentation and the like, of the alcohol products that they
27 offer for sale, during which classes the incidental consumption
28 of alcohol by registered participants of lawful age shall be
29 permitted; such classes may be free of charge to participants or
30 may be at fee.

1 (i) Grocery store retail licensees shall be permitted to
2 hold restaurant licenses issued for areas within the same
3 building for which the grocery store retail license has been
4 issued or for a different building. Grocery store retail
5 licenses and restaurant licenses issued for areas within the
6 same grocery stores may be issued for areas that are adjacent,
7 abutting and contiguous and the board shall approve interior
8 connections between such areas. In the event that a grocery
9 store retail license and a restaurant license are issued for the
10 same grocery store, wine may only be sold for off-premises
11 consumption in the area licensed for grocery store retail sales.

12 (j) Grocery store retail licensees may not sell wine at a
13 price less than its underlying cost.

14 (k) Grocery store retail licensees shall buy wine sold
15 pursuant to their grocery store retail license from the board, a
16 wine and spirits wholesale licensee or a winery licensed by the
17 Commonwealth.

18 (l) All products purchased by grocery store retail licensees
19 and all products purchased by restaurant and eating place
20 licensees owned by the same individual or company must be
21 separately purchased from the board or a wine and spirits
22 wholesale licensee as required by this act and may not be
23 purchased from another retail licensee. Separate records must be
24 maintained for all purchases and sales by all grocery store
25 retail licensees and restaurant or eating place licensees,
26 whether or not located within the same building or owned by the
27 same individual or company.

28 (m) The following shall apply:

29 (1) The retail license fee payable one time upon application
30 to the board for issuance of the license, shall be as follows:

1 (i) For grocery stores located in counties of the first
2 class or counties of the second class, one hundred sixty-five
3 thousand dollars (\$165,000).

4 (ii) For grocery stores located in counties of the second
5 class A or counties of the third class, one hundred eighty-seven
6 thousand five hundred dollars (\$187,500).

7 (iii) For grocery stores located in counties of the fourth
8 class or fifth class, one hundred forty-two thousand five
9 hundred dollars (\$142,500).

10 (iv) For grocery stores located in counties of the sixth
11 class or seventh class, one hundred twenty thousand dollars
12 (\$120,000).

13 (v) For grocery stores located in counties of the eighth
14 class, ninety-seven thousand five hundred dollars (\$97,500).

15 (2) Grocery store retail licenses shall be renewed every two
16 years. The renewal fee submitted each year shall be:

17 (i) For grocery stores located in counties of the fifth
18 class, counties of the sixth class, counties of the seventh
19 class or counties of the eighth class, two thousand dollars
20 (\$2,000).

21 (ii) For grocery stores located in counties of the first
22 class, counties of the second class, counties of the second
23 class A, counties of the third class or counties of the fourth
24 class, four thousand dollars (\$4,000).

25 (3) The board may accept applications to transfer grocery
26 store retail licenses to new locations, for the same owner, upon
27 submission of transfer applications and fees submitted to the
28 board in the following amounts:

29 (i) For transfers to counties of the fifth class, counties
30 of the sixth class, counties of the seventh class or counties of

1 the eighth class, five thousand dollars (\$5,000).

2 (ii) For transfers to counties of the first class, counties
3 of the second class, counties of the second class A, counties of
4 the third class or counties of the fourth class, ten thousand
5 dollars (\$10,000).

6 (N) (1) GROCERY STORE LICENSEES SELLING WINE FOR OFF- <--
7 PREMISES CONSUMPTION SHALL BE REQUIRED TO OBTAIN A SALES TAX
8 LICENSE FROM THE DEPARTMENT OF REVENUE.

9 (2) A GROCERY STORE LICENSEE SELLING WINE FOR OFF-PREMISES
10 CONSUMPTION SHALL BE CONSIDERED A PENNSYLVANIA LIQUOR STORE FOR
11 PURPOSES OF COLLECTING AND REMITTING TAXES UNDER ARTICLE II OF
12 THE ACT OF MARCH 4, 1971 (P.L.6, NO.2), KNOWN AS THE "TAX REFORM
13 CODE OF 1971." A GROCERY STORE LICENSEE SELLING WINE FOR OFF-
14 PREMISES CONSUMPTION MAY NOT BE REQUIRED TO PAY THE SALES TAX
15 WHEN MAKING WHOLESALE PURCHASES BUT SHALL COLLECT THE TAX AT
16 RETAIL.

17 Section 14. Section 407 of the act, amended November 29,
18 2006 (P.L.1421, No.155) and June 28, 2011 (P.L.55, No.11), is
19 amended to read:

20 Section 407. Sale of Malt or Brewed Beverages by Liquor
21 Licensees.--(a) Every liquor license issued to a hotel,
22 restaurant, club, or a railroad, pullman or steamship company
23 under this subdivision (A) for the sale of liquor shall
24 authorize the licensee to sell malt or brewed beverages at the
25 same places but subject to the same restrictions and penalties
26 as apply to sales of liquor, except that licensees other than
27 clubs may sell malt or brewed beverages for consumption off the
28 premises where sold in quantities of not more than one hundred
29 ninety-two fluid ounces in a single sale to one person unless
30 the licensee acquires a retail package permit issued by the

1 board under section 407(c). The sales may be made in either open
2 or closed containers, Provided, however, That a municipality may
3 adopt an ordinance restricting open containers in public places.
4 No licensee under this subdivision (A) shall at the same time be
5 the holder of any other class of license, except a retail
6 dispenser's license authorizing the sale of malt or brewed
7 beverages only.

8 (b) (1) Notwithstanding any other provision of law or any
9 existing permit authorizing the sale of malt or brewed beverages
10 for consumption off the premises, a restaurant licensee located
11 in a city of the first class who is otherwise permitted to sell
12 malt or brewed beverages for consumption off the premises may
13 not do so after October 31, 2007, unless it acquires a permit
14 from the board.

15 (2) The application for a permit to sell malt or brewed
16 beverages for consumption off the premises shall be on forms
17 designated by the board and contain such information as the
18 board may require. The application and renewal fee shall be as
19 prescribed in section 614-A(27) of the act of April 9, 1929
20 (P.L.177, No.175), known as "The Administrative Code of 1929."
21 However, no applicant who currently has a permit shall be
22 required to pay any additional fees under section 614-A(27) of
23 "The Administrative Code of 1929" in order to continue selling
24 malt or brewed beverages for consumption off the premises at its
25 currently licensed location for the licensing term beginning
26 November 1, 2007, and ending October 31, 2008.

27 (3) The application for a permit to sell malt or brewed
28 beverages for consumption off the premises must be accompanied
29 by a copy of the approval of such request by the hearing board
30 authorized by this section.

1 (4) A city of the first class shall create a hearing board
2 within its Department of Licenses and Inspections to hear
3 requests from licensees who are seeking a permit from the
4 hearing board authorizing the licensee to sell malt or brewed
5 beverages for consumption off the premises. Each hearing board
6 shall consist of three persons appointed by the mayor of the
7 city of the first class, who are subject to approval by the city
8 council of the city of the first class. Each person so appointed
9 shall serve at the pleasure of the appointing authority. The
10 hearing board may, in its discretion, hold hearings to adduce
11 testimony regarding a request. The hearing board must render a
12 decision within ninety days of receipt of a request for approval
13 of a permit to sell malt or brewed beverages for consumption off
14 the premises. The hearing board must approve the request unless
15 it finds that doing so would adversely affect the welfare,
16 health, peace and morals of the city or its residents. A
17 decision by the hearing board to deny a request may be appealed
18 to the court of common pleas in the county in which the city is
19 located. The failure to render a decision by the hearing board
20 within the required time period shall be deemed approval of the
21 permit.

22 (5) Upon being satisfied that the applicant has fulfilled
23 all the requirements of this act and the board's regulations,
24 the board shall approve the application. Such permits shall
25 expire upon the transfer of the license to a new entity or to a
26 new location, or both; otherwise, such permits shall expire at
27 the same time as the expiration of the underlying license.

28 (c) (1) The board may issue a retail package reform permit
29 to a restaurant, hotel or retail dispenser licensee that applies
30 and pays the requisite fee for use at the same place that the

1 restaurant, hotel or retail dispenser maintains for the sale of
2 malt or brewed beverages. The permit must allow the holder to
3 sell in a single transaction not more than twenty-four original
4 containers totaling not more than three hundred and eighty four
5 fluid ounces of malt and brewed beverages so long as the
6 original containers are in a package prepared for sale of
7 distribution by the manufacturer of not more than twelve
8 original containers.

9 (2) For the permit issued under paragraph (1), the board
10 shall require an annual fee of five hundred dollars (\$500).

11 Section 15. Section 408.12(g) and (h) of the act, added July
12 1, 1994 (P.L.402, No.61), are amended to read:

13 Section 408.12. Wine Auction Permits.--* * *

14 (g) Any wine sold under this section shall be purchased from
15 a Pennsylvania Liquor Store, a wine and spirits retail licensee,
16 a Pennsylvania limited winery or any seller authorized to sell
17 wine by the bottle or case in this Commonwealth, including a
18 grocery store licensee, restaurant liquor licensee or hotel
19 liquor licensee, or shall be donated by a person who is neither
20 a licensee nor a permittee who has legally acquired the wine and
21 legally possesses it in this Commonwealth.

22 (h) If any wine sold under this section is purchased from a
23 seller other than a Pennsylvania Liquor Store, wine and spirits
24 retail licensee, grocery store licensee, restaurant liquor
25 licensee, hotel liquor licensee or [a] Pennsylvania limited
26 winery, the permittee shall provide thirty days' notice to the
27 board of its intent to purchase such wine. The notice shall
28 include a description of the wine to be purchased, the quantity
29 to be purchased, the name of the seller and any other
30 information which the board may require. The permittee shall

1 comply with all board regulations regarding taxes and fees.

2 * * *

3 Section 16. Section 410(e) of the act is amended to read:

4 Section 410. Liquor Importers' Licenses; Fees; Privileges;
5 Restrictions.--* * *

6 (e) Importers' licenses shall permit the holders thereof to
7 bring or import liquor from other states, foreign countries, or
8 insular possessions of the United States, and purchase liquor
9 from manufacturers located within this Commonwealth, to be sold
10 outside of this Commonwealth or to Pennsylvania Liquor Stores or
11 wine and spirits wholesale licensees within this Commonwealth,
12 or when in original containers of ten gallons or greater
13 capacity, to licensed manufacturers within this Commonwealth.

14 All importations of liquor into Pennsylvania by the licensed
15 importer shall be consigned to the board or the principal place
16 of business or authorized place of storage maintained by the
17 licensee or a wine and spirits wholesale licensee.

18 * * *

19 Section 17. Section 411 of the act is amended by adding a
20 subsection to read:

21 Section 411. Interlocking Business Prohibited.--* * *

22 (f) (1) Notwithstanding any other provision of law, a
23 manufacturer or licensee and its officers, directors,
24 shareholders, servants, agents or employes may contribute, and a
25 manufacturer or licensee and its officers, directors,
26 shareholders, servants, agents or employes may accept moneys or
27 other things of value solely for the administration of a
28 responsible alcohol management training program for alcohol
29 service personnel as provided for under section 471.1 of this
30 act. The moneys or other things of value may be provided by or

1 to a manufacturer or licensee and its officers, directors,
2 shareholders, servants, agents or employes directly or by or to
3 a trade organization consisting, in whole or in part, of a group
4 of licensees.

5 (2) The manufacturer, licensee and trade organization
6 associated with the person providing the moneys or other things
7 of value must keep a record of the value of the moneys or other
8 things of value provided, the date provided and the entity to
9 whom it was provided, as part of the records required under
10 section 493(12) of this act.

11 (3) The manufacturer, licensee and trade organization
12 associated with the person receiving moneys or other things of
13 value must keep a record of the value of the moneys or other
14 things of value used, as part of the records required under
15 section 493(12) of this act.

16 Section 18. Section 431(b) of the act, amended December 8,
17 2004 (P.L.1810, No.239), is amended to read:

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

20 (b) The board shall issue to any reputable person who
21 applies therefor, and pays the license fee hereinafter
22 prescribed, a distributor's or importing distributor's license
23 for the place which such person desires to maintain for the sale
24 of malt or brewed beverages, not for consumption on the premises
25 where sold, and in quantities of not less than a case or
26 original containers containing one hundred twenty-eight ounces
27 or more which may be sold separately as prepared for the market
28 by the manufacturer at the place of manufacture. The board shall
29 have the discretion to refuse a license to any person or to any
30 corporation, partnership or association if such person, or any

1 officer or director of such corporation, or any member or
2 partner of such partnership or association shall have been
3 convicted or found guilty of a felony within a period of five
4 years immediately preceding the date of application for the said
5 license: And provided further, That, in the case of any new
6 license or the transfer of any license to a new location, the
7 board may, in its discretion, grant or refuse such new license
8 or transfer if such place proposed to be licensed is within
9 three hundred feet of any church, hospital, charitable
10 institution, school or public playground, or if such new license
11 or transfer is applied for a place which is within two hundred
12 feet of any other premises which is licensed by the board: And
13 provided further, That the board shall refuse any application
14 for a new license or the transfer of any license to a new
15 location if, in the board's opinion, such new license or
16 transfer would be detrimental to the welfare, health, peace and
17 morals of the inhabitants of the neighborhood within a radius of
18 five hundred feet of the place proposed to be licensed. [The
19 board shall refuse any application for a new license or the
20 transfer of any license to a location where the sale of liquid
21 fuels or oil is conducted.] The board may enter into an
22 agreement with the applicant concerning additional restrictions
23 on the license in question. If the board and the applicant enter
24 into such an agreement, such agreement shall be binding on the
25 applicant. Failure by the applicant to adhere to the agreement
26 will be sufficient cause to form the basis for a citation under
27 section 471 and for the nonrenewal of the license under section
28 470. If the board enters into an agreement with an applicant
29 concerning additional restrictions, those restrictions shall be
30 binding on subsequent holders of the license until the license

1 is transferred to a new location or until the board enters into
2 a subsequent agreement removing those restrictions. If the
3 application in question involves a location previously licensed
4 by the board, then any restrictions imposed by the board on the
5 previous license at that location shall be binding on the
6 applicant unless the board enters into a new agreement
7 rescinding those restrictions. The board shall require notice to
8 be posted on the property or premises upon which the licensee or
9 proposed licensee will engage in sales of malt or brewed
10 beverages. This notice shall be similar to the notice required
11 of hotel, restaurant and club liquor licensees.

12 Except as hereinafter provided, such license shall authorize
13 the holder thereof to sell or deliver malt or brewed beverages
14 in quantities above specified anywhere within the Commonwealth
15 of Pennsylvania, which, in the case of distributors, have been
16 purchased only from persons licensed under this act as
17 manufacturers or importing distributors, and in the case of
18 importing distributors, have been purchased from manufacturers
19 or persons outside this Commonwealth engaged in the legal sale
20 of malt or brewed beverages or from manufacturers or importing
21 distributors licensed under this article. If the holder of a
22 distributor license applies for and receives a wine and spirits
23 retail license issued pursuant to Article III-A, that
24 distributor shall be authorized to sell wine and/or spirits on
25 the same premises where malt or brewed beverages are sold, and
26 if a distributor licensee applies for and receives a distributor
27 package reform permit issued pursuant to section 431.2, that
28 distributor shall be authorized to sell malt or brewed beverages
29 in quantities enumerated in section 431.2. In the case of an
30 importing distributor, the holder of such a license shall be

1 authorized to store and repackage malt or brewed beverages owned
2 by a manufacturer at a segregated portion of a warehouse or
3 other storage facility authorized by section 441(d) and operated
4 by the importing distributor within its appointed territory and
5 deliver such beverages to another importing distributor who has
6 been granted distribution rights by the manufacturer as provided
7 herein. The importing distributor shall be permitted to receive
8 a fee from the manufacturer for any related storage, repackaging
9 or delivery services. In the case of a bailee for hire hired by
10 a manufacturer, the holder of such a permit shall be authorized:
11 to receive, store and repackage malt or brewed beverages
12 produced by that manufacturer for sale by that manufacturer to
13 importing distributors to whom that manufacturer has given
14 distribution rights pursuant to this subsection or to purchasers
15 outside this Commonwealth for delivery outside this
16 Commonwealth; or to ship to that manufacturer's storage
17 facilities outside this Commonwealth. The bailee for hire shall
18 be permitted to receive a fee from the manufacturer for any
19 related storage, repackaging or delivery services. The bailee
20 for hire shall, as required in Article V of this act, keep
21 complete and accurate records of all transactions, inventory,
22 receipts and shipments and make all records and the licensed
23 areas available for inspection by the board and for the
24 Pennsylvania State Police, Bureau of Liquor Control Enforcement,
25 during normal business hours.

26 Each out of State manufacturer of malt or brewed beverages
27 whose products are sold and delivered in this Commonwealth shall
28 give distributing rights for such products in designated
29 geographical areas to specific importing distributors, and such
30 importing distributor shall not sell or deliver malt or brewed

1 beverages manufactured by the out of State manufacturer to any
2 person issued a license under the provisions of this act whose
3 licensed premises are not located within the geographical area
4 for which he has been given distributing rights by such
5 manufacturer. Should a licensee accept the delivery of such malt
6 or brewed beverages in violation of this section, said licensee
7 shall be subject to a suspension of his license for at least
8 thirty days: Provided, That the importing distributor holding
9 such distributing rights for such product shall not sell or
10 deliver the same to another importing distributor without first
11 having entered into a written agreement with the said secondary
12 importing distributor setting forth the terms and conditions
13 under which such products are to be resold within the territory
14 granted to the primary importing distributor by the
15 manufacturer.

16 When a Pennsylvania manufacturer of malt or brewed beverages
17 licensed under this article names or constitutes a distributor
18 or importing distributor as the primary or original supplier of
19 his product, he shall also designate the specific geographical
20 area for which the said distributor or importing distributor is
21 given distributing rights, and such distributor or importing
22 distributor shall not sell or deliver the products of such
23 manufacturer to any person issued a license under the provisions
24 of this act whose licensed premises are not located within the
25 geographical area for which distributing rights have been given
26 to the distributor and importing distributor by the said
27 manufacturer: Provided, That the importing distributor holding
28 such distributing rights for such product shall not sell or
29 deliver the same to another importing distributor without first
30 having entered into a written agreement with the said secondary

1 importing distributor setting forth the terms and conditions
2 under which such products are to be resold within the territory
3 granted to the primary importing distributor by the
4 manufacturer. Nothing herein contained shall be construed to
5 prevent any manufacturer from authorizing the importing
6 distributor holding the distributing rights for a designated
7 geographical area from selling the products of such manufacturer
8 to another importing distributor also holding distributing
9 rights from the same manufacturer for another geographical area,
10 providing such authority be contained in writing and a copy
11 thereof be given to each of the importing distributors so
12 affected.

13 * * *

14 Section 19. The act is amended by adding a section to read:

15 Section 431.2. Distributor Package Reform Permit.--(a) The
16 board may issue a distributor package reform permit to a
17 currently licensed distributor who makes application and pays
18 the requisite permit fee for use at the same place the
19 distributor maintains for the sale of malt and brewed beverages.

20 (b) For a permit under subsection (a), the board shall
21 require an annual fee of one thousand dollars (\$1,000).

22 (c) Notwithstanding any other provision of this act, the
23 permit shall allow the holder to:

24 (1) Break the bulk of a case and sell a unit of that case in
25 quantities not less than sixty ounces so long as the holder only
26 sells a package prepared for sale by the manufacturer of no more
27 than twelve original containers.

28 (2) Sell a growler FILLED WITH MALT OR BREWED BEVERAGES.

<--

29 (d) Before the holder of an enhanced distributor license
30 breaks the bulk of a case of malt or brewed beverages for the

purpose of selling units of the case, the licensee shall inspect
such case for damage and appropriate production date. When the
licensee breaks the bulk of a case of malt or brewed beverages
for the purpose of selling units of the case, the licensee shall
bear all the risk of loss and shall be responsible for the
destruction of any malt or brewed beverages which violate the
manufacturer's specifications relating to sales by a certain
date or within a number of days of the production date.

(e) As used in this section:

"Unit" shall mean an undamaged bottle, can from a case or a
growler.

