

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

REFERRED TO COMMITTEE ON LIQUOR CONTROL, MARCH 11, 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, further providing for authority,
 25 for issuance, for transfer or extension, for fees, for sales
 26 and restrictions, for wine auction permits and for importers'
 27 licenses; in licensing, providing for grocery store licenses,
 28 convenience store licenses, big-box retail store licenses and
 29 pharmacy licenses; in licensing, further providing for malt
 30 and brewed beverages licenses; in licensing, providing for
 31 enhanced distributors licenses; in licensing, further

1 providing for license applications, for license restrictions,
2 for sales, storage and purchase restrictions, for
3 interlocking business, for breweries, for county limitations,
4 for administrative proceedings, for assignability, for
5 renewal and temporary provisions, for sanctions, for local
6 option, for shipment into Commonwealth, for unlawful acts and
7 for hours of operation; in licensing, providing for unlawful
8 acts; in licensing, further providing for penalties and for
9 vacation of premises; in distilleries, wineries, bonded
10 warehouses, bailees and transporters, further providing for
11 limited wineries, for distilleries and for license fees;
12 providing for emergency State tax; and making a related
13 repeal.

14 The General Assembly of the Commonwealth of Pennsylvania
15 hereby enacts as follows:

16 Section 1. Section 102 of the act of April 12, 1951 (P.L.90,
17 No.21), known as the Liquor Code, reenacted and amended June 29,
18 1987 (P.L.32, No.14), is amended by adding definitions to read:

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

22 "Affiliate" or "person affiliated with" shall mean a person
23 that directly or indirectly, through one or more intermediaries,
24 controls, is controlled by or is under common control with a
25 specified person.

26 * * *

27 "Bid-rigging" shall mean the concerted activity of two or
28 more persons to determine in advance or attempt to influence the
29 selected bidder for a wine and spirits retail license. The term
30 includes any of the following:

31 (1) Conspiring or cooperating in the preparation of bids,
32 including the determination of bid amounts.

33 (2) Submitting prearranged bids, agreed-upon higher or lower
34 bids or other complementary bids.

35 (3) Agreeing to submit identical bids.

36 (4) Agreeing to coordinate the retail zones in which a

1 person will or will not submit a bid.

2 (5) Agreeing to share profits with or give an equity
3 interest to a person who does not submit the high bid.

4 (6) Agreeing to set up territories to restrict competition.

5 (7) Agreeing not to submit a bid.

6 "Big-box retail store" shall mean a reputable place operated
7 by persons of good repute, which sells a wide variety of
8 merchandise, including automotive supplies, housewares,
9 electronics, home furnishings, apparel, health and beauty
10 supplies and perishable and non-perishable food items, in bulk
11 and/or individual quantities, and which has an area under one
12 roof of one hundred thousand (100,000) square feet or more.

13 "Blended brand valuation" shall mean, for any particular
14 brand of liquor, the sum of the wholesale profit margin on each
15 product of a brand.

16 * * *

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

19 * * *

20 "Change in control" shall mean, for purposes of wholesale or
21 retail licensees as defined in this section, the acquisition by
22 a person or group of persons acting in concert of more than
23 twenty per centum of a licensee's securities or other ownership
24 interests, with the exception of any ownership interest of the
25 person that existed at the time of initial licensing, or more
26 than twenty per centum of the securities or other ownership
27 interests of a corporation or other legal entity which owns,
28 directly or indirectly, at least twenty per centum of the
29 securities or other ownership interests of the licensee.

30 * * *

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

2 * * *

3 "Controlling interest" shall mean as follows:

4 (1) For a publicly traded legal entity, an interest in a
5 legal entity, applicant or licensee whereby a person's sole
6 voting rights under State law or corporate articles or bylaws
7 entitles the person to elect or appoint one or more of the
8 members of the board of directors or other governing board or
9 the ownership, directly or indirectly, of five per centum or
10 more of the securities of the publicly traded corporation.

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

14 "Convenience store" shall mean a reputable place operated by
15 persons of good repute which primarily sells food prepared for
16 consumption on and off the premises, and non-food items, and may
17 sell liquid fuels for use in motor vehicles, having an area
18 under one roof of more than one thousand (1,000) square feet but
19 less than ten thousand (10,000) square feet.

20 * * *

21 "Department" shall mean the Department of General Services of
22 the Commonwealth.

23 * * *

24 "Displaced employe" shall mean a salaried employe of the
25 board whose employment is terminated as a sole and direct result
26 of the implementation of Article III-A. The term shall not
27 include a person who is terminated for cause or who retires or
28 resigns, is furloughed or is otherwise separated from employment
29 for any other reason. The term excludes intermittent liquor
30 store clerks and seasonal liquor store clerks.

1 * * *

2 "Grocery store" shall mean a reputable place operated by
3 persons of good repute, which primarily sells food, supplies for
4 the table and food products for human consumption off the
5 premises and which has an area under one roof of ten thousand
6 (10,000) square feet or more.

7 * * *

8 "Institution of higher education" shall mean a public or
9 private institution within this Commonwealth authorized by the
10 Department of Education to grant a certificate, associate degree
11 or higher degree. The term includes a branch or satellite campus
12 of the institution.

13 * * *

14 "Pharmacy" shall mean any place having an area under one roof
15 of at least 8,000 square feet or more that is properly issued a
16 permit or license by the Pennsylvania State Board of Pharmacy
17 where drugs, devices and diagnostic agents for human or animal
18 consumption are stored, dispensed or compounded, excluding
19 offices or facilities of veterinarians licensed by the State
20 Board of Veterinary Medical Examiners. The term shall not
21 include the operations of a manufacturer or distributor as
22 defined in the act of April 14, 1972 (P.L.233, No.64), known as
23 "The Controlled Substance, Drug, Device and Cosmetic Act." The
24 term does not include an organized pharmacy service in an
25 institution under the direct supervision of a licensed
26 pharmacist.

27 * * *

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

30 * * *

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

6 * * *

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

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

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

17 * * *

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

22 "Wine and spirits wholesale license" shall mean a license
23 issued by the department or the board authorizing a person to
24 sell and distribute liquor on a wholesale basis to retail
25 licensees and other licensees under this act.

26 * * *

27 Section 2. Section 104(c) and (d) of the act, amended
28 December 7, 1990 (P.L.622, No.160) and December 20, 1996
29 (P.L.1513, No.196), is amended to read:

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

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

21 (d) The provisions of this act are intended to create a
22 system for distribution [that shall include the fixing of prices
23 for] of liquor and alcohol and controls placed on [prices for]
24 the sale and distribution of malt and brewed beverages, and each
25 of which shall be construed as integral to the preservation of
26 the system, without which system the Commonwealth's control of
27 the sale of liquor and alcohol and malt and brewed beverages and
28 the Commonwealth's promotion of its policy of temperance and
29 responsible conduct with respect to alcoholic beverages would
30 not be possible.

1 * * *

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

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

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

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

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

30 [(c) To determine the municipalities within which

1 Pennsylvania Liquor Stores shall be established and the
2 locations of the stores within such municipalities.]

3 (d) To grant and issue all licenses and to grant, issue,
4 suspend and revoke all permits authorized to be issued under
5 this act.

6 (e) Through the [Department of General Services] department
7 as agent, to lease and furnish and equip such buildings, rooms
8 and other accommodations as shall be required for the operation
9 of this act.

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

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

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

23 (i) From time to time, to make such regulations not
24 inconsistent with this act as it may deem necessary for the
25 efficient administration of this act. The board shall cause such
26 regulations to be published and disseminated throughout the
27 Commonwealth in such manner as it shall deem necessary and
28 advisable or as may be provided by law. Such regulations adopted
29 by the board shall have the same force as if they formed a part
30 of this act.

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

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

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

12 Section 207.1. Adjustment of Fees by Regulation.--(a)
13 Notwithstanding any provision of this act or the act of April 9,
14 1929 (P.L.177, No.175), known as "The Administrative Code of
15 1929," to the contrary, all fees required under this act shall
16 be fixed by the board by regulation and shall be subject to the
17 act of June 25, 1982 (P.L.633, No.181), known as the "Regulatory
18 Review Act."

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

21 (1) If the revenues raised by the fees imposed under this
22 act are not sufficient to meet all expenditures of the board
23 over a two-year period, the board shall increase the fees by
24 regulation, subject to the "Regulatory Review Act," so that the
25 projected revenues will meet projected expenditures.

26 (2) If the board determines that the fees established by the
27 board under subsection (a) are inadequate to meet the minimum
28 enforcement efforts required under this act, the board, after
29 consultation with the enforcement bureau, and subject to the
30 "Regulatory Review Act," shall increase the fees by regulation

1 in an amount so that adequate revenues are raised to meet the
2 required expenditures.

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

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

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

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

13 (b) The duties and conduct of the officers and employes of
14 the board.

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

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

21 (e) The issuing and distribution of price lists for the
22 various classes, varieties or brands of liquor and alcohol kept
23 for sale by the board under this act.]

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

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

28 (h) The issuance of licenses and permits and the conduct,
29 management, sanitation and equipment of places licensed or
30 included in permits.

1 [(i) The place and manner of depositing the receipts of
2 Pennsylvania Liquor Stores and the transmission of balances to
3 the Treasury Department through the Department of Revenue.

4 (j) The solicitation by resident or nonresident vendors of
5 liquor from Pennsylvania licensees and other persons of orders
6 for liquor to be sold through the Pennsylvania Liquor Stores
7 and, in the case of nonresident vendors, the collection
8 therefrom of license fees for such privilege at the same rate as
9 provided herein for importers' licenses.]

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

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

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

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

24 Section 301. Board to Establish State Liquor Stores.--(a)
25 The board shall [establish,] operate and maintain at such places
26 throughout the Commonwealth as it shall deem essential and
27 advisable, stores to be known as "Pennsylvania Liquor Stores,"
28 for the sale of liquor and alcohol in accordance with the
29 provisions of and the regulations made under this act[; except
30 that no store not so already located shall be located within

1 three hundred feet of any elementary or secondary school, nor
2 within a dry municipality without there first having been a
3 referendum approving such location. When the board shall have
4 determined upon the location of a liquor store in any
5 municipality, it shall give notice of such location by public
6 advertisement in two newspapers of general circulation. In
7 cities of the first class, the location shall also be posted for
8 a period of at least fifteen days following its determination by
9 the board as required in section 403(g) of this act. The notice
10 shall be posted in a conspicuous place on the outside of the
11 premises in which the proposed store is to operate or, in the
12 event that a new structure is to be built in a similarly visible
13 location. If, within five days after the appearance of such
14 advertisement, or of the last day upon which the notice was
15 posted, fifteen or more taxpayers residing within a quarter of a
16 mile of such location, or the City Solicitor of the city of the
17 first class, shall file a protest with the court of common pleas
18 of the county averring that the location is objectionable
19 because of its proximity to a church, a school, or to private
20 residences, the court shall forthwith hold a hearing affording
21 an opportunity to the protestants and to the board to present
22 evidence. The court shall render its decision immediately upon
23 the conclusion of the testimony and from the decision there
24 shall be no appeal. If the court shall determine that the
25 proposed location is undesirable for the reasons set forth in
26 the protest, the board shall abandon it and find another
27 location. The board may establish, operate and maintain such
28 establishments for storing and testing liquors as it shall deem
29 expedient to carry out its powers and duties under this act],
30 and subject to the limitations set forth in Article III-A of

1 this act.

2 (b) The board may lease the necessary premises for such
3 stores or establishments, but all such leases shall be made
4 through the [Department of General Services] department as agent
5 of the board. The board, through the [Department of General
6 Services] department, shall have authority to purchase such
7 equipment and appointments as may be required in the operation
8 of such stores or establishments.

9 Section 8. Section 305 of the act, amended May 8, 2003
10 (P.L.1, No.1), July 17, 2003 (P.L.63, No.15), May 8, 2003
11 (P.L.1, No.1), December 8, 2004 (P.L.1810, No.239), July 6, 2005
12 (P.L.135, No.39) and July 5, 2012 (P.L.1007, No.116), is amended
13 to read:

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

26 In computing the retail price of such special orders for
27 liquor or alcohol, the board shall not include the cost of
28 freight or shipping before applying the mark-up and taxes but
29 shall add the freight or shipping charges to the price after the
30 mark-up and taxes have been applied.

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

5 During the retail divestiture process as provided in Article
6 III-A, the board shall continue to take and process special
7 liquor orders for residents and licensees of the board, and may
8 establish a protocol by which pre-paid orders may be picked up
9 at either a Pennsylvania Liquor Store or from the licensed
10 premises of a wine and spirits retail licensee. A wine and
11 spirits retail licensee is authorized to assess a handling fee
12 for this purpose. Any product not claimed at a wine and spirits
13 retail store by the purchaser shall be returned to the board
14 after ten days notice of arrival was sent to the purchaser.

15 (b) Every Pennsylvania Liquor Store shall sell liquors at
16 wholesale to wine and spirits retail licensees, grocery stores,
17 big-box retail stores, pharmacies, enhanced distributors,
18 hotels, restaurants, clubs, and railroad, pullman and steamship
19 companies licensed under this act; and, under the regulations of
20 the board, to pharmacists duly licensed and registered under the
21 laws of the Commonwealth, and to manufacturing pharmacists, and
22 to reputable hospitals approved by the board, or chemists. Sales
23 to licensees shall be made at a price that includes a discount
24 of ten per centum from the retail price, except that sales made
25 to wine and spirits retail licensees shall include a discount of
26 twenty per centum from the retail price. The board may sell to
27 registered pharmacists only such liquors as conform to the
28 Pharmacopoeia of the United States, the National Formulary, or
29 the American Homeopathic Pharmacopoeia. The board may sell at
30 special prices under the regulations of the board, to United

1 States Armed Forces facilities which are located on United
2 States Armed Forces installations and are conducted pursuant to
3 the authority and regulations of the United States Armed Forces.
4 All other sales by such stores shall be at retail. A person
5 entitled to purchase liquor at wholesale prices may purchase the
6 liquor at any Pennsylvania Liquor Store upon tendering cash,
7 check or credit card for the full amount of the purchase. For
8 this purpose, the board shall issue a discount card to each
9 licensee identifying such licensee as a person authorized to
10 purchase liquor at wholesale prices. Such discount card shall be
11 retained by the licensee. The board may contract through the
12 Commonwealth bidding process for delivery to wholesale licensees
13 at the expense of the licensee receiving the delivery.

14 (c) Whenever any checks issued in payment of liquor or
15 alcohol purchased from State Liquor Stores by persons holding
16 wholesale purchase permit cards issued by the board shall be
17 returned to the board as dishonored, the board shall charge a
18 fee of five dollars per hundred dollars or fractional part
19 thereof, plus all protest fees, to the maker of such check
20 submitted to the board. Failure to pay the face amount of the
21 check in full and all charges thereon as herein required within
22 ten days after demand has been made by the board upon the maker
23 of the check shall be cause for revocation or suspension of any
24 license issued by the board to the person who issued such check
25 and the cancellation of the wholesale purchase permit card held
26 by such person.

27 (d) No liquor or alcohol package shall be opened on the
28 premises of a Pennsylvania Liquor Store. No manager or other
29 employe of the board employed in a Pennsylvania Liquor Store
30 shall allow any liquor or alcohol to be consumed on the store

1 premises, nor shall any person consume any liquor or alcohol on
2 such premises, except liquor and alcohol which is part of a
3 tasting conducted pursuant to the board's regulations. Such
4 tastings may also be conducted in the board's headquarters or
5 regional offices.

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

10 Such permits may be issued to the United States or any
11 governmental agency thereof, to any university or college of
12 learning, any laboratory for use exclusively in scientific
13 research, any hospital, sanitorium, eleemosynary institution or
14 dispensary; to physicians, dentists, veterinarians and
15 pharmacists duly licensed and registered under the laws of the
16 Commonwealth of Pennsylvania; to manufacturing chemists and
17 pharmacists or other persons for use in the manufacture or
18 compounding of preparations unfit for beverage purposes.

19 (f) Every purchaser of liquor, alcohol, corkscrews, wine or
20 liquor accessories, trade publications, gift cards, gift
21 certificates, wine- or liquor-scented candles or wine glasses
22 from a Pennsylvania Liquor Store shall receive a numbered
23 receipt which shall show the price paid therefor and such other
24 information as the board may prescribe. Copies of all receipts
25 issued by a Pennsylvania Liquor Store shall be retained by and
26 shall form part of the records of such store.

27 [(g) The board is hereby authorized and empowered to adopt
28 and enforce appropriate rules and regulations to insure the
29 equitable wholesale and retail sale and distribution, through
30 the Pennsylvania Liquor Stores, of available liquor and alcohol

1 at any time when the demand therefor is greater than the
2 supply.]

3 (h) Every Pennsylvania Liquor Store shall sell gift
4 certificates and gift cards which may be redeemed for any
5 product sold by the board. In addition, the board may sell
6 corkscrews, wine and liquor accessories, wine- or liquor-scented
7 candles, trade publications and wine sleeves at Pennsylvania
8 Liquor Stores.

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

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

13 ARTICLE III-A

14 WINE AND SPIRITS DISTRIBUTION

15 SUBARTICLE A

16 GENERAL PROVISIONS

17 Section 301-A. Scope of article.

18 This article relates to the privatization of liquor
19 distribution in this Commonwealth.

20 Section 302-A. Legislative intent.

21 The General Assembly finds and declares as follows:

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

25 (2) The health and welfare of the citizens of this
26 Commonwealth will be adequately protected by the regulation
27 of private licensees through strict enforcement of laws and
28 rules relating to the purchase and sale of liquor.

29 (3) The sale of liquor through wholesale and retail
30 licensees will provide residents with improved customer

1 convenience, and will provide an opportunity for competitive
2 pricing and enhanced product selection.

3 (4) Modernization of the retail sale of wine and beer
4 through new outlets for consumption off the premises will
5 further enhance customer convenience.

6 (5) This article will improve operation and efficiency
7 of State government.

8 (6) The authorization of wine and spirits wholesale and
9 retail licenses is intended to continue the generation of
10 revenue to the Commonwealth related to the wholesale and
11 retail sale of liquor.

12 (7) The transition to a privately-owned and privately-
13 operated wholesale and retail liquor distribution system
14 should be accomplished in a manner that protects the public
15 through regulation and policing of all activities involved in
16 the wholesale and retail sale of liquor.

17 (8) The establishment of wine and spirits wholesale and
18 retail licenses is intended to provide broad economic
19 opportunities to the citizens of this Commonwealth and to be
20 implemented in such a manner as to prevent monopolization by
21 establishing reasonable restrictions on the control of
22 wholesale and retail licensees.

23 (9) The transition to a privately-owned and privately-
24 operated wholesale and retail liquor distribution system
25 should be accomplished in a manner that minimizes disruption
26 of services to the public.

27 (10) In conjunction with the transition to privately-
28 owned and privately-operated liquor wholesalers and retail
29 liquor stores, this article is intended to modernize the
30 retail sale of wine and beer through new outlets for

1 consumption off the premises, further enhancing customer
2 convenience.

3 (11) With the transition to a privately-owned and
4 privately-operated wholesale and retail liquor distribution
5 system, and with the addition of new licensing
6 classifications, it is necessary to enhance alcohol education
7 and enforcement efforts to:

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

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

11 (iii) discourage the intemperate use of alcohol.

12 (12) Participation in the wholesale and retail sale of
13 liquor by a wholesale or retail licensee is a privilege,
14 conditioned upon the proper and continued qualification of
15 the licensee and upon the discharge of the affirmative
16 responsibility of the licensee to provide the department and
17 the board with assistance and information necessary to assure
18 that the policies declared by this article are achieved.

19 Section 303-A. Transition to private distribution system,
20 powers and duties of the department and the board.

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

28 (b) Retail transition.--

29 (1) The department shall substantially transition the
30 board's retail distribution of alcohol to privately-owned and

1 privately-operated wine and spirits retail licensees before
2 divesting the board's wholesale operations. The department
3 shall engage the services of a consultant to assist the
4 committee in effectuating the intent of this section. The
5 department shall not be bound by the procedural constraints
6 or requirements of 62 Pa.C.S. Pt. I (relating to Commonwealth
7 Procurement Code) in hiring the consultant.

8 (2) The divesture of the board's retail operations shall
9 be accomplished through the issuance of 1,200 wine and
10 spirits retail licenses, allocated by county, which shall be
11 awarded through a competitive bidding process as set forth in
12 this article. Each successful applicant shall be thoroughly
13 investigated to determine whether the person is a reputable
14 and responsible person suitable to be licensed to sell liquor
15 in this Commonwealth.

16 (3) As licenses are awarded in a given county, State
17 liquor stores located in the region shall begin to wind down
18 operations, terminate applicable lease agreements,
19 redistribute or furlough store personnel and dispose of
20 remaining inventory and store property.

21 (4) The transition shall fully divest the board of
22 operations relating to the retail distribution of liquor
23 within three years and six months of the effective date of
24 this section.

25 (c) Wholesale transition.--

26 (1) After the board's retail operations have been
27 substantially divested, the department shall transition the
28 board's wholesale distribution of liquor to privately-owned
29 and privately-operated wholesale licensees.

30 (2) The divesture of the board's wholesale operations

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

8 (d) Cooperation required.--

9 (1) The board shall fully cooperate with the department
10 or its consultant in all aspects of implementation of this
11 article and shall provide the department or its consultant
12 with all records and information in the possession of the
13 board upon request.

14 (2) The board shall devote sufficient resources to
15 planning and preparation for the divestiture of its wholesale
16 and retail functions.

17 (3) The board shall use its best efforts in coordinating
18 with the department or its consultant, wine and spirits
19 retail licensees and wine and spirits wholesale licensees so
20 as to maintain uninterrupted service to the residents of this
21 Commonwealth during divestiture.

22 (e) Prohibition.--The board shall not engage in retail or
23 wholesale distribution of liquor following completion of the
24 retail and wholesale transition to a private distribution
25 system.

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

27 One year after the effective date of this section, and each
28 year thereafter until the board has been fully divested of its
29 wholesale and retail operations, the board, in cooperation with
30 the department, shall submit to the Secretary of the Senate and

1 the Chief Clerk of the House of Representatives, a report on
2 wholesale and retail alcohol sales in this Commonwealth and the
3 implementation of this article, including:

4 (1) the total revenue earned by the issuance of licenses
5 under this article;

6 (2) the distribution and sale of brands through private
7 wholesalers;

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

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

13 Section 305-A. Temporary regulations.

14 (a) Promulgation.--In order to facilitate the prompt
15 implementation of this article, regulations promulgated by the
16 department shall be deemed temporary regulations which shall
17 expire no later than five years following the effective date of
18 this section. The department may promulgate temporary
19 regulations not subject to:

20 (1) sections 201, 202 and 203 of the act of July 31,
21 1968 (P.L.769, No.240), referred to as the Commonwealth
22 Documents Law; or

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

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

28 SUBARTICLE B

29 DIVESTITURE OF RETAIL LIQUOR DISTRIBUTION

30 Section 311-A. Retail divestiture through issuance of wine and

1 spirits retail licenses.

2 (a) Formation of retail divestiture strategy committee.--

3 (1) Upon the effective date of this section, the
4 department shall appoint individuals to a retail divestiture
5 strategy committee, which shall be comprised of
6 representatives from the department, representatives from a
7 consultant hired by the department to facilitate the
8 divestiture process and at least one representative from each
9 of the board's Bureau of Retail Operations, Bureau of Supply
10 Chain and Bureau of Licensing.

11 (2) The committee shall be chaired by a representative
12 from the department.

13 (3) The committee shall establish the procedures and
14 logistical steps necessary to implement the retail
15 divestiture process, within the framework of this article.
16 The role of the committee is to provide advisory input to the
17 department during the divestiture process; and, as such, its
18 meetings are not subject to 65 Pa.C.S. Ch. 7 (relating to
19 open meetings).

20 (b) Initiation of divestiture.--The department shall
21 coordinate efforts so that the auction process under this
22 subarticle concludes not later than three years and six months
23 from the effective date of this section.

24 Section 311.1-A. Issuance of wine and spirits retail licenses.

25 (a) Auction of retail licenses.--The department shall be
26 authorized to award not more than 1,200 wine and spirits retail
27 licenses to qualified applicants pursuant to an auction process,
28 in which licenses shall be awarded to the highest applicant
29 meeting the requirements of this article.

30 (b) License classification.--There shall be two classes of

1 wine and spirits retail licenses as follows:

2 (1) Class A wine and spirits retail licenses shall be
3 authorized for issuance to successful applicants consistent
4 with this subarticle. Class A licenses shall authorize the
5 operation of a retail wine and spirits store in an
6 establishment which exceeds 15,000 square feet of retail
7 floor space and dedicates a minimum of 600 linear feet of
8 shelf space for the sale of liquor. The department shall not
9 allocate more than 800 Class A licenses.

10 (2) Class B wine and spirits retail licenses shall be
11 authorized for issuance to successful applicants consistent
12 with this subarticle. Class B licenses shall authorize the
13 operation of a retail wine and spirits store in an
14 establishment which has less than 15,000 square feet of
15 retail floor space. The department shall not allocate more
16 than 400 Class B licenses.

17 (c) License allocation.--

18 (1) The department, in accordance with the
19 recommendations of the retail divestiture strategy committee
20 and its consultant and with the full cooperation and
21 assistance of the board, shall:

22 (i) allocate the aggregate number of wine and
23 spirits retail store licenses to be auctioned in each
24 county; and

25 (ii) apportion how many licenses should be of a
26 particular class.

27 (2) A county shall not be allocated fewer wine and
28 spirits retail licenses than:

29 (i) the number of existing State liquor stores in
30 the county; or

1 (ii) the aggregate number of licensed distributors
2 and importing distributors in the county if that number
3 is more than the number of existing State liquor stores.

4 (3) In determining the appropriate number of licenses to
5 be auctioned in each county, and the apportionment of Class A
6 and Class B licenses, the department shall consider the
7 following factors:

8 (i) The existing number, location and sizes of the
9 State liquor stores in the county and neighboring
10 counties.

11 (ii) The hours of operation for existing State
12 liquor stores in the county.

13 (iii) The geographic size and population density of
14 the county.

15 (iv) The most recent sales data from the board for:

16 (A) existing stores;

17 (B) number of stock-keeping units made available
18 in those stores; and

19 (C) sales trends of those stores.

20 (v) The locations of licensed grocery stores, big-
21 box retail stores, pharmacies and distributor licenses
22 and the proposed location of pending applications for the
23 licenses, including enhanced distributor licenses.

24 (vi) Other information the department deems relevant
25 in order to ensure the reasonable availability of wine
26 and spirits in the county.

27 (d) Other licenses.--Nothing in this act shall prohibit any
28 of the following:

29 (1) A wine and spirits retail licensee from receiving:

30 (i) a distributor license under section 431 which

1 authorizes the licensee to sell malt and brewed beverages
2 at retail for consumption off the premises; or

3 (ii) an enhanced distributor license under section
4 431.2.

5 (2) A restaurant liquor licensee or a retail dispenser
6 licensee from receiving a wine and spirits retail license as
7 long as the restaurant or retail dispenser does not have an
8 interior connection to or with the wine and spirits retail
9 licensed premises.

10 Section 312-A. Conduct of retail auctions.

11 The department shall conduct two retail auctions in each
12 county. The first auction shall be limited to Class A wine and
13 spirits retail licenses and shall be commenced not later than
14 six months from the effective date of this section, and conclude
15 not longer than one year from the effective date of this
16 section. The second auction shall be limited to Class B wine and
17 spirits retail licenses and shall be commenced as soon as
18 practicable after the Class A retail license auction is
19 completed.

20 Section 313-A. Retail auction requirements.

21 (a) Conduct of auctions.--Class A and Class B retail
22 auctions shall be conducted by the department consistent with
23 the following:

24 (1) The department shall establish a deadline for
25 submission of bids for all auctions and publish the deadlines
26 in the Pennsylvania Bulletin and on the department's Internet
27 website.

28 (2) The department shall review the submission of timely
29 bids to determine compliance with the minimum bid
30 requirements of section 317.1-A. A bid which does not comply

1 with the minimum bid amount will be rejected. Applicant
2 identification information and bid amount for each accepted
3 bid shall be made subject to public disclosure.

4 (3) For each Class A and Class B countywide auction, the
5 department shall identify the number of highest bids which
6 equals two times the number of Class A and Class B licenses,
7 respectively, assigned by the department to a given county.
8 The department shall notify all applicants of the high
9 bidders identified in each Class A and Class B auction.

10 (4) For each retail auction, the department shall
11 establish a best and final offer period in which the highest
12 bidders identified under paragraph (3) will be provided an
13 opportunity to submit a revised bid amount, which will
14 represent its best and final offer. An applicant may not
15 submit a best and final offer that includes a bid amount
16 which is less than the applicant's original bid.

17 (5) For Class A and Class B retail license auctions, the
18 department shall review the best and final offers and shall
19 select a high bidder for each Class A and Class B license
20 assigned to a specific county.

21 (b) Other applicants.--Nothing in this act shall prohibit a
22 person holding a distributor license or a restaurant liquor
23 license from submitting a bid and, if successful, being issued a
24 wine and spirits retail license, subject to the restrictions
25 under this subarticle.

26 (c) Applicant collusion.--Persons may not collude to rig a
27 bid involving a wine and spirits retail license.

28 (d) Criminal penalty.--

29 (1) An individual who violates subsection (c) commits a
30 felony of the third degree and shall, upon conviction, be

1 sentenced to pay a fine of not more than \$50,000 or to
2 imprisonment for not more than one year, or both.

3 (2) A person other than an individual that violates
4 subsection (c) commits a felony of the third degree and
5 shall, upon conviction, be sentenced to pay a fine of not
6 more than \$1,000,000.

7 (e) Civil penalty.--

8 (1) Except as set forth in paragraph (2), the Attorney
9 General may bring a civil action against a person that
10 violates subsection (c) for a penalty of up to \$100,000.

11 (2) If there is a criminal action under subsection (d),
12 paragraph (1) shall not apply.

13 (f) Disqualification, termination and debarment.--In
14 addition to any other criminal or civil penalties imposed under
15 this section, the following shall apply to a person penalized
16 under subsection (d) or (e):

17 (1) The person shall be disqualified from bidding on or
18 holding a wine and spirits retail license or holding any
19 other license authorized under this act for a period of three
20 years.

21 (2) The board shall revoke any license issued under this
22 act.

