

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1634 Session of
2013

INTRODUCED BY LAWRENCE AND MUSTIO, AUGUST 6, 2013

REFERRED TO COMMITTEE ON LIQUOR CONTROL, AUGUST 6, 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, further providing for malt and brewed
 28 beverages licenses; in licensing, providing for enhanced
 29 distributors licenses; in licensing, further providing for
 30 license applications, for license restrictions, for storage
 31 and purchase restrictions, for interlocking business, for
 32 breweries, for county limitations, for administrative
 33 proceedings, for assignability, for renewal and temporary
 34 provisions, for sanctions, for local option, for shipment
 35 into Commonwealth, for unlawful acts and for hours of

1 operation; in licensing, providing for unlawful acts; in
2 licensing, further providing for penalties and for vacation
3 of premises; in distilleries, wineries, bonded warehouses,
4 bailees and transporters, further providing for limited
5 wineries, for distilleries and for license fees; providing
6 for emergency State tax; and making a related repeal.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Section 102 of the act of April 12, 1951 (P.L.90,
10 No.21), known as the Liquor Code, reenacted and amended June 29,
11 1987 (P.L.32, No.14), is amended by adding definitions to read:

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

15 "Affiliate" or "person affiliated with" shall mean a person
16 that directly or indirectly, through one or more intermediaries,
17 controls, is controlled by or is under common control with a
18 specified person.

19 * * *

20 "Bid-rigging" shall mean the concerted activity of two or
21 more persons to determine in advance or attempt to influence the
22 selected bidder for an enhanced restaurant liquor license. The
23 term includes any of the following:

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

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

28 (3) Agreeing to submit identical bids.

29 (4) Agreeing to coordinate the retail zones in which a
30 person will or will not submit a bid.

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

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

1 (7) Agreeing not to submit a bid.

2 "Blended brand valuation" shall mean, for any particular
3 brand of liquor, the sum of the wholesale profit margin on each
4 product of a brand.

5 * * *

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

8 * * *

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

19 * * *

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

21 * * *

22 "Controlling interest" shall mean as follows:

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

30 (2) For a privately held corporation, partnership, limited

1 liability company or other form of privately held legal entity,
2 the holding of any securities in the legal entity.

3 * * *

4 "Department" shall mean the Department of General Services of
5 the Commonwealth.

6 * * *

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

14 * * *

15 "Enhanced distributor license" shall mean a license that
16 allows the holder, subject to the provisions of this act, to
17 sell at retail:

18 (1) Wine.

19 (2) Spirits.

20 (3) Malt beverages in original sealed containers or
21 packaging totaling not less than seven ounces per container or
22 unopened package, with a minimum sale of forty-two ounces per
23 transaction.

24 "Enhanced license" shall mean an enhanced restaurant liquor
25 license or an enhanced distributor license.

26 "Enhanced licensee" shall mean the holder of an enhanced
27 license.

28 "Enhanced restaurant liquor license" shall mean a license
29 that allows the holder, subject to the provisions of this act,
30 to sell at retail:

1 (1) One hundred fifty brands of wine in any size bottle one
2 and one-half liter or less, with a limit of six bottles per
3 transaction.

4 (2) One hundred fifty brands of spirits in any size bottle
5 one and one-half liter or less, with a limit of six bottles per
6 transaction.

7 (3) Malt beverages in original sealed containers or
8 packaging totaling not less than seventy-two ounces nor more
9 than three hundred sixty ounces per container or unopened
10 package, with no limit on the number of sales per transaction.

11 * * *

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

17 * * *

18 "Offering price" shall mean a monetary value as determined by
19 the department by which an enhanced restaurant license or
20 enhanced distributor license may be purchased in a given county.

21 * * *

22 "Variable pricing" shall mean, for purposes of the wholesale
23 sale of liquor, any disparity in the price of an item sold to
24 one licensee as compared to the price of the same item to
25 another licensee or a licensee of a different classification.
26 The term shall not include discounts for volume purchases.

27 * * *

28 "Wholesale acquisition factor" shall mean a factor of 2.5
29 applied to the wholesale profit margin of a brand of liquor in
30 determining a wholesale license fee.

1 "Wholesale district" shall mean any of the following
2 geographic districts:

3 (1) District A, consisting of Cameron, Centre, Clarion,
4 Clearfield, Clinton, Crawford, Elk, Erie, Forest, Jefferson,
5 McKean, Mercer, Potter, Venango and Warren Counties.

6 (2) District B, consisting of Bradford, Carbon,
7 Columbia, Lackawanna, Lehigh, Luzerne, Lycoming, Monroe,
8 Montour, Northampton, Northumberland, Pike, Snyder, Sullivan,
9 Susquehanna, Tioga, Union, Wayne and Wyoming Counties.

10 (3) District C, consisting of Allegheny, Beaver, Butler,
11 Greene, Lawrence and Washington Counties.

12 (4) District D, consisting of Adams, Armstrong, Bedford,
13 Berks, Blair, Cambria, Cumberland, Dauphin, Fayette,
14 Franklin, Fulton, Huntingdon, Indiana, Juniata, Lancaster,
15 Lebanon, Mifflin, Perry, Schuylkill, Somerset, Westmoreland
16 and York Counties.

17 (5) District E, consisting of Bucks, Chester, Delaware,
18 Montgomery and Philadelphia Counties.

19 "Wholesale licensee" shall mean a person that holds a wine
20 and spirits wholesale license issued pursuant to section
21 321.1-A.

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

26 * * *

27 "Wine and spirits wholesale license" shall mean a license
28 issued by the department or the board authorizing a person to
29 sell and distribute liquor on a wholesale basis to retail
30 licensees and other licensees under this act.

1 * * *

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

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

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

26 (d) The provisions of this act are intended to create a
27 system for distribution [that shall include the fixing of prices
28 for] of liquor and alcohol and controls placed on [prices for]
29 the sale and distribution of malt and brewed beverages, and each
30 of which shall be construed as integral to the preservation of

1 the system, without which system the Commonwealth's control of
2 the sale of liquor and alcohol and malt and brewed beverages and
3 the Commonwealth's promotion of its policy of temperance and
4 responsible conduct with respect to alcoholic beverages would
5 not be possible.

6 * * *

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

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

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

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

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

1 compounded or bottled in Pennsylvania. The board's authority to
2 exercise the powers granted pursuant to this subsection is
3 subject to the limitations set forth in Article III-A of this
4 act.

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

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

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

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

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

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

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

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

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

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

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

17 Section 207.1. Adjustment of Fees by Regulation.--(a)
18 Notwithstanding any provision of this act or the act of April 9,
19 1929 (P.L.177, No.175), known as "The Administrative Code of
20 1929," to the contrary, all fees required under this act shall
21 be fixed by the board by regulation and shall be subject to the
22 act of June 25, 1982 (P.L.633, No.181), known as the "Regulatory
23 Review Act."

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

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

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

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

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

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

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

18 (b) The duties and conduct of the officers and employes of
19 the board.

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

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

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

29 (f) The labeling of liquor and alcohol sold under this act
30 and of liquor and alcohol lawfully acquired by any person prior

1 to January first, one thousand nine hundred thirty-four.

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

3 (h) The issuance of licenses and permits and the conduct,
4 management, sanitation and equipment of places licensed or
5 included in permits.

6 [(i) The place and manner of depositing the receipts of
7 Pennsylvania Liquor Stores and the transmission of balances to
8 the Treasury Department through the Department of Revenue.

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

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

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

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

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

29 Section 301. Board to Establish State Liquor Stores.--(a)
30 The board shall [establish,] operate and maintain at such places

1 throughout the Commonwealth as it shall deem essential and
2 advisable, stores to be known as "Pennsylvania Liquor Stores,"
3 for the sale of liquor and alcohol in accordance with the
4 provisions of and the regulations made under this act[; except
5 that no store not so already located shall be located within
6 three hundred feet of any elementary or secondary school, nor
7 within a dry municipality without there first having been a
8 referendum approving such location. When the board shall have
9 determined upon the location of a liquor store in any
10 municipality, it shall give notice of such location by public
11 advertisement in two newspapers of general circulation. In
12 cities of the first class, the location shall also be posted for
13 a period of at least fifteen days following its determination by
14 the board as required in section 403(g) of this act. The notice
15 shall be posted in a conspicuous place on the outside of the
16 premises in which the proposed store is to operate or, in the
17 event that a new structure is to be built in a similarly visible
18 location. If, within five days after the appearance of such
19 advertisement, or of the last day upon which the notice was
20 posted, fifteen or more taxpayers residing within a quarter of a
21 mile of such location, or the City Solicitor of the city of the
22 first class, shall file a protest with the court of common pleas
23 of the county averring that the location is objectionable
24 because of its proximity to a church, a school, or to private
25 residences, the court shall forthwith hold a hearing affording
26 an opportunity to the protestants and to the board to present
27 evidence. The court shall render its decision immediately upon
28 the conclusion of the testimony and from the decision there
29 shall be no appeal. If the court shall determine that the
30 proposed location is undesirable for the reasons set forth in

1 the protest, the board shall abandon it and find another
2 location. The board may establish, operate and maintain such
3 establishments for storing and testing liquors as it shall deem
4 expedient to carry out its powers and duties under this act],
5 and subject to the limitations set forth in Article III-A of
6 this act.

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

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

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

1 In computing the retail price of such special orders for
2 liquor or alcohol, the board shall not include the cost of
3 freight or shipping before applying the mark-up and taxes but
4 shall add the freight or shipping charges to the price after the
5 mark-up and taxes have been applied.

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

10 During the retail divestiture process as provided in Article
11 III-A, the board shall continue to take and process special
12 liquor orders for residents and licensees of the board, and may
13 establish a protocol by which pre-paid orders may be picked up
14 at either a Pennsylvania Liquor Store or from the licensed
15 premises of an enhanced restaurant liquor licensee. An enhanced
16 licensee may assess a handling fee for this purpose. Any product
17 not claimed at the licensed premises of an enhanced restaurant
18 liquor licensee by the purchaser shall be returned to the board
19 after ten days' notice of arrival was sent to the purchaser.

20 (b) Every Pennsylvania Liquor Store shall sell liquors at
21 wholesale to enhanced licensees, hotels, restaurants, clubs, and
22 railroad, pullman and steamship companies licensed under this
23 act; and, under the regulations of the board, to pharmacists
24 duly licensed and registered under the laws of the Commonwealth,
25 and to manufacturing pharmacists, and to reputable hospitals
26 approved by the board, or chemists. Sales to licensees shall be
27 made at a price that includes a discount of ten per centum from
28 the retail price, except that sales made to enhanced licensees
29 shall include a discount of twenty per centum from the retail
30 price. The board may sell to registered pharmacists only such

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

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

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

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

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

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

1 [(g) The board is hereby authorized and empowered to adopt
2 and enforce appropriate rules and regulations to insure the
3 equitable wholesale and retail sale and distribution, through
4 the Pennsylvania Liquor Stores, of available liquor and alcohol
5 at any time when the demand therefor is greater than the
6 supply.]

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

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

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

17 ARTICLE III-A

18 WINE AND SPIRITS DISTRIBUTION

19 SUBARTICLE A

20 GENERAL PROVISIONS

21 Section 301-A. Scope of article.

22 This article relates to the privatization of liquor
23 distribution in this Commonwealth.

24 Section 302-A. Legislative intent.

25 The General Assembly finds and declares as follows:

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

29 (2) The health and welfare of the citizens of this
30 Commonwealth will be adequately protected by the regulation

1 of private licensees through strict enforcement of laws and
2 rules relating to the purchase and sale of liquor.

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

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

10 (5) This article will improve operation and efficiency
11 of State government.

12 (6) The authorization of wine and spirits wholesale and
13 retail licenses is intended to continue the generation of
14 revenue to the Commonwealth related to the wholesale and
15 retail sale of liquor.

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

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

27 (9) The transition to a privately-owned and privately-
28 operated wholesale and retail liquor distribution system
29 should be accomplished in a manner that minimizes disruption
30 of services to the public.

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

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

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

9 (iii) discourage the intemperate use of alcohol.

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

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

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

26 (b) Retail transition.--

27 (1) The department shall substantially transition the
28 board's retail distribution of alcohol to privately-owned and
29 privately-operated enhanced licensees before divesting the
30 board's wholesale operations. The department shall engage the

1 services of a consultant to assist the committee in
2 effectuating the intent of this section. The department shall
3 not be bound by the procedural constraints or requirements of
4 62 Pa.C.S. Pt. I (relating to Commonwealth Procurement Code)
5 in hiring the consultant.

6 (2) The divestiture of the board's retail operations
7 shall be accomplished through the issuance of enhanced
8 licenses as set forth in this act. Each successful applicant
9 shall be thoroughly investigated to determine whether the
10 person is a reputable and responsible person suitable to be
11 licensed to sell liquor in this Commonwealth.

12 (3) Enhanced licenses shall be issued in accordance with
13 section 331-A.

14 (c) Wholesale transition.--

15 (1) After the board's retail operations have been
16 substantially divested, the department shall transition the
17 board's wholesale distribution of liquor to privately-owned
18 and privately-operated wholesale licensees.

19 (2) The divestiture of the board's wholesale operations
20 shall be accomplished through the issuance of wine and
21 spirits wholesale licenses by brand of liquor for a wholesale
22 district, which shall be subject to an application process as
23 set forth in this article. The transition must fully divest
24 the board of all operations relating to the wholesale
25 distribution of liquor within six months of the complete
26 divestiture of the board's retail operations.

27 (d) Cooperation required.--

28 (1) The board shall fully cooperate with the department
29 or its consultant in all aspects of implementation of this
30 article and shall provide the department or its consultant

1 with all records and information in the possession of the
2 board upon request.

3 (2) The board shall devote sufficient resources to
4 planning and preparation for the divestiture of its wholesale
5 and retail functions.

6 (3) The board shall use its best efforts in coordinating
7 with the department or its consultant, enhanced licensees and
8 wine and spirits wholesale licensees so as to maintain
9 uninterrupted service to the residents of this Commonwealth
10 during divestiture.

11 (e) Prohibition.--The board shall not engage in retail or
12 wholesale distribution of liquor following completion of the
13 retail and wholesale transition to a private distribution
14 system.

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

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

23 (1) the total revenue earned by the issuance of licenses
24 under this article;

25 (2) the distribution and sale of brands through private
26 wholesalers;

27 (3) the net profit or loss of the premises of each
28 enhanced restaurant liquor license and State liquor store in
29 this Commonwealth; and

30 (4) the status of the ongoing transition, including

1 store closures and employee displacement.

2 Section 305-A. Temporary regulations.

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

9 (1) sections 201, 202 and 203 of the act of July 31,
10 1968 (P.L.769, No.240), referred to as the Commonwealth
11 Documents Law; or

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

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

17 SUBARTICLE B

18 DIVESTITURE OF RETAIL LIQUOR DISTRIBUTION

19 Section 311-A. Retail divestiture through issuance of enhanced
20 restaurant liquor licenses.

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

22 (1) Upon the effective date of this section, the
23 department shall appoint individuals to a retail divestiture
24 strategy committee, which shall be comprised of
25 representatives from the department, representatives from a
26 consultant hired by the department to facilitate the
27 divestiture process and at least one representative from each
28 of the board's Bureau of Retail Operations, Bureau of Supply
29 Chain and Bureau of Licensing.

30 (2) The committee shall be chaired by a representative

1 from the department.

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

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

13 Section 312-A. Sale of enhanced licenses.

14 (a) Authorization.--The department may sell an enhanced
15 restaurant liquor license to a restaurant liquor license holder
16 and may sell an enhanced distributor license to an existing
17 distributor license holder. Within 120 days of the effective
18 date of this section, the department will establish procedures
19 by which the holder of a restaurant liquor license may apply for
20 an enhanced restaurant liquor license and by which the holder of
21 a distributor license may apply for an enhanced distributor
22 liquor license.

23 (b) Factors to determine offering price.--In determining the
24 appropriate offering price of licenses to be sold in each
25 county, the department shall consider the following factors:

26 (1) The existing number, location and sizes of the State
27 liquor stores in the county and neighboring counties.

28 (2) The hours of operation for existing State liquor
29 stores in the county.

30 (3) The geographic size and population density of the

1 county.

2 (4) The most recent sales data from the board for:

3 (i) existing stores;

4 (ii) number of stock-keeping units made available in
5 those stores; and

6 (iii) sales trends of those stores.

7 (5) Other information the department deems relevant in
8 order to ensure the reasonable availability of wine and
9 spirits in the county.

10 Section 313-A. (Reserved).

11 Section 314-A. Postqualification of selected applicants.

12 (a) Investigation.--Upon receipt of an application for an
13 enhanced license, the department shall immediately convey the
14 application to the board's Bureau of Licensing, which shall
15 conduct an investigation of each applicant based upon the
16 information submitted to evaluate whether:

17 (1) the applicant qualifies as a reputable, responsible
18 and suitable person to hold an enhanced license;

19 (2) the applicant has proposed an acceptable facility
20 and location for a retail establishment in the business of
21 selling malt beverages, wine and spirits; and

22 (3) the applicant's planned operation complies with this
23 article.

24 (b) Additional information.--The board may require
25 additional information from an applicant and conduct onsite
26 inspections, as necessary, to complete the postqualification
27 process.

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

1 of investigations under this section and to provide for the
2 reimbursement of actual costs incurred for providing assistance.

3 (d) Public input hearings.--

4 (1) During the postqualification process, the board
5 shall schedule one public input hearing in each of the
6 designated territories, including one in a city of the first
7 class, at which interested members of the public will be
8 provided the opportunity to testify regarding selected
9 applicant qualifications and the suitability of the location
10 of the proposed retail establishments in the business of
11 selling malt beverages, wine and spirits. The testimony of a
12 public witness shall be considered by the board in the
13 postqualification investigation of applicants to which the
14 testimony applies.

15 (2) The board shall establish a protocol for receiving
16 written objections from residents, churches, hospitals,
17 charitable institutions, schools and public playgrounds,
18 which are located near proposed retail establishment
19 locations. The board may consider the written objections in
20 the postqualification investigation of applicants to which
21 the testimony applies. An objector under this paragraph may
22 not appeal the board's decision.

23 (e) Investigative fees.--The board may charge fees to an
24 applicant to recover the costs directly related to the board's
25 investigation within the postqualification process.

26 (f) Acceptance of qualifications.--An applicant's
27 qualifications shall be accepted by the board if the board's
28 investigation reveals all of the following:

29 (1) The information submitted in the application was
30 truthful.

1 (2) The applicant and its officers, directors and
2 principals, if any, are of good repute, responsible and
3 suitable for operating a retail establishment in the business
4 of selling malt beverages, wine and spirits.

5 (3) The applicant possesses sufficient financial
6 resources to:

7 (i) operate the retail establishment;

8 (ii) pay taxes due; and

9 (iii) meet financial obligations.

10 (4) The applicant possesses sufficient business
11 experience to operate the retail establishment.

12 (5) The proposed facilities are compliant with all of
13 the operational requirements of the statement of conditions
14 under this article.

15 (6) The proposed location is suitable within the
16 community.

17 (g) Issuance of license.--If a selected applicant's
18 qualifications are accepted by the board, the board shall
19 qualify the applicant and shall issue an enhanced license to the
20 applicant upon the occurrence of the following:

21 (1) Execution and delivery to the department and the
22 board of the statement of conditions required under section
23 319-A.

24 (2) Payment of the offering price by certified check or
25 wire transfer to a designated restricted account established
26 in The State Stores Fund.

27 (3) Payment of any outstanding or investigation fees.

28 (4) Fulfillment of any other conditions required by the
29 department or the board.

30 (h) Qualifications unacceptable.--If an applicant's

1 qualifications are not accepted by the board, the board shall
2 submit the results of its investigation and the rationale for
3 this conclusion to the department.

4 (i) Approval of qualifications.--If the qualifications of
5 the applicant are approved by the board under subsection (f),
6 the board shall issue an enhanced license to the successful
7 applicant consistent with the requirements of subsection (g).

8 (j) Enhanced license not entitlement.--

9 (1) Nothing contained in this article is intended to
10 create an entitlement to an enhanced license. An enhanced
11 license is a privilege as between the board and the enhanced
12 licensee.

13 (2) An enhanced license is property as between the
14 enhanced licensee and third parties.

15 (k) Terms of licensure.--

16 (1) An enhanced license shall be in effect unless the
17 board:

18 (i) revokes, suspends or fails to renew the enhanced
19 license; or

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

23 (2) An enhanced license shall be subject to renewal
24 every two years consistent with this article.

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

30 Section 315-A. (Reserved).

1 Section 316-A. (Reserved).

2 Section 317-A. (Reserved).

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

4 The department shall establish minimum bid amounts for retail
5 auctions and shall publish the amounts in the Pennsylvania
6 Bulletin and on the department's Internet website.

7 Section 318-A. (Reserved).

8 Section 319-A. Enhanced licensee statement of conditions.

9 (a) Statement of conditions.--The department, in
10 consultation with the board, shall develop a statement of
11 conditions to be executed by each enhanced licensee governing
12 the operations of the enhanced licensee.

13 (b) Conditions.--In addition to any other conditions the
14 department, in consultation with the board, deems necessary or
15 appropriate for a specific enhanced licensee, a statement of
16 conditions under this section shall include, at a minimum, the
17 following conditions and impose the following obligations and
18 requirements on an ongoing basis:

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

22 (2) An enhanced licensee may not operate a retail
23 establishment in the business of selling malt beverages, wine
24 and spirits located within:

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

27 (ii) A municipality which has voted to preclude the
28 establishment of a State liquor store, unless the
29 municipality subsequently votes to permit the board to
30 issue an enhanced license.

1 (2.1) An enhanced license may not be operated on real
2 property upon which is located as a business the sale of
3 liquid fuels and oil if the point of sale or dispensing of
4 liquid fuels and oil is within 100 feet of the closest point
5 to the physical building in which the enhanced license is
6 located.