Section 20. Section 432(d) and (f) of the act, amended
January 6, 2006 (P.L.1, No.1) and December 22, 2011 (P.L.530,
No.113), are amended and the section is amended by adding a
subsection to read:

Section 432. Malt and Brewed Beverages Retail Licenses.--* *

*

(d) The board shall, in its discretion, grant or refuse any
new license, the transfer of any license to a new location or
the extension of an existing license to cover an additional area
if such place proposed to be licensed is within three hundred
feet of any church, hospital, charitable institution, school, or
public playground, or if such new license, transfer or extension
is applied for a place which is within two hundred feet of any
other premises which is licensed by the board. The board shall
refuse any application for a new license, the transfer of any
license to a new location or the extension of an existing
license to cover an additional area if, in the board's opinion,
such new license, transfer or extension would be detrimental to
the welfare, health, peace and morals of the inhabitants of the

1 neighborhood within a radius of five hundred feet of the place
2 to be licensed. The board may enter into an agreement with the
3 applicant concerning additional restrictions on the license in
4 question. If the board and the applicant enter into such an
5 agreement, such agreement shall be binding on the applicant.
6 Failure by the applicant to adhere to the agreement will be
7 sufficient cause to form the basis for a citation under section
8 471 and for the nonrenewal of the license under section 470. If
9 the board enters into an agreement with an applicant concerning
10 additional restrictions, those restrictions shall be binding on
11 subsequent holders of the license until the license is
12 transferred to a new location or until the board enters into a
13 subsequent agreement removing those restrictions. If the
14 application in question involves a location previously licensed
15 by the board, then any restrictions imposed by the board on the
16 previous license at that location shall be binding on the
17 applicant unless the board enters into a new agreement
18 rescinding those restrictions[. The board shall refuse any
19 application for a new license, the transfer of any license to a
20 location where the sale of liquid fuels or oil is conducted or
21 the extension of an existing license to cover an additional
22 area]: And provided further, That the board shall have the
23 discretion to refuse a license to any person or to any
24 corporation, partnership or association if such person, or any
25 officer or director of such corporation, or any member or
26 partner of such partnership or association shall have been
27 convicted or found guilty of a felony within a period of five
28 years immediately preceding the date of application for the said
29 license. The board may, in its discretion, refuse an application
30 for an economic development license under section 461(b.1) or an

1 application for an intermunicipal transfer or a license if the
2 board receives a protest from the governing body of the
3 receiving municipality. The receiving municipality of an
4 intermunicipal transfer or an economic development license under
5 section 461(b.1) may file a protest against the approval for
6 issuance of a license for economic development or an
7 intermunicipal transfer of a license into its municipality, and
8 such municipality shall have standing in a hearing to present
9 testimony in support of or against the issuance or transfer of a
10 license. Upon any opening in any quota, an application for a new
11 license shall only be filed with the board for a period of six
12 months following said opening.

13 * * *

14 (f) Hotel, eating places, or municipal golf course retail
15 dispenser licensees may sell malt or brewed beverages between
16 the hours of [eleven] nine o'clock antemeridian on Sunday and
17 two o'clock antemeridian on Monday upon purchase of a special
18 permit from the board at an annual fee as prescribed in section
19 614-A of the act of April 9, 1929 (P.L.177, No.175), known as
20 "The Administrative Code of 1929," which shall be in addition to
21 any other license fees. Notwithstanding this provision, a
22 licensee holding such a special permit may begin selling malt or
23 brewed beverages on Sunday between the hours of nine o'clock
24 antemeridian and eleven o'clock antemeridian provided that the
25 licensee offers a meal, as that term is defined in section 406,
26 beginning at nine o'clock antemeridian.

27 (g) The board may issue to any retail dispenser licensee a
28 restaurant license in exchange for the retail dispenser license
29 in any municipality which has approved the granting of liquor
30 licenses.

1 (1) An applicant under this section shall surrender his
2 retail dispenser license for cancellation prior to the issuance
3 of the new restaurant license.

4 (2) The applicant for such an exchange of license shall file
5 an application for a restaurant liquor license and shall post
6 notice of such application in the manner provided in section
7 403. In determining whether the exchange shall be granted the
8 board shall have the same discretion as provided in section 404
9 in the case of any new license.

10 (3) The provisions of section 461 pertaining to a quota do
11 not pertain to this section for exchange purposes.

12 (4) The board shall charge a one-time upgrade fee of not
13 more than thirty thousand dollars (\$30,000).

14 Section 21. Sections 436(e) and 437(e) of the act are
15 amended to read:

16 Section 436. Application for Distributors', Importing
17 Distributors' and Retail Dispensers' Licenses.--* * *

18 (e) That the applicant is not, or in case of a partnership
19 or association, that the members or partners are not, and in the
20 case of a corporation, that the officers and directors are not,
21 in any manner pecuniarily interested, either directly or
22 indirectly, in the profits of any other class of business
23 regulated under this article, except as hereinafter permitted.

24 The requirements of this section shall not prohibit a
25 distributor from holding a wine and spirits retail license, or
26 an importing distributor from holding a wine and spirits
27 wholesale license, under the conditions provided under Article
28 III-A.

29 * * *

30 Section 437. Prohibitions Against the Grant of Licenses.--*

1 * *

2 (e) No distributor's or importing distributor's license
3 shall be issued for any premises in any part of which there is
4 operated any retail license for the sale of liquor or malt or
5 brewed beverages. The requirements of this section shall not
6 prohibit a distributor from holding a wine and spirits retail
7 license or an importing distributor from holding a wine and
8 spirits wholesale license, under the conditions provided under
9 Article III-A.

10 * * *

11 Section 22. Section 438 of the act, amended June 25, 2010
12 (P.L.217, No.35), is amended to read:

13 Section 438. Number and Kinds of Licenses Allowed Same
14 Licensee.--(a) Any retail dispenser may be granted licenses to
15 maintain, operate or conduct any number of places for the sale
16 of malt or brewed beverages, but a separate license must be
17 secured for each place where malt or brewed beverages are sold.

18 (b) [No person shall possess or be issued more than one
19 distributor's or importing distributor's license.] A person may
20 not possess or be issued more than five distributor licenses or
21 more than one distributor license in a county.

22 (c) No person shall possess more than one class of license,
23 except that a holder of a retail dispenser's license may also be
24 a holder of a retail liquor license or a wine and spirits retail
25 license consistent with the restrictions contained in Article
26 III-A: Provided, however, That nothing contained in this section
27 shall be construed to prohibit a member of the governing board
28 of a public authority created under subdivision (n) of Article
29 XXIII of the act of August 9, 1955 (P.L.323, No.130), known as
30 "The County Code," from having an interest in a distributor or

1 importing distributor license notwithstanding the fact that the
2 public authority has an interest in one or more retail licenses
3 or acts as a landlord for one or more retail licenses: And,
4 provided further, That, notwithstanding any other provision of
5 this section, an entity may acquire both a manufacturer's
6 license or a limited winery license and a hotel, restaurant or
7 retail dispenser license for use at the same location and more
8 than one location may be so licensed. The licenses and a
9 person's interest in the licenses or in the entity holding the
10 licenses shall not be subject to this section.

11 Section 23. Section 441 of the act, amended or added May 31,
12 1996 (P.L.312, No.49), December 20, 1996 (P.L.1513, No.196),
13 June 18, 1998 (P.L.664, No.86), December 9, 2002 (P.L.1653,
14 No.212), June 28, 2011 (P.L.55, No.11) and December 22, 2011
15 (P.L.530, No.113), is amended to read:

16 Section 441. Distributors' and Importing Distributors'
17 Restrictions on Sales, Storage, Etc.--(a) No distributor or
18 importing distributor shall purchase, receive or resell any malt
19 or brewed beverages except:

20 (1) in the original containers as prepared for the market by
21 the manufacturer at the place of manufacture;

22 (2) in the case of identical containers repackaged in the
23 manner described by subsection (f); or

24 (3) as provided in section 431(b).

25 (b) No distributor or importing distributor, except for a
26 distributor that also holds a distributor package reform permit
27 under section 431.2, shall sell any malt or brewed beverages in
28 quantities of less than a case or original containers containing
29 one hundred twenty-eight ounces or more which may be sold
30 separately: Provided, That no malt or brewed beverages sold or

1 delivered shall be consumed upon the premises of the distributor
2 or importing distributor, or in any place provided for such
3 purpose by such distributor or importing distributor.
4 Notwithstanding any other provision of this section or act, malt
5 or brewed beverages which are part of a tasting conducted
6 pursuant to the board's regulations may be consumed on licensed
7 premises.

8 (c) No distributor or importing distributor shall maintain
9 or operate any place where sales are made other than that for
10 which the license is granted.

11 (d) (1) No distributor shall maintain any place for the
12 storage of malt or brewed beverages except in the same
13 municipality in which the licensed premises is located and
14 unless the same has been approved by the board. In the event
15 there is no place of cold storage in the same municipality, the
16 board may approve a place of cold storage in the nearest
17 municipality.

18 (2) No importing distributor shall maintain any place for
19 the storage of malt or brewed beverages except in the franchise
20 territory in which the licensed premises is located and unless
21 the same has been approved by the board. The board shall issue
22 no more than one storage facility license to an importing
23 distributor. The storage location shall be designated solely as
24 a storage facility, from which only sales to other licensees are
25 permitted. Retail sales may be made at the licensed location
26 pursuant to subsection (c). If the importing distributor
27 maintains a storage location for cold storage in the same
28 municipality in which the importing distributor is licensed or a
29 nearby municipality, the importing distributor may continue to
30 maintain that cold storage location in addition to another

1 storage location within their franchise territory.

2 (e) No distributor or importing distributor shall purchase,
3 sell, resell, receive or deliver any malt or brewed beverages,
4 except in strict compliance with the provisions of subsection
5 (b) of section 431 of this act.

6 (f)(1) To salvage one or more salable cases from one or more
7 damaged cases, cartons or packages of malt or brewed beverages,
8 a distributor or importing distributor may repackage consequent
9 to inadvertent damage and sell a case, carton or package of
10 identical units of malt or brewed beverages.

11 (2) Repackaging is permissible only to the extent made
12 necessary by inadvertent damage. Repackaging not consequent to
13 damage is prohibited.

14 (3) The term "identical units" as used in this subsection
15 means undamaged bottles or cans of identical brand, package and
16 volume.

17 (g) All malt or brewed beverages purchased by an importing
18 distributor from a Pennsylvania manufacturer of malt or brewed
19 beverages or from any person located outside this Commonwealth
20 for resale shall be invoiced to the importing distributor, shall
21 come physically into the possession of such importing
22 distributor and shall be unloaded into and distributed from the
23 licensed premises of such importing distributor. The board may
24 act to further define and control the storage and distribution
25 of malt or brewed beverages in conformity with this section and
26 this act.

27 (h) As used in this section, the term "franchise territory"
28 shall mean the geographically contiguous area in which an
29 importing distributor has been given rights for the sale or
30 resale of malt or brewed beverages.

1 (i) Notwithstanding any other provision to the contrary,
2 when making a sale of malt or brewed beverages to a private
3 individual, no distributor or importing distributor may be
4 required to collect the name, address or any other identifying
5 information of the private individual for the purpose of keeping
6 a record of the quantity of cases or volume of malt or brewed
7 beverages purchased.

8 (j) No distributor shall engage in the sale of wine without
9 first obtaining a wine and spirits retail license under Article
10 III-A. Sales of wine may only be made on premises licensed for
11 the sale of malt or brewed beverages.

12 Section 24. Section 442 of the act, amended or added
13 December 9, 2002 (P.L.1653, No.212), December 16, 2002
14 (P.L.1806, No.221), May 8, 2003 (P.L.1, No.1), July 17, 2003
15 (P.L.63, No.15), November 29, 2006 (P.L.1421, No.155), June 28,
16 2011 (P.L.55, No.11), December 22, 2011 (P.L.530, No.113) and
17 July 5, 2012 (P.L.1007, No.116), is amended to read:

18 Section 442. Retail Dispensers' Restrictions on Purchases
19 and Sales.--(a) (1) No retail dispenser shall purchase or
20 receive any malt or brewed beverages except in original
21 containers as prepared for the market by the manufacturer at the
22 place of manufacture. The retail dispenser may thereafter break
23 the bulk upon the licensed premises and sell or dispense the
24 same for consumption on or off the premises so licensed. No
25 retail dispenser may sell malt or brewed beverages for
26 consumption off the premises in quantities in excess of one
27 hundred ninety-two fluid ounces[.] unless the licensee acquires
28 a retail package reform permit issued by the board under section
29 407(c). Sales may be made in open or closed containers,
30 Provided, however, That a municipality may adopt an ordinance

1 restricting open containers in public places. No club licensee
2 may sell any malt or brewed beverages for consumption off the
3 premises where sold or to persons not members of the club.

4 (2) Notwithstanding any other provision of law or any
5 existing permit authorizing the sale of malt or brewed beverages
6 for consumption off the premises, a retail dispenser licensee
7 located in a city of the first class who is otherwise permitted
8 to sell malt or brewed beverages for consumption off the
9 premises may not do so after October 31, 2007, unless it
10 acquires a permit from the board.

11 (3) The application for a permit to sell malt or brewed
12 beverages for consumption off the premises shall be on forms
13 designated by the board and contain such information as the
14 board may require. The application and renewal fee shall be as
15 prescribed in section 614-A(28) of the act of April 9, 1929
16 (P.L.177, No.175), known as "The Administrative Code of 1929."
17 However, no applicant who currently has a permit shall be
18 required to pay any additional fees under section 614-A(28) of
19 "The Administrative Code of 1929" in order to continue selling
20 malt or brewed beverages for consumption off the premises at its
21 currently licensed location for the licensing term beginning
22 November 1, 2007, and ending October 31, 2008.

23 (4) The application for a permit to sell malt or brewed
24 beverages for consumption off the premises must be accompanied
25 by a copy of the approval of such request by the hearing board
26 authorized by this section.

27 (5) A city of the first class shall create a hearing board
28 within its Department of Licenses and Inspections to hear
29 requests from licensees who are seeking a permit from the
30 hearing board authorizing the licensee to sell malt or brewed

1 beverages for consumption off the premises. Each hearing board
2 shall consist of three persons appointed by the mayor of the
3 city of the first class, who are subject to approval by the city
4 council of the city of the first class. Each person so appointed
5 shall serve at the pleasure of the appointing authority. The
6 hearing board may, in its discretion, hold hearings to adduce
7 testimony regarding a request. The hearing board must render a
8 decision within ninety days of receipt of a request for approval
9 of a permit to sell malt or brewed beverages for consumption off
10 the premises. The hearing board must approve the request unless
11 it finds that doing so would adversely affect the welfare,
12 health, peace and morals of the city or its residents. A
13 decision by the hearing board to deny a request may be appealed
14 to the court of common pleas in the county in which the city is
15 located. The failure to render a decision by the hearing board
16 within the required time period shall be deemed approval of the
17 permit.

18 (6) Upon being satisfied that the applicant has fulfilled
19 all the requirements of this act and the board's regulations,
20 the board shall approve the application. Such permits shall
21 expire upon the transfer of the license to a new entity or to a
22 new location, or both; otherwise, such permits shall expire at
23 the same time as the expiration of the underlying license.

24 (b) No retail dispenser shall sell any malt or brewed
25 beverages for consumption on the licensed premises except in a
26 room or rooms or place on the licensed premises at all times
27 accessible to the use and accommodation of the general public,
28 but this section shall not be interpreted to prohibit a retail
29 dispenser from selling malt or brewed beverages in a hotel or
30 club house in any room of such hotel or club house occupied by a

1 bona fide registered guest or member entitled to purchase the
2 same or to prohibit a retail dispenser from selling malt or
3 brewed beverages in a bowling alley where the licensed premises
4 and bowling alley are immediately adjacent and under the same
5 roof.

6 (c) For the purpose of this section any person who is an
7 active member of another club which is chartered by the same
8 state or national organization shall have the same rights and
9 privileges as members of the particular club.

10 (d) For the purposes of this section, any person who is an
11 active member of any volunteer firefighting company, association
12 or group of this Commonwealth, whether incorporated or
13 unincorporated, shall upon the approval of any club composed of
14 volunteer firemen licensed under this act, have the same social
15 rights and privileges as members of such licensed club.

16 (e) (1) The holder of a retail dispenser license located in
17 a hotel may allow persons to transport malt or brewed beverages
18 from the licensed portion of the premises to the unlicensed
19 portion of the premises so long as the malt or brewed beverages
20 remain on the hotel property.

21 (2) In addition, the holder of a retail dispenser license
22 located on a golf course may allow its patrons to order malt or
23 brewed beverages on licensed premises for subsequent delivery by
24 the licensee on nonlicensed portions of the premises, including
25 the golf course.

26 (3) In addition, a holder of a restaurant or club license
27 located on a golf course may sell, furnish or give liquor or
28 malt or brewed beverages on the unlicensed portion of the golf
29 course so long as the liquor or malt or brewed beverages remain
30 on the restaurant, club or golf course.

1 (4) The holder of a restaurant license located immediately
2 adjacent to and under the same roof of a bowling center may
3 allow persons to transport liquor or malt or brewed beverages
4 from the licensed portion of the premises to the unlicensed
5 portion of the premises so long as the liquor or malt or brewed
6 beverages remain within the bowling center.

7 (f) The holder of an eating place retail dispenser license
8 may obtain an off-premises catering permit under section 493(33)
9 to hold a catered function off of the licensed premises and on
10 otherwise unlicensed premises where the licensee may sell malt
11 or brewed beverages by the glass, open bottle or any other
12 container, together with food, for consumption on those premises
13 solely used for catering premises. Functions conducted under the
14 authority of the permit shall be subject to the following:

15 (1) malt or brewed beverages may only be provided during the
16 days and hours that the license holder may otherwise sell malt
17 or brewed beverages;

18 (2) each catered function shall last no longer than one day
19 and not more than fifty catered functions may be held each
20 calendar year by each license holder for use with a particular
21 license;

22 (3) a catered function shall not be held at a location that
23 is already subject to the applicant's or another licensee's
24 license;

25 (4) a permit shall not be issued to an applicant whose
26 license is in safekeeping;

27 (5) a permit shall not be issued to a location that is
28 subject to a pending objection by the director of the Bureau of
29 Licensing or the board under section 470(a.1);

30 (6) a permit shall not be issued to a location that is

1 subject to a pending license suspension under section 471 or the
2 one-year prohibition on the issuance or transfer of a license
3 under section 471(b);

4 (7) no malt or brewed beverages may be taken from the
5 permitted location by a patron, but the applicant may transport
6 malt or brewed beverages to and from its licensed premises to
7 the proposed premises;

8 (8) written notice of the catered function as enumerated in
9 paragraph (9) shall be provided to the local police and the
10 enforcement bureau at least seven days in advance of the event;

11 (9) written notice shall be provided to the board at least
12 thirty days prior to a catered function. Written notice must
13 include the location of the function, time of the function, host
14 of the function, general information regarding the guests
15 expected at the function as well as any information the board
16 shall from time to time prescribe. The board may, in its
17 discretion, accept notice in an electronic format. The board
18 may, in its discretion, waive the thirty-day notice period for a
19 catered function if:

20 (i) the applicant has previously conducted functions that
21 meet the requirements of this act;

22 (ii) the applicant is a licensee in good standing with the
23 board;

24 (iii) notification was received at least fourteen days prior
25 to the catered function; and

26 (iv) the applicant pays a late fee of one hundred dollars
27 (\$100);

28 (10) the board shall, in its discretion, approve or
29 disapprove a catered function if the applicant fails to provide
30 timely notice of the catered function, does not intend to

1 conduct a function that meets the requirements of this act or
2 has previously conducted a function that did not meet the
3 requirements of this act;

4 (11) if a catered function is scheduled to occur on private
5 property, the owner of that property is deemed to have submitted
6 to the jurisdiction of the enforcement bureau, and the warrant
7 required by section 211(a)(2) of this act shall not be necessary
8 for the enforcement bureau to enter and search the premises
9 during the function or any activities related to the function;

10 (12) all servers at the off-premises catered function shall
11 be in compliance with the responsible alcohol management
12 provisions under section 471.1 of this act;

13 (13) no catered function may be held for more than five
14 hours per day and must end by midnight;

15 (14) neither the owner of the property nor the applicant may
16 sell tickets to a catered function unless one of the following
17 conditions is met:

18 (i) the applicant has contracted with an eligible entity for
19 the function, and the function is being used to raise money for
20 the eligible entity's organization;

21 (ii) the applicant has contracted with a nonprofit
22 organization as defined under section 501(c)(3) of the Internal
23 Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)),
24 for an event which has the sole purpose of raising funds for
25 that nonprofit organization;

26 (iii) the applicant has contracted with an organization that
27 holds tax-exempt status under section 527 of the Internal
28 Revenue Code of 1986;

29 (15) catered functions held on unlicensed premises shall be
30 subject to section 493(34) of this act;

1 (16) catered functions may not be held in locations that are
2 subject to a pending, protested transfer application;

3 (17) a permit may not be issued to a licensee who is subject
4 to objection under the board's nuisance bar program;

5 (18) a permit shall not be issued to a licensee for use in
6 any location that is mobile; and

7 (19) a permit shall not be issued for use on any location
8 used for parking at a sports event or concert event.