23 (3) The person may be subject to 62 Pa.C.S. § 531
24 (relating to debarment and suspension).

25 Section 314-A. Postqualification of selected applicants.

26 (a) Investigation.--Upon selection of a bid under section
27 313-A(a)(5), the department shall immediately convey the
28 selected bid information to the board's Bureau of Licensing,
29 which shall conduct an investigation of each applicant whose bid
30 was accepted based upon the information submitted to evaluate

1 whether:

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

5 (2) the applicant has proposed an acceptable facility
6 and location for a wine and spirits store; and

7 (3) the applicant's planned operation complies with this
8 article.

9 (b) Additional information.--The board may require
10 additional information from an applicant and conduct onsite
11 inspections, as necessary, to complete the postqualification
12 process.

13 (c) Assistance with investigations.--The board may enter
14 into an agreement with the Pennsylvania State Police or the
15 Office of Inspector General to assist the board in the conduct
16 of investigations under this section and to provide for the
17 reimbursement of actual costs incurred for providing assistance.

18 (d) Public input hearings.--

19 (1) During the postqualification process, the board
20 shall schedule one public input hearing in each of the 11
21 board licensing districts, including one in a city of the
22 first class, at which interested members of the public will
23 be provided the opportunity to testify regarding selected
24 applicant qualifications and the suitability of the location
25 of the proposed wine and spirits stores. The testimony of a
26 public witness shall be considered by the board in the
27 postqualification investigation of applicants to which the
28 testimony applies.

29 (2) The board shall establish a protocol for receiving
30 written objections from residents, churches, hospitals,

1 charitable institutions, schools and public playgrounds,
2 which are located near proposed wine and spirits store
3 locations. The board may consider the written objections in
4 the postqualification investigation of applicants to which
5 the testimony applies. An objector under this paragraph may
6 not appeal the board's decision.

7 (e) Investigative fees.--The board may charge fees 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.--An applicant's
11 qualifications shall be accepted by the board if the board's
12 investigation reveals all of the following:

13 (1) The bid information was truthful.

14 (2) The applicant and its officers, directors and
15 principals, if any, are of good repute, responsible and
16 suitable for operating a wine and spirits store.

17 (3) The applicant possesses sufficient financial
18 resources to:

19 (i) operate a wine and spirits store;

20 (ii) pay taxes due; and

21 (iii) meet financial obligations.

22 (4) The applicant possesses sufficient business
23 experience to operate a wine and spirits store.

24 (5) The proposed facilities are compliant with all of
25 the operational requirements of the statement of conditions
26 under this article.

27 (6) The proposed location is suitable within the
28 community.

29 (g) Issuance of license.--If a selected applicant's
30 qualifications are accepted by the board, the board shall

1 qualify the applicant and shall issue a wine and spirits retail
2 license to the applicant upon the occurrence of the following:

3 (1) Execution and delivery to the department and the
4 board of the statement of conditions required under section
5 319-A.

6 (2) Payment of the bid amount by certified check or wire
7 transfer to a designated restricted account established in
8 The State Stores Fund.

9 (3) Payment of any outstanding bid or investigation
10 fees.

11 (4) Fulfillment of any other conditions required by the
12 department or the board.

13 (h) Qualifications unacceptable.--

14 (1) If an applicant's qualifications are not accepted by
15 the board, the board shall submit the results of its
16 investigation and the rationale for this conclusion to the
17 department. The department shall identify the next highest
18 applicant that was not selected in the auction under section
19 313-A(a) (5) and submit the bid information to the board for a
20 postqualification investigation of that applicant, consistent
21 with subsection (a).

22 (2) If the second highest applicant is not approved, the
23 department shall repeat the postqualification process for the
24 next highest unselected applicant in the auction for that
25 county.

26 (3) If the third highest applicant in an auction is not
27 approved by the department, the department may:

28 (i) proceed with a new auction for that wine and
29 spirits retail license;

30 (ii) conduct an additional best and final offer

1 period to consider additional bids from the original
2 auction; or

3 (iii) proceed with a new auction for the other class
4 of license.

5 (i) Approval of qualifications.--If the qualifications of
6 the applicant are approved by the board under subsection (f),
7 the board shall issue a wine and spirits retail license to the
8 successful applicant consistent with the requirements of
9 subsection (g).

10 (j) License not entitlement.--

11 (1) Nothing contained in this article is intended to
12 create an entitlement to a wine and spirits retail license. A
13 wine and spirits retail license is a privilege as between the
14 board and the licensee.

15 (2) A wine and spirits retail license is property as
16 between the licensee and third parties.

17 (k) Terms of licensure.--

18 (1) A wine and spirits retail license shall be in effect
19 unless the board:

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

21 or

22 (ii) revokes the operating authority of the licensee
23 under the license requirements of this article.

24 (2) A wine and spirits retail license shall be subject
25 to renewal every two years consistent with this article.

26 (3) Nothing under this subsection relieves a wine and
27 spirits retail licensee of the affirmative duty to notify the
28 board of changes relating to the status of its license or to
29 other information contained in the application materials on
30 file with the department or the board.

1 Section 315-A. Auctions with no or insufficient minimum bids.

2 If an insufficient number of bids which meet or exceed the
3 minimum bid are submitted in an auction in a county, the
4 department:

5 (1) shall select the bids which meet or exceed the
6 minimum bid subject to postqualification; and

7 (2) may conduct:

8 (i) a new auction for the remaining wine and spirits
9 retail licenses without a minimum bid or with a modified
10 minimum bid; or

11 (ii) a new auction for the other class of license.

12 Section 316-A. Protest of bid selection.

13 (a) Protest.--

14 (1) Within five days of the selection of an applicant in
15 county auction, an applicant that is not selected by the
16 department for the wine and spirits retail license for that
17 county must file a protest in writing with the department.

18 (2) Failure to comply with paragraph (1) results in a
19 waiver of an applicant's opportunity to challenge or appeal
20 the selection of the department.

21 (b) Requirements for protests.--A protest filed under this
22 section must comply with all of the following:

23 (1) For Class A auctions and Class B auctions, the
24 subject matter of a protest is restricted to the conduct of
25 the license auction for the specific county in which the
26 protester participated. No person may protest an auction in
27 which that person did not participate as an applicant.

28 (2) An unselected applicant that files a protest must be
29 represented by an attorney at law.

30 (3) An applicant that files a protest under this section

1 waives its right to, and is disqualified from, being selected
2 by the department as the next highest applicant for
3 postqualification under this subarticle.

4 (4) As a prerequisite to the filing of a protest, and at
5 the time of the filing of a protest, the protester must
6 provide the department with a bond, letter of credit or other
7 form of security acceptable to the department in an amount
8 equal to the amount of the selected bid. The accepted
9 security shall be in an amount equal to the highest bid
10 received from any applicant for that class of license. If the
11 bid protest does not result in the overturning of the
12 department's bid selection for the specific auction
13 protested, and the selected applicant does not pay the bid
14 amount for any reason the protester shall forfeit its
15 security to the department.

16 Section 317-A. Content of bids.

17 The following are the requirements for a bid submitted to
18 participate in a wine and spirits retail license auction under
19 this subarticle:

20 (1) The bid must include a summary page which clearly
21 identifies:

22 (i) The name, address and tax identification number
23 of the applicant.

24 (ii) The county for which the bid is being
25 submitted.

26 (iii) The amount of the bid.

27 (iv) The amount of the minimum bid for the wine and
28 spirits retail license auction in which the applicant is
29 participating.

30 (2) The bid must state a general description of the bid

1 and the location of the proposed wine and spirits store,
2 including the estimated square feet of total retail space in
3 the proposed location.

4 (3) The bid must state the following:

5 (i) Whether the applicant is an individual,
6 corporation, limited liability company, limited
7 partnership, partnership or association or other legal
8 entity.

9 (ii) If the applicant is a corporation:

10 (A) the state of incorporation; and

11 (B) the names and residence addresses of each
12 officer, director and shareholder holding a
13 controlling interest in the corporation.

14 (iii) If the applicant is a partnership:

15 (A) the state of organization; and

16 (B) the names and residence addresses of each
17 general partner and limited partner.

18 (iv) If the applicant is an association, the bid
19 must set forth the names and addresses of the persons
20 constituting the association.

21 (4) If the applicant is a corporation, limited liability
22 company, limited partnership, partnership, association or
23 other legal entity, the bid must show that the entity is
24 organized under the laws of this Commonwealth.

25 (5) If the applicant is an individual, the bid must show
26 that the applicant:

27 (i) is a citizen of the United States and a resident
28 of this Commonwealth; and

29 (ii) is not acting as an agent for any other person,
30 partnership, association or group of persons beneficially

1 interested in the license.

2 (6) The bid must state the proposed location and
3 ownership of the site for the wine and spirits store,
4 including floor plans of existing facilities to be utilized
5 in the applicant's retail operation and design plans for any
6 facilities not yet constructed, to the extent they are
7 available.

8 (7) The bid must state information disclosing:

9 (i) an arrest of, and a citation for an offense
10 graded higher than a summary offense issued to, the
11 applicant;

12 (ii) each person listed for the applicant under
13 paragraph (3)(ii)(B) and (iii)(B); and

14 (iii) the applicant's affiliates.

15 The information must include:

16 (A) A brief description of the circumstances
17 surrounding the arrest or issuance of the citation.

18 (B) The specific offense charged or cited.

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

23 (8) The bid must contain a sworn statement that the
24 applicant, each person listed for the applicant under
25 paragraph (3)(ii)(B) and (iii)(B) and the applicant's
26 affiliates:

27 (i) have not within a period of ten years
28 immediately preceding the date of the bid, been convicted
29 of a crime involving fraud, moral turpitude or
30 racketeering; and

1 (ii) have not been convicted of:

2 (A) an offense graded higher than a misdemeanor
3 of the first degree; or

4 (B) a similar offense in another jurisdiction.

5 (9) The bid must contain a statement that the applicant
6 will:

7 (i) continuously operate a wine and spirits store
8 for the duration of the two-year license period; and

9 (ii) provide a level of service, including hours of
10 operation and product availability reasonably equivalent
11 to the level of service currently provided in the same
12 geographic area.

13 (10) The applicant must provide a financial statement or
14 letter of credit, consistent with the requirements prescribed
15 by the department, which demonstrates the financial
16 capability to operate the wine and spirits store and the
17 estimated volume of business to be conducted.

18 (11) The applicant must:

19 (A) provide a current tax certificate issued by
20 the Department of Revenue for the applicant, each
21 person listed for the applicant under paragraph (3)

22 (ii) (B) and (iii) (B) and the applicant's affiliates;
23 and

24 (B) demonstrate payment of unpaid taxes
25 identified on the tax certificate.

26 (12) The applicant must pay, by certified check, a bid
27 filing fee of \$10,000 that must be submitted by certified
28 check with the bid. The department shall refund the fee if,
29 due to no fault of the applicant, the applicant is not issued
30 a wine and spirits retail license. Refund under this

1 paragraph includes instances when the bid amount exceeded the
2 reserve for the license, but the bid amount was not high
3 enough for the applicant to be selected.

4 (13) The bid must be signed and verified by oath or
5 affirmation as follows:

6 (i) If the applicant is an individual, by the
7 applicant.

8 (ii) If the applicant is a partnership, by a
9 partner.

10 (iii) If the applicant is an association, by a
11 member.

12 (iv) If the applicant is a corporation or limited
13 liability company, by an executive officer thereof or an
14 individual specifically authorized by the entity to sign
15 the bid. Written evidence of the authority must be
16 attached to the bid.

17 (14) The applicant must provide a noncollusion
18 affidavit, executed by the applicant if the applicant is an
19 individual and by an individual specifically authorized by
20 the applicant if the applicant is a legal entity. Certifying
21 that the applicant, each person listed for the applicant
22 under paragraph (3)(ii)(B) and (iii)(B) and the applicant's
23 affiliates has not engaged in collusion, bid-rigging or other
24 prohibited activity in relation to the bid. The form and
25 content of the noncollusion affidavit shall be determined by
26 the department. Failure of an applicant to provide the
27 required noncollusion affidavit disqualifies the bid unless
28 cured within a time period determined by the department. The
29 affidavit must state whether or not, within the past ten
30 years, the applicant, each person listed for the applicant

1 under paragraph (3) (ii) (B) and (iii) (B) and the applicant's
2 affiliates has been convicted or found liable for an act
3 prohibited by Federal or State law involving conspiracy or
4 collusion with respect to bidding on a public contract or in
5 relation to the sale or lease of a public asset. An
6 affirmative statement of conviction or liability under this
7 paragraph may be grounds for the department to find the
8 applicant not suitable.

9 (15) The applicant must provide an affidavit stating
10 that the applicant, each person listed for the applicant
11 under paragraph (3) (ii) (B) and (iii) (B) and the applicant's
12 affiliates have not applied for and do not hold wine and
13 spirits wholesale licenses.

14 (16) The applicant must, during the auction process,
15 update information in the bid and provide any other
16 information determined to be appropriate by the department.

17 Section 317.1-A. Minimum bid for retail auctions.

18 The department shall establish minimum bid amounts for retail
19 auctions and shall publish the amounts in the Pennsylvania
20 Bulletin and on the department's Internet website. The
21 department shall establish minimum bid amounts, with the input
22 of the retail divestiture strategy committee, for each class of
23 license auctioned in each county. In determining the minimum
24 bids, the department shall consider the following factors
25 relative to the county at issue:

26 (1) The number of existing State liquor stores in the
27 county and surrounding region.

28 (2) Sales data of those stores pertaining to nonlicensed
29 customers for the most recent 12-month period.

30 (3) The number of licensed grocery stores, big-box

1 retail stores, pharmacies and enhanced distributor licenses,
2 and any pending applications for these licenses, in the
3 county and surrounding region.

4 (4) Available sales data from those licensees pertaining
5 to the sale of wine.

6 Section 318-A. Protest of license denial.

7 (a) Right to protest.--An applicant that is denied a wine
8 and spirits retail license under section 314-A(h) has the right
9 to protest the denial.

10 (b) Filing of protest.--

11 (1) The protest must be filed in writing with the
12 Secretary of General Services within seven days after the
13 mailing date of the rejection of the application.

14 (2) Failure to comply with paragraph (1) results in
15 waiver of the right to protest.

16 (c) Security required.--The protest must be accompanied by
17 security in the amount of the protestant's bid and any fees
18 required by the department under this article. Security must be
19 in the form of a certified check or bank check or a bond
20 provided by a surety company authorized to do business in this
21 Commonwealth.

22 (d) Contents of protest.--A protest must state the grounds
23 upon which the protestant asserts the denial of the application
24 was improper under this article or the department's regulations.
25 The protestant may submit with the protest documents or
26 information in support of the protest.

27 (e) Evaluation of protest.--The secretary or a designee:

28 (1) shall review the protest;

29 (2) may request and review the additional documents or
30 information necessary to render a decision;

1 (3) may conduct a hearing;

2 (4) shall provide the protestant a reasonable
3 opportunity to review and address any additional documents or
4 information deemed necessary to render a decision.

5 (f) Determination.--Upon completing an evaluation of the
6 protest in accordance with subsection (e), the secretary or the
7 designee shall issue a written determination stating the reasons
8 for the decision. The determination shall be issued within 30
9 days of the receipt of the protest unless extended by the head
10 of the department or his designee. The determination shall be
11 the final order of the department.

12 (g) Appeal.--Within 15 days of the mailing date of a final
13 determination denying a protest, a protestant may file an appeal
14 with the Commonwealth Court. Issues not raised by the protestant
15 before the department are deemed waived and may not be raised
16 before the court. A decision by the head of the department to
17 reverse the denial of the application shall not be subject to
18 appeal.

19 (h) Record of determination.--The record of determination
20 for review by the court shall consist of:

21 (1) the winning bid;

22 (2) the application;

23 (3) the protest;

24 (4) documents or information filed by the protestant in
25 support of the protest;

26 (5) additional documents or information considered by
27 the secretary or the designee;

28 (6) any hearing transcript and exhibits; and

29 (7) the final determination.

30 (i) Standard of review.--The court shall hear the appeal,

1 without a jury, on the record of determination certified by the
2 department. The court shall affirm the determination of the
3 department unless it finds from the record that the
4 determination is arbitrary and capricious, an abuse of
5 discretion or is contrary to law.

6 (j) Remedy.--If the court determines that the application
7 denial is contrary to this article or the department's
8 regulations, then the remedy the court shall order is limited to
9 reversal of the department's determination and declaring void
10 the issuance of any license resulting.

11 (k) Effect of protest.--If the protestant files a timely
12 protest under this section, the department shall not proceed
13 with the issuance of a wine and spirits retail license until the
14 issuance of a determination under subsection (f).

15 (l) Stay unauthorized.--The filing of an appeal under
16 subsection (g) shall not operate as a stay of the procedures in
17 this article. Notwithstanding any other provision of law, no
18 court shall have jurisdiction to stay the procedures in this
19 article pending appeal.

20 (m) Applicability.--This section shall be the exclusive
21 procedure for protesting a denial of an application for a wine
22 and spirits retail license under this article. The provisions of
23 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of
24 Commonwealth agencies) and Ch. 7 Subch. A (relating to judicial
25 review of Commonwealth agency action) shall not apply to actions
26 under this section.

27 Section 319-A. Wine and spirits retail licensee statement of
28 conditions.

29 (a) Statement of conditions.--The department, in
30 consultation with the board, shall develop a statement of

1 conditions to be executed by each wine and spirits retail
2 licensee governing the operations of the wine and spirits retail
3 licensee.

4 (b) Conditions.--In addition to any other conditions the
5 department, in consultation with the board, deems necessary or
6 appropriate for a specific wine and spirits retail licensee, a
7 statement of conditions under this section shall include, at a
8 minimum, the following conditions and impose the following
9 obligations and requirements on an ongoing basis:

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

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

16 (i) Three hundred feet of an elementary or secondary
17 school without department or board approval.

18 (ii) A municipality which has voted to preclude the
19 establishment of a State liquor store, unless the
20 municipality subsequently votes to permit the board to
21 issue a wine and spirits retail license.

22 (2.1) A wine and spirits retail license may not be
23 operated on real property upon which is located as a business
24 the sale of liquid fuels and oil if the point of sale or
25 dispensing of liquid fuels and oil is within 100 feet of the
26 closest point to the physical building in which the license
27 is located.

28 (3) A wine and spirits retail licensee's wine and
29 spirits store and all facilities involved in its retail
30 operations, including any changes to those facilities during

1 the term of the license, are subject to the inspection,
2 investigation and approval of the department, the board and
3 the enforcement bureau.

4 (4) A wine and spirits retail licensee shall maintain
5 adequate security to protect the licensee's inventory from
6 unauthorized sale or diversion and prevent its unauthorized
7 distribution. Nothing in this paragraph shall preclude a wine
8 and spirits retail licensee from moving wine and spirits
9 inventory between wine and spirits retail stores under common
10 ownership on a periodic basis upon no less than one day's
11 notice to the board and the enforcement bureau.

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

17 (6) Except in an emergency, as defined by regulation by
18 the board, a wine and spirits retail licensee may not sell
19 wine or spirits to licensees under Article IV and other wine
20 and spirits retail licensees.

21 (7) A wine and spirits retail licensee shall notify the
22 board within 15 days of a change in persons holding a
23 controlling interest in the wine and spirits retail licensee.

24 (8) A wine and spirits retail licensee shall notify the
25 board within 15 days of becoming aware of an arrest or
26 criminal indictment or conviction by the following:

27 (i) If the licensee is an individual, the licensee.

28 (ii) If the licensee is a partnership, a partner.

29 (iii) If the licensee is an association, a member.

30 (iv) If the licensee is a corporation, any officer,

1 director or shareholder holding a controlling interest in
2 the corporation.

3 (v) An affiliate of the licensee.

4 (9) A wine and spirits retail licensee shall notify the
5 board within 15 days of becoming aware of a violation of this
6 article by an individual listed in paragraph (8).

7 (10) The premises of each wine and spirits store must be
8 a self-contained unit with limited customer access dedicated
9 to the sale of liquor and related merchandise. Except for a
10 licensee that also holds a distributor license, no wine and
11 spirits store may have an interior connection with another
12 business or with a residential building except as approved by
13 the board. Purchases of wine and spirits shall be paid for at
14 a location within the confines of the licensed premises.

15 (11) A wine and spirits retail licensee shall configure
16 its licensed premises in a manner and with adequate
17 safeguards to ensure that its liquor products are secure and
18 that the licensed area may not be accessed during prohibited
19 hours of operation.

20 (12) A wine and spirits retail licensee may not do any
21 of the following:

22 (i) Hold, directly or indirectly, more than 60 wine
23 and spirits retail licenses within this Commonwealth.

24 (ii) Own more than:

25 (A) ten percent of the wine and spirits retail
26 licenses in a county which has at least ten wine and
27 spirits retail licenses; or

28 (B) one wine and spirits retail license in a
29 county which has less than ten wine and spirits
30 retail licenses.

1 (13) A wine and spirits store may sell liquor for
2 consumption off the premises and related merchandise within
3 the licensed area of the store. Sales of related merchandise
4 within the licensed area may not exceed 30% of the gross
5 annual sales of a wine and spirits store. Unless the wine and
6 spirits retail licensee also operates a license which
7 authorizes the sale of malt and brewed beverages or
8 consumption off the premises in the same licensed area, a
9 wine and spirits store may not sell malt or brewed beverages
10 within its licensed premises.

11 (14) A wine and spirits retail licensee shall make the
12 premises and the facilities involved in the retail operation
13 and all of the business and financial books and records of
14 the retail operation available at any time for inspection and
15 audit by the board and the enforcement bureau. The board
16 shall promulgate regulations regarding the records that a
17 wine and spirits retail licensee must maintain in its
18 licensed premises.

19 (15) A wine and spirits retail licensee may sell wine or
20 spirits between 9 a.m. and 11 p.m. of any day except Sunday
21 to:

- 22 (i) a person not licensed under this act;
- 23 (ii) a holder of a special occasion permit; or
- 24 (iii) a holder of a wine auction permit.

25 (16) In addition to the hours authorized under paragraph
26 (15), a wine and spirits retail licensee may, upon purchasing
27 a permit from the board at an annual fee of \$2,000, sell wine
28 or spirits on Sunday between the hours of 9 a.m. and 9 p.m.
29 to:

- 30 (i) a person not licensed under this act;

1 (ii) a holder of a special occasion permit; or

2 (iii) a holder of a wine auction permit.

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

7 (18) A wine and spirits retail licensee may not hold a
8 wine and spirits wholesale license.

9 (19) A wine and spirits retail licensee that is a
10 corporation, a limited liability company, a limited
11 partnership, a partnership, an association or other legal
12 entity, must be organized under the laws of this
13 Commonwealth.

14 (20) A wine and spirits retail licensee who is an
15 individual must be a citizen of the United States and a
16 resident of this Commonwealth.

17 (21) A wine and spirits retail licensee shall:

18 (i) comply with the responsible alcohol management
19 program training under section 471.1; and

20 (ii) ensure that all wine and spirits store managers
21 and employees who may engage in the sale of liquor attend
22 required training within six months of commencing
23 employment.

24 (22) A wine and spirits retail licensee may place its
25 license in safekeeping for a period not to exceed two years:

26 (i) pending transfer of the license from person-to-
27 person or place-to-place, or both; or

28 (ii) during renovation of the premises upon which
29 retail operations are conducted.

30 (23) A wine and spirits retail license which remains in

1 safekeeping for a period that exceeds two consecutive years
2 shall be forfeited and reauctioned by the board in a manner
3 consistent with this subarticle.

4 (24) Except as set forth in paragraph (17), an
5 individual under under 21 years of age may not enter the
6 licensed areas of the wine and spirit retail licensee unless
7 accompanied by an adult.

8 (25) A wine and spirits retail licensee shall utilize a
9 transaction scan device to verify the age of an individual
10 before making a sale of alcohol. As used in this paragraph,
11 the term "transaction scan device" means a device capable of
12 deciphering in an electronically readable format the
13 information encoded on the magnetic strip or bar code of an
14 identification card under section 495(a).

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

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

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

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

30 (30) A wine and spirits retail licensee shall be

1 considered a State liquor store for the purposes of
2 collecting and remitting taxes consistent with the act of
3 March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
4 1971, from a person other than a person licensed to sell
5 liquor for consumption on the premises under Article IV.

6 (31) A wine and spirits retail licensee shall devote a
7 section of its sales space for products sold by holders of
8 limited winery, limited distillery and distillery licenses
9 and shall attempt to diversify product selection with liquor
10 produced by those holders.

11 (c) Sanctions.--

12 (1) A wine and spirits retail licensee that fails to
13 abide by any condition contained in the licensee's statement
14 of conditions or commits any violation of this act or other
15 Federal or State law shall be subject to citation by the
16 enforcement bureau.

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

18 (i) a fine, suspension or license revocation;

19 (ii) nonrenewal of a license;

20 (iii) revocation of temporary operating authority;

21 or

22 (iv) other penalties authorized under sections 471
23 and 494.

24 SUBARTICLE C

25 DIVESTITURE OF WHOLESALE LIQUOR DISTRIBUTION

26 Section 321-A. Wholesale divestiture.

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

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

3 (1) An application process and schedule for the
4 investigation and award of wine and spirits wholesale
5 licenses under this article.

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

8 (3) Procedures and standards governing the relationship
9 between wine and spirits wholesale licensees and
10 manufacturers and the ability and terms upon which that
11 relationship may be terminated.

12 (c) Coordination.--

13 (1) The department shall:

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

18 (ii) begin a coordinated effort to allow the board
19 to issue licenses after the board has been substantially
20 divested of its retail operations.

21 (2) The department must fully divest the board of all
22 operations relating to the wholesale distribution of liquor
23 within six months of the complete divestiture of the board's
24 retail operations.

25 Section 321.1-A. Issuance of wine and spirits wholesale
26 licenses.

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

29 (1) The following shall apply:

30 (i) One wine and spirits wholesale license may be

1 issued by the board to each qualified applicant.

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

12 (iii) A wine and spirits wholesale licensee may
13 provide for the direct shipment or delivery of products
14 to licensees of the board.

15 (2) Subject to the conditions and restrictions of this
16 subarticle, wine and spirits wholesale licensees may sell and
17 distribute more than one brand of liquor under the same wine
18 and spirits wholesale license.

19 (3) Upon application by a wine and spirits wholesale
20 licensee, the board may amend its initial authorization under
21 a wine and spirits wholesale license to include additional
22 brands of liquor or exclude previously-approved brands of
23 liquor.

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

25 (1) On the effective date of this section, the
26 department shall determine the wine and spirits wholesale
27 license fee for each brand of liquor sold at wholesale by the
28 board through its State liquor stores or via special liquor
29 order for a continuous period of at least one year. The
30 license fee shall be equal to the blended brand valuation for

1 each brand of liquor authorized by the wine and spirits
2 wholesale license multiplied by the wholesale acquisition
3 factor.

4 (2) The department shall publish a notice in the
5 Pennsylvania Bulletin and on its Internet website of the wine
6 and spirits wholesale license fee for each brand of liquor
7 determined under paragraph (1). The department shall
8 establish deadlines within which an applicant must submit an
9 application for a wine and spirits wholesale license for the
10 brands of liquor specified by the applicant.

11 (3) The department must receive the required license fee
12 for the brands of liquor specified by the applicant before a
13 wine and spirits wholesale license is issued by the board to
14 a successful applicant.

15 (c) Brands not previously sold.--

16 (1) For brands of liquor that have not been sold by the
17 board at State liquor stores or via special liquor order for
18 a continuous period of at least one year, the department
19 shall calculate the blended brand valuation utilizing sales
20 data for any portion of the year that the brand was sold in
21 this Commonwealth, after consulting with the board on the
22 most recent sales trends of the brand, both within and
23 outside this Commonwealth.

24 (2) If, during the term of a wine and spirits wholesale
25 license, a wine and spirits wholesale licensee proposes to
26 sell and distribute a new brand of liquor not previously sold
27 in this Commonwealth, the wine and spirits wholesale licensee
28 shall apply to the board for permission to sell the brand and
29 pay an additional license fee determined in accordance with
30 this section. In calculating the blended brand valuation for

1 the new products, the board shall evaluate available sales
2 data in other markets or sales trends of similar products
3 either within or outside this Commonwealth.

4 (d) Term.--

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

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

11 (3) Nothing under this subsection shall be construed to
12 relieve a wine and spirits wholesale licensee of the
13 affirmative duty to notify the board of changes relating to
14 any of the following:

15 (i) The status of its license.

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

18 Section 322-A. Application for wine and spirits wholesale
19 license.

20 (a) Applications.--An application for a wine and spirits
21 wholesale license shall be submitted on a form and in a manner
22 as required by the board.

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

26 (1) Neither the applicant nor any affiliate of the
27 applicant has applied for or holds a wine and spirits retail
28 license or other license which authorizes the retail sale of
29 wine and spirits to consumers.

30 (2) The applicant is organized under the laws of this

1 Commonwealth if it is any of the following:

2 (i) A corporation.

3 (ii) A limited liability company.

4 (iii) A limited partnership.

5 (iv) A partnership.

6 (v) An association.

7 (vi) A legal entity other than a legal entity listed
8 under this paragraph.

9 (3) The applicant is a citizen of the United States and
10 a resident of this Commonwealth if that applicant is a
11 natural person.

12 (4) Neither the applicant nor any affiliate of the
13 applicant, executive officer, director or general or limited
14 partner of the applicant or person holding, directly or
15 indirectly, a controlling interest in the applicant has been
16 convicted of a crime listed under subsection (d) (10).

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

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

21 (2) The holder of a limited winery license, a limited
22 distillery license or a distillery license issued by the
23 board from acquiring a wine and spirits wholesale license.

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

28 (1) The name, address and tax identification number of
29 the applicant.

30 (2) A statement as to whether the applicant is an

1 individual, corporation, limited liability company, limited
2 partnership, partnership or association and, if the applicant
3 is not an individual, the state of incorporation or
4 organization.

5 (3) If the applicant is not an individual, the name and
6 residence address of each executive officer, director,
7 general or limited partner or person holding a controlling
8 interest in the applicant.

9 (4) If the applicant is an association, the name and
10 residence address of each person constituting the
11 association.

12 (5) A list of the brands of liquor the applicant
13 proposes to engage in wholesale distribution on a Statewide
14 basis.

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

22 (7) The proposed location and proof of ownership or
23 lease for the wholesale operation, including proposed
24 warehouses, if available.

