

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1273 Session of
2008

INTRODUCED BY WONDERLING, M. WHITE, ARMSTRONG, PICCOLA, EARLL
AND FOLMER, FEBRUARY 8, 2008

REFERRED TO LAW AND JUSTICE, FEBRUARY 8, 2008

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,"
17 further providing for the retail sale of wine and liquor;
18 regulating service of alcoholic beverages; conferring powers
19 and duties on the Pennsylvania Liquor Control Board and the
20 Legislative Reference Bureau; establishing an advisory
21 committee; imposing penalties; providing for a request for
22 proposal concerning recommendations on the sale of State
23 liquor stores to private investors; and making an
24 appropriation.

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

27 Section 1. The act of April 12, 1951 (P.L.90, No.21), known
28 as the Liquor Code, reenacted and amended June 29, 1987 (P.L.32,

No.14), is amended by adding articles to read:

ARTICLE VIII-A.

RETAIL SALE OF WINE AND LIQUOR.

Section 801-A. Legislative intent.

(a) Declaration.--The General Assembly hereby finds and declares that:

(1) the sale of liquor and wine at retail should no longer be by the Commonwealth, but rather by retail licensees;

(2) the health and welfare of the citizens of this Commonwealth will be adequately protected by the regulation of private licensees through strict enforcement of laws and rules relating to the sale of liquor and wine;

(3) the sale of liquor and wine through retail licenses will improve customer service, selection and price; and

(4) the operation and efficiency of State government will be improved.

(b) Purpose.--It is the purpose of the General Assembly to:

(1) continue and increase revenue to the Commonwealth;

(2) provide a system of controls, including limitations on the number of retail applications and enforcement procedures to discourage the intemperate use of liquor;

(3) create incentives and facilitate the transition of employees to other employment;

(4) minimize disruption of services to the public; and

(5) enhance alcohol education efforts for the benefit of the children of this Commonwealth.

Section 802-A. Definitions.

The following words and phrases when used in this article shall have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 "Franchise." A written agreement between the board and a
3 successful bidder in which the board agrees to issue a wine and
4 spirits store license to the successful bidder for a period of
5 30 years within a specified geographic area for the
6 establishment and operation of a wine and spirits store
7 consistent with the provisions of this act.

8 "Licensee." Any person who successfully bids for a franchise
9 and who applies for and receives a license for the operation of
10 a wine and spirits store for the retail sale of wine and liquor
11 for off-premises consumption.

12 Section 803-A. Closure of State stores and initial franchises.

13 (a) Powers and duties.--It shall be the power and duty of
14 the board to carry out an orderly transition to a wine and
15 spirits store system in a manner which is consistent with this
16 article and other laws of this Commonwealth and which maintains
17 a continuous level of service to the public.

18 (b) Franchise zones.--Subject to the provisions of this
19 article, the board shall establish 428 franchise zones within
20 this Commonwealth for the issuance of wine and spirit store
21 licenses granting to a licensee the exclusive authority to sell
22 liquor and wine at retail for off-premises consumption within
23 each franchise zone. The board in establishing each franchise
24 zone shall ensure the delivery of services currently provided by
25 State stores. At a minimum there shall be a wine and spirits
26 store located in each county.

27 (c) Sale.--

28 (1) The board shall establish a schedule for the sale of
29 exclusive wine and spirits store franchises within the
30 franchise zones established under to subsection (b) by sale

1 to the highest responsible bidder in accordance with this
2 article. The board may establish a staggered schedule for the
3 sale of wine and spirits store franchises in order to
4 maintain a continuous level of service to the public.

5 (2) The minimum bid for a franchise shall be \$50,000.

6 (3) The franchise shall be valid for a period of 30
7 years from the date of issuance unless sooner forfeited,
8 abandoned or revoked pursuant to the provisions of this act.

9 (4) No applicant may hold, directly or indirectly:

10 (i) more than 10% of the franchises within this
11 Commonwealth;

12 (ii) more than 40% of the franchises in any one
13 county which has five or more franchises; and

14 (iii) all the franchises in any one county which has
15 less than five franchises.

16 (d) Implementation.--In implementing the provisions of this
17 article, the board shall have the following additional powers
18 and duties:

19 (1) Prescribe application forms for persons desiring to
20 acquire a wine and spirits store license.