7 (3) An enhanced licensee's wine and spirits store and
8 all facilities involved in its retail operations, including
9 any changes to those facilities during the term of the
10 license, are subject to the inspection, investigation and
11 approval of the department, the board and the enforcement
12 bureau.

13 (4) An enhanced licensee shall maintain adequate
14 security to protect the licensee's inventory from
15 unauthorized sale or diversion and prevent its unauthorized
16 distribution. Nothing in this paragraph shall preclude an
17 enhanced licensee from moving wine and spirits inventory
18 between wine and spirits retail stores under common ownership
19 on a periodic basis upon no less than one day's notice to the
20 board and the enforcement bureau.

21 (5) Unless specifically authorized in this act or with
22 the prior approval of the board, an enhanced licensee may not
23 engage in a separate business activity upon any enhanced
24 licensed premises on which retail liquor operations are
25 conducted.

26 (6) Except in an emergency, as defined by regulation by
27 the board, an enhanced licensee may not sell wine or spirits
28 to enhanced licensees.

29 (7) An enhanced licensee shall notify the board within
30 15 days of a change in persons holding a controlling interest

1 in the enhanced licensee.

2 (8) An enhanced licensee shall notify the board within
3 15 days of becoming aware of an arrest or criminal indictment
4 or conviction by the following:

5 (i) If the enhanced licensee is an individual, the
6 enhanced licensee.

7 (ii) If the enhanced licensee is a partnership, a
8 partner.

9 (iii) If the enhanced licensee is an association, a
10 member.

11 (iv) If the enhanced licensee is a corporation, any
12 officer, director or shareholder holding a controlling
13 interest in the corporation.

14 (v) An affiliate of the enhanced licensee.

15 (9) An enhanced licensee shall notify the board within
16 15 days of becoming aware of a violation of this article by
17 an individual listed in paragraph (8).

18 (10) The premises of each store must be a self-contained
19 unit with limited customer access dedicated to the sale of
20 liquor and related merchandise. Except for an enhanced
21 licensee that holds an enhanced distributor license, no wine
22 and spirits store may have an interior connection with
23 another business or with a residential building except as
24 approved by the board. Purchases of wine and spirits shall be
25 paid for at a location within the confines of the enhanced
26 licensed premises.

27 (11) An enhanced licensee shall configure its enhanced
28 licensed premises in a manner and with adequate safeguards to
29 ensure that its liquor products are secure and that the
30 enhanced licensed area may not be accessed during prohibited

1 hours of operation.

2 (12) An enhanced licensee may not do any of the
3 following:

4 (i) Hold, directly or indirectly, more than 60
5 enhanced licenses within this Commonwealth.

6 (ii) Own more than:

7 (A) ten percent of the enhanced licenses in a
8 county which has at least ten enhanced licenses; or

9 (B) one enhanced license in a county which has
10 less than ten enhanced licenses.

11 (13) A wine and spirits store may sell liquor for
12 consumption off the premises and related merchandise within
13 the enhanced licensed area of the store. Sales of related
14 merchandise within the enhanced licensed area may not exceed
15 30% of the gross annual sales of a wine and spirits store.

16 (14) An enhanced licensee shall make the premises and
17 the facilities involved in the retail operation and all of
18 the business and financial books and records of the retail
19 operation available at any time for inspection and audit by
20 the board and the enforcement bureau. The board shall
21 promulgate regulations regarding the records that an enhanced
22 licensee must maintain in its enhanced licensed premises.

23 (15) An enhanced licensee may sell wine or spirits
24 between 9 a.m. and 11 p.m. of any day except Sunday to:

25 (i) a person not licensed under this act;

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

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

28 (16) In addition to the hours authorized under paragraph
29 (15), an enhanced licensee may, upon purchasing a permit from
30 the board at an annual fee of \$2,000, sell wine or spirits on

1 Sunday between the hours of 9 a.m. and 9 p.m. to:

2 (i) a person not licensed under this act;

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

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

5 (17) An enhanced licensee may not employ an individual
6 under 18 years of age to work on the enhanced licensed
7 premises. An employee under 21 years of age of an enhanced
8 licensee may not engage in the sale of liquor.

9 (18) An enhanced licensee may not hold a wine and
10 spirits wholesale license.

11 (19) An enhanced licensee that is a corporation, a
12 limited liability company, a limited partnership, a
13 partnership, an association or other legal entity, must be
14 organized under the laws of this Commonwealth.

15 (20) An enhanced licensee who is an individual must be a
16 citizen of the United States and a resident of this
17 Commonwealth.

18 (21) An enhanced licensee shall:

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

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

25 (22) An enhanced licensee may place its license in
26 safekeeping for a period not to exceed two years:

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

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

1 (23) An enhanced license which remains in safekeeping
2 for a period that exceeds two consecutive years shall be
3 forfeited and resold by the board in a manner consistent with
4 this subarticle.

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

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

16 (26) An enhanced licensee may not sell a liquor product
17 at a price less than its underlying cost.

18 (27) An enhanced restaurant licensee may not provide
19 tasting samples of liquor on the premises where retail
20 operations are conducted. An enhanced distributor licensee
21 may provide tasting samples of liquor on the premises where
22 retail operations are conducted under the following
23 conditions:

24 (i) An offering of tasting samples shall be limited
25 to a period of not more than six hours per day and no
26 more than three days per week.

27 (ii) Tasting samples shall be limited to one per day
28 per person for a given liquor with a maximum of four
29 tasting samples per person per day.

30 (iii) An enhanced distributor licensee shall apply

1 to the department on a monthly basis with proposed
2 tasting dates and the department shall have the ability
3 to deny proposed tastings for cause.

4 For the purposes of this paragraph, a "tasting sample" is a
5 small amount of liquor that is provided in a serving of not
6 more than a quarter ounce, and if provided, not more than one
7 ounce of nonalcoholic mixer.

8 (28) An enhanced licensee may not require a customer to
9 purchase a membership or pay a fee in order to purchase
10 products, including wine and spirits, from the enhanced
11 license premises.

12 (29) In an inquiry or investigation by the department,
13 the board or the enforcement bureau, an enhanced licensee
14 shall cooperate fully and provide requested information.

15 (30) An enhanced licensee shall be considered a State
16 liquor store for the purposes of collecting and remitting
17 taxes consistent with the act of March 4, 1971 (P.L.6, No.2),
18 known as the Tax Reform Code of 1971, from a person other
19 than a person licensed to sell liquor for consumption on the
20 enhanced licensed premises under Article IV.

21 (31) An enhanced distributor licensee shall devote a
22 section of its sales space for products sold by holders of
23 limited winery, limited distillery and distillery licenses
24 and shall attempt to diversify product selection with liquor
25 produced by those holders.

26 (c) Sanctions.--

27 (1) An enhanced licensee that fails to abide by any
28 condition contained in the enhanced licensee's statement of
29 conditions or commits any violation of this act or other
30 Federal or State law shall be subject to citation by the

1 enforcement bureau.

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

3 (i) a fine, suspension or revocation of an enhanced
4 license;

5 (ii) nonrenewal of an enhanced license;

6 (iii) revocation of temporary operating authority;

7 or

8 (iv) other penalties authorized under sections 471
9 and 494.

10 SUBARTICLE C

11 DIVESTITURE OF WHOLESALE LIQUOR DISTRIBUTION

12 Section 321-A. Wholesale divestiture.

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

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

19 (1) An application process and schedule for the
20 investigation and award of wine and spirits wholesale
21 licenses in each of the wholesale districts under this
22 article.

23 (2) A blended brand valuation for each brand of liquor
24 available for sale in the wholesale districts.

25 (3) Procedures and standards governing the relationship
26 between wine and spirits wholesale licensees and
27 manufacturers and the ability and terms upon which that
28 relationship may be terminated.

29 (c) Coordination.--

30 (1) The department shall:

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

5 (ii) begin a coordinated effort to allow the board
6 to issue licenses after the board has been substantially
7 divested of its retail operations.

8 (2) The department must fully divest the board of all
9 operations relating to the wholesale distribution of liquor
10 within six months of the complete divestiture of the board's
11 retail operations.

12 Section 321.1-A. Issuance of wine and spirits wholesale
13 licenses.

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

16 (1) The following shall apply:

17 (i) For each wholesale district, one wine and
18 spirits wholesale license per brand may be issued by the
19 board to one qualified applicant.

20 (ii) A wine and spirits wholesale license shall
21 authorize the holder to sell and distribute one brand of
22 liquor in a wholesale district, as proposed by an
23 applicant and approved by the department, to wine and
24 spirits retail licensees and other licensees of the board
25 authorized to sell or distribute liquor under this act,
26 to United States Armed Forces facilities located on
27 United States Armed Forces installations within the
28 wholesale district and to the holder of a wholesale
29 alcohol purchase permit in the wholesale district as
30 issued by the board.

1 (iii) A wine and spirits wholesale licensee may
2 provide for the direct shipment or delivery of products
3 to licensees of the board.

4 (iv) An applicant may submit an application for more
5 than one wholesale district and for more than one brand
6 of liquor.

7 (2) Subject to the conditions and restrictions of this
8 subarticle, wine and spirits wholesale licensees may sell and
9 distribute more than one brand of liquor, if approved to do
10 so by the board, under the same wine and spirits wholesale
11 license.

12 (3) Upon application by a wine and spirits wholesale
13 licensee, the board may amend its initial authorization under
14 a wine and spirits wholesale license to include additional
15 brands of liquor or exclude previously-approved brands of
16 liquor.

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

18 (1) On the effective date of this section, the
19 department shall determine the wine and spirits wholesale
20 license fee for each wholesale district by brand of liquor
21 sold at wholesale by the board through its State liquor
22 stores or via special liquor order for a continuous period of
23 at least one year. The license fee shall be equal to the
24 blended brand valuation for each brand of liquor authorized
25 by the wine and spirits wholesale license multiplied by the
26 wholesale acquisition factor for each wholesale district.

27 (2) The department shall publish a notice in the
28 Pennsylvania Bulletin and on its Internet website of the wine
29 and spirits wholesale license fee for each brand of liquor
30 determined under paragraph (1). The department shall

1 establish deadlines within which an applicant must submit an
2 application for a wine and spirits wholesale license for the
3 brands of liquor specified by the applicant.

4 (3) The department shall permit an applicant to pay the
5 fee on a monthly basis for a term not to exceed 48 months,
6 provided that the applicant agrees to pay the amount of the
7 fee plus 5% and that the monthly payments are in equal
8 amounts.

9 (c) Brands not previously sold.--

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

18 (2) If, during the term of a wine and spirits wholesale
19 license, a wine and spirits wholesale licensee proposes to
20 sell and distribute a new brand of liquor not previously sold
21 in this Commonwealth, the wine and spirits wholesale licensee
22 shall apply to the board for permission to sell the brand and
23 pay an additional license fee determined in accordance with
24 this section. In calculating the blended brand valuation for
25 the new products, the board shall evaluate available sales
26 data in other markets or sales trends of similar products
27 either within the wholesale districts or outside this
28 Commonwealth.

29 (d) Term.--

30 (1) A wine and spirits wholesale license, after payment

1 of the required license fee, shall be in effect unless
2 suspended, revoked or not renewed under this article.

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

6 (3) Nothing under this subsection shall be construed to
7 relieve a wine and spirits wholesale licensee of the
8 affirmative duty to notify the board of changes relating to
9 any of the following:

10 (i) The status of its license.

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

13 Section 322-A. Application for wine and spirits wholesale
14 license.

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

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

21 (1) Neither the applicant nor any affiliate of the
22 applicant has applied for or holds an enhanced license or
23 other license which authorizes the retail sale of wine and
24 spirits to consumers.

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

27 (i) A corporation.

28 (ii) A limited liability company.

29 (iii) A limited partnership.

30 (iv) A partnership.

1 (v) An association.

2 (vi) A legal entity other than a legal entity listed
3 under this paragraph.

4 (3) The applicant is a citizen of the United States and
5 a resident of this Commonwealth if that applicant is a
6 natural person.

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

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

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

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

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

23 (1) The name, address and tax identification number of
24 the applicant.

25 (2) A statement as to whether the applicant is an
26 individual, corporation, limited liability company, limited
27 partnership, partnership or association and, if the applicant
28 is not an individual, the state of incorporation or
29 organization.

30 (3) If the applicant is not an individual, the name and

1 residence address of each executive officer, director,
2 general or limited partner or person holding a controlling
3 interest in the applicant.

4 (4) If the applicant is an association, the name and
5 residence address of each person constituting the
6 association.

7 (5) A list of the brands of liquor the applicant
8 proposes to engage in wholesale distribution territory within
9 the wholesale district or districts applied for.

10 (6) A sworn statement that the applicant has entered
11 into a contractual relationship with one or more liquor
12 manufacturers, importers or vendors of record for the
13 distribution within the wholesale district or districts
14 applied for of a brand or brands of liquor, regardless of
15 whether the contractual relationship is contingent upon the
16 board issuing a wine and spirits wholesale license to the
17 applicant.

18 (7) The proposed location and proof of ownership or
19 lease for the wholesale operation, including proposed
20 warehouses, if available.

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

25 (9) Information disclosing all arrests of and all
26 citations issued for nonsummary offenses to an applicant and
27 any affiliate of the applicant, executive officer, director
28 or general or limited partner of the applicant or person
29 holding a controlling interest in the applicant. The
30 information shall include:

1 (i) A brief description of the circumstances
2 surrounding the arrest or issuance of the citation.

3 (ii) The specific offense charged or cited.

4 (iii) The ultimate disposition of the charge or
5 citation, including the details of a dismissal, plea
6 bargain, conviction, sentence, pardon, expungement or
7 order of Accelerated Rehabilitative Disposition.

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

13 (i) of a crime involving fraud, moral turpitude or
14 racketeering within a period of ten years immediately
15 preceding the date of the application;

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

17 (iii) in a Federal or state tribunal, including this
18 Commonwealth, of the violation of a Federal or state
19 liquor law.

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

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

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

7 (14) A signature and verification by oath or affirmation
8 or under penalty of unsworn falsification to authorities by
9 one of the following:

10 (i) The applicant, if the applicant is a natural
11 person.

12 (ii) A person specifically authorized by the legal
13 entity to sign the application, if the applicant is a
14 legal entity. Written evidence of the authority to sign
15 must be attached to the signature and verification.

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

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

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

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

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

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

8 (a) Completeness of application.--

9 (1) The following shall apply:

10 (i) The department may not consider an incomplete
11 application and shall notify the applicant in writing if
12 an application is incomplete.

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

20 (2) A notification of incompleteness shall state the
21 deficiencies in the application that must be corrected prior
22 to consideration of the merits of the application.

23 (3) The applicant must be afforded a reasonable period
24 of time, as determined by the department, to cure the
25 deficiencies.

26 (4) If the applicant fails to timely cure noticed
27 deficiencies within the time specified by the department, the
28 application shall be deemed denied by the department without
29 further action.

30 (b) Investigation.--After receipt of an application for a

1 wine and spirits wholesale license and a determination that the
2 application is complete, the department shall provide the
3 application to the board's Bureau of Licensing to conduct an
4 investigation of the applicant. The investigation shall include
5 and the applicant shall have the burden of demonstrating the
6 following:

7 (1) The truth and veracity of the information provided
8 in the application.

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

15 (3) The good character, reputation and suitability of
16 the applicant and any affiliate of the applicant, executive
17 officer, director or general or limited partner of the
18 applicant or person holding a controlling interest in the
19 applicant.

20 (4) The applicant possesses sufficient financial
21 resources to:

22 (i) Operate as a wine and spirits wholesale
23 licensee.

24 (ii) Pay all taxes due and owing to the
25 Commonwealth.

26 (iii) Assume liability for the safe operation of the
27 wholesale operations.

28 (5) The applicant possesses sufficient financial
29 resources and experience to create and maintain a successful
30 and efficient wholesale operation that provides service at a

1 level that is reasonably equivalent to the level of service
2 currently provided on the effective date of this section in
3 this Commonwealth.

4 (6) The applicant has entered into a contractual
5 relationship with one or more licensed manufacturers,
6 importers or vendors of record for the distribution in the
7 wholesale district or districts applied for of a brand or
8 brands of liquor regardless of whether the contractual
9 relationship is contingent upon the board issuing a wine and
10 spirits wholesale license to the applicant.

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

13 (i) assure that all warehouses are located within
14 the wholesale districts and licensed for the storage of
15 liquor;

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

18 (iii) not have any interior connection with any
19 other business or with any residential building without
20 prior department or board approval;

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

24 (v) protect the public interest.

25 (c) Assistance with investigations.--The department may
26 enter into an agreement with the Pennsylvania State Police or
27 the Office of Inspector General to assist the department in
28 conducting investigations under this section and to provide for
29 the reimbursement of actual costs incurred for providing the
30 assistance. The department may establish, charge and collect

1 fees from an applicant to recover the costs of investigation.

2 Section 324-A. Issuance of licenses.

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

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

14 (c) Denial.--

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

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

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

26 (d) Issuance.--After approval of an application, the board
27 shall issue a wine and spirits wholesale license to the
28 applicant for the exclusive privilege to sell an approved brand
29 of liquor in a wholesale district, if the applicant has
30 completed all of the following:

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

5 (2) Paid outstanding application or investigation fees.

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

8 (4) If deemed necessary by the board, repurchased from
9 the board remaining marketable inventory in the wholesale
10 district of the brand authorized under its license which is
11 owned by the board at the board's purchase order cost and
12 paid applicable taxes due and an administrative fee
13 determined by the board. The wine and spirits wholesale
14 licensee shall coordinate, at its own cost, the removal of
15 remaining product owned by the board in the wholesale
16 district.

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 in a wholesale district, the board may not
30 engage in the sale of that brand of liquor in that wholesale

1 district.

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

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

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

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

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

24 (1) A wine and spirits wholesale licensee may not sell
25 liquor to a person, except a person specified in section
26 321.1-A(a)(1).

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

1 structure.

2 (3) Except for a wine and spirits wholesale licensee
3 that holds an importing distributor license under section
4 431, a wine and spirits wholesale licensee may not sell malt
5 or brewed beverages.

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

8 (i) Variable pricing.

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

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

13 (5) A wine and spirits wholesale licensee may only sell
14 and distribute liquor products in the wholesale district
15 approved by the board and that are subject to a contractual
16 relationship between the wine and spirits wholesale licensee
17 and one or more licensed manufacturers or importers of wine
18 and spirits.

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

21 (A) Acquire liquor exclusively from:

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

26 or

27 (II) an entity affiliated with the wine and
28 spirits wholesale licensee.

29 (B) Keep a detailed log of wholesale liquor
30 transactions, including acquisitions of liquor from

1 an entity listed under clause (A) and sales to
2 licensees under this act.

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

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

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

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

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

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

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

1 licensed to sell liquor for consumption on the premises under
2 Article IV.

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

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

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

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

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

1 violation of antitrust or other unfair trade practice
2 laws, or would create a monopolistic liquor distribution
3 system in this Commonwealth.

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

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

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

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

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

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

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

3 (2) may be subject to:

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

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

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

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

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

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

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

28 (3) 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 wholesale district approved and the
5 brand of liquor.

6 (4) A voluntary or involuntary termination and transfer
7 of the right to distribute in the wholesale district approved
8 and the brand of liquor shall comply with this section.

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

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

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

19 SUBARTICLE D

20 CLOSURE OF STATE LIQUOR STORES

21 AND ASSISTANCE FOR DISPLACED EMPLOYEES

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

23 (a) Process for closure.--

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

30 (2) The protocol required by paragraph (1) shall provide

1 that:

2 (i) At such time as there are twice as many retail
3 licensees in a county as, on the effective date of this
4 section, State liquor stores in that county, the board
5 shall, within six months, review the access of residents
6 to wine and liquor in the county. After conducting its
7 review, the board may determine to close one or more of
8 the State liquor stores in that county. The determination
9 of the board shall be submitted in writing to the
10 department and explain the rationale for specifically
11 closing or continuing to operate and maintain any
12 particular State liquor store in the county. The written
13 determination shall be published as a notice in the
14 Pennsylvania Bulletin and be posted on the board's
15 publicly accessible Internet website.

16 (ii) At such time as there are four times as many
17 retail licensees in a county as, on the effective date of
18 this section, State liquor stores in that county, the
19 board shall close all of the remaining State liquor
20 stores in that county within one year. The date for
21 closure of all of the remaining State liquor stores in a
22 county shall be published by the board as a notice in the
23 Pennsylvania Bulletin.

24 (iii) At such times as there are 50 remaining State
25 liquor stores, regardless of location in this
26 Commonwealth, the board shall close such State liquor
27 stores within one year.

28 (b) Disposition of liquor.--The board shall arrange for the
29 disposition of the liquor remaining in inventory at a designated
30 store. In order to effectuate this subsection, the board may, in

1 consultation with the department, do any of the following:

2 (1) Coordinate with the vendor of record for the
3 repurchase products by the vendor of record.

4 (2) Sell products to newly licensed wine and spirits
5 retail licensees.

6 (3) Transport products for sale at another operating
7 State liquor store.

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

16 (d) Pennsylvania Liquor Store leases.--The board shall
17 provide immediate notice to the lessor upon receipt of the
18 department's notice to close a designated Pennsylvania Liquor
19 Store.

20 (e) Hiring restrictions.--

21 (1) Notwithstanding any other provision of this act and
22 except as provided under subsection (f), the board may not
23 hire additional salaried or wage employees for the purpose of
24 staffing its retail operations, including its bureau of
25 marketing and retail operations, unless explicitly authorized
26 by the department.

27 (2) Paragraph (1) shall not prohibit the board from
28 hiring personnel, with approval from the department, to
29 adequately staff its Bureau of Supply Chain for the purpose
30 of transitioning its retail and wholesale operations to

1 licensees of this article.