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

29 (9) Information disclosing all arrests of and all
30 citations issued for nonsummary offenses to an applicant and

1 any affiliate of the applicant, executive officer, director
2 or general or limited partner of the applicant or person
3 holding a controlling interest in the applicant. The
4 information shall include:

5 (i) A brief description of the circumstances
6 surrounding the arrest or issuance of the citation.

7 (ii) The specific offense charged or cited.

8 (iii) The ultimate disposition of the charge or
9 citation, including the details of a dismissal, plea
10 bargain, conviction, sentence, pardon, expungement or
11 order of Accelerated Rehabilitative Disposition.

12 (10) A sworn statement that the applicant and any
13 affiliate of the applicant, or any executive officer,
14 director or general or limited partner of the applicant or
15 person holding a controlling interest in the applicant have
16 never been convicted:

17 (i) of a crime involving fraud, moral turpitude or
18 racketeering within a period of ten years immediately
19 preceding the date of the application;

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

21 (iii) in a Federal or state tribunal, including this
22 Commonwealth, of the violation of a Federal or state
23 liquor law.

24 (11) A statement that the applicant intends to
25 continuously operate as a wine and spirits wholesale licensee
26 for the duration of the license term and to use its best
27 efforts to provide a level of service, including product
28 availability, reasonably equivalent to the level of service
29 currently provided by the Commonwealth.

30 (12) A financial statement or letter of credit in a form

1 and containing information determined by the department to
2 indicate the applicant's financial capability to operate the
3 wholesale operation and the estimated volume of wholesale
4 business to be conducted annually.

5 (13) A current tax certificate issued by the Department
6 of Revenue showing the amount of taxes owed to the
7 Commonwealth for the applicant and any affiliate of the
8 applicant, executive officer, director or general or limited
9 partner of the applicant or person holding a controlling
10 interest in the applicant.

11 (14) A signature and verification by oath or affirmation
12 or under penalty of unsworn falsification to authorities by
13 one of the following:

14 (i) The applicant, if the applicant is a natural
15 person.

16 (ii) A person specifically authorized by the legal
17 entity to sign the application, if the applicant is a
18 legal entity. Written evidence of the authority to sign
19 must be attached to the signature and verification.

20 (e) Additional information.--An applicant shall, during the
21 application process, provide any other information determined to
22 be appropriate by the department.

23 (f) Amended application.--If a change occurs in any
24 information provided to the department or the board as part of
25 the application process, the applicant shall immediately notify
26 the department or the board of the change and timely provide
27 amended information to the department or the board in a form and
28 manner determined by the department or the board.

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

30 (1) An application filing fee of \$10,000 shall be due

1 upon application for a wine and spirits wholesale license.
2 The application filing fee shall be refunded if, due to no
3 fault of the applicant, the wine and spirits wholesale
4 license is not approved.

5 (2) The department shall establish, charge and collect
6 fees from an applicant to recover the costs directly related
7 to the board's review and investigation of the application
8 for a wine and spirits wholesale license. The board shall
9 have the same authority relating to fees as to applications
10 for renewal.

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

12 (a) Completeness of application.--

13 (1) The following shall apply:

14 (i) The department may not consider an incomplete
15 application and shall notify the applicant in writing if
16 an application is incomplete.

17 (ii) An application shall be considered incomplete
18 if it does not include all applicable fees and all
19 information and accompanying documentation required by
20 the department. Unpaid taxes identified on the tax
21 certificate required to be filed under section
22 322-A(d)(13) must be paid before the application is
23 considered complete.

24 (2) A notification of incompleteness shall state the
25 deficiencies in the application that must be corrected prior
26 to consideration of the merits of the application.

27 (3) The applicant must be afforded a reasonable period
28 of time, as determined by the department, to cure the
29 deficiencies.

30 (4) If the applicant fails to timely cure noticed

1 deficiencies within the time specified by the department, the
2 application shall be deemed denied by the department without
3 further action.

4 (b) Investigation.--After receipt of an application for a
5 wine and spirits wholesale license and a determination that the
6 application is complete, the department shall provide the
7 application to the board's Bureau of Licensing to conduct an
8 investigation of the applicant. The investigation shall include
9 and the applicant shall have the burden of demonstrating the
10 following:

11 (1) The truth and veracity of the information provided
12 in the application.

13 (2) The applicant's cooperation and the cooperation of
14 any affiliate of the applicant and any executive officer,
15 director or general or limited partner of the applicant or
16 person holding a controlling interest in the applicant in the
17 application process and with any request by the department or
18 the board for any information deemed necessary for licensure.

19 (3) The good character, reputation and suitability of
20 the applicant and any affiliate of the applicant, executive
21 officer, director or general or limited partner of the
22 applicant or person holding a controlling interest in the
23 applicant.

24 (4) The applicant possesses sufficient financial
25 resources to:

26 (i) Operate as a wine and spirits wholesale
27 licensee.

28 (ii) Pay all taxes due and owing to the
29 Commonwealth.

30 (iii) Assume liability for the safe operation of the

1 wholesale operations.

2 (5) The applicant possesses sufficient financial
3 resources and experience to create and maintain a successful
4 and efficient wholesale operation that provides service at a
5 level that is reasonably equivalent to the level of service
6 currently provided in this Commonwealth on the effective date
7 of this section.

8 (6) The applicant has entered into a contractual
9 relationship with one or more licensed manufacturers,
10 importers or vendors of record for the distribution in this
11 Commonwealth of a brand or brands of liquor regardless of
12 whether the contractual relationship is contingent upon the
13 board issuing a wine and spirits wholesale license to the
14 applicant.

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

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

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

21 (iii) not have any interior connection with any
22 other business or with any residential building without
23 prior department or board approval;

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

27 (v) protect the public interest.

28 (c) Assistance with investigations.--The department may
29 enter into an agreement with the Pennsylvania State Police or
30 the Office of Inspector General to assist the department in

1 conducting investigations under this section and to provide for
2 the reimbursement of actual costs incurred for providing the
3 assistance. The department may establish, charge and collect
4 fees from an applicant to recover the costs of investigation.

5 Section 324-A. Issuance of licenses.

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

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

16 (c) Denial.--

17 (1) If an application is denied, the department shall
18 provide the applicant with the specific reasons for the
19 denial in the written notification required under subsection
20 (a).

21 (2) The applicant shall be entitled to a hearing on the
22 denial, if a hearing is requested within ten days of the
23 department's notification and the request is in writing on a
24 form and in a manner determined by the department.

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

28 (d) Issuance.--After approval of an application, the board
29 shall issue a wine and spirits wholesale license to the
30 applicant for the exclusive privilege to sell approved brands of

1 liquor in this Commonwealth, if the applicant has completed all
2 of the following:

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

7 (2) Paid outstanding application or investigation fees.

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

10 (4) Repurchased from the board remaining marketable
11 inventory of the brands authorized under its license which
12 are owned by the board at the board's purchase order cost and
13 paid applicable taxes due and an administrative fee
14 determined by the board. The wine and spirits wholesale
15 licensee shall coordinate, at its own cost, the removal of
16 remaining product owned by the board.

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

19 (e) License as privilege.--

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

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

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

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

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

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

9 Section 325-A. Wine and spirits wholesale licensee statement of
10 conditions.

11 (a) Statement of conditions.--The department, in
12 consultation with the board, shall develop a statement of
13 conditions to be executed by each wine and spirits wholesale
14 licensee governing the operation of the wine and spirits
15 wholesale licensee.

16 (b) Conditions, restrictions and prohibited acts.--In
17 addition to any other conditions the department, in consultation
18 with the board, deems necessary or appropriate for a specific
19 wine and spirits wholesale licensee or which may be mandated for
20 all licensees through regulations of the department or the
21 board, the statement of conditions under subsection (a) shall
22 include the following:

23 (1) A wine and spirits wholesale licensee may not sell
24 liquor to a person, except a person specified in section
25 321.1-A(a)(1).

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

30 (3) Except for a wine and spirits wholesale licensee

1 that holds an importing distributor license under section
2 431, a wine and spirits wholesale licensee may not sell malt
3 or brewed beverages.

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

6 (i) Variable pricing.

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

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

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

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

18 (A) Acquire liquor exclusively from:

19 (I) a licensed manufacturer or importer of
20 wine and spirits with whom the wine and spirits
21 wholesale licensee has the contractual authority
22 to sell at wholesale as provided under this act;

23 or

24 (II) an entity affiliated with the wine and
25 spirits wholesale licensee.

26 (B) Keep a detailed log of wholesale liquor
27 transactions, including acquisitions of liquor from
28 an entity listed under clause (A) and sales to
29 licensees under this act.

30 (ii) If liquor is acquired from an entity affiliated

1 with the wine and spirits wholesale licensee, the entity
2 shall, for taxation purposes, be considered a licensed
3 manufacturer or importer of wine and spirits.

4 (7) A wine and spirits wholesale licensee's licensed
5 premises and all facilities involved in its wholesale
6 operations, including any changes to the facilities during
7 the term of the license, shall be subject to the inspection,
8 investigation and approval of the department or the board or
9 the enforcement bureau.

10 (8) A wine and spirits wholesale licensee shall maintain
11 adequate security to protect the licensee's inventory from
12 unauthorized sale, removal or theft and prevent its
13 unauthorized distribution.

14 (9) As follows:

15 (i) Except as provided under paragraph (1), a wine
16 and spirits wholesale licensee may not engage in a
17 separate business activity on a premises on which
18 wholesale liquor operations are conducted without prior
19 approval of the board.

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

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

25 (11) A wine and spirits wholesale licensee shall be
26 considered a State liquor store for the purpose of collecting
27 and remitting taxes under the act of March 4, 1971 (P.L.6,
28 No.2), known as the Tax Reform Code of 1971, from persons
29 licensed to sell liquor for consumption on the premises under
30 Article IV.

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

4 (13) A wine and spirits wholesale licensee shall notify
5 the board within 15 days of becoming aware of an arrest,
6 criminal indictment or conviction by the licensee, an
7 affiliate of the licensee or an executive officer, director
8 or general or limited partner of the licensee or person
9 holding a controlling interest in the licensee.

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

16 (15) As follows:

17 (i) A wine and spirits wholesale licensee may not
18 operate in a manner which constitutes a violation of
19 Federal or State law, including antitrust or other unfair
20 trade practices, or creates a monopolistic liquor
21 distribution system in this Commonwealth.

22 (ii) If a wine and spirits wholesale licensee seeks
23 to be approved by the department or the board to
24 distribute additional brands of liquor which would give
25 the licensee a control of more than 50% of the liquor
26 distributed in the wholesale market of this Commonwealth,
27 in terms of gross dollar sales, the board shall convene a
28 hearing to determine whether approval of the proposed
29 application for additional brands would constitute a
30 violation of antitrust or other unfair trade practice

1 laws, or would create a monopolistic liquor distribution
2 system in this Commonwealth.

3 (iii) The board is authorized to promulgate
4 regulations providing for the procedure for hearings
5 under subparagraph (ii).

6 (16) A wine and spirits wholesale licensee shall make
7 the licensed premises, all of the facilities involved in the
8 wholesale operation and all of the business and financial
9 books and records of the wholesale operation available at any
10 time for inspection and audit by the department, the board or
11 the enforcement bureau. The board shall promulgate
12 regulations regarding the records that a licensee must
13 maintain on its premises.

14 (17) A wine and spirits wholesale licensee shall
15 cooperate fully in an inquiry or investigation by the
16 department or the board or the enforcement bureau and provide
17 information requested by the department, the board or the
18 enforcement bureau.

19 (18) A wine and spirits wholesale licensee which is a
20 corporation, a limited liability company, limited
21 partnership, partnership, association or other legal entity
22 must be organized under the laws of this Commonwealth.

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

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

30 (1) shall be subject to citation by the enforcement

1 bureau; and

2 (2) may be subject to:

3 (i) a fine, suspension or license revocation;

4 (ii) nonrenewal of the license or revocation of

5 temporary operating authority; or

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

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

9 The department shall establish procedures and standards
10 governing the relationship between wine and spirits wholesale
11 licensees and manufacturers and the ability and terms upon which
12 that relationship may be terminated. The procedures and
13 standards shall incorporate the following principles:

14 (1) As follows:

15 (i) A manufacturer having a contract, including all
16 written or oral agreements, understandings or other
17 arrangements with a wine and spirits wholesale licensee
18 for the distribution in this Commonwealth of a brand of
19 liquor may terminate the distribution rights and transfer
20 the rights to another wine and spirits wholesale licensee
21 upon the voluntary agreement of both licensees.

22 (ii) If a voluntary termination and transfer occurs,
23 the manufacturer shall provide written notice to the
24 board indicating that affected wine and spirits wholesale
25 licensees have both agreed to the termination and
26 transfer. A copy of the notification to the board shall
27 be provided to both licensees.

28 (2) If a wine and spirits wholesale licensee does not
29 agree to the termination or transfer of its distribution
30 rights, the manufacturer may only terminate or transfer the

1 rights upon payment to the terminated licensee of reasonable
2 compensation, as determined by the board, to reflect the
3 value of the wine and spirits wholesale licensee's business
4 related to the terminated brand of liquor.

5 (3) A voluntary or involuntary termination and transfer
6 of the right to distribute the brand of liquor shall comply
7 with this section.

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

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

13 (b) Transfer fee.--An application to the board to transfer
14 the right to distribute a brand of liquor shall be subject to an
15 application fee equal to 1% of the initial license fee
16 attributable to the brand of liquor or \$1,000, whichever is
17 greater.

18 SUBARTICLE D

19 CLOSURE OF STATE LIQUOR STORES

20 AND ASSISTANCE FOR DISPLACED EMPLOYEES

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

22 (a) Process for closure.--

23 (1) The board, in consultation with the department and
24 its consultant, shall develop a protocol for the closure of
25 the State liquor stores which is designed to ensure
26 uninterrupted service to the public and licensees during the
27 transition to private retail and wholesale distribution of
28 liquor.

29 (2) The board shall close a designated State liquor
30 store within 60 days of receiving notice from the department.

1 The board shall, within 60 days of receiving notice from the
2 department, wind down operations at the store designated for
3 closure.

4 (3) No location operated by the board for sales to
5 nonlicensees may operate or sell liquor more than three years
6 and six months after the effective date of this section.

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

11 (1) Coordinate with the vendor of record for the
12 repurchase products by the vendor of record.

13 (2) Sell products to newly licensed wine and spirits
14 retail licensees.

15 (3) Transport products for sale at another operating
16 State liquor store.

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

25 (d) Pennsylvania Liquor Store leases.--The board shall
26 provide immediate notice to the lessor upon receipt of the
27 department's notice to close a designated Pennsylvania Liquor
28 Store.

29 (e) Hiring restrictions.--

30 (1) Notwithstanding any other provision of this act and

1 except as provided under subsection (f), the board may not
2 hire additional salaried or wage employees for the purpose of
3 staffing its retail operations, including its bureau of
4 marketing and retail operations, unless explicitly authorized
5 by the department.

6 (2) Paragraph (1) shall not prohibit the board from
7 hiring personnel, with approval from the department, to
8 adequately staff its Bureau of Supply Chain for the purpose
9 of transitioning its retail and wholesale operations to
10 licensees of this article.

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

12 (1) Notwithstanding any other provision of law and
13 except as provided under paragraph (3), the board, with the
14 approval of the department, may temporarily staff a State
15 liquor store which has not been designated for closure under
16 this section, if staffing and service levels would be
17 otherwise compromised. The board may utilize the services of
18 an employment agency to carry out this paragraph.

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

22 (3) The board may not employ temporary workers at a
23 State liquor store if the board receives notice of closure of
24 the State liquor store from the department.

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

27 Section 331.1-A. Licensee service centers.

28 (a) Adequacy.--The board shall work collaboratively with the
29 department and the retail divestiture strategy committee to
30 ensure that an adequate number of stores designated for sales to

1 licensees or licensee service center locations are maintained
2 during the retail and wholesale divestiture process so that
3 licensees are able to timely acquire products sold by the board.

4 (b) Termination.--A State liquor store may not operate or
5 sell liquor more than four years after the effective date of
6 this section.

7 Section 332-A. Transition assistance committee.

8 (a) Formation.--

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

13 (2) The committee, which shall be chaired by a
14 representative from the department, shall involve the
15 participation of the Office of Administration, the Civil
16 Service Commission, the Department of Labor and Industry and
17 the board's bureau of human resources, to ensure a
18 coordinated approach to allocating personnel and assisting
19 displaced employees during the transition to find an
20 appropriate position.

21 (3) The committee may engage the services of a third-
22 party administrator to assist in administering the duties
23 under paragraph (2). The procedural constraints of 62 Pa.C.S.
24 Pt. I (relating to Commonwealth Procurement Code) shall not
25 apply to this paragraph.

26 (b) Counseling and placement.--The committee shall
27 coordinate with the Office of Administration to provide
28 counseling and other general assistance to employees of the
29 board who are displaced to transition the employees to other
30 employment in either the public or private sector.

1 (c) Transition funding.--The costs for the programs provided
2 under this subarticle shall be paid for out of the proceeds from
3 the divestiture of the board's wholesale and retail operations.

4 Section 333-A. Preference in public employment hiring.

5 (a) Civil service examinations.--

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

10 (i) The examination is for a paid position
11 administered under the act of August 5, 1941 (P.L.752,
12 No.286), known as the Civil Service Act, and in the
13 classified service existing under the commission's
14 jurisdiction.

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

17 (2) The total mark or grade, including the mark-up under
18 paragraph (1), obtained by the displaced employee shall
19 represent the final mark or grade of the employee and shall
20 determine the employee's standing on any eligibility list
21 certified or furnished to the appointing power.

22 (b) Certification.--The commission shall require the board
23 to certify a list of displaced employees under subsection (a).
24 Placement on the list by the board shall establish eligibility
25 for the preference granted under subsection (a).

26 (c) Noncivil service positions.--If a paid State position
27 does not require a civil service examination, a displaced
28 employee, possessing the requisite qualifications and who is
29 eligible for appointment to a paid State position in offices
30 under the Governor's jurisdiction within the executive branch

1 shall be given a preference in the appointment by the appointing
2 authority.

3 (d) (Reserved).

4 (e) Eligibility.--

5 (1) A displaced employee's eligibility for the mark-up
6 provided under subsection (a) and for the preference for
7 noncivil service positions provided under subsection (c)
8 shall cease upon the occurrence of one of the following:

9 (i) The displaced employee's appointment or hiring
10 into a position in the classified service existing under
11 the commission's jurisdiction or into a paid State
12 position where no civil service examination is required.

13 (ii) Four years from the effective date of this
14 section.

15 (2) In order to be eligible for the mark-up provided
16 under subsection (a) and for the preference for noncivil
17 service positions provided under subsection (c), a displaced
18 worker must be terminated as a sole and direct result of the
19 decision to cease wholesale and retail operations under this
20 article and must work until the final day set by the board
21 for that employee's job function.

22 Section 334-A. Career training and post-secondary education
23 grant eligibility.

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

29 (1) one thousand dollars per year for attendance on a
30 full-time basis; or

1 (2) five hundred dollars per year for attendance on a
2 part-time basis.

3 (b) Certification.--The board shall certify the list of
4 displaced employees to the agency.

5 (c) Grant award.--The agency shall make a determination of
6 grant eligibility and shall pay the grant directly to the
7 institution of higher education attended by the displaced
8 employee in a manner consistent with the agency's regulations.

9 Section 335-A. Reemployment tax credit.

10 (a) Eligibility.--

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

14 (2) The voucher under paragraph (1) shall be made
15 available to each displaced employee upon termination of
16 employment.

17 (3) Each voucher under paragraph (1) shall be certified
18 by the board before the voucher is provided to the displaced
19 employee.

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

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

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

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

4 (c) Voucher submittal.--The employer shall submit the tax
5 credit voucher to the Department of Revenue with the information
6 required under subsection (b) (1) and (2) to claim a tax credit
7 against the employer's liability for a tax identified under
8 subsection (d) (2).

9 (d) Amount of credit.--

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

13 (2) An employer may apply the reemployment tax credit to
14 100% of the employer's:

15 (i) State corporate net income tax, capital stock
16 and franchise tax or the personal tax of a shareholder of
17 the company if the company is a Pennsylvania S
18 corporation.

19 (ii) Insurance premiums tax, gross receipts tax,
20 bank and trust company shares tax, mutual thrift
21 institutions tax or title insurance companies shares tax.

22 (iii) Any combination of the taxes under
23 subparagraphs (i) and (ii).

24 (3) A displaced employee whose subsequent employment is
25 terminated with an employer and who has utilized the
26 reemployment tax credit voucher to claim a one-year \$1,000
27 tax credit may transfer the voucher to a new employer who may
28 use the remaining \$1,000 tax credit as a claim against the
29 employer's tax liability for taxes identified under paragraph
30 (2).

1 Section 341-A. License renewals.

2 (a) Renewal.--

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

5 (2) The application for renewal shall be submitted on a
6 form provided by the board at least 30 days prior to the
7 expiration of the wine and spirits license and shall include,
8 at a minimum, an update of the information contained in the
9 initial and prior renewal applications and the payment of any
10 renewal fee required under this article.

11 (3) A wine and spirits license for which a completed
12 renewal application and fee has been received by the board
13 shall continue to be valid until the board sends written
14 notification to the licensee that the board has denied the
15 renewal of the license.

16 (b) Fee.--

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

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

23 (3) The board may adjust the renewal fee to ensure that
24 the fee adequately recovers the costs associated with
25 investigating the renewal application.

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

1 (d) Revocation of operating authority.--

2 (1) The board may revoke the operating authority of a
3 wine and spirits license issued under this article if it
4 finds that the licensee or any of its affiliates, executive
5 officers, directors or general or limited partners or persons
6 holding a controlling interest in the licensee:

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

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

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

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

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

22 Section 342-A. Revocation, suspension and fines.

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

28 (1) The licensee violated any of the following:

29 (i) A provision of this act.

30 (ii) The regulations of the board.

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

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

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

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

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

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

12 (b) Administrative Law Judge.--Enforcement matters shall be
13 heard by an administrative judge in the same manner as under
14 section 471. The administrative law judge may issue a fine and
15 either suspend or revoke the license. Appeals may be taken in
16 the same manner as under section 471.

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

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

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

23 (d) Public sale.--If a wine and spirits retail license is
24 revoked, forfeited or surrendered under this article, the board
25 shall conduct an auction of the license, consistent with this
26 article.

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

28 (a) Prohibition.--No person may sell, assign or transfer
29 their interest in a wine and spirits license granted under this
30 article to another person until the board has received,

1 investigated and approved a transfer application. If the license
2 is a wine and spirits retail license, the wine and spirits
3 licensee must have been in continuous operation for at least one
4 year prior to the date of the application to transfer the
5 license.

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

9 (c) Transfer fee.--

10 (1) The transfer of a wine and spirits license shall be
11 subject to a transfer fee equal to 1% of the license fee paid
12 for the license and shall be paid as a condition of the
13 transfer of the license.

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

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

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

27 Section 344-A. The State Stores Fund.

28 All fees, assessments, bid amounts or other charges paid by
29 wine and spirits license applicants or licensees shall be paid
30 or transferred into a restricted account in The State Stores

1 Fund. Any fines collected by the administrative law judge from
2 the licensees shall be remitted to the enforcement bureau for
3 continued enforcement efforts.

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

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

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

19 Section 10. Section 401 of the act, amended December 22,
20 2011 (P.L.530, No.113), is amended to read:

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

1 to guests, patrons or members for consumption on the hotel,
2 restaurant or club premises. Such licensees, other than clubs,
3 shall be permitted to sell malt or brewed beverages for
4 consumption off the premises where sold in quantities of not
5 more than one hundred ninety-two fluid ounces in a single sale
6 to one person as provided for in section 407; except that the
7 licensees acquiring a thirty-pack permit issued by the board may
8 sell to a person a single package prepared for sale or
9 distribution of not more than thirty original containers and
10 totaling not less than three hundred sixty fluid ounces of malt
11 or brewed beverages. Such licenses shall be known as hotel
12 liquor licenses, restaurant liquor licenses and club liquor
13 licenses, respectively. No person who holds any public office
14 that involves the duty to enforce any of the penal laws of the
15 United States, this Commonwealth or of any political subdivision
16 of this Commonwealth may have any interest in a hotel or
17 restaurant liquor license. This prohibition applies to anyone
18 with arrest authority, including, but not limited to, United
19 States attorneys, State attorneys general, district attorneys,
20 sheriffs and police officers. This prohibition shall also apply
21 to magisterial district judges, judges or any other individuals
22 who can impose a criminal sentence. This prohibition does not
23 apply to members of the General Assembly, township supervisors,
24 city councilpersons, mayors without arrest authority and any
25 other public official who does not have the ability to arrest or
26 the ability to impose a criminal sentence. This section does not
27 apply if the proposed premises are located outside the
28 jurisdiction of the individual in question.

29 (b) The board may issue to any club which caters to groups
30 of non-members, either privately or for functions, a catering

1 license, and the board shall, by its rules and regulations,
2 define what constitutes catering under this subsection except
3 that any club which is issued a catering license shall not be
4 prohibited from catering on Sundays during the hours which the
5 club may lawfully serve liquor, malt or brewed beverages.

6 Section 11. Section 404 of the act, amended January 6, 2006
7 (P.L.1, No.1), is amended to read:

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

1 new license, transfer or extension is applied for a place which
2 is within two hundred feet of any other premises which is
3 licensed by the board: And provided further, That the board's
4 authority to refuse to grant a license because of its proximity
5 to a church, hospital, charitable institution, public playground
6 or other licensed premises shall not be applicable to license
7 applications submitted for public venues or performing arts
8 facilities: And provided further, That the board shall refuse
9 any application for a new license, the transfer of any license
10 to a new location or the extension of an existing license to
11 cover an additional area if, in the board's opinion, such new
12 license, transfer or extension would be detrimental to the
13 welfare, health, peace and morals of the inhabitants of the
14 neighborhood within a radius of five hundred feet of the place
15 proposed to be licensed: And provided further, That the board
16 shall have the discretion to refuse a license to any person or
17 to any corporation, partnership or association if such person,
18 or any officer or director of such corporation, or any member or
19 partner of such partnership or association shall have been
20 convicted or found guilty of a felony within a period of five
21 years immediately preceding the date of application for the said
22 license. [The board shall refuse any application for a new
23 license, the transfer of any license to a new location or the
24 extension of any license to cover an additional area where the
25 sale of liquid fuels or oil is conducted.] 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. The board may, in its discretion,
12 refuse an application for an economic development license under
13 section 461(b.1) or an application for an intermunicipal
14 transfer of a license if the board receives a protest from the
15 governing body of the receiving municipality. The receiving
16 municipality of an intermunicipal transfer or an economic
17 development license under section 461(b.1) may file a protest
18 against the transfer of a license into its municipality, and the
19 receiving municipality shall have standing in a hearing to
20 present testimony in support of or against the issuance or
21 transfer of a license. Upon any opening in any quota, an
22 application for a new license shall only be filed with the board
23 for a period of six months following said opening.

24 Section 12. Section 405(c) of the act, amended April 29,
25 1994 (P.L.212, No.30), is amended to read:

26 Section 405. License Fees.--* * *

27 (c) All license fees authorized under this section shall be
28 collected by the board for the use of the municipalities in
29 which such fees were collected[.] if the municipalities receive
30 services from a municipal police department. Fees collected in

1 municipalities that do not receive service from a municipal
2 police department must be transferred to the enforcement bureau
3 for continued enforcement efforts.

4 * * *

5 Section 13. Section 406(e)(1) of the act, amended December
6 22, 2011 (P.L.530, No.113), is amended to read:

7 Section 406. Sales by Liquor Licensees; Restrictions.--* * *

8 (e) (1) The holder of a hotel license or the holder of a
9 restaurant license located in a hotel may allow persons to
10 transport liquor or malt or brewed beverages from the licensed
11 portion of the premises to the unlicensed portion of the
12 premises, so long as the liquor or malt or brewed beverages
13 remain on the hotel property. In addition, a holder of a
14 restaurant or club license located on a golf course may sell,
15 furnish or give liquor or malt or brewed beverages on the
16 unlicensed portion of the golf course so long as the liquor or
17 malt or brewed beverages remain on the restaurant, club or golf
18 course. The holder of a restaurant license located immediately
19 adjacent to and under the same roof of a bowling center may
20 allow persons to transport liquor or malt or brewed beverages
21 from the licensed portion of the premises to the unlicensed
22 portion of the premises, so long as the liquor or malt or brewed
23 beverages remain within the bowling center. Notwithstanding this
24 paragraph, the holder of a hotel license or a restaurant license
25 may sell up to six bottles of wine for consumption off the
26 licensed premises so long as the bottles remain sealed. In
27 addition, the holder of a hotel license or a restaurant license
28 may allow persons who have purchased but only partially consumed
29 a bottle of wine on the premises to remove the bottle from the
30 premises so long as the bottle was purchased in conjunction with

1 a meal which was consumed on the premises and so long as the
2 bottle is resealed. For purposes of this subsection, "wine"
3 shall have the meaning given to it under section 488(i). For
4 purposes of this section and section 432, "meal" shall mean food
5 prepared on the premises, sufficient to constitute breakfast,
6 lunch or dinner; it shall not mean a snack, such as pretzels,
7 popcorn, chips or similar food.

8 * * *

9 Section 14. Section 407 of the act, amended November 29,
10 2006 (P.L.1421, No.155) and June 28, 2011 (P.L.55, No.11), is
11 amended to read:

12 Section 407. Sale of Malt or Brewed Beverages by Liquor
13 Licensees.--(a) Every liquor license issued to a hotel,
14 restaurant, club, or a railroad, pullman or steamship company
15 under this subdivision (A) for the sale of liquor shall
16 authorize the licensee to sell malt or brewed beverages at the
17 same places but subject to the same restrictions and penalties
18 as apply to sales of liquor, except that licensees other than
19 clubs may sell malt or brewed beverages for consumption off the
20 premises where sold in quantities of not more than one hundred
21 ninety-two fluid ounces in a single sale to one person, however,
22 the licensees acquiring a thirty-pack permit issued by the board
23 may sell to a person a single package prepared for sale or
24 distribution of not more than thirty original containers and
25 totaling not less than three hundred sixty fluid ounces of malt
26 or brewed beverages. The sales may be made in either open or
27 closed containers, Provided, however, That a municipality may
28 adopt an ordinance restricting open containers in public places.
29 No licensee under this subdivision (A) shall at the same time be
30 the holder of any other class of license, except a retail

1 dispenser's license authorizing the sale of malt or brewed
2 beverages only.

