

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 990

Session of
1983

INTRODUCED BY FREIND, TIGUE, CAWLEY, GALLAGHER, NOYE, WOGAN,
CORNELL, JOHNSON, CLYMER, MICHLOVIC, FISCHER AND
E. Z. TAYLOR, MAY 11, 1983

REFERRED TO COMMITTEE ON LIQUOR CONTROL, MAY 11, 1983

AN ACT

1 Amending the act of April 12, 1951 (P.L.90, No.21), entitled "An
2 act relating to alcoholic liquors, alcohol and malt and
3 brewed beverages; amending, revising, consolidating and
4 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,"
17 authorizing the affixing of official seals to liquor and
18 alcohol packages; providing for the establishment of private
19 licensed retail liquor stores; making certain repeals;
20 creating the Pennsylvania Liquor Licensing and Control Board;
21 and providing for the transition to a private licensed retail
22 store system.

23 The General Assembly of the Commonwealth of Pennsylvania
24 hereby enacts as follows:

25 Section 1. The title of the act of April 12, 1951 (P.L.90,
26 No.21), known as the Liquor Code, is amended to read:

27 AN ACT

1 Relating to alcoholic liquors, alcohol and malt and brewed
2 beverages; amending, revising, consolidating and changing the
3 laws relating thereto; regulating and restricting the
4 manufacture, purchase, sale, possession, consumption,
5 importation, transportation, furnishing, holding in bond,
6 holding in storage, traffic in and use of alcoholic liquors,
7 alcohol and malt and brewed beverages and the persons engaged
8 or employed therein; defining the powers and duties of the
9 Pennsylvania Liquor Licensing and Control Board; providing
10 for the establishment and operation of private retail liquor
11 stores and phasing out of State liquor stores, for the
12 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.

17 Section 2. The act is amended by adding a section to read:

18 Section 101.1. Intention of Legislature.--With respect to
19 the provisions of this act, it is the purpose of this amendatory
20 act to promote a free market system in the economy of this
21 Commonwealth by eliminating all State proprietary interest in
22 the retail marketing of liquor products. This divestiture of the
23 Pennsylvania Liquor Store system shall be in an orderly and
24 economically nondisruptive manner and is designed to provide the
25 consumer with the improved service and advantages of competition
26 which the free enterprise system traditionally fosters while
27 maintaining reasonable controls required by the nature of the
28 product and the magnitude of the transition and maintaining
29 adequate revenue to the Commonwealth from the sale of liquor
30 products.

1 Section 3. The definition of "board" in section 102 of the
2 act is amended and definitions are added to read:

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

6 * * *

7 "Board" shall mean the Pennsylvania Liquor Licensing and
8 Control Board.

9 * * *

10 "Official Seal" shall mean and include any insignia approved
11 by the board that is required to be affixed to a package, as
12 herein defined.

13 * * *

14 "Private retail liquor store" shall mean and include any
15 premise licensed by the board where liquor or wine is offered
16 for sale or resale in the original sealed containers as prepared
17 for the market by the manufacturer at the place of manufacture
18 but not for consumption on the premises where sold.

19 * * *

20 Section 4. The heading of Article II of the act is amended
21 to read:

22 Article II.

23 Pennsylvania Liquor Licensing and Control Board.

24 Section 5. Section 201 of the act, amended November 23, 1976
25 (P.L.1123, No.235), is amended to read:

26 Section 201. Appointment of Members; Terms; Salaries.--An
27 independent administrative board to be known as the
28 "Pennsylvania Liquor Licensing and Control Board" is hereby
29 created. The board shall consist of [three] five members to be
30 appointed by the Governor by and with the advice and consent of

1 [two-thirds] a majority of [all] the members of the Senate. Of
2 the original members, one shall be appointed for a term of [two
3 years] one year, one for a term of [four] two years, [and] one
4 for a term of [six] three years, one for a term of four years
5 and one for a term of five years from the date of his
6 appointment [and until his successor shall have been appointed
7 and qualified]. Thereafter, all appointments shall be for terms
8 of six years [or until successors are appointed and qualified].
9 No appointee shall continue to hold office after the expiration
10 of his term pending the appointment of any successor. Each of
11 the members shall receive an annual salary [of twenty-four
12 thousand dollars (\$24,000), except the chairman, who shall
13 receive an annual salary of twenty-five thousand dollars
14 (\$25,000)] as determined by the Executive Board.

15 Section 6. Sections 203 and 205 of the act are amended to
16 read:

17 Section 203. Chairman of Board.--The [board shall elect one
18 of its] Governor shall appoint one of the members as chairman.
19 The chairman shall, when present, preside at all meetings, and
20 in his absence a member designated by the chairman shall
21 preside.

22 [Two] Three members of the board shall constitute a quorum,
23 and any action or order of the board shall require the approval
24 of at least [two] three members.

25 Section 205. Bonds Required of Members and Secretary.--
26 Before entering upon the duties of their respective offices or
27 positions, each member of the board and the secretary shall
28 execute and file with the State Treasurer a bond in such penal
29 sum as shall be fixed by the Executive Board of this
30 Commonwealth upon recommendation of the Governor, but the amount

1 of any such bond shall not be less than ten thousand dollars
2 (\$10,000). Bonds in such penal sums as shall be fixed by the
3 Executive Board likewise shall be executed and filed with the
4 State Treasurer by such employees of the Pennsylvania Liquor
5 Licensing and Control Board as the head of such board shall,
6 with the approval of the Executive Board, prescribe. Such bonds
7 shall be payable to the Commonwealth of Pennsylvania and shall
8 be conditioned for the faithful performance of the members',
9 secretary's or employees' duties imposed by law or by lawful
10 authority and that the person bonded will not knowingly violate
11 the provisions of this act. All bonds required to be given under
12 this section shall, before being accepted by the State
13 Treasurer, be approved by the [Department of Justice] General
14 Counsel, and unless the Commonwealth shall establish its own
15 indemnity fund, all such bonds shall be given with security
16 approved by the [Department of Justice] General Counsel. If the
17 Commonwealth shall establish its own indemnity fund, the
18 Executive Board may, nevertheless, require any bond given
19 hereunder to be executed by a surety or sureties satisfactory to
20 the [Department of Justice] General Counsel. The cost of such
21 bonds required to be executed by a surety or sureties shall be
22 borne by the board as part of its operating expense.