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

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

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

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

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

18 Section 331.1-A. Licensee service centers.

19 (a) Adequacy.--The board shall work collaboratively with the
20 department and the retail divestiture strategy committee to
21 ensure that an adequate number of stores designated for sales to
22 licensees or licensee service center locations are maintained
23 during the retail and wholesale divestiture process so that
24 licensees are able to timely acquire products sold by the board.

25 (b) (Reserved).

26 Section 332-A. Transition assistance committee.

27 (a) Formation.--

28 (1) On the effective date of this section, the
29 department shall designate individuals to serve on a
30 committee for the purpose of managing the staffing transition

1 and displacement of employees during the divestiture process.

2 (2) The committee, which shall be chaired by a
3 representative from the department, shall involve the
4 participation of the Office of Administration, the Civil
5 Service Commission, the Department of Labor and Industry and
6 the board's bureau of human resources, to ensure a
7 coordinated approach to allocating personnel and assisting
8 displaced employees during the transition to find an
9 appropriate position.

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

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

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

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

24 (a) Civil service examinations.--

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

29 (i) The examination is for a paid position
30 administered under the act of August 5, 1941 (P.L.752,

1 No.286), known as the Civil Service Act, and in the
2 classified service existing under the commission's
3 jurisdiction.

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

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

11 (b) Certification.--The commission shall require the board
12 to certify a list of displaced employees under subsection (a).
13 Placement on the list by the board shall establish eligibility
14 for the preference granted under subsection (a).

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

22 (d) (Reserved).

23 (e) Eligibility.--

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

28 (i) The displaced employee's appointment or hiring
29 into a position in the classified service existing under
30 the commission's jurisdiction or into a paid State

1 position where no civil service examination is required.

2 (ii) Four years from the effective date of this
3 section.

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

11 Section 334-A. Career training and post-secondary education
12 grant eligibility.

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

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

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

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

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

28 Section 335-A. Reemployment tax credit.

29 (a) Eligibility.--

30 (1) A displaced employee shall be eligible for a two-

1 year reemployment tax credit voucher in the amount of \$1,000
2 per taxable year.

3 (2) The voucher under paragraph (1) shall be made
4 available to each displaced employee upon termination of
5 employment.

6 (3) Each voucher under paragraph (1) shall be certified
7 by the board before the voucher is provided to the displaced
8 employee.

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

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

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

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

23 (c) Voucher submittal.--The employer shall submit the tax
24 credit voucher to the Department of Revenue with the information
25 required under subsection (b)(1) and (2) to claim a tax credit
26 against the employer's liability for a tax identified under
27 subsection (d)(2).

28 (d) Amount of credit.--

29 (1) An employer may claim a reemployment tax credit for
30 each job filled by a displaced employee of \$1,000 per taxable

1 year for a maximum of two taxable years.

2 (2) An employer may apply the reemployment tax credit to
3 100% of the employer's:

4 (i) State corporate net income tax, capital stock
5 and franchise tax or the personal tax of a shareholder of
6 the company if the company is a Pennsylvania S
7 corporation.

8 (ii) Insurance premiums tax, gross receipts tax,
9 bank and trust company shares tax, mutual thrift
10 institutions tax or title insurance companies shares tax.

11 (iii) Any combination of the taxes under
12 subparagraphs (i) and (ii).

13 (3) A displaced employee whose subsequent employment is
14 terminated with an employer and who has utilized the
15 reemployment tax credit voucher to claim a one-year \$1,000
16 tax credit may transfer the voucher to a new employer who may
17 use the remaining \$1,000 tax credit as a claim against the
18 employer's tax liability for taxes identified under paragraph
19 (2).

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

23 Section 336-A. Protection of existing benefits.

24 (a) Contract benefits.--Nothing under this section shall be
25 deemed to affect:

26 (1) Pension benefits accrued prior to the date of
27 separation occurring as a sole and direct result of the
28 divestiture of the board's wholesale and retail operations
29 under this article.

30 (2) Payment of an accrued benefit derived from the terms

1 of a preexisting collective bargaining agreement payable upon
2 separation from employment.

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

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

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

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

18 SUBARTICLE E

19 MISCELLANEOUS PROVISIONS

20 Section 341-A. License renewals.

21 (a) Renewal.--

22 (1) Enhanced licenses issued under this article shall be
23 subject to renewal every two years, with validation.

24 (2) The application for renewal shall be submitted on a
25 form provided by the board at least 30 days prior to the
26 expiration of the enhanced license and shall include, at a
27 minimum, an update of the information contained in the
28 initial and prior renewal applications and the payment of any
29 renewal fee required under this article.

30 (3) An enhanced license for which a completed renewal

1 application and fee has been received by the board shall
2 continue to be valid until the board sends written
3 notification to the licensee that the board has denied the
4 renewal of the enhanced license.

5 (b) Fee.--

6 (1) A renewal fee of \$1,000 shall be due upon
7 application for the renewal or validation of an enhanced
8 license.

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

12 (3) The board may adjust the renewal fee to ensure that
13 the fee adequately recovers the costs associated with
14 investigating the renewal application.

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

20 (d) Revocation of operating authority.--

21 (1) The board may revoke the operating authority of an
22 enhanced license issued under this article if it finds that
23 the enhanced licensee or any of its affiliates, executive
24 officers, directors or general or limited partners or persons
25 holding a controlling interest in the licensee:

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

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

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

1 (2) If an enhanced license is revoked or not renewed,
2 the enhanced licensee's authorization to conduct business as
3 an enhanced licensee shall immediately cease until the board
4 notifies the enhanced licensee that the operating authority
5 has been reinstated.

6 (e) Affirmative duty.--Nothing under this section shall
7 relieve an enhanced licensee of the affirmative duty to notify
8 the board of changes relating to the status of its enhanced
9 license or to other information contained in the application
10 materials filed with the board.

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

12 (a) Authority of enforcement bureau.--The enforcement bureau
13 shall have the authority to issue a citation against an enhanced
14 licensee in the same manner as under section 471. The bureau may
15 issue a citation to the licensee based on the following conduct:

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

17 (i) A provision of this act.

18 (ii) The regulations of the board.

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

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

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

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

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

30 (5) The enhanced licensee failed to remit taxes as

1 required.

2 (b) Administrative Law Judge.--Enforcement matters shall be
3 heard by an administrative judge in the same manner as under
4 section 471. The administrative law judge may issue a fine and
5 either suspend or revoke the enhanced license. Appeals may be
6 taken in the same manner as under section 471.

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

9 (1) The enhanced license applicable to that premises has
10 been suspended or revoked or has expired.

11 (2) The operating authority for the enhanced license has
12 been revoked.

13 (d) Public sale.--If an enhanced license is revoked,
14 forfeited or surrendered under this article, the board shall
15 resell the enhanced license, consistent with this article.
16 Section 343-A. Sale, assignment or transfer of license.

17 (a) Prohibition.--No person may sell, assign or transfer
18 their interest in an enhanced license granted under this article
19 to another person until the board has received, investigated and
20 approved a transfer application. If the license is an enhanced
21 license, the enhanced licensee must have been in continuous
22 operation for at least one year prior to the date of the
23 application to transfer the enhanced license.

24 (b) Compliance.--Any person to whom an enhanced license is
25 transferred must comply with this article prior to the transfer
26 of the enhanced license.

27 (c) Transfer fee.--

28 (1) The transfer of an enhanced license shall be subject
29 to a transfer fee equal to 1% of the enhanced license fee
30 paid for the enhanced license and shall be paid as a

1 condition of the transfer of the enhanced license.

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

5 (3) An enhanced retail license may not be transferred to
6 another location outside the county in which it was initially
7 issued.

8 (d) Change of control.--For the purposes of this section, a
9 change of control of a wine and spirits wholesale or enhanced
10 licensee shall be deemed to be a sale, assignment or transfer of
11 a wine and spirits wholesale or enhanced license. A wine and
12 spirits wholesale or enhanced licensee must notify the board
13 immediately upon becoming aware of a proposed or contemplated
14 change of control.

15 Section 344-A. The State Stores Fund.

16 All fees, assessments, bid amounts or other charges paid by
17 license applicants or licensees shall be paid or transferred
18 into a restricted account in The State Stores Fund. Any fines
19 collected by the administrative law judge from the licensees
20 shall be remitted to the enforcement bureau for continued
21 enforcement efforts.

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

23 (a) Wine and spirits wholesale license fee.--The entire wine
24 and spirits wholesale license fee paid by a wine and spirits
25 wholesale licensee under section 324-A(d)(1) shall be returned
26 if this article is amended or otherwise altered by an act of the
27 General Assembly within five years of the effective date of this
28 section to change provisions relating to the loss of rights to
29 wholesale brands of liquors under section 326-A.

30 (b) Enhanced licensee fee.--The entire enhanced license fee

1 paid by an enhanced licensee shall be returned if this article
2 is amended or otherwise altered by an act of the General
3 Assembly within five years of the effective date of this
4 section.

5 Section 10. Section 401 of the act, amended December 22,
6 2011 (P.L.530, No.113), is amended to read:

7 Section 401. Authority to Issue Liquor Licenses to Hotels,
8 Restaurants and Clubs.--(a) Subject to the provisions of this
9 act and regulations promulgated under this act, the board shall
10 have authority to issue a retail liquor license for any premises
11 kept or operated by a hotel, restaurant or club and specified in
12 the license entitling the hotel, restaurant or club to purchase
13 liquor from a Pennsylvania Liquor Store or a wine and spirits
14 wholesale licensee and to keep on the premises such liquor and,
15 subject to the provisions of this act and the regulations made
16 thereunder, to sell the same and also malt or brewed beverages
17 to guests, patrons or members for consumption on the hotel,
18 restaurant or club premises. Such licensees, other than clubs,
19 shall be permitted to sell malt or brewed beverages for
20 consumption off the premises where sold in quantities of not
21 more than one hundred ninety-two fluid ounces in a single sale
22 to one person as provided for in section 407; except that the
23 licensees acquiring a thirty-pack permit issued by the board may
24 sell to a person a single package prepared for sale or
25 distribution of not more than thirty original containers and
26 totaling not less than three hundred sixty fluid ounces of malt
27 or brewed beverages. Such licenses shall be known as hotel
28 liquor licenses, restaurant liquor licenses and club liquor
29 licenses, respectively. No person who holds any public office
30 that involves the duty to enforce any of the penal laws of the

1 United States, this Commonwealth or of any political subdivision
2 of this Commonwealth may have any interest in a hotel or
3 restaurant liquor license. This prohibition applies to anyone
4 with arrest authority, including, but not limited to, United
5 States attorneys, State attorneys general, district attorneys,
6 sheriffs and police officers. This prohibition shall also apply
7 to magisterial district judges, judges or any other individuals
8 who can impose a criminal sentence. This prohibition does not
9 apply to members of the General Assembly, township supervisors,
10 city councilpersons, mayors without arrest authority and any
11 other public official who does not have the ability to arrest or
12 the ability to impose a criminal sentence. This section does not
13 apply if the proposed premises are located outside the
14 jurisdiction of the individual in question.

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

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

24 Section 404. Issuance, Transfer or Extension of Hotel,
25 Restaurant and Club Liquor Licenses.--Upon receipt of the
26 application and the proper fees, and upon being satisfied of the
27 truth of the statements in the application that the applicant is
28 the only person in any manner pecuniarily interested in the
29 business so asked to be licensed and that no other person will
30 be in any manner pecuniarily interested therein during the

1 continuance of the license, except as hereinafter permitted, and
2 that the applicant is a person of good repute, that the premises
3 applied for meet all the requirements of this act and the
4 regulations of the board, that the applicant seeks a license for
5 a hotel, restaurant or club, as defined in this act, and that
6 the issuance of such license is not prohibited by any of the
7 provisions of this act, the board shall, in the case of a hotel
8 or restaurant, grant and issue to the applicant a liquor
9 license, and in the case of a club may, in its discretion, issue
10 or refuse a license: Provided, however, That in the case of any
11 new license or the transfer of any license to a new location or
12 the extension of an existing license to cover an additional area
13 the board may, in its discretion, grant or refuse such new
14 license, transfer or extension if such place proposed to be
15 licensed is within three hundred feet of any church, hospital,
16 charitable institution, school, or public playground, or if such
17 new license, transfer or extension is applied for a place which
18 is within two hundred feet of any other premises which is
19 licensed by the board: And provided further, That the board's
20 authority to refuse to grant a license because of its proximity
21 to a church, hospital, charitable institution, public playground
22 or other licensed premises shall not be applicable to license
23 applications submitted for public venues or performing arts
24 facilities: And provided further, That the board shall refuse
25 any application for a new license, the transfer of any license
26 to a new location or the extension of an existing license to
27 cover an additional area if, in the board's opinion, such new
28 license, transfer or extension would be detrimental to the
29 welfare, health, peace and morals of the inhabitants of the
30 neighborhood within a radius of five hundred feet of the place

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

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

10 Section 12. Section 405(c) of the act, amended April 29,
11 1994 (P.L.212, No.30), is amended to read:

12 Section 405. License Fees.--* * *

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

20 * * *

21 Section 13. Section 407 of the act, amended November 29,
22 2006 (P.L.1421, No.155) and June 28, 2011 (P.L.55, No.11), is
23 amended to read:

24 Section 407. Sale of Malt or Brewed Beverages by Liquor
25 Licensees.--(a) Every liquor license issued to a hotel,
26 restaurant, club, or a railroad, pullman or steamship company
27 under this subdivision (A) for the sale of liquor shall
28 authorize the licensee to sell malt or brewed beverages at the
29 same places but subject to the same restrictions and penalties
30 as apply to sales of liquor, except that licensees other than

1 clubs may sell malt or brewed beverages for consumption off the
2 premises where sold in quantities of not more than one hundred
3 ninety-two fluid ounces in a single sale to one person, however,
4 the licensees acquiring a thirty-pack permit issued by the board
5 may sell to a person a single package prepared for sale or
6 distribution of not more than thirty original containers and
7 totaling not less than three hundred sixty fluid ounces of malt
8 or brewed beverages. The sales may be made in either open or
9 closed containers, Provided, however, That a municipality may
10 adopt an ordinance restricting open containers in public places.
11 No licensee under this subdivision (A) shall at the same time be
12 the holder of any other class of license, except a retail
13 dispenser's license authorizing the sale of malt or brewed
14 beverages only.

15 (b) (1) Notwithstanding any other provision of law or any
16 existing permit authorizing the sale of malt or brewed beverages
17 for consumption off the premises, a restaurant licensee located
18 in a city of the first class who is otherwise permitted to sell
19 malt or brewed beverages for consumption off the premises may
20 not do so after October 31, 2007, unless it acquires a permit
21 from the board.

22 (2) The application for a permit to sell malt or brewed
23 beverages for consumption off the premises shall be on forms
24 designated by the board and contain such information as the
25 board may require. The application and renewal fee shall be as
26 prescribed in section 614-A(27) of the act of April 9, 1929
27 (P.L.177, No.175), known as "The Administrative Code of 1929."
28 However, no applicant who currently has a permit shall be
29 required to pay any additional fees under section 614-A(27) of
30 "The Administrative Code of 1929" in order to continue selling

1 malt or brewed beverages for consumption off the premises at its
2 currently licensed location for the licensing term beginning
3 November 1, 2007, and ending October 31, 2008.

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

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

29 (5) Upon being satisfied that the applicant has fulfilled
30 all the requirements of this act and the board's regulations,

1 the board shall approve the application. Such permits shall
2 expire upon the transfer of the license to a new entity or to a
3 new location, or both; otherwise, such permits shall expire at
4 the same time as the expiration of the underlying license.

5 Section 14. Section 408.12(g) and (h) of the act, added July
6 1, 1994 (P.L.402, No.61), are amended to read:

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

8 (g) Any wine sold under this section shall be purchased from
9 a Pennsylvania Liquor Store, an enhanced licensee, a
10 Pennsylvania limited winery or any seller authorized to sell
11 wine by the bottle or case in this Commonwealth or shall be
12 donated by a person who is neither a licensee nor a permittee
13 who has legally acquired the wine and legally possesses it in
14 this Commonwealth.

15 (h) If any wine sold under this section is purchased from a
16 seller other than a Pennsylvania Liquor Store, an enhanced
17 licensee or [a] Pennsylvania limited winery, the permittee shall
18 provide thirty days' notice to the board of its intent to
19 purchase such wine. The notice shall include a description of
20 the wine to be purchased, the quantity to be purchased, the name
21 of the seller and any other information which the board may
22 require. The permittee shall comply with all board regulations
23 regarding taxes and fees.

24 * * *

25 Section 15. Section 410(e) of the act is amended to read:

26 Section 410. Liquor Importers' Licenses; Fees; Privileges;
27 Restrictions.--* * *

28 (e) Importers' licenses shall permit the holders thereof to
29 bring or import liquor from other states, foreign countries, or
30 insular possessions of the United States, and purchase liquor

1 from manufacturers located within this Commonwealth, to be sold
2 outside of this Commonwealth or to Pennsylvania Liquor Stores or
3 wine and spirits wholesale licensees within this Commonwealth,
4 or when in original containers of ten gallons or greater
5 capacity, to licensed manufacturers within this Commonwealth.

6 All importations of liquor into Pennsylvania by the licensed
7 importer shall be consigned to the board or the principal place
8 of business or authorized place of storage maintained by the
9 licensee or a wine and spirits wholesale licensee.

10 * * *

11 Section 16. Section 431(b) of the act, amended December 8,
12 2004 (P.L.1810, No.239), is amended to read:

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

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

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

1 applicant unless the board enters into a new agreement
2 rescinding those restrictions. The board shall require notice to
3 be posted on the property or premises upon which the licensee or
4 proposed licensee will engage in sales of malt or brewed
5 beverages. This notice shall be similar to the notice required
6 of hotel, restaurant and club liquor licensees.

7 Except as hereinafter provided, such license shall authorize
8 the holder thereof to sell or deliver malt or brewed beverages
9 in quantities above specified anywhere within the Commonwealth
10 of Pennsylvania, which, in the case of distributors, have been
11 purchased only from persons licensed under this act as
12 manufacturers or importing distributors, and in the case of
13 importing distributors, have been purchased from manufacturers
14 or persons outside this Commonwealth engaged in the legal sale
15 of malt or brewed beverages or from manufacturers or importing
16 distributors licensed under this article. If the holder of a
17 distributor license applies for and receives an enhanced
18 distributor license, issued pursuant to this act, that
19 distributor shall be authorized to sell wine on the same
20 premises where malt or brewed beverages are sold, and shall be
21 authorized to sell malt or brewed beverages in quantities
22 enumerated in this act. In the case of an importing distributor,
23 the holder of such a license shall be authorized to store and
24 repackage malt or brewed beverages owned by a manufacturer at a
25 segregated portion of a warehouse or other storage facility
26 authorized by section 441(d) and operated by the importing
27 distributor within its appointed territory and deliver such
28 beverages to another importing distributor who has been granted
29 distribution rights by the manufacturer as provided herein. The
30 importing distributor shall be permitted to receive a fee from

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

19 Each out of State manufacturer of malt or brewed beverages
20 whose products are sold and delivered in this Commonwealth shall
21 give distributing rights for such products in designated
22 geographical areas to specific importing distributors, and such
23 importing distributor shall not sell or deliver malt or brewed
24 beverages manufactured by the out of State manufacturer to any
25 person issued a license under the provisions of this act whose
26 licensed premises are not located within the geographical area
27 for which he has been given distributing rights by such
28 manufacturer. Should a licensee accept the delivery of such malt
29 or brewed beverages in violation of this section, said licensee
30 shall be subject to a suspension of his license for at least

1 thirty days: Provided, That the importing distributor holding
2 such distributing rights for such product shall not sell or
3 deliver the same to another importing distributor without first
4 having entered into a written agreement with the said secondary
5 importing distributor setting forth the terms and conditions
6 under which such products are to be resold within the territory
7 granted to the primary importing distributor by the
8 manufacturer.

9 When a Pennsylvania manufacturer of malt or brewed beverages
10 licensed under this article names or constitutes a distributor
11 or importing distributor as the primary or original supplier of
12 his product, he shall also designate the specific geographical
13 area for which the said distributor or importing distributor is
14 given distributing rights, and such distributor or importing
15 distributor shall not sell or deliver the products of such
16 manufacturer to any person issued a license under the provisions
17 of this act whose licensed premises are not located within the
18 geographical area for which distributing rights have been given
19 to the distributor and importing distributor by the said
20 manufacturer: Provided, That the importing distributor holding
21 such distributing rights for such product shall not sell or
22 deliver the same to another importing distributor without first
23 having entered into a written agreement with the said secondary
24 importing distributor setting forth the terms and conditions
25 under which such products are to be resold within the territory
26 granted to the primary importing distributor by the
27 manufacturer. Nothing herein contained shall be construed to
28 prevent any manufacturer from authorizing the importing
29 distributor holding the distributing rights for a designated
30 geographical area from selling the products of such manufacturer

1 to another importing distributor also holding distributing
2 rights from the same manufacturer for another geographical area,
3 providing such authority be contained in writing and a copy
4 thereof be given to each of the importing distributors so
5 affected.