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

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

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

26 (4) A city of the first class shall create a hearing board
27 within its Department of Licenses and Inspections to hear
28 requests from licensees who are seeking a permit from the
29 hearing board authorizing the licensee to sell malt or brewed
30 beverages for consumption off the premises. Each hearing board

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

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

23 Section 15. Section 408.12(g) and (h) of the act, added July
24 1, 1994 (P.L.402, No.61), are amended to read:

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

26 (g) Any wine sold under this section shall be purchased from
27 a Pennsylvania Liquor Store, a wine and spirits retail licensee,
28 a Pennsylvania limited winery or any seller authorized to sell
29 wine by the bottle or case in this Commonwealth, including a
30 big-box retail store licensee, grocery store licensee, pharmacy

1 licensee, enhanced distributor licensee, restaurant liquor
2 licensee or hotel liquor licensee, or shall be donated by a
3 person who is neither a licensee nor a permittee who has legally
4 acquired the wine and legally possesses it in this Commonwealth.

5 (h) If any wine sold under this section is purchased from a
6 seller other than a Pennsylvania Liquor Store, wine and spirits
7 retail licensee, big-box retail store licensee, grocery store
8 licensee, pharmacy licensee, enhanced distributor licensee,
9 restaurant liquor licensee, hotel liquor licensee or [a]
10 Pennsylvania limited winery, the permittee shall provide thirty
11 days' notice to the board of its intent to purchase such wine.
12 The notice shall include a description of the wine to be
13 purchased, the quantity to be purchased, the name of the seller
14 and any other information which the board may require. The
15 permittee shall comply with all board regulations regarding
16 taxes and fees.

17 * * *

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

19 Section 410. Liquor Importers' Licenses; Fees; Privileges;
20 Restrictions.--* * *

21 (e) Importers' licenses shall permit the holders thereof to
22 bring or import liquor from other states, foreign countries, or
23 insular possessions of the United States, and purchase liquor
24 from manufacturers located within this Commonwealth, to be sold
25 outside of this Commonwealth or to Pennsylvania Liquor Stores or
26 wine and spirits wholesale licensees within this Commonwealth,
27 or when in original containers of ten gallons or greater
28 capacity, to licensed manufacturers within this Commonwealth.

29 All importations of liquor into Pennsylvania by the licensed
30 importer shall be consigned to the board or the principal place

1 of business or authorized place of storage maintained by the
2 licensee or a wine and spirits wholesale licensee.

3 * * *

4 Section 17. The act is amended by adding sections to read:

5 Section 415. Grocery Store Licenses.--(a) The board is
6 authorized to issue a grocery store license to the operator of a
7 grocery store who has applied for the license.

8 (b) The following shall apply:

9 (1) An applicant for a grocery store license shall file a
10 written application with the board in the form and containing
11 the information as the board prescribes. The application must be
12 accompanied by an application fee of seven hundred dollars
13 (\$700).

14 (2) Except as provided under paragraph (3), the initial
15 license fee shall be twenty-five thousand dollars (\$25,000) with
16 an annual renewal fee of twenty-five thousand dollars (\$25,000).

17 (3) If the applicant is a grocery store with annual gross
18 sales totaling more than two million dollars (\$2,000,000), the
19 initial application shall be subject to a license fee of thirty
20 thousand dollars (\$30,000) and an annual renewal fee of thirty
21 thousand dollars (\$30,000).

22 (c) A license issued under this section is considered a
23 restaurant liquor license under this act subject to the
24 following additional restrictions and privileges:

25 (1) A license holder may sell malt or brewed beverages for
26 consumption off the premises in original sealed containers in
27 quantities of no more than one hundred ninety-two fluid ounces
28 in a single sale to one person. The sale of a individual bottle
29 or can of any size is not permitted. The malt or brewed
30 beverages sold must be lawfully procured from a licensed

1 manufacturer or from an importing distributor or distributor who
2 has been appointed to the territory in which the grocery store
3 is physically located.

4 (2) A license holder may sell up to six unopened sealed
5 bottles of wine for consumption off the premises to nonlicensed
6 customers and permit holders. For purposes of this subsection,
7 "wine" shall have the meaning given to it under section 488(i).
8 The wine sold by grocery store license holders must be lawfully
9 procured from a Pennsylvania Liquor Store, licensed limited
10 winery or a wholesale licensee.

11 (3) Sales of alcohol may occur on Monday through Saturday
12 between the hours of seven o'clock ante meridian and two o'clock
13 ante meridian of the following day and on Sunday between the
14 hours of seven o'clock ante meridian and two o'clock ante
15 meridian on Monday upon acquiring a Sunday sales permit from the
16 board upon application and payment of a permit fee of two
17 thousand dollars (\$2,000). A license holder does not need to
18 acquire an extended hours food permit in order to remain open
19 past two o'clock ante meridian, however alcohol sales may not
20 occur until seven o'clock ante meridian of that day.

21 (4) A license holder is not subject to the definition of a
22 restaurant unless the license holder wishes to sell alcohol for
23 consumption on the premises. The holder of a grocery store
24 license may only sell alcohol for consumption on the licensed
25 premises if it also holds an appropriate retail license issued
26 by the board that authorizes the sale for consumption on the
27 premises at the same location. A grocery store license holder
28 that holds a retail license for consumption on the premises must
29 clearly delineate the areas of the premises to be utilized under
30 a license. Notwithstanding any other provision of law, a grocery

1 store license holder may have an interior connection to or with
2 its separately licensed restaurant or eating place.

3 (5) A license holder may not provide entertainment as
4 otherwise authorized by the special permit available under
5 section 493(10).

6 (6) A license holder may not acquire an off premises
7 catering permit.

8 (7) A license holder is not subject to section 493(14) as it
9 relates to minors frequenting the licensed premises, except that
10 section 493(14) applies in the areas separately licensed for on
11 the premises sale, service, storage or consumption of alcohol.

12 (8) A license holder is not subject to the prohibition on
13 cashing certain checks set forth in section 493(15).

14 (9) A license holder is not subject to the cost and total
15 display area limitations of section 493(20)(i).

16 (10) A license holder is not subject to the restrictions set
17 forth in section 499 related to patrons vacating the premises.

18 (11) Sales of alcohol for consumption off the premises may
19 be paid for at a register designated by the license holder, and
20 the register may be used to pay for other items sold by the
21 license holder. Sales of alcohol for on premises consumption
22 made under a retail license authorizing the sales may only take
23 place at a register located within the area licensed for on
24 premises sales.

25 (12) A license holder shall utilize a transaction scan
26 device to verify the age of a person before making a sale of
27 alcohol. For purposes of this section, a "transaction scan
28 device" is a device capable of deciphering in an electronically
29 readable format the information encoded on the magnetic strip or
30 bar code of an identification card set forth in section 495(a).

1 (13) A license holder is strictly prohibited from selling
2 alcohol at a price less than the underlying cost of the product.

3 (14) A license holder is prohibited from directly or
4 indirectly offering an inducement to purchase alcoholic
5 beverages under section 493(24)(i) or engaging in a discount
6 pricing practice authorized by this act.

7 (15) A license holder is not subject to the noise
8 restrictions under section 493(34).

9 (16) A license may not be issued in a municipality that has
10 adopted a resolution prohibiting the issuance of a restaurant
11 liquor license unless the municipality subsequently adopts a
12 resolution that permits the board to issue a grocery store
13 license in the municipality.

14 Section 416. Convenience Store Licenses.--(a) The board is
15 authorized to issue a convenience store license to the operator
16 of a convenience store who has applied for the license.

17 (b) An applicant for a convenience store license shall file
18 a written application with the board in the form and containing
19 the information as the board prescribes. The application must be
20 accompanied by an application fee of seven hundred dollars
21 (\$700). The initial application for a convenience store license
22 shall be subject to a license fee of ten thousand dollars
23 (\$10,000) and an annual renewal fee of ten thousand dollars
24 (\$10,000).

25 (c) A license issued under this section is considered an
26 eating place retail dispenser license under this act subject to
27 the following additional restrictions and privileges:

28 (1) A license holder may sell malt or brewed beverages for
29 consumption off the premises in original sealed containers in
30 quantities of not more than ninety-six fluid ounces in a single

1 sale to one person. The sale of an individual bottle or can of
2 any size is not permitted. The malt or brewed beverages sold
3 must be lawfully procured from a licensed manufacturer or from
4 an importing distributor or distributor who has been appointed
5 to the territory in which the convenience store is physically
6 located.

7 (2) A license holder may not sell liquor on the premises.

8 (3) Sales of malt or brewed beverages may occur on Monday
9 through Saturday between the hours of seven o'clock ante
10 meridian and two o'clock ante meridian of the following day, and
11 on Sunday between the hours of eleven o'clock ante meridian and
12 two o'clock ante meridian on the following day upon acquiring a
13 Sunday sales permit from the board upon application and payment
14 of a permit fee of two thousand dollars (\$2,000). A license
15 holder does not need to acquire an extended hours food permit in
16 order to remain open past two o'clock ante meridian, however, no
17 alcohol sales may occur until seven o'clock ante meridian of
18 that day.

19 (4) A license holder is not subject to the definition of an
20 "eating place" unless the license holder wishes to sell malt or
21 brewed beverages for consumption on the premises. The holder of
22 a convenience store license may only sell malt or brewed
23 beverages for consumption on the licensed premises if it holds
24 an appropriate retail license issued by the board that
25 authorizes the sale for consumption on the premises at the same
26 location. A convenience store license holder that also holds a
27 retail license for consumption on the premises must clearly
28 delineate the areas of the licensed premises to be utilized
29 under a respective license. Notwithstanding any other provision
30 of law, a convenience store license holder may have an interior

1 connection to or with its separately licensed restaurant or
2 eating place.

3 (5) A license holder is not allowed to provide entertainment
4 as otherwise authorized by the special permit available under
5 section 493(10).

6 (6) A license holder may not acquire an off premises
7 catering permit.

8 (7) A license holder is not subject to section 493(14) as it
9 relates to minors frequenting the licensed premises, except that
10 section 493(14) applies in the areas separately licensed for on
11 premises sale, service, storage or consumption of alcohol.

12 (8) A license holder is not subject to the prohibition on
13 cashing certain checks set forth in section 493(15).

14 (9) A license holder is not subject to the cost and total
15 display area limitations of section 493(20)(i).

16 (10) A license holder is not subject to the restrictions set
17 forth in section 499 related to patrons vacating the premises.

18 (11) Sales of malt or brewed beverages for consumption off
19 the premises may be paid for at a register designated by the
20 license holder and the register may be used to pay for other
21 items sold by the license holder. Sales of alcohol for
22 consumption on the premises made under a retail license
23 authorizing the sales may only take place at a register located
24 within the area licensed for on premises sales.

25 (12) A license holder shall utilize a transaction scan
26 device to verify the age of a person before making a sale of
27 alcohol. For purposes of this section, a "transaction scan
28 device" is a device capable of deciphering in an electronically
29 readable format the information encoded on the magnetic strip or
30 bar code of an identification card set forth in section 495(a).

1 (13) A license holder is strictly prohibited from selling
2 alcohol at a price less than the underlying cost of the product.

3 (14) A license holder is prohibited from directly or
4 indirectly offering an inducement to purchase alcoholic
5 beverages under section 493(24)(i) or engaging in a discount
6 pricing practice authorized by this act.

7 (15) A license holder is not subject to the noise
8 restrictions under section 493(34).

9 (16) A license may not be issued in a municipality that has
10 adopted a resolution prohibiting the issuance of an eating place
11 retail dispenser license unless the municipality subsequently
12 adopts a resolution that permits the board to issue a
13 convenience store license in the municipality.

14 Section 417. Big-Box Retail Store Licenses.--(a) The board
15 is authorized to issue a big-box retail store license to the
16 operator of a big-box retail store who has applied for the
17 license.

18 (b) An applicant for a big-box retail store license shall
19 file a written application with the board in the form and
20 containing the information as the board prescribes from time to
21 time. The application must be accompanied by an application fee
22 of seven hundred dollars (\$700). The initial application for a
23 big-box retail store license shall be subject to a license fee
24 of thirty-five thousand dollars (\$35,000) and an annual renewal
25 fee of thirty-five thousand dollars (\$35,000), due at the time
26 of renewal or validation of the license.

27 (c) A license issued under this section is considered a
28 restaurant liquor license under this act subject to the
29 following additional restrictions and privileges:

30 (1) A license holder may sell to nonlicensed customers malt

1 or brewed beverages for consumption off the premises by the
2 case. The malt or brewed beverages sold by a big-box retail
3 store license holder must be lawfully procured from licensed
4 manufacturers, or for those products manufactured outside of the
5 Commonwealth, from an importing distributor who has been
6 appointed to the territory in which the big-box retail store is
7 physically located. A license holder is prohibited from
8 transporting, or having transported, a brand of malt or brewed
9 beverages purchased from one licensed location to another
10 licensed location for the purpose of selling the malt or brewed
11 beverages at the other location.

12 (2) A license holder may sell to nonlicensed customers and
13 permit holders up to six unopened sealed bottles of wine for
14 consumption off the premises. For purposes of this subsection,
15 "wine" shall have the meaning given to it under section 488(i).
16 The wine sold by big-box retail store license holders must be
17 lawfully procured from a Pennsylvania Liquor Store, licensed
18 limited winery or wholesale licensee.

19 (3) Sales of alcohol may occur on Monday through Saturday
20 between the hours of seven o'clock ante meridian and two o'clock
21 ante meridian of the following day, and on Sunday between the
22 hours of eleven o'clock ante meridian and two o'clock ante
23 meridian on the following day upon acquiring a Sunday sales
24 permit from the board upon application and payment of a permit
25 fee of two thousand dollars (\$2,000). A license holder does not
26 need to acquire an extended hours food permit in order to remain
27 open past two o'clock ante meridian, however, no alcohol sales
28 may occur until seven o'clock ante meridian of that day.

29 (4) A license holder is not subject to the definition of a
30 restaurant unless the license holder wishes to sell malt or

1 brewed beverages for consumption on the premises. The holder of
2 a big-box retail store license may only sell malt or brewed
3 beverages and wine for consumption on the licensed premises if
4 it holds an appropriate retail license issued by the board that
5 authorizes the sale for consumption on the premises at the same
6 location. A big-box retail store license holder that holds a
7 retail license for consumption on the premises must clearly
8 delineate the areas of the licensed premises to be utilized
9 under a license. Notwithstanding any other provision of law, a
10 convenience store license holder may have an interior connection
11 to or with its separately licensed restaurant or eating place.

12 (5) A license holder is not allowed to provide entertainment
13 as otherwise authorized by the special permit available under
14 section 493(10).

15 (6) A license holder may not acquire an off premises
16 catering permit.

17 (7) A license holder is not subject to section 493(14) as it
18 relates to minors frequenting the licensed premises, except that
19 section 493(14) applies in the areas separately licensed for on
20 premises sale, service, storage or consumption of alcohol.

21 (8) A license holder is not subject to the prohibition on
22 cashing certain checks set forth in section 493(15).

23 (9) A license holder is not subject to the cost and total
24 display area limitations of section 493(20)(i).

25 (10) A license holder is not subject to the restrictions set
26 forth in section 499 related to patrons vacating the premises.

27 (11) Sales of alcohol for consumption off the premises may
28 be paid for at a register designated by the license holder and
29 the register may be used to pay for other items sold by the
30 license holder. Sales of alcohol for consumption on the premises

1 made under a retail license authorizing the sales may only take
2 place at a register located within the area licensed for on
3 premises sales.

4 (12) A license holder shall utilize a transaction scan
5 device to verify the age of a person before making a sale of
6 alcohol. For purposes of this section, a "transaction scan
7 device" is a device capable of deciphering in an electronically
8 readable format the information encoded on the magnetic strip or
9 bar code of an identification card set forth in section 495(a).

10 (13) A license holder is strictly prohibited from selling
11 alcohol at a price less than the underlying cost of the product.

12 (14) A license holder is not prohibited from directly or
13 indirectly offering an inducement to purchase alcoholic
14 beverages under section 493(24)(i) or engaging in a discount
15 pricing practice authorized by this act.

16 (15) A license holder is not subject to the noise
17 restrictions of section 493(34).

18 (16) A license may not be issued in a municipality that has
19 adopted a resolution prohibiting the issuance of a restaurant
20 liquor license unless the municipality subsequently adopts a
21 resolution that permits the board to issue a big-box retail
22 store license in the municipality.

23 Section 418. Pharmacy Licenses.--(a) The board is
24 authorized to issue a pharmacy license to the operator of a
25 pharmacy who has applied for the license.

26 (b) An applicant for a pharmacy license must file a written
27 application with the board in the form and containing
28 information as the board prescribes and an application filing
29 fee of seven hundred dollars (\$700). The initial application for
30 a pharmacy license shall be subject to a license fee of

1 seventeen thousand five hundred dollars (\$17,500) and an annual
2 renewal fee of seventeen thousand five hundred dollars
3 (\$17,500).

4 (c) A license issued under this section is considered a
5 restaurant liquor license under this act subject to the
6 following additional restrictions and privileges:

7 (1) A license holder may sell malt or brewed beverages for
8 consumption off the premises in original sealed containers in
9 quantities of not more than one hundred ninety-two fluid ounces
10 in a single sale to one person. The sale of an individual bottle
11 or can of any size is not permitted. The malt or brewed
12 beverages sold must be lawfully procured from a licensed
13 manufacturer or from an importing distributor or distributor who
14 has been appointed to the territory in which the grocery store
15 is physically located.

16 (2) A license holder may sell to nonlicensed customers and
17 permit holders up to six unopened sealed bottles of wine for
18 consumption off the premises. For purposes of this subsection,
19 "wine" shall have the meaning given to it under section 488(i).
20 The wine sold by pharmacy store license holders must be lawfully
21 procured from a Pennsylvania Liquor Store, licensed limited
22 winery or wholesale licensee.

23 (3) Sales of alcohol may occur on Monday through Saturday
24 between the hours of seven o'clock ante meridian and two o'clock
25 ante meridian of the following day, and on Sunday between the
26 hours of seven o'clock ante meridian and two o'clock ante
27 meridian on Monday upon acquiring a Sunday sales permit from the
28 board upon application of a permit fee of two thousand dollars
29 (\$2,000). A license holder does not need to acquire an extended
30 hours food permit in order to remain open past two o'clock ante

1 meridian, however no alcohol sales may occur until seven o'clock
2 ante meridian of that day.

3 (4) A license holder is not subject to the definition of a
4 "restaurant" unless the license holder wishes to sell alcohol
5 for consumption on the premises. The holder of a pharmacy
6 license may only sell alcohol for consumption on the licensed
7 premises if it holds an appropriate retail license issued by the
8 board that authorizes the sale for consumption on the premises
9 at the same location. A pharmacy license holder that holds a
10 retail license for consumption on the premises must clearly
11 delineate the areas of the premises to be utilized under a
12 license. Notwithstanding any other provision of law, a pharmacy
13 license holder may have an interior connection to or with its
14 separately licensed restaurant or eating place.

15 (5) A license holder is not allowed to provide entertainment
16 as otherwise authorized by the special permit available under
17 section 493(10).

18 (6) A license holder may not acquire an off-premises
19 catering permit.

20 (7) A license holder is not subject to section 493(14) as it
21 relates to minors frequenting the licensed premises, except that
22 section 493(14) applies in the areas separately licensed for on
23 premises sale, service, storage or consumption of alcohol.

24 (8) A license holder is not subject to the prohibition on
25 cashing certain checks set forth in section 493(15).

26 (9) A license holder is not subject to the cost and total
27 display area limitations of section 493(20)(i).

28 (10) A license holder is not subject to the restrictions set
29 forth in section 499 related to patrons vacating the premises.

30 (11) Sales of alcohol for consumption off the premises may

1 be paid for at a register designated by the license holder and
2 the register may be used to pay for other items sold by the
3 license holder. Sales of alcohol for consumption off the
4 premises made under a retail license authorizing the sales may
5 only take place at a register located within the area licensed
6 for on premises sales.

7 (12) A license holder shall utilize a transaction scan
8 device to verify the age of a person before making a sale of
9 alcohol. For purposes of this section, a "transaction scan
10 device" is a device capable of deciphering in an electronically
11 readable format the information encoded on the magnetic strip or
12 bar code of an identification card set forth in section 495(a).

13 (13) A license holder is strictly prohibited from selling
14 alcohol at a price less than the underlying cost of the product.

15 (14) A license holder is prohibited from directly or
16 indirectly offering an inducement to purchase alcoholic
17 beverages under section 493(24)(i) or engaging in a discount
18 pricing practice authorized by this act.

19 (15) A license holder is not subject to the noise
20 restrictions of section 493(34).

21 (16) A license may not be issued in a municipality that has
22 adopted a resolution prohibiting the issuance of a restaurant
23 liquor license unless the municipality subsequently adopts a
24 resolution that permits the board to issue a pharmacy license in
25 the municipality.

26 Section 18. Section 431(b) of the act, amended December 8,
27 2004 (P.L.1810, No.239), is amended to read:

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

30 (b) The board shall issue to any reputable person who

1 applies therefor, and pays the license fee hereinafter
2 prescribed, a distributor's or importing distributor's license
3 for the place which such person desires to maintain for the sale
4 of malt or brewed beverages, not for consumption on the premises
5 where sold, and in quantities of not less than a case or
6 original containers containing one hundred twenty-eight ounces
7 or more which may be sold separately as prepared for the market
8 by the manufacturer at the place of manufacture. The board shall
9 have the discretion to refuse a license to any person or to any
10 corporation, partnership or association if such person, or any
11 officer or director of such corporation, or any member or
12 partner of such partnership or association shall have been
13 convicted or found guilty of a felony within a period of five
14 years immediately preceding the date of application for the said
15 license: And provided further, That, in the case of any new
16 license or the transfer of any license to a new location, the
17 board may, in its discretion, grant or refuse such new license
18 or transfer if such place proposed to be licensed is within
19 three hundred feet of any church, hospital, charitable
20 institution, school or public playground, or if such new license
21 or transfer is applied for a place which is within two hundred
22 feet of any other premises which is licensed by the board: And
23 provided further, That the board shall refuse any application
24 for a new license or the transfer of any license to a new
25 location if, in the board's opinion, such new license or
26 transfer would be detrimental to the welfare, health, peace and
27 morals of the inhabitants of the neighborhood within a radius of
28 five hundred feet of the place proposed to be licensed. [The
29 board shall refuse any application for a new license or the
30 transfer of any license to a location where the sale of liquid

1 fuels or oil is conducted.] The board may enter into an
2 agreement with the applicant concerning additional restrictions
3 on the license in question. If the board and the applicant enter
4 into such an agreement, such agreement shall be binding on the
5 applicant. Failure by the applicant to adhere to the agreement
6 will be sufficient cause to form the basis for a citation under
7 section 471 and for the nonrenewal of the license under section
8 470. If the board enters into an agreement with an applicant
9 concerning additional restrictions, those restrictions shall be
10 binding on subsequent holders of the license until the license
11 is transferred to a new location or until the board enters into
12 a subsequent agreement removing those restrictions. If the
13 application in question involves a location previously licensed
14 by the board, then any restrictions imposed by the board on the
15 previous license at that location shall be binding on the
16 applicant unless the board enters into a new agreement
17 rescinding those restrictions. The board shall require notice to
18 be posted on the property or premises upon which the licensee or
19 proposed licensee will engage in sales of malt or brewed
20 beverages. This notice shall be similar to the notice required
21 of hotel, restaurant and club liquor licensees.

22 Except as hereinafter provided, such license shall authorize
23 the holder thereof to sell or deliver malt or brewed beverages
24 in quantities above specified anywhere within the Commonwealth
25 of Pennsylvania, which, in the case of distributors, have been
26 purchased only from persons licensed under this act as
27 manufacturers or importing distributors, and in the case of
28 importing distributors, have been purchased from manufacturers
29 or persons outside this Commonwealth engaged in the legal sale
30 of malt or brewed beverages or from manufacturers or importing

1 distributors licensed under this article. If the holder of a
2 distributor license applies for and receives an enhanced
3 distributor license, issued pursuant to section 431.2, that
4 distributor shall be authorized to sell wine on the same
5 premises where malt or brewed beverages are sold, and shall be
6 authorized to sell malt or brewed beverages in quantities
7 enumerated in section 431.2. In the case of an importing
8 distributor, the holder of such a license shall be authorized to
9 store and repackage malt or brewed beverages owned by a
10 manufacturer at a segregated portion of a warehouse or other
11 storage facility authorized by section 441(d) and operated by
12 the importing distributor within its appointed territory and
13 deliver such beverages to another importing distributor who has
14 been granted distribution rights by the manufacturer as provided
15 herein. The importing distributor shall be permitted to receive
16 a fee from the manufacturer for any related storage, repackaging
17 or delivery services. In the case of a bailee for hire hired by
18 a manufacturer, the holder of such a permit shall be authorized:
19 to receive, store and repackage malt or brewed beverages
20 produced by that manufacturer for sale by that manufacturer to
21 importing distributors to whom that manufacturer has given
22 distribution rights pursuant to this subsection or to purchasers
23 outside this Commonwealth for delivery outside this
24 Commonwealth; or to ship to that manufacturer's storage
25 facilities outside this Commonwealth. The bailee for hire shall
26 be permitted to receive a fee from the manufacturer for any
27 related storage, repackaging or delivery services. The bailee
28 for hire shall, as required in Article V of this act, keep
29 complete and accurate records of all transactions, inventory,
30 receipts and shipments and make all records and the licensed

1 areas available for inspection by the board and for the
2 Pennsylvania State Police, Bureau of Liquor Control Enforcement,
3 during normal business hours.

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

24 When a Pennsylvania manufacturer of malt or brewed beverages
25 licensed under this article names or constitutes a distributor
26 or importing distributor as the primary or original supplier of
27 his product, he shall also designate the specific geographical
28 area for which the said distributor or importing distributor is
29 given distributing rights, and such distributor or importing
30 distributor shall not sell or deliver the products of such

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

21 * * *

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

23 Section 431.2. Enhanced distributor licenses.--(a) The
24 board shall have the authority to issue an enhanced distributor
25 license to any currently licensed distributor who makes
26 application and pays the requisite license fee for use at the
27 same place the distributor maintains for the sale of malt and
28 brewed beverages.

29 (b) For a license under subsection (a), the board shall
30 require an initial license fee of one hundred fifty thousand

1 dollars (\$150,000) and an annual renewal fee of ten thousand
2 dollars (\$10,000). The single fee for a Sunday sales permit for
3 a distributor holding a license under subsection (a) shall be
4 two thousand dollars (\$2,000).

5 (c) The holder of an enhanced distributor license may, in
6 addition to the privileges derived from its distributor license:

7 (1) Sell to nonlicensed customers and permit holders
8 unopened sealed bottles of wine for consumption off the
9 premises. All wine sold by the holder of an enhanced distributor
10 license must be lawfully procured from either a Pennsylvania
11 Liquor Store, a licensed limited winery, or a wholesale licensee
12 as defined in this act.

13 (2) Notwithstanding any other provision of this act, break
14 the bulk of a case and sell a unit of that case in quantities of
15 not less than forty-two ounces.

16 (d) Before the holder of an enhanced distributor license
17 breaks the bulk of a case of malt or brewed beverages for the
18 purpose of selling units of the case, the licensee shall inspect
19 such case for damage and appropriate production date. When the
20 licensee breaks the bulk of a case of malt or brewed beverages
21 for the purpose of selling units of the case, the licensee shall
22 bear all the risk of loss and shall be responsible for the
23 destruction of any malt or brewed beverages which violate the
24 manufacturer's specifications relating to sales by a certain
25 date or within a number of days of the production date.

26 (e) As used in this section:

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

28 "Wine" shall have the meaning given to it under section
29 488(i).

30 Section 20. Section 432(d) of the act, amended January 6,

1 2006 (P.L.1, No.1), is amended to read:

2 Section 432. Malt and Brewed Beverages Retail Licenses.--* *
3 *

4 (d) The board shall, in its discretion, grant or refuse any
5 new license, the transfer of any license to a new location or
6 the extension of an existing license to cover an additional area
7 if such place proposed to be licensed is within three hundred
8 feet of any church, hospital, charitable institution, school, or
9 public playground, or if such new license, transfer or extension
10 is applied for a place which is within two hundred feet of any
11 other premises which is licensed by the board. The board shall
12 refuse any application for a new license, the transfer of any
13 license to a new location or the extension of an existing
14 license to cover an additional area if, in the board's opinion,
15 such new license, transfer or extension would be detrimental to
16 the welfare, health, peace and morals of the inhabitants of the
17 neighborhood within a radius of five hundred feet of the place
18 to be licensed. The board may enter into an agreement with the
19 applicant concerning additional restrictions on the license in
20 question. If the board and the applicant enter into such an
21 agreement, such agreement shall be binding on the applicant.
22 Failure by the applicant to adhere to the agreement will be
23 sufficient cause to form the basis for a citation under section
24 471 and for the nonrenewal of the license under section 470. If
25 the board enters into an agreement with an applicant concerning
26 additional restrictions, those restrictions shall be binding on
27 subsequent holders of the license until the license is
28 transferred to a new location or until the board enters into a
29 subsequent agreement removing those restrictions. If the
30 application in question involves a location previously licensed

1 by the board, then any restrictions imposed by the board on the
2 previous license at that location shall be binding on the
3 applicant unless the board enters into a new agreement
4 rescinding those restrictions[. The board shall refuse any
5 application for a new license, the transfer of any license to a
6 location where the sale of liquid fuels or oil is conducted or
7 the extension of an existing license to cover an additional
8 area]: And provided further, That the board shall have the
9 discretion to refuse a license to any person or to any
10 corporation, partnership or association if such person, or any
11 officer or director of such corporation, or any member or
12 partner of such partnership or association shall have been
13 convicted or found guilty of a felony within a period of five
14 years immediately preceding the date of application for the said
15 license. The board may, in its discretion, refuse an application
16 for an economic development license under section 461(b.1) or an
17 application for an intermunicipal transfer or a license if the
18 board receives a protest from the governing body of the
19 receiving municipality. The receiving municipality of an
20 intermunicipal transfer or an economic development license under
21 section 461(b.1) may file a protest against the approval for
22 issuance of a license for economic development or an
23 intermunicipal transfer of a license into its municipality, and
24 such municipality shall have standing in a hearing to present
25 testimony in support of or against the issuance or transfer of a
26 license. Upon any opening in any quota, an application for a new
27 license shall only be filed with the board for a period of six
28 months following said opening.