23 Section 7. Section 207(b), (c) and (e) of the act, (b)
24 amended July 27, 1973 (P.L.247, No.70), are amended to read:

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

27 * * *

28 (b) To control the manufacture, possession, sale,
29 consumption, importation, use, storage, transportation and
30 delivery of liquor, alcohol and malt or brewed beverages in

1 accordance with the provisions of this act, and to fix the
2 wholesale [and retail prices] price at which liquors and alcohol
3 shall be sold [at Pennsylvania Liquor Stores] by the board:
4 Provided, That in fixing the sale prices, the board shall not
5 give any preference or make any discrimination as to classes,
6 brands or otherwise, except to the extent and for the length of
7 time necessary to sell such classes or brands in compliance with
8 any Federal action freezing or otherwise controlling the price
9 of said classes or brands, or except where special sales are
10 deemed necessary to move unsaleable merchandise, or except where
11 the addition of a service or handling charge to the fixed sales
12 price of any merchandise in the same comparable price bracket,
13 regardless of class, brand or otherwise, is, in the opinion of
14 the board, required for the efficient operation of the State
15 [store] liquor system. The board shall require each Pennsylvania
16 manufacturer and each nonresident manufacturer of liquors, other
17 than wine, selling such liquors to the board, which are not
18 manufactured in this Commonwealth, to make application for and
19 be granted a permit by the board before such liquors not
20 manufactured in this Commonwealth shall be purchased from such
21 manufacturer. Each such manufacturer shall pay for such permit a
22 fee which, in the case of a manufacturer of this Commonwealth,
23 shall be equal to that required to be paid, if any, by a
24 manufacturer or wholesaler of the state, territory or country of
25 origin of the liquors, for selling liquors manufactured in
26 Pennsylvania, and in the case of a nonresident manufacturer,
27 shall be equal to that required to be paid, if any, in such
28 state, territory or country by Pennsylvania manufacturers doing
29 business in such state, territory or country. In the event that
30 any such manufacturer shall, in the opinion of the board, sell

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

13 (c) To determine the municipalities within which
14 Pennsylvania Liquor [Stores] Warehouses shall be established and
15 the locations of the [stores] warehouses within such
16 municipalities.

17 * * *

18 (e) Through the Department of [Property and Supplies]
19 General Services as agent, to lease and furnish and equip such
20 buildings, rooms and other accommodations as shall be required
21 for the operation of this act.

22 * * *

23 Section 8. Section 208(a), (c), (d), (f), (i) and (j) of the
24 act, (d) amended July 22, 1970 (P.L.539, No.182) and (f) amended
25 October 11, 1972 (P.L.906, No.215), are amended to read:

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

30 (a) The equipment and management of Pennsylvania Liquor

1 [Stores and warehouses] Warehouses in which liquor and alcohol
2 are kept or sold, and the books and records to be kept therein.

3 * * *

4 (c) The purchase, as provided in this act, of liquor and
5 alcohol, and its supply to [Pennsylvania Liquor Stores] private
6 retail liquor stores and other retail licensees consistent with
7 the provisions of this act.

8 (d) The classes, varieties and brands of liquor and alcohol
9 to be kept and sold in Pennsylvania Liquor [Stores] Warehouses.
10 In making this determination the board shall meet not less than
11 twice a year.

12 * * *

13 (f) The sealing and labeling of liquor and alcohol sold
14 under this act and of liquor and alcohol lawfully acquired by
15 any person prior to January first, one thousand nine hundred
16 thirty-four. This section shall not be construed to authorize
17 the board to require that packages containing wine have affixed
18 thereto the Official Seal of the board nor shall it be construed
19 to authorize the board to allow the affixing of the Official
20 Seal of the board on liquor and alcohol packages after such
21 liquor or alcohol has entered the Commonwealth, except in the
22 case of Pennsylvania manufacturers and except in those cases
23 where the board deems it necessary for the proper enforcement of
24 the provisions of this act relating to sealing.

25 * * *

26 (i) The place and manner of depositing the receipts of
27 Pennsylvania Liquor [Stores] Warehouses and the transmission of
28 balances to the Treasury Department through the Department of
29 Revenue.

30 (j) The solicitation by resident or nonresident vendors of

1 liquor from Pennsylvania licensees and other persons of orders
2 for liquor to be sold through the [Pennsylvania Liquor Stores]
3 board and, in the case of nonresident vendors, the collection
4 therefrom of license fees for such privilege at the same rate as
5 provided herein for importers' licenses.

6 Section 9. Section 210(b) of the act is amended to read:

7 Section 210. Restrictions on Members of the Board and
8 Employees of Commonwealth.--* * *

9 (b) No member or employe of the board nor any employe of the
10 Commonwealth shall solicit or receive, directly or indirectly,
11 any commission, remuneration or gift whatsoever, from any person
12 having sold, selling or offering liquor or alcohol for sale to
13 the board for use in Pennsylvania Liquor [Stores] Warehouses or
14 private retail liquor stores.

15 Section 10. Article III of the act is repealed.

16 Section 11. The act is amended by adding an article to read:

17 Article III-A.

18 PENNSYLVANIA LIQUOR WAREHOUSES.

19 Section 301-A. Board to Establish Liquor Warehouses.--(a)
20 The board shall establish, operate and maintain at such places
21 throughout the Commonwealth as it shall deem essential and
22 advisable, warehouses for the sale of liquor.

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

29 Section 302-A. Selection of Personnel.--Officers and
30 employes of the board, except as herein otherwise provided,

1 shall be appointed and employed subject to the provisions of the
2 act of August 5, 1941 (P.L.752, No.286), known as the "Civil
3 Service Act."

4 Section 303-A. Purchases through the Board.--All liquor and
5 wine sold by private retail liquor stores for consumption or
6 resale in Pennsylvania shall be purchased through the board. All
7 liquor and wine sold by hotel, restaurant or club licensees may
8 be purchased from private retail liquor stores or directly from
9 the board.

10 Section 304-A. Handling and Delivery.--The board at its
11 discretion may provide for delivery either directly from the
12 manufacturer or distributor to retail licensees or from the
13 board's warehouses to the licensees or require the licensees to
14 provide for such transportation. In making its determination the
15 board shall provide a reasonable method by which any item which
16 a licensee wishes to stock for sale may be obtained and stamped
17 with required State seals without undue harm or damage to any
18 item susceptible to spoilage or harm if improperly transported
19 or stored.

20 Section 305-A. Sales by Pennsylvania Liquor Warehouses.--
21 Every Pennsylvania Liquor Warehouse shall keep in stock for sale
22 such classes, varieties and brands of liquor and alcohol as the
23 board shall prescribe. Every Pennsylvania Liquor Warehouse shall
24 sell liquors at wholesale to private retail liquor stores,
25 hotels, restaurants, clubs and railroad, pullman and steamship
26 companies licensed under this act; and, under the regulations of
27 the board, to pharmacists duly licensed and registered under the
28 laws of the Commonwealth, and to manufacturing pharmacists, and
29 to reputable hospitals approved by the board or chemists. The
30 board may sell to registered pharmacists only such liquors as

1 conform to the Pharmacopoeia of the United States, the National
2 Formulary or the American Homeopathic Pharmacopoeia. The board
3 may sell at special prices under the regulations of the board to
4 United States Armed Forces facilities which are located on the
5 United States Armed Forces installations and are conducted
6 pursuant to the authority and regulations of the United States
7 Armed Forces. The board may by regulation authorize the
8 acceptance of checks for liquor sold. All checks returned to the
9 board as dishonored and not paid within thirty days shall be
10 cause for the board for suspension or revocation of any license
11 issued by the board to the person who issued such check.

12 Section 306-A. Special Orders.--If any retail licensee shall
13 desire to purchase any class, variety or brands of liquor or
14 alcohol which a Pennsylvania Liquor Warehouse does not have in
15 stock, it shall be the duty of such warehouse immediately to
16 order the same in accordance with regulations prescribed by the
17 board. The customer shall be notified immediately upon arrival
18 of the goods.

19 Section 307-A. Tax Exempt Alcohol.--(a) The board may sell
20 tax exempt alcohol to the Commonwealth of Pennsylvania and to
21 persons as specified in subsection (b) to whom the board shall,
22 by regulation to be promulgated by it, issue permits for the
23 purchase of such tax exempt alcohol.