6 * * *

7 Section 17. Section 432(d) of the act, amended January 6,
8 2006 (P.L.1, No.1), is amended to read:

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

10 *

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

1 471 and for the nonrenewal of the license under section 470. If
2 the board enters into an agreement with an applicant concerning
3 additional restrictions, those restrictions shall be binding on
4 subsequent holders of the license until the license is
5 transferred to a new location or until the board enters into a
6 subsequent agreement removing those restrictions. If the
7 application in question involves a location previously licensed
8 by the board, then any restrictions imposed by the board on the
9 previous license at that location shall be binding on the
10 applicant unless the board enters into a new agreement
11 rescinding those restrictions[. The board shall refuse any
12 application for a new license, the transfer of any license to a
13 location where the sale of liquid fuels or oil is conducted or
14 the extension of an existing license to cover an additional
15 area]: And provided further, That the board shall have the
16 discretion to refuse a license to any person or to any
17 corporation, partnership or association if such person, or any
18 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 may, in its discretion, refuse an application
23 for an economic development license under section 461(b.1) or an
24 application for an intermunicipal transfer or a license if the
25 board receives a protest from the governing body of the
26 receiving municipality. The receiving municipality of an
27 intermunicipal transfer or an economic development license under
28 section 461(b.1) may file a protest against the approval for
29 issuance of a license for economic development or an
30 intermunicipal transfer of a license into its municipality, and

1 such municipality shall have standing in a hearing to present
2 testimony in support of or against the issuance or transfer of a
3 license. Upon any opening in any quota, an application for a new
4 license shall only be filed with the board for a period of six
5 months following said opening.

6 * * *

7 Section 18. Sections 436(e) and 437(e) of the act are
8 amended to read:

9 Section 436. Application for Distributors', Importing
10 Distributors' and Retail Dispensers' Licenses.--* * *

11 (e) That the applicant is not, or in case of a partnership
12 or association, that the members or partners are not, and in the
13 case of a corporation, that the officers and directors are not,
14 in any manner pecuniarily interested, either directly or
15 indirectly, in the profits of any other class of business
16 regulated under this article, except as hereinafter permitted.
17 The requirements of this section shall not prohibit a
18 distributor from holding an enhanced distributor license, or an
19 importing distributor from holding a wine and spirits wholesale
20 license, under the conditions provided under Article III-A.

21 * * *

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

23 * *

24 (e) No distributor's or importing distributor's license
25 shall be issued for any premises in any part of which there is
26 operated any retail license for the sale of liquor or malt or
27 brewed beverages. The requirements of this section shall not
28 prohibit a distributor from holding an enhanced distributor
29 license or an importing distributor from holding a wine and
30 spirits wholesale license, under the conditions provided under

1 Article III-A.

2 * * *

3 Section 19. Section 438 of the act, amended June 25, 2010
4 (P.L.217, No.35), is amended to read:

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

10 (b) No person shall possess or be issued [more than one
11 distributor's or importing distributor's license.] more than
12 sixty distributor licenses, nor shall any person possess or be
13 issued:

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

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

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

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

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

9 Section 20. Section 441 of the act, amended or added May 31,
10 1996 (P.L.312, No.49), December 20, 1996 (P.L.1513, No.196),
11 June 18, 1998 (P.L.664, No.86), December 9, 2002 (P.L.1653,
12 No.212), June 28, 2011 (P.L.55, No.11) and December 22, 2011
13 (P.L.530, No.113), is amended to read:

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

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

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

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

23 (b) No distributor or importing distributor, except for a
24 distributor that also holds an enhanced distributor license,

25 shall sell any malt or brewed beverages in quantities of less
26 than a case or original containers containing one hundred
27 twenty-eight ounces or more which may be sold separately:

28 Provided, That no malt or brewed beverages sold or delivered

29 shall be consumed upon the premises of the distributor or

30 importing distributor, or in any place provided for such purpose

1 by such distributor or importing distributor. Notwithstanding
2 any other provision of this section or act, malt or brewed
3 beverages which are part of a tasting conducted pursuant to the
4 board's regulations may be consumed on licensed premises.

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

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

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

29 (e) No distributor or importing distributor shall purchase,
30 sell, resell, receive or deliver any malt or brewed beverages,

1 except in strict compliance with the provisions of subsection
2 (b) of section 431 of this act.

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

8 (2) Repackaging is permissible only to the extent made
9 necessary by inadvertent damage. Repackaging not consequent to
10 damage is prohibited.

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

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

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

28 (i) Notwithstanding any other provision to the contrary,
29 when making a sale of malt or brewed beverages to a private
30 individual, no distributor or importing distributor may be

1 required to collect the name, address or any other identifying
2 information of the private individual for the purpose of keeping
3 a record of the quantity of cases or volume of malt or brewed
4 beverages purchased.

5 (j) No distributor shall engage in the sale of wine and
6 spirits without first obtaining an enhanced distributor license.
7 Sales of wine may only be made on premises licensed for the sale
8 of malt or brewed beverages.

9 Section 21. Section 443(b) of the act, amended May 31, 1996
10 (P.L.312, No.49), is amended to read:

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

12 (b) No distributor or importing distributor and no officer
13 or director of any distributor or importing distributor shall at
14 the same time be a manufacturer, a retail dispenser or a liquor
15 licensee, or be an officer, director, stockholder or creditor of
16 a manufacturer, a retail dispenser or a liquor licensee, or,
17 directly or indirectly, own any stock of, or have any financial
18 interest in, or be the owner, proprietor or lessor of, any place
19 covered by any other malt or brewed beverage or liquor license.

20 The requirements of this section or any other provision of law,
21 shall not prohibit the holder of a restaurant liquor or
22 distributor license from holding an enhanced license or an
23 importing distributor from also holding a wine and spirits
24 wholesale license issued pursuant to Article III-A.

25 * * *

26 Section 22. Section 464 of the act, amended December 9, 2002
27 (P.L.1653, No.212), is amended to read:

28 Section 464. Hearings Upon Refusal of Licenses, Renewals or
29 Transfers; Appeals.--The board may of its own motion, and shall
30 upon the written request of any applicant for club, hotel or

1 restaurant liquor license, or any applicant for any malt or
2 brewed beverage license other than a public service license, or
3 for renewal or transfer thereof, or for the renewal of an
4 amusement permit, whose application for such license, renewal or
5 transfer, or the renewal of an amusement permit, has been
6 refused, fix a time and place for hearing of such application
7 for license or for renewal or transfer thereof, or the renewal
8 of an amusement permit, notice of which hearing shall be mailed
9 to the applicant at the address given in his application. Such
10 hearing shall be before a hearing examiner designated by the
11 board. At such hearing, the board shall present its reasons for
12 its refusal or withholding of license, renewal or transfer
13 thereof, or its refusal for renewal of an amusement permit. The
14 applicant may appear in person or by counsel, may cross-examine
15 the witnesses for the board and may present evidence which shall
16 likewise be subject to cross-examination by the board. Such
17 hearing shall be stenographically recorded. The hearing examiner
18 shall thereafter report, with the examiner's recommendation, to
19 the board in each case. The board shall thereupon grant or
20 refuse the license, renewal or transfer thereof or the renewal
21 of an amusement permit. In considering the renewal of a license
22 or amusement permit, the board shall not refuse any such renewal
23 on the basis of the propriety of the original issuance or any
24 prior renewal of such license or amusement permit. If the board
25 shall refuse such license, renewal or transfer or the renewal of
26 an amusement permit, following such hearing, notice in writing
27 of such refusal shall be mailed to the applicant at the address
28 given in his application. In all such cases, the board shall
29 file of record at least a brief statement in the form of an
30 opinion of the reasons for the ruling or order and furnish a

1 copy thereof to the applicant. Any applicant who has appeared at
2 any hearing, as above provided, who is aggrieved by the refusal
3 of the board to issue any such license or to renew or transfer
4 any such license or to issue or renew any amusement permit may
5 appeal, or any church, hospital, charitable institution, school
6 or public playground located within three hundred feet of the
7 premises applied for, aggrieved by the action of the board in
8 granting the issuance of any such license or the transfer of any
9 such license, may take an appeal limited to the question of such
10 grievance, within twenty days from date of refusal or grant, to
11 the court of common pleas of the county in which the premises or
12 permit applied for is located. If the application is for an
13 economic development license under section 461(b.1) or the
14 intermunicipal transfer of a license, the governing body of the
15 municipality receiving the new license or the transferred
16 license may file an appeal of the board decision granting the
17 license, within twenty days of the date of the board's decision,
18 to the court of common pleas of the county in which the proposed
19 premises is located. Such appeal shall be upon petition of the
20 aggrieved party, who shall serve a copy thereof upon the board,
21 whereupon a hearing shall be held upon the petition by the court
22 upon ten days' notice to the board. The said appeal shall,
23 except in cases involving the renewal of a license, act as a
24 supersedeas unless upon sufficient cause shown the court shall
25 determine otherwise. In cases involving the renewal of a
26 license, the court shall grant a supersedeas only upon
27 application and after a finding that the licensee will likely
28 prevail on the merits of the appeal. The court shall [hear the
29 application de novo on questions of fact, administrative
30 discretion and such other matters as are involved, at such time

1 as it shall fix, of which notice shall be given to the board.
2 The court shall either sustain or over-rule the action of the
3 board and either order or deny the issuance of a new license or
4 the renewal or transfer of the license or the renewal of an
5 amusement permit to the applicant] affirm the board unless the
6 board's decision is an error of law, an abuse of discretion or
7 is not supported by substantial evidence.

8 Section 23. Section 470(a) of the act, amended December 22,
9 2011 (P.L.530, No.113), is amended and the section is amended by
10 adding subsections to read:

11 Section 470. Renewal of Licenses; Temporary Provisions for
12 Licensees in Armed Service.--(a) All applications for renewal
13 or validation of licenses under the provisions of this article
14 shall be filed with tax clearance from the Department of Revenue
15 and the Department of Labor and Industry and requisite license
16 and filing fees, including an application surcharge of seven
17 hundred dollars (\$700), at least sixty days before the
18 expiration date of same: Provided, however, That, a licensee
19 that applies for a thirty-pack permit shall pay, with its
20 renewal or validation application, an application surcharge of
21 five thousand dollars (\$5,000): And provided further, That the
22 board, in its discretion, may accept nunc pro tunc a renewal
23 application filed less than sixty days before the expiration
24 date of the license with the required fees, upon reasonable
25 cause shown and the payment of an additional filing fee of one
26 hundred dollars (\$100.00) for late filing: And provided further,
27 That except where the failure to file a renewal application on
28 or before the expiration date has created a license quota
29 vacancy after said expiration date which has been filled by the
30 issuance of a new license, after such expiration date, but

1 before the board has received a renewal application nunc pro
2 tunc within the time prescribed herein the board, in its
3 discretion, may, after hearing, accept a renewal application
4 filed within two years after the expiration date of the license
5 with the required fees upon the payment of an additional filing
6 fee of two hundred fifty dollars (\$250.00) for late filing.
7 Where any such renewal application is filed less than sixty days
8 before the expiration date, or subsequent to the expiration
9 date, no license shall issue upon the filing of the renewal
10 application until the matter is finally determined by the board
11 and if an appeal is taken from the board's action the courts
12 shall not order the issuance of the renewal license until final
13 determination of the matter by the courts. The board may enter
14 into an agreement with the applicant concerning additional
15 restrictions on the license in question. If the board and the
16 applicant enter into such an agreement, such agreement shall be
17 binding on the applicant. Failure by the applicant to adhere to
18 the agreement will be sufficient cause to form the basis for a
19 citation under section 471 and for the nonrenewal of the license
20 under this section. A renewal application will not be considered
21 filed unless accompanied by the requisite filing and license
22 fees and any additional filing fee required by this section.
23 Unless the board shall have given ten days' previous notice to
24 the applicant of objections to the renewal of his license, based
25 upon violation by the licensee or his servants, agents or
26 employes of any of the laws of the Commonwealth or regulations
27 of the board relating to the manufacture, transportation, use,
28 storage, importation, possession or sale of liquors, alcohol or
29 malt or brewed beverages, or the conduct of a licensed
30 establishment, or unless the applicant has by his own act become

1 a person of ill repute, or unless the premises do not meet the
2 requirements of this act or the regulations of the board, the
3 license of a licensee shall be renewed. Notwithstanding any
4 other provision of this act, a noise violation shall not be the
5 sole basis for objection by the board to the renewal of a
6 license unless the licensee has received six prior adjudicated
7 noise citations within a twenty-four-month period.

8 * * *

9 (d) If the renewal of the license is objected to because of
10 the reputation of the applicant or its shareholders, directors,
11 officers, association members, servants, agents or employes or
12 under subsection (a.1), the Director of the Bureau of Licensing
13 may, in the director's discretion, grant the applicant temporary
14 operating authority under certain terms the director deems
15 appropriate. The operating authority shall not exceed one
16 hundred twenty (120) calendar days.

17 (e) If the renewal of the license is objected to because of
18 the reputation of the applicant or its shareholders, directors,
19 officers, association members, servants, agents or employes or
20 under subsection (a.1), the board shall render a decision on the
21 application within one hundred twenty (120) calendar days.

22 Section 24. Section 471(b) and (e) of the act, amended or
23 added July 6, 2005 (P.L.135, No.39) and April 13, 2006 (P.L.78,
24 No.26), are amended and the section is amended by adding a
25 subsection to read:

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

27 * * *

28 (b) Hearing on such citations shall be held in the same
29 manner as provided herein for hearings on applications for
30 license. Upon such hearing, if satisfied that any such violation

1 has occurred or for other sufficient cause, the administrative
2 law judge shall immediately suspend or revoke the license, or
3 impose a fine of not less than [fifty dollars (\$50)] two hundred
4 fifty dollars (\$250) nor more than [one thousand dollars
5 (\$1,000)] five thousand dollars (\$5,000), or both, notifying the
6 licensee by registered letter addressed to his licensed
7 premises. If the licensee has been cited and found to have
8 violated section 493(1) insofar as it relates to sales to minors
9 or sales to a visibly intoxicated person, section 493(10)
10 insofar as it relates to lewd, immoral or improper entertainment
11 or section 493(14), (16) or (21), or has been found to be a
12 public nuisance pursuant to section 611, or if the owner or
13 operator of the licensed premises or any authorized agent of the
14 owner or operator has been convicted of any violation of the act
15 of April 14, 1972 (P.L.233, No.64), known as "The Controlled
16 Substance, Drug, Device and Cosmetic Act," or of 18 Pa.C.S. §
17 5902 (relating to prostitution and related offenses) or 6301
18 (relating to corruption of minors), at or relating to the
19 licensed premises, the administrative law judge shall
20 immediately suspend or revoke the license, or impose a fine of
21 not less than [one thousand dollars (\$1,000)] five thousand
22 dollars (\$5,000) nor more than [five thousand dollars (\$5,000)]
23 ten thousand dollars (\$10,000), or both. However, if a licensee
24 has been cited and found to have violated section 493(1) as it
25 relates to sales to minors or sales to a visibly intoxicated
26 person but at the time of the sale the licensee was in
27 compliance with the requirements set forth in section 471.1 and
28 the licensee had not sold to minors or visibly intoxicated
29 persons in the previous four years, then the administrative law
30 judge shall immediately suspend or revoke the license, or impose

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

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

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

19 * * *

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

1 Pennsylvania Gaming Control Board for the use of their premises.
2 Further, the administrative law judge may, in such instances,
3 require the licensee to comply with the requirements set forth
4 in section 471.1 pertaining to responsible alcohol management.
5 Such compliance may be required for a period of up to one year.
6 Failure to adhere with such an order is sufficient cause for the
7 issuance of a citation under subsection (a).

8 * * *

9 (g) All fines and proceeds derived from the conversion of a
10 suspension to a fine received by the administrative law judge
11 shall be remitted to the enforcement bureau for continued
12 enforcement efforts.

13 Section 25. Sections 472(a) and 488 of the act, amended or
14 added February 21, 2002 (P.L.103, No.10), are amended to read:

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

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

1 preceding general election shall file a petition with the county
2 board of elections of the county for a referendum on the
3 question of granting any of said classes of licenses [or the
4 establishment of Pennsylvania liquor stores], the said county
5 board of elections shall cause a question to be placed on the
6 ballots or on the voting machine board and submitted at the
7 primary immediately preceding the municipal election. Separate
8 petitions must be filed for each question to be voted on. Said
9 proceedings shall be in the manner and subject to the provisions
10 of the election laws which relate to the signing, filing and
11 adjudication of nomination petitions, insofar as such provisions
12 are applicable.

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

15 Do you favor the granting of liquor licenses for the
16 sale of liquor in..... Yes
17 of.....? No

18 When the question is in respect to the granting of liquor
19 licenses to resort facilities in those municipalities that do
20 not already allow the retail sale of liquor, it shall be in the
21 following form:

22 Do you favor the granting of liquor licenses to resort
23 facilities for the sale of liquor in the..... Yes
24 of.....? No

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

29 Do you favor the granting of liquor licenses to public Yes
30 venues for the sale of liquor in the..... No

1 of.....?

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

6 Do you favor the granting of liquor licenses to
7 performing arts facilities for the sale of liquor in
8 the..... Yes
9 of.....? No

10 When the question is in respect to the granting of liquor
11 licenses for hotels located on property owned by an accredited
12 college or university in those municipalities that do not
13 already allow the granting of liquor licenses, it shall be in
14 the following form:

15 Do you favor the granting of liquor licenses to hotels
16 on property owned by an accredited college or university
17 in the..... Yes
18 of.....? No

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

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

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

29 Do you favor the granting of liquor licenses for Yes
30 privately-owned public golf courses for the sale of No

1 liquor in.....by.....
2 of.....?

3 When the question is in respect to the granting of liquor
4 licenses to continuing care retirement communities in those
5 municipalities that have not already approved the granting of
6 liquor licenses, it shall be in the following form:

7 Do you favor the granting of liquor licenses for
8 continuing care retirement communities
9 in.....by..... Yes
10 of.....? No

11 When the question is in respect to the granting of licenses
12 to retail dispensers of malt and brewed beverages, it shall be
13 in the following form:

14 Do you favor the granting of malt and brewed beverage
15 retail dispenser licenses for consumption on premises
16 where sold in the..... Yes
17 of.....? No

18 When the question is in respect to the granting of licenses
19 to wholesale distributors of malt or brewed beverages and
20 importing distributors, it shall be in the following form:

21 Do you favor the granting of malt and brewed beverage
22 wholesale distributor's and importing distributor's
23 licenses not for consumption on premises where sold in
24 the..... Yes
25 of.....? No

26 When the question is in respect to the granting of club
27 liquor licenses to incorporated units of national veterans'
28 organizations, it shall be in the following form:

29 Do you favor the granting of club liquor licenses to Yes
30 incorporated units of national veterans' organizations No

1 in the.....
2 of.....?

3 When the question is in respect to the granting of club
4 retail dispenser licenses to incorporated units of national
5 veterans' organizations, it shall be in the following form:

6 Do you favor the granting of club retail dispenser
7 licenses to incorporated units of national veterans'
8 organizations in the..... Yes
9 of.....? No

10 When the question is in respect to the granting of special
11 occasion permits allowing the sale of liquor by qualified
12 organizations in municipalities that do not already allow the
13 retail sale of liquor, it shall be in the following form:

14 Do you favor the granting of special occasion permits to
15 allow the sale of liquor by qualified organizations in
16 the..... Yes
17 of.....? No

18 When the question is in respect to the granting of special
19 occasion permits allowing the sale of malt or brewed beverages
20 only by qualified organizations in municipalities that do not
21 already allow the retail sale of malt or brewed beverages, it
22 shall be in the following form:

23 Do you favor the granting of special occasion permits to
24 allow the sale of malt or brewed beverages only by
25 qualified organizations in the..... Yes
26 of.....? No

27 When the question is in respect to the [establishment,
28 operation and maintenance of Pennsylvania liquor stores]
29 granting of enhanced restaurant liquor or enhanced distributor
30 licenses for the sale of liquor for consumption off the

1 premises, it shall be in the following form:

2 Do you favor the [establishment, operation and
3 maintenance of Pennsylvania liquor stores] granting of
4 enhanced restaurant liquor or enhanced distributor
5 licenses for the sale of liquor for consumption off the
6 premises in the..... Yes
7 of.....? No

8 In case of a tie vote, the status quo shall obtain. If a
9 majority of the voting electors on any such question vote "yes,"
10 then liquor licenses shall be granted by the board to hotels,
11 restaurants, resort facilities and clubs, or liquor licenses
12 shall be granted by the board to public venues, to performing
13 arts facilities, to continuing care retirement communities, to
14 hotels located on property owned by an accredited college or
15 university, to privately-owned private golf courses or to
16 privately-owned public golf courses, or malt and brewed beverage
17 retail dispenser licenses or wholesale distributor's and
18 importing distributor's license for the sale of malt or brewed
19 beverages shall be granted by the board, or club liquor licenses
20 or club retail dispenser licenses shall be granted by the board
21 to incorporated units of national veterans' organizations, or
22 special occasion permits may be issued to qualified
23 organizations, or [the board may establish, operate and maintain
24 Pennsylvania liquor stores] enhanced licensees, as the case may
25 be, in such municipality or part of a split municipality, as
26 provided by this act; but if a majority of the electors voting
27 on any such question vote "no," then the board shall have no
28 power to grant or to renew upon their expiration any licenses of
29 the class so voted upon in such municipality or part of a split
30 municipality[; or if the negative vote is on the question in

1 respect to the establishment, operation and maintenance of
2 Pennsylvania liquor stores, the board shall not open and operate
3 a Pennsylvania liquor store in such municipality or part of a
4 split municipality, nor continue to operate a then existing
5 Pennsylvania liquor store in the municipality or part of a split
6 municipality for more than two years thereafter or after the
7 expiration of the term of the lease on the premises occupied by
8 such store, whichever period is less, unless and until at a
9 later election a majority of the voting electors vote "yes" on
10 such question].

11 * * *

12 Section 488. Shipment of Wine into Commonwealth.--(a) The
13 shipment of wine from [out-of-State] a direct wine shipper to
14 residents of this Commonwealth is prohibited, except as
15 otherwise provided for in this section.