21 (2) Adopt an orderly procedure for the investigation,
22 processing and approval of applications for franchises and
23 wine and spirits store licenses.

24 (3) Develop the form of the wine and spirits store
25 license.

26 (4) Disseminate information to the public relating to
27 the sale of franchises and the issuance of wine and spirits
28 store licenses.

29 (5) Make available for public inspection the most recent
30 inventory of the stock, equipment and other assets of each

State store as well as a history of sales by product code and
State store location for the last five years.

(6) Enforce the provisions of this article.

Section 804-A. Application for wine and spirits store
franchises and licenses.

(a) Bid.--No person may bid upon, purchase or otherwise
acquire a wine and spirits store franchise unless the applicant
has satisfied all the prescribed requirements of this article
and the board has approved the applicant's qualification to hold
a wine and spirits store franchise and license under this
article.

(b) Written application.--Prior to the submission of a bid
for a retail liquor store franchise, each applicant shall file a
written application, with any required application fee, in such
form and containing such information as the board shall from
time to time prescribe. The application shall contain, at a
minimum, the following:

(1) The name and address of the applicant.

(2) Whether the applicant is an individual, corporation,
limited liability company, limited partnership, partnership
or association; the state of incorporation or organization,
the names and residence addresses of each executive officer,
director or general or limited partner; and the names and
residence addresses of any person or interested individual
owning, directly or indirectly, any legal or equitable
interest in the operations of the licensed wine and spirits
store proposed to be operated by the applicants, including
all stockholders of any closed corporation and all
stockholders having an ownership interest of 5% or more of
the voting stock of a public corporation. As provided under

1 section 404, parties not listed on the application, or any
2 amendment thereof, can have no ownership interest in a
3 licensed business.

4 (3) If the applicant is an association, the application
5 shall set forth the names and addresses of the persons
6 constituting the association.

7 (4) If the applicant is a corporation, the application
8 must show that:

9 (i) the corporation was incorporated under the laws
10 of Pennsylvania or holds a certificate of authority to
11 transact business in Pennsylvania; and

12 (ii) all officers, directors and stockholders with
13 an interest of 5% or more in the stock of the corporation
14 are citizens of the United States.

15 (5) If the applicant is a natural person, the
16 application must show that the applicant is a citizen of the
17 United States and has been a resident of this Commonwealth
18 for at least one year immediately preceding the application
19 and that the applicant is not acting as an agent for any
20 other person, partnership, association or group of persons
21 beneficially interested in the license.

22 (6) The proposed location and ownership of the site for
23 the wine and spirits store, if available.

24 (7) A sworn statement that the applicant and all parties
25 with any direct or indirect interests in the operation of a
26 wine and spirits store have never been convicted in this
27 Commonwealth of any crime involving fraud, moral turpitude or
28 racketeering or within a period of ten years immediately
29 preceding the date of the application or have been convicted
30 of any felony or of an equivalent crime in another state or

1 of any crime in this or any other Federal or state court for
2 a violation of any Federal or state liquor law. If the
3 applicant is a corporation, limited partnership, partnership
4 or association, the application shall contain a sworn
5 statement that none of the executive officers, directors or
6 general or limited partners, or any person owning, directly
7 or indirectly, at least 5% of the outstanding stock of or
8 partnership interests in such applicant has been so
9 convicted.

10 (8) A statement that the applicant will continuously
11 operate a wine and spirits store for the duration of the 30-
12 year franchise period and will provide a level of service,
13 including, but not limited to, hours of operation and product
14 availability reasonably equivalent to the level of service
15 currently provided in the same geographic area.

16 (c) Financial statement.--In addition to the application
17 filed under subsection (a), the applicant shall provide a
18 financial statement in the form and containing such information
19 as the board shall from time to time prescribe to indicate the
20 applicant's financial capability to operate the wine and spirits
21 store and the estimated volume of business to be conducted in
22 the wine and spirits store.

23 (d) Affirmation.--The application shall be signed and
24 verified by oath or affirmation by the owner, if a natural
25 person, or, in the case of an association, by a member or
26 partner thereof, or, in the case of a corporation, by an
27 executive officer thereof or any person specifically authorized
28 by the corporation to sign the application, to which shall be
29 attached written evidence of that authority.