24 (b) Such permits shall be issued to the United States or any
25 governmental agency thereof, to any university or college of
26 learning, any laboratory for exclusive use in scientific
27 research, any hospital, sanitarium, eleemosynary institution or
28 dispensary; to physicians, dentists, veterinarians and
29 pharmacists duly licensed and registered under the laws of the
30 Commonwealth of Pennsylvania; to manufacturing chemists and

pharmacists or other persons for use in the manufacture of
compounding of preparations unfit for beverage purposes.

Section 308-A. No Consumption in Warehouses.--No liquor or
alcohol package shall be opened on the premises of a
Pennsylvania Liquor Warehouse. No manager or any other employe
of the board employed in a Pennsylvania Liquor Warehouse shall
allow any liquor or alcohol to be consumed on the premises, nor
shall any person consume any liquor or alcohol on such premises.

Section 309-A. Rationing.--The board is hereby authorized
and empowered to adopt and enforce appropriate rules and
regulations to ensure the equitable wholesale distribution
through the Pennsylvania Liquor Warehouses, of available liquor
and alcohol at any time when the demand therefore is greater
than the supply.

Section 310-A. Audits by Auditor General.--(a) It shall be
the duty of the Department of the Auditor General to make all
audits which may be necessary in connection with the
administration of the financial affairs of the board.

(b) At least one audit shall be made each year of the
affairs of the board and all collections made by the
Pennsylvania Liquor Warehouses.

(c) Special audits of the affairs of the board and the
Pennsylvania Liquor Warehouses may be made whenever they may, in
the judgment of the Auditor General, appear necessary, and shall
be made whenever the Governor shall call upon the Auditor
General to make them.

(d) Copies of all audits made by the Auditor General shall
be promptly submitted to the board and the Governor.

(e) Unless the Department of the Auditor General shall
neglect or refuse to make the audits as hereinabove required, it

1 shall be unlawful for the board to expend any money appropriated
2 to it by the General Assembly for any audit of its affairs,
3 except for the payment of the compensation and expenses of such
4 auditors as are regularly employed as part of the administrative
5 staff of the board.

6 Section 12. Section 410(e) of the act is amended to read:

7 Section 410. Liquor Importers' Licenses; Fees; Privileges;
8 Restrictions.--* * *

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

17 All importations of liquor into Pennsylvania by the licensed
18 importer shall be consigned to the Pennsylvania Liquor
19 Licensing and Control Board or the principal place of business
20 or authorized place of storage maintained by the licensee.

21 * * *

22 Section 13. Section 411 of the act, amended July 9, 1976
23 (P.L.963, No.188), is amended to read:

24 Section 411. Interlocking Business Prohibited.--(a) No
25 manufacturer and no officer or director of any manufacturer
26 shall at the same time be a holder of a hotel, restaurant [or],
27 club liquor license or private retail liquor store license, nor
28 be the owner, proprietor or lessor of any place covered by any
29 hotel, restaurant [or], club liquor license or private retail
30 liquor store license.

1 (b) No manufacturer, importer or sacramental wine licensee,
2 and no officer or director of a manufacturer, importer or
3 sacramental wine licensee shall own any stock or have any
4 financial interest in any hotel [or], restaurant or private
5 retail liquor store licensed under this act.

6 (c) Excepting as herein provided, no manufacturer, or
7 officer, director, stockholder, agent or employe of a
8 manufacturer shall in any wise be interested, either directly or
9 indirectly, in the ownership or leasehold of any property or the
10 equipment of any property or any mortgage lien against the same,
11 for which a hotel, restaurant [or], club license or private
12 retail liquor store license is granted; nor shall a
13 manufacturer, importer or sacramental wine licensee, or officer,
14 director, stockholder, agent or employe of a manufacturer,
15 importer or sacramental wine licensee, either directly or
16 indirectly, lend any moneys, credit, or give anything of value
17 or the equivalent thereof to, or guarantee the payment of any
18 bond, mortgage, note or other obligation of, any hotel,
19 restaurant [or], club licensee, or private retail liquor store
20 license, his servant, agent or employe, for equipping, fitting
21 out, or maintaining and conducting, either in whole or in part,
22 a hotel, restaurant or club licensed for the selling of liquor
23 for use and consumption upon the premises.

24 (d) Excepting as herein provided, no hotel licensee,
25 restaurant licensee [or], club licensee or private retail liquor
26 store licensee, and no officer, director, stockholder, agent or
27 employe of any such licensee shall in any wise be interested,
28 either directly or indirectly, in the ownership or leasehold of
29 any property or the equipment of any property or any mortgage
30 lien against the same, used by a manufacturer in manufacturing

1 liquor or malt or brewed beverages; nor shall any hotel,
2 restaurant [or], club licensee or private retail liquor store
3 licensee, or any officer, director, stockholder, agent or
4 employe of any such licensee, either directly or indirectly,
5 lend any moneys, credit, or give anything of value or the
6 equivalent thereof, to any manufacturer for equipping, fitting
7 out, or maintaining and conducting, either in whole or in part,
8 an establishment used for the manufacture of liquor or malt or
9 brewed beverages.

10 (e) Except as herein provided, no hotel, restaurant, retail
11 dispenser [or], club licensee or private retail liquor store
12 licensee, and no officer, director or stockholder, agent or
13 employe of any such licensee shall in any wise be interested,
14 directly or indirectly, in the ownership or leasehold of any
15 property or the equipment of any property or any mortgage lien
16 against the same, used by a distributor, importing distributor,
17 or by an importer or sacramental wine licensee, in the conduct
18 of his business; nor shall any hotel, restaurant, retail
19 dispenser [or], club licensee or private retail liquor store
20 licensee, or any officer, director, stockholder, agent or
21 employe of any such licensee, either directly or indirectly,
22 lend any moneys, credit, or give anything of value or the
23 equivalent thereof, to any distributor, importing distributor,
24 importer or sacramental wine licensee, for equipping, fitting
25 out, or maintaining and conducting, either in whole or in part,
26 an establishment used in the conduct of his business.

27 (f) The purpose of this section is to require a separation
28 of the financial and business interests between manufacturers
29 and holders of hotel [or], restaurant liquor licenses or private
30 retail liquor store licenses and, as herein provided, of club

1 licenses, issued under this article, and no person shall, by any
2 device whatsoever, directly or indirectly, evade the provisions
3 of the section. But in view of existing economic conditions,
4 nothing contained in this section shall be construed to prohibit
5 the ownership of property or conflicting interest by a
6 manufacturer of any place occupied by a licensee under this
7 article after the manufacturer has continuously owned and had a
8 conflicting interest in such place for a period of at least five
9 years prior to July eighteenth, one thousand nine hundred
10 thirty-five: Provided, however, That this clause shall not
11 prohibit any hotel, restaurant [or], club liquor licensee or
12 private retail liquor store licensee from owning land which is
13 leased to, and the buildings thereon owned by, a holder of a
14 retail dispenser's license; and nothing in this clause shall
15 prevent the issuance of a retail dispenser's license to a lessee
16 of such lands who owns the buildings thereon: And, provided
17 further, That nothing contained in this section shall be
18 construed to prohibit any hotel, restaurant, retail dispenser
19 [or], club licensee or private retail liquor store licensee or
20 any officer, director or stockholder, agent or employe of any
21 such licensee from having a financial or other interest,
22 directly or indirectly in the ownership or leasehold of any
23 property or the equipment of any property or any mortgage lien
24 against same, used, leased by an importer or sacramental wine
25 licensee for the exclusive purpose of maintaining commercial
26 offices and on the condition that said property is not used for
27 the storage or sale of liquor or malt or brewed beverages in any
28 quantity.