16 (b) Notwithstanding any other provision of this act or law
17 to the contrary, a person licensed by the board or by another
18 state as a producer[, supplier, importer, wholesaler,
19 distributor or retailer] of wine and who obtains a direct wine
20 shipper license as provided for in this section may ship up to
21 [nine] eighteen liters per month of any wine [not included on
22 the list provided for in subsection (c)] on the [Internet] order
23 of any resident of this Commonwealth who is at least twenty-one
24 (21) years of age for such resident's personal use and not for
25 resale.

26 (c) [Each month, the board shall publish on the Internet a
27 list of all classes, varieties and brands of wine available for
28 sale in the Pennsylvania Liquor Stores. A person holding a
29 direct shipper license may ship only those classes, varieties
30 and brands of wine not included on the list at the time an

1 Internet order is placed] Reserved.

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

3 (1) [Not ship more than nine liters per month on the

4 Internet order of any person in this Commonwealth.] File a

5 written application with the board in such form and containing

6 such information as the board shall require. A completed

7 application shall contain a true and correct copy of the

8 applicant's current license or certificate of operating

9 authority issued by the board or by another state. The applicant

10 must provide documentation that it has obtained a sales tax

11 license from the Department of Revenue. The licensing period for

12 the license shall be established under section 402. An applicant

13 for the license shall adhere to the provisions of section 477.

14 The application, renewal and filing fee for the license shall be

15 as prescribed by the board to cover administrative costs in

16 processing the applications, however, if an applicant, at the

17 time of the initial application for the license, holds a valid

18 limited winery license issued by the board, the applicant shall

19 be exempt from paying the application fee prescribed by the

20 board. If the applicant properly renews its limited winery

21 license, as provided for in section 517, the applicant shall not

22 be required to pay the renewal fee prescribed by the board.

23 (2) Report to the board each [year] month the total [of]

24 number of bottles sold and shipped during the preceding calendar

25 month, the size of those bottles, the name brand of each wine in

26 the shipments, the quantities of each wine included in the

27 shipments and the price of each item included in the shipments,

28 for all such wine shipped within and into this Commonwealth in

29 the preceding calendar [year] month.

30 (3) Permit the board, the enforcement bureau or the

1 Secretary of Revenue, or their designated representatives, to
2 perform an audit of the [out-of-State] direct wine shipper's
3 records upon request.

4 (4) Be deemed to have submitted to the jurisdiction of the
5 board, any other State agency and the courts of this
6 Commonwealth for purposes of enforcement of this section and any
7 related laws, rules or regulations, including the collection and
8 remission of taxes as required under this section.

9 (e) A direct wine shipper [may ship wine on the Internet
10 order of a resident into this Commonwealth provided that the
11 wine is shipped to a Pennsylvania Liquor Store selected by the
12 resident. The wine will be subject to taxes in the same manner
13 as wine sold directly by the board.] shall collect and pay to
14 the Department of Revenue all taxes due on sales to residents of
15 this Commonwealth. The amount of taxes shall be calculated as if
16 the sales were made in this Commonwealth at the locations where
17 delivery is made. The wine will not be released by the [State
18 store] direct wine shipper until all moneys due, including all
19 taxes [and fees], have been paid by the resident.

20 (f) [A person shall sign an affidavit provided by the
21 Pennsylvania Liquor Store where the wine was delivered to
22 stating that the wine will only be used for the person's
23 personal use.] A direct wine shipper may ship wine pursuant to
24 this section only if the resident placing the order has provided
25 the shipper with a written or electronic acknowledgment that the
26 wine is for personal consumption only and not for resale. Any
27 person who resells wine obtained under this section commits a
28 misdemeanor of the second degree. A direct wine shipper shall:

29 (1) Ensure that all containers of wine shipped directly to a
30 resident of this Commonwealth are conspicuously labeled with the

1 words "CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE TWENTY-ONE (21)
2 OR OLDER REQUIRED FOR DELIVERY."

3 (2) Ensure that shipments shall be delivered by an entity
4 holding a valid transporter-for-hire license issued by the board
5 and that the transporter-for-hire may not deliver any wine
6 unless it does all of the following:

7 (i) Obtains the signature of the recipient of the wine upon
8 delivery.

9 (ii) Verifies by inspecting a valid form of photo
10 identification, as provided for in section 495(a), that the
11 recipient is at least twenty-one (21) years of age.

12 (iii) Determines that the recipient is not visibly
13 intoxicated at the time of delivery.

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

18 (g.1) On a quarterly basis, a direct wine shipper shall
19 provide to the Department of Revenue, with a copy to the board,
20 an accounting of the taxes collected pursuant to this section.
21 All taxes collected by the direct wine shipper shall be remitted
22 to the Department of Revenue on a quarterly basis. All direct
23 wine shippers shall provide to the board, the enforcement bureau
24 and the Department of Revenue additional information deemed
25 necessary to ensure compliance with this section.

26 (h) The board shall submit monthly reports to the
27 Appropriations Committee and the Law and Justice Committee of
28 the Senate and to the Appropriations Committee and the Liquor
29 Control Committee of the House of Representatives summarizing
30 the number of direct shipper licenses issued by the board, the

1 quantity of wine sold pursuant to this section and the total
2 dollar value of sales under this section.

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

9 (j) Direct wine shipper licenses shall be subject to the
10 citation process under section 471.

11 (k) A shipment of wine direct to a person in this
12 Commonwealth from a person who does not possess a direct wine
13 shipper license from the board is prohibited. A person who
14 knowingly makes, participates in, transports, imports or
15 receives the shipment commits a misdemeanor.

16 (l) An applicants for a direct wine shipper license shall
17 obtain a tax bond in the amount of one thousand dollars
18 (\$1,000).

19 Section 26. Section 491 of the act, amended October 5, 1994
20 (P.L.522, No.77), February 21, 2002 (P.L.103, No.10), December
21 9, 2002 (P.L.1653, No.212), July 17, 2003 (P.L.63, No.15),
22 December 22, 2011 (P.L.530, No.113) and July 5, 2012 (P.L.1007,
23 No.116), is amended to read:

24 Section 491. Unlawful Acts Relative to Liquor, Alcohol and
25 Liquor Licensees.--

26 It shall be unlawful--

27 (1) Sales of Liquor. For any person, by himself or by an
28 employe or agent, to expose or keep for sale, or directly or
29 indirectly, or upon any pretense or upon any device, to sell or
30 offer to sell any liquor within this Commonwealth, except in

1 accordance with the provisions of this act and the regulations
2 of the board. This clause shall not be construed to prohibit
3 hospitals, physicians, dentists or veterinarians who are
4 licensed and registered under the laws of this Commonwealth from
5 administering liquor in the regular course of their professional
6 work and taking into account the cost of the liquor so
7 administered in making charges for their professional service,
8 or a pharmacist duly licensed and registered under the laws of
9 this Commonwealth from dispensing liquor on a prescription of a
10 duly licensed physician, dentist or veterinarian, or selling
11 medical preparations containing alcohol, or using liquor in
12 compounding prescriptions or medicines and making a charge for
13 the liquor used in such medicines, or a manufacturing pharmacist
14 or chemist from using liquor in manufacturing preparations unfit
15 for beverage purposes and making a charge for the liquor so
16 used. All such liquors so administered or sold by hospitals,
17 physicians, dentists, veterinarians, pharmacists or chemists
18 shall conform to the Pharmacopoeia of the United States, the
19 National Formulary, or the American Homeopathic Pharmacopoeia.
20 This clause shall not be construed to prohibit an executor or an
21 administrator of a decedent's estate from selling privately or
22 at public auction liquor which was an asset of the decedent. The
23 board shall establish regulations to ensure that State taxes
24 from the sales will be paid by the estate from the proceeds of
25 the sale. The board may not prohibit a sale of liquor for the
26 reason that it was not lawfully acquired prior to January 1,
27 1934 or has not been purchased from a Pennsylvania Liquor Store
28 or in compliance with Pennsylvania law.

29 (2) Possession or Transportation of Liquor or Alcohol. For
30 any person, except a manufacturer or the board or the holder of

1 a sacramental wine license or of an importer's license or an
2 enhanced licensee, to possess or transport any liquor or alcohol
3 within this Commonwealth which was not lawfully acquired prior
4 to January first, one thousand nine hundred and thirty-four, or
5 has not been purchased from a Pennsylvania Liquor Store, a wine
6 and spirits wholesale licensee or a licensed limited winery in
7 Pennsylvania, except in accordance with section 488 or the
8 board's regulations. In addition, it shall be lawful for anyone
9 to possess miniatures totaling less than one gallon purchased in
10 another state or a foreign country. The burden shall be upon the
11 person possessing or transporting such liquor or alcohol to
12 prove that it was so acquired. Notwithstanding this section or
13 any other provision of the law, wine may be produced by any
14 person without a license if the wine is not produced for sale
15 and total production does not exceed two hundred gallons per
16 calendar year. Wine produced in accordance with this clause may
17 be used at organized affairs, exhibitions, competitions,
18 contests, tastings or judgments if it is not sold or offered for
19 sale.

20 None of the provisions herein contained shall prohibit nor
21 shall it be unlawful for any person to import into Pennsylvania,
22 transport or have in his possession, an amount of liquor not
23 exceeding one gallon in volume upon which a State tax has not
24 been paid, if it can be shown to the satisfaction of the board
25 that such person purchased the liquor in a foreign country or
26 United States territory and was allowed to bring it into the
27 United States. Neither shall the provisions contained herein
28 prohibit nor make it unlawful for (i) any member of the armed
29 forces on active duty, or (ii) any retired member of the armed
30 forces, or (iii) any totally disabled veteran, or (iv) the

1 spouse of any person included in the foregoing classes of
2 persons to import into Pennsylvania, transport or have in his
3 possession an amount of liquor not exceeding one gallon per
4 month in volume upon which the State tax has not been paid, so
5 long as such liquor has been lawfully purchased from a package
6 store established and maintained under the authority of the
7 United States and is in containers identified in accordance with
8 regulations issued by the Department of Defense. Such liquor
9 shall not be possessed, offered for sale or sold on any licensed
10 premises. The term "package store" as used in this clause shall
11 mean those retail operations located on any of the United States
12 military installations, including an installation of the Army,
13 Navy, Air Force, Marine Corps or Coast Guard.

14 None of the provisions herein contained shall prohibit nor
15 shall it be unlawful for any consul general, consul or other
16 diplomatic officer of a foreign government to import into
17 Pennsylvania, transport or have in his possession liquor upon
18 which a State tax has not been paid, if it can be shown to the
19 satisfaction of the board that such person acquired the liquor
20 in a foreign country and was allowed to bring it into the United
21 States. Such liquor shall not be possessed, offered for sale or
22 sold on any licensed premises.

23 Any person violating the provisions of this clause for a
24 first offense involving the possession or transportation in
25 Pennsylvania of any liquor in a package (bottle or other
26 receptacle) or wine not purchased from a Pennsylvania Liquor
27 Store, a wine and spirits wholesale licensee, an enhanced
28 licensee or from a licensed limited winery in Pennsylvania, with
29 respect to which satisfactory proof is produced that the
30 required Federal tax has been paid and which was purchased,

1 procured or acquired legally outside of Pennsylvania shall upon
2 conviction thereof in a summary proceeding be sentenced to pay a
3 fine of twenty-five dollars (\$25) for each such package, plus
4 costs of prosecution, or undergo imprisonment for a term not
5 exceeding ninety (90) days. Each full quart or major fraction
6 thereof shall be considered a separate package (bottle or other
7 receptacle) for the purposes of this clause. Such packages of
8 liquor shall be forfeited to the Commonwealth in the manner
9 prescribed in Article VI of this act but the vehicle, boat,
10 vessel, animal or aircraft used in the illegal transportation of
11 such packages shall not be subject to forfeiture: Provided,
12 however, That if it is a second or subsequent offense or if it
13 is established that the illegal possession or transportation was
14 in connection with a commercial transaction, then the other
15 provisions of this act providing for prosecution as a
16 misdemeanor and for the forfeiture of the vehicle, boat, vessel,
17 animal or aircraft shall apply.

18 (3) Purchase of Liquor or Alcohol. For any person within
19 this Commonwealth, by himself or by an employe or agent, to
20 attempt to purchase, or directly or indirectly, or upon any
21 pretense or device whatsoever, to purchase any liquor or alcohol
22 from any person or source [other than a Pennsylvania Liquor
23 Store], except in accordance with the provisions of this act or
24 the regulations of the board.

25 (4) Possession and Use of Decanters. For any person to use
26 decanters of alcoholic beverages except that the use of
27 decanters or other similar receptacles by licensees shall be
28 permitted in the case of wines and then only in accordance with
29 the regulations of the board, but nothing herein contained shall
30 prohibit the manufacture and possession of wine as provided in

1 clause (2) of this section.

2 (5) Failure to Properly Dispose of Empty Liquor Containers.

3 For any restaurant, hotel or club licensee, his servants, agents
4 or employes, to fail to break any package in which liquors were
5 contained, except those decanter packages that the board
6 determines to be decorative, within twenty-four hours after the
7 original contents were removed therefrom, unless the licensee
8 participates in either a municipal recycling program, in
9 accordance with the act of July 28, 1988 (P.L.556, No.101),
10 known as the "Municipal Waste Planning, Recycling and Waste
11 Reduction Act," or a voluntary recycling program. The licensee
12 shall provide proof in writing of the participation in a
13 recycling program upon the demand of the Bureau of Liquor
14 Control Enforcement of the Pennsylvania State Police. The proof
15 of participation shall be provided in a manner as prescribed by
16 the Pennsylvania Liquor Control Board.

17 (6) Sales by Restaurant and Hotel Liquor Licensees. For any

18 restaurant or hotel licensee, his servants, agents or employes,
19 to sell any liquor or malt or brewed beverages for consumption
20 on the licensed premises except in a room or rooms or place on
21 the licensed premises at all times accessible to the use and
22 accommodation of the general public, but this section shall not
23 be interpreted to prohibit a restaurant liquor licensee from
24 providing private affairs the primary function of which is for
25 catering only to weddings or special occasions arranged twenty-
26 four hours in advance, nor to prohibit a hotel licensee, or a
27 restaurant licensee when the restaurant is located in a hotel,
28 from selling liquor or malt or brewed beverages in any room of
29 such hotel occupied by a bona fide guest or to prohibit a
30 restaurant licensee from selling liquor or malt or brewed

1 beverages in a bowling alley where the restaurant and bowling
2 alley are immediately adjacent and under the same roof.

3 (7) Sales of Liquor by Manufacturers and Licensed Importers.

4 For any manufacturer or licensed importer of liquor in this
5 Commonwealth, his agents, servants or employes, to sell or offer
6 to sell any liquor in this Commonwealth except to the board for
7 use in Pennsylvania Liquor Stores, a wine and spirits wholesale
8 licensee, and in the case of a manufacturer, to the holder of a
9 sacramental wine license or an importer's license.

10 Notwithstanding any other provision of this act, a manufacturer
11 or licensed importer may sell or offer to sell liquor for
12 delivery outside of this Commonwealth.

13 (8) Importation and Sales of Alcohol. For any person, to
14 import alcohol into this Commonwealth, or to sell alcohol to any
15 person, except in accordance with section 488 and the provisions
16 of this act or the regulations of the board.

17 (9) Possession of Alcohol. For any person, to have alcohol
18 in his possession, except in accordance with the provisions of
19 this act and the regulations of the board.

20 (10) Fortifying, Adulterating or Contaminating Liquor. For
21 any licensee or any employe or agent of a licensee or of the
22 board, to fortify, adulterate or contaminate any liquor, except
23 as permitted by the regulations of the board, or to refill
24 wholly or in part, with any liquid or substance whatsoever, any
25 liquor bottle or other liquor container.

26 (11) Importation of Liquor. For any person, other than the
27 board, a wine and spirits wholesale licensee or the holder of a
28 sacramental wine license, an importer's license or a direct
29 shipper's license, to import any liquor whatsoever into this
30 Commonwealth, but this section shall not be construed to

1 prohibit railroad and pullman companies from purchasing and
2 selling liquors purchased outside the Commonwealth in their
3 dining, club and buffet cars which are covered by public service
4 liquor licenses and which are operated in this Commonwealth.

5 (12) Delivery of Liquor by Certain Licensees. For a liquor
6 licensee permitted to deliver liquor, to make any deliveries
7 except in his own vehicles bearing his name, address and license
8 number on each side in letters not smaller than two inches in
9 height, or in the vehicle of another person duly authorized to
10 transport liquor within this Commonwealth.

11 (13) Violation of Certain Rules and Regulations of Board.
12 For any person, to violate any rules and regulations adopted by
13 the board [to insure the equitable] relating to wholesale and
14 retail sale and distribution of liquor and alcohol [through the
15 Pennsylvania Liquor Stores] in accordance with the provisions of
16 this act.

17 (14) Offering Commission or Gift to Members of Board [or
18 State Employee]. For any person [selling or offering to sell
19 liquor or alcohol to, or purchasing at wholesale liquor or
20 alcohol from, the board] licensed by the board, either directly
21 or indirectly, to pay or offer to pay any commission, profit or
22 remuneration, or to make or offer to make any gift to any member
23 or employe of the board [or other employe of the Commonwealth]
24 or to anyone on behalf of such member or employe.

25 Section 27. Section 492 of the act, amended February 18,
26 1998 (P.L.162, No.25), November 10, 1999 (P.L.514, No.47),
27 December 20, 2000 (P.L.992, No.141), December 9, 2002 (P.L.1653,
28 No.212), January 6, 2006 (P.L.1, No.1) and December 22, 2011
29 (P.L.530, No.113), is amended to read:

30 Section 492. Unlawful Acts Relative to Malt or Brewed

1 Beverages and Licensees.--

2 It shall be unlawful--

3 (1) Manufacturing Without License. Except as provided
4 herein, for any person, to manufacture malt or brewed beverages,
5 unless such person holds a valid manufacturer's license for such
6 purpose issued by the board. Malt or brewed beverages may be
7 produced by any person without a license if such malt or brewed
8 beverages are produced not for sale and total production does
9 not exceed two hundred gallons per calendar year. Malt or brewed
10 beverages produced in accordance with this paragraph may be used
11 at organized affairs, exhibitions, competitions, contests,
12 tastings or judging provided it is not sold or offered for sale.

13 (2) Sales of Malt or Brewed Beverages for Consumption on the
14 Premises. For any person, to sell to another for consumption
15 upon the premises where sold or to permit another to consume
16 upon the premises where sold, any malt or brewed beverages,
17 unless such person holds a valid retail dispenser license or a
18 valid liquor license issued by the board authorizing the sale of
19 malt or brewed beverages for consumption upon such premises.

20 (3) Sales of Malt or Brewed Beverages Not for Consumption on
21 the Premises. For any person, to sell to another any malt or
22 brewed beverages not for consumption upon the premises where
23 sold, unless such person holds a valid license permitting such
24 sale.

25 (5) Sales of Malt or Brewed Beverages by Hotels, Eating
26 Places or Public Service Licensees During Prohibited Hours.--For
27 any hotel or eating place holding a retail dispenser's license,
28 or the servants, agents or employes of such licensees, to sell,
29 trade or barter in malt or brewed beverages between the hours of
30 two o'clock antemeridian Sunday and seven o'clock in the

1 forenoon of the following Monday, or between the hours of two
2 o'clock antemeridian and seven o'clock antemeridian of any week
3 day: Provided, That notwithstanding any provision to the
4 contrary, whenever the thirty-first day of December falls on a
5 Sunday such sales of malt or brewed beverages may be made on
6 such day after one o'clock postmeridian and until two o'clock
7 antemeridian of the following day. For any public service
8 licensee authorized to sell malt or brewed beverages or the
9 servants, agents or employes of such licensees to sell, trade or
10 barter in malt or brewed beverages between the hours of two
11 o'clock antemeridian and seven o'clock antemeridian on any day.

12 (7) Clubs Selling Between Three O'Clock Antemeridian and
13 Seven O'Clock Antemeridian. For any club retail dispenser, or
14 its servants, agents or employes, to sell malt or brewed
15 beverages between the hours of three o'clock antemeridian and
16 seven o'clock antemeridian on any day.

17 (8) Transportation and Importation of Malt or Brewed
18 Beverages. For any person, to transport malt or brewed beverages
19 except in the original containers, or to transport malt or
20 brewed beverages for another who is engaged in selling either
21 liquor or malt or brewed beverages, unless such person shall
22 hold (a) a license to transport for hire, alcohol, liquor and
23 malt or brewed beverages, as hereinafter provided in this act,
24 or (b) shall hold a permit issued by the board and shall have
25 paid to the board such permit fee, as prescribed in section 614-
26 A of the act of April 9, 1929 (P.L.177, No.175), known as "The
27 Administrative Code of 1929," any other law to the contrary
28 notwithstanding. This clause shall not be construed:

29 (i) to prohibit transportation of malt or brewed beverages
30 through this Commonwealth and not for delivery in this

1 Commonwealth if such transporting is done in accordance with the
2 rules and regulations of the board; or

3 (ii) to prohibit railroad and Pullman companies from selling
4 malt or brewed beverages purchased outside this Commonwealth in
5 their dining, club and buffet cars which are covered by public
6 service liquor licenses and which are operated in this
7 Commonwealth.

8 (9) Transportation of Malt or Brewed Beverages by Licensee.
9 For a malt or brewed beverage licensee, to deliver or transport
10 any malt or brewed beverages, excepting in vehicles bearing the
11 name and address and license number of such licensee painted or
12 affixed on each side of such vehicle in letters no smaller than
13 two inches in height and for purposes not prohibited under this
14 act.

15 (11) Delivery of Malt or Brewed Beverages With Other
16 Commodities. For any manufacturer, importing distributor or
17 distributor, or his servants, agents or employes, except with
18 board approval, to deliver or transport any malt or brewed
19 beverages in any vehicle in which any other commodity is being
20 transported.