9 (g) Notwithstanding any other provision of law or
10 regulation, the holder of a retail dispenser license may hold
11 happy hours up to four consecutive or nonconsecutive hours per
12 day and up to fourteen hours per week during which the holder
13 discounts the price of alcoholic beverages. No discounts may be
14 given between the hours of midnight and the legal closing time.
15 Notice of all happy hours shall be visibly posted on the
16 licensed premises seven days prior to the happy hour. Except as
17 provided in this subsection, a licensee shall comply with the
18 provisions of 40 Pa. Code § 13.102 (relating to discount pricing
19 practices). Events conducted under the authority of 40 Pa. Code
20 § 13.102(b) shall not be counted against the four-hours per day
21 or fourteen-hours per week.

22 Section 25. Section 443(b) of the act, amended May 31, 1996
23 (P.L.312, No.49), is amended and the section is amended by
24 adding a subsection to read:

25 Section 443. Interlocking Business Prohibited.--* * *

26 (b) No distributor or importing distributor and no officer
27 or director of any distributor or importing distributor shall at
28 the same time be a manufacturer, a retail dispenser or a liquor
29 licensee, or be an officer, director, stockholder or creditor of
30 a manufacturer, a retail dispenser or a liquor licensee, or,

1 directly or indirectly, own any stock of, or have any financial
2 interest in, or be the owner, proprietor or lessor of, any place
3 covered by any other malt or brewed beverage or liquor license.
4 The requirements of this section or any other provision of law,
5 shall not prohibit the holder of a distributor license from
6 holding a wine and spirits retail license issued pursuant to
7 Article III-A, or an importing distributor from also holding a
8 wine and spirits wholesale license issued pursuant to Article
9 III-A.

10 * * *

11 (h) (1) Notwithstanding any other provision of law, a
12 manufacturer or licensee and its officers, directors,
13 shareholders, servants, agents or employees may contribute and a
14 manufacturer or licensee and its officers, directors,
15 shareholders, servants, agents or employees may accept moneys or
16 other things of value solely for the administration of a
17 responsible alcohol management training program for alcohol
18 service personnel as provided under section 471.1. The moneys or
19 other things of value may be provided by or to a manufacturer or
20 licensee and its officers, directors, shareholders, servants,
21 agents or employees directly of, by or to a trade organization
22 consisting, in whole or in part, of a group of licensees.

23 (2) The manufacturer, licensee and trade organization
24 associated with the person providing moneys or other things of
25 value must keep a record of the value of the moneys or other
26 things of value provided, the date provided and the entity to
27 whom the moneys or other things of value were provided, as part
28 of the records required under section 493(12).

29 (3) The manufacturer, licensee and trade organization
30 associated with the person receiving the moneys or other things

1 of value must keep a record of the value of the moneys or other
2 things of value received, the date provided, the entity from
3 whom the moneys or other things of value were received and the
4 manner in which the moneys or other things of value were used,
5 as part of the records required under section 493(12) of this
6 act.

7 Section 26. Section 446(a)(1) of the act, amended December
8 22, 2011 (P.L.530, No.113), is amended to read:

9 Section 446. Breweries.--(a) Holders of a brewery license
10 may:

11 (1) Sell malt or brewed beverages produced and owned by the
12 brewery under such conditions and regulations as the board may
13 enforce, to individuals for consumption on the licensed premises
14 in any container or package of any volume and to hotel,
15 restaurant, club, grocery stores and public service liquor
16 licensees.

17 * * *

18 Section 27. Section 461(a) of the act, amended October 24,
19 2012 (P.L.1203, No.149), is amended and the section is amended
20 by adding a subsection to read:

21 Section 461. Limiting Number of Retail Licenses To Be Issued
22 In Each County.--(a) No additional restaurant, eating place
23 retail dispenser or club licenses shall be issued within a
24 county if the total number of restaurant and eating place retail
25 dispenser licenses is greater than one license for each three
26 thousand inhabitants in the county, except the board may issue
27 licenses to public venues, performing arts facilities,
28 continuing care retirement communities, airport restaurants,
29 municipal golf courses, hotels, privately-owned private golf
30 courses, privately-owned public golf courses, racetracks,

1 automobile racetracks, nonprimary pari-mutuel wagering
2 locations, privately-owned ski resorts, grocery stores and to
3 any other entity which this act specifically exempts from the
4 limitations provided in this section, and the board may issue a
5 license to a club situated in a borough having a population less
6 than eight thousand inhabitants which is located in a county of
7 the second class A whose application is filed on or before
8 February 28, 2001. In addition, the board may issue an eating
9 place retail dispenser license for on-premises sales only to the
10 owner or operator of a facility having a minimum of a one-half
11 mile asphalt track and having a permanent seating capacity of at
12 least six thousand people used principally for holding
13 automobile races, regardless of the number of restaurant and
14 eating place retail dispenser licenses already issued in that
15 county. When determining the number of restaurant and eating
16 place retail dispenser licenses issued in a county for the
17 purposes of this section, licenses exempted from this limitation
18 and club licenses shall not be considered. Inhabitants of dry
19 municipalities shall be considered when determining the
20 population in a county. Licenses shall not be issued or
21 transferred into municipalities where such licenses are
22 prohibited pursuant to local referendum in accordance with
23 section 472. Licenses approved for intermunicipal transfer may
24 not be transferred from the receiving municipality for a period
25 of five years after the date that the licensed premises are
26 operational in the receiving municipality.

27 (a.1) An additional grocery store retail license may not be
28 issued within a county if the total number of grocery store
29 retail licenses is greater than one license for every fifteen
30 thousand inhabitants in the county, provided that a total of two

1 such licenses may be granted in a county in this Commonwealth.

2 * * *

3 Section 28. Section 468(a) and (e) of the act, amended or
4 added December 20, 2000 (P.L.992, No.141), February 21, 2002
5 (P.L.103, No.10), June 28, 2011 (P.L.55, No.11) and December 22,
6 2011 (P.L.530, No.113), are amended to read:

7 Section 468. Licenses Not Assignable; Transfers.--(a) (1)
8 Licenses issued under this article may not be assigned. The
9 board, upon payment of the transfer filing fee, is hereby
10 authorized to transfer any license issued by it under the
11 provisions of this article from one person to another or from
12 one place to another, or both. Except for restaurant liquor and
13 eating place retail dispenser licenses transferred under section
14 461(b.4), if the license is a retail license, the new location
15 must be within the same county as the existing location or, if
16 the municipality is located in more than one county, within the
17 same municipality as the existing location.

18 (2) In the case of distributor and importing distributor
19 licenses, the board may transfer any such license from its place
20 in a municipality to a place in any other municipality within
21 the same county, or from one place to another place within the
22 same municipality, or exchange a distributor license for an
23 importing distributor license or an importing distributor
24 license for a distributor license, if the building for which the
25 license is to be issued has, in the case of an importing
26 distributor license, an area under one roof of two thousand five
27 hundred square feet and, in the case of a distributor license,
28 an area under one roof of one thousand square feet: And
29 provided, That, in the case of all transfers of distributor or
30 importing distributor licenses, whether from a place within the

1 same municipality to another place within the same municipality
2 or from a place in a municipality to a place in any other
3 municipality within the same county, and, in the case of an
4 exchange of a distributor license for an importing distributor
5 license or an importing distributor license for a distributor
6 license, the premises to be affected by the transfer or exchange
7 shall contain an office separate and apart from the remainder of
8 the premises to be licensed for the purpose of keeping records,
9 required by the board, adequate toilet facilities for employes
10 of the licensee and an entrance on a public thoroughfare:

11 Provided, however, That in the event that the majority of the
12 voting electors of a municipality, at an election held under the
13 provisions of any law so empowering them to do, shall vote
14 against the issuance of distributor or importing distributor
15 licenses in such municipality, the board is hereby authorized to
16 transfer any such distributor or importing distributor license
17 from its place in such municipality to a place in any other
18 municipality within the same county, upon application prior to
19 the expiration of any such license and upon payment of the
20 transfer filing fee and the execution of a new bond; but no
21 transfer shall be made to a person who would not have been
22 eligible to receive the license originally nor for the
23 transaction of business at a place for which the license could
24 not lawfully have been issued originally, nor, except as herein
25 provided, to a place as to which a license has been revoked.

26 (3) [No license shall be transferred to any place or
27 property upon which is located as a business the sale of liquid
28 fuels and oil.] Except in cases of emergency such as death,
29 serious illness, or circumstances beyond the control of the
30 licensee, as the board may determine such circumstances to

1 justify its action, transfers of licenses may be made only at
2 times fixed by the board. In the case of the death of a
3 licensee, the board may transfer the license to the surviving
4 spouse or personal representative or to a person designated by
5 him. From any refusal to grant a transfer or upon the grant of
6 any transfer, the party aggrieved shall have the right of appeal
7 to the proper court in the manner hereinbefore provided.

8 (4) In the event the license to be transferred has been
9 ordered to serve a suspension under section 471 and has not
10 served the suspension at the time the board considers the
11 application and all appeals regarding the suspension have been
12 exhausted, the board may require the transferee to serve the
13 suspension as a condition for approval of the transfer. Further,
14 the board may convert the outstanding suspension into a fine and
15 require the transferee to pay the fine as a condition for
16 approval of the transfer. If the board converts the outstanding
17 suspension to a fine, the fine need not comply with the minimum
18 and maximum amounts set forth in section 471 for the underlying
19 citation.

20 * * *

21 (e) Notwithstanding any other provision of law, the board
22 may not approve an interior connection that is greater than ten
23 feet wide between a licensed business and another business. This
24 subsection shall not prohibit the board from approving a renewal
25 application of a license, even if the licensed business has an
26 interior connection that is greater than ten feet wide to an
27 unlicensed business, if the board had approved the interior
28 connection prior to the effective date of this subsection. This
29 subsection shall not apply to the holder of a grocery store
30 retail license.

1 Section 29. Section 470(a) of the act, amended December 22,
2 2011 (P.L.530, No.113), is amended to read:

3 Section 470. Renewal of Licenses; Temporary Provisions for
4 Licensees in Armed Service.--(a) All applications for renewal
5 or validation of licenses under the provisions of this article
6 shall be filed with tax clearance from the Department of Revenue
7 and the Department of Labor and Industry and requisite license
8 and filing fees, including an application surcharge of seven
9 hundred dollars (\$700), at least sixty days before the
10 expiration date of same: Provided, however, That the board, in
11 its discretion, may accept nunc pro tunc a renewal application
12 filed less than sixty days before the expiration date of the
13 license with the required fees, upon reasonable cause shown and
14 the payment of an additional filing fee of one hundred dollars
15 (\$100.00) for late filing: And provided further, That except
16 where the failure to file a renewal application on or before the
17 expiration date has created a license quota vacancy after said
18 expiration date which has been filled by the issuance of a new
19 license, after such expiration date, but before the board has
20 received a renewal application nunc pro tunc within the time
21 prescribed herein the board, in its discretion, may, after
22 hearing, accept a renewal application filed within two years
23 after the expiration date of the license with the required fees
24 upon the payment of an additional filing fee of two hundred
25 fifty dollars (\$250.00) for late filing. Where any such renewal
26 application is filed less than sixty days before the expiration
27 date, or subsequent to the expiration date, no license shall
28 issue upon the filing of the renewal application until the
29 matter is finally determined by the board and if an appeal is
30 taken from the board's action the courts shall not order the

1 issuance of the renewal license until final determination of the
2 matter by the courts. The board may enter into an agreement with
3 the applicant concerning additional restrictions on the license
4 in question. If the board and the applicant enter into such an
5 agreement, such agreement shall be binding on the applicant.
6 Failure by the applicant to adhere to the agreement will be
7 sufficient cause to form the basis for a citation under section
8 471 and for the nonrenewal of the license under this section. A
9 renewal application will not be considered filed unless
10 accompanied by the requisite filing and license fees and any
11 additional filing fee required by this section. Unless the board
12 shall have given ten days' previous notice to the applicant of
13 objections to the renewal of his license, based upon violation
14 by the licensee or his servants, agents or employes of any of
15 the laws of the Commonwealth or regulations of the board
16 relating to the manufacture, transportation, use, storage,
17 importation, possession or sale of liquors, alcohol or malt or
18 brewed beverages, or the conduct of a licensed establishment, or
19 unless the applicant has by his own act become a person of ill
20 repute, or unless the premises do not meet the requirements of
21 this act or the regulations of the board, the license of a
22 licensee shall be renewed. Notwithstanding any other provision
23 of this act, a noise violation shall not be the sole basis for
24 objection by the board to the renewal of a license unless the
25 licensee has received six prior adjudicated noise citations
26 within a twenty-four-month period.

27 * * *

28 Section 30. Section 471(b) and (e) of the act, amended or
29 added July 6, 2005 (P.L.135, No.39) and April 13, 2006 (P.L.78,
30 No.26), are amended to read:

Section 471. Revocation and Suspension of Licenses; Fines.--

* * *

(b) Hearing on such citations shall be held in the same manner as provided herein for hearings on applications for license. Upon such hearing, if satisfied that any such violation has occurred or for other sufficient cause, the administrative law judge shall immediately suspend or revoke the license, or impose a fine of not less than [fifty dollars (\$50)] two hundred fifty dollars (\$250) nor more than [one thousand dollars (\$1,000)] five thousand dollars (\$5,000), or both, notifying the licensee by registered letter addressed to his licensed premises. If the licensee has been cited and found to have violated section 493(1) insofar as it relates to sales to minors or sales to a visibly intoxicated person, section 493(10) insofar as it relates to lewd, immoral or improper entertainment or section 493(14), (16) or (21), or has been found to be a public nuisance pursuant to section 611, or if the owner or operator of the licensed premises or any authorized agent of the owner or operator has been convicted of any violation of the act of April 14, 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug, Device and Cosmetic Act," or of 18 Pa.C.S. § 5902 (relating to prostitution and related offenses) or 6301 (relating to corruption of minors), at or relating to the licensed premises, the administrative law judge shall immediately suspend or revoke the license, or impose a fine of not less than [one thousand dollars (\$1,000)] five thousand dollars (\$5,000) nor more than [five thousand dollars (\$5,000)] ten thousand dollars (\$10,000), or both. However, if a licensee has been cited and found to have violated section 493(1) as it relates to sales to minors or sales to a visibly intoxicated

1 person but at the time of the sale the licensee was in
2 compliance with the requirements set forth in section 471.1 and
3 the licensee had not sold to minors or visibly intoxicated
4 persons in the previous four years, then the administrative law
5 judge shall immediately suspend or revoke the license, or impose
6 a fine of not less than [fifty dollars (\$50)] one thousand
7 dollars (\$1,000) nor more than [one thousand dollars (\$1,000)]
8 five thousand dollars (\$5,000), or both. The administrative law
9 judge shall notify the licensee by registered mail, addressed to
10 the licensed premises, of such suspension, revocation or fine.
11 In the event the fine is not paid within twenty days of the
12 adjudication, the administrative law judge shall suspend or
13 revoke the license, notifying the licensee by registered mail
14 addressed to the licensed premises. Suspensions and revocations
15 shall not go into effect until thirty days have elapsed from the
16 date of the adjudication during which time the licensee may take
17 an appeal as provided for in this act, except that revocations
18 mandated in section 481(c) shall go into effect immediately. Any
19 licensee whose license is revoked shall be ineligible to have a
20 license under this act until the expiration of three years from
21 the date such license was revoked. In the event a license is
22 revoked, no license shall be granted for the premises or
23 transferred to the premises in which the said license was
24 conducted for a period of at least one year after the date of
25 the revocation of the license conducted in the said premises,
26 except in cases where the licensee or a member of his immediate
27 family is not the owner of the premises, in which case the board
28 may, in its discretion, issue or transfer a license within the
29 said year. In the event the bureau or the person who was fined
30 or whose license was suspended or revoked shall feel aggrieved

1 by the adjudication of the administrative law judge, there shall
2 be a right to appeal to the board. The appeal shall be based
3 solely on the record before the administrative law judge. The
4 board shall only reverse the decision of the administrative law
5 judge if the administrative law judge committed an error of law,
6 abused its discretion or if its decision is not based on
7 substantial evidence. In the event the bureau or the person who
8 was fined or whose license was suspended or revoked shall feel
9 aggrieved by the decision of the board, there shall be a right
10 to appeal to the court of common pleas in the same manner as
11 herein provided for appeals from refusals to grant licenses.
12 Each of the appeals shall act as a supersedeas unless, upon
13 sufficient cause shown, the reviewing authority shall determine
14 otherwise; however, if the licensee has been cited and found to
15 have violated section 493(1) insofar as it relates to sales to
16 minors or sales to a visibly intoxicated person, section 493(10)
17 insofar as it relates to lewd, immoral or improper entertainment
18 or section 493(14), (16) or (21), or has been found to be a
19 public nuisance pursuant to section 611, or if the owner or
20 operator of the licensed premises or any authorized agent of the
21 owner or operator has been convicted of any violation of "The
22 Controlled Substance, Drug, Device and Cosmetic Act," or of 18
23 Pa.C.S. § 5902 or 6301, at or relating to the licensed premises,
24 or if the license has been revoked under section 481(c), its
25 appeal shall not act as a supersedeas unless the reviewing
26 authority determines otherwise upon sufficient cause shown. In
27 any hearing on an application for a supersedeas under this
28 section, the reviewing authority may consider, in addition to
29 other relevant evidence, documentary evidence, including records
30 of the bureau, showing the prior history of citations, fines,

1 suspensions or revocations against the licensee; and the
2 reviewing authority may also consider, in addition to other
3 relevant evidence, evidence of any recurrence of the unlawful
4 activity occurring between the date of the citation which is the
5 subject of the appeal and the date of the hearing. If the
6 reviewing authority is the board, no hearing shall be held on
7 the application for a supersedeas; however, a decision shall be
8 made based on the application, answer and documentary evidence
9 under this subsection. If the application for a supersedeas is
10 for a license that has been revoked under section 481(c), the
11 reviewing authority shall grant the supersedeas only if it finds
12 that the licensee will likely prevail on the merits. No penalty
13 provided by this section shall be imposed for any violations
14 provided for in this act unless the bureau notifies the licensee
15 of its nature within thirty days of the completion of the
16 investigation.

17 * * *

18 (e) If a licensee has been cited and found to have violated
19 section 493(1) for a second or subsequent offense as it relates
20 to sales to minors or sales to a visibly intoxicated person, the
21 administrative law judge, in addition to the penalties set forth
22 in subsection (b), shall impose a suspension of at least two
23 consecutive weekend days when the offense is a second offense or
24 two consecutive Saturdays of operation if the licensee does not
25 hold a Sunday sales permit, and a suspension of at least seven
26 consecutive days of operation when the offense is a third or
27 subsequent offense. The mandatory suspension provision shall not
28 apply to licensees which also hold a license issued by the
29 Pennsylvania Gaming Control Board for the use of their premises.
30 Further, the administrative law judge may, in such instances,

1 require the licensee to comply with the requirements set forth
2 in section 471.1 pertaining to responsible alcohol management.
3 Such compliance may be required for a period of up to one year.
4 Failure to adhere with such an order is sufficient cause for the
5 issuance of a citation under subsection (a).