30 (e) Additional information.--An applicant shall provide the

board any additional information the board may request.

(f) Amended application.--When a change occurs in any information provided to the board, an amended application shall immediately be submitted to the board in the same manner as the original application.

Section 805-A. Issuance of licenses.

(a) Qualifications.--Only those applicants for wine and spirits store licenses issued under this section who meet all of the requirements of this subsection shall be qualified to participate in the sale conducted under this article. The qualifications are as follows:

(1) applicants shall demonstrate, by submitting financial statements, that the applicants possess sufficient financial resources to operate a licensed wine and spirits store, pay all taxes due and owing to the Commonwealth and assume liability for the safe operation of the licensed premises;

(2) applicants shall file a certificate obtained from the Department of Revenue indicating whether the applicant has any current tax deficiencies due and owing the Commonwealth. No applicant shall be permitted to participate in the sale of franchises pursuant to this article if that applicant has any outstanding tax assessments or deficiencies except for amounts subject to timely appeal; and

(3) all required bonds and letters of credit shall be posted and are subject to forfeiture for violations of this article in the same manner as provided by sections 465 and 466 of this act.

(b) Successful bidders.--Licenses shall be issued pursuant to this section to successful bidders upon demonstration that

1 the licensee will comply with all of the following terms and
2 conditions:

3 (1) notice shall be given to the board within 15 days of
4 any change in financial interests as provided by subsection
5 (a)(1);

6 (2) notice shall be given to the board within 15 days of
7 any criminal indictments or convictions as provided under
8 section 804-A(b)(7) and the ownership interest of any parties
9 subject to such convictions shall be totally divested by the
10 licensee within 30 days of the date of any conviction, guilty
11 plea or of any conviction, guilty plea or plea of nolo
12 contendere;

13 (3) licensees shall continue to maintain the bonding for
14 the operation of the wine and spirits store required by this
15 article;

16 (4) licensees shall remit to the board the emergency
17 liquor tax as provided by the act of June 9, 1936 (1st
18 Sp.Sess., P.L.13, No.4), entitled "An act imposing an
19 emergency State tax on liquor, as herein defined, sold by the
20 Pennsylvania Liquor Control Board; providing for the
21 collection and payment of such tax; and imposing duties upon
22 the Department of Revenue and the Pennsylvania Liquor Control
23 Board"; licensees shall remit to the Department of Revenue
24 the sales and use tax as provided by Article II of the act of
25 March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
26 1971;

27 (5) licensees shall acquire wine and liquor exclusively
28 from the wholesale system as provided in this act and shall
29 keep a detailed log of all wholesale wine and liquor
30 transactions; and

1 (6) licensees shall establish adequate security to
2 protect their inventory from unauthorized sale or diversion
3 and prevent its unauthorized distribution.

4 Section 806-A. Disqualification.

5 (a) Board.--The board shall disqualify an applicant for a
6 franchise or a wine and spirits store license if:

7 (1) The applicant has been convicted of a crime as
8 provided under paragraph (4).

9 (2) Any executive officer, director or general or
10 limited partner of the applicant, or any person owning,
11 directly or indirectly, at least 5% of the outstanding stock
12 of or partnership interest in the applicant, has been
13 convicted of a crime as provided under paragraph (4).

14 (3) The applicant receives funds for the financing of
15 any part of the wine and spirits store from any individual
16 who has been convicted of a crime as provided under paragraph
17 (4).

18 (4) In any instance in which an applicant or persons
19 with financial interest in the license are under indictment
20 for a felony or under investigation by a legally constituted
21 grand jury, the board shall withhold approval or disapproval
22 of the license until such time as all legal proceedings
23 related to the felony are resolved.

24 (5) The applicant provides false or misleading
25 information.

26 (b) False statement.--If any false statement is
27 intentionally made in any part of the application, the affiant
28 shall be guilty of a misdemeanor of the second degree and, upon
29 conviction, shall be subject to the penalties provided by this
30 act. In addition, the applicant shall be denied a franchise and

1 a license or, if already granted, the franchise and license
2 shall be revoked.