21 (12) Distributors and Importing Distributors Engaging in
22 Other Business. For any distributor or importing distributor, or
23 his servants, agents or employes, without the approval of the
24 board, and then only in accordance with board regulations, to
25 engage in any other business whatsoever, except the business of
26 distributing malt or brewed beverages, except that the sale of
27 the following goods shall be permitted on the licensed premises
28 of a distributor or importing distributor:

29 (i) Any book, magazine or other publication related to malt
30 or brewed beverages.

1 (ii) Any equipment, ingredients or other supplies necessary
2 for the unlicensed manufacture of malt or brewed beverages as
3 described in paragraph (1), commonly known as "homebrewing."
4 If the holder of a distributor license acquires an enhanced
5 distributor license pursuant to section 431.2 for use at its
6 licensed premises, it may engage in the sale of liquor, so long
7 as the licensee meets all of the requirements of this act. If
8 the holder of an importing distributor license acquires a wine
9 and spirits wholesale license pursuant to Article III-A for use
10 at its licensed premises, it may engage in the sale of liquor,
11 so long as the licensee meets all of the requirements of this
12 act. The board shall promulgate regulations consistent with this
13 act governing the sale of any other items by a distributor that
14 acquires an enhanced distributor license, as well as the sale of
15 other items by an importing distributor that acquires a wine and
16 spirits wholesale license.

17 (13) Possession or Storage of Liquor or Alcohol by Certain
18 Licensees. For any distributor, importing distributor or retail
19 dispenser, or his servants, agents or employes, to have in his
20 possession, or to permit the storage of on the licensed premises
21 or in any place contiguous or adjacent thereto accessible to the
22 public or used in connection with the operation of the licensed
23 premises, any alcohol or liquor. This section may not prohibit a
24 distributor that holds an enhanced distributor license or an
25 importing distributor that holds a wine and spirits wholesale
26 license from possessing or permitting the storage of liquor on
27 the licensed premises used in connection with the operation of
28 the licensed premises.

29 (14) Malt or Brewed Beverage Licensees Dealing in Liquor or
30 Alcohol. For any malt or brewed beverage licensee, other than a

1 distributor that holds an enhanced distributor license or an
2 importing distributor that holds a wine and spirits wholesale
3 license, a manufacturer, or the servants, agents or employes
4 thereof, to manufacture, import, sell, transport, store, trade
5 or barter in any liquor or alcohol.

6 (15) Selling to Persons Doing Illegal Business. For any malt
7 or brewed beverage licensee, or his servants, agents or
8 employes, to knowingly sell any malt or brewed beverages to any
9 person engaged in the business of illegally selling liquor or
10 malt or brewed beverages.

11 (16) Distributors and Importing Distributors Failing to Keep
12 Records. For any importing distributor or distributor engaged in
13 the sale of products, other than malt or brewed beverages, to
14 fail to keep such complete separate records covering in every
15 respect his transactions in malt or brewed beverages as the
16 board shall by regulation require.

17 (17) Fortifying, Adulterating or Contaminating Malt or
18 Brewed Beverages. For any person, to fortify, adulterate,
19 contaminate, or in any wise to change the character or purity
20 of, the malt or brewed beverages from that as originally
21 marketed by the manufacturer at the place of manufacture.

22 (18) Coercing Distributors and Importing Distributors. For
23 any manufacturer or any officer, agent or representative of any
24 manufacturer to coerce or persuade or attempt to coerce or
25 persuade any person licensed to sell or distribute malt or
26 brewed beverages at wholesale or retail to establish selling
27 prices for its products or to enter into any contracts or
28 agreements, whether written or oral, or take any action which
29 will violate or tend to violate any provisions of this act or
30 any of the rules or regulations promulgated by the board

1 pursuant thereto.

2 (19) Modifying or Terminating Distributing Rights Agreement.

3 For any manufacturer or any officer, agent or representative of
4 any manufacturer to modify, cancel, terminate, rescind or not
5 renew, without good cause, any distributing rights agreement,
6 and in no event shall any modification, cancellation,
7 termination, rescission or nonrenewal of any distributing rights
8 agreement become effective for at least ninety (90) days after
9 written notice of such modification, cancellation, termination,
10 rescission or intention not to renew has been served on the
11 affected party and board by certified mail, return receipt
12 requested, except by written consent of the parties to the
13 agreement. The notice shall state all the reasons for the
14 intended modification, termination, cancellation, rescission or
15 nonrenewal. The distributor or importing distributor holding
16 such agreement shall have ninety (90) days in which to rectify
17 any claimed deficiency, or challenge the alleged cause.

18 If the deficiency shall be rectified within ninety (90) days
19 of notice, then the proposed modification, termination,
20 cancellation, rescission or nonrenewal shall be null and void
21 and without legal effect.

22 If the notice states as one of the reasons for the intended
23 modification, cancellation, termination, rescission or renewal
24 that the importing distributor or distributor's equipment or
25 warehouse requires major changes or additions, then if the
26 distributor or importing distributor shall have taken some
27 positive action to comply with the required changes or
28 additions, the distributor or importing distributor shall have
29 deemed to have complied with the deficiency as set forth in the
30 notice. The notice provisions of this section shall not apply if

1 the reason for termination, cancellation or nonrenewal is
2 insolvency, assignment for the benefit of creditors, bankruptcy,
3 liquidation, fraudulent conduct in its dealings with the
4 manufacturer, revocation or suspension for more than a thirty
5 (30) day period of the importing distributor or distributor
6 license.

7 (20) Interference with Transfer of License, Business or
8 Franchise. (i) For any manufacturer to interfere with or prevent
9 any distributor or importing distributor from selling or
10 transferring his license, business or franchise, whether before
11 or after notice of modification, cancellation, termination,
12 rescission or nonrenewal has been given, provided the proposed
13 purchaser of the business of the distributor or importing
14 distributor meets the material qualifications and standards
15 required of the manufacturers other distributors or importing
16 distributors; (ii) if the proposed transfer of the distributor
17 or importing distributor's business is to a surviving spouse or
18 adult child, the manufacturer shall not, for any reason,
19 interfere with, or prevent, the transfer of the distributor or
20 importing distributor's license, business or franchise. Any
21 subsequent transfer by surviving spouse or adult child shall
22 thereafter be subject to the provisions of subclause (i) above.

23 (21) Inducing or Coercing Distributors or Importing
24 Distributors to Accept Unordered Products or Commit Illegal
25 Acts. For any manufacturer to compel or attempt to compel any
26 distributor or importing distributor to accept delivery of any
27 malt or brewed beverages or any other commodity which shall not
28 have been ordered by the distributor or importing distributor,
29 or to do any illegal act by any means whatsoever including, but
30 not limited to, threatening to amend, cancel, terminate, rescind

1 or refuse to renew any agreement existing between manufacturer
2 and the distributor or importing distributor, or to require a
3 distributor or importing distributor to assent to any condition,
4 stipulation or provision limiting the distributor or importing
5 distributor in his right to sell the products of any other
6 manufacturer.

7 Section 28. Section 492.1 of the act, amended January 6,
8 2006 (P.L.1, No.1) and December 22, 2011 (P.L.530, No.113), is
9 amended to read:

10 Section 492.1. Hours of Operation Relative to Manufacturers,
11 Importing Distributors and Distributors.--(a) Manufacturers may
12 sell or deliver malt or brewed beverages between two o'clock
13 antemeridian of any Monday and twelve o'clock midnight of the
14 following Saturday.

15 (b) (1) Importing distributors and distributors may sell or
16 deliver malt or brewed beverages between two o'clock
17 antemeridian of any Monday and twelve o'clock midnight of the
18 following Saturday to holders of a liquor or malt and brewed
19 beverage license or permit issued by the board.

20 (2) Importing distributors and distributors may sell or
21 deliver malt or brewed beverages between eight o'clock
22 antemeridian and [eleven o'clock postmeridian of any] two
23 o'clock antemeridian of the following day, except Sunday, to
24 persons not licensed or permitted by this act.

25 (c) In addition to the hours authorized under subsections
26 (a) and (b), manufacturers, importing distributors and
27 distributors, upon purchasing a permit from the board at an
28 annual fee of one hundred dollars (\$100), may sell malt or
29 brewed beverages to persons not licensed under this act or to a
30 holder of a special occasion permit on Sunday between the hours

1 of nine o'clock antemeridian and [nine o'clock postmeridian] two
2 o'clock antemeridian on Monday.

3 (d) In addition to the hours authorized under subsections
4 (a) and (b), delivery or receiving of malt or brewed beverages
5 shall be permissible on Sunday after prior arrangement in
6 accordance with the following:

7 (1) A manufacturer may, at any time, deliver to any
8 importing distributor or distributor to which the manufacturer
9 has granted wholesale distribution rights for the manufacturer's
10 product.

11 (2) An importing distributor or distributor may deliver to
12 any organization to which a special occasion permit has been
13 issued between the hours of nine o'clock antemeridian and twelve
14 o'clock noon.

15 (3) An importing distributor or distributor may deliver to
16 persons not licensed under this act between the hours of nine
17 o'clock antemeridian and twelve o'clock noon.

18 (e) Notwithstanding any provision of this section to the
19 contrary, a brewery pub operating under section 446 shall be
20 subject to the hours of operation set forth by the board through
21 regulation.

22 (f) The term "prior arrangement" shall mean that malt or
23 brewed beverages having a total sale price, excluding any
24 deposits or credits, exceeding two hundred fifty dollars (\$250)
25 have been ordered, invoiced and paid for in full at the seller's
26 licensed premises before the Sunday of delivery.

27 Section 29. Section 493 of the act, amended December 7, 1990
28 (P.L.622, No.160), October 5, 1994 (P.L.537, No.80), June 18,
29 1998 (P.L.664, No.86), February 21, 2002 (P.L.103, No.10),
30 December 9, 2002 (P.L.1653, No.212), May 8, 2003 (P.L.1, No.1),

1 December 8, 2004 (P.L.1810, No.239), July 6, 2005 (P.L.135,
2 No.39), January 6, 2006 (P.L.1, No.1), July 7, 2006 (P.L.584,
3 No.84), November 29, 2006 (P.L.1421, No.155), July 16, 2007
4 (P.L.107, No.34), June 28, 2011 (P.L.55, No.11), December 22,
5 2011 (P.L.530, No.113) and July 5, 2012 (P.L.1007, No.116), is
6 amended to read:

7 Section 493. Unlawful Acts Relative to Liquor, Malt and
8 Brewed Beverages and Licensees.--The term "licensee," when used
9 in this section, shall mean those persons licensed under [the
10 provisions of Article IV] Article III-A or this article, unless
11 the context clearly indicates otherwise.

12 It shall be unlawful--

13 (1) Furnishing Liquor or Malt or Brewed Beverages to Certain
14 Persons. For any licensee or the board, or any employe, servant
15 or agent of such licensee or of the board, or any other person,
16 to sell, furnish or give any liquor or malt or brewed beverages,
17 or to permit any liquor or malt or brewed beverages to be sold,
18 furnished or given, to any person visibly intoxicated, or to any
19 minor: Provided further, That notwithstanding any other
20 provision of law, no cause of action will exist against a
21 licensee or the board or any employe, servant or agent of such
22 licensee or the board for selling, furnishing or giving any
23 liquor or malt or brewed beverages or permitting any liquor or
24 malt or brewed beverages to be sold, furnished or given to any
25 insane person, any habitual drunkard or person of known
26 intemperate habits unless the person sold, furnished or given
27 alcohol is visibly intoxicated or is a minor.

28 (2) Purchase or Sale of Liquor or Malt or Brewed Beverages
29 on Credit; Importing Distributors or Distributors Accepting
30 Cash. For any licensee, his agent, servant or employe, to sell

1 or offer to sell or purchase or receive any liquor or malt or
2 brewed beverages except for cash, excepting credit extended by a
3 hotel or club to a bona fide guest or member, or by railroad or
4 pullman companies in dining, club or buffet cars to passengers,
5 for consumption while enroute, holding authorized credit cards
6 issued by railroad or railroad credit bureaus or by hotel,
7 restaurant, retail dispenser eating place, club and public
8 service licensees, importing distributors or distributors to
9 customers not possessing a license under this article and
10 holding credit cards issued in accordance with regulations of
11 the board or credit cards issued by banking institutions subject
12 to State or Federal regulation: Provided further, That nothing
13 herein contained shall be construed to prohibit the use of
14 checks or drafts drawn on a bank, banking institution, trust
15 company or similar depository, organized and existing under the
16 laws of the United States of America or the laws of any state,
17 territory or possession thereof, in payment for any liquor or
18 malt or brewed beverages if the purchaser is the payor of the
19 check or draft and the licensee is the payee: Provided further,
20 That notwithstanding any other provision of this act to the
21 contrary, it shall be unlawful for an importing distributor or
22 distributor to accept cash for payment of any malt or brewed
23 beverages from anyone possessing a license issued under this
24 article, except it shall be permissible for the importing
25 distributor or distributor to accept wire transfers, credit
26 cards, money orders or cashiers' checks for payment of any malt
27 or brewed beverages in addition to any other type of payment
28 authorized by the board from anyone possessing a license under
29 this article. No right of action shall exist to collect any
30 claim for credit extended contrary to the provisions of this

1 clause. Nothing herein contained shall prohibit a licensee from
2 crediting to a purchaser the actual price charged for original
3 containers returned by the original purchaser as a credit on any
4 sale, or from refunding to any purchaser the amount paid by such
5 purchaser for such containers or as a deposit on containers when
6 title is retained by the vendor, if such original containers
7 have been returned to the licensee. Nothing herein contained
8 shall prohibit a manufacturer from extending usual and customary
9 credit for liquor or malt or brewed beverages sold to customers
10 or purchasers who live or maintain places of business outside of
11 the Commonwealth of Pennsylvania, when the liquor or malt or
12 brewed beverages so sold are actually transported and delivered
13 to points outside of the Commonwealth: Provided, however, That
14 as to all transactions affecting malt or brewed beverages to be
15 resold or consumed within this Commonwealth, every licensee
16 shall pay and shall require cash deposits on all returnable
17 original containers and all such cash deposits shall be refunded
18 upon return of the original containers.

19 (4) Peddling Liquor or Malt or Brewed Beverages. For any
20 person, to hawk or peddle any liquor or malt or brewed beverages
21 in this Commonwealth.

22 (5) Failure to Have Brands as Advertised. For any licensee,
23 his servants, agents or employes, to advertise or hold out for
24 sale any liquor or malt or brewed beverages by trade name or
25 other designation which would indicate the manufacturer or place
26 of production of the said liquor or malt or brewed beverages,
27 unless he shall actually have on hand and for sale a sufficient
28 quantity of the particular liquor or malt or brewed beverages so
29 advertised to meet requirements to be normally expected as a
30 result of such advertisement or offer.

1 (6) Brand or Trade Name on Spigot. For any licensee, his
2 agents, servants or employes, to furnish or serve any malt or
3 brewed beverages from any faucet, spigot or other dispensing
4 apparatus, unless the trade name or brand of the product served
5 shall appear in full sight of the customer and in legible
6 lettering upon such faucet, spigot or dispensing apparatus.

7 (7) Alcoholic Strength on Label of Malt or Brewed Beverages.
8 For any licensee, or his servants, agents or employes, to
9 transport, sell, deliver or purchase any malt or brewed
10 beverages upon which there shall appear a label or other
11 informative data which refers to the alcoholic contents of the
12 malt or brewed beverage in any terms other than as a percentage
13 of alcohol by volume. This clause shall be construed to permit,
14 but not to require, a manufacturer to designate upon the label
15 or descriptive data the alcoholic content of malt or brewed
16 beverages in percentage of alcohol by volume. This clause shall
17 not be construed to prohibit a manufacturer from designating
18 upon the label or descriptive data the alcoholic content of malt
19 or brewed beverages intended for shipment into another state or
20 territory, when the laws of such state or territory require that
21 the alcoholic content of the malt or brewed beverage must be
22 stated upon the package.

23 (8) Advertisements on Labels Giving Alcoholic Content of
24 Malt or Brewed Beverages. For any manufacturer or other
25 licensee, or his servants, agents or employes, to issue, publish
26 or post, or cause to be issued, published or posted, any
27 advertisement of any malt or brewed beverage including a label
28 which shall refer in any manner to the alcoholic strength of the
29 malt or brewed beverage manufactured, sold or distributed by
30 such licensees, or to use in any advertisement or label such

1 words as "full strength," "extra strength," "high test," "high
2 proof," "pre-war strength," or similar words or phrases, which
3 would lead or induce a consumer to purchase a brand of malt or
4 brewed beverage on the basis of its alcoholic content, or to use
5 in or on any advertisement or label any numeral, unless
6 adequately explained in type of the same size, prominence and
7 color, or for any licensee to purchase, transport, sell or
8 distribute any malt or brewed beverage advertised or labeled
9 contrary to the provisions of this clause.

10 (10) Entertainment on Licensed Premises (Except Clubs);
11 Permits; Fees. For any licensee, his servants, agents or
12 employes, except club licensees, public venue licensees or
13 performing arts facility licensees, to permit in any licensed
14 premises or in any place operated in connection therewith,
15 dancing, theatricals or floor shows of any sort, or moving
16 pictures other than television, or such as are exhibited through
17 machines operated by patrons by the deposit of coins, which
18 project pictures on a screen not exceeding in size twenty-four
19 by thirty inches and which forms part of the machine, unless the
20 licensee shall first have obtained from the board a special
21 permit to provide such entertainment, or for any licensee, under
22 any circumstances, to permit in any licensed premises or in any
23 place operated in connection therewith any lewd, immoral or
24 improper entertainment, regardless of whether a permit to
25 provide entertainment has been obtained or not. The special
26 permit may be used only during the hours when the sale of liquor
27 or malt or brewed beverages is permitted, unless the licensee
28 holds an extended hours food license under section 499(b) which
29 license would allow the special permit to be used while the
30 establishment is open, and between eleven o'clock antemeridian

1 on Sunday and two o'clock antemeridian on the following Monday,
2 regardless of whether the licensee possesses a Sunday sales
3 permit. The board shall have power to provide for the issue of
4 such special permits, and to collect an annual fee for such
5 permits as prescribed in section 614-A of the act of April 9,
6 1929 (P.L.177, No.175), known as "The Administrative Code of
7 1929." All such fees shall be paid into the State Stores Fund.
8 No such permit shall be issued in any municipality which, by
9 ordinance, prohibits amusements in licensed places. Any
10 violation of this clause shall, in addition to the penalty
11 herein provided, subject the licensee to suspension or
12 revocation of his permit and his license.

13 (11) Licensees Employed by Others. For any hotel, restaurant
14 or club liquor licensee, or any malt or brewed beverage
15 licensee, or any officer, servant, agent or employe of such
16 licensee, to be at the same time employed, directly or
17 indirectly, by any distributor, importing distributor,
18 manufacturer, importer or vendor licensee or any out of State
19 manufacturer. It shall also be unlawful for any distributor or
20 importing distributor, or any officer, servant, agent or employe
21 of such licensee, to be at the same time employed, directly or
22 indirectly, by any other distributor, importing distributor,
23 manufacturer, importer, vendor, out of State manufacturer, hotel
24 restaurant, malt or brewed beverage licensee, or club liquor
25 licensee. It shall also be unlawful for any manufacturer,
26 importer, or vendor licensee, or any out of State manufacturer,
27 or any officer, servant, agent or employe of such licensee or
28 manufacturer, to be at the same time employed, directly or
29 indirectly, by any hotel, restaurant or club liquor licensee or
30 any malt or brewed beverage licensee or any distributor or

1 importing distributor licensee. Nothing in this subsection shall
2 be construed to prohibit a manufacturer or limited winery
3 licensee, or any officer, servant, agent or employe of such
4 licensee, to be employed at the same time by a hotel, restaurant
5 or retail dispenser licensee if the hotel, restaurant or retail
6 dispenser licensee is located at the manufacturer or limited
7 winery premises pursuant to section 443. For the purposes of
8 this subsection, an officer, servant, agent or employe of a
9 licensee or manufacturer is an individual who has either an
10 ownership interest in the licensee or manufacturer or who
11 receives compensation for his or her work on behalf of the
12 licensee or manufacturer.

13 (12) Failure to Have Records on Premises. For any liquor
14 licensee, or any importing distributor, distributor or retail
15 dispenser, to fail to keep for a period of at least two years
16 complete and truthful records covering the operation of his
17 licensed business, particularly showing the date of all
18 purchases of liquor and malt or brewed beverages, the actual
19 price paid therefor, and the name of the vendor, including State
20 Store receipts, or for any licensee, his servants, agents or
21 employes, to refuse the board or an authorized employe of the
22 board or the enforcement bureau access thereto or the
23 opportunity to make copies of the same when the request is made
24 during business hours. The records from the most recent six-
25 month period must be maintained on the licensed premises.
26 Records for the remainder of the two-year period may be kept off
27 the licensed premises so long as the records are returned to the
28 licensed premises within twenty-four hours of a request by the
29 board or enforcement bureau. A licensee may remove the records
30 for the most recent six-month period from the licensed premises

1 only for a lawful business purpose provided that they are
2 returned to the premises when that business is completed.

3 (13) Retail Licensees Employing Minors. For any hotel,
4 restaurant or club liquor licensee, or any retail dispenser, to
5 employ or to permit any minor under the age of eighteen to serve
6 any alcoholic beverages or to employ or permit any minor under
7 the age of sixteen to render any service whatever in the
8 licensed premises, nor shall any entertainer under the age of
9 eighteen be employed or permitted to perform in any licensed
10 premises in violation of the labor laws of this Commonwealth:
11 Provided, That in accordance with board regulations minors
12 between the ages of sixteen and eighteen may be employed to
13 serve food, clear tables and perform other similar duties, not
14 to include the dispensing or serving of alcoholic beverages. A
15 ski resort, golf course or amusement park licensee may employ
16 minors fourteen and fifteen years of age to perform duties in
17 rooms or areas of the licensed premises; however, such minors
18 may not perform duties in rooms or areas in which alcohol is
19 being concurrently dispensed or served or in which alcohol is
20 being concurrently stored in an unsecured manner.