29 Section 14. Article IV of the act is amended by adding a
30 subdivision to read:

ARTICLE IV.

Licenses and Regulations; Liquor, Alcohol and
Malt and Brewed Beverages.

* * *

(A.1) Private Retail Liquor Stores.

Section 420. Authority to Issue Liquor Licenses to Private
Retail Liquor Stores.--(a) Subject to the provisions of this
act and the regulations promulgated under this act, the board
shall have authority to issue a private retail liquor license to
a person, corporation or association for any premises for the
purpose of establishing, operating and maintaining a private
retail liquor store. The licenses shall entitle the private
retail liquor store to purchase liquor and alcohol from the
board and to keep on the premises such liquor and alcohol and,
subject to the provisions of this act and the regulations made
thereunder, to sell the same for off-premise consumption. No
person who holds any elected public office in this Commonwealth
or in any political subdivision of this Commonwealth shall be
issued a private retail liquor store license, nor shall such
persons have any interest, directly or indirectly, in any such
license.

(b) Licenses to private retail liquor stores shall be
nontransferable and nonassignable from one person to another
except upon death of the licensee whose transfer to a member of
the immediate family may be provided for by regulation of the
board and may be transferred from one location to another only
through reapplication to the board.

(c) Licenses shall be revocable by the board for cause.

(d) Private retail liquor stores shall not be subject to the
provisions of sections 407, 461 and 468, clauses (2), (19) and

1 (20) of section 493 and the provisions of the act of June 24,
2 1939 (P.L.806, No.358), entitled "An act limiting the number of
3 licenses for the retail sale of liquor, malt or brewed
4 beverages, or malt and brewed beverages, to be issued by the
5 Pennsylvania Liquor Control Board; defining hotels, and
6 prescribing the accommodations required of hotels in certain
7 municipalities."

8 (e) No single individual, corporation or association shall
9 be allowed to hold interest in more than one such license for a
10 private retail liquor store until after a period of no less than
11 thirty-three months from the effective date of this act at which
12 time the board shall have the authority to issue additional
13 private retail liquor store licenses to existing licensees upon
14 application by said licensees. In reviewing an application for
15 said additional license or licenses, the board may deny an
16 application for an additional license by an existing licensee
17 only when, by a preponderance of evidence, it finds:

18 (1) that the issuance of an additional license to an
19 existing licensee would substantially lessen competition or
20 create a monopoly in the retail distribution of liquor and
21 alcohol within the local market area; or

22 (2) that any application for an additional license had been
23 filed pursuant to the direct or indirect acquisition of the
24 whole or any part of the stock, other share capital or assets of
25 another individual, corporation or association wherein the
26 effect of such acquisition or of the use of such stock by the
27 voting or granting of proxies or otherwise, would substantially
28 lessen competition or create a monopoly in the retail
29 distribution of liquor and alcohol within the local market area.

30 Section 421. License Districts; License Year; Hearings for

Private Retail Liquor Store Licenses and Renewals.--The board may, by regulation, divide the State into convenient license districts and may hold hearings on applications for licenses and renewals thereof, as it deems necessary, at a convenient place or places in each of said districts, at such times as it shall fix, by regulation, for the purpose of hearing testimony for and against applications for new licenses and renewals thereof. The board may provide for the holding of such hearings by examiners learned in the law, to be appointed by the Governor, who shall not be subject to the act of August 5, 1941 (P.L.752, No.286), known as the "Civil Service Act." Such examiners shall make a report to the board in each case with their recommendations. The board shall, by regulation, fix the license period and may provide for staggered expiration dates.

Section 422. Applications for Private Retail Liquor Licenses.--(a) Every applicant for a private retail liquor license or for the transfer of an existing license to another premises shall file a written application with the board in such form and containing such information as the board shall from time to time prescribe, which shall be accompanied by a filing fee in an amount determined by the board sufficient to cover related costs, the prescribed license fee and the bond hereinafter specified.

(b) With each initial application every applicant shall provide a financial statement in the form and containing such information as the board shall from time to time prescribe to indicate the applicant's financial capability to operate the private licensed retail store and the estimated volume of business to be conducted in the private retail liquor store.

(c) With each initial application and each renewal, the

1 applicant shall identify the location and ownership of the
2 proposed site for the private retail liquor store.

3 (d) If the applicant is a natural person, his application
4 must show that he is a citizen of the United States and has been
5 a resident of this Commonwealth for at least two years
6 immediately preceding his application and is not acting as an
7 agent for any other person, partnership, association or group of
8 persons beneficially interested in such license.

9 (e) If the applicant is a corporation, the application must
10 show that the corporation was created under the laws of
11 Pennsylvania or holds a certificate of authority to transact
12 business in Pennsylvania, that all officers, directors and
13 stockholders with a major interest (five per cent or more) in
14 the stock of the corporation are citizens of the United States
15 and that the manager is a citizen of the United States.

16 (f) (1) Each application shall be signed and verified by
17 oath or affirmation by the owner, if a natural person, or, in
18 the case of an association, by a member or partner thereof, or,
19 in the case of a corporation, by an executive officer thereof or
20 any person specifically authorized by the corporation to sign
21 the application, to which shall be attached written evidence of
22 his authority.

23 (2) If the applicant is an association, the application
24 shall set forth the names and addresses of the persons
25 constituting the association, and if a corporation, the names
26 and addresses of the principal officers thereof.

27 (g) Every applicant for a new license or for the transfer of
28 an existing license to another premises not then licensed shall
29 post, for a period of at least sixty days beginning with the day
30 the application is filed with the board, in a conspicuous place

1 on the outside of the premises or at the proposed new location
2 for which the license is applied, a notice of such application,
3 in such form, of such size, and containing such information as
4 the board may require by its regulations. Every such applicant
5 shall also advertise the notice of such application in a
6 newspaper of general circulation, or a weekly newspaper serving
7 the area in which the store will be located, once before the
8 posting hereinbefore required and a second time during the first
9 week of such posting. Proof of the posting and of the
10 advertising of such notice shall be filed with the board.

11 (h) If any false statement is intentionally made in any part
12 of the application, the affiant shall be deemed guilty of a
13 misdemeanor of the second degree and, upon conviction, shall be
14 subject to the penalties provided by this article.

15 Section 423. Review and Approval of Application for Private
16 Retail Liquor Store License.--(a) All applications for
17 licensees shall be thoroughly reviewed by the board and by
18 appropriate law enforcement agencies before approval or
19 disapproval.

20 (b) Reviews shall include thorough review of the required
21 financial statement and any other supporting financial
22 information which shall be required by the board.

23 (c) The board shall not grant a license to any applicant who
24 has been convicted of a felony within the five years immediately
25 preceding the date of application.

26 (d) The board shall not grant a license to any applicant who
27 receives funds for the financing of any part of the private
28 retail liquor store from any individual who has been convicted
29 of a felony within the five years immediately preceding the date
30 of application.