29 * * *

30 Section 21. Sections 436(e) and 437(e) of the act are

1 amended to read:

2 Section 436. Application for Distributors', Importing
3 Distributors' and Retail Dispensers' Licenses.--* * *

4 (e) That the applicant is not, or in case of a partnership
5 or association, that the members or partners are not, and in the
6 case of a corporation, that the officers and directors are not,
7 in any manner pecuniarily interested, either directly or
8 indirectly, in the profits of any other class of business
9 regulated under this article, except as hereinafter permitted.

10 The requirements of this section shall not prohibit a
11 distributor from holding an enhanced distributor license and a
12 wine and spirits retail license, or an importing distributor
13 from holding a wine and spirits wholesale license, under the
14 conditions provided under Article III-A.

15 * * *

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

17 * *

18 (e) No distributor's or importing distributor's license
19 shall be issued for any premises in any part of which there is
20 operated any retail license for the sale of liquor or malt or
21 brewed beverages. The requirements of this section shall not

22 prohibit a distributor from holding an enhanced distributor
23 license and a wine and spirits retail license or an importing
24 distributor from holding a wine and spirits wholesale license,
25 under the conditions provided under Article III-A.

26 * * *

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

29 Section 438. Number and Kinds of Licenses Allowed Same
30 Licensee.--(a) Any retail dispenser may be granted licenses to

1 maintain, operate or conduct any number of places for the sale
2 of malt or brewed beverages, but a separate license must be
3 secured for each place where malt or brewed beverages are sold.

4 (b) No person shall possess or be issued [more than one
5 distributor's or importing distributor's license.] more than
6 sixty distributor licenses, nor shall any person possess or be
7 issued:

8 (1) more than ten percent (10%) of the distributor licenses
9 in any one county which has ten or more distributor licenses; or

10 (2) more than one distributor license in any one county
11 which has less than ten distributor licenses.

12 (b.1) No person shall possess or be issued more than one
13 importing distributor's license.

14 (c) No person shall possess more than one class of license,
15 except that a holder of a retail dispenser's license may also be
16 a holder of a retail liquor license or a wine and spirits retail
17 license consistent with the restrictions contained in Article
18 III-A: Provided, however, That nothing contained in this section
19 shall be construed to prohibit a member of the governing board
20 of a public authority created under subdivision (n) of Article
21 XXIII of the act of August 9, 1955 (P.L.323, No.130), known as
22 "The County Code," from having an interest in a distributor or
23 importing distributor license notwithstanding the fact that the
24 public authority has an interest in one or more retail licenses
25 or acts as a landlord for one or more retail licenses: And,
26 provided further, That, notwithstanding any other provision of
27 this section, an entity may acquire both a manufacturer's
28 license or a limited winery license and a hotel, restaurant or
29 retail dispenser license for use at the same location and more
30 than one location may be so licensed. The licenses and a

1 person's interest in the licenses or in the entity holding the
2 licenses shall not be subject to this section.

3 Section 23. Section 441 of the act, amended or added May 31,
4 1996 (P.L.312, No.49), December 20, 1996 (P.L.1513, No.196),
5 June 18, 1998 (P.L.664, No.86), December 9, 2002 (P.L.1653,
6 No.212), June 28, 2011 (P.L.55, No.11) and December 22, 2011
7 (P.L.530, No.113), is amended to read:

8 Section 441. Distributors' and Importing Distributors'
9 Restrictions on Sales, Storage, Etc.--(a) No distributor or
10 importing distributor shall purchase, receive or resell any malt
11 or brewed beverages except:

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

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

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

17 (b) No distributor or importing distributor, except for a
18 distributor that also holds an enhanced distributor license
19 under section 431.2, shall sell any malt or brewed beverages in
20 quantities of less than a case or original containers containing
21 one hundred twenty-eight ounces or more which may be sold
22 separately: Provided, That no malt or brewed beverages sold or
23 delivered shall be consumed upon the premises of the distributor
24 or importing distributor, or in any place provided for such
25 purpose by such distributor or importing distributor.

26 Notwithstanding any other provision of this section or act, malt
27 or brewed beverages which are part of a tasting conducted
28 pursuant to the board's regulations may be consumed on licensed
29 premises.

30 (c) No distributor or importing distributor shall maintain

1 or operate any place where sales are made other than that for
2 which the license is granted.

3 (d) (1) No distributor shall maintain any place for the
4 storage of malt or brewed beverages except in the same
5 municipality in which the licensed premises is located and
6 unless the same has been approved by the board. In the event
7 there is no place of cold storage in the same municipality, the
8 board may approve a place of cold storage in the nearest
9 municipality.

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

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

28 (f) (1) To salvage one or more salable cases from one or more
29 damaged cases, cartons or packages of malt or brewed beverages,
30 a distributor or importing distributor may repackage consequent

1 to inadvertent damage and sell a case, carton or package of
2 identical units of malt or brewed beverages.

3 (2) Repackaging is permissible only to the extent made
4 necessary by inadvertent damage. Repackaging not consequent to
5 damage is prohibited.

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

9 (g) All malt or brewed beverages purchased by an importing
10 distributor from a Pennsylvania manufacturer of malt or brewed
11 beverages or from any person located outside this Commonwealth
12 for resale shall be invoiced to the importing distributor, shall
13 come physically into the possession of such importing
14 distributor and shall be unloaded into and distributed from the
15 licensed premises of such importing distributor. The board may
16 act to further define and control the storage and distribution
17 of malt or brewed beverages in conformity with this section and
18 this act.

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

23 (i) Notwithstanding any other provision to the contrary,
24 when making a sale of malt or brewed beverages to a private
25 individual, no distributor or importing distributor may be
26 required to collect the name, address or any other identifying
27 information of the private individual for the purpose of keeping
28 a record of the quantity of cases or volume of malt or brewed
29 beverages purchased.

30 (j) No distributor shall engage in the sale of wine without

1 first obtaining a wine and spirits retail license under Article
2 III-A or an enhanced distributor license pursuant to section
3 431.2. Sales of wine may only be made on premises licensed for
4 the sale of malt or brewed beverages.

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

11 Section 442. Retail Dispensers' Restrictions on Purchases
12 and Sales.--(a) (1) No retail dispenser shall purchase or
13 receive any malt or brewed beverages except in original
14 containers as prepared for the market by the manufacturer at the
15 place of manufacture. The retail dispenser may thereafter break
16 the bulk upon the licensed premises and sell or dispense the
17 same for consumption on or off the premises so licensed. No
18 retail dispenser may sell malt or brewed beverages for
19 consumption off the premises in quantities in excess of one
20 hundred ninety-two fluid ounces[.]; except that a retail
21 dispenser acquiring a thirty-pack permit issued by the board may
22 sell to a person a single package prepared for sale or
23 distribution of not more than thirty original containers and
24 totaling not less than three hundred sixty fluid ounces of malt
25 or brewed beverages. Sales may be made in open or closed
26 containers, Provided, however, That a municipality may adopt an
27 ordinance restricting open containers in public places. No club
28 licensee may sell any malt or brewed beverages for consumption
29 off the premises where sold or to persons not members of the
30 club.

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

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

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

24 (5) A city of the first class shall create a hearing board
25 within its Department of Licenses and Inspections to hear
26 requests from licensees who are seeking a permit from the
27 hearing board authorizing the licensee to sell malt or brewed
28 beverages for consumption off the premises. Each hearing board
29 shall consist of three persons appointed by the mayor of the
30 city of the first class, who are subject to approval by the city

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

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

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

1 and bowling alley are immediately adjacent and under the same
2 roof.

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

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

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

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

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

28 (4) 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.

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

12 (1) malt or brewed beverages may only be provided during the
13 days and hours that the license holder may otherwise sell malt
14 or brewed beverages;

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

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

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

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

27 (6) a permit shall not be issued to a location that is
28 subject to a pending license suspension under section 471 or the
29 one-year prohibition on the issuance or transfer of a license
30 under section 471(b);

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

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

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

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

19 (ii) the applicant is a licensee in good standing with the
20 board;

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

23 (iv) the applicant pays a late fee of one hundred dollars
24 (\$100);

25 (10) the board shall, in its discretion, approve or
26 disapprove a catered function if the applicant fails to provide
27 timely notice of the catered function, does not intend to
28 conduct a function that meets the requirements of this act or
29 has previously conducted a function that did not meet the
30 requirements of this act;

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

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

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

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

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

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

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

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

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

30 (17) a permit may not be issued to a licensee who is subject

1 to objection under the board's nuisance bar program;

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

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

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

19 Section 25. Section 443(b) of the act, amended May 31, 1996
20 (P.L.312, No.49), is amended to read:

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

22 (b) No distributor or importing distributor and no officer
23 or director of any distributor or importing distributor shall at
24 the same time be a manufacturer, a retail dispenser or a liquor
25 licensee, or be an officer, director, stockholder or creditor of
26 a manufacturer, a retail dispenser or a liquor licensee, or,
27 directly or indirectly, own any stock of, or have any financial
28 interest in, or be the owner, proprietor or lessor of, any place
29 covered by any other malt or brewed beverage or liquor license.
30 The requirements of this section or any other provision of law,

1 shall not prohibit the holder of a distributor license from
2 holding an enhanced distributor license issued pursuant to
3 section 431.2 and a wine and spirits retail license issued
4 pursuant to Article III-A, or an importing distributor from also
5 holding a wine and spirits wholesale license issued pursuant to
6 Article III-A.

7 * * *

8 Section 26. Section 446(a)(1) of the act, amended December
9 22, 2011 (P.L.530, No.113), is amended to read:

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

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

19 * * *

20 Section 27. Section 461(a) of the act, amended October 24,
21 2012 (P.L.1203, No.149), is amended to read:

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

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

29 * * *

30 Section 28. Section 464 of the act, amended December 9, 2002

1 (P.L.1653, No.212), is amended to read:

2 Section 464. Hearings Upon Refusal of Licenses, Renewals or
3 Transfers; Appeals.--The board may of its own motion, and shall
4 upon the written request of any applicant for club, hotel or
5 restaurant liquor license, or any applicant for any malt or
6 brewed beverage license other than a public service license, or
7 for renewal or transfer thereof, or for the renewal of an
8 amusement permit, whose application for such license, renewal or
9 transfer, or the renewal of an amusement permit, has been
10 refused, fix a time and place for hearing of such application
11 for license or for renewal or transfer thereof, or the renewal
12 of an amusement permit, notice of which hearing shall be mailed
13 to the applicant at the address given in his application. Such
14 hearing shall be before a hearing examiner designated by the
15 board. At such hearing, the board shall present its reasons for
16 its refusal or withholding of license, renewal or transfer
17 thereof, or its refusal for renewal of an amusement permit. The
18 applicant may appear in person or by counsel, may cross-examine
19 the witnesses for the board and may present evidence which shall
20 likewise be subject to cross-examination by the board. Such
21 hearing shall be stenographically recorded. The hearing examiner
22 shall thereafter report, with the examiner's recommendation, to
23 the board in each case. The board shall thereupon grant or
24 refuse the license, renewal or transfer thereof or the renewal
25 of an amusement permit. In considering the renewal of a license
26 or amusement permit, the board shall not refuse any such renewal
27 on the basis of the propriety of the original issuance or any
28 prior renewal of such license or amusement permit. If the board
29 shall refuse such license, renewal or transfer or the renewal of
30 an amusement permit, following such hearing, notice in writing

1 of such refusal shall be mailed to the applicant at the address
2 given in his application. In all such cases, the board shall
3 file of record at least a brief statement in the form of an
4 opinion of the reasons for the ruling or order and furnish a
5 copy thereof to the applicant. Any applicant who has appeared at
6 any hearing, as above provided, who is aggrieved by the refusal
7 of the board to issue any such license or to renew or transfer
8 any such license or to issue or renew any amusement permit may
9 appeal, or any church, hospital, charitable institution, school
10 or public playground located within three hundred feet of the
11 premises applied for, aggrieved by the action of the board in
12 granting the issuance of any such license or the transfer of any
13 such license, may take an appeal limited to the question of such
14 grievance, within twenty days from date of refusal or grant, to
15 the court of common pleas of the county in which the premises or
16 permit applied for is located. If the application is for an
17 economic development license under section 461(b.1) or the
18 intermunicipal transfer of a license, the governing body of the
19 municipality receiving the new license or the transferred
20 license may file an appeal of the board decision granting the
21 license, within twenty days of the date of the board's decision,
22 to the court of common pleas of the county in which the proposed
23 premises is located. Such appeal shall be upon petition of the
24 aggrieved party, who shall serve a copy thereof upon the board,
25 whereupon a hearing shall be held upon the petition by the court
26 upon ten days' notice to the board. The said appeal shall,
27 except in cases involving the renewal of a license, act as a
28 supersedeas unless upon sufficient cause shown the court shall
29 determine otherwise. In cases involving the renewal of a
30 license, the court shall grant a supersedeas only upon

1 application and after a finding that the licensee will likely
2 prevail on the merits of the appeal. The court shall [hear the
3 application de novo on questions of fact, administrative
4 discretion and such other matters as are involved, at such time
5 as it shall fix, of which notice shall be given to the board.
6 The court shall either sustain or over-rule the action of the
7 board and either order or deny the issuance of a new license or
8 the renewal or transfer of the license or the renewal of an
9 amusement permit to the applicant] affirm the board unless the
10 board's decision is an error of law, an abuse of discretion or
11 is not supported by substantial evidence.

12 Section 29. Section 468(a) and (e) of the act, amended or
13 added December 20, 2000 (P.L.992, No.141), February 21, 2002
14 (P.L.103, No.10), June 28, 2011 (P.L.55, No.11) and December 22,
15 2011 (P.L.530, No.113), are amended to read:

16 Section 468. Licenses Not Assignable; Transfers.--(a) (1)
17 Licenses issued under this article may not be assigned. The
18 board, upon payment of the transfer filing fee, is hereby
19 authorized to transfer any license issued by it under the
20 provisions of this article from one person to another or from
21 one place to another, or both. Except for restaurant liquor and
22 eating place retail dispenser licenses transferred under section
23 461(b.4), if the license is a retail license, the new location
24 must be within the same county as the existing location or, if
25 the municipality is located in more than one county, within the
26 same municipality as the existing location.

27 (2) In the case of distributor and importing distributor
28 licenses, the board may transfer any such license from its place
29 in a municipality to a place in any other municipality within
30 the same county, or from one place to another place within the

1 same municipality, or exchange a distributor license for an
2 importing distributor license or an importing distributor
3 license for a distributor license, if the building for which the
4 license is to be issued has, in the case of an importing
5 distributor license, an area under one roof of two thousand five
6 hundred square feet and, in the case of a distributor license,
7 an area under one roof of one thousand square feet: And
8 provided, That, in the case of all transfers of distributor or
9 importing distributor licenses, whether from a place within the
10 same municipality to another place within the same municipality
11 or from a place in a municipality to a place in any other
12 municipality within the same county, and, in the case of an
13 exchange of a distributor license for an importing distributor
14 license or an importing distributor license for a distributor
15 license, the premises to be affected by the transfer or exchange
16 shall contain an office separate and apart from the remainder of
17 the premises to be licensed for the purpose of keeping records,
18 required by the board, adequate toilet facilities for employes
19 of the licensee and an entrance on a public thoroughfare:
20 Provided, however, That in the event that the majority of the
21 voting electors of a municipality, at an election held under the
22 provisions of any law so empowering them to do, shall vote
23 against the issuance of distributor or importing distributor
24 licenses in such municipality, the board is hereby authorized to
25 transfer any such distributor or importing distributor license
26 from its place in such municipality to a place in any other
27 municipality within the same county, upon application prior to
28 the expiration of any such license and upon payment of the
29 transfer filing fee and the execution of a new bond; but no
30 transfer shall be made to a person who would not have been

1 eligible to receive the license originally nor for the
2 transaction of business at a place for which the license could
3 not lawfully have been issued originally, nor, except as herein
4 provided, to a place as to which a license has been revoked.

5 (3) [No license shall be transferred to any place or
6 property upon which is located as a business the sale of liquid
7 fuels and oil.] Except in cases of emergency such as death,
8 serious illness, or circumstances beyond the control of the
9 licensee, as the board may determine such circumstances to
10 justify its action, transfers of licenses may be made only at
11 times fixed by the board. In the case of the death of a
12 licensee, the board may transfer the license to the surviving
13 spouse or personal representative or to a person designated by
14 him. From any refusal to grant a transfer or upon the grant of
15 any transfer, the party aggrieved shall have the right of appeal
16 to the proper court in the manner hereinbefore provided.

17 (4) In the event the license to be transferred has been
18 ordered to serve a suspension under section 471 and has not
19 served the suspension at the time the board considers the
20 application and all appeals regarding the suspension have been
21 exhausted, the board may require the transferee to serve the
22 suspension as a condition for approval of the transfer. Further,
23 the board may convert the outstanding suspension into a fine and
24 require the transferee to pay the fine as a condition for
25 approval of the transfer. If the board converts the outstanding
26 suspension to a fine, the fine need not comply with the minimum
27 and maximum amounts set forth in section 471 for the underlying
28 citation.

29 * * *

30 (e) Notwithstanding any other provision of law, the board

1 may not approve an interior connection that is greater than ten
2 feet wide between a licensed business and another business. This
3 subsection shall not prohibit the board from approving a renewal
4 application of a license, even if the licensed business has an
5 interior connection that is greater than ten feet wide to an
6 unlicensed business, if the board had approved the interior
7 connection prior to the effective date of this subsection. This
8 subsection shall not apply to the holder of a grocery store,
9 big-box retail store, convenience store or pharmacy license.

10 Section 30. Section 470(a) of the act, amended December 22,
11 2011 (P.L.530, No.113), is amended and the section is amended by
12 adding subsections to read:

13 Section 470. Renewal of Licenses; Temporary Provisions for
14 Licensees in Armed Service.--(a) All applications for renewal
15 or validation of licenses under the provisions of this article
16 shall be filed with tax clearance from the Department of Revenue
17 and the Department of Labor and Industry and requisite license
18 and filing fees, including an application surcharge of seven
19 hundred dollars (\$700), at least sixty days before the
20 expiration date of same: Provided, however, That, a licensee
21 that applies for a thirty-pack permit shall pay, with its
22 renewal or validation application, an application surcharge of
23 five thousand dollars (\$5,000): And provided further, That the
24 board, in its discretion, may accept nunc pro tunc a renewal
25 application filed less than sixty days before the expiration
26 date of the license with the required fees, upon reasonable
27 cause shown and the payment of an additional filing fee of one
28 hundred dollars (\$100.00) for late filing: And provided further,
29 That except where the failure to file a renewal application on
30 or before the expiration date has created a license quota

1 vacancy after said expiration date which has been filled by the
2 issuance of a new license, after such expiration date, but
3 before the board has received a renewal application nunc pro
4 tunc within the time prescribed herein the board, in its
5 discretion, may, after hearing, accept a renewal application
6 filed within two years after the expiration date of the license
7 with the required fees upon the payment of an additional filing
8 fee of two hundred fifty dollars (\$250.00) for late filing.
9 Where any such renewal application is filed less than sixty days
10 before the expiration date, or subsequent to the expiration
11 date, no license shall issue upon the filing of the renewal
12 application until the matter is finally determined by the board
13 and if an appeal is taken from the board's action the courts
14 shall not order the issuance of the renewal license until final
15 determination of the matter by the courts. The board may enter
16 into an agreement with the applicant concerning additional
17 restrictions on the license in question. If the board and the
18 applicant enter into such an agreement, such agreement shall be
19 binding on the applicant. Failure by the applicant to adhere to
20 the agreement will be sufficient cause to form the basis for a
21 citation under section 471 and for the nonrenewal of the license
22 under this section. A renewal application will not be considered
23 filed unless accompanied by the requisite filing and license
24 fees and any additional filing fee required by this section.
25 Unless the board shall have given ten days' previous notice to
26 the applicant of objections to the renewal of his license, based
27 upon violation by the licensee or his servants, agents or
28 employes of any of the laws of the Commonwealth or regulations
29 of the board relating to the manufacture, transportation, use,
30 storage, importation, possession or sale of liquors, alcohol or

1 malt or brewed beverages, or the conduct of a licensed
2 establishment, or unless the applicant has by his own act become
3 a person of ill repute, or unless the premises do not meet the
4 requirements of this act or the regulations of the board, the
5 license of a licensee shall be renewed. Notwithstanding any
6 other provision of this act, a noise violation shall not be the
7 sole basis for objection by the board to the renewal of a
8 license unless the licensee has received six prior adjudicated
9 noise citations within a twenty-four-month period.

10 * * *

11 (d) If the renewal of the license is objected to because of
12 the reputation of the applicant or its shareholders, directors,
13 officers, association members, servants, agents or employes or
14 under subsection (a.1), the Director of the Bureau of Licensing
15 may, in the director's discretion, grant the applicant temporary
16 operating authority under certain terms the director deems
17 appropriate. The operating authority shall not exceed one
18 hundred twenty (120) calendar days.

19 (e) If the renewal of the license is objected to because of
20 the reputation of the applicant or its shareholders, directors,
21 officers, association members, servants, agents or employes or
22 under subsection (a.1), the board shall render a decision on the
23 application within one hundred twenty (120) calendar days.

24 Section 31. Section 471(b) and (e) of the act, amended or
25 added July 6, 2005 (P.L.135, No.39) and April 13, 2006 (P.L.78,
26 No.26), are amended and the section is amended by adding a
27 subsection to read:

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

29 * * *

30 (b) Hearing on such citations shall be held in the same

1 manner as provided herein for hearings on applications for
2 license. Upon such hearing, if satisfied that any such violation
3 has occurred or for other sufficient cause, the administrative
4 law judge shall immediately suspend or revoke the license, or
5 impose a fine of not less than [fifty dollars (\$50)] two hundred
6 fifty dollars (\$250) nor more than [one thousand dollars
7 (\$1,000)] five thousand dollars (\$5,000), or both, notifying the
8 licensee by registered letter addressed to his licensed
9 premises. If the licensee has been cited and found to have
10 violated section 493(1) insofar as it relates to sales to minors
11 or sales to a visibly intoxicated person, section 493(10)
12 insofar as it relates to lewd, immoral or improper entertainment
13 or section 493(14), (16) or (21), or has been found to be a
14 public nuisance pursuant to section 611, or if the owner or
15 operator of the licensed premises or any authorized agent of the
16 owner or operator has been convicted of any violation of the act
17 of April 14, 1972 (P.L.233, No.64), known as "The Controlled
18 Substance, Drug, Device and Cosmetic Act," or of 18 Pa.C.S. §
19 5902 (relating to prostitution and related offenses) or 6301
20 (relating to corruption of minors), at or relating to the
21 licensed premises, the administrative law judge shall
22 immediately suspend or revoke the license, or impose a fine of
23 not less than [one thousand dollars (\$1,000)] five thousand
24 dollars (\$5,000) nor more than [five thousand dollars (\$5,000)]
25 ten thousand dollars (\$10,000), or both. However, if a licensee
26 has been cited and found to have violated section 493(1) as it
27 relates to sales to minors or sales to a visibly intoxicated
28 person but at the time of the sale the licensee was in
29 compliance with the requirements set forth in section 471.1 and
30 the licensee had not sold to minors or visibly intoxicated

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

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

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

21 * * *

22 (e) If a licensee has been cited and found to have violated
23 section 493(1) for a second or subsequent offense as it relates
24 to sales to minors or sales to a visibly intoxicated person, the
25 administrative law judge, in addition to the penalties set forth
26 in subsection (b), shall impose a suspension of at least two
27 consecutive weekend days when the offense is a second offense or
28 two consecutive Saturdays of operation if the licensee does not
29 hold a Sunday sales permit, and a suspension of at least seven
30 consecutive days of operation when the offense is a third or

1 subsequent offense. The mandatory suspension provision shall not
2 apply to licensees which also hold a license issued by the
3 Pennsylvania Gaming Control Board for the use of their premises.
4 Further, the administrative law judge may, in such instances,
5 require the licensee to comply with the requirements set forth
6 in section 471.1 pertaining to responsible alcohol management.
7 Such compliance may be required for a period of up to one year.
8 Failure to adhere with such an order is sufficient cause for the
9 issuance of a citation under subsection (a).

10 * * *

11 (g) All fines and proceeds derived from the conversion of a
12 suspension to a fine received by the administrative law judge
13 shall be remitted to the enforcement bureau for continued
14 enforcement efforts.

15 Section 32. Sections 472(a) and 488 of the act, amended or
16 added February 21, 2002 (P.L.103, No.10), are amended to read:

17 Section 472. Local Option.--(a) In any municipality or any
18 part of a municipality where such municipality is split so that
19 each part thereof is separated by another municipality, an
20 election may be held, subject to subsection (c), on the date of
21 the primary election immediately preceding any municipal
22 election, but not oftener than once in four years, to determine
23 the will of the electors with respect to the granting of liquor
24 licenses to hotels, restaurants, resort facilities and clubs,
25 not oftener than once in four years, to determine the will of
26 the electors with respect to the granting of liquor licenses to
27 public venues, to performing arts facilities, to continuing care
28 retirement communities, to hotels located on property owned by
29 an accredited college or university, to privately-owned private
30 golf courses or to privately-owned public golf courses, not

1 oftener than once in four years, to determine the will of the
2 electors with respect to the granting of licenses to retail
3 dispensers of malt and brewed beverages, not oftener than once
4 in four years, to determine the will of the electors with
5 respect to granting of licenses to wholesale distributors and
6 importing distributors, not more than once in two years, to
7 determine the will of the electors with respect to the granting
8 of club liquor licenses or club retail dispenser licenses to
9 incorporated units of national veterans' organizations, not
10 oftener than once in two years to determine the will of the
11 electors with respect to the granting of special occasion
12 permits to qualified organizations, not more than once in two
13 years, to determine the will of the electors with respect to
14 granting of licenses to big-box retail stores, grocery stores,
15 convenience stores and pharmacies, or not more than once in four
16 years, to determine the will of the electors with respect to the
17 establishment[, operation and maintenance by the board of
18 Pennsylvania liquor stores] of wine and spirits retail
19 licensees, within the limits of such municipality or part of a
20 split municipality, under the provisions of this act: Provided,
21 however, Where an election shall have been held at the primary
22 preceding a municipal election in any year, another election may
23 be held under the provisions of this act at the primary
24 occurring the fourth year after such prior election: And
25 provided further, That an election on the question of
26 establishing and operating a State liquor store shall be
27 initiated only in those municipalities, or that part of a split
28 municipality that shall have voted against the granting of
29 liquor licenses; and that an election on the question of
30 granting wholesale distributor and importing distributor

1 licenses shall be initiated only in those municipalities or
2 parts of split municipalities that shall have at a previous
3 election voted against the granting of dispenser's licenses.
4 Whenever electors equal to at least twenty-five per centum of
5 the highest vote cast for any office in the municipality or part
6 of a split municipality at the last preceding general election
7 shall file a petition with the county board of elections of the
8 county for a referendum on the question of granting any of said
9 classes of licenses [or the establishment of Pennsylvania liquor
10 stores], the said county board of elections shall cause a
11 question to be placed on the ballots or on the voting machine
12 board and submitted at the primary immediately preceding the
13 municipal election. Separate petitions must be filed for each
14 question to be voted on. Said proceedings shall be in the manner
15 and subject to the provisions of the election laws which relate
16 to the signing, filing and adjudication of nomination petitions,
17 insofar as such provisions are applicable.