6 * * *

7 Section 31. Section 471.1(a) of the act, added December 20,
8 2000 (P.L.992, No.141), is amended to read:

9 Section 471.1. Responsible Alcohol Management.--(a) The
10 board is authorized to offer a responsible alcohol service
11 program to licensees. The program shall consist of four parts:
12 new employe orientation, training for alcohol service personnel,
13 manager/owner training and the displaying of responsible alcohol
14 service signage. New employe orientation shall consist of
15 orienting newly hired alcohol service personnel as to
16 Pennsylvania law relating to the sale, furnishing or serving of
17 alcoholic beverages to minors and visibly intoxicated persons.
18 It shall also mean orienting newly hired alcohol service
19 personnel to responsible server practices, as the term is
20 defined by the board, through regulation. Training for alcohol
21 service personnel shall be as set forth by the board, but at
22 minimum it shall consist of training to prevent service of
23 alcohol to minors and to visibly intoxicated persons.
24 Manager/owner training shall be as set forth by the board, but
25 at a minimum it shall consist of training on how to monitor
26 employes, proper service of alcohol and how to develop an
27 appropriate alcohol service policy. The responsible alcohol
28 service signage shall be as set forth by the board and shall
29 consist of signage dealing with the licensee's policy against
30 sales to minors and visibly intoxicated persons. Alcohol service

1 personnel training [may] shall be conducted by [the board or by
2 an entity] entities certified by the board to conduct such
3 training.

4 * * *

5 Section 32. Section 472(a) of the act, amended February 21,
6 2002 (P.L.103, No.10), is amended to read:

7 Section 472. Local Option.--(a) In any municipality or any
8 part of a municipality where such municipality is split so that
9 each part thereof is separated by another municipality, an
10 election may be held, subject to subsection (c), on the date of
11 the primary election immediately preceding any municipal
12 election, but not oftener than once in four years, to determine
13 the will of the electors with respect to the granting of liquor
14 licenses to hotels, restaurants, resort facilities and clubs,
15 not oftener than once in four years, to determine the will of
16 the electors with respect to the granting of liquor licenses to
17 public venues, to performing arts facilities, to continuing care
18 retirement communities, to hotels located on property owned by
19 an accredited college or university, to privately-owned private
20 golf courses or to privately-owned public golf courses, not
21 oftener than once in four years, to determine the will of the
22 electors with respect to the granting of licenses to retail
23 dispensers of malt and brewed beverages, not oftener than once
24 in four years, to determine the will of the electors with
25 respect to granting of licenses to wholesale distributors and
26 importing distributors, not more than once in two years, to
27 determine the will of the electors with respect to the granting
28 of club liquor licenses or club retail dispenser licenses to
29 incorporated units of national veterans' organizations, not
30 oftener than once in two years to determine the will of the

1 electors with respect to the granting of special occasion
2 permits to qualified organizations, not more than once in two
3 years, to determine the will of the electors with respect to
4 granting of licenses to grocery stores, or not more than once in
5 four years, to determine the will of the electors with respect
6 to the establishment[, operation and maintenance by the board of
7 Pennsylvania liquor stores] of wine and spirits retail
8 licensees, within the limits of such municipality or part of a
9 split municipality, under the provisions of this act: Provided,
10 however, Where an election shall have been held at the primary
11 preceding a municipal election in any year, another election may
12 be held under the provisions of this act at the primary
13 occurring the fourth year after such prior election: And
14 provided further, That an election on the question of
15 establishing and operating a State liquor store shall be
16 initiated only in those municipalities, or that part of a split
17 municipality that shall have voted against the granting of
18 liquor licenses; and that an election on the question of
19 granting wholesale distributor and importing distributor
20 licenses shall be initiated only in those municipalities or
21 parts of split municipalities that shall have at a previous
22 election voted against the granting of dispenser's licenses.
23 Whenever electors equal to at least twenty-five per centum of
24 the highest vote cast for any office in the municipality or part
25 of a split municipality at the last preceding general election
26 shall file a petition with the county board of elections of the
27 county for a referendum on the question of granting any of said
28 classes of licenses [or the establishment of Pennsylvania liquor
29 stores], the said county board of elections shall cause a
30 question to be placed on the ballots or on the voting machine

1 board and submitted at the primary immediately preceding the
2 municipal election. Separate petitions must be filed for each
3 question to be voted on. Said proceedings shall be in the manner
4 and subject to the provisions of the election laws which relate
5 to the signing, filing and adjudication of nomination petitions,
6 insofar as such provisions are applicable.

7 When the question is in respect to the granting of liquor
8 licenses, it shall be in the following form:

9 Do you favor the granting of liquor licenses for the
10 sale of liquor in..... Yes
11 of.....? No

12 When the question is in respect to the granting of liquor
13 licenses to resort facilities in those municipalities that do
14 not already allow the retail sale of liquor, it shall be in the
15 following form:

16 Do you favor the granting of liquor licenses to resort
17 facilities for the sale of liquor in the..... Yes
18 of.....? No

19 When the question is in respect to the granting of restaurant
20 liquor licenses for use at public venues in those municipalities
21 that do not already allow the retail sale of liquor, it shall be
22 in the following form:

23 Do you favor the granting of liquor licenses to public
24 venues for the sale of liquor in the..... Yes
25 of.....? No

26 When the question is in respect to the granting of restaurant
27 liquor licenses for use at performing arts facilities in those
28 municipalities that do not already allow the retail sale of
29 alcohol, it shall be in the following form:

30 Do you favor the granting of liquor licenses to

1 performing arts facilities for the sale of liquor in
2 the..... Yes
3 of.....? No

4 When the question is in respect to the granting of liquor
5 licenses for hotels located on property owned by an accredited
6 college or university in those municipalities that do not
7 already allow the granting of liquor licenses, it shall be in
8 the following form:

9 Do you favor the granting of liquor licenses to hotels
10 on property owned by an accredited college or university
11 in the..... Yes
12 of.....? No

13 When the question is in respect to the granting of liquor
14 licenses, for privately-owned private golf courses, it shall be
15 in the following form:

16 Do you favor the granting of liquor licenses for
17 privately-owned private golf courses for the sale of
18 liquor in.....by..... Yes
19 of.....? No

20 When the question is in respect to the granting of liquor
21 licenses, for privately-owned public golf courses, it shall be
22 in the following form:

23 Do you favor the granting of liquor licenses for
24 privately-owned public golf courses for the sale of
25 liquor in.....by..... Yes
26 of.....? No

27 When the question is in respect to the granting of liquor
28 licenses to continuing care retirement communities in those
29 municipalities that have not already approved the granting of
30 liquor licenses, it shall be in the following form:

1 Do you favor the granting of liquor licenses for
2 continuing care retirement communities
3 in.....by..... Yes
4 of.....? No

5 When the question is in respect to the granting of licenses
6 to retail dispensers of malt and brewed beverages, it shall be
7 in the following form:

8 Do you favor the granting of malt and brewed beverage
9 retail dispenser licenses for consumption on premises
10 where sold in the..... Yes
11 of.....? No

12 When the question is in respect to the granting of grocery
13 store licenses for the sale of wine for consumption off the
14 premises, it shall be in the following form:

15 Do you favor the granting of licenses for grocery stores
16 for the sale of wine for consumption off the premises
17 in.....by..... Yes
18 of.....? No

19 When the question is in respect to the granting of licenses
20 to wholesale distributors of malt or brewed beverages and
21 importing distributors, it shall be in the following form:

22 Do you favor the granting of malt and brewed beverage
23 wholesale distributor's and importing distributor's
24 licenses not for consumption on premises where sold in
25 the..... Yes
26 of.....? No

27 When the question is in respect to the granting of club
28 liquor licenses to incorporated units of national veterans'
29 organizations, it shall be in the following form:

30 Do you favor the granting of club liquor licenses to

1 incorporated units of national veterans' organizations
2 in the..... Yes
3 of.....? No

4 When the question is in respect to the granting of club
5 retail dispenser licenses to incorporated units of national
6 veterans' organizations, it shall be in the following form:

7 Do you favor the granting of club retail dispenser
8 licenses to incorporated units of national veterans'
9 organizations in the..... Yes
10 of.....? No

11 When the question is in respect to the granting of special
12 occasion permits allowing the sale of liquor by qualified
13 organizations in municipalities that do not already allow the
14 retail sale of liquor, it shall be in the following form:

15 Do you favor the granting of special occasion permits to
16 allow the sale of liquor by qualified organizations in
17 the..... Yes
18 of.....? No

19 When the question is in respect to the granting of special
20 occasion permits allowing the sale of malt or brewed beverages
21 only by qualified organizations in municipalities that do not
22 already allow the retail sale of malt or brewed beverages, it
23 shall be in the following form:

24 Do you favor the granting of special occasion permits to
25 allow the sale of malt or brewed beverages only by
26 qualified organizations in the..... Yes
27 of.....? No

28 When the question is in respect to the [establishment,
29 operation and maintenance of Pennsylvania liquor stores]
30 granting of licenses to wine and spirits retail operators for

1 the sale of liquor for consumption off the premises, it shall be
2 in the following form:

3 Do you favor the [establishment, operation and
4 maintenance of Pennsylvania liquor stores] granting of
5 wine and spirits retail licenses for the sale of liquor
6 for consumption off the premises in
7 the..... Yes
8 of.....? No

9 In case of a tie vote, the status quo shall obtain. If a
10 majority of the voting electors on any such question vote "yes,"
11 then liquor licenses shall be granted by the board to hotels,
12 restaurants, resort facilities and clubs, or liquor licenses
13 shall be granted by the board to public venues, to performing
14 arts facilities, to continuing care retirement communities, to
15 hotels located on property owned by an accredited college or
16 university, to privately-owned private golf courses or to
17 privately-owned public golf courses, or malt and brewed beverage
18 retail dispenser licenses or wholesale distributor's and
19 importing distributor's license for the sale of malt or brewed
20 beverages shall be granted by the board, or club liquor licenses
21 or club retail dispenser licenses shall be granted by the board
22 to incorporated units of national veterans' organizations, or
23 special occasion permits may be issued to qualified
24 organizations, or [the board may establish, operate and maintain
25 Pennsylvania liquor stores] licenses to grocery stores or to
26 wine and spirits retail licensees, as the case may be, in such
27 municipality or part of a split municipality, as provided by
28 this act; but if a majority of the electors voting on any such
29 question vote "no," then the board shall have no power to grant
30 or to renew upon their expiration any licenses of the class so

1 voted upon in such municipality or part of a split
2 municipality[; or if the negative vote is on the question in
3 respect to the establishment, operation and maintenance of
4 Pennsylvania liquor stores, the board shall not open and operate
5 a Pennsylvania liquor store in such municipality or part of a
6 split municipality, nor continue to operate a then existing
7 Pennsylvania liquor store in the municipality or part of a split
8 municipality for more than two years thereafter or after the
9 expiration of the term of the lease on the premises occupied by
10 such store, whichever period is less, unless and until at a
11 later election a majority of the voting electors vote "yes" on
12 such question].

13 * * *

14 Section 33. Section 491 of the act, amended October 5, 1994
15 (P.L.522, No.77), February 21, 2002 (P.L.103, No.10), December
16 9, 2002 (P.L.1653, No.212), July 17, 2003 (P.L.63, No.15),
17 December 22, 2011 (P.L.530, No.113) and July 5, 2012 (P.L.1007,
18 No.116), is amended to read:

19 Section 491. Unlawful Acts Relative to Liquor, Alcohol and
20 Liquor Licensees.--

21 It shall be unlawful--

22 (1) Sales of Liquor. For any person, by himself or by an
23 employe or agent, to expose or keep for sale, or directly or
24 indirectly, or upon any pretense or upon any device, to sell or
25 offer to sell any liquor within this Commonwealth, except in
26 accordance with the provisions of this act and the regulations
27 of the board. This clause shall not be construed to prohibit
28 hospitals, physicians, dentists or veterinarians who are
29 licensed and registered under the laws of this Commonwealth from
30 administering liquor in the regular course of their professional

1 work and taking into account the cost of the liquor so
2 administered in making charges for their professional service,
3 or a pharmacist duly licensed and registered under the laws of
4 this Commonwealth from dispensing liquor on a prescription of a
5 duly licensed physician, dentist or veterinarian, or selling
6 medical preparations containing alcohol, or using liquor in
7 compounding prescriptions or medicines and making a charge for
8 the liquor used in such medicines, or a manufacturing pharmacist
9 or chemist from using liquor in manufacturing preparations unfit
10 for beverage purposes and making a charge for the liquor so
11 used. All such liquors so administered or sold by hospitals,
12 physicians, dentists, veterinarians, pharmacists or chemists
13 shall conform to the Pharmacopoeia of the United States, the
14 National Formulary, or the American Homeopathic Pharmacopoeia.
15 This clause shall not be construed to prohibit an executor or an
16 administrator of a decedent's estate from selling privately or
17 at public auction liquor which was an asset of the decedent. The
18 board shall establish regulations to ensure that State taxes
19 from the sales will be paid by the estate from the proceeds of
20 the sale. The board may not prohibit a sale of liquor for the
21 reason that it was not lawfully acquired prior to January 1,
22 1934 or has not been purchased from a Pennsylvania Liquor Store
23 or in compliance with Pennsylvania law.

24 (2) Possession or Transportation of Liquor or Alcohol. For
25 any person, except a manufacturer or the board or the holder of
26 a sacramental wine license or of an importer's license or a wine
27 and spirits retail licensee, to possess or transport any liquor
28 or alcohol within this Commonwealth which was not lawfully
29 acquired prior to January first, one thousand nine hundred and
30 thirty-four, or has not been purchased from a Pennsylvania

1 Liquor Store, a wine and spirits wholesale licensee or a
2 licensed limited winery in Pennsylvania, except in accordance
3 with section 488 or the board's regulations. In addition, it
4 shall be lawful for anyone to possess miniatures totaling less
5 than one gallon purchased in another state or a foreign country.
6 The burden shall be upon the person possessing or transporting
7 such liquor or alcohol to prove that it was so acquired.
8 Notwithstanding this section or any other provision of the law,
9 wine may be produced by any person without a license if the wine
10 is not produced for sale and total production does not exceed
11 two hundred gallons per calendar year. Wine produced in
12 accordance with this clause may be used at organized affairs,
13 exhibitions, competitions, contests, tastings or judgments if it
14 is not sold or offered for sale.

15 None of the provisions herein contained shall prohibit nor
16 shall it be unlawful for any person to import into Pennsylvania,
17 transport or have in his possession, an amount of liquor not
18 exceeding one gallon in volume upon which a State tax has not
19 been paid, if it can be shown to the satisfaction of the board
20 that such person purchased the liquor in a foreign country or
21 United States territory and was allowed to bring it into the
22 United States. Neither shall the provisions contained herein
23 prohibit nor make it unlawful for (i) any member of the armed
24 forces on active duty, or (ii) any retired member of the armed
25 forces, or (iii) any totally disabled veteran, or (iv) the
26 spouse of any person included in the foregoing classes of
27 persons to import into Pennsylvania, transport or have in his
28 possession an amount of liquor not exceeding one gallon per
29 month in volume upon which the State tax has not been paid, so
30 long as such liquor has been lawfully purchased from a package

1 store established and maintained under the authority of the
2 United States and is in containers identified in accordance with
3 regulations issued by the Department of Defense. Such liquor
4 shall not be possessed, offered for sale or sold on any licensed
5 premises. The term "package store" as used in this clause shall
6 mean those retail operations located on any of the United States
7 military installations, including an installation of the Army,
8 Navy, Air Force, Marine Corps or Coast Guard.

9 None of the provisions herein contained shall prohibit nor
10 shall it be unlawful for any consul general, consul or other
11 diplomatic officer of a foreign government to import into
12 Pennsylvania, transport or have in his possession liquor upon
13 which a State tax has not been paid, if it can be shown to the
14 satisfaction of the board that such person acquired the liquor
15 in a foreign country and was allowed to bring it into the United
16 States. Such liquor shall not be possessed, offered for sale or
17 sold on any licensed premises.

18 Any person violating the provisions of this clause for a
19 first offense involving the possession or transportation in
20 Pennsylvania of any liquor in a package (bottle or other
21 receptacle) or wine not purchased from a Pennsylvania Liquor
22 Store, a wine and spirits wholesale licensee, a wine and spirits
23 retail licensee or from a licensed limited winery in
24 Pennsylvania, with respect to which satisfactory proof is
25 produced that the required Federal tax has been paid and which
26 was purchased, procured or acquired legally outside of
27 Pennsylvania shall upon conviction thereof in a summary
28 proceeding be sentenced to pay a fine of twenty-five dollars
29 (\$25) for each such package, plus costs of prosecution, or
30 undergo imprisonment for a term not exceeding ninety (90) days.

1 Each full quart or major fraction thereof shall be considered a
2 separate package (bottle or other receptacle) for the purposes
3 of this clause. Such packages of liquor shall be forfeited to
4 the Commonwealth in the manner prescribed in Article VI of this
5 act but the vehicle, boat, vessel, animal or aircraft used in
6 the illegal transportation of such packages shall not be subject
7 to forfeiture: Provided, however, That if it is a second or
8 subsequent offense or if it is established that the illegal
9 possession or transportation was in connection with a commercial
10 transaction, then the other provisions of this act providing for
11 prosecution as a misdemeanor and for the forfeiture of the
12 vehicle, boat, vessel, animal or aircraft shall apply.

13 (3) Purchase of Liquor or Alcohol. For any person within
14 this Commonwealth, by himself or by an employe or agent, to
15 attempt to purchase, or directly or indirectly, or upon any
16 pretense or device whatsoever, to purchase any liquor or alcohol
17 from any person or source [other than a Pennsylvania Liquor
18 Store], except in accordance with the provisions of this act or
19 the regulations of the board.

20 (4) Possession and Use of Decanters. For any person to use
21 decanters of alcoholic beverages except that the use of
22 decanters or other similar receptacles by licensees shall be
23 permitted in the case of wines and then only in accordance with
24 the regulations of the board, but nothing herein contained shall
25 prohibit the manufacture and possession of wine as provided in
26 clause (2) of this section.

27 (5) Failure to Properly Dispose of Empty Liquor Containers.
28 For any restaurant, hotel or club licensee, his servants, agents
29 or employes, to fail to break any package in which liquors were
30 contained, except those decanter packages that the board

1 determines to be decorative, within twenty-four hours after the
2 original contents were removed therefrom, unless the licensee
3 participates in either a municipal recycling program, in
4 accordance with the act of July 28, 1988 (P.L.556, No.101),
5 known as the "Municipal Waste Planning, Recycling and Waste
6 Reduction Act," or a voluntary recycling program. The licensee
7 shall provide proof in writing of the participation in a
8 recycling program upon the demand of the Bureau of Liquor
9 Control Enforcement of the Pennsylvania State Police. The proof
10 of participation shall be provided in a manner as prescribed by
11 the Pennsylvania Liquor Control Board.

12 (6) Sales by Restaurant and Hotel Liquor Licensees. For any
13 restaurant or hotel licensee, his servants, agents or employes,
14 to sell any liquor or malt or brewed beverages for consumption
15 on the licensed premises except in a room or rooms or place on
16 the licensed premises at all times accessible to the use and
17 accommodation of the general public, but this section shall not
18 be interpreted to prohibit a restaurant liquor licensee from
19 providing private affairs the primary function of which is for
20 catering only to weddings or special occasions arranged twenty-
21 four hours in advance, nor to prohibit a hotel licensee, or a
22 restaurant licensee when the restaurant is located in a hotel,
23 from selling liquor or malt or brewed beverages in any room of
24 such hotel occupied by a bona fide guest or to prohibit a
25 restaurant licensee from selling liquor or malt or brewed
26 beverages in a bowling alley where the restaurant and bowling
27 alley are immediately adjacent and under the same roof.

28 (7) Sales of Liquor by Manufacturers and Licensed Importers.
29 For any manufacturer or licensed importer of liquor in this
30 Commonwealth, his agents, servants or employes, to sell or offer

1 to sell any liquor in this Commonwealth except to the board for
2 use in Pennsylvania Liquor Stores, a wine and spirits wholesale
3 licensee, and in the case of a manufacturer, to the holder of a
4 sacramental wine license or an importer's license.

5 Notwithstanding any other provision of this act, a manufacturer
6 or licensed importer may sell or offer to sell liquor for
7 delivery outside of this Commonwealth.