1 (e) In any instance in which a license applicant or persons
2 with financial interest in the license are under indictment for
3 a felony or under investigation by a legally constituted grand
4 jury, the board shall withhold approval or disapproval of the
5 license until such time as all legal proceedings related to the
6 felony are resolved.

7 (f) Upon review of the application and upon receipt of the
8 proper fees and bond, and upon being satisfied of the truth of
9 the statements in the application, that the applicant is the
10 only person in any manner pecuniarily interested in the business
11 so asked to be licensed and that no other person will be in any
12 manner pecuniarily interested therein during the continuance of
13 the license, except as hereinafter permitted, and that the
14 applicant is a person of good repute, that the premises applied
15 for meet all the requirements of this act and the regulations of
16 the board, that the applicant seeks a license for a private
17 retail liquor store as defined in section 102 and that the
18 issuance of such license is not prohibited by any of the
19 provisions of this act, the board shall grant and issue to the
20 applicant a private retail liquor license.

21 Section 424. Physical Limitations.--(a) The premises of all
22 private retail liquor stores shall be self-contained units with
23 limited customer access. All purchases made within the
24 limitations of the premises shall be paid for at a location
25 within the confines of the liquor sales area.

26 (b) Every license application for a private retail liquor
27 store shall contain a description of the premises for which the
28 applicant desires a license and shall set forth such other
29 material, information and description of plan of that premises
30 where it is proposed to keep and sell liquor as may be required

1 by the regulations of the board.

2 (c) The descriptions, information and plans referred to in
3 this subsection shall show the proposed location at the time the
4 application is made, and shall show any alterations proposed to
5 be made thereto, or the new building proposed to be constructed,
6 after the approval by the board of the application for a license
7 or for the transfer of an existing license to another premises
8 not then licensed. No physical alterations, improvements or
9 changes shall be required to be made, nor shall any new building
10 for any such purpose be required to be constructed until
11 approval of the application for license or for the transfer of
12 an existing license to another premises not then licensed by the
13 board. After approval of the application, the licensee shall
14 make the physical alterations, improvements and changes to the
15 licensed premises, or shall construct the new building in the
16 manner specified by the board at the time of approval, and the
17 licensee shall not transact any business under the license until
18 the board has approved the completed physical alterations,
19 improvements and changes to the licensed premises, or the
20 completed construction of the new building as conforming to the
21 specifications required by the board at the time of issuance or
22 transfer of the license, and is satisfied that the establishment
23 is a private retail liquor store as defined by this act. The
24 board may require that all such alterations or construction or
25 conformity to definition be completed within six months from the
26 time of issuance or transfer of the license. Failure to comply
27 with these requirements shall be considered cause for revocation
28 of the license. No such license shall be transferable between
29 the time of issuance or transfer of the license and the approval
30 of the completed alterations or construction by the board and

full compliance by the licensee with requirements of this act,
except in the case of death of the licensee prior to full
compliance with all of the aforementioned requirements, in which
event, the license may be transferred by the board as provided
by regulation of the board for the transfer of the license in
the case of death of the licensee.

(d) The board shall have the discretion to limit the number
of retail licenses issued in a particular municipality if it
finds that the number of retail liquor stores in such
municipality is sufficient to serve the local market and that
any increase in the number of such licenses would be detrimental
to the public health, safety, morals, economic welfare or
general welfare of the community. The board may consider the
impact of such premises on the character and aesthetics of the
immediate neighborhood. The board may also consider whether such
premises will cause substantial injury to the value of other
property in the neighborhood in which it is to be located. Such
injury shall not include the competitive business injury
normally expected to result to an existing retail liquor store
by the grant of an additional retail liquor license in the same
area.

Section 425. License Fees.--License fees for private retail
liquor stores shall be graduated according to the volume of
liquor obtained through the Pennsylvania Liquor Licensing and
Control Board. The board, through regulation, shall set the fees
in such a manner so as to ensure that license revenues are
sufficient that all costs of the board for the enforcement and
licensing including advertising by the board of private retail
liquor stores are reimbursed. Also, the license fee shall be
sufficiently high to insure that the licensee has a significant

1 commitment to the license as an indication that the licensee has
2 sufficient resources to establish, operate and maintain a
3 responsible business. All fees received shall be deposited in
4 the State Stores Fund.

5 Section 426. Sales by Private Retail Liquor Stores.--(a)
6 Every private retail liquor store may sell liquor for
7 consumption off-premise. In addition to the sale of liquor,
8 private retail liquor stores may sell related merchandise not
9 including beer within the controlled area of the store. The
10 board shall promulgate regulations stipulating what additional
11 related merchandise may be offered for retail sale in private
12 retail liquor stores.

13 (b) In those areas of the State which do not prohibit by
14 local option private retail liquor stores and where the board
15 receives no acceptable applicants for the licensing of a private
16 retail liquor store, the board may issue licenses to a person or
17 corporation for sale of liquor or wine for consumption off the
18 premises at a location which shall not be subject to the
19 provisions of subsection (a) of section 424. In no case shall
20 such location provide for self-service sales of wine or liquor.

21 (c) Private retail liquor store licensees may sell liquor
22 and related merchandise only after seven o'clock antemeridian of
23 any day until two o'clock antemeridian of the following day,
24 except Sunday, and except as provided in section 472.5 and
25 except on any primary, municipal or general election day.

26 (d) Any private retail liquor store may, by giving notice to
27 the board, advance by one hour the hours herein prescribed as
28 those during which liquor may be sold during such part of the
29 year when daylight saving time is being observed generally in
30 the municipality in which the place of business of such licensee

1 is located. Any licensee who elects to operate his place of
2 business in accordance with daylight saving time shall post a
3 conspicuous notice in his place of business that he is operating
4 in accordance with daylight saving time.

5 (e) Notwithstanding any provisions to the contrary, whenever
6 December 31 falls on a Sunday, every private retail liquor store
7 may sell liquor and related merchandise on any such day after
8 one o'clock postmeridian and until two o'clock antemeridian of
9 the following day.

10 (f) No liquor or alcohol package shall be opened on the
11 premises of a private licensed retail store. No licensee nor any
12 employee of any licensee shall allow any liquor or alcohol to be
13 consumed on the premise, nor shall any person consume any liquor
14 on such premises.

15 Section 15. Section 465(d)(5) of the act is amended to read:
16 Section 465. All Licensees to Furnish Bond.--* * *

17 (d) The penal sum of the respective bonds filed under the
18 provisions of this section shall be as follows:

19 * * *

20 (5) Hotel, restaurant, club [and], public service liquor
21 licensees and private retail liquor store licensees, two
22 thousand dollars (\$2,000.00), but in the case of a railroad or
23 pullman company, such penal sum shall cover every dining, club
24 or buffet car of such company operated under such license.

25 * * *

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

27 Section 471.1. Refusal to Issue, Suspension or Revocation of
28 License.--The board shall have the power to refuse to issue and
29 the power to suspend or revoke a license when the board finds
30 that:

1 (1) The licensee has violated any of the provisions of this
2 act or any of the rules and regulations of the board.

3 (2) The applicant or licensee has knowingly presented to the
4 board false, incomplete or misleading information relating to
5 licensure.