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

20 Do you favor the granting of liquor licenses for the
21 sale of liquor in..... Yes
22 of.....? No

23 When the question is in respect to the granting of liquor
24 licenses to resort facilities in those municipalities that do
25 not already allow the retail sale of liquor, it shall be in the
26 following form:

27 Do you favor the granting of liquor licenses to resort
28 facilities for the sale of liquor in the..... Yes
29 of.....? No

30 When the question is in respect to the granting of restaurant

1 liquor licenses for use at public venues in those municipalities
2 that do not already allow the retail sale of liquor, it shall be
3 in the following form:

4 Do you favor the granting of liquor licenses to public
5 venues for the sale of liquor in the..... Yes
6 of.....? No

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

11 Do you favor the granting of liquor licenses to
12 performing arts facilities for the sale of liquor in
13 the..... Yes
14 of.....? No

15 When the question is in respect to the granting of liquor
16 licenses for hotels located on property owned by an accredited
17 college or university in those municipalities that do not
18 already allow the granting of liquor licenses, it shall be in
19 the following form:

20 Do you favor the granting of liquor licenses to hotels
21 on property owned by an accredited college or university
22 in the..... Yes
23 of.....? No

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

27 Do you favor the granting of liquor licenses for
28 privately-owned private golf courses for the sale of
29 liquor in.....by..... Yes
30 of.....? No

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

4 Do you favor the granting of liquor licenses for
5 privately-owned public golf courses for the sale of
6 liquor in.....by..... Yes
7 of.....? No

8 When the question is in respect to the granting of liquor
9 licenses to continuing care retirement communities in those
10 municipalities that have not already approved the granting of
11 liquor licenses, it shall be in the following form:

12 Do you favor the granting of liquor licenses for
13 continuing care retirement communities
14 in.....by..... Yes
15 of.....? No

16 When the question is in respect to the granting of licenses
17 to retail dispensers of malt and brewed beverages, it shall be
18 in the following form:

19 Do you favor the granting of malt and brewed beverage
20 retail dispenser licenses for consumption on premises
21 where sold in the..... Yes
22 of.....? No

23 When the question is in respect to the granting of big-box
24 retail store licenses for the sale of wine and malt or brewed
25 beverages for consumption off the premises, it shall be in the
26 following form:

27 Do you favor the granting of licenses for big-box
28 retail stores for the sale of wine and malt or brewed
29 beverages for consumption off the premises
30 in.....by..... Yes

1 of.....? No

2 When the question is in respect to the granting of grocery
3 store licenses for the sale of wine and malt or brewed beverages
4 for consumption off the premises, it shall be in the following
5 form:

6 Do you favor the granting of licenses for grocery stores
7 for the sale of wine and malt or brewed beverages for
8 consumption off the premises
9 in.....by..... Yes

10 of.....? No

11 When the question is in respect to the granting of pharmacy
12 licenses for the sale of wine and malt or brewed beverages for
13 consumption off the premises, it shall be in the following form:

14 Do you favor the granting of licenses for grocery stores
15 for the sale of wine and malt or brewed beverages for
16 consumption off the premises
17 in.....by..... Yes

18 of.....? No

19 When the question is in respect to the granting of
20 convenience store licenses for the sale of malt or brewed
21 beverages for consumption off the premises, it shall be in the
22 following form:

23 Do you favor the granting of licenses for convenience
24 stores for the sale of malt or brewed beverages for
25 consumption off the premises
26 in.....by..... Yes

27 of.....? No

28 When the question is in respect to the granting of licenses
29 to wholesale distributors of malt or brewed beverages and
30 importing distributors, it shall be in the following form:

1 Do you favor the granting of malt and brewed beverage
2 wholesale distributor's and importing distributor's
3 licenses not for consumption on premises where sold in
4 the..... Yes
5 of.....? No

6 When the question is in respect to the granting of club
7 liquor licenses to incorporated units of national veterans'
8 organizations, it shall be in the following form:

9 Do you favor the granting of club liquor licenses to
10 incorporated units of national veterans' organizations
11 in the..... Yes
12 of.....? No

13 When the question is in respect to the granting of club
14 retail dispenser licenses to incorporated units of national
15 veterans' organizations, it shall be in the following form:

16 Do you favor the granting of club retail dispenser
17 licenses to incorporated units of national veterans'
18 organizations in the..... Yes
19 of.....? No

20 When the question is in respect to the granting of special
21 occasion permits allowing the sale of liquor by qualified
22 organizations in municipalities that do not already allow the
23 retail sale of liquor, it shall be in the following form:

24 Do you favor the granting of special occasion permits to
25 allow the sale of liquor by qualified organizations in
26 the..... Yes
27 of.....? No

28 When the question is in respect to the granting of special
29 occasion permits allowing the sale of malt or brewed beverages
30 only by qualified organizations in municipalities that do not

1 already allow the retail sale of malt or brewed beverages, it
2 shall be in the following form:

3 Do you favor the granting of special occasion permits to
4 allow the sale of malt or brewed beverages only by
5 qualified organizations in the..... Yes
6 of.....? No

7 When the question is in respect to the [establishment,
8 operation and maintenance of Pennsylvania liquor stores]
9 granting of licenses to wine and spirits retail operators for
10 the sale of liquor for consumption off the premises, it shall be
11 in the following form:

12 Do you favor the [establishment, operation and
13 maintenance of Pennsylvania liquor stores] granting of
14 wine and spirits retail licenses for the sale of liquor
15 for consumption off the premises in
16 the..... Yes
17 of.....? No

18 In case of a tie vote, the status quo shall obtain. If a
19 majority of the voting electors on any such question vote "yes,"
20 then liquor licenses shall be granted by the board to hotels,
21 restaurants, resort facilities and clubs, or liquor licenses
22 shall be granted by the board to public venues, to performing
23 arts facilities, to continuing care retirement communities, to
24 hotels located on property owned by an accredited college or
25 university, to privately-owned private golf courses or to
26 privately-owned public golf courses, or malt and brewed beverage
27 retail dispenser licenses or wholesale distributor's and
28 importing distributor's license for the sale of malt or brewed
29 beverages shall be granted by the board, or club liquor licenses
30 or club retail dispenser licenses shall be granted by the board

1 to incorporated units of national veterans' organizations, or
2 special occasion permits may be issued to qualified
3 organizations, or [the board may establish, operate and maintain
4 Pennsylvania liquor stores] licenses to qualifying big-box
5 retail stores, grocery stores, pharmacies or convenience stores,
6 or to wine and spirits retail licensees, as the case may be, in
7 such municipality or part of a split municipality, as provided
8 by this act; but if a majority of the electors voting on any
9 such question vote "no," then the board shall have no power to
10 grant or to renew upon their expiration any licenses of the
11 class so voted upon in such municipality or part of a split
12 municipality[; or if the negative vote is on the question in
13 respect to the establishment, operation and maintenance of
14 Pennsylvania liquor stores, the board shall not open and operate
15 a Pennsylvania liquor store in such municipality or part of a
16 split municipality, nor continue to operate a then existing
17 Pennsylvania liquor store in the municipality or part of a split
18 municipality for more than two years thereafter or after the
19 expiration of the term of the lease on the premises occupied by
20 such store, whichever period is less, unless and until at a
21 later election a majority of the voting electors vote "yes" on
22 such question].

23 * * *

24 Section 488. Shipment of Wine into Commonwealth.--(a) The
25 shipment of wine from [out-of-State] a direct wine shipper to
26 residents of this Commonwealth is prohibited, except as
27 otherwise provided for in this section.

28 (b) Notwithstanding any other provision of this act or law
29 to the contrary, a person licensed by the board or by another
30 state as a producer[, supplier, importer, wholesaler,

1 distributor or retailer] of wine and who obtains a direct wine
2 shipper license as provided for in this section may ship up to
3 [nine] eighteen liters per month of any wine [not included on
4 the list provided for in subsection (c)] on the [Internet] order
5 of any resident of this Commonwealth who is at least twenty-one
6 (21) years of age for such resident's personal use and not for
7 resale.

8 (c) [Each month, the board shall publish on the Internet a
9 list of all classes, varieties and brands of wine available for
10 sale in the Pennsylvania Liquor Stores. A person holding a
11 direct shipper license may ship only those classes, varieties
12 and brands of wine not included on the list at the time an
13 Internet order is placed] Reserved.

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

15 (1) [Not ship more than nine liters per month on the
16 Internet order of any person in this Commonwealth.] File a
17 written application with the board in such form and containing
18 such information as the board shall require. A completed
19 application shall contain a true and correct copy of the
20 applicant's current license or certificate of operating
21 authority issued by the board or by another state. The applicant
22 must provide documentation that it has obtained a sales tax
23 license from the Department of Revenue. The licensing period for
24 the license shall be established under section 402. An applicant
25 for the license shall adhere to the provisions of section 477.
26 The application, renewal and filing fee for the license shall be
27 as prescribed by the board to cover administrative costs in
28 processing the applications, however, if an applicant, at the
29 time of the initial application for the license, holds a valid
30 limited winery license issued by the board, the applicant shall

1 be exempt from paying the application fee prescribed by the
2 board. If the applicant properly renews its limited winery
3 license, as provided for in section 517, the applicant shall not
4 be required to pay the renewal fee prescribed by the board.

5 (2) Report to the board each [year] month the total [of]
6 number of bottles sold and shipped during the preceding calendar
7 month, the size of those bottles, the name brand of each wine in
8 the shipments, the quantities of each wine included in the
9 shipments and the price of each item included in the shipments,
10 for all such wine shipped within and into this Commonwealth in
11 the preceding calendar [year] month.

12 (3) Permit the board, the enforcement bureau or the
13 Secretary of Revenue, or their designated representatives, to
14 perform an audit of the [out-of-State] direct wine shipper's
15 records upon request.

16 (4) Be deemed to have submitted to the jurisdiction of the
17 board, any other State agency and the courts of this
18 Commonwealth for purposes of enforcement of this section and any
19 related laws, rules or regulations, including the collection and
20 remission of taxes as required under this section.

21 (e) A direct wine shipper [may ship wine on the Internet
22 order of a resident into this Commonwealth provided that the
23 wine is shipped to a Pennsylvania Liquor Store selected by the
24 resident. The wine will be subject to taxes in the same manner
25 as wine sold directly by the board.] shall collect and pay to
26 the Department of Revenue all taxes due on sales to residents of
27 this Commonwealth. The amount of taxes shall be calculated as if
28 the sales were made in this Commonwealth at the locations where
29 delivery is made. The wine will not be released by the [State
30 store] direct wine shipper until all moneys due, including all

1 taxes [and fees], have been paid by the resident.

2 (f) [A person shall sign an affidavit provided by the
3 Pennsylvania Liquor Store where the wine was delivered to
4 stating that the wine will only be used for the person's
5 personal use.] A direct wine shipper may ship wine pursuant to
6 this section only if the resident placing the order has provided
7 the shipper with a written or electronic acknowledgment that the
8 wine is for personal consumption only and not for resale. Any
9 person who resells wine obtained under this section commits a
10 misdemeanor of the second degree. A direct wine shipper shall:

11 (1) Ensure that all containers of wine shipped directly to a
12 resident of this Commonwealth are conspicuously labeled with the
13 words "CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE TWENTY-ONE (21)
14 OR OLDER REQUIRED FOR DELIVERY."

15 (2) Ensure that shipments shall be delivered by an entity
16 holding a valid transporter-for-hire license issued by the board
17 and that the transporter-for-hire may not deliver any wine
18 unless it does all of the following:

19 (i) Obtains the signature of the recipient of the wine upon
20 delivery.

21 (ii) Verifies by inspecting a valid form of photo
22 identification, as provided for in section 495(a), that the
23 recipient is at least twenty-one (21) years of age.

24 (iii) Determines that the recipient is not visibly
25 intoxicated at the time of delivery.

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

30 (g.1) On a quarterly basis, a direct wine shipper shall

1 provide to the Department of Revenue, with a copy to the board,
2 an accounting of the taxes collected pursuant to this section.
3 All taxes collected by the direct wine shipper shall be remitted
4 to the Department of Revenue on a quarterly basis. All direct
5 wine shippers shall provide to the board, the enforcement bureau
6 and the Department of Revenue additional information deemed
7 necessary to ensure compliance with this section.

8 (h) The board shall submit monthly reports to the
9 Appropriations Committee and the Law and Justice Committee of
10 the Senate and to the Appropriations Committee and the Liquor
11 Control Committee of the House of Representatives summarizing
12 the number of direct shipper licenses issued by the board, the
13 quantity of wine sold pursuant to this section and the total
14 dollar value of sales under this section.

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

21 (j) Direct wine shipper licenses shall be subject to the
22 citation process under section 471.

23 (k) A shipment of wine direct to a person in this
24 Commonwealth from a person who does not possess a direct wine
25 shipper license from the board is prohibited. A person who
26 knowingly makes, participates in, transports, imports or
27 receives the shipment commits a misdemeanor.

28 (l) An applicants for a direct wine shipper license shall
29 obtain a tax bond in the amount of one thousand dollars
30 (\$1,000).

1 Section 33. Section 491 of the act, amended October 5, 1994
2 (P.L.522, No.77), February 21, 2002 (P.L.103, No.10), December
3 9, 2002 (P.L.1653, No.212), July 17, 2003 (P.L.63, No.15),
4 December 22, 2011 (P.L.530, No.113) and July 5, 2012 (P.L.1007,
5 No.116), is amended to read:

6 Section 491. Unlawful Acts Relative to Liquor, Alcohol and
7 Liquor Licensees.--

8 It shall be unlawful--

9 (1) Sales of Liquor. For any person, by himself or by an
10 employe or agent, to expose or keep for sale, or directly or
11 indirectly, or upon any pretense or upon any device, to sell or
12 offer to sell any liquor within this Commonwealth, except in
13 accordance with the provisions of this act and the regulations
14 of the board. This clause shall not be construed to prohibit
15 hospitals, physicians, dentists or veterinarians who are
16 licensed and registered under the laws of this Commonwealth from
17 administering liquor in the regular course of their professional
18 work and taking into account the cost of the liquor so
19 administered in making charges for their professional service,
20 or a pharmacist duly licensed and registered under the laws of
21 this Commonwealth from dispensing liquor on a prescription of a
22 duly licensed physician, dentist or veterinarian, or selling
23 medical preparations containing alcohol, or using liquor in
24 compounding prescriptions or medicines and making a charge for
25 the liquor used in such medicines, or a manufacturing pharmacist
26 or chemist from using liquor in manufacturing preparations unfit
27 for beverage purposes and making a charge for the liquor so
28 used. All such liquors so administered or sold by hospitals,
29 physicians, dentists, veterinarians, pharmacists or chemists
30 shall conform to the Pharmacopoeia of the United States, the

1 National Formulary, or the American Homeopathic Pharmacopoeia.
2 This clause shall not be construed to prohibit an executor or an
3 administrator of a decedent's estate from selling privately or
4 at public auction liquor which was an asset of the decedent. The
5 board shall establish regulations to ensure that State taxes
6 from the sales will be paid by the estate from the proceeds of
7 the sale. The board may not prohibit a sale of liquor for the
8 reason that it was not lawfully acquired prior to January 1,
9 1934 or has not been purchased from a Pennsylvania Liquor Store
10 or in compliance with Pennsylvania law.

11 (2) Possession or Transportation of Liquor or Alcohol. For
12 any person, except a manufacturer or the board or the holder of
13 a sacramental wine license or of an importer's license or a wine
14 and spirits retail licensee, to possess or transport any liquor
15 or alcohol within this Commonwealth which was not lawfully
16 acquired prior to January first, one thousand nine hundred and
17 thirty-four, or has not been purchased from a Pennsylvania
18 Liquor Store, a wine and spirits wholesale licensee or a
19 licensed limited winery in Pennsylvania, except in accordance
20 with section 488 or the board's regulations. In addition, it
21 shall be lawful for anyone to possess miniatures totaling less
22 than one gallon purchased in another state or a foreign country.
23 The burden shall be upon the person possessing or transporting
24 such liquor or alcohol to prove that it was so acquired.
25 Notwithstanding this section or any other provision of the law,
26 wine may be produced by any person without a license if the wine
27 is not produced for sale and total production does not exceed
28 two hundred gallons per calendar year. Wine produced in
29 accordance with this clause may be used at organized affairs,
30 exhibitions, competitions, contests, tastings or judgments if it

1 is not sold or offered for sale.

2 None of the provisions herein contained shall prohibit nor
3 shall it be unlawful for any person to import into Pennsylvania,
4 transport or have in his possession, an amount of liquor not
5 exceeding one gallon in volume upon which a State tax has not
6 been paid, if it can be shown to the satisfaction of the board
7 that such person purchased the liquor in a foreign country or
8 United States territory and was allowed to bring it into the
9 United States. Neither shall the provisions contained herein
10 prohibit nor make it unlawful for (i) any member of the armed
11 forces on active duty, or (ii) any retired member of the armed
12 forces, or (iii) any totally disabled veteran, or (iv) the
13 spouse of any person included in the foregoing classes of
14 persons to import into Pennsylvania, transport or have in his
15 possession an amount of liquor not exceeding one gallon per
16 month in volume upon which the State tax has not been paid, so
17 long as such liquor has been lawfully purchased from a package
18 store established and maintained under the authority of the
19 United States and is in containers identified in accordance with
20 regulations issued by the Department of Defense. Such liquor
21 shall not be possessed, offered for sale or sold on any licensed
22 premises. The term "package store" as used in this clause shall
23 mean those retail operations located on any of the United States
24 military installations, including an installation of the Army,
25 Navy, Air Force, Marine Corps or Coast Guard.

26 None of the provisions herein contained shall prohibit nor
27 shall it be unlawful for any consul general, consul or other
28 diplomatic officer of a foreign government to import into
29 Pennsylvania, transport or have in his possession liquor upon
30 which a State tax has not been paid, if it can be shown to the

1 satisfaction of the board that such person acquired the liquor
2 in a foreign country and was allowed to bring it into the United
3 States. Such liquor shall not be possessed, offered for sale or
4 sold on any licensed premises.

5 Any person violating the provisions of this clause for a
6 first offense involving the possession or transportation in
7 Pennsylvania of any liquor in a package (bottle or other
8 receptacle) or wine not purchased from a Pennsylvania Liquor
9 Store, a wine and spirits wholesale licensee, a wine and spirits
10 retail licensee or from a licensed limited winery in
11 Pennsylvania, with respect to which satisfactory proof is
12 produced that the required Federal tax has been paid and which
13 was purchased, procured or acquired legally outside of
14 Pennsylvania shall upon conviction thereof in a summary
15 proceeding be sentenced to pay a fine of twenty-five dollars
16 (\$25) for each such package, plus costs of prosecution, or
17 undergo imprisonment for a term not exceeding ninety (90) days.
18 Each full quart or major fraction thereof shall be considered a
19 separate package (bottle or other receptacle) for the purposes
20 of this clause. Such packages of liquor shall be forfeited to
21 the Commonwealth in the manner prescribed in Article VI of this
22 act but the vehicle, boat, vessel, animal or aircraft used in
23 the illegal transportation of such packages shall not be subject
24 to forfeiture: Provided, however, That if it is a second or
25 subsequent offense or if it is established that the illegal
26 possession or transportation was in connection with a commercial
27 transaction, then the other provisions of this act providing for
28 prosecution as a misdemeanor and for the forfeiture of the
29 vehicle, boat, vessel, animal or aircraft shall apply.

30 (3) Purchase of Liquor or Alcohol. For any person within

1 this Commonwealth, by himself or by an employe or agent, to
2 attempt to purchase, or directly or indirectly, or upon any
3 pretense or device whatsoever, to purchase any liquor or alcohol
4 from any person or source [other than a Pennsylvania Liquor
5 Store], except in accordance with the provisions of this act or
6 the regulations of the board.

7 (4) Possession and Use of Decanters. For any person to use
8 decanters of alcoholic beverages except that the use of
9 decanters or other similar receptacles by licensees shall be
10 permitted in the case of wines and then only in accordance with
11 the regulations of the board, but nothing herein contained shall
12 prohibit the manufacture and possession of wine as provided in
13 clause (2) of this section.

14 (5) Failure to Properly Dispose of Empty Liquor Containers.
15 For any restaurant, hotel or club licensee, his servants, agents
16 or employes, to fail to break any package in which liquors were
17 contained, except those decanter packages that the board
18 determines to be decorative, within twenty-four hours after the
19 original contents were removed therefrom, unless the licensee
20 participates in either a municipal recycling program, in
21 accordance with the act of July 28, 1988 (P.L.556, No.101),
22 known as the "Municipal Waste Planning, Recycling and Waste
23 Reduction Act," or a voluntary recycling program. The licensee
24 shall provide proof in writing of the participation in a
25 recycling program upon the demand of the Bureau of Liquor
26 Control Enforcement of the Pennsylvania State Police. The proof
27 of participation shall be provided in a manner as prescribed by
28 the Pennsylvania Liquor Control Board.

29 (6) Sales by Restaurant and Hotel Liquor Licensees. For any
30 restaurant or hotel licensee, his servants, agents or employes,

1 to sell any liquor or malt or brewed beverages for consumption
2 on the licensed premises except in a room or rooms or place on
3 the licensed premises at all times accessible to the use and
4 accommodation of the general public, but this section shall not
5 be interpreted to prohibit a restaurant liquor licensee from
6 providing private affairs the primary function of which is for
7 catering only to weddings or special occasions arranged twenty-
8 four hours in advance, nor to prohibit a hotel licensee, or a
9 restaurant licensee when the restaurant is located in a hotel,
10 from selling liquor or malt or brewed beverages in any room of
11 such hotel occupied by a bona fide guest or to prohibit a
12 restaurant licensee from selling liquor or malt or brewed
13 beverages in a bowling alley where the restaurant and bowling
14 alley are immediately adjacent and under the same roof.

15 (7) Sales of Liquor by Manufacturers and Licensed Importers.
16 For any manufacturer or licensed importer of liquor in this
17 Commonwealth, his agents, servants or employes, to sell or offer
18 to sell any liquor in this Commonwealth except to the board for
19 use in Pennsylvania Liquor Stores, a wine and spirits wholesale
20 licensee, and in the case of a manufacturer, to the holder of a
21 sacramental wine license or an importer's license.
22 Notwithstanding any other provision of this act, a manufacturer
23 or licensed importer may sell or offer to sell liquor for
24 delivery outside of this Commonwealth.

25 (8) Importation and Sales of Alcohol. For any person, to
26 import alcohol into this Commonwealth, or to sell alcohol to any
27 person, except in accordance with section 488 and the provisions
28 of this act or the regulations of the board.

29 (9) Possession of Alcohol. For any person, to have alcohol
30 in his possession, except in accordance with the provisions of

1 this act and the regulations of the board.

2 (10) Fortifying, Adulterating or Contaminating Liquor. For
3 any licensee or any employe or agent of a licensee or of the
4 board, to fortify, adulterate or contaminate any liquor, except
5 as permitted by the regulations of the board, or to refill
6 wholly or in part, with any liquid or substance whatsoever, any
7 liquor bottle or other liquor container.

8 (11) Importation of Liquor. For any person, other than the
9 board, a wine and spirits wholesale licensee or the holder of a
10 sacramental wine license, an importer's license or a direct
11 shipper's license, to import any liquor whatsoever into this
12 Commonwealth, but this section shall not be construed to
13 prohibit railroad and pullman companies from purchasing and
14 selling liquors purchased outside the Commonwealth in their
15 dining, club and buffet cars which are covered by public service
16 liquor licenses and which are operated in this Commonwealth.

17 (12) Delivery of Liquor by Certain Licensees. For a liquor
18 licensee permitted to deliver liquor, to make any deliveries
19 except in his own vehicles bearing his name, address and license
20 number on each side in letters not smaller than two inches in
21 height, or in the vehicle of another person duly authorized to
22 transport liquor within this Commonwealth.

23 (13) Violation of Certain Rules and Regulations of Board.
24 For any person, to violate any rules and regulations adopted by
25 the board [to insure the equitable] relating to wholesale and
26 retail sale and distribution of liquor and alcohol [through the
27 Pennsylvania Liquor Stores] in accordance with the provisions of
28 this act.

29 (14) Offering Commission or Gift to Members of Board [or
30 State Employe]. For any person [selling or offering to sell

1 liquor or alcohol to, or purchasing at wholesale liquor or
2 alcohol from, the board] licensed by the board, either directly
3 or indirectly, to pay or offer to pay any commission, profit or
4 remuneration, or to make or offer to make any gift to any member
5 or employe of the board [or other employe of the Commonwealth]
6 or to anyone on behalf of such member or employe.

7 Section 34. Section 492 of the act, amended February 18,
8 1998 (P.L.162, No.25), November 10, 1999 (P.L.514, No.47),
9 December 20, 2000 (P.L.992, No.141), December 9, 2002 (P.L.1653,
10 No.212), January 6, 2006 (P.L.1, No.1) and December 22, 2011
11 (P.L.530, No.113), is amended to read:

12 Section 492. Unlawful Acts Relative to Malt or Brewed
13 Beverages and Licensees.--

14 It shall be unlawful--

15 (1) Manufacturing Without License. Except as provided
16 herein, for any person, to manufacture malt or brewed beverages,
17 unless such person holds a valid manufacturer's license for such
18 purpose issued by the board. Malt or brewed beverages may be
19 produced by any person without a license if such malt or brewed
20 beverages are produced not for sale and total production does
21 not exceed two hundred gallons per calendar year. Malt or brewed
22 beverages produced in accordance with this paragraph may be used
23 at organized affairs, exhibitions, competitions, contests,
24 tastings or judging provided it is not sold or offered for sale.

25 (2) Sales of Malt or Brewed Beverages for Consumption on the
26 Premises. For any person, to sell to another for consumption
27 upon the premises where sold or to permit another to consume
28 upon the premises where sold, any malt or brewed beverages,
29 unless such person holds a valid retail dispenser license or a
30 valid liquor license issued by the board authorizing the sale of

1 malt or brewed beverages for consumption upon such premises.

2 (3) Sales of Malt or Brewed Beverages Not for Consumption on
3 the Premises. For any person, to sell to another any malt or
4 brewed beverages not for consumption upon the premises where
5 sold, unless such person holds a valid license permitting such
6 sale.

7 (5) Sales of Malt or Brewed Beverages by Hotels, Eating
8 Places or Public Service Licensees During Prohibited Hours.--For
9 any hotel or eating place holding a retail dispenser's license,
10 or the servants, agents or employes of such licensees, to sell,
11 trade or barter in malt or brewed beverages between the hours of
12 two o'clock antemeridian Sunday and seven o'clock in the
13 forenoon of the following Monday, or between the hours of two
14 o'clock antemeridian and seven o'clock antemeridian of any week
15 day: Provided, That notwithstanding any provision to the
16 contrary, whenever the thirty-first day of December falls on a
17 Sunday such sales of malt or brewed beverages may be made on
18 such day after one o'clock postmeridian and until two o'clock
19 antemeridian of the following day. For any public service
20 licensee authorized to sell malt or brewed beverages or the
21 servants, agents or employes of such licensees to sell, trade or
22 barter in malt or brewed beverages between the hours of two
23 o'clock antemeridian and seven o'clock antemeridian on any day.

24 (7) Clubs Selling Between Three O'Clock Antemeridian and
25 Seven O'Clock Antemeridian. For any club retail dispenser, or
26 its servants, agents or employes, to sell malt or brewed
27 beverages between the hours of three o'clock antemeridian and
28 seven o'clock antemeridian on any day.

29 (8) Transportation and Importation of Malt or Brewed
30 Beverages. For any person, to transport malt or brewed beverages

1 except in the original containers, or to transport malt or
2 brewed beverages for another who is engaged in selling either
3 liquor or malt or brewed beverages, unless such person shall
4 hold (a) a license to transport for hire, alcohol, liquor and
5 malt or brewed beverages, as hereinafter provided in this act,
6 or (b) shall hold a permit issued by the board and shall have
7 paid to the board such permit fee, as prescribed in section 614-
8 A of the act of April 9, 1929 (P.L.177, No.175), known as "The
9 Administrative Code of 1929," any other law to the contrary
10 notwithstanding. This clause shall not be construed:

11 (i) to prohibit transportation of malt or brewed beverages
12 through this Commonwealth and not for delivery in this
13 Commonwealth if such transporting is done in accordance with the
14 rules and regulations of the board; or

15 (ii) to prohibit railroad and Pullman companies from selling
16 malt or brewed beverages purchased outside this Commonwealth in
17 their dining, club and buffet cars which are covered by public
18 service liquor licenses and which are operated in this
19 Commonwealth.

20 (9) Transportation of Malt or Brewed Beverages by Licensee.
21 For a malt or brewed beverage licensee, to deliver or transport
22 any malt or brewed beverages, excepting in vehicles bearing the
23 name and address and license number of such licensee painted or
24 affixed on each side of such vehicle in letters no smaller than
25 two inches in height and for purposes not prohibited under this
26 act.

27 (11) Delivery of Malt or Brewed Beverages With Other
28 Commodities. For any manufacturer, importing distributor or
29 distributor, or his servants, agents or employes, except with
30 board approval, to deliver or transport any malt or brewed

1 beverages in any vehicle in which any other commodity is being
2 transported.

3 (12) Distributors and Importing Distributors Engaging in
4 Other Business. For any distributor or importing distributor, or
5 his servants, agents or employes, without the approval of the
6 board, and then only in accordance with board regulations, to
7 engage in any other business whatsoever, except the business of
8 distributing malt or brewed beverages, except that the sale of
9 the following goods shall be permitted on the licensed premises
10 of a distributor or importing distributor:

11 (i) Any book, magazine or other publication related to malt
12 or brewed beverages.

13 (ii) Any equipment, ingredients or other supplies necessary
14 for the unlicensed manufacture of malt or brewed beverages as
15 described in paragraph (1), commonly known as "homebrewing."
16 If the holder of a distributor license acquires an enhanced
17 distributor license pursuant to section 431.2 or a wine and
18 spirits retail license pursuant to Article III-A for use at its
19 licensed premises, it may engage in the sale of liquor, so long
20 as the licensee meets all of the requirements of this act. If
21 the holder of an importing distributor license acquires a wine
22 and spirits wholesale license pursuant to Article III-A for use
23 at its licensed premises, it may engage in the sale of liquor,
24 so long as the licensee meets all of the requirements of this
25 act. The board shall promulgate regulations consistent with this
26 act governing the sale of any other items by a distributor that
27 acquires an enhanced distributor license or a wine and spirits
28 retail license, as well as the sale of other items by an
29 importing distributor that acquires a wine and spirits wholesale
30 license.

1 (13) Possession or Storage of Liquor or Alcohol by Certain
2 Licensees. For any distributor, importing distributor or retail
3 dispenser, or his servants, agents or employes, to have in his
4 possession, or to permit the storage of on the licensed premises
5 or in any place contiguous or adjacent thereto accessible to the
6 public or used in connection with the operation of the licensed
7 premises, any alcohol or liquor. This section may not prohibit a
8 distributor that holds an enhanced distributor license or a wine
9 and spirits retail license, or an importing distributor that
10 holds a wine and spirits wholesale license, from possessing or
11 permitting the storage of liquor on the licensed premises used
12 in connection with the operation of the licensed premises.

13 (14) Malt or Brewed Beverage Licensees Dealing in Liquor or
14 Alcohol. For any malt or brewed beverage licensee, other than a
15 distributor that holds an enhanced distributor license or a wine
16 and spirits retail license, or an importing distributor that
17 holds a wine and spirits wholesale license, a manufacturer, or
18 the servants, agents or employes thereof, to manufacture,
19 import, sell, transport, store, trade or barter in any liquor or
20 alcohol.

21 (15) Selling to Persons Doing Illegal Business. For any malt
22 or brewed beverage licensee, or his servants, agents or
23 employes, to knowingly sell any malt or brewed beverages to any
24 person engaged in the business of illegally selling liquor or
25 malt or brewed beverages.

26 (16) Distributors and Importing Distributors Failing to Keep
27 Records. For any importing distributor or distributor engaged in
28 the sale of products, other than malt or brewed beverages, to
29 fail to keep such complete separate records covering in every
30 respect his transactions in malt or brewed beverages as the

1 board shall by regulation require.

2 (17) Fortifying, Adulterating or Contaminating Malt or
3 Brewed Beverages. For any person, to fortify, adulterate,
4 contaminate, or in any wise to change the character or purity
5 of, the malt or brewed beverages from that as originally
6 marketed by the manufacturer at the place of manufacture.

7 (18) Coercing Distributors and Importing Distributors. For
8 any manufacturer or any officer, agent or representative of any
9 manufacturer to coerce or persuade or attempt to coerce or
10 persuade any person licensed to sell or distribute malt or
11 brewed beverages at wholesale or retail to establish selling
12 prices for its products or to enter into any contracts or
13 agreements, whether written or oral, or take any action which
14 will violate or tend to violate any provisions of this act or
15 any of the rules or regulations promulgated by the board
16 pursuant thereto.