3 Section 807-A. Application procedure.

4 (a) Receipt.--Upon receipt of an application for a wine and
5 spirits store franchise and license, and any other information
6 the board may require, the board shall conduct an investigation
7 of the applicant as deemed necessary or desirable.

8 (b) Investigation.--Upon the completion of an investigation
9 under subsection (a), the board shall inform the applicant, in
10 writing, whether the application has been approved or denied and
11 shall post a copy of the decision in the office of the board.

12 (c) Denial.--If an application is denied, the board shall
13 provide the applicant with the specific reasons for the denial.
14 The applicant shall be entitled to a hearing if a hearing is
15 requested within five days of the decision.

16 (d) Posting.--Every applicant for a wine and spirits store
17 license or for the transfer of an existing license to another
18 premises not then licensed shall post, for a period of at least
19 60 days beginning with the day the application is filed with the
20 board, in a conspicuous place on the outside of the premises or
21 at the proposed new location for which the license is applied, a
22 notice of the application in the form, of the size, and
23 containing all information as the board may require by
24 regulation.

25 (e) Hearing.--The board shall hold a hearing on any
26 application for a wine and spirits store license upon the
27 request of any resident residing within a radius of 500 feet of
28 the premises, if the request is filed within 15 days of posting
29 the notice of application under subsection (d). The board and
30 any hearing examiner of the board shall give appropriate

1 evidentiary weight to any testimony of such residents at the
2 hearing. The board may provide for the holding of such hearings
3 by hearing examiners as provided in this act. The board shall
4 refuse any application for a wine and spirits store license
5 which could be detrimental to the welfare, health, peace and
6 morals of the inhabitants of the neighborhood within a radius of
7 500 feet of the premises proposed to be licensed.

8 (f) Notification.--The board shall approve or disapprove the
9 location and notify the successful bidder or licensee of its
10 decision.

11 Section 808-A. Physical limitations.

12 (a) Unit.--The premises of each wine and spirits store shall
13 be a self-contained unit with limited customer access dedicated
14 solely to the sale of liquor and permitted merchandise. All
15 purchases made within the limitations of the premises shall be
16 paid for at a location within the confines of the liquor sales
17 area.

18 (b) Description.--Upon notice of a successful bid on a
19 franchise or an application to relocate, each applicant for a
20 wine and spirits store license shall submit a description of the
21 premises and any other material, information and description of
22 the plan of that premises where it is proposed to keep and sell
23 liquor as may be required by the regulations of the board.

24 (c) Detail of description.--The descriptions, information
25 and plans under subsection (b) shall show the proposed location,
26 and shall show any alterations proposed to be made to the
27 described premises, or the new building proposed to be
28 constructed after the approval by the board of the application
29 for a franchise or for the transfer of an existing license to
30 another premises not then licensed.

1 Section 809-A. Denial of application.

2 Hearings on the denial of an application or on the failure to
3 renew a license shall be held in accordance with the procedures
4 established in section 464.

5 Section 810-A. Bidding.

6 (a) Process.--The granting of franchises under this article
7 shall be by sealed competitive bids to the highest responsible
8 bidder. No bid shall be considered unless the bond required
9 under this section has been submitted to the board. All bids for
10 a wine and spirits store franchise may be rejected by the board
11 if the board determines that the highest bid is inadequate.

12 Whenever the board rejects all the tendered bids, the board
13 shall begin a new bidding process for that wine and spirits
14 store franchise. The board shall notify qualified bid applicants
15 of the date and the hour of the bid openings.

16 (b) Security.--In order to participate in the bidding under
17 this section, bid applicants shall post bonds, cash, negotiable
18 securities or letters of credit equal to an amount set by the
19 board, but not less than \$50,000.

20 (c) Filing.--Each person desiring to submit a bid must file
21 the bid with the board prior to the specified date and hour for
22 the bid openings. Failure to deliver a bid or nonreceipt of a
23 bid prior to the appointed date and hour shall constitute
24 sufficient reason for rejection of a bid. Following the award of
25 the exclusive wine and spirits store franchise within each
26 franchise zone, the board shall indicate the successful bidder.
27 A copy of each awarded bid and the bidder's application shall be
28 maintained as public record and open to public inspection in the
29 offices of the board.