8 (8) Importation and Sales of Alcohol. For any person, to
9 import alcohol into this Commonwealth, or to sell alcohol to any
10 person, except in accordance with section 488 and the provisions
11 of this act or the regulations of the board.

12 (9) Possession of Alcohol. For any person, to have alcohol
13 in his possession, except in accordance with the provisions of
14 this act and the regulations of the board.

15 (10) Fortifying, Adulterating or Contaminating Liquor. For
16 any licensee or any employe or agent of a licensee or of the
17 board, to fortify, adulterate or contaminate any liquor, except
18 as permitted by the regulations of the board, or to refill
19 wholly or in part, with any liquid or substance whatsoever, any
20 liquor bottle or other liquor container.

21 (11) Importation of Liquor. For any person, other than the
22 board, a wine and spirits wholesale licensee or the holder of a
23 sacramental wine license, an importer's license or a direct
24 shipper's license, to import any liquor whatsoever into this
25 Commonwealth, but this section shall not be construed to
26 prohibit railroad and pullman companies from purchasing and
27 selling liquors purchased outside the Commonwealth in their
28 dining, club and buffet cars which are covered by public service
29 liquor licenses and which are operated in this Commonwealth.

30 (12) Delivery of Liquor by Certain Licensees. For a liquor

1 licensee permitted to deliver liquor, to make any deliveries
2 except in his own vehicles bearing his name, address and license
3 number on each side in letters not smaller than two inches in
4 height, or in the vehicle of another person duly authorized to
5 transport liquor within this Commonwealth.

6 (13) Violation of Certain Rules and Regulations of Board.

7 For any person, to violate any rules and regulations adopted by
8 the board [to insure the equitable] relating to wholesale and
9 retail sale and distribution of liquor and alcohol [through the
10 Pennsylvania Liquor Stores] in accordance with the provisions of
11 this act.

12 (14) Offering Commission or Gift to Members of Board [or
13 State Employee]. For any person [selling or offering to sell
14 liquor or alcohol to, or purchasing at wholesale liquor or
15 alcohol from, the board] licensed by the board, either directly
16 or indirectly, to pay or offer to pay any commission, profit or
17 remuneration, or to make or offer to make any gift to any member
18 or employee of the board [or other employee of the Commonwealth]
19 or to anyone on behalf of such member or employee.

20 (15) Importation of alcohol from other states.

21 Notwithstanding any other provision of this act, it shall not be
22 unlawful for a nonlicensed resident of this Commonwealth to
23 purchase alcohol outside of this Commonwealth and import that
24 alcohol back into this Commonwealth so long as the nonlicensed
25 resident remits all applicable taxes to the Department of
26 Revenue. This section shall not apply to alcohol which is
27 shipped into this Commonwealth. Section 488 shall be the sole
28 law governing the shipment of alcohol into this Commonwealth.

29 Section 34. Section 492 of the act, amended February 18,
30 1998 (P.L.162, No.25), November 10, 1999 (P.L.514, No.47),

1 December 20, 2000 (P.L.992, No.141), December 9, 2002 (P.L.1653,
2 No.212), January 6, 2006 (P.L.1, No.1) and December 22, 2011
3 (P.L.530, No.113), is amended to read:

4 Section 492. Unlawful Acts Relative to Malt or Brewed
5 Beverages and Licensees.--

6 It shall be unlawful--

7 (1) Manufacturing Without License. Except as provided
8 herein, for any person, to manufacture malt or brewed beverages,
9 unless such person holds a valid manufacturer's license for such
10 purpose issued by the board. Malt or brewed beverages may be
11 produced by any person without a license if such malt or brewed
12 beverages are produced not for sale and total production does
13 not exceed two hundred gallons per calendar year. Malt or brewed
14 beverages produced in accordance with this paragraph may be used
15 at organized affairs, exhibitions, competitions, contests,
16 tastings or judging provided it is not sold or offered for sale.

17 (2) Sales of Malt or Brewed Beverages for Consumption on the
18 Premises. For any person, to sell to another for consumption
19 upon the premises where sold or to permit another to consume
20 upon the premises where sold, any malt or brewed beverages,
21 unless such person holds a valid retail dispenser license or a
22 valid liquor license issued by the board authorizing the sale of
23 malt or brewed beverages for consumption upon such premises.

24 (3) Sales of Malt or Brewed Beverages Not for Consumption on
25 the Premises. For any person, to sell to another any malt or
26 brewed beverages not for consumption upon the premises where
27 sold, unless such person holds a valid license permitting such
28 sale.

29 (5) Sales of Malt or Brewed Beverages by Hotels, Eating
30 Places or Public Service Licensees During Prohibited Hours.--For

1 any hotel or eating place holding a retail dispenser's license,
2 or the servants, agents or employes of such licensees, to sell,
3 trade or barter in malt or brewed beverages between the hours of
4 two o'clock antemeridian Sunday and seven o'clock in the
5 forenoon of the following Monday, or between the hours of two
6 o'clock antemeridian and seven o'clock antemeridian of any week
7 day: Provided, That notwithstanding any provision to the
8 contrary, whenever the thirty-first day of December falls on a
9 Sunday such sales of malt or brewed beverages may be made on
10 such day after one o'clock postmeridian and until two o'clock
11 antemeridian of the following day. For any public service
12 licensee authorized to sell malt or brewed beverages or the
13 servants, agents or employes of such licensees to sell, trade or
14 barter in malt or brewed beverages between the hours of two
15 o'clock antemeridian and seven o'clock antemeridian on any day.

16 (7) Clubs Selling Between Three O'Clock Antemeridian and
17 Seven O'Clock Antemeridian. For any club retail dispenser, or
18 its servants, agents or employes, to sell malt or brewed
19 beverages between the hours of three o'clock antemeridian and
20 seven o'clock antemeridian on any day.

21 (8) Transportation and Importation of Malt or Brewed
22 Beverages. For any person, to transport malt or brewed beverages
23 except in the original containers, or to transport malt or
24 brewed beverages for another who is engaged in selling either
25 liquor or malt or brewed beverages, unless such person shall
26 hold (a) a license to transport for hire, alcohol, liquor and
27 malt or brewed beverages, as hereinafter provided in this act,
28 or (b) shall hold a permit issued by the board and shall have
29 paid to the board such permit fee, as prescribed in section 614-
30 A of the act of April 9, 1929 (P.L.177, No.175), known as "The

1 Administrative Code of 1929," any other law to the contrary
2 notwithstanding. This clause shall not be construed:

3 (i) to prohibit transportation of malt or brewed beverages
4 through this Commonwealth and not for delivery in this
5 Commonwealth if such transporting is done in accordance with the
6 rules and regulations of the board; or

7 (ii) to prohibit railroad and Pullman companies from selling
8 malt or brewed beverages purchased outside this Commonwealth in
9 their dining, club and buffet cars which are covered by public
10 service liquor licenses and which are operated in this
11 Commonwealth.

12 (9) Transportation of Malt or Brewed Beverages by Licensee.
13 For a malt or brewed beverage licensee, to deliver or transport
14 any malt or brewed beverages, excepting in vehicles bearing the
15 name and address and license number of such licensee painted or
16 affixed on each side of such vehicle in letters no smaller than
17 two inches in height and for purposes not prohibited under this
18 act.

19 (11) Delivery of Malt or Brewed Beverages With Other
20 Commodities. For any manufacturer, importing distributor or
21 distributor, or his servants, agents or employees, except with
22 board approval, to deliver or transport any malt or brewed
23 beverages in any vehicle in which any other commodity is being
24 transported.

25 (12) Distributors and Importing Distributors Engaging in
26 Other Business. For any distributor or importing distributor, or
27 his servants, agents or employees, without the approval of the
28 board, and then only in accordance with board regulations, to
29 engage in any other business whatsoever, except the business of
30 distributing malt or brewed beverages, except that the sale of

1 the following goods shall be permitted on the licensed premises
2 of a distributor or importing distributor:

3 (i) Any book, magazine or other publication related to malt
4 or brewed beverages.

5 (ii) Any equipment, ingredients or other supplies necessary
6 for the unlicensed manufacture of malt or brewed beverages as
7 described in paragraph (1), commonly known as "homebrewing."

8 If the holder of a distributor license acquires a wine and
9 spirits retail license pursuant to Article III-A for use at its
10 licensed premises, it may engage in the sale of liquor, so long
11 as the licensee meets all of the requirements of this act. If
12 the holder of an importing distributor license acquires a wine
13 and spirits wholesale license pursuant to Article III-A for use
14 at its licensed premises, it may engage in the sale of liquor,
15 so long as the licensee meets all of the requirements of this
16 act. The board shall promulgate regulations consistent with this
17 act governing the sale of any other items by a distributor that
18 acquires a wine and spirits retail license, as well as the sale
19 of other items by an importing distributor that acquires a wine
20 and spirits wholesale license.

21 (13) Possession or Storage of Liquor or Alcohol by Certain
22 Licensees. For any distributor, importing distributor or retail
23 dispenser, or his servants, agents or employees, to have in his
24 possession, or to permit the storage of on the licensed premises
25 or in any place contiguous or adjacent thereto accessible to the
26 public or used in connection with the operation of the licensed
27 premises, any alcohol or liquor. This section may not prohibit a
28 distributor that holds a wine and spirits retail license, or an
29 importing distributor that holds a wine and spirits wholesale
30 license, from possessing or permitting the storage of liquor on

1 the licensed premises used in connection with the operation of
2 the licensed premises.

3 (14) Malt or Brewed Beverage Licensees Dealing in Liquor or
4 Alcohol. For any malt or brewed beverage licensee, other than a
5 distributor that holds a wine and spirits retail license, or an
6 importing distributor that holds a wine and spirits wholesale
7 license, a manufacturer, or the servants, agents or employes
8 thereof, to manufacture, import, sell, transport, store, trade
9 or barter in any liquor or alcohol.

10 (15) Selling to Persons Doing Illegal Business. For any malt
11 or brewed beverage licensee, or his servants, agents or
12 employes, to knowingly sell any malt or brewed beverages to any
13 person engaged in the business of illegally selling liquor or
14 malt or brewed beverages.

15 (16) Distributors and Importing Distributors Failing to Keep
16 Records. For any importing distributor or distributor engaged in
17 the sale of products, other than malt or brewed beverages, to
18 fail to keep such complete separate records covering in every
19 respect his transactions in malt or brewed beverages as the
20 board shall by regulation require.

21 (17) Fortifying, Adulterating or Contaminating Malt or
22 Brewed Beverages. For any person, to fortify, adulterate,
23 contaminate, or in any wise to change the character or purity
24 of, the malt or brewed beverages from that as originally
25 marketed by the manufacturer at the place of manufacture.

26 (18) Coercing Distributors and Importing Distributors. For
27 any manufacturer or any officer, agent or representative of any
28 manufacturer to coerce or persuade or attempt to coerce or
29 persuade any person licensed to sell or distribute malt or
30 brewed beverages at wholesale or retail to establish selling

1 prices for its products or to enter into any contracts or
2 agreements, whether written or oral, or take any action which
3 will violate or tend to violate any provisions of this act or
4 any of the rules or regulations promulgated by the board
5 pursuant thereto.

6 (19) Modifying or Terminating Distributing Rights Agreement.
7 For any manufacturer or any officer, agent or representative of
8 any manufacturer to modify, cancel, terminate, rescind or not
9 renew, without good cause, any distributing rights agreement,
10 and in no event shall any modification, cancellation,
11 termination, rescission or nonrenewal of any distributing rights
12 agreement become effective for at least ninety (90) days after
13 written notice of such modification, cancellation, termination,
14 rescission or intention not to renew has been served on the
15 affected party and board by certified mail, return receipt
16 requested, except by written consent of the parties to the
17 agreement. The notice shall state all the reasons for the
18 intended modification, termination, cancellation, rescission or
19 nonrenewal. The distributor or importing distributor holding
20 such agreement shall have ninety (90) days in which to rectify
21 any claimed deficiency, or challenge the alleged cause.

22 If the deficiency shall be rectified within ninety (90) days
23 of notice, then the proposed modification, termination,
24 cancellation, rescission or nonrenewal shall be null and void
25 and without legal effect.

26 If the notice states as one of the reasons for the intended
27 modification, cancellation, termination, rescission or renewal
28 that the importing distributor or distributor's equipment or
29 warehouse requires major changes or additions, then if the
30 distributor or importing distributor shall have taken some

1 positive action to comply with the required changes or
2 additions, the distributor or importing distributor shall have
3 deemed to have complied with the deficiency as set forth in the
4 notice. The notice provisions of this section shall not apply if
5 the reason for termination, cancellation or nonrenewal is
6 insolvency, assignment for the benefit of creditors, bankruptcy,
7 liquidation, fraudulent conduct in its dealings with the
8 manufacturer, revocation or suspension for more than a thirty
9 (30) day period of the importing distributor or distributor
10 license.

11 (20) Interference with Transfer of License, Business or
12 Franchise. (i) For any manufacturer to interfere with or prevent
13 any distributor or importing distributor from selling or
14 transferring his license, business or franchise, whether before
15 or after notice of modification, cancellation, termination,
16 rescission or nonrenewal has been given, provided the proposed
17 purchaser of the business of the distributor or importing
18 distributor meets the material qualifications and standards
19 required of the manufacturers other distributors or importing
20 distributors; (ii) if the proposed transfer of the distributor
21 or importing distributor's business is to a surviving spouse or
22 adult child, the manufacturer shall not, for any reason,
23 interfere with, or prevent, the transfer of the distributor or
24 importing distributor's license, business or franchise. Any
25 subsequent transfer by surviving spouse or adult child shall
26 thereafter be subject to the provisions of subclause (i) above.

27 (21) Inducing or Coercing Distributors or Importing
28 Distributors to Accept Unordered Products or Commit Illegal
29 Acts. For any manufacturer to compel or attempt to compel any
30 distributor or importing distributor to accept delivery of any

1 malt or brewed beverages or any other commodity which shall not
2 have been ordered by the distributor or importing distributor,
3 or to do any illegal act by any means whatsoever including, but
4 not limited to, threatening to amend, cancel, terminate, rescind
5 or refuse to renew any agreement existing between manufacturer
6 and the distributor or importing distributor, or to require a
7 distributor or importing distributor to assent to any condition,
8 stipulation or provision limiting the distributor or importing
9 distributor in his right to sell the products of any other
10 manufacturer.

11 Section 35. Section 492.1 of the act, amended January 6,
12 2006 (P.L.1, No.1) and December 22, 2011 (P.L.530, No.113), is
13 amended to read:

14 Section 492.1. Hours of Operation Relative to Manufacturers,
15 Importing Distributors and Distributors.--(a) Manufacturers may
16 sell or deliver malt or brewed beverages between two o'clock
17 antemeridian of any Monday and twelve o'clock midnight of the
18 following Saturday.

19 (b) (1) Importing distributors and distributors may sell or
20 deliver malt or brewed beverages between two o'clock
21 antemeridian of any Monday and twelve o'clock midnight of the
22 following Saturday to holders of a liquor or malt and brewed
23 beverage license or permit issued by the board.

24 (2) Importing distributors and distributors may sell or
25 deliver malt or brewed beverages between eight o'clock
26 antemeridian and [eleven o'clock postmeridian of any] two
27 o'clock antemeridian of the following day, except Sunday, to
28 persons not licensed or permitted by this act.

29 (c) In addition to the hours authorized under subsections
30 (a) and (b), manufacturers, importing distributors and

1 distributors, upon purchasing a permit from the board at an
2 annual fee of one hundred dollars (\$100) unless the applicant
3 for the permit is a distributor that holds a wine and spirits
4 retail license, in which instance Article III-A governs, may
5 sell malt or brewed beverages to persons not licensed under this
6 act or to a holder of a special occasion permit on Sunday
7 between the hours of nine o'clock antemeridian and [nine o'clock
8 postmeridian] two o'clock antemeridian on Monday.

9 (d) In addition to the hours authorized under subsections
10 (a) and (b), delivery or receiving of malt or brewed beverages
11 shall be permissible on Sunday after prior arrangement in
12 accordance with the following:

13 (1) A manufacturer may, at any time, deliver to any
14 importing distributor or distributor to which the manufacturer
15 has granted wholesale distribution rights for the manufacturer's
16 product.

17 (2) An importing distributor or distributor may deliver to
18 any organization to which a special occasion permit has been
19 issued between the hours of nine o'clock antemeridian and twelve
20 o'clock noon.

21 (3) An importing distributor or distributor may deliver to
22 persons not licensed under this act between the hours of nine
23 o'clock antemeridian and twelve o'clock noon.

24 (e) Notwithstanding any provision of this section to the
25 contrary, a brewery pub operating under section 446 shall be
26 subject to the hours of operation set forth by the board through
27 regulation.

28 (f) The term "prior arrangement" shall mean that malt or
29 brewed beverages having a total sale price, excluding any
30 deposits or credits, exceeding two hundred fifty dollars (\$250)

1 have been ordered, invoiced and paid for in full at the seller's
2 licensed premises before the Sunday of delivery.

3 Section 36. Section 493 of the act, amended December 7, 1990
4 (P.L.622, No.160), October 5, 1994 (P.L.537, No.80), June 18,
5 1998 (P.L.664, No.86), February 21, 2002 (P.L.103, No.10),
6 December 9, 2002 (P.L.1653, No.212), May 8, 2003 (P.L.1, No.1),
7 December 8, 2004 (P.L.1810, No.239), July 6, 2005 (P.L.135,
8 No.39), January 6, 2006 (P.L.1, No.1), July 7, 2006 (P.L.584,
9 No.84), November 29, 2006 (P.L.1421, No.155), July 16, 2007
10 (P.L.107, No.34), June 28, 2011 (P.L.55, No.11), December 22,
11 2011 (P.L.530, No.113) and July 5, 2012 (P.L.1007, No.116), is
12 amended to read:

13 Section 493. Unlawful Acts Relative to Liquor, Malt and
14 Brewed Beverages and Licensees.--The term "licensee," when used
15 in this section, shall mean those persons licensed under [the
16 provisions of Article IV] Article III-A or this article, unless
17 the context clearly indicates otherwise.

18 It shall be unlawful--

19 (1) Furnishing Liquor or Malt or Brewed Beverages to Certain
20 Persons. For any licensee or the board, or any employe, servant
21 or agent of such licensee or of the board, or any other person,
22 to sell, furnish or give any liquor or malt or brewed beverages,
23 or to permit any liquor or malt or brewed beverages to be sold,
24 furnished or given, to any person visibly intoxicated, or to any
25 minor: Provided further, That notwithstanding any other
26 provision of law, no cause of action will exist against a
27 licensee or the board or any employe, servant or agent of such
28 licensee or the board for selling, furnishing or giving any
29 liquor or malt or brewed beverages or permitting any liquor or
30 malt or brewed beverages to be sold, furnished or given to any

1 insane person, any habitual drunkard or person of known
2 intemperate habits unless the person sold, furnished or given
3 alcohol is visibly intoxicated or is a minor.

4 (2) Purchase or Sale of Liquor or Malt or Brewed Beverages
5 on Credit; Importing Distributors or Distributors Accepting
6 Cash. For any licensee, his agent, servant or employe, to sell
7 or offer to sell or purchase or receive any liquor or malt or
8 brewed beverages except for cash, excepting credit extended by a
9 hotel or club to a bona fide guest or member, or by railroad or
10 pullman companies in dining, club or buffet cars to passengers,
11 for consumption while enroute, holding authorized credit cards
12 issued by railroad or railroad credit bureaus or by hotel,
13 restaurant, retail dispenser eating place, club and public
14 service licensees, importing distributors or distributors to
15 customers not possessing a license under this article and
16 holding credit cards issued in accordance with regulations of
17 the board or credit cards issued by banking institutions subject
18 to State or Federal regulation: Provided further, That nothing
19 herein contained shall be construed to prohibit the use of
20 checks or drafts drawn on a bank, banking institution, trust
21 company or similar depository, organized and existing under the
22 laws of the United States of America or the laws of any state,
23 territory or possession thereof, in payment for any liquor or
24 malt or brewed beverages if the purchaser is the payor of the
25 check or draft and the licensee is the payee: Provided further,
26 That notwithstanding any other provision of this act to the
27 contrary, it shall be unlawful for an importing distributor or
28 distributor to accept cash for payment of any malt or brewed
29 beverages from anyone possessing a license issued under this
30 article, except it shall be permissible for the importing

distributor or distributor to accept credit cards, money orders or cashiers' checks for payment of any malt or brewed beverages in addition to any other type of payment authorized by the board from anyone possessing a license under this article.

NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, <--

DISTRIBUTORS AND IMPORTING DISTRIBUTORS MAY ACCEPT CREDIT CARDS

FOR PAYMENT OF MALT OR BREWED BEVERAGES BUT THEY ARE NOT

REQUIRED TO ACCEPT CREDIT CARDS. No right of action shall exist

to collect any claim for credit extended contrary to the

provisions of this clause. Nothing herein contained shall

prohibit a licensee from crediting to a purchaser the actual

price charged for original containers returned by the original

purchaser as a credit on any sale, or from refunding to any

purchaser the amount paid by such purchaser for such containers

or as a deposit on containers when title is retained by the

vendor, if such original containers have been returned to the

licensee. Nothing herein contained shall prohibit a manufacturer

from extending usual and customary credit for liquor or malt or

brewed beverages sold to customers or purchasers who live or

maintain places of business outside of the Commonwealth of

Pennsylvania, when the liquor or malt or brewed beverages so

sold are actually transported and delivered to points outside of

the Commonwealth: Provided, however, That as to all transactions

affecting malt or brewed beverages to be resold or consumed

within this Commonwealth, every licensee shall pay and shall

require cash deposits on all returnable original containers and

all such cash deposits shall be refunded upon return of the

original containers.

(4) Peddling Liquor or Malt or Brewed Beverages. For any

person, to hawk or peddle any liquor or malt or brewed beverages

1 in this Commonwealth.

2 (5) Failure to Have Brands as Advertised. For any licensee,
3 his servants, agents or employes, to advertise or hold out for
4 sale any liquor or malt or brewed beverages by trade name or
5 other designation which would indicate the manufacturer or place
6 of production of the said liquor or malt or brewed beverages,
7 unless he shall actually have on hand and for sale a sufficient
8 quantity of the particular liquor or malt or brewed beverages so
9 advertised to meet requirements to be normally expected as a
10 result of such advertisement or offer.

11 (6) Brand or Trade Name on Spigot. For any licensee, his
12 agents, servants or employes, to furnish or serve any malt or
13 brewed beverages from any faucet, spigot or other dispensing
14 apparatus, unless the trade name or brand of the product served
15 shall appear in full sight of the customer and in legible
16 lettering upon such faucet, spigot or dispensing apparatus.

17 (7) Alcoholic Strength on Label of Malt or Brewed Beverages.
18 For any licensee, or his servants, agents or employes, to
19 transport, sell, deliver or purchase any malt or brewed
20 beverages upon which there shall appear a label or other
21 informative data which refers to the alcoholic contents of the
22 malt or brewed beverage in any terms other than as a percentage
23 of alcohol by volume. This clause shall be construed to permit,
24 but not to require, a manufacturer to designate upon the label
25 or descriptive data the alcoholic content of malt or brewed
26 beverages in percentage of alcohol by volume. This clause shall
27 not be construed to prohibit a manufacturer from designating
28 upon the label or descriptive data the alcoholic content of malt
29 or brewed beverages intended for shipment into another state or
30 territory, when the laws of such state or territory require that

1 the alcoholic content of the malt or brewed beverage must be
2 stated upon the package.

3 (8) Advertisements on Labels Giving Alcoholic Content of
4 Malt or Brewed Beverages. For any manufacturer or other
5 licensee, or his servants, agents or employes, to issue, publish
6 or post, or cause to be issued, published or posted, any
7 advertisement of any malt or brewed beverage including a label
8 which shall refer in any manner to the alcoholic strength of the
9 malt or brewed beverage manufactured, sold or distributed by
10 such licensees, or to use in any advertisement or label such
11 words as "full strength," "extra strength," "high test," "high
12 proof," "pre-war strength," or similar words or phrases, which
13 would lead or induce a consumer to purchase a brand of malt or
14 brewed beverage on the basis of its alcoholic content, or to use
15 in or on any advertisement or label any numeral, unless
16 adequately explained in type of the same size, prominence and
17 color, or for any licensee to purchase, transport, sell or
18 distribute any malt or brewed beverage advertised or labeled
19 contrary to the provisions of this clause.

20 (10) Entertainment on Licensed Premises (Except Clubs);
21 Permits; Fees. For any licensee, his servants, agents or
22 employes, except club licensees, public venue licensees or
23 performing arts facility licensees, to permit in any licensed
24 premises or in any place operated in connection therewith,
25 dancing, theatricals or floor shows of any sort, or moving
26 pictures other than television, or such as are exhibited through
27 machines operated by patrons by the deposit of coins, which
28 project pictures on a screen not exceeding in size twenty-four
29 by thirty inches and which forms part of the machine, unless the
30 licensee shall first have obtained from the board a special

1 permit to provide such entertainment, or for any licensee, under
2 any circumstances, to permit in any licensed premises or in any
3 place operated in connection therewith any lewd, immoral or
4 improper entertainment, regardless of whether a permit to
5 provide entertainment has been obtained or not. The special
6 permit may be used only during the hours when the sale of liquor
7 or malt or brewed beverages is permitted, unless the licensee
8 holds an extended hours food license under section 499(b) which
9 license would allow the special permit to be used while the
10 establishment is open, and between eleven o'clock antemeridian
11 on Sunday and two o'clock antemeridian on the following Monday,
12 regardless of whether the licensee possesses a Sunday sales
13 permit. The board shall have power to provide for the issue of
14 such special permits, and to collect an annual fee for such
15 permits as prescribed in section 614-A of the act of April 9,
16 1929 (P.L.177, No.175), known as "The Administrative Code of
17 1929." All such fees shall be paid into the State Stores Fund.
18 No such permit shall be issued in any municipality which, by
19 ordinance, prohibits amusements in licensed places. Any
20 violation of this clause shall, in addition to the penalty
21 herein provided, subject the licensee to suspension or
22 revocation of his permit and his license.

23 (11) Licensees Employed by Others. For any hotel, restaurant
24 or club liquor licensee, or any malt or brewed beverage
25 licensee, or any officer, servant, agent or employe of such
26 licensee, to be at the same time employed, directly or
27 indirectly, by any distributor, importing distributor,
28 manufacturer, importer or vendor licensee or any out of State
29 manufacturer. It shall also be unlawful for any distributor or
30 importing distributor, or any officer, servant, agent or employe

1 of such licensee, to be at the same time employed, directly or
2 indirectly, by any other distributor, importing distributor,
3 manufacturer, importer, vendor, out of State manufacturer, hotel
4 restaurant, malt or brewed beverage licensee, or club liquor
5 licensee. It shall also be unlawful for any manufacturer,
6 importer, or vendor licensee, or any out of State manufacturer,
7 or any officer, servant, agent or employe of such licensee or
8 manufacturer, to be at the same time employed, directly or
9 indirectly, by any hotel, restaurant or club liquor licensee or
10 any malt or brewed beverage licensee or any distributor or
11 importing distributor licensee. Nothing in this subsection shall
12 be construed to prohibit a manufacturer or limited winery
13 licensee, or any officer, servant, agent or employe of such
14 licensee, to be employed at the same time by a hotel, restaurant
15 or retail dispenser licensee if the hotel, restaurant or retail
16 dispenser licensee is located at the manufacturer or limited
17 winery premises pursuant to section 443. For the purposes of
18 this subsection, an officer, servant, agent or employe of a
19 licensee or manufacturer is an individual who has either an
20 ownership interest in the licensee or manufacturer or who
21 receives compensation for his or her work on behalf of the
22 licensee or manufacturer.

23 (12) Failure to Have Records on Premises. For any liquor
24 licensee, or any importing distributor, distributor or retail
25 dispenser, to fail to keep for a period of at least two years
26 complete and truthful records covering the operation of his
27 licensed business, particularly showing the date of all
28 purchases of liquor and malt or brewed beverages, the actual
29 price paid therefor, and the name of the vendor, including State
30 Store receipts, or for any licensee, his servants, agents or

1 employees, to refuse the board or an authorized employee of the
2 board or the enforcement bureau access thereto or the
3 opportunity to make copies of the same when the request is made
4 during business hours. The records from the most recent six-
5 month period must be maintained on the licensed premises.
6 Records for the remainder of the two-year period may be kept off
7 the licensed premises so long as the records are returned to the
8 licensed premises within twenty-four hours of a request by the
9 board or enforcement bureau. A licensee may remove the records
10 for the most recent six-month period from the licensed premises
11 only for a lawful business purpose provided that they are
12 returned to the premises when that business is completed.

13 (13) Retail Licensees Employing Minors. For any hotel,
14 restaurant or club liquor licensee, or any retail dispenser, to
15 employ or to permit any minor under the age of eighteen to serve
16 any alcoholic beverages or to employ or permit any minor under
17 the age of sixteen to render any service whatever in the
18 licensed premises, nor shall any entertainer under the age of
19 eighteen be employed or permitted to perform in any licensed
20 premises in violation of the labor laws of this Commonwealth:
21 Provided, That in accordance with board regulations minors
22 between the ages of sixteen and eighteen may be employed to
23 serve food, clear tables and perform other similar duties, not
24 to include the dispensing or serving of alcoholic beverages. A
25 ski resort, golf course or amusement park licensee may employ
26 minors fourteen and fifteen years of age to perform duties in
27 rooms or areas of the licensed premises; however, such minors
28 may not perform duties in rooms or areas in which alcohol is
29 being concurrently dispensed or served or in which alcohol is
30 being concurrently stored in an unsecured manner.

1 Notwithstanding any provisions of law to the contrary, a hotel,
2 restaurant or club liquor licensee or any retail dispenser may
3 allow students receiving instruction in a performing art to
4 perform an exhibition if the students are not compensated and
5 are under proper supervision. Written notice of the performance
6 must be provided to the enforcement bureau prior to the
7 performance.

8 (14) Permitting Undesirable Persons or Minors to Frequent
9 Premises. For any hotel, restaurant or club liquor licensee, or
10 any retail dispenser, his servants, agents or employes, to
11 permit persons of ill repute or prostitutes to frequent his
12 licensed premises or any premises operated in connection
13 therewith. Minors may only frequent licensed premises if: (a)
14 they are accompanied by a parent; (b) they are accompanied by a
15 legal guardian; (c) they are under proper supervision; (d) they
16 are attending a social gathering; or (e) the hotel, restaurant
17 or retail dispenser licensee has gross sales of food and
18 nonalcoholic beverages equal to fifty per centum or more of its
19 combined gross sale of both food and alcoholic beverages. If a
20 minor is frequenting a hotel, restaurant or retail dispenser
21 licensee under subsection (e), then the minor may not sit at the
22 bar section of the premises, nor may any alcoholic beverages be
23 served at the table or booth at which the said minor is seated
24 unless said minor is with a parent, legal guardian or under
25 proper supervision. Further, if a hotel, restaurant, club liquor
26 licensee or retail dispenser is hosting a social gathering under
27 subsection (d), then written notice at least forty-eight hours
28 in advance of such gathering shall be given to the Bureau of
29 Enforcement. If a minor is frequenting licensed premises with
30 proper supervision under subsection (c), each supervisor can

1 supervise up to twenty minors, except for premises located in
2 cities of the first class, where each supervisor can supervise
3 up to five minors. Notwithstanding any other provisions of this
4 section, if the minors are on the premises as part of a school-
5 endorsed function, then each supervisor can supervise fifty
6 minors. Nothing in this clause shall be construed to make it
7 unlawful for minors to frequent public venues or performing arts
8 facilities.

9 (15) Cashing Pay Roll, Public Assistance, Unemployment
10 Compensation or Any Other Relief Checks. For any licensee or his
11 servants, agents or employes to cash pay roll checks or to cash,
12 receive, handle or negotiate in any way Public Assistance,
13 Unemployment Compensation or any other relief checks.

14 (16) Furnishing or Delivering Liquor or Malt or Brewed
15 Beverages at Unlawful Hours. For any licensee, his servants,
16 agents or employes, to give, furnish, trade, barter, serve or
17 deliver any liquor or malt or brewed beverages to any person
18 during hours or on days when the licensee is prohibited by this
19 act from selling liquor or malt or brewed beverages.

20 (17) Licensees, etc., Interested or Employed in
21 Manufacturing or Sale of Equipment or Fixtures. For any
22 licensee, or any officer, director, stockholder, servant, agent
23 or employe of any licensee, to own any interest, directly or
24 indirectly, in or be employed or engaged in any business which
25 involves the manufacture or sale of any equipment, furnishings
26 or fixtures to any hotel, restaurant or club licensees, or to
27 any importing distributors, distributors or retail dispensers.
28 Notwithstanding any other provision of this section or this act,
29 licensees may sell glasses at not less than cost and to provide
30 metal keg connectors and tap knobs to other licensees and to

1 holders of special occasion permits.

2 (20) (i) Retail Liquor and Retail Malt or Brewed Beverages
3 Licensee's Inside Advertisements. For any retail liquor or
4 retail malt or brewed beverages licensee, to display or permit
5 the display in the show window or doorways of his licensed
6 premises, any placard or sign advertising the brands of liquor
7 or malt or brewed beverages, if the total display area of any
8 such placard or sign advertising the product or products exceeds
9 six hundred square inches. Nothing herein shall prohibit a
10 licensee from displaying inside his licensed premises point of
11 sale displays advertising brand names of products sold by him,
12 other than a window or door display: Provided, That the total
13 cost of all such point of sale advertising matter relating to
14 any one brand shall not exceed the dollar amount set forth by
15 the board through regulation. All such advertising material,
16 including the window and door signs, may be furnished by a
17 manufacturer, distributor or importing distributor. The
18 restrictions on advertising set forth in subclause (ii) and in
19 clauses (20.1) and (20.2) shall also apply to this subclause.

20 (ii) Cooperative Advertising. No distributor or importing
21 distributor, directly or indirectly, independent or otherwise,
22 shall, except by prior written agreement, be required to
23 participate with a manufacturer in the purchase of any
24 advertising of a brand name product in any name, in any form,
25 whether it be radio, television, newspaper, magazine or
26 otherwise.

27 (20.1) Manufacturer Shall Not Require Advertising. For a
28 manufacturer to require a distributor or importing distributor
29 to purchase any type of advertising.

30 (20.2) Advertising Shall Be Ordered and Authorized in

1 Advance. For any advertising to be done on behalf of a
2 distributor or importing distributor which was not ordered and
3 authorized in advance by the distributor or importing
4 distributor.

5 (21) Refusing The Right of Inspection. For any licensee, or
6 his servants, agents or employes, to refuse the board or the
7 enforcement bureau or any of their authorized employes the right
8 to inspect completely the entire licensed premises at any time
9 during which the premises are open for the transaction of
10 business, or when patrons, guests or members are in that portion
11 of the licensed premises wherein either liquor or malt or brewed
12 beverages are sold.

13 (22) Allowance or Rebate to Induce Purchases. For any
14 licensee, or his servants, agents or employes, to offer, pay,
15 make or allow, or for any licensee, or his servants, agents or
16 employes, to solicit or receive any allowance or rebate, refunds
17 or concessions, whether in the form of money or otherwise, to
18 induce directly the purchase of liquor or malt or brewed
19 beverages.

20 (23) Money or Valuables Given to Employes to Influence
21 Actions of Their Employers. For any licensee, or any agent,
22 employe or representative of any licensee, to give or permit to
23 be given, directly or indirectly, money or anything of
24 substantial value, in an effort to induce agents, employes or
25 representatives of customers or prospective customers to
26 influence their employer or principal to purchase or contract to
27 purchase liquor or malt or brewed beverages from the donor of
28 such gift, or to influence such employers or principals to
29 refrain from dealing or contracting to deal with other
30 licensees.

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

30 (ii) Notwithstanding subclause (i) or any other provision of

1 law, a holder of a restaurant license that is also approved to
2 hold a slot machine license or a conditional slot machine
3 license under 4 Pa.C.S. Part II (relating to gaming) may give
4 liquor and malt or brewed beverages free of charge to any person
5 actively engaged in playing a slot machine.

6 (iii) Notwithstanding subclause (i) or any other provision
7 of law, the holder of a wine and spirits retail license may
8 establish and implement a consumer relations marketing program
9 for the purpose of offering incentives, such as coupons or
10 discounts on certain products, which may be conditioned on the
11 purchase of liquor by its customers.

12 (25) Employment in Licensed Places. For any licensee or his
13 agent, to employ or permit the employment of any person at his
14 licensed hotel, restaurant or eating place for the purpose of
15 enticing customers, or to encourage them to drink liquor, or
16 make assignments for improper purposes.

17 Any person violating the provisions of this clause shall be
18 guilty of a misdemeanor and, upon conviction of the same, shall
19 be sentenced to pay a fine of not less than one hundred dollars
20 (\$100), nor more than five hundred dollars (\$500), for each and
21 every person so employed, or undergo an imprisonment of not less
22 than three (3) months, nor more than one (1) year, or either or
23 both, at the discretion of the court having jurisdiction of the
24 case. The administrative law judge shall have the power to
25 revoke or refuse licenses for violation of this clause.

26 (26) Worthless Checks. For any retail liquor licensee or any
27 retail dispenser, distributor or importing distributor, to make,
28 draw, utter, issue or deliver, or cause to be made, drawn,
29 uttered, issued or delivered, any check, draft or similar order,
30 for the payment of money in payment for any purchase of malt or

1 brewed beverages, when such retail liquor licensee, retail
2 dispenser, distributor or importing distributor, has not
3 sufficient funds in, or credit with, such bank, banking
4 institution, trust company or other depository, for the payment
5 of such check. Any person who is a licensee under the provisions
6 of this article, who shall receive in payment for malt or brewed
7 beverages sold by him any check, draft or similar order for the
8 payment of money, which is subsequently dishonored by the bank,
9 banking institution, trust company or other depository, upon
10 which drawn, for any reason whatsoever, shall, within five days
11 of receipt of notice of such dishonor, notify by certified mail
12 the person who presented the said worthless check, draft or
13 similar order and the malt beverage compliance officer for the
14 board. If the violation of this clause involving a check, draft
15 or similar order from the purchaser to the seller is
16 subsequently honored within ten days from the day it was made,
17 drawn, uttered, issued or delivered, then the malt beverage
18 compliance officer shall not turn the matter over to the
19 enforcement bureau for a citation.

20 (27) Distributors and Importing Distributors Employing
21 Minors. For any distributor or importing distributor to employ
22 minors under the age of eighteen but persons eighteen and over
23 may be employed to sell and deliver malt and brewed beverages. A
24 distributor holding a wine and spirits retail license may not
25 employ a person under the age of twenty-one to sell liquor.

26 (28) Consumption of Liquor or Malt or Brewed Beverages While
27 Tending Bar. For any licensee, his servants, agents or employes,
28 to consume liquor or malt or brewed beverages while tending bar
29 or otherwise serving liquor or malt or brewed beverages. No
30 action shall be taken against a licensee under this clause

1 unless the licensee is the individual consuming liquor or malt
2 or brewed beverages in violation of this clause.

3 (30) Pyrotechnics Prohibited. For any licensee, his
4 servants, agents or employees, except licensees where pyrotechnic
5 displays are performed by a pyrotechnic operator licensed by the
6 Bureau of Alcohol, Tobacco, Firearms and Explosives and are
7 approved by a municipal fire official, to store, handle, use or
8 display any pyrotechnics within a building on the licensed
9 premises. For purposes of this clause, "pyrotechnics" shall mean
10 any chemical mixture, including pyrotechnic compositions,
11 intended to produce a visible or audible effect by combustion,
12 deflagration or detonation as defined by section 1.5.52 of the
13 National Fire Protection Association Standard 1126 entitled
14 "Standard for the Use of Pyrotechnics before a Proximate
15 Audience," 1992 Edition.

16 (31) (i) Sale or Purchase of Controlled Substance or Drug
17 Paraphernalia by Licensee. For any licensee to possess, furnish,
18 sell, offer to sell, or purchase or receive, or aid and abet in
19 the sale or purchase of any controlled substance or drug
20 paraphernalia, as defined in the act of April 14, 1972 (P.L.233,
21 No.64), known as "The Controlled Substance, Drug, Device and
22 Cosmetic Act," on the licensed premises unless the actions of
23 the licensee are authorized by law.