17 (19) Modifying or Terminating Distributing Rights Agreement.
18 For any manufacturer or any officer, agent or representative of
19 any manufacturer to modify, cancel, terminate, rescind or not
20 renew, without good cause, any distributing rights agreement,
21 and in no event shall any modification, cancellation,
22 termination, rescission or nonrenewal of any distributing rights
23 agreement become effective for at least ninety (90) days after
24 written notice of such modification, cancellation, termination,
25 rescission or intention not to renew has been served on the
26 affected party and board by certified mail, return receipt
27 requested, except by written consent of the parties to the
28 agreement. The notice shall state all the reasons for the
29 intended modification, termination, cancellation, rescission or
30 nonrenewal. The distributor or importing distributor holding

1 such agreement shall have ninety (90) days in which to rectify
2 any claimed deficiency, or challenge the alleged cause.

3 If the deficiency shall be rectified within ninety (90) days
4 of notice, then the proposed modification, termination,
5 cancellation, rescission or nonrenewal shall be null and void
6 and without legal effect.

7 If the notice states as one of the reasons for the intended
8 modification, cancellation, termination, rescission or renewal
9 that the importing distributor or distributor's equipment or
10 warehouse requires major changes or additions, then if the
11 distributor or importing distributor shall have taken some
12 positive action to comply with the required changes or
13 additions, the distributor or importing distributor shall have
14 deemed to have complied with the deficiency as set forth in the
15 notice. The notice provisions of this section shall not apply if
16 the reason for termination, cancellation or nonrenewal is
17 insolvency, assignment for the benefit of creditors, bankruptcy,
18 liquidation, fraudulent conduct in its dealings with the
19 manufacturer, revocation or suspension for more than a thirty
20 (30) day period of the importing distributor or distributor
21 license.

22 (20) Interference with Transfer of License, Business or
23 Franchise. (i) For any manufacturer to interfere with or prevent
24 any distributor or importing distributor from selling or
25 transferring his license, business or franchise, whether before
26 or after notice of modification, cancellation, termination,
27 rescission or nonrenewal has been given, provided the proposed
28 purchaser of the business of the distributor or importing
29 distributor meets the material qualifications and standards
30 required of the manufacturers other distributors or importing

1 distributors; (ii) if the proposed transfer of the distributor
2 or importing distributor's business is to a surviving spouse or
3 adult child, the manufacturer shall not, for any reason,
4 interfere with, or prevent, the transfer of the distributor or
5 importing distributor's license, business or franchise. Any
6 subsequent transfer by surviving spouse or adult child shall
7 thereafter be subject to the provisions of subclause (i) above.

8 (21) Inducing or Coercing Distributors or Importing
9 Distributors to Accept Unordered Products or Commit Illegal
10 Acts. For any manufacturer to compel or attempt to compel any
11 distributor or importing distributor to accept delivery of any
12 malt or brewed beverages or any other commodity which shall not
13 have been ordered by the distributor or importing distributor,
14 or to do any illegal act by any means whatsoever including, but
15 not limited to, threatening to amend, cancel, terminate, rescind
16 or refuse to renew any agreement existing between manufacturer
17 and the distributor or importing distributor, or to require a
18 distributor or importing distributor to assent to any condition,
19 stipulation or provision limiting the distributor or importing
20 distributor in his right to sell the products of any other
21 manufacturer.

22 Section 35. Section 492.1 of the act, amended January 6,
23 2006 (P.L.1, No.1) and December 22, 2011 (P.L.530, No.113), is
24 amended to read:

25 Section 492.1. Hours of Operation Relative to Manufacturers,
26 Importing Distributors and Distributors.--(a) Manufacturers may
27 sell or deliver malt or brewed beverages between two o'clock
28 antemeridian of any Monday and twelve o'clock midnight of the
29 following Saturday.

30 (b) (1) Importing distributors and distributors may sell or

1 deliver malt or brewed beverages between two o'clock
2 antemeridian of any Monday and twelve o'clock midnight of the
3 following Saturday to holders of a liquor or malt and brewed
4 beverage license or permit issued by the board.

5 (2) Importing distributors and distributors may sell or
6 deliver malt or brewed beverages between eight o'clock
7 antemeridian and [eleven o'clock postmeridian of any] two
8 o'clock antemeridian of the following day, except Sunday, to
9 persons not licensed or permitted by this act.

10 (c) In addition to the hours authorized under subsections
11 (a) and (b), manufacturers, importing distributors and
12 distributors, upon purchasing a permit from the board at an
13 annual fee of one hundred dollars (\$100), may sell malt or
14 brewed beverages to persons not licensed under this act or to a
15 holder of a special occasion permit on Sunday between the hours
16 of nine o'clock antemeridian and [nine o'clock postmeridian] two
17 o'clock antemeridian on Monday.

18 (d) In addition to the hours authorized under subsections
19 (a) and (b), delivery or receiving of malt or brewed beverages
20 shall be permissible on Sunday after prior arrangement in
21 accordance with the following:

22 (1) A manufacturer may, at any time, deliver to any
23 importing distributor or distributor to which the manufacturer
24 has granted wholesale distribution rights for the manufacturer's
25 product.

26 (2) An importing distributor or distributor may deliver to
27 any organization to which a special occasion permit has been
28 issued between the hours of nine o'clock antemeridian and twelve
29 o'clock noon.

30 (3) An importing distributor or distributor may deliver to

1 persons not licensed under this act between the hours of nine
2 o'clock antemeridian and twelve o'clock noon.

3 (e) Notwithstanding any provision of this section to the
4 contrary, a brewery pub operating under section 446 shall be
5 subject to the hours of operation set forth by the board through
6 regulation.

7 (f) The term "prior arrangement" shall mean that malt or
8 brewed beverages having a total sale price, excluding any
9 deposits or credits, exceeding two hundred fifty dollars (\$250)
10 have been ordered, invoiced and paid for in full at the seller's
11 licensed premises before the Sunday of delivery.

12 Section 36. Section 493 of the act, amended December 7, 1990
13 (P.L.622, No.160), October 5, 1994 (P.L.537, No.80), June 18,
14 1998 (P.L.664, No.86), February 21, 2002 (P.L.103, No.10),
15 December 9, 2002 (P.L.1653, No.212), May 8, 2003 (P.L.1, No.1),
16 December 8, 2004 (P.L.1810, No.239), July 6, 2005 (P.L.135,
17 No.39), January 6, 2006 (P.L.1, No.1), July 7, 2006 (P.L.584,
18 No.84), November 29, 2006 (P.L.1421, No.155), July 16, 2007
19 (P.L.107, No.34), June 28, 2011 (P.L.55, No.11), December 22,
20 2011 (P.L.530, No.113) and July 5, 2012 (P.L.1007, No.116), is
21 amended to read:

22 Section 493. Unlawful Acts Relative to Liquor, Malt and
23 Brewed Beverages and Licensees.--The term "licensee," when used
24 in this section, shall mean those persons licensed under [the
25 provisions of Article IV] Article III-A or this article, unless
26 the context clearly indicates otherwise.

27 It shall be unlawful--

28 (1) Furnishing Liquor or Malt or Brewed Beverages to Certain
29 Persons. For any licensee or the board, or any employe, servant
30 or agent of such licensee or of the board, or any other person,

1 to sell, furnish or give any liquor or malt or brewed beverages,
2 or to permit any liquor or malt or brewed beverages to be sold,
3 furnished or given, to any person visibly intoxicated, or to any
4 minor: Provided further, That notwithstanding any other
5 provision of law, no cause of action will exist against a
6 licensee or the board or any employe, servant or agent of such
7 licensee or the board for selling, furnishing or giving any
8 liquor or malt or brewed beverages or permitting any liquor or
9 malt or brewed beverages to be sold, furnished or given to any
10 insane person, any habitual drunkard or person of known
11 intemperate habits unless the person sold, furnished or given
12 alcohol is visibly intoxicated or is a minor.

13 (2) Purchase or Sale of Liquor or Malt or Brewed Beverages
14 on Credit; Importing Distributors or Distributors Accepting
15 Cash. For any licensee, his agent, servant or employe, to sell
16 or offer to sell or purchase or receive any liquor or malt or
17 brewed beverages except for cash, excepting credit extended by a
18 hotel or club to a bona fide guest or member, or by railroad or
19 pullman companies in dining, club or buffet cars to passengers,
20 for consumption while enroute, holding authorized credit cards
21 issued by railroad or railroad credit bureaus or by hotel,
22 restaurant, retail dispenser eating place, club and public
23 service licensees, importing distributors or distributors to
24 customers not possessing a license under this article and
25 holding credit cards issued in accordance with regulations of
26 the board or credit cards issued by banking institutions subject
27 to State or Federal regulation: Provided further, That nothing
28 herein contained shall be construed to prohibit the use of
29 checks or drafts drawn on a bank, banking institution, trust
30 company or similar depository, organized and existing under the

1 laws of the United States of America or the laws of any state,
2 territory or possession thereof, in payment for any liquor or
3 malt or brewed beverages if the purchaser is the payor of the
4 check or draft and the licensee is the payee: Provided further,
5 That notwithstanding any other provision of this act to the
6 contrary, it shall be unlawful for an importing distributor or
7 distributor to accept cash for payment of any malt or brewed
8 beverages from anyone possessing a license issued under this
9 article, except it shall be permissible for the importing
10 distributor or distributor to accept credit cards, money orders
11 or cashiers' checks for payment of any malt or brewed beverages
12 in addition to any other type of payment authorized by the board
13 from anyone possessing a license under this article. No right of
14 action shall exist to collect any claim for credit extended
15 contrary to the provisions of this clause. Nothing herein
16 contained shall prohibit a licensee from crediting to a
17 purchaser the actual price charged for original containers
18 returned by the original purchaser as a credit on any sale, or
19 from refunding to any purchaser the amount paid by such
20 purchaser for such containers or as a deposit on containers when
21 title is retained by the vendor, if such original containers
22 have been returned to the licensee. Nothing herein contained
23 shall prohibit a manufacturer from extending usual and customary
24 credit for liquor or malt or brewed beverages sold to customers
25 or purchasers who live or maintain places of business outside of
26 the Commonwealth of Pennsylvania, when the liquor or malt or
27 brewed beverages so sold are actually transported and delivered
28 to points outside of the Commonwealth: Provided, however, That
29 as to all transactions affecting malt or brewed beverages to be
30 resold or consumed within this Commonwealth, every licensee

1 shall pay and shall require cash deposits on all returnable
2 original containers and all such cash deposits shall be refunded
3 upon return of the original containers.

4 (4) Peddling Liquor or Malt or Brewed Beverages. For any
5 person, to hawk or peddle any liquor or malt or brewed beverages
6 in this Commonwealth.

7 (5) Failure to Have Brands as Advertised. For any licensee,
8 his servants, agents or employes, to advertise or hold out for
9 sale any liquor or malt or brewed beverages by trade name or
10 other designation which would indicate the manufacturer or place
11 of production of the said liquor or malt or brewed beverages,
12 unless he shall actually have on hand and for sale a sufficient
13 quantity of the particular liquor or malt or brewed beverages so
14 advertised to meet requirements to be normally expected as a
15 result of such advertisement or offer.

16 (6) Brand or Trade Name on Spigot. For any licensee, his
17 agents, servants or employes, to furnish or serve any malt or
18 brewed beverages from any faucet, spigot or other dispensing
19 apparatus, unless the trade name or brand of the product served
20 shall appear in full sight of the customer and in legible
21 lettering upon such faucet, spigot or dispensing apparatus.

22 (7) Alcoholic Strength on Label of Malt or Brewed Beverages.
23 For any licensee, or his servants, agents or employes, to
24 transport, sell, deliver or purchase any malt or brewed
25 beverages upon which there shall appear a label or other
26 informative data which refers to the alcoholic contents of the
27 malt or brewed beverage in any terms other than as a percentage
28 of alcohol by volume. This clause shall be construed to permit,
29 but not to require, a manufacturer to designate upon the label
30 or descriptive data the alcoholic content of malt or brewed

1 beverages in percentage of alcohol by volume. This clause shall
2 not be construed to prohibit a manufacturer from designating
3 upon the label or descriptive data the alcoholic content of malt
4 or brewed beverages intended for shipment into another state or
5 territory, when the laws of such state or territory require that
6 the alcoholic content of the malt or brewed beverage must be
7 stated upon the package.

8 (8) Advertisements on Labels Giving Alcoholic Content of
9 Malt or Brewed Beverages. For any manufacturer or other
10 licensee, or his servants, agents or employes, to issue, publish
11 or post, or cause to be issued, published or posted, any
12 advertisement of any malt or brewed beverage including a label
13 which shall refer in any manner to the alcoholic strength of the
14 malt or brewed beverage manufactured, sold or distributed by
15 such licensees, or to use in any advertisement or label such
16 words as "full strength," "extra strength," "high test," "high
17 proof," "pre-war strength," or similar words or phrases, which
18 would lead or induce a consumer to purchase a brand of malt or
19 brewed beverage on the basis of its alcoholic content, or to use
20 in or on any advertisement or label any numeral, unless
21 adequately explained in type of the same size, prominence and
22 color, or for any licensee to purchase, transport, sell or
23 distribute any malt or brewed beverage advertised or labeled
24 contrary to the provisions of this clause.

25 (10) Entertainment on Licensed Premises (Except Clubs);
26 Permits; Fees. For any licensee, his servants, agents or
27 employes, except club licensees, public venue licensees or
28 performing arts facility licensees, to permit in any licensed
29 premises or in any place operated in connection therewith,
30 dancing, theatricals or floor shows of any sort, or moving

1 pictures other than television, or such as are exhibited through
2 machines operated by patrons by the deposit of coins, which
3 project pictures on a screen not exceeding in size twenty-four
4 by thirty inches and which forms part of the machine, unless the
5 licensee shall first have obtained from the board a special
6 permit to provide such entertainment, or for any licensee, under
7 any circumstances, to permit in any licensed premises or in any
8 place operated in connection therewith any lewd, immoral or
9 improper entertainment, regardless of whether a permit to
10 provide entertainment has been obtained or not. The special
11 permit may be used only during the hours when the sale of liquor
12 or malt or brewed beverages is permitted, unless the licensee
13 holds an extended hours food license under section 499(b) which
14 license would allow the special permit to be used while the
15 establishment is open, and between eleven o'clock antemeridian
16 on Sunday and two o'clock antemeridian on the following Monday,
17 regardless of whether the licensee possesses a Sunday sales
18 permit. The board shall have power to provide for the issue of
19 such special permits, and to collect an annual fee for such
20 permits as prescribed in section 614-A of the act of April 9,
21 1929 (P.L.177, No.175), known as "The Administrative Code of
22 1929." All such fees shall be paid into the State Stores Fund.
23 No such permit shall be issued in any municipality which, by
24 ordinance, prohibits amusements in licensed places. Any
25 violation of this clause shall, in addition to the penalty
26 herein provided, subject the licensee to suspension or
27 revocation of his permit and his license.

28 (11) Licensees Employed by Others. For any hotel, restaurant
29 or club liquor licensee, or any malt or brewed beverage
30 licensee, or any officer, servant, agent or employe of such

1 licensee, to be at the same time employed, directly or
2 indirectly, by any distributor, importing distributor,
3 manufacturer, importer or vendor licensee or any out of State
4 manufacturer. It shall also be unlawful for any distributor or
5 importing distributor, or any officer, servant, agent or employe
6 of such licensee, to be at the same time employed, directly or
7 indirectly, by any other distributor, importing distributor,
8 manufacturer, importer, vendor, out of State manufacturer, hotel
9 restaurant, malt or brewed beverage licensee, or club liquor
10 licensee. It shall also be unlawful for any manufacturer,
11 importer, or vendor licensee, or any out of State manufacturer,
12 or any officer, servant, agent or employe of such licensee or
13 manufacturer, to be at the same time employed, directly or
14 indirectly, by any hotel, restaurant or club liquor licensee or
15 any malt or brewed beverage licensee or any distributor or
16 importing distributor licensee. Nothing in this subsection shall
17 be construed to prohibit a manufacturer or limited winery
18 licensee, or any officer, servant, agent or employe of such
19 licensee, to be employed at the same time by a hotel, restaurant
20 or retail dispenser licensee if the hotel, restaurant or retail
21 dispenser licensee is located at the manufacturer or limited
22 winery premises pursuant to section 443. For the purposes of
23 this subsection, an officer, servant, agent or employe of a
24 licensee or manufacturer is an individual who has either an
25 ownership interest in the licensee or manufacturer or who
26 receives compensation for his or her work on behalf of the
27 licensee or manufacturer.

28 (12) Failure to Have Records on Premises. For any liquor
29 licensee, or any importing distributor, distributor or retail
30 dispenser, to fail to keep for a period of at least two years

1 complete and truthful records covering the operation of his
2 licensed business, particularly showing the date of all
3 purchases of liquor and malt or brewed beverages, the actual
4 price paid therefor, and the name of the vendor, including State
5 Store receipts, or for any licensee, his servants, agents or
6 employes, to refuse the board or an authorized employe of the
7 board or the enforcement bureau access thereto or the
8 opportunity to make copies of the same when the request is made
9 during business hours. The records from the most recent six-
10 month period must be maintained on the licensed premises.
11 Records for the remainder of the two-year period may be kept off
12 the licensed premises so long as the records are returned to the
13 licensed premises within twenty-four hours of a request by the
14 board or enforcement bureau. A licensee may remove the records
15 for the most recent six-month period from the licensed premises
16 only for a lawful business purpose provided that they are
17 returned to the premises when that business is completed.

18 (13) Retail Licensees Employing Minors. For any hotel,
19 restaurant or club liquor licensee, or any retail dispenser, to
20 employ or to permit any minor under the age of eighteen to serve
21 any alcoholic beverages or to employ or permit any minor under
22 the age of sixteen to render any service whatever in the
23 licensed premises, nor shall any entertainer under the age of
24 eighteen be employed or permitted to perform in any licensed
25 premises in violation of the labor laws of this Commonwealth:
26 Provided, That in accordance with board regulations minors
27 between the ages of sixteen and eighteen may be employed to
28 serve food, clear tables and perform other similar duties, not
29 to include the dispensing or serving of alcoholic beverages. A
30 ski resort, golf course or amusement park licensee may employ

1 minors fourteen and fifteen years of age to perform duties in
2 rooms or areas of the licensed premises; however, such minors
3 may not perform duties in rooms or areas in which alcohol is
4 being concurrently dispensed or served or in which alcohol is
5 being concurrently stored in an unsecured manner.

6 Notwithstanding any provisions of law to the contrary, a hotel,
7 restaurant or club liquor licensee or any retail dispenser may
8 allow students receiving instruction in a performing art to
9 perform an exhibition if the students are not compensated and
10 are under proper supervision. Written notice of the performance
11 must be provided to the enforcement bureau prior to the
12 performance.

13 (14) Permitting Undesirable Persons or Minors to Frequent
14 Premises. For any hotel, restaurant or club liquor licensee, or
15 any retail dispenser, his servants, agents or employes, to
16 permit persons of ill repute or prostitutes to frequent his
17 licensed premises or any premises operated in connection
18 therewith. Minors may only frequent licensed premises if: (a)
19 they are accompanied by a parent; (b) they are accompanied by a
20 legal guardian; (c) they are under proper supervision; (d) they
21 are attending a social gathering; or (e) the hotel, restaurant
22 or retail dispenser licensee has gross sales of food and
23 nonalcoholic beverages equal to fifty per centum or more of its
24 combined gross sale of both food and alcoholic beverages. If a
25 minor is frequenting a hotel, restaurant or retail dispenser
26 licensee under subsection (e), then the minor may not sit at the
27 bar section of the premises, nor may any alcoholic beverages be
28 served at the table or booth at which the said minor is seated
29 unless said minor is with a parent, legal guardian or under
30 proper supervision. Further, if a hotel, restaurant, club liquor

1 licensee or retail dispenser is hosting a social gathering under
2 subsection (d), then written notice at least forty-eight hours
3 in advance of such gathering shall be given to the Bureau of
4 Enforcement. If a minor is frequenting licensed premises with
5 proper supervision under subsection (c), each supervisor can
6 supervise up to twenty minors, except for premises located in
7 cities of the first class, where each supervisor can supervise
8 up to five minors. Notwithstanding any other provisions of this
9 section, if the minors are on the premises as part of a school-
10 endorsed function, then each supervisor can supervise fifty
11 minors. Nothing in this clause shall be construed to make it
12 unlawful for minors to frequent public venues or performing arts
13 facilities.

14 (15) Cashing Pay Roll, Public Assistance, Unemployment
15 Compensation or Any Other Relief Checks. For any licensee or his
16 servants, agents or employes to cash pay roll checks or to cash,
17 receive, handle or negotiate in any way Public Assistance,
18 Unemployment Compensation or any other relief checks.

19 (16) Furnishing or Delivering Liquor or Malt or Brewed
20 Beverages at Unlawful Hours. For any licensee, his servants,
21 agents or employes, to give, furnish, trade, barter, serve or
22 deliver any liquor or malt or brewed beverages to any person
23 during hours or on days when the licensee is prohibited by this
24 act from selling liquor or malt or brewed beverages.

25 (17) Licensees, etc., Interested or Employed in
26 Manufacturing or Sale of Equipment or Fixtures. For any
27 licensee, or any officer, director, stockholder, servant, agent
28 or employe of any licensee, to own any interest, directly or
29 indirectly, in or be employed or engaged in any business which
30 involves the manufacture or sale of any equipment, furnishings

1 or fixtures to any hotel, restaurant or club licensees, or to
2 any importing distributors, distributors or retail dispensers.
3 Notwithstanding any other provision of this section or this act,
4 licensees may sell glasses at not less than cost and to provide
5 metal keg connectors and tap knobs to other licensees and to
6 holders of special occasion permits.

7 (20) (i) Retail Liquor and Retail Malt or Brewed Beverages
8 Licensee's Inside Advertisements. For any retail liquor or
9 retail malt or brewed beverages licensee, to display or permit
10 the display in the show window or doorways of his licensed
11 premises, any placard or sign advertising the brands of liquor
12 or malt or brewed beverages, if the total display area of any
13 such placard or sign advertising the product or products exceeds
14 six hundred square inches. Nothing herein shall prohibit a
15 licensee from displaying inside his licensed premises point of
16 sale displays advertising brand names of products sold by him,
17 other than a window or door display: Provided, That the total
18 cost of all such point of sale advertising matter relating to
19 any one brand shall not exceed the dollar amount set forth by
20 the board through regulation. All such advertising material,
21 including the window and door signs, may be furnished by a
22 manufacturer, distributor or importing distributor. The
23 restrictions on advertising set forth in subclause (ii) and in
24 clauses (20.1) and (20.2) shall also apply to this subclause.

25 (ii) Cooperative Advertising. No distributor or importing
26 distributor, directly or indirectly, independent or otherwise,
27 shall, except by prior written agreement, be required to
28 participate with a manufacturer in the purchase of any
29 advertising of a brand name product in any name, in any form,
30 whether it be radio, television, newspaper, magazine or

1 otherwise.

2 (20.1) Manufacturer Shall Not Require Advertising. For a
3 manufacturer to require a distributor or importing distributor
4 to purchase any type of advertising.

5 (20.2) Advertising Shall Be Ordered and Authorized in
6 Advance. For any advertising to be done on behalf of a
7 distributor or importing distributor which was not ordered and
8 authorized in advance by the distributor or importing
9 distributor.

10 (21) Refusing The Right of Inspection. For any licensee, or
11 his servants, agents or employes, to refuse the board or the
12 enforcement bureau or any of their authorized employes the right
13 to inspect completely the entire licensed premises at any time
14 during which the premises are open for the transaction of
15 business, or when patrons, guests or members are in that portion
16 of the licensed premises wherein either liquor or malt or brewed
17 beverages are sold.

18 (22) Allowance or Rebate to Induce Purchases. For any
19 licensee, or his servants, agents or employes, to offer, pay,
20 make or allow, or for any licensee, or his servants, agents or
21 employes, to solicit or receive any allowance or rebate, refunds
22 or concessions, whether in the form of money or otherwise, to
23 induce directly the purchase of liquor or malt or brewed
24 beverages.

25 (23) Money or Valuables Given to Employes to Influence
26 Actions of Their Employers. For any licensee, or any agent,
27 employe or representative of any licensee, to give or permit to
28 be given, directly or indirectly, money or anything of
29 substantial value, in an effort to induce agents, employes or
30 representatives of customers or prospective customers to

1 influence their employer or principal to purchase or contract to
2 purchase liquor or malt or brewed beverages from the donor of
3 such gift, or to influence such employers or principals to
4 refrain from dealing or contracting to deal with other
5 licensees.

6 (24) (i) Things of Value Offered as Inducement. Except as
7 provided in subclause (ii), for any licensee under the
8 provisions of this article, or the board or any manufacturer, or
9 any employe or agent of a manufacturer, licensee or of the
10 board, to offer to give anything of value or to solicit or
11 receive anything of value as a premium for the return of caps,
12 stoppers, corks, stamps or labels taken from any bottle, case,
13 barrel or package containing liquor or malt or brewed beverage,
14 or to offer or give or solicit or receive anything of value as a
15 premium or present to induce directly the purchase of liquor or
16 malt or brewed beverage, or for any licensee, manufacturer or
17 other person to offer or give to trade or consumer buyers any
18 prize, premium, gift or other inducement to purchase liquor or
19 malt or brewed beverages, except advertising novelties of
20 nominal value which the board shall define. This section shall
21 not prevent any manufacturer or any agent of a manufacturer from
22 offering and honoring coupons which offer monetary rebates on
23 purchases of wines and spirits through State Liquor Stores or
24 the holder of a wine and spirits retail license, enhanced
25 distributor license, big-box retail store license, grocery store
26 license or pharmacy license, or purchases of malt or brewed
27 beverages through big-box retail stores, distributors and
28 importing distributors in accordance with conditions or
29 regulations established by the board. The board or the holder of
30 a wine and spirits retail license, enhanced distributor license,

1 big-box retail store license, grocery store license or pharmacy
2 license may redeem coupons offered by a manufacturer or an agent
3 of a manufacturer at the time of purchase. Coupons offered by a
4 manufacturer or an agent of a manufacturer shall not be redeemed
5 without proof of purchase. This section shall not apply to the
6 return of any monies specifically deposited for the return of
7 the original container to the owners thereof.

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

14 (iii) Notwithstanding subclause (i) or any other provision
15 of law, the holder of a wine and spirits retail license may
16 establish and implement a consumer relations marketing program
17 for the purpose of offering incentives, such as coupons or
18 discounts on certain products, which may be conditioned on the
19 purchase of liquor by its customers.

20 (25) Employment in Licensed Places. For any licensee or his
21 agent, to employ or permit the employment of any person at his
22 licensed hotel, restaurant or eating place for the purpose of
23 enticing customers, or to encourage them to drink liquor, or
24 make assignments for improper purposes.

25 Any person violating the provisions of this clause shall be
26 guilty of a misdemeanor and, upon conviction of the same, shall
27 be sentenced to pay a fine of not less than one hundred dollars
28 (\$100), nor more than five hundred dollars (\$500), for each and
29 every person so employed, or undergo an imprisonment of not less
30 than three (3) months, nor more than one (1) year, or either or

1 both, at the discretion of the court having jurisdiction of the
2 case. The administrative law judge shall have the power to
3 revoke or refuse licenses for violation of this clause.

4 (26) Worthless Checks. For any retail liquor licensee or any
5 retail dispenser, distributor or importing distributor, to make,
6 draw, utter, issue or deliver, or cause to be made, drawn,
7 uttered, issued or delivered, any check, draft or similar order,
8 for the payment of money in payment for any purchase of malt or
9 brewed beverages, when such retail liquor licensee, retail
10 dispenser, distributor or importing distributor, has not
11 sufficient funds in, or credit with, such bank, banking
12 institution, trust company or other depository, for the payment
13 of such check. Any person who is a licensee under the provisions
14 of this article, who shall receive in payment for malt or brewed
15 beverages sold by him any check, draft or similar order for the
16 payment of money, which is subsequently dishonored by the bank,
17 banking institution, trust company or other depository, upon
18 which drawn, for any reason whatsoever, shall, within five days
19 of receipt of notice of such dishonor, notify by certified mail
20 the person who presented the said worthless check, draft or
21 similar order and the malt beverage compliance officer for the
22 board. If the violation of this clause involving a check, draft
23 or similar order from the purchaser to the seller is
24 subsequently honored within ten days from the day it was made,
25 drawn, uttered, issued or delivered, then the malt beverage
26 compliance officer shall not turn the matter over to the
27 enforcement bureau for a citation.

28 (27) Distributors and Importing Distributors Employing
29 Minors. For any distributor or importing distributor to employ
30 minors under the age of eighteen but persons eighteen and over

1 may be employed to sell and deliver malt and brewed beverages. A
2 distributor holding an enhanced distributor license may employ a
3 minor at least eighteen years of age to sell wine, but a
4 distributor holding a wine and spirits retail license may not
5 employ a person under the age of twenty-one to sell liquor.

6 (28) Consumption of Liquor or Malt or Brewed Beverages While
7 Tending Bar. For any licensee, his servants, agents or employes,
8 to consume liquor or malt or brewed beverages while tending bar
9 or otherwise serving liquor or malt or brewed beverages. No
10 action shall be taken against a licensee under this clause
11 unless the licensee is the individual consuming liquor or malt
12 or brewed beverages in violation of this clause.

13 (30) Pyrotechnics Prohibited. For any licensee, his
14 servants, agents or employes, except licensees where pyrotechnic
15 displays are performed by a pyrotechnic operator licensed by the
16 Bureau of Alcohol, Tobacco, Firearms and Explosives and are
17 approved by a municipal fire official, to store, handle, use or
18 display any pyrotechnics within a building on the licensed
19 premises. For purposes of this clause, "pyrotechnics" shall mean
20 any chemical mixture, including pyrotechnic compositions,
21 intended to produce a visible or audible effect by combustion,
22 deflagration or detonation as defined by section 1.5.52 of the
23 National Fire Protection Association Standard 1126 entitled
24 "Standard for the Use of Pyrotechnics before a Proximate
25 Audience," 1992 Edition.

26 (31) (i) Sale or Purchase of Controlled Substance or Drug
27 Paraphernalia by Licensee. For any licensee to possess, furnish,
28 sell, offer to sell, or purchase or receive, or aid and abet in
29 the sale or purchase of any controlled substance or drug
30 paraphernalia, as defined in the act of April 14, 1972 (P.L.233,

1 No.64), known as "The Controlled Substance, Drug, Device and
2 Cosmetic Act," on the licensed premises unless the actions of
3 the licensee are authorized by law.