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

9 Section 17. Section 472 of the act, amended July 11, 1980
10 (P.L.558, No.117), is amended to read:

11 Section 472. Local Option.--(a) In any municipality or any
12 part of a municipality where such municipality is split so that
13 each part thereof is separated by another municipality, an
14 election may be held on the date of the primary election
15 immediately preceding any municipal election, but not oftener
16 than once in four years, to determine the will of the electors
17 with respect to the granting of liquor licenses to hotels,
18 restaurants and clubs, not oftener than once in four years, with
19 respect to the granting of licenses to retail dispensers of malt
20 and brewed beverages, not oftener than once in four years with
21 respect to granting of licenses to wholesale distributors and
22 importing distributors, or not more than once in four years with
23 respect to the establishment, operation and maintenance [by the
24 board of Pennsylvania liquor stores] of private retail liquor
25 stores, within the limits of such municipality or part of a
26 split municipality, under the provisions of this act: Provided,
27 however, Where an election shall have been held at the primary
28 preceding a municipal election in any year, another election may
29 be held under the provisions of this act at the primary
30 occurring the fourth year after such prior election: And

1 provided further, That an election on the question of
2 establishing and operating [a State liquor store] private retail
3 liquor stores shall be initiated only in those municipalities,
4 or that part of a split municipality that shall have voted
5 against the granting of liquor licenses; and that an election on
6 the question of granting wholesale distributor and importing
7 distributor licenses shall be initiated only in those
8 municipalities or parts of split municipalities that shall have
9 at a previous election voted against the granting of dispenser's
10 licenses. [Whenever] The question relating to a private retail
11 liquor store may appear on the primary ballot first following
12 passage of this act and subsequent to that time at any primary
13 election immediately preceding a municipal election in any year
14 at least four years thereafter. In all municipalities that have
15 opted to exclude State liquor stores at elections preceding the
16 adoption of this act, the exclusion of private retail liquor
17 stores will continue until at a later election a majority of the
18 voting electors vote yes on such a question.

19 (b) Except as provided in subsection (a), whenever electors
20 equal to at least twenty-five per cent of the highest vote cast
21 for any office in the municipality or part of a split
22 municipality at the last preceding general election shall file a
23 petition with the county board of elections of the county for a
24 referendum on the question of granting any of said classes of
25 licenses [or the establishment of Pennsylvania liquor stores],
26 the said county board of elections shall cause a question to be
27 placed on the ballots or on the voting machine board and
28 submitted at the primary immediately preceding the municipal
29 election. Separate petitions must be filed for each question to
30 be voted on. Said proceedings shall be in the manner and subject

1 to the provisions of the election laws which relate to the
2 signing, filing and adjudication of nomination petitions,
3 insofar as such provisions are applicable.

4 (c) When the question is in respect to the granting of on-
5 premise liquor licenses, it shall be in the following form:

6 Do you favor the granting of on-premise liquor licenses
7 for the sale of liquor in..... Yes
8 of.....? No

9 (d) When the question is in respect to the granting of
10 licenses to retail dispensers of malt and brewed beverages, it
11 shall be in the following form:

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

16 (e) When the question is in respect to the granting of
17 licenses to wholesale distributors of malt or brewed beverages
18 and importing distributors, it shall be in the following form:

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

24 (f) When the question is in respect to the establishment,
25 operation and maintenance of [Pennsylvania liquor stores]
26 private retail liquor stores it shall be in the following form:

27 Do you favor the establishment, operation and
28 maintenance of [Pennsylvania liquor stores]
29 private retail liquor stores in the..... Yes
30 of.....? No

1 (g) In case of a tie vote, the status quo shall obtain. If a
2 majority of the voting electors on any such question vote "yes,"
3 then liquor licenses shall be granted by the board to hotels,
4 restaurants and clubs, or malt and brewed beverage retail
5 dispenser licenses or wholesale distributor's and importing
6 distributor's license for the sale of malt or brewed beverages
7 shall be granted by the board, or [the board may establish,
8 operate and maintain Pennsylvania liquor stores] to individuals
9 or corporations for establishing, operating and maintaining a
10 private retail liquor store, as the case may be, in such
11 municipality or part of a split municipality, as provided by
12 this act; but if a majority of the electors voting on any such
13 question vote "no," then the board shall have no power to grant
14 or to renew upon their expiration any licenses of the class so
15 voted upon in such municipality or part of a split
16 municipality[; or if the negative vote is on the question in
17 respect to the establishment, operation and maintenance of
18 Pennsylvania liquor stores, the board shall not open and operate
19 a Pennsylvania liquor store in such municipality or part of a
20 split municipality, nor continue to operate a then existing
21 Pennsylvania liquor store in the municipality or part of a split
22 municipality for more than two years thereafter or after the
23 expiration of the term of the lease on the premises occupied by
24 such store, whichever period is less, unless and until at a
25 later election a majority of the voting electors vote "yes" on
26 such question].

27 Section 18. The act is amended by adding sections to read:

28 Section 472.4. Additional Local Powers.--In any municipality
29 wherein private retail liquor store licenses have been issued,
30 the municipal government through local ordinances shall have the

1 power to exercise additional options to control the sale of
2 liquor within the limits of the municipality. The additional
3 powers shall be limited to the following:

4 (1) Municipal governments may, within reason, further
5 restrict the opening and closing times of private retail liquor
6 stores over and above that provided in this act.

7 (2) Municipal governments may, within reason, further
8 restrict the amount of on-premise advertising.

9 Section 472.5. Sunday Sales.--No private retail liquor store
10 shall sell liquor on Sunday.

11 Section 19. Section 491(2), (3), (7) and (13) of the act,
12 (2) amended October 2, 1974 (P.L.665, No.220) and October 10,
13 1974 (P.L.692, No.231), are amended to read:

14 Section 491. Unlawful Acts Relative to Liquor, Alcohol and
15 Liquor Licensees.--

16 It shall be unlawful--

17 * * *

18 (2) Possession or Transportation of Liquor or Alcohol. For
19 any person, except a manufacturer or the board or the holder of
20 a sacramental wine license or of an importer's license, to
21 possess or transport any liquor or alcohol within this
22 Commonwealth which was not lawfully acquired prior to January
23 first, one thousand nine hundred and thirty-four, or has not
24 been purchased [from a Pennsylvania Liquor Store or] through the
25 board or from a licensed limited winery in Pennsylvania, except
26 miniatures totalling less than one gallon purchased by a
27 collector of the same in another state or foreign country, or in
28 accordance with the board's regulations. The burden shall be
29 upon the person possessing or transporting such liquor or
30 alcohol to prove that it was so acquired. But nothing herein

1 contained shall prohibit the manufacture or possession of wine
2 by any person in his home for consumption of himself, his family
3 and guests and not for sale, not exceeding, during any one
4 calendar year, two hundred gallons, any other law to the
5 contrary notwithstanding. Such wine shall not be manufactured,
6 possessed, offered for sale or sold on any licensed premises.