30 (d) Issuance.--The board shall issue a franchise to a

successful bidder to operate a wine and spirits store within the
specified franchise zone upon satisfaction of all of the
following conditions:

(1) Execution by the successful bidder of a franchise
agreement.

(2) Payment in full by the successful bidder of the
amount of the successful bid.

(3) Approval by the board of the successful bidder's
proposed franchise location.

(4) Posting by the successful bidder of bonds in an
amount determined by the board to reasonably reflect the cost
of the bidder's initial inventory. Bonds posted pursuant to
this clause shall be released by the board upon payment in
full by the successful bidder of the amount due for initial
inventory or shall be forfeited in the event the amount due
for initial inventory is not paid in full within 15 days of
the date such inventory was delivered to the wine and spirits
store location.

(e) Release.--Bonds posted by unsuccessful bidders under
section 810-A(b) shall be released by the board upon acceptance
of the successful bid.

(f) Payment.--Bonds posted by the successful bidder under
section 810-A(b) shall be released by the board upon payment by
the successful bidder of the initial franchise fee. A successful
bidder's bond shall be forfeited if the initial franchise fee is
not paid within 90 days of the date the board accepts the bid
and the board shall then offer the franchise to the next highest
responsible bidder. The board shall then either issue the wine
and spirits store license to the next highest bidder for such
license or reject all bids and start the bidding process anew

1 for such retail liquor store license.

2 Section 811-A. Closure of existing State stores.

3 (a) Grant.--An awarded franchise and license shall grant the
4 successful bidder the opportunity to bid upon the remaining
5 inventory, tangible property and fixtures of all State stores
6 owned by the Commonwealth pursuant to this article. The board
7 shall establish a procedure for the sale of the inventory,
8 property and fixtures of all State stores consistent with
9 Article XXIV-A of the act of April 9, 1929 (P.L.177, No.175),
10 known as The Administrative Code of 1929. All monetary proceeds
11 from such sales shall be deposited in the Wine and Spirits Store
12 Fund.

13 (b) Development.--The board shall develop a schedule of
14 closure for State stores. Under no circumstances shall any State
15 store remain open for retail sales beyond 18 months following
16 the initial opening date set for any wine and spirits store.

17 Section 812-A. Monthly franchise fee, initial franchise period
18 and renewal of retail liquor store licenses.

19 (a) Delivery.--On or before the tenth day of each calendar
20 month, each wine and spirits store licensee shall deliver to the
21 board a statement of the gross sales of liquor and wine from the
22 wine and spirits store location for the preceding calendar month
23 together with payment of the 1% monthly franchise fee applied to
24 such gross sales before the application of sales tax. The
25 statement shall be in the form prescribed by the board and shall
26 include separate sales figures for the wine and spirits store's
27 sales of liquor, wine and other items and a statement of total
28 sales together with the calculation of the licensee's monthly
29 franchise fee.

30 (b) Period.--The initial franchise period for each retail

1 liquor store shall be 30 years from the effective date of the
2 wine and spirits store license.

3 (c) Review.--At the end of the initial 30-year franchise
4 period, the board shall conduct a review of each wine and
5 spirits store franchise and licensee to determine if each
6 licensee and each wine and spirits store has complied with the
7 provisions of this act and any regulations promulgated under
8 this act. The board shall also review the service provided by
9 each wine and spirits store to determine its adequacy. The board
10 may decline to renew the franchise and license of any wine and
11 spirits store which has substantially failed to comply with the
12 provisions of this act or which has failed to provide an
13 adequate level of service to the public.

14 (d) Fee.--At the end of the initial 30-year franchise
15 period, the board shall determine the amount of the franchise
16 renewal fee to be paid by the wine and spirits store licensee in
17 order to retain the franchise for another 30-year period. The
18 renewal fee shall be a percentage of the annual gross sales of
19 the wine and spirits store, as determined by the board, but not
20 less than the amount of the original bid for the franchise. If
21 the wine and spirits store licensee remits the franchise renewal
22 fee as herein provided and is successfully reviewed by the board
23 pursuant to subsection (c), the licensee shall retain the
24 franchise for a second 30-year period.