24 (ii) Sale or Purchase of Controlled Substances or Drug
25 Paraphernalia by Servant, Agent or Employee of the Licensee. For
26 any servants, agents or employees of the licensee to possess,
27 furnish, sell, offer to sell or purchase or receive, or aid and
28 abet in the sale or purchase of any controlled substance or drug
29 paraphernalia, as defined in "The Controlled Substance, Drug,
30 Device and Cosmetic Act," on the licensed premises unless the

1 actions of the person are authorized by law. The licensee shall
2 only be cited for a violation of this subclause if the licensee
3 knew or should have known of the activity and failed to take
4 substantial affirmative steps to prevent the activity on its
5 premises.

6 (32) Sale or Purchase of Alcohol Vaporizing Devices. For any
7 licensee, his servants or agents or employees to possess or to
8 permit an alcohol vaporizing device on the licensed premises.

9 (33) Off-premises Catering Permit; Fees. For any licensee,
10 his servants, agents or employees to sell alcohol at a location
11 other than its licensed premises, unless the sale is
12 specifically authorized under this act, or unless the licensee
13 receives a special permit from the board to do so. Only those
14 licensees holding a current and valid restaurant, hotel, brew
15 pub or eating place license shall be allowed to apply for such a
16 permit. Any licensee that wishes to obtain an off-premises
17 catering permit must notify the board and pay the permitting fee
18 by March of each calendar year regardless of whether the
19 licensee has scheduled catered events. Any licensee that fails
20 to notify the board and pay the permit fee by March 1 shall be
21 precluded from obtaining the permit for that calendar year. If a
22 licensee notifies the board and pays the permitting fee by March
23 1 and does not then use the permit throughout the calendar year,
24 the licensee shall not be entitled to a return of the permitting
25 fee. Any licensee not granted a license until after March 1 of
26 the calendar year shall have sixty days from the date of the
27 license transfer to notify the board of the licensee's intention
28 to use an off-premises catering permit and pay the permitting
29 fee. All servers at the off-premises catered function shall be
30 certified under the board's responsible alcohol management

1 program as required under section 471.1. The board may charge a
2 fee of five hundred dollars (\$500) each calendar year, to each
3 applicant for the initial permit associated with a particular
4 license, but no further fee shall be charged for any subsequent
5 permits issued to the applicant for the license during the same
6 calendar year. The applicant shall submit written notice to the
7 board thirty days prior to each catered event, unless this time
8 frame has been waived by the board, and the board may approve or
9 disapprove each event if the applicant fails to provide timely
10 notice of the catered function, does not intend to conduct a
11 function that meets the requirements of this act or has
12 previously conducted a function that did not meet the
13 requirements of this act. The fees shall be paid into the State
14 Stores Fund. Any violation of this act or the board's
15 regulations for governing activity occurring under the authority
16 of this permit may be the basis for the issuance of a citation
17 under section 471, the nonrenewal of the license under section
18 470 or the refusal by the board to issue subsequent permits or
19 honor subsequent dates on the existing permit. This penalty
20 shall be in addition to any other remedies available to the
21 enforcement bureau or the board.

22 (34) Noise. Notwithstanding any law or regulation to the
23 contrary, a licensee may not use or permit to be used inside or
24 outside of the licensed premises a loudspeaker or similar device
25 whereby the sound of music or other entertainment, or the
26 advertisement thereof, can be heard beyond the licensee's
27 property line; however, any licensee that is located in an area
28 which is subject to an exemption from the board's regulation
29 regarding amplified music being heard off the licensed premises
30 shall be exempt from compliance with this paragraph until the

1 expiration of the board's order granting the exemption. The
2 board's regulation regarding amplified music being heard off the
3 licensed premises is otherwise superseded by this paragraph.

4 (35) Wine-to-go permit and fees. For any licensee, his
5 servants, agents or employees to sell unopened bottles of wine
6 for consumption off the licensed premises, unless the sale is
7 specifically authorized under this act, or unless the licensee
8 receives a special permit from the board to do so. Only those
9 licensees holding a current and valid hotel or restaurant
10 license shall be allowed to apply for such a permit. Any
11 licensee that wishes to obtain a wine-to-go permit must make
12 application to the board on a form prescribed by the board and
13 pay the permitting fees. THIS PERMIT SHALL NOT BE ISSUED TO A <--
14 RESTAURANT LICENSEE THAT HAS AN INTERIOR CONNECTION TO ANOTHER
15 UNLICENSED BUSINESS. The board may charge a fee of five hundred
16 dollars (\$500) per calendar year to each applicant for this
17 permit. The fees shall be paid into the State Stores Fund. Any
18 violation of this act or the board's regulations for governing
19 activity occurring under the authority of this permit may be the
20 basis for the issuance of a citation under section 471, the
21 nonrenewal of the license under section 470 or the refusal by
22 the board to issue subsequent permits or honor subsequent dates
23 on the existing permit. The penalty shall be in addition to any
24 other remedies available to the enforcement bureau or the board.

25 (36) Grocery stores employing minors. For any servant, agent
26 or employe of a grocery store to make a sale of alcohol unless
27 the servant, agent or employe is eighteen years of age or older.

28 (37) Sale of wine received by direct shipment. For any
29 licensee to sell or offer to sell wine purchased or acquired
30 from a direct wine shipper pursuant to the authority of section

1 488.

2 (38) Duties performed by distributors and importing
3 distributors. For any licensee to require that a distributor or
4 importing distributor stock merchandise in the licensee's
5 cooler, rotate the licensee's stock of malt or brewed beverages,
6 set up displays in the licensee's premises or pay any type of
7 fee required for making the distributor's product available on
8 the licensee's store shelves. This clause supersedes a contrary
9 provision of a contract.

10 Section 37. The act is amended by adding ~~a section~~ SECTIONS <--
11 to read:

12 Section 493.2. Unlawful Acts Relative to Wine and Spirits
13 Retail Licensees.--(a) It is unlawful for a wine and spirits
14 retail licensee, or an employe, servant or agent of the licensee
15 or another person to sell, furnish or give liquor or malt or
16 brewed beverages or to permit liquor or malt or brewed beverages
17 to be sold, furnished or given to a minor or person who is
18 visibly intoxicated.

19 (b) A wine and spirits retail licensee who violates the
20 provisions of subsection (a) is subject to the penalty
21 provisions set forth in section 471.

22 SECTION 493.3. LICENSEES AND TAXES.--NOTWITHSTANDING ANY <--
23 OTHER PROVISION OF THIS ACT OR THE ACT OF MARCH 4, 1971 (P.L.6,
24 NO.2), KNOWN AS THE "TAX REFORM CODE OF 1971," THE FOLLOWING
25 SHALL APPLY:

26 (1) THE SALE OF MALT AND BREWED BEVERAGES AND WINE AND
27 SPIRITS BY AN ENTITY LICENSED UNDER THIS ACT, INCLUDING THE SALE
28 OF MALT AND BREWED BEVERAGES AND WINE AND SPIRITS FROM THE AREAS
29 OF A LICENSEE'S PREMISES UTILIZED UNDER A RETAIL LICENSE FOR
30 CONSUMPTION ON THE PREMISES, SHALL BE CONSIDERED A SALE BY A

1 RETAIL DISPENSER UNDER SECTION 201 OF THE "TAX REFORM CODE OF
2 1971."

3 (2) THE SALE OF MALT AND BREWED BEVERAGES AND WINE AND
4 SPIRITS TO AN ENTITY DESCRIBED IN PARAGRAPH (1) FOR THE PURPOSE
5 OF SALES FROM THE AREAS OF A LICENSEE'S PREMISES UTILIZED UNDER
6 A RETAIL LICENSE FOR CONSUMPTION ON THE PREMISES SHALL BE
7 CONSIDERED A SALE TO A RETAIL DISPENSER SUBJECT TO THE TAX
8 IMPOSED UNDER ARTICLE II OF THE "TAX REFORM CODE OF 1971."

9 (3) EXCEPT FOR SALES UNDER PARAGRAPHS (1) AND (2), ANY OTHER
10 SALE OF MALT AND BREWED BEVERAGES SHALL BE CONSIDERED A SALE BY
11 A DISTRIBUTOR, AND ANY OTHER SALE OF WINE OR SPIRITS SHALL BE
12 CONSIDERED A SALE OF LIQUOR BY A PENNSYLVANIA LIQUOR STORE UNDER
13 SECTION 201 OF THE "TAX REFORM CODE OF 1971."

14 Section 38. Section 494 of the act, amended April 29, 1994
15 (P.L.212, No.30) and November 10, 1999 (P.L.514, No.47), is
16 amended to read:

17 Section 494. Penalties.--(a) Any person who shall violate
18 any of the provisions of this article, except as otherwise
19 specifically provided, shall be guilty of a misdemeanor and,
20 upon conviction thereof, shall be sentenced to pay a fine of not
21 less than one hundred dollars (\$100), nor more than five hundred
22 dollars (\$500), and on failure to pay such fine, to imprisonment
23 for not less than one month, nor more than three months, and for
24 any subsequent offense, shall be sentenced to pay a fine not
25 less than three hundred dollars (\$300), nor more than five
26 hundred dollars (\$500), and to undergo imprisonment for a period
27 not less than three months, nor more than one year, or both. If
28 the person, at or relating to the licensed premises, violates
29 section 493(1), (10), (14), (16) or (21), or if the owner or
30 operator of the licensed premises or any authorized agent of the

1 owner or operator violates the act of April 14, 1972 (P.L.233,
2 No.64), known as "The Controlled Substance, Drug, Device and
3 Cosmetic Act," or 18 Pa.C.S. § 5902 (relating to prostitution
4 and related offenses) or 6301 (relating to corruption of
5 minors), he shall be sentenced to pay a fine not exceeding [five
6 thousand dollars (\$5,000)] ten thousand dollars (\$10,000) or to
7 undergo imprisonment for a period not less than [three] six
8 months, nor more than [one year] two years, or both.

9 (b) The right to suspend and revoke licenses granted under
10 this article shall be in addition to the penalty set forth in
11 this section.

12 (c) A person convicted of selling or offering to sell any
13 liquor or malt or brewed beverage without being licensed is in
14 violation of this article and shall, in addition to any other
15 penalty prescribed by law, be sentenced to pay a fine of two
16 dollars (\$2) per fluid ounce for each container of malt or
17 brewed beverages and four dollars (\$4) per fluid ounce for each
18 container of wine or liquor found on the premises where the sale
19 was made or attempted. The amount of fine per container will be
20 based upon the capacity of the container when full, whether or
21 not it is full at the time of the sale or attempted sale. In
22 addition, all malt or brewed beverages, wine and liquor found on
23 the premises shall be confiscated. If a person fails to pay the
24 full amount of the fine levied under this subsection, the
25 premises on which the malt or brewed beverages, wine or liquor
26 was found shall be subject to a lien in the amount of the unpaid
27 fine if the premises are owned by the person against whom the
28 fine was levied or by any other person who had knowledge of the
29 proscribed activity. The lien shall be superior to any other
30 liens on the premises other than a duly recorded mortgage.

1 Section 39. Section 499 of the act, added or amended October
2 5, 1994 (P.L.522, No.77) and February 21, 2002 (P.L.103, No.10),
3 is amended to read:

4 Section 499. Premises to be Vacated by Patrons.--(a) Except
5 as provided for elsewhere in this section, all patrons of a
6 licensee shall be required to leave that part of the premises
7 habitually used for the serving of liquor or malt or brewed
8 beverages to guests or patrons not later than one-half hour
9 after the time the licensee is required by this act to cease
10 serving liquor or malt or brewed beverages and shall not be
11 permitted to have any previously served liquor or malt or brewed
12 beverages in their possession, nor shall they be permitted to
13 remove any previously served liquor or malt or brewed beverages
14 from that part of the premises. Patrons of a licensee shall not
15 be permitted to reenter that portion of the premises habitually
16 used for the serving of liquor or malt or brewed beverages
17 between the time designated by this act for patrons to vacate
18 the licensed premises and the time designated by this act when
19 the serving of liquor or malt or brewed beverages is allowed to
20 begin unless the licensee has been granted a permit for extended
21 hours food service.

22 (a.1) Subsection (a) shall not apply to sales of malt and
23 brewed beverages for consumption off the premises when the
24 following conditions are met:

25 (1) no licensee may sell malt or brewed beverages in excess
26 of one hundred ninety-two fluid ounces in any one sale for
27 consumption off the premises unless the licensee possesses a
28 retail package reform permit;

29 (2) sales and service of malt and brewed beverages for
30 consumption off the premises are made prior to the designated

1 time the licensee is required by this act to cease serving
2 liquor, malt or brewed beverages;

3 (3) persons who have purchased malt and brewed beverages for
4 consumption off the premises shall remove the malt and brewed
5 beverages from the premises by the designated time as contained
6 in this act that patrons are required to vacate the premises;

7 (4) no club licensee may sell any malt or brewed beverage
8 for consumption off the premises where sold or to any persons
9 who are not members of the club.

10 (b) A licensee may remain open between the hours of two
11 o'clock antemeridian and seven o'clock antemeridian for the
12 purpose of serving food on any day if such licensee either
13 possesses or is eligible to purchase a Sunday sales permit and
14 receives an extended hours food license. The board shall
15 establish an annual fee for the extended hours food license
16 which shall not exceed fifty dollars (\$50).

17 (b.1) Upon application of any club, the board shall issue a
18 club extended hours food permit for a period of six (6) days
19 during the term of its license. The board shall issue
20 regulations governing terms of the application. The permits
21 shall be used solely for the purpose of serving food between the
22 hours of three o'clock antemeridian and seven o'clock
23 antemeridian. All patrons of a licensee shall be required to
24 leave that part of the premises habitually used for the serving
25 of liquor or malt or brewed beverages to guests or patrons not
26 later than one-half hour after the time the licensee is required
27 by this act to cease serving liquor or malt or brewed beverages
28 and shall not be permitted to have any previously served liquor
29 or malt or brewed beverages in their possession, nor shall they
30 be permitted to remove any previously served liquor or malt or

1 brewed beverages from that part of the premises.

2 (c) Any licensee who violates this section for the first
3 offense commits a summary offense and shall, upon conviction, be
4 sentenced to pay a fine of not more than three hundred dollars
5 (\$300) or to imprisonment for not more than ninety (90) days, or
6 both, and for the second or any subsequent offense commits a
7 misdemeanor of the third degree and shall, upon conviction, be
8 sentenced to pay a fine of not more than two thousand five
9 hundred dollars (\$2,500) or to imprisonment for not more than
10 one (1) year, or both.

11 (d) This section shall not apply to holders of public
12 service licenses.

13 (e) Nothing in this section shall prohibit restaurant
14 liquor, eating place retail dispenser or hotel licenses from
15 being open seven o'clock ante meridian on Sunday until two
16 o'clock ante meridian Monday for the purpose of serving food and
17 nonalcoholic beverages.

18 Section 40. Section 505.2 of the act, amended December 8,
19 2004 (P.L.1810, No.239), July 16, 2007 (P.L.107, No.34), June
20 25, 2010 (P.L.217, No.35), June 28, 2011 (P.L.55, No.11) and
21 December 22, 2011 (P.L.530, No.113), is amended to read:

22 Section 505.2. Limited Wineries.--(a) In the interest of
23 promoting tourism and recreational development in Pennsylvania,
24 holders of a limited winery license may:

25 (1) Produce alcoholic ciders, wines and wine coolers,
26 subject to the exceptions provided under this section, only from
27 an agricultural commodity grown in Pennsylvania.

28 (2) Sell alcoholic cider, wine and wine coolers produced by
29 the limited winery or purchased in bulk in bond from another
30 Pennsylvania limited winery on the licensed premises, under such

1 conditions and regulations as the board may enforce, to the
2 board, to wine and spirits retail licensees, to individuals and
3 to brewery, hotel, restaurant, club, grocery store and public
4 service liquor licensees, and to Pennsylvania winery licensees:
5 Provided, That a limited winery shall not, in any calendar year,
6 purchase alcoholic cider or wine produced by other limited
7 wineries in an amount in excess of fifty per centum of the
8 alcoholic cider or wine produced by the purchasing limited
9 winery in the preceding calendar year. In addition, the holder
10 of a limited winery license may purchase wine in bottles from
11 another Pennsylvania limited winery if these wines undergo a
12 second fermentation process. Such wine may be sold in bottles
13 bearing the purchasing limited winery's label or the producing
14 limited winery's label. [Such wines, if sold by the board, may
15 be sold by the producing limited winery to the purchasing
16 limited winery at a price lower than the price charged by the
17 board.]

18 (3) Separately or in conjunction with other limited
19 wineries, sell alcoholic cider, wine and wine coolers produced
20 by the limited winery on no more than five (5) board-approved
21 locations other than the licensed premises, with no bottling or
22 production requirement at those additional board-approved
23 locations and under such conditions and regulations as the board
24 may enforce, to the board, wine and spirits retail licensees, to
25 individuals and to brewery, hotel, restaurant, club, grocery
26 store and public service liquor licensees. If two or more
27 limited wineries apply to operate an additional board-approved
28 location in conjunction with each other, the wineries need only
29 have one board-approved manager for the location, need only pay
30 one application fee and need not designate specific or distinct

1 areas for each winery's licensed area. Each limited winery must
2 file an application for such an additional board-approved
3 location, and such location shall count as one of the five
4 permitted for each limited winery. Each limited winery is
5 responsible for keeping only its own complete records. A limited
6 winery may be cited for a violation of the recordkeeping
7 requirements of sections 512 and 513 pertaining to its own
8 records only.

9 (4) At the discretion of the board, obtain a special permit
10 to participate in alcoholic cider, wine and food expositions off
11 the licensed premises. A special permit shall be issued upon
12 proper application and payment of a fee of thirty dollars (\$30)
13 per day for each day of permitted use, not to exceed thirty (30)
14 consecutive days. The total number of days for all the special
15 permits may not exceed one hundred (100) days in any calendar
16 year. A special permit shall entitle the holder to engage in the
17 sale by the glass, by the bottle or in case lots of alcoholic
18 cider or wine produced by the permittee under the authority of a
19 limited winery license. Holders of special permits may provide
20 tasting samples of wines in individual portions not to exceed
21 one fluid ounce. Samples at alcoholic cider, wine and food
22 expositions may be sold or offered free of charge. Except as
23 provided herein, limited wineries utilizing special permits
24 shall be governed by all applicable provisions of this act as
25 well as by all applicable regulations or conditions adopted by
26 the board.

27 For the purposes of this clause, "alcoholic cider, wine and
28 food expositions" are defined as affairs held indoors or
29 outdoors with the intent of promoting Pennsylvania products by
30 educating those in attendance of the availability, nature and

1 quality of Pennsylvania-produced alcoholic ciders and wines in
2 conjunction with suitable food displays, demonstrations and
3 sales. Alcoholic cider, wine and food expositions may also
4 include activities other than alcoholic cider, wine and food
5 displays, including arts and crafts, musical activities,
6 cultural exhibits, agricultural exhibits and farmers markets.

7 (4.1) At the discretion of the board, obtain a farmers
8 market permit. The permit shall entitle the holder to
9 participate in more than one farmers market at any given time
10 and an unlimited number throughout the year and sell alcoholic
11 cider or wine produced under the authority of the underlying
12 limited winery license by the bottle or in case lots. Samples
13 not to exceed one fluid ounce per brand of wine may be offered
14 free of charge. A farmers market permit shall be issued upon
15 proper application and payment of an annual fee of two hundred
16 fifty dollars (\$250). A permit holder may participate in more
17 than one farmers market at any given time. Sales by permit
18 holders shall take place during the standard hours of operation
19 of the farmers market. Written notice of the date, times and
20 location the permit is to be used shall be provided by the
21 permit holder to the enforcement bureau at least two (2) weeks
22 prior to the event. Except as provided in this subsection,
23 limited wineries utilizing farmers market permits shall be
24 governed by all applicable provisions of this act as well as by
25 all applicable regulations adopted by the board.

26 (5) Apply for and hold a hotel liquor license, a restaurant
27 liquor license or a malt and brewed beverages retail license to
28 sell for consumption at the restaurant or limited winery on the
29 licensed winery premises, liquor, wine and malt or brewed
30 beverages regardless of the place of manufacture under the same

1 conditions and regulations as any other hotel liquor license,
2 restaurant liquor license or malt and brewed beverages retail
3 license.