7 None of the provisions herein contained shall prohibit nor
8 shall it be unlawful for any person to import into Pennsylvania,
9 transport or have in his possession, an amount of liquor not
10 exceeding one gallon in volume upon which a State tax has not
11 been paid, if it can be shown to the satisfaction of the board
12 that such person purchased the liquor in a foreign country or
13 United States territory and was allowed to bring it into the
14 United States. Neither shall the provisions contained herein
15 prohibit nor make it unlawful for (i) any member of the armed
16 forces on active duty, or (ii) any retired member of the armed
17 forces, or (iii) any totally disabled veteran, or (iv) the
18 spouse of any person included in the foregoing classes of
19 persons to import into Pennsylvania, transport or have in his
20 possession an amount of liquor not exceeding one gallon per
21 month in volume upon which the State tax has not been paid, so
22 long as such liquor has been lawfully purchased from a package
23 store established and maintained under the authority of the
24 United States and is in containers identified in accordance with
25 regulations issued by the Department of Defense. Such liquor
26 shall not be possessed, offered for sale or sold on any licensed
27 premises.

28 None of the provisions herein contained shall prohibit nor
29 shall it be unlawful for any consul general, consul or other
30 diplomatic officer of a foreign government to import into

1 Pennsylvania, transport or have in his possession liquor upon
2 which a State tax has not been paid, if it can be shown to the
3 satisfaction of the board that such person acquired the liquor
4 in a foreign country and was allowed to bring it into the United
5 States. Such liquor shall not be possessed, offered for sale or
6 sold on any licensed premises.

7 Any person violating the provisions of this clause for a
8 first offense involving the possession or transportation in
9 Pennsylvania of any liquor in a package (bottle or other
10 receptacle) or wine not purchased [from a Pennsylvania Liquor
11 Store] through the board or from a licensed limited winery in
12 Pennsylvania, with respect to which satisfactory proof is
13 produced that the required Federal tax has been paid and which
14 was purchased, procured or acquired legally outside of
15 Pennsylvania shall upon conviction thereof in a summary
16 proceeding be sentenced to pay a fine of twenty-five dollars
17 (\$25) for each such package, plus costs of prosecution, or
18 undergo imprisonment for a term not exceeding ninety (90) days.
19 Each full quart or major fraction thereof shall be considered a
20 separate package (bottle or other receptacle) for the purposes
21 of this clause. Such packages of liquor shall be forfeited to
22 the Commonwealth in the manner prescribed in Article VI of this
23 act but the vehicle, boat, vessel, animal or aircraft used in
24 the illegal transportation of such packages shall not be subject
25 to forfeiture: Provided, however, That if it is a second or
26 subsequent offense or if it is established that the illegal
27 possession or transportation was in connection with a commercial
28 transaction, then the other provisions of this act providing for
29 prosecution as a misdemeanor and for the forfeiture of the
30 vehicle, boat, vessel, animal or aircraft shall apply.

1 (3) Purchase of Liquor or Alcohol. For any person within
2 this Commonwealth, by himself or by an employe or agent, to
3 attempt to purchase, or directly or indirectly, or upon any
4 pretense or device whatsoever, to purchase any liquor or alcohol
5 from any person or source other than [a Pennsylvania Liquor
6 Store] through the board, except in accordance with the
7 provisions of this act or the regulations of the board.

8 * * *

9 (7) Sales of Liquor by Manufacturers and Licensed Importers.
10 For any manufacturer or licensed importer of liquor in this
11 Commonwealth, his agents, servants or employes, to sell or offer
12 to sell any liquor in this Commonwealth except to the board for
13 use in Pennsylvania Liquor [Stores] Warehouses, and in the case
14 of a manufacturer, to the holder of a sacramental wine license
15 or an importer's license, but a manufacturer or licensed
16 importer may sell or offer to sell liquor to persons outside of
17 this Commonwealth.

18 * * *

19 (13) Violation of Certain Rules and Regulations of Board.
20 For any person, to violate any rules and regulations adopted by
21 the board to insure the equitable wholesale [and retail] sale
22 and distribution of liquor and alcohol through the Pennsylvania
23 Liquor [Stores] Warehouses.

24 * * *

25 Section 20. Section 494 of the act is amended by adding a
26 subsection to read:

27 Section 494. Penalties.--* * *

28 (c) (1) Any person who shall violate the provisions of
29 clause (1) of section 493 shall be guilty of a misdemeanor and,
30 upon conviction thereof, shall be sentenced to pay a fine of not

1 less than two thousand five hundred dollars (\$2,500), and on
2 failure to pay such fine, to imprisonment for not less than one
3 month nor more than three months, and for any subsequent
4 offense, shall be sentenced to pay a fine of five thousand
5 dollars (\$5,000) and on failure to pay such fine, to
6 imprisonment for not less than three months no more than one
7 year.

8 (2) The board shall suspend the license of any licensee who
9 has been convicted of having violated the provisions of clause
10 (1) of section 493 for a period of six months, and upon
11 subsequent offense the board shall revoke the license.

12 Section 21. Section 495 heading, (b), (c) and (e) of the
13 act, amended August 21, 1961 (P.L.1015, No.456), are amended to
14 read:

15 Section 495. Identification Cards; Licensees [and State
16 Liquor Store Employees] Saved From Prosecution.--* * *

17 (b) Such identification card shall be presented by the
18 holder thereof upon request of [any State Liquor Store or] any
19 licensee, or the servant, agent or employe thereof, for the
20 purpose of aiding such store, licensee, or the servant, agent or
21 employe to determine whether or not such person is twenty-one
22 years of age and upwards, when such person desires alcoholic
23 beverage at a [State Liquor Store or] licensed establishment.

24 (c) In addition to the presentation of such identification
25 card, [the agent of the State Liquor Store or] the licensee or
26 his servant, agent or employe, shall require the person whose
27 age may be in question to fill in and sign a card in the
28 following form:

29 19

30 I,....., hereby represent

1 to, a [State Store
2 or] licensee of the Pennsylvania Liquor Licensing and Control
3 Board, that I am of full age and discretion and over the age
4 of 21 years, having been born on
5 19.... at This statement is made to induce said
6 store or licensee above named to sell or otherwise furnish
7 alcoholic beverages to the undersigned.

8 Serial Number of Identification Card:

9 I understand that I am subject to a fine of
10 \$300.00 and sixty days imprisonment for any
11 misrepresentation herein.

12
13 (Name)

14
15 (Address)

16 Witness:

17 Name.....

18 Address.....

19 Such statement shall be printed upon a 3 inch by 5 inch or 4
20 inch by 5 inch file card, which card shall be filed
21 alphabetically by the [State Liquor Store or] licensee, at or
22 before the close of business on the day of which said
23 certificate is executed, in a file box containing a suitable
24 alphabetical index, and which card shall be subject to
25 examination by any officer, agent or employe of the Liquor
26 Licensing and Control Board at any and all times.

27 * * *

28 (e) The signed statement in the possession of a licensee [or
29 an employe of a State Liquor Store] may be offered as a defense
30 in all civil and criminal prosecutions for serving a minor, and

1 no penalty shall be imposed if the Liquor Licensing and Control
2 Board or the courts are satisfied that the licensee [or State
3 Liquor Store employe] acted in good faith.

4 Section 22. Section 802 of the act, amended September 28,
5 1961 (P.L.1728, No.702), is amended to read:

6 Section 802. Moneys Paid Into The State Stores Fund for Use
7 of the Commonwealth.--All moneys, except fees to be paid into
8 the Liquor License Fund as provided by the preceding section,
9 collected, received or recovered under the provisions of this
10 act for license fees, permit fees, filing fees and registration
11 fees, from forfeitures, sales of forfeited property, compromise
12 penalties and sales of liquor and alcohol [at the Pennsylvania
13 Liquor Stores] through the board shall be paid into the State
14 Treasury through the Department of Revenue into a special fund
15 to be known as "The State Stores Fund."