25 (e) Remittances.--If the wine and spirits store licensee
26 fails to remit the franchise renewal fee within 90 days of
27 notification of the fee from the board, the franchise shall be
28 rebid in the same manner as provided in section 810-A.
29 Applicants shall submit to the board the same information
30 required for the initial issuance of the exclusive franchise and

wine and spirits store license and any additional information
required by the board by such dates as prescribed by the board.

(f) Application.--The requirements and procedures set forth
under this section shall apply to all franchises and licenses at
the end of each ten-year period.

Section 813-A. Sale, assignment or transfer of license.

(a) Prohibition.--No person may sell, assign or otherwise
transfer a wine and spirits store franchise and license without
the prior written approval of the board.

(b) Merger.--For purposes of this section, the merger of a
wine and spirits store licensee or the sale of more than 50% of
the outstanding stock of or partnership interests in the wine
and spirits store licensee shall be deemed to be a sale,
assignment or transfer of a wine and spirits store franchise and
license under this section.

(c) Sale.--Any person to whom a wine and spirits store
franchise and license is sold, transferred or reissued shall
comply with the provisions of this act.

Section 814-A. Renewal or transfer.

(a) Hearings.--The board shall hold hearings on renewals or
transfers as it deems necessary at the times as it shall fix for
the purpose of hearing such testimony. The board shall hold a
hearing on any application for a renewal of a wine and spirits
store license or the transfer of any such license to a new
location, upon the request of any person with standing to
testify under subsection (b), if the request is filed with the
board within the first 15 days of posting of the notice of
application pursuant to section 807-A. The board may provide for
the holding of such hearings by hearing examiners as provided in
this act.

1 (b) Residents.--If a hearing is held in the case of an
2 application for a license or the transfer of a license under
3 this article, the board shall permit residents residing within a
4 radius of 500 feet of the premises to testify at the hearing.
5 The board and any hearing examiner of the board shall give
6 appropriate evidentiary weight to any testimony of such
7 residents given at the hearing.

8 (c) Refusal.--The board shall refuse any application for a
9 renewal or transfer which would be detrimental to the welfare,
10 health, peace and morals of the inhabitants of the neighborhood
11 within a radius of 500 feet of the place proposed to be
12 licensed.

13 Section 815-A. Surrender, revocation or forfeiture of wine and
14 spirits store franchise or license.

15 Any wine and spirits store licensee may surrender its
16 franchise and license to the board at any time. Upon surrender,
17 revocation or forfeiture of a franchise or license, the board
18 shall proceed to reissue the exclusive wine and spirits store
19 franchise within the franchise zone by the bidding process
20 provided in this article.

21 Section 816-A. Sales by wine and spirits stores.

22 (a) Off-premises.--Every wine and spirits store may sell
23 liquor for consumption off-premises. In addition to the sale of
24 liquor, wine and spirits stores may sell related merchandise
25 within the controlled area of the store. Wine and spirits stores
26 have no authority under any circumstances to sell malt or brewed
27 beverages. The board shall promulgate regulations setting forth
28 what additional related merchandise may be offered for retail
29 sale in wine and spirits stores.

30 (b) Approval.--No licensee shall engage in any separate

business activities upon any licensed premises without prior approval of the board.

(c) Purchase.--All holders of licenses issued under section 401 shall only purchase wine and liquor from the wine and spirits store in the franchise zone in which the section 401 licensee is located or a contiguous franchise zone thereto.

(d) Time of sales.--Wine and spirits store licensees may not sell liquor between 11 p.m. and 8 a.m. or between the hours of 11 p.m. Saturday and 8 a.m. on Monday.

(e) Employment.--Nothing in this act, or any regulation promulgated under this act, shall prohibit or prevent any wine and spirits store licensee from employing any person who is at least 21 years of age to directly serve the public and who is at least 21 years of age to stock shelves and perform related work.

Section 817-A. Records.

All of the business and financial books and records and the wine and spirits store location shall be available at any time for inspection and audit by the board and the enforcement bureau. The board and the enforcement bureau may audit all books and records and audit the physical inventory of the wine and spirits store at any time. The board shall audit each wine and spirits store at least once every three years. Failure to permit a review or an audit under this section is grounds for revocation.

Section 818-A. Civil penalties.