21 Notwithstanding any provisions of law to the contrary, a hotel,
22 restaurant or club liquor licensee or any retail dispenser may
23 allow students receiving instruction in a performing art to
24 perform an exhibition if the students are not compensated and
25 are under proper supervision. Written notice of the performance
26 must be provided to the enforcement bureau prior to the
27 performance.

28 (14) Permitting Undesirable Persons or Minors to Frequent
29 Premises. For any hotel, restaurant or club liquor licensee, or
30 any retail dispenser, his servants, agents or employes, to

1 permit persons of ill repute or prostitutes to frequent his
2 licensed premises or any premises operated in connection
3 therewith. Minors may only frequent licensed premises if: (a)
4 they are accompanied by a parent; (b) they are accompanied by a
5 legal guardian; (c) they are under proper supervision; (d) they
6 are attending a social gathering; or (e) the hotel, restaurant
7 or retail dispenser licensee has gross sales of food and
8 nonalcoholic beverages equal to fifty per centum or more of its
9 combined gross sale of both food and alcoholic beverages. If a
10 minor is frequenting a hotel, restaurant or retail dispenser
11 licensee under subsection (e), then the minor may not sit at the
12 bar section of the premises, nor may any alcoholic beverages be
13 served at the table or booth at which the said minor is seated
14 unless said minor is with a parent, legal guardian or under
15 proper supervision. Further, if a hotel, restaurant, club liquor
16 licensee or retail dispenser is hosting a social gathering under
17 subsection (d), then written notice at least forty-eight hours
18 in advance of such gathering shall be given to the Bureau of
19 Enforcement. If a minor is frequenting licensed premises with
20 proper supervision under subsection (c), each supervisor can
21 supervise up to twenty minors, except for premises located in
22 cities of the first class, where each supervisor can supervise
23 up to five minors. Notwithstanding any other provisions of this
24 section, if the minors are on the premises as part of a school-
25 endorsed function, then each supervisor can supervise fifty
26 minors. Nothing in this clause shall be construed to make it
27 unlawful for minors to frequent public venues or performing arts
28 facilities.

29 (15) Cashing Pay Roll, Public Assistance, Unemployment
30 Compensation or Any Other Relief Checks. For any licensee or his

1 servants, agents or employes to cash pay roll checks or to cash,
2 receive, handle or negotiate in any way Public Assistance,
3 Unemployment Compensation or any other relief checks.

4 (16) Furnishing or Delivering Liquor or Malt or Brewed
5 Beverages at Unlawful Hours. For any licensee, his servants,
6 agents or employes, to give, furnish, trade, barter, serve or
7 deliver any liquor or malt or brewed beverages to any person
8 during hours or on days when the licensee is prohibited by this
9 act from selling liquor or malt or brewed beverages.

10 (17) Licensees, etc., Interested or Employed in
11 Manufacturing or Sale of Equipment or Fixtures. For any
12 licensee, or any officer, director, stockholder, servant, agent
13 or employe of any licensee, to own any interest, directly or
14 indirectly, in or be employed or engaged in any business which
15 involves the manufacture or sale of any equipment, furnishings
16 or fixtures to any hotel, restaurant or club licensees, or to
17 any importing distributors, distributors or retail dispensers.
18 Notwithstanding any other provision of this section or this act,
19 licensees may sell glasses at not less than cost and to provide
20 metal keg connectors and tap knobs to other licensees and to
21 holders of special occasion permits.

22 (20) (i) Retail Liquor and Retail Malt or Brewed Beverages
23 Licensee's Inside Advertisements. For any retail liquor or
24 retail malt or brewed beverages licensee, to display or permit
25 the display in the show window or doorways of his licensed
26 premises, any placard or sign advertising the brands of liquor
27 or malt or brewed beverages, if the total display area of any
28 such placard or sign advertising the product or products exceeds
29 six hundred square inches. Nothing herein shall prohibit a
30 licensee from displaying inside his licensed premises point of

1 sale displays advertising brand names of products sold by him,
2 other than a window or door display: Provided, That the total
3 cost of all such point of sale advertising matter relating to
4 any one brand shall not exceed the dollar amount set forth by
5 the board through regulation. All such advertising material,
6 including the window and door signs, may be furnished by a
7 manufacturer, distributor or importing distributor. The
8 restrictions on advertising set forth in subclause (ii) and in
9 clauses (20.1) and (20.2) shall also apply to this subclause.

10 (ii) Cooperative Advertising. No distributor or importing
11 distributor, directly or indirectly, independent or otherwise,
12 shall, except by prior written agreement, be required to
13 participate with a manufacturer in the purchase of any
14 advertising of a brand name product in any name, in any form,
15 whether it be radio, television, newspaper, magazine or
16 otherwise.

17 (20.1) Manufacturer Shall Not Require Advertising. For a
18 manufacturer to require a distributor or importing distributor
19 to purchase any type of advertising.

20 (20.2) Advertising Shall Be Ordered and Authorized in
21 Advance. For any advertising to be done on behalf of a
22 distributor or importing distributor which was not ordered and
23 authorized in advance by the distributor or importing
24 distributor.

25 (21) Refusing The Right of Inspection. For any licensee, or
26 his servants, agents or employes, to refuse the board or the
27 enforcement bureau or any of their authorized employes the right
28 to inspect completely the entire licensed premises at any time
29 during which the premises are open for the transaction of
30 business, or when patrons, guests or members are in that portion

1 of the licensed premises wherein either liquor or malt or brewed
2 beverages are sold.

3 (22) Allowance or Rebate to Induce Purchases. For any
4 licensee, or his servants, agents or employes, to offer, pay,
5 make or allow, or for any licensee, or his servants, agents or
6 employes, to solicit or receive any allowance or rebate, refunds
7 or concessions, whether in the form of money or otherwise, to
8 induce directly the purchase of liquor or malt or brewed
9 beverages.

10 (23) Money or Valuables Given to Employes to Influence
11 Actions of Their Employers. For any licensee, or any agent,
12 employe or representative of any licensee, to give or permit to
13 be given, directly or indirectly, money or anything of
14 substantial value, in an effort to induce agents, employes or
15 representatives of customers or prospective customers to
16 influence their employer or principal to purchase or contract to
17 purchase liquor or malt or brewed beverages from the donor of
18 such gift, or to influence such employers or principals to
19 refrain from dealing or contracting to deal with other
20 licensees.

21 (24) (i) Things of Value Offered as Inducement. Except as
22 provided in subclause (ii), for any licensee under the
23 provisions of this article, or the board or any manufacturer, or
24 any employe or agent of a manufacturer, licensee or of the
25 board, to offer to give anything of value or to solicit or
26 receive anything of value as a premium for the return of caps,
27 stoppers, corks, stamps or labels taken from any bottle, case,
28 barrel or package containing liquor or malt or brewed beverage,
29 or to offer or give or solicit or receive anything of value as a
30 premium or present to induce directly the purchase of liquor or

1 malt or brewed beverage, or for any licensee, manufacturer or
2 other person to offer or give to trade or consumer buyers any
3 prize, premium, gift or other inducement to purchase liquor or
4 malt or brewed beverages, except advertising novelties of
5 nominal value which the board shall define. This section shall
6 not prevent any manufacturer or any agent of a manufacturer from
7 offering and honoring coupons which offer monetary rebates on
8 purchases of wines and spirits through State [Liquor Stores]
9 liquor stores or the holder of an enhanced restaurant liquor
10 license, enhanced distributor license, or purchases of malt or
11 brewed beverages through distributors and importing distributors
12 in accordance with conditions or regulations established by the
13 board. The board or the holder of an enhanced restaurant liquor
14 license or enhanced distributor license may redeem coupons
15 offered by a manufacturer or an agent of a manufacturer at the
16 time of purchase. Coupons offered by a manufacturer or an agent
17 of a manufacturer shall not be redeemed without proof of
18 purchase. This section shall not apply to the return of any
19 monies specifically deposited for the return of the original
20 container to the owners thereof.

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

27 (iii) Notwithstanding subclause (i) or any other provision
28 of law, the holder of an enhanced license may establish and
29 implement a consumer relations marketing program for the purpose
30 of offering incentives, such as coupons or discounts on certain

1 products, which may be conditioned on the purchase of liquor by
2 its customers.

3 (25) Employment in Licensed Places. For any licensee or his
4 agent, to employ or permit the employment of any person at his
5 licensed hotel, restaurant or eating place for the purpose of
6 enticing customers, or to encourage them to drink liquor, or
7 make assignments for improper purposes.

8 Any person violating the provisions of this clause shall be
9 guilty of a misdemeanor and, upon conviction of the same, shall
10 be sentenced to pay a fine of not less than one hundred dollars
11 (\$100), nor more than five hundred dollars (\$500), for each and
12 every person so employed, or undergo an imprisonment of not less
13 than three (3) months, nor more than one (1) year, or either or
14 both, at the discretion of the court having jurisdiction of the
15 case. The administrative law judge shall have the power to
16 revoke or refuse licenses for violation of this clause.

17 (26) Worthless Checks. For any retail liquor licensee or any
18 retail dispenser, distributor or importing distributor, to make,
19 draw, utter, issue or deliver, or cause to be made, drawn,
20 uttered, issued or delivered, any check, draft or similar order,
21 for the payment of money in payment for any purchase of malt or
22 brewed beverages, when such retail liquor licensee, retail
23 dispenser, distributor or importing distributor, has not
24 sufficient funds in, or credit with, such bank, banking
25 institution, trust company or other depository, for the payment
26 of such check. Any person who is a licensee under the provisions
27 of this article, who shall receive in payment for malt or brewed
28 beverages sold by him any check, draft or similar order for the
29 payment of money, which is subsequently dishonored by the bank,
30 banking institution, trust company or other depository, upon

1 which drawn, for any reason whatsoever, shall, within five days
2 of receipt of notice of such dishonor, notify by certified mail
3 the person who presented the said worthless check, draft or
4 similar order and the malt beverage compliance officer for the
5 board. If the violation of this clause involving a check, draft
6 or similar order from the purchaser to the seller is
7 subsequently honored within ten days from the day it was made,
8 drawn, uttered, issued or delivered, then the malt beverage
9 compliance officer shall not turn the matter over to the
10 enforcement bureau for a citation.

11 (27) Distributors and Importing Distributors Employing
12 Minors. For any distributor or importing distributor to employ
13 minors under the age of eighteen but persons eighteen and over
14 may be employed to sell and deliver malt and brewed beverages. A
15 distributor holding an enhanced distributor license may employ a
16 minor at least eighteen years of age to sell wine, but a
17 distributor holding a wine and spirits retail license may not
18 employ a person under the age of twenty-one to sell liquor.

19 (28) Consumption of Liquor or Malt or Brewed Beverages While
20 Tending Bar. For any licensee, his servants, agents or employes,
21 to consume liquor or malt or brewed beverages while tending bar
22 or otherwise serving liquor or malt or brewed beverages. No
23 action shall be taken against a licensee under this clause
24 unless the licensee is the individual consuming liquor or malt
25 or brewed beverages in violation of this clause.

26 (30) Pyrotechnics Prohibited. For any licensee, his
27 servants, agents or employes, except licensees where pyrotechnic
28 displays are performed by a pyrotechnic operator licensed by the
29 Bureau of Alcohol, Tobacco, Firearms and Explosives and are
30 approved by a municipal fire official, to store, handle, use or

1 display any pyrotechnics within a building on the licensed
2 premises. For purposes of this clause, "pyrotechnics" shall mean
3 any chemical mixture, including pyrotechnic compositions,
4 intended to produce a visible or audible effect by combustion,
5 deflagration or detonation as defined by section 1.5.52 of the
6 National Fire Protection Association Standard 1126 entitled
7 "Standard for the Use of Pyrotechnics before a Proximate
8 Audience," 1992 Edition.

9 (31) (i) Sale or Purchase of Controlled Substance or Drug
10 Paraphernalia by Licensee. For any licensee to possess, furnish,
11 sell, offer to sell, or purchase or receive, or aid and abet in
12 the sale or purchase of any controlled substance or drug
13 paraphernalia, as defined in the act of April 14, 1972 (P.L.233,
14 No.64), known as "The Controlled Substance, Drug, Device and
15 Cosmetic Act," on the licensed premises unless the actions of
16 the licensee are authorized by law.

17 (ii) Sale or Purchase of Controlled Substances or Drug
18 Paraphernalia by Servant, Agent or Employee of the Licensee. For
19 any servants, agents or employees of the licensee to possess,
20 furnish, sell, offer to sell or purchase or receive, or aid and
21 abet in the sale or purchase of any controlled substance or drug
22 paraphernalia, as defined in "The Controlled Substance, Drug,
23 Device and Cosmetic Act," on the licensed premises unless the
24 actions of the person are authorized by law. The licensee shall
25 only be cited for a violation of this subclause if the licensee
26 knew or should have known of the activity and failed to take
27 substantial affirmative steps to prevent the activity on its
28 premises.

29 (32) Sale or Purchase of Alcohol Vaporizing Devices. For any
30 licensee, his servants or agents or employees to possess or to

1 permit an alcohol vaporizing device on the licensed premises.

2 (33) Off-premises Catering Permit; Fees. For any licensee,
3 his servants, agents or employes to sell alcohol at a location
4 other than its licensed premises, unless the sale is
5 specifically authorized under this act, or unless the licensee
6 receives a special permit from the board to do so. Only those
7 licensees holding a current and valid restaurant, hotel, brew
8 pub or eating place license shall be allowed to apply for such a
9 permit. Any licensee that wishes to obtain an off-premises
10 catering permit must notify the board and pay the permitting fee
11 by March of each calendar year regardless of whether the
12 licensee has scheduled catered events. Any licensee that fails
13 to notify the board and pay the permit fee by March 1 shall be
14 precluded from obtaining the permit for that calendar year. If a
15 licensee notifies the board and pays the permitting fee by March
16 1 and does not then use the permit throughout the calendar year,
17 the licensee shall not be entitled to a return of the permitting
18 fee. Any licensee not granted a license until after March 1 of
19 the calendar year shall have sixty days from the date of the
20 license transfer to notify the board of the licensee's intention
21 to use an off-premises catering permit and pay the permitting
22 fee. All servers at the off-premises catered function shall be
23 certified under the board's responsible alcohol management
24 program as required under section 471.1. The board may charge a
25 fee of five hundred dollars (\$500) each calendar year, to each
26 applicant for the initial permit associated with a particular
27 license, but no further fee shall be charged for any subsequent
28 permits issued to the applicant for the license during the same
29 calendar year. The applicant shall submit written notice to the
30 board thirty days prior to each catered event, unless this time

1 frame has been waived by the board, and the board may approve or
2 disapprove each event if the applicant fails to provide timely
3 notice of the catered function, does not intend to conduct a
4 function that meets the requirements of this act or has
5 previously conducted a function that did not meet the
6 requirements of this act. The fees shall be paid into the State
7 Stores Fund. Any violation of this act or the board's
8 regulations for governing activity occurring under the authority
9 of this permit may be the basis for the issuance of a citation
10 under section 471, the nonrenewal of the license under section
11 470 or the refusal by the board to issue subsequent permits or
12 honor subsequent dates on the existing permit. This penalty
13 shall be in addition to any other remedies available to the
14 enforcement bureau or the board.

15 (34) Noise. Notwithstanding any law or regulation to the
16 contrary, a licensee may not use or permit to be used inside or
17 outside of the licensed premises a loudspeaker or similar device
18 whereby the sound of music or other entertainment, or the
19 advertisement thereof, can be heard beyond the licensee's
20 property line; however, any licensee that is located in an area
21 which is subject to an exemption from the board's regulation
22 regarding amplified music being heard off the licensed premises
23 shall be exempt from compliance with this paragraph until the
24 expiration of the board's order granting the exemption. The
25 board's regulation regarding amplified music being heard off the
26 licensed premises is otherwise superseded by this paragraph.

27 (35) Sale of wine received by direct shipment. For any
28 licensee to sell or offer to sell wine purchased or acquired
29 from a direct wine shipper pursuant to the authority of section
30 488.

1 (36) Duties performed by distributors and importing
2 distributors. For any licensee to require that a distributor or
3 importing distributor stock merchandise in the licensee's
4 cooler, rotate the licensee's stock of malt or brewed beverages,
5 set up displays in the licensee's premises or pay any type of
6 fee required for making the distributor's product available on
7 the licensee's store shelves. This clause supersedes a contrary
8 provision of a contract.

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

10 Section 493.2. Unlawful Acts Relative to Enhanced
11 Licenses.--(a) It is unlawful for an enhanced licensee, or an
12 employee, servant or agent of the licensee or another person to
13 sell, furnish or give liquor or malt or brewed beverages or to
14 permit liquor or malt or brewed beverages to be sold, furnished
15 or given to a minor or person who is visibly intoxicated.

16 (b) An enhanced licensee who violates the provisions of
17 subsection (a) is subject to the penalty provisions set forth in
18 section 471.

19 Section 31. Section 494 of the act, amended April 29, 1994
20 (P.L.212, No.30) and November 10, 1999 (P.L.514, No.47), is
21 amended to read:

22 Section 494. Penalties.--(a) Any person who shall violate
23 any of the provisions of this article, except as otherwise
24 specifically provided, shall be guilty of a misdemeanor and,
25 upon conviction thereof, shall be sentenced to pay a fine of not
26 less than one hundred dollars (\$100), nor more than five hundred
27 dollars (\$500), and on failure to pay such fine, to imprisonment
28 for not less than one month, nor more than three months, and for
29 any subsequent offense, shall be sentenced to pay a fine not
30 less than three hundred dollars (\$300), nor more than five

1 hundred dollars (\$500), and to undergo imprisonment for a period
2 not less than three months, nor more than one year, or both. If
3 the person, at or relating to the licensed premises, violates
4 section 493(1), (10), (14), (16) or (21), or if the owner or
5 operator of the licensed premises or any authorized agent of the
6 owner or operator violates the act of April 14, 1972 (P.L.233,
7 No.64), known as "The Controlled Substance, Drug, Device and
8 Cosmetic Act," or 18 Pa.C.S. § 5902 (relating to prostitution
9 and related offenses) or 6301 (relating to corruption of
10 minors), he shall be sentenced to pay a fine not exceeding [five
11 thousand dollars (\$5,000)] ten thousand dollars (\$10,000) or to
12 undergo imprisonment for a period not less than [three] six
13 months, nor more than [one year] two years, or both.

14 (b) The right to suspend and revoke licenses granted under
15 this article shall be in addition to the penalty set forth in
16 this section.

17 (c) A person convicted of selling or offering to sell any
18 liquor or malt or brewed beverage without being licensed is in
19 violation of this article and shall, in addition to any other
20 penalty prescribed by law, be sentenced to pay a fine of two
21 dollars (\$2) per fluid ounce for each container of malt or
22 brewed beverages and four dollars (\$4) per fluid ounce for each
23 container of wine or liquor found on the premises where the sale
24 was made or attempted. The amount of fine per container will be
25 based upon the capacity of the container when full, whether or
26 not it is full at the time of the sale or attempted sale. In
27 addition, all malt or brewed beverages, wine and liquor found on
28 the premises shall be confiscated. If a person fails to pay the
29 full amount of the fine levied under this subsection, the
30 premises on which the malt or brewed beverages, wine or liquor

1 was found shall be subject to a lien in the amount of the unpaid
2 fine if the premises are owned by the person against whom the
3 fine was levied or by any other person who had knowledge of the
4 proscribed activity. The lien shall be superior to any other
5 liens on the premises other than a duly recorded mortgage.

6 Section 32. Section 499 of the act, added or amended October
7 5, 1994 (P.L.522, No.77) and February 21, 2002 (P.L.103, No.10),
8 is amended to read:

9 Section 499. Premises to be Vacated by Patrons.--(a) Except
10 as provided for elsewhere in this section, all patrons of a
11 licensee shall be required to leave that part of the premises
12 habitually used for the serving of liquor or malt or brewed
13 beverages to guests or patrons not later than one-half hour
14 after the time the licensee is required by this act to cease
15 serving liquor or malt or brewed beverages and shall not be
16 permitted to have any previously served liquor or malt or brewed
17 beverages in their possession, nor shall they be permitted to
18 remove any previously served liquor or malt or brewed beverages
19 from that part of the premises. Patrons of a licensee shall not
20 be permitted to reenter that portion of the premises habitually
21 used for the serving of liquor or malt or brewed beverages
22 between the time designated by this act for patrons to vacate
23 the licensed premises and the time designated by this act when
24 the serving of liquor or malt or brewed beverages is allowed to
25 begin unless the licensee has been granted a permit for extended
26 hours food service.

27 (a.1) Subsection (a) shall not apply to sales of malt and
28 brewed beverages for consumption off the premises when the
29 following conditions are met:

30 (1) no licensee may sell malt or brewed beverages in excess

1 of one hundred ninety-two fluid ounces in any one sale for
2 consumption off the premises unless the licensee possesses a
3 thirty-pack permit under this article;

4 (2) sales and service of malt and brewed beverages for
5 consumption off the premises are made prior to the designated
6 time the licensee is required by this act to cease serving
7 liquor, malt or brewed beverages;

8 (3) persons who have purchased malt and brewed beverages for
9 consumption off the premises shall remove the malt and brewed
10 beverages from the premises by the designated time as contained
11 in this act that patrons are required to vacate the premises;

12 (4) no club licensee may sell any malt or brewed beverage
13 for consumption off the premises where sold or to any persons
14 who are not members of the club.