4 (6) (i) Secure a permit from the board to allow the holder
5 of a limited winery license to use up to twenty-five per centum
6 permitted fruit, not wine, in the current year's production.
7 Each permit is valid only for the calendar year in which it is
8 issued.

9 (ii) The fee for a permit to import and use permitted fruit
10 shall be in an amount to be determined by the board.

11 (iii) The purpose of this section is to increase the
12 productivity of limited wineries while at the same time
13 protecting the integrity and unique characteristics of wine
14 produced from fruit primarily grown in this Commonwealth.
15 Prevailing climatic conditions have a significant impact on the
16 character of the fruit. Accordingly, "permitted fruit" shall
17 mean fruit grown or juice derived from fruit grown within three
18 hundred fifty (350) miles of the winery.

19 (iv) The department is authorized to promulgate regulations
20 requiring the filing of periodic reports by limited wineries to
21 ensure compliance with the provisions of this section.

22 (6.1) Sell food for consumption on or off the licensed
23 premises and at the limited winery's additional board-approved
24 locations and sell by the glass, at the licensed premises and at
25 the limited winery's additional board-approved locations, only
26 wine and alcoholic ciders that may otherwise be sold by the
27 bottle.

28 (6.2) Sell wine- or liquor-scented candles acquired or
29 produced by the limited winery.

30 (6.3) Sell alcoholic cider, wine and wine coolers only

1 between the hours of nine o'clock antemeridian and eleven
2 o'clock postmeridian. A limited winery also may request approval
3 from the board to extend sales hours in individual locations at
4 other times during the year or beyond the limits set forth in
5 this clause. The request shall be made in writing to the board's
6 Office of the Chief Counsel and shall detail the exact locations
7 where sales hours are proposed to be extended, the proposed
8 hours and dates of extended operation and the reason for the
9 proposed extended hours.

10 (6.4) Store alcoholic cider, wine and wine coolers produced
11 by the limited winery at no more than two (2) board-approved
12 locations other than the licensed premises and those premises
13 referenced in clause (3) pertaining to the five (5) board-
14 approved locations for the sale of wine, with no bottling or
15 production requirement at those additional locations and under
16 such conditions and regulations as the board may enforce. If two
17 (2) or more businesses will operate out of the same storage
18 facility, the limited winery must designate specific and
19 distinct areas for its storage. The limited winery's designated
20 storage area must be secured and no one other than the licensee
21 and his employees may be allowed access to the storage area. No
22 board-approved manager will be necessary for the storage
23 facility. The limited winery must fill out an application for
24 such an additional board-approved storage location, and such
25 location shall count as one of the two permitted for each
26 limited winery. The limited winery is responsible for keeping
27 only its own complete records. A limited winery may be cited for
28 a violation of the recordkeeping requirements of sections 512
29 and 513 pertaining to its own records only.

30 (b) The total production of alcoholic ciders, wine and wine

coolers by a limited winery may not exceed two hundred thousand (200,000) gallons per year.

(c) As used in this section:

"Agricultural commodity" shall include any of the following: agricultural, apicultural, horticultural, silvicultural and viticultural commodities.

"Farmers market" shall include any building, structure or other place:

(1) owned, leased or otherwise in the possession of a person, municipal corporation or public or private organization;

(2) used or intended to be used by two or more farmers or an association of farmers, who are certified by the Department of Agriculture of the Commonwealth to participate in the Farmers' Market Nutrition Program subject to 7 CFR Pt. 249 (relating to Senior Farmers' Market Nutrition Program (SFMNP)), for the purpose of selling agricultural commodities produced in this Commonwealth directly to consumers;

(3) which is physically located within this Commonwealth; and

(4) which is not open for business more than twelve hours each day.

Section 41. Section 505.4 of the act, amended December 22, 2011 (P.L.530, No.113), is amended to read:

Section 505.4. Distilleries.--(a) The board may issue a distillery of historical significance license to any distillery which was established prior to January 1, 1875. The holder of the license may manufacture and sell liquor produced on the licensed premises to the board, to wine and spirits retail licensees, to other entities licensed by the board and to the public under such conditions and regulations as the board may

1 enforce. Production at the distillery of historical significance
2 shall be limited to an amount not to exceed twenty thousand
3 (20,000) gallons per year. The distillery does not need to
4 establish continuous operation since January 1, 1875, in order
5 to qualify for a license under this section.

6 (b) (1) The board may issue a limited distillery license
7 that will allow the holder thereof to operate a distillery that
8 shall not exceed production of one hundred thousand (100,000)
9 gallons of distilled liquor per year. The holder of the license
10 may manufacture and sell bottled liquors produced on the
11 licensed premises to the board, to wine and spirits retail
12 licensees, to other entities licensed by the board and to the
13 public between the hours of nine o'clock antemeridian and eleven
14 o'clock postmeridian so long as a specific code of distilled
15 liquor which is listed for sale as a stock item by the board in
16 State liquor stores may not be offered for sale at a licensed
17 limited distillery location at a price which is lower than that
18 charged by the board and under such conditions and regulations
19 as the board may enforce.

20 (2) (i) The holder of a limited distillery license may,
21 separately or in conjunction with other limited distillery
22 licensees, sell bottled liquors produced by the distillery at no
23 more than two (2) board-approved locations other than the
24 licensed premises, with no bottling or production requirement at
25 those additional board-approved locations and under such
26 conditions and regulations as the board may enforce to the
27 board, to individuals and to entities licensed by the board.

28 (ii) If two (2) or more limited distilleries apply to
29 operate an additional board-approved location in conjunction
30 with each other, the distilleries need only have one (1) board-

1 approved manager for the location, need only pay one application
2 fee and need not designate specific or distinct areas for each
3 distillery's licensed area. A limited distillery must file an
4 application for the additional board-approved location, and that
5 location shall count as one (1) of the two (2) permitted for
6 each limited distillery. A limited distillery is responsible for
7 keeping only its own complete records. A limited distillery may
8 be cited for a violation of the recordkeeping requirements of
9 sections 512 and 513 pertaining to its own records only.

10 (3) The holder of a limited distillery license may apply for
11 and hold a hotel liquor license, a restaurant liquor license or
12 a malt and brewed beverages retail license to sell for
13 consumption at the restaurant or limited distillery on the
14 licensed distillery premises liquor, wine and malt or brewed
15 beverages regardless of the place of manufacture under the same
16 conditions and regulations as any other hotel liquor license,
17 restaurant liquor license or malt and brewed beverages retail
18 license.

19 (4) The holder of a limited distillery license may sell food
20 for consumption on or off the licensed premises and at the
21 limited distillery's additional board-approved locations, and
22 may sell by the glass, at the licensed premises and at the
23 limited distillery's additional board-approved locations, only
24 liquor that may otherwise be sold by the bottle.

25 (5) The holder of a limited distillery license may provide
26 tasting samples of liquor that in total do not exceed one and
27 one-half (1.5) fluid ounces per person on the licensed premises
28 and at the two (2) board-approved locations. Samples may be sold
29 or provided free of charge and may only be provided between the
30 hours of nine o'clock antemeridian and eleven o'clock

1 postmeridian.

2 (6) The fee for the limited distillery license shall be in
3 an amount to be determined by the board but shall not exceed one
4 thousand five hundred dollars (\$1,500).

5 (7) The board may issue to the holder of a distillery
6 license a limited distillery license in exchange for the
7 distillery license provided that the applicant has not
8 manufactured more than one hundred thousand (100,000) gallons of
9 distilled liquor in the prior calendar year. The board may not
10 charge a fee for this exchange. An applicant under this
11 subsection shall surrender his distillery license for
12 cancellation prior to the issuance of the new limited distillery
13 license. The authority of the board to exchange a distillery
14 license for a limited distillery license under this subsection
15 and this subsection shall expire December 31, 2012.

16 (c) (1) The holder of a distillery license as issued under
17 section 505 may sell bottled liquors produced on the licensed
18 premises to the board, to wine and spirits retail licensees and
19 other entities licensed by the board and to the public between
20 the hours of nine o'clock antemeridian and eleven o'clock
21 postmeridian so long as a specific code of distilled liquor
22 which is listed for sale as a stock item by the board in State
23 liquor stores may not be offered for sale at a licensed
24 distillery location at a price which is lower than that charged
25 by the board and under such conditions and regulations as the
26 board may enforce.

27 (2) The holder of a distillery license as issued under
28 section 505 may provide tasting samples of liquor that in total
29 do not exceed one and one-half (1.5) fluid ounces. Samples may
30 be sold or provided free of charge between the hours of nine

1 o'clock antemeridian and eleven o'clock postmeridian.

2 Section 42. Section 508 of the act, amended April 29, 1994
3 (P.L.212, No.30), is amended to read:

4 Section 508. License Fees.--(a) The annual fee for every
5 license issued to a limited winery or a winery shall be as
6 prescribed in section 614-A of the act of April 9, 1929
7 (P.L.177, No.175), known as "The Administrative Code of 1929."
8 The fee for every license issued to a distillery (manufacturer)
9 shall be as prescribed in section 614-A of "The Administrative
10 Code of 1929." The annual fee for all other licenses shall be as
11 prescribed in section 614-A of "The Administrative Code of
12 1929." An applicant for renewal of a license issued under this
13 article shall file a written application with the board together
14 with an application surcharge of seven hundred dollars (\$700).
15 Whenever any checks issued in payment of filing and/or license
16 fees shall be returned to the board as dishonored, the board
17 shall charge a fee of five dollars (\$5.00) per hundred dollars
18 or fractional part thereof, plus all protest fees, to the maker
19 of such check submitted to the board. Failure to make full
20 payment or pay the face amount of the check in full and all
21 charges thereon as herein required within ten days after demand
22 has been made by the board upon the maker of the check, the
23 license of such person shall not be renewed for the license
24 period or validated for any interim period for such year.

25 (b) For the purpose of this section, the term "proof gallon"
26 shall mean a gallon liquid which contains one-half its volume of
27 alcohol of a specific gravity of seven thousand nine hundred
28 thirty-nine ten thousandths (.7939) at sixty degrees Fahrenheit.

29 Section 42.1. Section 801 of the act is amended to read:

30 Section 801. Moneys Paid Into Liquor License Fund and

1 Returned to Municipalities.--(a) The following fees collected
2 by the board under the provisions of this act shall be paid into
3 the State Treasury through the Department of Revenue into a
4 special fund to be known as the "Liquor License Fund":

5 (1) License fees for hotel, restaurant and club liquor
6 licenses.

7 (2) License fees for retail dispensers' (malt and brewed
8 beverages) licenses.

9 (a.1) The license fees for grocery stores collected by the
10 board under the provisions of this act shall be paid into the
11 State Treasury through the Department of Revenue into the State
12 Stores Fund.

13 (b) The moneys in the Liquor License Fund shall, on the
14 first days of February and August of each year, be paid by the
15 board to the respective municipalities in which the respective
16 licensed places are situated, in such amounts as represent the
17 aggregate license fees collected from licenses in such
18 municipalities during the preceding period.

19 (c) The board shall have the power to appropriate moneys in
20 the Liquor License Fund for the payment of claims for refunds
21 allowed and approved by the board for moneys paid into the
22 Liquor License Fund because of the over-payment or overcharge on
23 license fees. In the event that the moneys in the Liquor License
24 Fund have been distributed to the respective municipalities, the
25 board shall have the authority to deduct from the next semi-
26 annual payment to the respective municipalities the amount of
27 any over-payment previously refunded by the board to any person
28 on account of an overcharge or over-payment on a license fee.

29 Section 43. The act is amended by adding an article to read:

30 ARTICLE VIII-A

Section 801 A. Definitions.

The following words and phrases when used in this article shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Department." The Department of Revenue of the Commonwealth.

"Fiscal month." The monthly period established by the board for the purpose of conducting the board's business.

"Taxable liquor." As follows:

(1) Any of the following which contain more than one half of one percent of alcohol by volume:

(i) An alcoholic, spirituous, vinous, fermented or other alcoholic beverage.

(ii) A combination of liquors and mixed liquor, a part of which is spirituous, vinous, fermented or otherwise alcoholic.

(iii) A drink or drinkable liquid, preparation or mixture intended for beverage purposes.

(2) The term shall not include alcohol and malt or brewed beverages.

Section 802 A. Tax.

(a) Imposition. An emergency State tax is imposed and assessed at the rate of 18% of the net price of all taxable liquor sold by the board or a wine and spirits wholesale licensee.

(b) Collection. The tax imposed under subsection (a) shall be collected by the board or the wine and spirits wholesale licensee from the purchasers of the taxable liquor from the board or the wine and spirits wholesale licensee.

(c) Disposition. The tax collected under subsection (b)

~~shall be paid into the State Treasury, through the department,
as provided under this article and shall be credited to the
General Fund.~~

~~Section 803 A. Transmittal.~~

~~(a) Duty. Except as provided under subsection (b), the
board or the wine and spirits wholesale licensee shall, on or
before the 15th day of each calendar month, do all of the
following:~~

~~(1) Transmit to the department all of the following:~~

~~(i) A statement of its receipts from sales of
taxable liquor and taxes collected during the preceding
fiscal month.~~

~~(ii) Information necessary to effectuate this
article.~~

~~(2) Pay to the department the tax imposed under section
802 A(a).~~

~~(b) Exception. The following shall apply:~~

~~(1) The board or a wine and spirits wholesale licensee
may add the tax imposed under section 802 A(a) to the
wholesale and retail price at which taxable liquor is sold
and eliminate any accounting of the tax separate from sale
prices.~~

~~(2) If the board or the wine and spirits wholesale
licensee adds the tax as provided under paragraph (1), the
amount of the tax for a calendar month shall be calculated by
dividing the entire gross receipts derived from sales at
Pennsylvania Liquor Stores or at wholesale licensees during
the month by six and five ninths and the quotient shall be
the amount of the tax for the month payable as provided under
this section.~~

SECTION 801-A. DEFINITIONS.

THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ARTICLE SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

"EMERGENCY ACT." THE ACT OF JUNE 6, 1936 (SP.SESS., P.L.13, NO.4), ENTITLED, AS REENACTED, "AN ACT IMPOSING AN EMERGENCY STATE TAX ON LIQUOR, AS HEREIN DEFINED, SOLD BY THE PENNSYLVANIA LIQUOR CONTROL BOARD; PROVIDING FOR THE COLLECTION AND PAYMENT OF SUCH TAX; AND IMPOSING DUTIES UPON THE DEPARTMENT OF REVENUE AND THE PENNSYLVANIA LIQUOR CONTROL BOARD."

SECTION 802-A. CONTROLLING PROVISIONS.

FOR THE PURPOSE OF THE EMERGENCY ACT, THE FOLLOWING SHALL APPLY:

(1) THE TERM "BOARD" IN THE EMERGENCY ACT SHALL INCLUDE:

(I) THE BOARD ONLY TO THE EXTENT THE BOARD IS MAKING SALES:

(A) TO THE GENERAL PUBLIC; OR

(B) OF LIQUOR SOLD FOR ON-PREMISES CONSUMPTION TO LICENSEES HOLDING A LICENSE PERMITTING ON-PREMISES CONSUMPTION OF LIQUOR.

(II) A WINE OR SPIRITS RETAIL LICENSEE.

(III) A WINE OR SPIRITS WHOLESALE LICENSEE ONLY TO THE EXTENT THE WHOLESALE LICENSEE MAKES SALES OF LIQUOR SOLD FOR ON-PREMISES CONSUMPTION TO LICENSEES HOLDING A LICENSE PERMITTING ON-PREMISES CONSUMPTION OF LIQUOR.

(IV) A GROCERY STORE LICENSEE ONLY TO THE EXTENT THAT THE SALES OF LIQUOR ARE NOT SOLD UNDER A LICENSE AUTHORIZING THE ON-PREMISES CONSUMPTION OF LIQUOR.

(V) ANY ENTITY SELLING LIQUOR TO ANOTHER ENTITY THAT

1 IS NOT REQUIRED TO PAY THE TAX IMPOSED BY THE EMERGENCY
2 ACT.

3 (2) THE TERM "NET PRICE" SHALL MEAN TOTAL RECEIPTS
4 RECEIVED FROM THE SALE OF LIQUOR WITHOUT ANY DEDUCTIONS FOR
5 COST OR EXPENSES, INCLUDING, BUT NOT LIMITED TO:

6 (I) ANY REIMBURSEMENT FROM MANUFACTURERS, PURCHASERS
7 OR OTHER PARTIES.

8 (II) IN THE CASE OF A BUNDLED SALE WHICH INCLUDES
9 LIQUOR, THE TERM INCLUDES THE ENTIRE PURCHASE PRICE
10 CHARGED FOR THE BUNDLED SALE, UNLESS A FAIR MARKET PRICE
11 FOR THE LIQUOR IS SEPARATELY STATED ON THE SALES DOCUMENT
12 GIVEN TO THE PURCHASER, THEN THE TERM SHALL ONLY INCLUDE
13 THE PRICE CHARGED FOR THE LIQUOR.

14 (3) THE TAX IMPOSED BY THE EMERGENCY ACT SHALL BE
15 INCLUDED IN ANY ADVERTISED PRICE, SHELF PRICE OR ANY OTHER
16 PRICE FOR A CONTAINER OF LIQUOR AND SHALL NOT BE LISTED AS AN
17 ITEMIZED TAX ON ANY SALES RECEIPT FOR THE SALE OF LIQUOR.

18 (4) THE EMERGENCY ACT SHALL BE ADMINISTERED AND ENFORCED
19 UNDER THE PROVISIONS OF ARTICLE II OF THE ACT OF MARCH 4,
20 1971 (P.L.6, NO.2), KNOWN AS THE TAX REFORM CODE OF 1971,
21 INCLUDING THE PROVISIONS OF ARTICLE II CONCERNING RETURNS,
22 PAYMENT, ASSESSMENT AND ENFORCEMENT WHERE APPLICABLE, EXCEPT
23 THAT THE EXCLUSIONS AND EXEMPTIONS UNDER ARTICLE II OF THE
24 TAX REFORM CODE OF 1971 SHALL NOT APPLY TO THE EMERGENCY ACT,
25 EXCEPT FOR THE RESALE EXEMPTION, PROVIDED THAT EXEMPTION
26 SHALL NOT BE CLAIMED FOR LIQUOR PURCHASED FOR ON-PREMISES
27 CONSUMPTION.

28 (5) THE TERM "FISCAL MONTH" SHALL MEAN "CALENDAR MONTH."
29 ~~Section 44. Repeals are as follows:~~ <--

30 ~~(1) The General Assembly declares that the repeal under~~

1 ~~paragraph (2) is necessary to effectuate the addition of~~
2 ~~Article VIII A of the act.~~

3 ~~(2) The act of June 9, 1936 (Sp. Sess., P.L.13, No.4),~~
4 ~~entitled, as reenacted and amended, "An act imposing an~~
5 ~~emergency State tax on liquor, as herein defined, sold by the~~
6 ~~Pennsylvania Liquor Control Board; providing for the~~
7 ~~collection and payment of such tax; and imposing duties upon~~
8 ~~the Department of Revenue and the Pennsylvania Liquor Control~~
9 ~~Board," is repealed.~~

10 Section ~~45~~ 44. This act shall take effect as follows: <--

11 (1) The addition of Article III-A of the act shall take
12 effect in 120 days.

13 (2) The amendment or addition of sections 401.1, 403.1,
14 404.1 and 406.2 of the act shall take effect in 60 days.

15 (3) THE AMENDMENT OR ADDITION OF SECTIONS 207, 215 AND <--
16 301 OF THE ACT SHALL TAKE EFFECT UPON COMPLETION OF
17 DIVESTITURE OF RETAIL SALE OPERATIONS UNDER SUBARTICLE B OF
18 ARTICLE III-A OF THE ACT.

19 (4) THE AMENDMENT OR ADDITION OF SECTION 208 OF THE ACT
20 SHALL TAKE EFFECT UPON COMPLETION OF DIVESTITURE OF WHOLESALE
21 OPERATION UNDER SUBARTICLE C OF ARTICLE III-A OF THE ACT.

22 ~~(3)~~ (5) The remainder of this act shall take effect <--
23 immediately.