(a) Assessment.--In addition to the penalties set forth under sections 471 and 494, any wine and spirits store licensee who violates any provision of this article or regulation promulgated under this article may be assessed a civil penalty by the administrative law judge of not less than \$100 and not

1 more than \$1,000 per violation. Each violation shall constitute
2 a separate offense. In determining the amount of the penalty,
3 the administrative law judge shall consider all of the
4 following:

5 (1) the wine and spirits licensee's history of previous
6 violations;

7 (2) the appropriateness of such penalty to the size of
8 the business of the wine and spirits licensee charged;

9 (3) the gravity of the violation; and

10 (4) the demonstrated good faith of the wine and spirits
11 licensee charged in attempting to achieve compliance after
12 notification of a violation.

13 (b) Notice.--A civil penalty shall be assessed after the
14 administrative law judge has given at least ten days' notice to
15 the wine and spirits store licensee. Notice shall be in writing,
16 shall state the reason for the proposed penalty and the amount
17 thereof, and shall designate a time and place for a hearing.
18 Notice shall be sent by certified mail to the address for which
19 the wine and spirits store license was issued.

20 Section 819-A. Suspension or revocation.

21 (a) Administrative law judge.--The administrative law judge
22 shall have the power to refuse to issue and the power to suspend
23 or revoke a wine and spirits store license or impose a fine, or
24 both, when the administrative law judge finds that:

25 (1) the licensee has violated any of the provisions of
26 this article or any regulations of the board;

27 (2) the applicant or licensee has knowingly presented to
28 the board or to the enforcement bureau false, incomplete or
29 misleading information relating to licensure or to the
30 operation of a franchise;

1 (3) the applicant or licensee has pleaded guilty,
2 entered a plea of nolo contendere or has been found guilty of
3 a felony by a judge or jury in any Federal or state court;

4 (4) no licensee shall operate any theater, circus,
5 museum or other place of amusement or any bowling alley, game
6 room, video arcade or other recreational area or have any
7 passageway or connection between a licensed premises and a
8 place of amusement or recreation;

9 (5) no licensee shall permit the consumption of
10 alcoholic beverages on the premises of the licensed
11 establishment, except for the sampling or tasting of products
12 as approved by the board; or

13 (6) locate a wine and spirits store within 500 feet of
14 any church, school, hospital, charitable institution or
15 playground.

16 (b) Board.--The board shall have the power to refuse to
17 issue or to suspend or revoke a wine and spirits store license
18 or franchise if the licensee failed to operate the wine and
19 spirits store or to provide a reasonable level of consumer
20 service.

21 (c) Hearings.--Suspension and revocation hearings shall be
22 held in accordance with the procedures under section 514.

23 (d) Prohibition.--No person may sell liquor at any outlet if
24 the wine and spirits store license applicable to that outlet has
25 been forfeited, suspended, revoked or has expired.

26 (e) Revocation.--In the event of the revocation, forfeiture
27 or surrender of any wine and spirits store license in accordance
28 with this act, the board shall revoke the franchise and conduct
29 a public sale to grant to the highest responsible bidder a
30 replacement license for the duration of the franchise period as

1 prescribed by the board.

2 Section 820-A. Reemployment tax credit.

3 (a) Termination.--A full-time employee of a Pennsylvania
4 State store whose employment is terminated as a result of the
5 closing of a State store shall be eligible for a two-year
6 reemployment tax credit voucher in the amount of \$1,000 per
7 taxable year. The voucher shall be made available to each
8 qualified employee of a Pennsylvania State store upon
9 termination of employment by the Liquor Control Board. Each
10 voucher shall be certified by the Liquor Control Board before
11 the voucher is provided to the qualified employee, and the
12 Department of Revenue shall be informed of each qualified
13 employee to whom a voucher has been provided.

14 (b) Transfer.--Any employer in this Commonwealth who employs
15 such a former employee of a Pennsylvania State store may, upon
16 transfer of the voucher from the employee to the employer, use
17 the voucher as a credit against the State tax liability of the
18 business, provided that the employer can demonstrate the
19 following:

20 (1) That the employee for which the tax credit is being
21 sought was terminated from a Pennsylvania State store within
22 12 months of being employed by the employer.

23 (2) That the former State store employee has been
24 employed by the employer seeking the tax credit for a period
25 not less than one year.