15 (b) A licensee may remain open between the hours of two
16 o'clock antemeridian and seven o'clock antemeridian for the
17 purpose of serving food on any day if such licensee either
18 possesses or is eligible to purchase a Sunday sales permit and
19 receives an extended hours food license. The board shall
20 establish an annual fee for the extended hours food license
21 which shall not exceed fifty dollars (\$50).

22 (b.1) Upon application of any club, the board shall issue a
23 club extended hours food permit for a period of six (6) days
24 during the term of its license. The board shall issue
25 regulations governing terms of the application. The permits
26 shall be used solely for the purpose of serving food between the
27 hours of three o'clock antemeridian and seven o'clock
28 antemeridian. All patrons of a licensee shall be required to
29 leave that part of the premises habitually used for the serving
30 of liquor or malt or brewed beverages to guests or patrons not

1 later than one-half hour after the time the licensee is required
2 by this act to cease serving liquor or malt or brewed beverages
3 and shall not be permitted to have any previously served liquor
4 or malt or brewed beverages in their possession, nor shall they
5 be permitted to remove any previously served liquor or malt or
6 brewed beverages from that part of the premises.

7 (c) Any licensee who violates this section for the first
8 offense commits a summary offense and shall, upon conviction, be
9 sentenced to pay a fine of not more than three hundred dollars
10 (\$300) or to imprisonment for not more than ninety (90) days, or
11 both, and for the second or any subsequent offense commits a
12 misdemeanor of the third degree and shall, upon conviction, be
13 sentenced to pay a fine of not more than two thousand five
14 hundred dollars (\$2,500) or to imprisonment for not more than
15 one (1) year, or both.

16 (d) This section shall not apply to holders of public
17 service licenses.

18 (e) Nothing in this section shall prohibit restaurant
19 liquor, eating place retail dispenser or hotel licenses from
20 being open seven o'clock ante meridian on Sunday until two
21 o'clock ante meridian Monday for the purpose of serving food and
22 nonalcoholic beverages.

23 Section 33. Section 505.2 of the act, amended December 8,
24 2004 (P.L.1810, No.239), July 16, 2007 (P.L.107, No.34), June
25 25, 2010 (P.L.217, No.35), June 28, 2011 (P.L.55, No.11) and
26 December 22, 2011 (P.L.530, No.113), is amended to read:

27 Section 505.2. Limited Wineries.--(a) [In the interest of
28 promoting tourism and recreational development in Pennsylvania,
29 holders] Holders of a limited winery license may:

30 (1) Produce alcoholic ciders, wines and wine coolers,

1 subject to the exceptions provided under this section[, only
2 from an agricultural commodity grown in Pennsylvania].

3 (2) Sell alcoholic cider, wine and wine coolers produced by
4 the limited winery or purchased in bulk in bond from another
5 [Pennsylvania] limited winery on the licensed premises, under
6 such conditions and regulations as the board may enforce, to the
7 board, to enhanced restaurant liquor licensees, to individuals
8 and to brewery, hotel, restaurant, club and public service
9 liquor licensees, and to [Pennsylvania] winery licensees, and to
10 distributors that also hold an enhanced distributor license
11 under section 431.2: Provided, That a limited winery shall not,
12 in any calendar year, purchase alcoholic cider or wine produced
13 by other limited wineries in an amount in excess of fifty per
14 centum of the alcoholic cider or wine produced by the purchasing
15 limited winery in the preceding calendar year. In addition, the
16 holder of a limited winery license may purchase wine in bottles
17 from another [Pennsylvania] limited winery if these wines
18 undergo a second fermentation process. Such wine may be sold in
19 bottles bearing the purchasing limited winery's label or the
20 producing limited winery's label. [Such wines, if sold by the
21 board, may be sold by the producing limited winery to the
22 purchasing limited winery at a price lower than the price
23 charged by the board.]

24 (3) Separately or in conjunction with other limited
25 wineries, sell alcoholic cider, wine and wine coolers produced
26 by the limited winery on no more than five (5) board-approved
27 locations other than the licensed premises, with no bottling or
28 production requirement at those additional board-approved
29 locations and under such conditions and regulations as the board
30 may enforce, to the board, enhanced restaurant liquor licensees,

1 to individuals and to brewery, hotel, restaurant, club and
2 public service liquor licensees, and to distributors that also
3 hold an enhanced distributor license. If two or more limited
4 wineries apply to operate an additional board-approved location
5 in conjunction with each other, the wineries need only have one
6 board-approved manager for the location, need only pay one
7 application fee and need not designate specific or distinct
8 areas for each winery's licensed area. Each limited winery must
9 file an application for such an additional board-approved
10 location, and such location shall count as one of the five
11 permitted for each limited winery. Each limited winery is
12 responsible for keeping only its own complete records. A limited
13 winery may be cited for a violation of the recordkeeping
14 requirements of sections 512 and 513 pertaining to its own
15 records only.

16 (3.1) Notwithstanding any other provision of law, only ship
17 wine to residents of this Commonwealth in accordance with the
18 provisions of section 488, and a sale to a licensee of the board
19 must take place on the licensed premises of the limited winery.
20 Only a limited winery that applies for and acquires a wine and
21 spirits wholesale license may ship or deliver wine sold to a
22 licensee of the board.

23 (4) At the discretion of the board, obtain a special permit
24 to participate in alcoholic cider, wine and food expositions off
25 the licensed premises. A special permit shall be issued upon
26 proper application and payment of a fee of thirty dollars (\$30)
27 per day for each day of permitted use, not to exceed thirty (30)
28 consecutive days. The total number of days for all the special
29 permits may not exceed one hundred (100) days in any calendar
30 year. A special permit shall entitle the holder to engage in the

1 sale by the glass, by the bottle or in case lots of alcoholic
2 cider or wine produced by the permittee under the authority of a
3 limited winery license. Holders of special permits may provide
4 tasting samples of wines in individual portions not to exceed
5 one fluid ounce. Samples at alcoholic cider, wine and food
6 expositions may be sold or offered free of charge. Except as
7 provided herein, limited wineries utilizing special permits
8 shall be governed by all applicable provisions of this act as
9 well as by all applicable regulations or conditions adopted by
10 the board.

11 For the purposes of this clause, "alcoholic cider, wine and
12 food expositions" are defined as affairs held indoors or
13 outdoors with the intent of [promoting Pennsylvania products by]
14 educating those in attendance of the availability, nature and
15 quality of [Pennsylvania-produced] alcoholic ciders and wines in
16 conjunction with suitable food displays, demonstrations and
17 sales. Alcoholic cider, wine and food expositions may also
18 include activities other than alcoholic cider, wine and food
19 displays, including arts and crafts, musical activities,
20 cultural exhibits, agricultural exhibits and farmers markets.

21 (4.1) At the discretion of the board, obtain a farmers
22 market permit. The permit shall entitle the holder to
23 participate in more than one farmers market at any given time
24 and an unlimited number throughout the year and sell alcoholic
25 cider or wine produced under the authority of the underlying
26 limited winery license by the bottle or in case lots. Samples
27 not to exceed one fluid ounce per brand of wine may be offered
28 free of charge. A farmers market permit shall be issued upon
29 proper application and payment of an annual fee of two hundred
30 fifty dollars (\$250). A permit holder may participate in more

1 than one farmers market at any given time. Sales by permit
2 holders shall take place during the standard hours of operation
3 of the farmers market. Written notice of the date, times and
4 location the permit is to be used shall be provided by the
5 permit holder to the enforcement bureau at least two (2) weeks
6 prior to the event. Except as provided in this subsection,
7 limited wineries utilizing farmers market permits shall be
8 governed by all applicable provisions of this act as well as by
9 all applicable regulations adopted by the board.

10 (5) Apply for and hold a hotel liquor license, a restaurant
11 liquor license or a malt and brewed beverages retail license to
12 sell for consumption at the restaurant or limited winery on the
13 licensed winery premises, liquor, wine and malt or brewed
14 beverages regardless of the place of manufacture under the same
15 conditions and regulations as any other hotel liquor license,
16 restaurant liquor license or malt and brewed beverages retail
17 license.

18 (6) [(i) Secure a permit from the board to allow the holder
19 of a limited winery license to use up to twenty-five per centum
20 permitted fruit, not wine, in the current year's production.
21 Each permit is valid only for the calendar year in which it is
22 issued.

23 (ii) The fee for a permit to import and use permitted fruit
24 shall be in an amount to be determined by the board.

25 (iii) The purpose of this section is to increase the
26 productivity of limited wineries while at the same time
27 protecting the integrity and unique characteristics of wine
28 produced from fruit primarily grown in this Commonwealth.
29 Prevailing climatic conditions have a significant impact on the
30 character of the fruit. Accordingly, "permitted fruit" shall

1 mean fruit grown or juice derived from fruit grown within three
2 hundred fifty (350) miles of the winery.

3 (iv) The department is authorized to promulgate regulations
4 requiring the filing of periodic reports by limited wineries to
5 ensure compliance with the provisions of this section.]

6 (Reserved).

7 (6.1) Sell food for consumption on or off the licensed
8 premises and at the limited winery's additional board-approved
9 locations and sell by the glass, at the licensed premises and at
10 the limited winery's additional board-approved locations, only
11 wine and alcoholic ciders that may otherwise be sold by the
12 bottle.

13 (6.2) Sell wine- or liquor-scented candles acquired or
14 produced by the limited winery.

15 (6.3) Sell alcoholic cider, wine and wine coolers only
16 between the hours of nine o'clock antemeridian and eleven
17 o'clock postmeridian. A limited winery also may request approval
18 from the board to extend sales hours in individual locations at
19 other times during the year or beyond the limits set forth in
20 this clause. The request shall be made in writing to the board's
21 Office of the Chief Counsel and shall detail the exact locations
22 where sales hours are proposed to be extended, the proposed
23 hours and dates of extended operation and the reason for the
24 proposed extended hours.

25 (6.4) Store alcoholic cider, wine and wine coolers produced
26 by the limited winery at no more than two (2) board-approved
27 locations other than the licensed premises and those premises
28 referenced in clause (3) pertaining to the five (5) board-
29 approved locations for the sale of wine, with no bottling or
30 production requirement at those additional locations and under

1 such conditions and regulations as the board may enforce. If two
2 (2) or more businesses will operate out of the same storage
3 facility, the limited winery must designate specific and
4 distinct areas for its storage. The limited winery's designated
5 storage area must be secured and no one other than the licensee
6 and his employees may be allowed access to the storage area. No
7 board-approved manager will be necessary for the storage
8 facility. The limited winery must fill out an application for
9 such an additional board-approved storage location, and such
10 location shall count as one of the two permitted for each
11 limited winery. The limited winery is responsible for keeping
12 only its own complete records. A limited winery may be cited for
13 a violation of the recordkeeping requirements of sections 512
14 and 513 pertaining to its own records only.

15 (b) The total production of alcoholic ciders, wine and wine
16 coolers by a limited winery may not exceed two hundred thousand
17 (200,000) gallons per year.

18 (c) As used in this section:

19 "Agricultural commodity" shall include any of the following:
20 agricultural, apicultural, horticultural, silvicultural and
21 viticultural commodities.

22 "Farmers market" shall include any building, structure or
23 other place:

24 (1) owned, leased or otherwise in the possession of a
25 person, municipal corporation or public or private organization;

26 (2) used or intended to be used by two or more farmers or an
27 association of farmers, who are certified by the Department of
28 Agriculture of the Commonwealth to participate in the Farmers'
29 Market Nutrition Program subject to 7 CFR Pt. 249 (relating to
30 Senior Farmers' Market Nutrition Program (SFMNP)), for the

1 purpose of selling agricultural commodities produced in this
2 Commonwealth directly to consumers;

3 (3) which is physically located within this Commonwealth;
4 and

5 (4) which is not open for business more than twelve hours
6 each day.

7 Section 34. Section 505.4 of the act, amended December 22,
8 2011 (P.L.530, No.113), is amended to read:

9 Section 505.4. Distilleries.--(a) The board may issue a
10 distillery of historical significance license to any distillery
11 which was established prior to January 1, 1875. The holder of
12 the license may manufacture and sell liquor produced on the
13 licensed premises to the board, to enhanced licensees and
14 wholesale distributing licensees, to other entities licensed by
15 the board and to the public under such conditions and
16 regulations as the board may enforce. Production at the
17 distillery of historical significance shall be limited to an
18 amount not to exceed twenty thousand (20,000) gallons per year.
19 The distillery does not need to establish continuous operation
20 since January 1, 1875, in order to qualify for a license under
21 this section.

22 (b) (1) The board may issue a limited distillery license
23 that will allow the holder thereof to operate a distillery that
24 shall not exceed production of one hundred thousand (100,000)
25 gallons of distilled liquor per year. The holder of the license
26 may manufacture and sell bottled liquors produced on the
27 licensed premises to the board, to enhanced licensees and
28 wholesale distributing licensees, to other entities licensed by
29 the board and to the public between the hours of nine o'clock
30 antemeridian and eleven o'clock postmeridian so long as a

1 specific code of distilled liquor which is listed for sale as a
2 stock item by the board in State liquor stores may not be
3 offered for sale at a licensed limited distillery location at a
4 price which is lower than that charged by the board and under
5 such conditions and regulations as the board may enforce.

6 (2) (i) The holder of a limited distillery license may,
7 separately or in conjunction with other limited distillery
8 licensees, sell bottled liquors produced by the distillery at no
9 more than two (2) board-approved locations other than the
10 licensed premises, with no bottling or production requirement at
11 those additional board-approved locations and under such
12 conditions and regulations as the board may enforce to the
13 board, to individuals and to entities licensed by the board.

14 (ii) If two (2) or more limited distilleries apply to
15 operate an additional board-approved location in conjunction
16 with each other, the distilleries need only have one (1) board-
17 approved manager for the location, need only pay one application
18 fee and need not designate specific or distinct areas for each
19 distillery's licensed area. A limited distillery must file an
20 application for the additional board-approved location, and that
21 location shall count as one (1) of the two (2) permitted for
22 each limited distillery. A limited distillery is responsible for
23 keeping only its own complete records. A limited distillery may
24 be cited for a violation of the recordkeeping requirements of
25 sections 512 and 513 pertaining to its own records only.

26 (3) The holder of a limited distillery license may apply for
27 and hold a hotel liquor license, a restaurant liquor license or
28 a malt and brewed beverages retail license to sell for
29 consumption at the restaurant or limited distillery on the
30 licensed distillery premises liquor, wine and malt or brewed

1 beverages regardless of the place of manufacture under the same
2 conditions and regulations as any other hotel liquor license,
3 restaurant liquor license or malt and brewed beverages retail
4 license.

5 (4) The holder of a limited distillery license may sell food
6 for consumption on or off the licensed premises and at the
7 limited distillery's additional board-approved locations, and
8 may sell by the glass, at the licensed premises and at the
9 limited distillery's additional board-approved locations, only
10 liquor that may otherwise be sold by the bottle.

11 (5) The holder of a limited distillery license may provide
12 tasting samples of liquor that in total do not exceed one and
13 one-half (1.5) fluid ounces per person on the licensed premises
14 and at the two (2) board-approved locations. Samples may be sold
15 or provided free of charge and may only be provided between the
16 hours of nine o'clock antemeridian and eleven o'clock
17 postmeridian.

18 (6) The fee for the limited distillery license shall be in
19 an amount to be determined by the board but shall not exceed one
20 thousand five hundred dollars (\$1,500).

21 (7) The board may issue to the holder of a distillery
22 license a limited distillery license in exchange for the
23 distillery license provided that the applicant has not
24 manufactured more than one hundred thousand (100,000) gallons of
25 distilled liquor in the prior calendar year. The board may not
26 charge a fee for this exchange. An applicant under this
27 subsection shall surrender his distillery license for
28 cancellation prior to the issuance of the new limited distillery
29 license. The authority of the board to exchange a distillery
30 license for a limited distillery license under this subsection

1 and this subsection shall expire December 31, 2012.

2 (c) (1) The holder of a distillery license as issued under
3 section 505 may sell bottled liquors produced on the licensed
4 premises to the board, to enhanced licensees and other entities
5 licensed by the board and to the public between the hours of
6 nine o'clock antemeridian and eleven o'clock postmeridian so
7 long as a specific code of distilled liquor which is listed for
8 sale as a stock item by the board in State liquor stores may not
9 be offered for sale at a licensed distillery location at a price
10 which is lower than that charged by the board and under such
11 conditions and regulations as the board may enforce.

12 (2) The holder of a distillery license as issued under
13 section 505 may provide tasting samples of liquor that in total
14 do not exceed one and one-half (1.5) fluid ounces. Samples may
15 be sold or provided free of charge between the hours of nine
16 o'clock antemeridian and eleven o'clock postmeridian.

17 (d) Notwithstanding any other provision of law, a sale by a
18 distillery of historical significance, limited distillery or
19 distillery to a licensee of the board must take place on the
20 licensed distillery premises. Only a distillery authorized under
21 this section that applies for and acquires a wine and spirits
22 wholesale license may ship or deliver wine sold to a licensee of
23 the board.

24 Section 35. Section 508 of the act, amended April 29, 1994
25 (P.L.212, No.30), is amended to read:

26 Section 508. License Fees.--(a) The annual fee for every
27 license issued to a limited winery or a winery shall be as
28 prescribed in section 614-A of the act of April 9, 1929
29 (P.L.177, No.175), known as "The Administrative Code of 1929."
30 The fee for every license issued to a distillery (manufacturer)

1 shall be as prescribed in section 614-A of "The Administrative
2 Code of 1929." The annual fee for all other licenses shall be as
3 prescribed in section 614-A of "The Administrative Code of
4 1929." An applicant for renewal of a license issued under this
5 article shall file a written application with the board together
6 with an application surcharge of seven hundred dollars (\$700).
7 Whenever any checks issued in payment of filing and/or license
8 fees shall be returned to the board as dishonored, the board
9 shall charge a fee of five dollars (\$5.00) per hundred dollars
10 or fractional part thereof, plus all protest fees, to the maker
11 of such check submitted to the board. Failure to make full
12 payment or pay the face amount of the check in full and all
13 charges thereon as herein required within ten days after demand
14 has been made by the board upon the maker of the check, the
15 license of such person shall not be renewed for the license
16 period or validated for any interim period for such year.

17 (b) For the purpose of this section, the term "proof gallon"
18 shall mean a gallon liquid which contains one-half its volume of
19 alcohol of a specific gravity of seven thousand nine hundred
20 thirty-nine ten thousandths (.7939) at sixty degrees Fahrenheit.

21 Section 36. The act is amended by adding an article to read:

22 ARTICLE VIII-A

23 EMERGENCY STATE TAX

24 Section 801-A. Definitions.

25 The following words and phrases when used in this article
26 shall have the meanings given to them in this section unless the
27 context clearly indicates otherwise:

28 "Department." The Department of Revenue of the Commonwealth.

29 "Fiscal month." The monthly period established by the board
30 for the purpose of conducting the board's business.

1 "Taxable liquor." As follows:

2 (1) Any of the following which contain more than one-
3 half of one percent of alcohol by volume:

4 (i) An alcoholic, spirituous, vinous, fermented or
5 other alcoholic beverage.

6 (ii) A combination of liquors and mixed liquor, a
7 part of which is spirituous, vinous, fermented or
8 otherwise alcoholic.

9 (iii) A drink or drinkable liquid, preparation or
10 mixture intended for beverage purposes.

11 (2) The term shall not include alcohol and malt or
12 brewed beverages.

13 Section 802-A. Tax.

14 (a) Imposition.--An emergency State tax is imposed and
15 assessed at the rate of 18% of the net price of all taxable
16 liquor sold by the board or a wine and spirits wholesale
17 licensee.

18 (b) Collection.--The tax imposed under subsection (a) shall
19 be collected by the board or the wine and spirits wholesale
20 licensee from the purchasers of the taxable liquor from the
21 board or the wine and spirits wholesale licensee.

22 (c) Disposition.--The tax collected under subsection (b)
23 shall be paid into the State Treasury, through the department,
24 as provided under this article and shall be credited to the
25 General Fund.

26 Section 803-A. Transmittal.

27 (a) Duty.--Except as provided under subsection (b), the
28 board or the wine and spirits wholesale licensee shall, on or
29 before the 15th day of each calendar month, do all of the
30 following:

1 (1) Transmit to the department all of the following:

2 (i) A statement of its receipts from sales of
3 taxable liquor and taxes collected during the preceding
4 fiscal month.

5 (ii) Information necessary to effectuate this
6 article.

7 (2) Pay to the department the tax imposed under section
8 802-A(a).

9 (b) Exception.--The following shall apply:

10 (1) The board or a wine and spirits wholesale licensee
11 may add the tax imposed under section 802-A(a) to the
12 wholesale and retail price at which taxable liquor is sold
13 and eliminate any accounting of the tax separate from sale
14 prices.

15 (2) If the board or the wine and spirits wholesale
16 licensee adds the tax as provided under paragraph (1), the
17 amount of the tax for a calendar month shall be calculated by
18 dividing the entire gross receipts derived from sales at
19 Pennsylvania Liquor Stores or at wholesale licensees during
20 the month by six and five-ninths and the quotient shall be
21 the amount of the tax for the month payable as provided under
22 this section.

23 Section 37. Repeals are as follows:

24 (1) The General Assembly declares that the repeal under
25 paragraph (2) is necessary to effectuate the addition of
26 Article VIII-A of the act.

27 (2) The act of June 9, 1936 (Sp. Sess., P.L.13, No.4),
28 entitled, as reenacted and amended, "An act imposing an
29 emergency State tax on liquor, as herein defined, sold by the
30 Pennsylvania Liquor Control Board; providing for the

1 collection and payment of such tax; and imposing duties upon
2 the Department of Revenue and the Pennsylvania Liquor Control
3 Board," is repealed.

4 Section 38. This act shall take effect immediately.