4 (ii) Sale or Purchase of Controlled Substances or Drug
5 Paraphernalia by Servant, Agent or Employee of the Licensee. For
6 any servants, agents or employes of the licensee to possess,
7 furnish, sell, offer to sell or purchase or receive, or aid and
8 abet in the sale or purchase of any controlled substance or drug
9 paraphernalia, as defined in "The Controlled Substance, Drug,
10 Device and Cosmetic Act," on the licensed premises unless the
11 actions of the person are authorized by law. The licensee shall
12 only be cited for a violation of this subclause if the licensee
13 knew or should have known of the activity and failed to take
14 substantial affirmative steps to prevent the activity on its
15 premises.

16 (32) Sale or Purchase of Alcohol Vaporizing Devices. For any
17 licensee, his servants or agents or employes to possess or to
18 permit an alcohol vaporizing device on the licensed premises.

19 (33) Off-premises Catering Permit; Fees. For any licensee,
20 his servants, agents or employes to sell alcohol at a location
21 other than its licensed premises, unless the sale is
22 specifically authorized under this act, or unless the licensee
23 receives a special permit from the board to do so. Only those
24 licensees holding a current and valid restaurant, hotel, brew
25 pub or eating place license shall be allowed to apply for such a
26 permit. Any licensee that wishes to obtain an off-premises
27 catering permit must notify the board and pay the permitting fee
28 by March of each calendar year regardless of whether the
29 licensee has scheduled catered events. Any licensee that fails
30 to notify the board and pay the permit fee by March 1 shall be

1 precluded from obtaining the permit for that calendar year. If a
2 licensee notifies the board and pays the permitting fee by March
3 1 and does not then use the permit throughout the calendar year,
4 the licensee shall not be entitled to a return of the permitting
5 fee. Any licensee not granted a license until after March 1 of
6 the calendar year shall have sixty days from the date of the
7 license transfer to notify the board of the licensee's intention
8 to use an off-premises catering permit and pay the permitting
9 fee. All servers at the off-premises catered function shall be
10 certified under the board's responsible alcohol management
11 program as required under section 471.1. The board may charge a
12 fee of five hundred dollars (\$500) each calendar year, to each
13 applicant for the initial permit associated with a particular
14 license, but no further fee shall be charged for any subsequent
15 permits issued to the applicant for the license during the same
16 calendar year. The applicant shall submit written notice to the
17 board thirty days prior to each catered event, unless this time
18 frame has been waived by the board, and the board may approve or
19 disapprove each event if the applicant fails to provide timely
20 notice of the catered function, does not intend to conduct a
21 function that meets the requirements of this act or has
22 previously conducted a function that did not meet the
23 requirements of this act. The fees shall be paid into the State
24 Stores Fund. Any violation of this act or the board's
25 regulations for governing activity occurring under the authority
26 of this permit may be the basis for the issuance of a citation
27 under section 471, the nonrenewal of the license under section
28 470 or the refusal by the board to issue subsequent permits or
29 honor subsequent dates on the existing permit. This penalty
30 shall be in addition to any other remedies available to the

1 enforcement bureau or the board.

2 (34) Noise. Notwithstanding any law or regulation to the
3 contrary, a licensee may not use or permit to be used inside or
4 outside of the licensed premises a loudspeaker or similar device
5 whereby the sound of music or other entertainment, or the
6 advertisement thereof, can be heard beyond the licensee's
7 property line; however, any licensee that is located in an area
8 which is subject to an exemption from the board's regulation
9 regarding amplified music being heard off the licensed premises
10 shall be exempt from compliance with this paragraph until the
11 expiration of the board's order granting the exemption. The
12 board's regulation regarding amplified music being heard off the
13 licensed premises is otherwise superseded by this paragraph.

14 (35) Grocery stores, big-box retail stores, convenience
15 stores and pharmacies employing minors. For any servant, agent
16 or employe of a grocery store, big-box retail store, convenience
17 store or pharmacy to make a sale of alcohol unless the servant,
18 agent or employe is eighteen years of age or older.

19 (36) Sale of wine received by direct shipment. For any
20 licensee to sell or offer to sell wine purchased or acquired
21 from a direct wine shipper pursuant to the authority of section
22 488.

23 (37) Duties performed by distributors and importing
24 distributors. For any licensee to require that a distributor or
25 importing distributor stock merchandise in the licensee's
26 cooler, rotate the licensee's stock of malt or brewed beverages,
27 set up displays in the licensee's premises or pay any type of
28 fee required for making the distributor's product available on
29 the licensee's store shelves. This clause supersedes a contrary
30 provision of a contract.

1 Section 37. The act is amended by adding a section to read:

2 Section 493.2. Unlawful Acts Relative to Wine and Spirits

3 Retail Licensees.--(a) It is unlawful for a wine and spirits

4 retail licensee, or an employe, servant or agent of the licensee

5 or another person to sell, furnish or give liquor or malt or

6 brewed beverages or to permit liquor or malt or brewed beverages

7 to be sold, furnished or given to a minor or person who is

8 visibly intoxicated.

9 (b) A wine and spirits retail licensee who violates the

10 provisions of subsection (a) is subject to the penalty

11 provisions set forth in section 471.

12 Section 38. Section 494 of the act, amended April 29, 1994

13 (P.L.212, No.30) and November 10, 1999 (P.L.514, No.47), is

14 amended to read:

15 Section 494. Penalties.--(a) Any person who shall violate

16 any of the provisions of this article, except as otherwise

17 specifically provided, shall be guilty of a misdemeanor and,

18 upon conviction thereof, shall be sentenced to pay a fine of not

19 less than one hundred dollars (\$100), nor more than five hundred

20 dollars (\$500), and on failure to pay such fine, to imprisonment

21 for not less than one month, nor more than three months, and for

22 any subsequent offense, shall be sentenced to pay a fine not

23 less than three hundred dollars (\$300), nor more than five

24 hundred dollars (\$500), and to undergo imprisonment for a period

25 not less than three months, nor more than one year, or both. If

26 the person, at or relating to the licensed premises, violates

27 section 493(1), (10), (14), (16) or (21), or if the owner or

28 operator of the licensed premises or any authorized agent of the

29 owner or operator violates the act of April 14, 1972 (P.L.233,

30 No.64), known as "The Controlled Substance, Drug, Device and

1 Cosmetic Act," or 18 Pa.C.S. § 5902 (relating to prostitution
2 and related offenses) or 6301 (relating to corruption of
3 minors), he shall be sentenced to pay a fine not exceeding [five
4 thousand dollars (\$5,000)] ten thousand dollars (\$10,000) or to
5 undergo imprisonment for a period not less than [three] six
6 months, nor more than [one year] two years, or both.

7 (b) The right to suspend and revoke licenses granted under
8 this article shall be in addition to the penalty set forth in
9 this section.

10 (c) A person convicted of selling or offering to sell any
11 liquor or malt or brewed beverage without being licensed is in
12 violation of this article and shall, in addition to any other
13 penalty prescribed by law, be sentenced to pay a fine of two
14 dollars (\$2) per fluid ounce for each container of malt or
15 brewed beverages and four dollars (\$4) per fluid ounce for each
16 container of wine or liquor found on the premises where the sale
17 was made or attempted. The amount of fine per container will be
18 based upon the capacity of the container when full, whether or
19 not it is full at the time of the sale or attempted sale. In
20 addition, all malt or brewed beverages, wine and liquor found on
21 the premises shall be confiscated. If a person fails to pay the
22 full amount of the fine levied under this subsection, the
23 premises on which the malt or brewed beverages, wine or liquor
24 was found shall be subject to a lien in the amount of the unpaid
25 fine if the premises are owned by the person against whom the
26 fine was levied or by any other person who had knowledge of the
27 proscribed activity. The lien shall be superior to any other
28 liens on the premises other than a duly recorded mortgage.

29 Section 39. Section 499 of the act, added or amended October
30 5, 1994 (P.L.522, No.77) and February 21, 2002 (P.L.103, No.10),

1 is amended to read:

2 Section 499. Premises to be Vacated by Patrons.--(a) Except
3 as provided for elsewhere in this section, all patrons of a
4 licensee shall be required to leave that part of the premises
5 habitually used for the serving of liquor or malt or brewed
6 beverages to guests or patrons not later than one-half hour
7 after the time the licensee is required by this act to cease
8 serving liquor or malt or brewed beverages and shall not be
9 permitted to have any previously served liquor or malt or brewed
10 beverages in their possession, nor shall they be permitted to
11 remove any previously served liquor or malt or brewed beverages
12 from that part of the premises. Patrons of a licensee shall not
13 be permitted to reenter that portion of the premises habitually
14 used for the serving of liquor or malt or brewed beverages
15 between the time designated by this act for patrons to vacate
16 the licensed premises and the time designated by this act when
17 the serving of liquor or malt or brewed beverages is allowed to
18 begin unless the licensee has been granted a permit for extended
19 hours food service.

20 (a.1) Subsection (a) shall not apply to sales of malt and
21 brewed beverages for consumption off the premises when the
22 following conditions are met:

23 (1) no licensee may sell malt or brewed beverages in excess
24 of one hundred ninety-two fluid ounces in any one sale for
25 consumption off the premises unless the licensee possesses a
26 thirty-pack permit under this article;

27 (2) sales and service of malt and brewed beverages for
28 consumption off the premises are made prior to the designated
29 time the licensee is required by this act to cease serving
30 liquor, malt or brewed beverages;

1 (3) persons who have purchased malt and brewed beverages for
2 consumption off the premises shall remove the malt and brewed
3 beverages from the premises by the designated time as contained
4 in this act that patrons are required to vacate the premises;

5 (4) no club licensee may sell any malt or brewed beverage
6 for consumption off the premises where sold or to any persons
7 who are not members of the club.

8 (b) A licensee may remain open between the hours of two
9 o'clock antemeridian and seven o'clock antemeridian for the
10 purpose of serving food on any day if such licensee either
11 possesses or is eligible to purchase a Sunday sales permit and
12 receives an extended hours food license. The board shall
13 establish an annual fee for the extended hours food license
14 which shall not exceed fifty dollars (\$50).

15 (b.1) Upon application of any club, the board shall issue a
16 club extended hours food permit for a period of six (6) days
17 during the term of its license. The board shall issue
18 regulations governing terms of the application. The permits
19 shall be used solely for the purpose of serving food between the
20 hours of three o'clock antemeridian and seven o'clock
21 antemeridian. All patrons of a licensee shall be required to
22 leave that part of the premises habitually used for the serving
23 of liquor or malt or brewed beverages to guests or patrons not
24 later than one-half hour after the time the licensee is required
25 by this act to cease serving liquor or malt or brewed beverages
26 and shall not be permitted to have any previously served liquor
27 or malt or brewed beverages in their possession, nor shall they
28 be permitted to remove any previously served liquor or malt or
29 brewed beverages from that part of the premises.

30 (c) Any licensee who violates this section for the first

1 offense commits a summary offense and shall, upon conviction, be
2 sentenced to pay a fine of not more than three hundred dollars
3 (\$300) or to imprisonment for not more than ninety (90) days, or
4 both, and for the second or any subsequent offense commits a
5 misdemeanor of the third degree and shall, upon conviction, be
6 sentenced to pay a fine of not more than two thousand five
7 hundred dollars (\$2,500) or to imprisonment for not more than
8 one (1) year, or both.

9 (d) This section shall not apply to holders of public
10 service licenses.

11 (e) Nothing in this section shall prohibit restaurant
12 liquor, eating place retail dispenser or hotel licenses from
13 being open seven o'clock ante meridian on Sunday until two
14 o'clock ante meridian Monday for the purpose of serving food and
15 nonalcoholic beverages.

16 Section 40. Section 505.2 of the act, amended December 8,
17 2004 (P.L.1810, No.239), July 16, 2007 (P.L.107, No.34), June
18 25, 2010 (P.L.217, No.35), June 28, 2011 (P.L.55, No.11) and
19 December 22, 2011 (P.L.530, No.113), is amended to read:

20 Section 505.2. Limited Wineries.--(a) [In the interest of
21 promoting tourism and recreational development in Pennsylvania,
22 holders] holders of a limited winery license may:

23 (1) Produce alcoholic ciders, wines and wine coolers,
24 subject to the exceptions provided under this section[, only
25 from an agricultural commodity grown in Pennsylvania].

26 (2) Sell alcoholic cider, wine and wine coolers produced by
27 the limited winery or purchased in bulk in bond from another
28 [Pennsylvania] limited winery on the licensed premises, under
29 such conditions and regulations as the board may enforce, to the
30 board, to wine and spirits retail licensees, to individuals and

1 to brewery, hotel, restaurant, club, grocery store, big-box
2 retail store, pharmacy and public service liquor licensees, and
3 to [Pennsylvania] winery licensees, and to distributors that
4 also hold an enhanced distributor license under section 431.2:
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, big-box retail store, pharmacy and public service liquor
27 licensees, and to distributors that also hold an enhanced
28 distributor license under section 431.2. If two or more limited
29 wineries apply to operate an additional board-approved location
30 in conjunction with each other, the wineries need only have one

1 board-approved manager for the location, need only pay one
2 application fee and need not designate specific or distinct
3 areas for each winery's licensed area. Each limited winery must
4 file an application for such an additional board-approved
5 location, and such location shall count as one of the five
6 permitted for each limited winery. Each limited winery is
7 responsible for keeping only its own complete records. A limited
8 winery may be cited for a violation of the recordkeeping
9 requirements of sections 512 and 513 pertaining to its own
10 records only.

11 (3.1) Notwithstanding any other provision of law, only ship
12 wine to residents of this Commonwealth in accordance with the
13 provisions of section 488, and a sale to a licensee of the board
14 must take place on the licensed premises of the limited winery.
15 Only a limited winery that applies for and acquires a wine and
16 spirits wholesale license may ship or deliver wine sold to a
17 licensee of the board.

18 (4) At the discretion of the board, obtain a special permit
19 to participate in alcoholic cider, wine and food expositions off
20 the licensed premises. A special permit shall be issued upon
21 proper application and payment of a fee of thirty dollars (\$30)
22 per day for each day of permitted use, not to exceed thirty (30)
23 consecutive days. The total number of days for all the special
24 permits may not exceed one hundred (100) days in any calendar
25 year. A special permit shall entitle the holder to engage in the
26 sale by the glass, by the bottle or in case lots of alcoholic
27 cider or wine produced by the permittee under the authority of a
28 limited winery license. Holders of special permits may provide
29 tasting samples of wines in individual portions not to exceed
30 one fluid ounce. Samples at alcoholic cider, wine and food

1 expositions may be sold or offered free of charge. Except as
2 provided herein, limited wineries utilizing special permits
3 shall be governed by all applicable provisions of this act as
4 well as by all applicable regulations or conditions adopted by
5 the board.

6 For the purposes of this clause, "alcoholic cider, wine and
7 food expositions" are defined as affairs held indoors or
8 outdoors with the intent of [promoting Pennsylvania products by]
9 educating those in attendance of the availability, nature and
10 quality of [Pennsylvania-produced] alcoholic ciders and wines in
11 conjunction with suitable food displays, demonstrations and
12 sales. Alcoholic cider, wine and food expositions may also
13 include activities other than alcoholic cider, wine and food
14 displays, including arts and crafts, musical activities,
15 cultural exhibits, agricultural exhibits and farmers markets.

16 (4.1) At the discretion of the board, obtain a farmers
17 market permit. The permit shall entitle the holder to
18 participate in more than one farmers market at any given time
19 and an unlimited number throughout the year and sell alcoholic
20 cider or wine produced under the authority of the underlying
21 limited winery license by the bottle or in case lots. Samples
22 not to exceed one fluid ounce per brand of wine may be offered
23 free of charge. A farmers market permit shall be issued upon
24 proper application and payment of an annual fee of two hundred
25 fifty dollars (\$250). A permit holder may participate in more
26 than one farmers market at any given time. Sales by permit
27 holders shall take place during the standard hours of operation
28 of the farmers market. Written notice of the date, times and
29 location the permit is to be used shall be provided by the
30 permit holder to the enforcement bureau at least two (2) weeks

1 prior to the event. Except as provided in this subsection,
2 limited wineries utilizing farmers market permits shall be
3 governed by all applicable provisions of this act as well as by
4 all applicable regulations adopted by the board.

5 (5) Apply for and hold a hotel liquor license, a restaurant
6 liquor license or a malt and brewed beverages retail license to
7 sell for consumption at the restaurant or limited winery on the
8 licensed winery premises, liquor, wine and malt or brewed
9 beverages regardless of the place of manufacture under the same
10 conditions and regulations as any other hotel liquor license,
11 restaurant liquor license or malt and brewed beverages retail
12 license.

13 (6) [(i) Secure a permit from the board to allow the holder
14 of a limited winery license to use up to twenty-five per centum
15 permitted fruit, not wine, in the current year's production.
16 Each permit is valid only for the calendar year in which it is
17 issued.

18 (ii) The fee for a permit to import and use permitted fruit
19 shall be in an amount to be determined by the board.

20 (iii) The purpose of this section is to increase the
21 productivity of limited wineries while at the same time
22 protecting the integrity and unique characteristics of wine
23 produced from fruit primarily grown in this Commonwealth.
24 Prevailing climatic conditions have a significant impact on the
25 character of the fruit. Accordingly, "permitted fruit" shall
26 mean fruit grown or juice derived from fruit grown within three
27 hundred fifty (350) miles of the winery.

28 (iv) The department is authorized to promulgate regulations
29 requiring the filing of periodic reports by limited wineries to
30 ensure compliance with the provisions of this section.]

1 (Reserved).

2 (6.1) Sell food for consumption on or off the licensed
3 premises and at the limited winery's additional board-approved
4 locations and sell by the glass, at the licensed premises and at
5 the limited winery's additional board-approved locations, only
6 wine and alcoholic ciders that may otherwise be sold by the
7 bottle.

8 (6.2) Sell wine- or liquor-scented candles acquired or
9 produced by the limited winery.

10 (6.3) Sell alcoholic cider, wine and wine coolers only
11 between the hours of nine o'clock antemeridian and eleven
12 o'clock postmeridian. A limited winery also may request approval
13 from the board to extend sales hours in individual locations at
14 other times during the year or beyond the limits set forth in
15 this clause. The request shall be made in writing to the board's
16 Office of the Chief Counsel and shall detail the exact locations
17 where sales hours are proposed to be extended, the proposed
18 hours and dates of extended operation and the reason for the
19 proposed extended hours.

20 (6.4) Store alcoholic cider, wine and wine coolers produced
21 by the limited winery at no more than two (2) board-approved
22 locations other than the licensed premises and those premises
23 referenced in clause (3) pertaining to the five (5) board-
24 approved locations for the sale of wine, with no bottling or
25 production requirement at those additional locations and under
26 such conditions and regulations as the board may enforce. If two
27 (2) or more businesses will operate out of the same storage
28 facility, the limited winery must designate specific and
29 distinct areas for its storage. The limited winery's designated
30 storage area must be secured and no one other than the licensee

1 and his employees may be allowed access to the storage area. No
2 board-approved manager will be necessary for the storage
3 facility. The limited winery must fill out an application for
4 such an additional board-approved storage location, and such
5 location shall count as one of the two permitted for each
6 limited winery. The limited winery is responsible for keeping
7 only its own complete records. A limited winery may be cited for
8 a violation of the recordkeeping requirements of sections 512
9 and 513 pertaining to its own records only.

10 (b) The total production of alcoholic ciders, wine and wine
11 coolers by a limited winery may not exceed two hundred thousand
12 (200,000) gallons per year.

13 (c) As used in this section:

14 "Agricultural commodity" shall include any of the following:
15 agricultural, apicultural, horticultural, silvicultural and
16 viticultural commodities.

17 "Farmers market" shall include any building, structure or
18 other place:

19 (1) owned, leased or otherwise in the possession of a
20 person, municipal corporation or public or private organization;

21 (2) used or intended to be used by two or more farmers or an
22 association of farmers, who are certified by the Department of
23 Agriculture of the Commonwealth to participate in the Farmers'
24 Market Nutrition Program subject to 7 CFR Pt. 249 (relating to
25 Senior Farmers' Market Nutrition Program (SFMNP)), for the
26 purpose of selling agricultural commodities produced in this
27 Commonwealth directly to consumers;

28 (3) which is physically located within this Commonwealth;
29 and

30 (4) which is not open for business more than twelve hours

1 each day.

2 Section 41. Section 505.4 of the act, amended December 22,
3 2011 (P.L.530, No.113), is amended to read:

4 Section 505.4. Distilleries.--(a) The board may issue a
5 distillery of historical significance license to any distillery
6 which was established prior to January 1, 1875. The holder of
7 the license may manufacture and sell liquor produced on the
8 licensed premises to the board, to wine and spirits retail
9 licensees, to other entities licensed by the board and to the
10 public under such conditions and regulations as the board may
11 enforce. Production at the distillery of historical significance
12 shall be limited to an amount not to exceed twenty thousand
13 (20,000) gallons per year. The distillery does not need to
14 establish continuous operation since January 1, 1875, in order
15 to qualify for a license under this section.

16 (b) (1) The board may issue a limited distillery license
17 that will allow the holder thereof to operate a distillery that
18 shall not exceed production of one hundred thousand (100,000)
19 gallons of distilled liquor per year. The holder of the license
20 may manufacture and sell bottled liquors produced on the
21 licensed premises to the board, to wine and spirits retail
22 licensees, to other entities licensed by the board and to the
23 public between the hours of nine o'clock antemeridian and eleven
24 o'clock postmeridian so long as a specific code of distilled
25 liquor which is listed for sale as a stock item by the board in
26 State liquor stores may not be offered for sale at a licensed
27 limited distillery location at a price which is lower than that
28 charged by the board and under such conditions and regulations
29 as the board may enforce.

30 (2) (i) The holder of a limited distillery license may,

1 separately or in conjunction with other limited distillery
2 licensees, sell bottled liquors produced by the distillery at no
3 more than two (2) board-approved locations other than the
4 licensed premises, with no bottling or production requirement at
5 those additional board-approved locations and under such
6 conditions and regulations as the board may enforce to the
7 board, to individuals and to entities licensed by the board.

8 (ii) If two (2) or more limited distilleries apply to
9 operate an additional board-approved location in conjunction
10 with each other, the distilleries need only have one (1) board-
11 approved manager for the location, need only pay one application
12 fee and need not designate specific or distinct areas for each
13 distillery's licensed area. A limited distillery must file an
14 application for the additional board-approved location, and that
15 location shall count as one (1) of the two (2) permitted for
16 each limited distillery. A limited distillery is responsible for
17 keeping only its own complete records. A limited distillery may
18 be cited for a violation of the recordkeeping requirements of
19 sections 512 and 513 pertaining to its own records only.

20 (3) The holder of a limited distillery license may apply for
21 and hold a hotel liquor license, a restaurant liquor license or
22 a malt and brewed beverages retail license to sell for
23 consumption at the restaurant or limited distillery on the
24 licensed distillery premises liquor, wine and malt or brewed
25 beverages regardless of the place of manufacture under the same
26 conditions and regulations as any other hotel liquor license,
27 restaurant liquor license or malt and brewed beverages retail
28 license.

29 (4) The holder of a limited distillery license may sell food
30 for consumption on or off the licensed premises and at the

1 limited distillery's additional board-approved locations, and
2 may sell by the glass, at the licensed premises and at the
3 limited distillery's additional board-approved locations, only
4 liquor that may otherwise be sold by the bottle.

5 (5) The holder of a limited distillery license may provide
6 tasting samples of liquor that in total do not exceed one and
7 one-half (1.5) fluid ounces per person on the licensed premises
8 and at the two (2) board-approved locations. Samples may be sold
9 or provided free of charge and may only be provided between the
10 hours of nine o'clock antemeridian and eleven o'clock
11 postmeridian.

12 (6) The fee for the limited distillery license shall be in
13 an amount to be determined by the board but shall not exceed one
14 thousand five hundred dollars (\$1,500).

15 (7) The board may issue to the holder of a distillery
16 license a limited distillery license in exchange for the
17 distillery license provided that the applicant has not
18 manufactured more than one hundred thousand (100,000) gallons of
19 distilled liquor in the prior calendar year. The board may not
20 charge a fee for this exchange. An applicant under this
21 subsection shall surrender his distillery license for
22 cancellation prior to the issuance of the new limited distillery
23 license. The authority of the board to exchange a distillery
24 license for a limited distillery license under this subsection
25 and this subsection shall expire December 31, 2012.

26 (c) (1) The holder of a distillery license as issued under
27 section 505 may sell bottled liquors produced on the licensed
28 premises to the board, to wine and spirits retail licensees and
29 other entities licensed by the board and to the public between
30 the hours of nine o'clock antemeridian and eleven o'clock

1 postmeridian so long as a specific code of distilled liquor
2 which is listed for sale as a stock item by the board in State
3 liquor stores may not be offered for sale at a licensed
4 distillery location at a price which is lower than that charged
5 by the board and under such conditions and regulations as the
6 board may enforce.

7 (2) The holder of a distillery license as issued under
8 section 505 may provide tasting samples of liquor that in total
9 do not exceed one and one-half (1.5) fluid ounces. Samples may
10 be sold or provided free of charge between the hours of nine
11 o'clock antemeridian and eleven o'clock postmeridian.

12 (d) Notwithstanding any other provision of law, a sale by a
13 distillery of historical significance, limited distillery or
14 distillery to a licensee of the board must take place on the
15 licensed distillery premises. Only a distillery authorized under
16 this section that applies for and acquires a wine and spirits
17 wholesale license may ship or deliver wine sold to a licensee of
18 the board.

19 Section 42. Section 508 of the act, amended April 29, 1994
20 (P.L.212, No.30), is amended to read:

21 Section 508. License Fees.--(a) The annual fee for every
22 license issued to a limited winery or a winery shall be as
23 prescribed in section 614-A of the act of April 9, 1929
24 (P.L.177, No.175), known as "The Administrative Code of 1929."
25 The fee for every license issued to a distillery (manufacturer)
26 shall be as prescribed in section 614-A of "The Administrative
27 Code of 1929." The annual fee for all other licenses shall be as
28 prescribed in section 614-A of "The Administrative Code of
29 1929." An applicant for renewal of a license issued under this
30 article shall file a written application with the board together

1 with an application surcharge of seven hundred dollars (\$700).

2 Whenever any checks issued in payment of filing and/or license
3 fees shall be returned to the board as dishonored, the board
4 shall charge a fee of five dollars (\$5.00) per hundred dollars
5 or fractional part thereof, plus all protest fees, to the maker
6 of such check submitted to the board. Failure to make full
7 payment or pay the face amount of the check in full and all
8 charges thereon as herein required within ten days after demand
9 has been made by the board upon the maker of the check, the
10 license of such person shall not be renewed for the license
11 period or validated for any interim period for such year.

12 (b) For the purpose of this section, the term "proof gallon"
13 shall mean a gallon liquid which contains one-half its volume of
14 alcohol of a specific gravity of seven thousand nine hundred
15 thirty-nine ten thousandths (.7939) at sixty degrees Fahrenheit.

16 Section 42.1. Section 801 of the act is amended to read:

17 Section 801. Moneys Paid Into Liquor License Fund and
18 Returned to Municipalities.--(a) The following fees collected
19 by the board under the provisions of this act shall be paid into
20 the State Treasury through the Department of Revenue into a
21 special fund to be known as the "Liquor License Fund":

22 (1) License fees for hotel, restaurant and club liquor
23 licenses.

24 (2) License fees for retail dispensers' (malt and brewed
25 beverages) licenses.

26 (a.1) The following fees collected by the board under the
27 provisions of this act shall be paid into the State Treasury
28 through the Department of Revenue into the State Stores Fund:

29 (1) License fees for grocery stores.

30 (2) License fees for big-box retail stores.

1 half of one percent of alcohol by volume:

2 (i) An alcoholic, spirituous, vinous, fermented or
3 other alcoholic beverage.

4 (ii) A combination of liquors and mixed liquor, a
5 part of which is spirituous, vinous, fermented or
6 otherwise alcoholic.

7 (iii) A drink or drinkable liquid, preparation or
8 mixture intended for beverage purposes.

9 (2) The term shall not include alcohol and malt or
10 brewed beverages.

11 Section 802-A. Tax.

12 (a) Imposition.--An emergency State tax is imposed and
13 assessed at the rate of 18% of the net price of all taxable
14 liquor sold by the board or a wine and spirits wholesale
15 licensee.

16 (b) Collection.--The tax imposed under subsection (a) shall
17 be collected by the board or the wine and spirits wholesale
18 licensee from the purchasers of the taxable liquor from the
19 board or the wine and spirits wholesale licensee.

20 (c) Disposition.--The tax collected under subsection (b)
21 shall be paid into the State Treasury, through the department,
22 as provided under this article and shall be credited to the
23 General Fund.

24 Section 803-A. Transmittal.

25 (a) Duty.--Except as provided under subsection (b), the
26 board or the wine and spirits wholesale licensee shall, on or
27 before the 15th day of each calendar month, do all of the
28 following:

29 (1) Transmit to the department all of the following:

30 (i) A statement of its receipts from sales of

1 taxable liquor and taxes collected during the preceding
2 fiscal month.

3 (ii) Information necessary to effectuate this
4 article.

5 (2) Pay to the department the tax imposed under section
6 802-A(a).

7 (b) Exception.--The following shall apply:

8 (1) The board or a wine and spirits wholesale licensee
9 may add the tax imposed under section 802-A(a) to the
10 wholesale and retail price at which taxable liquor is sold
11 and eliminate any accounting of the tax separate from sale
12 prices.

13 (2) If the board or the wine and spirits wholesale
14 licensee adds the tax as provided under paragraph (1), the
15 amount of the tax for a calendar month shall be calculated by
16 dividing the entire gross receipts derived from sales at
17 Pennsylvania Liquor Stores or at wholesale licensees during
18 the month by six and five-ninths and the quotient shall be
19 the amount of the tax for the month payable as provided under
20 this section.

21 Section 44. Repeals are as follows:

22 (1) The General Assembly declares that the repeal under
23 paragraph (2) is necessary to effectuate the addition of
24 Article VIII-A of the act.

25 (2) The act of June 9, 1936 (Sp. Sess., P.L.13, No.4),
26 entitled, as reenacted and amended, "An act imposing an
27 emergency State tax on liquor, as herein defined, sold by the
28 Pennsylvania Liquor Control Board; providing for the
29 collection and payment of such tax; and imposing duties upon
30 the Department of Revenue and the Pennsylvania Liquor Control

1 Board," is repealed.

2 Section 45. This act shall take effect immediately.