16 [One-half] Except for private retail store fees, one-half of
17 all application filing and transfer fees shall be credited to a
18 special account designated as the Enforcement Officers'
19 Retirement Account. The moneys credited to this account shall be
20 paid, annually, by the board to the State [Employees'] Employees'
21 Retirement Board to be paid into the State [Employees']
22 Employees' Retirement Fund and credited to the Enforcement
23 Officers' Benefit Account. All other moneys in such fund shall
24 be available for the purposes for which they are appropriated by
25 law.

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

27 Article VIII-A.

28 TRANSITION TO PRIVATE RETAIL LIQUOR STORES.

29 Section 801-A. Transition Power of Board.--It shall be the
30 power and duty of the Pennsylvania Liquor Licensing and Control

Board to prepare for and carry out an orderly transition to the private retail liquor store system in a manner which to the extent possible is consistent with this act and other laws of the Commonwealth, minimizes disruption in service to the public and maximizes opportunities for small business and minority business in Pennsylvania.

Section 802-A. Opening of the First Private Retail Liquor Stores.--(a) In order to facilitate an orderly transition the first private retail liquor stores shall be authorized to open on a date to be specified by the board in either the month of June or July after a period of no less than twenty-one months and nor more than thirty-three months from the effective date of this act.

(b) If the board determines that an orderly transition would be facilitated by opening a limited number of private retail liquor stores in selected geographic areas in order to test transition procedures and identify problems which may result in necessary alterations to those procedures, the board may authorize the opening of such test stores no more than three months prior to the general initial opening date. In selecting these test stores and locations the board shall take every reasonable precaution to reduce any unfair competitive advantage the test stores may have as a result of an early opening date.

Section 803-A. Publication of License Applications and Approvals.--No less often than monthly the board shall cause to be published in at least one newspaper of general circulation in the county in which the private retail liquor store is to be located a list of all applications made and licenses granted for private retail liquor stores. Such listing shall contain both the name of the applicant or licensee and the location of the

1 store.

2 Section 804-A. Availability of Sales History.--The board
3 shall make available a history of sales by product code and
4 State store location. A fee shall be charged for the sales
5 history in an amount determined by the board to be sufficient to
6 cover the costs of preparing and reproducing the history. All
7 fees received from such sales shall be deposited in The State
8 Stores Fund.

9 Section 805-A. Transfer of Existing State Stores.--If a
10 private retail liquor store licensee wishes to take over
11 ownership of merchandise or furnishings of an existing State
12 store the following procedures shall apply:

13 (1) The State store shall be closed for a period of time
14 immediately prior to the effective date of the private store
15 license to allow for a physical inventory of merchandise,
16 supplies and equipment to be purchased by the licensee.

17 (2) The purchase price of merchandise shall be as listed in
18 the wholesale price list as published by the board.

19 (3) The purchase price of supplies shall be the current fair
20 market value of the items at the time of the transfer.

21 (4) The purchase price of equipment shall be fixed by a
22 mutually agreeable appraiser whose fee shall be equally shared
23 by the licensee and the board.

24 (5) The full price of all items being taken over by the
25 licensee shall be paid to the board prior to reopening of the
26 store by the licensee and all receipts from such sales shall be
27 deposited in The State Stores Fund.

28 Section 806-A. Disposition of State Store Contents.--All
29 product inventory in closed State stores shall be (i) returned
30 to a board warehouse for sale, (ii) transferred to other State

1 stores still open, (iii) held for sale to any retail licensee,
2 or (iv) sold at special sale to licensees or the public as
3 deemed necessary to move unsaleable merchandise. All surplus
4 furnishings and equipment shall be disposed of through the
5 Department of General Services as provided for in the act of
6 April 9, 1929 (P.L.177, No.175), known as "The Administrative
7 Code of 1929." All proceeds shall be deposited in The State
8 Stores Fund.

9 Section 807-A. State Store Closings.--As the market areas of
10 the State stores become covered by private retail liquor stores
11 the board shall close the appropriate State stores. At least
12 three times during the nine months after the first private
13 retail liquor store opens the board shall review all State
14 stores and close those in areas serviced by new licensees. Under
15 no circumstances shall any State store remain open for retail
16 sales beyond the nine months following the general initial
17 opening date set for private retail liquor stores.

18 Section 808-A. Initial Licenses.--To the extent possible
19 license applications shall be processed by the board on a first
20 in, first out basis and should logistics require it, the
21 merchandise orders filled by the board warehouses shall be
22 processed in order of date of license approval so that the first
23 licenses issued shall receive priority.

24 Section 809-A. Price List.--The initial wholesale price list
25 of items stocked in board warehouses shall be published no later
26 than fifteen weeks prior to the date on which the first private
27 retail liquor store may open.

28 Section 810-A. Initial Store Orders.--Initial licensee
29 orders shall be received no later than three months prior to the
30 date on which the first private retail liquor store may open.

1 Section 811-A. Advertising.--Advertising by private retail
2 liquor store licensees shall be permitted one month in advance
3 of the effective date of their license.

4 Section 812-A. Employment and Application Preferences;
5 Financial Assistance.--(a) Any person who is an employe of the
6 board on the effective date of this act whose employment is
7 terminated by reason of this act shall be deemed preferred on
8 the civil service list for any employment for which he would
9 otherwise be qualified with the Commonwealth.

10 (b) All otherwise qualified applicants for private retail
11 liquor licenses who are employes of the board on the effective
12 date of this act, or who are members of a minority group, shall
13 be given preference by the board for the issuance of such
14 licenses. The board shall by regulation establish the criteria
15 and procedures to be used in the implementation of this
16 subsection and shall give public notice of the same at least
17 eighteen months prior to the opening of the first private retail
18 liquor stores.

19 (c) All otherwise qualified applicants for private retail
20 liquor licenses who are employes of the board on the effective
21 date of this act, or who are members of a minority group shall
22 be given financial and technical assistance from the State Store
23 Fund and the board. The financial assistance shall be made
24 available in accordance with the same terms and conditions or
25 set forth in the act of July 22, 1974 (P.L.598, No.206), known
26 as the "Pennsylvania Minority Business Development Authority
27 Act," except that the maximum interest rate shall be four per
28 centum per annum. Such persons shall also be eligible for all
29 financial assistance available under other programs of this
30 Commonwealth designed to aid or promote, through low interest

1 loans or otherwise, small business enterprises and minority
2 business enterprises. The board, in cooperation with the
3 Department of Commerce, shall assist such persons in making
4 application for such financial assistance.

5 Section 24. (a) The Pennsylvania Liquor Control Board is
6 hereby abolished and the terms of its members shall end
7 immediately.

8 (b) All personnel, files, stock, equipment and moneys under
9 the direction or control of the Pennsylvania Liquor Control
10 Board are transferred to the Pennsylvania Liquor Licensing and
11 Control Board.

12 Section 25. All acts and parts of acts are repealed insofar
13 as they are inconsistent with this act.

14 Section 26. (a) All but section 5 of this act shall take
15 effect in 30 days.

16 (b) Section 5 of this act shall take effect immediately.