26 (c) Submittal.--The employer shall submit the tax credit
27 voucher to the Department of Revenue along with the information
28 required under subsection (b)(1) and (2) in conjunction with the
29 filing of a State business tax identified under subsection
30 (d)(2).

1 (d) Claim.--

2 (1) An employer may claim a reemployment tax credit for
3 every job filled by a former Pennsylvania State store
4 employee of \$1,000 per taxable year for a maximum of two
5 taxable years.

6 (2) An employer may apply the reemployment tax credit to
7 100% of the employer's State corporate net income tax,
8 capital stock and franchise tax or the personal tax of a
9 shareholder of the company if the company is a Pennsylvania S
10 corporation, gross premiums tax, gross receipts tax, bank and
11 trust company shares tax, mutual thrift institution tax,
12 title insurance company shares tax, personal income tax or
13 the personal income tax of a shareholder of a Pennsylvania S
14 corporation or any combination thereof.

15 (3) A former Pennsylvania State store employee whose
16 employment is terminated with an employer who has utilized
17 the reemployment tax credit voucher to claim a one-year
18 \$1,000 tax credit, may transfer the voucher to a new employer
19 who may use the remaining \$1,000 tax credit as a claim
20 against the business tax liability identified under paragraph
21 (2).

22 (4) The term of the reemployment tax credit voucher may
23 not exceed three years from the date the voucher is provided
24 to the qualified former Pennsylvania State store employee.

25 Section 821-A. Annual reports.

26 On or before October 31, 2017, and each year thereafter, the
27 board shall submit to the General Assembly an annual report on
28 retail alcohol sales in this Commonwealth and the implementation
29 of this article, including the total revenue earned by the
30 issuance of wine and spirits store license.

1 Section 822-A. Review.

2 Five years following the effective date of this section, the
3 board shall conduct a thorough review of the operations of the
4 wine and spirits stores. The board shall submit a copy of this
5 review and any recommendations relating to the expansion of
6 existing franchise zones to the General Assembly. The same
7 review shall be conducted ten years following the sale of the
8 first wine and spirits store franchise.

9 Section 823-A. Disposition of proceeds.

10 All proceeds from initial franchise sales, wholesale sales,
11 monthly franchise fees, bid forfeitures and other moneys
12 designated for deposit in the Wine and Spirits Stores Fund under
13 this article and all other proceeds which are deposited in the
14 Wine and Spirits Stores Fund are appropriated and shall be
15 allocated as provided in this section. Proceeds shall mean all
16 revenues and receipts less all costs of administration and
17 operation of the board, including enforcement costs and
18 including the costs attributable to the operations of the
19 Pennsylvania State Police as certified by the Governor, and any
20 other expenses related to the operation of the liquor system.
21 The proceeds shall be allocated as follows:

22 (1) Proceeds from the auction of 428 franchise zones
23 shall be allocated as follows:

24 (i) Three hundred fifty million dollars shall be
25 paid once to Medicaid.

26 (ii) An amount to be appropriated to the
27 Pennsylvania State Police.

28 (iii) An amount to be appropriated for alcohol
29 education.

30 (iv) The balance of the proceeds under this

1 paragraph shall be used for the unfunded Medicaid
2 obligation and long-term living expenditures.

3 (2) The proceeds from private equity shall be allocated
4 as follows:

5 (i) Ten percent of the proceeds under this paragraph
6 shall be paid to the Pennsylvania State Police.

7 (ii) Ten percent of the proceeds under this
8 paragraph shall be paid to Mothers Against Drunk Driving.

9 (iii) Eighty percent of the proceeds under this
10 paragraph shall be paid to the General Fund.

11 ARTICLE VIII-B

12 PROFESSIONALISM IN SERVICE OF ALCOHOLIC BEVERAGES

13 Section 801-B. Declaration of policy.

14 The General Assembly finds and declares as follows:

15 (1) There is a need to further enhance the
16 professionalism of persons employed in the retail sale of
17 alcohol.

18 (2) A program must be established to include the study
19 of the following:

20 (i) The effect alcohol has on the body and behavior,
21 including the effect on an individual's ability to
22 operate a motor vehicle when intoxicated.

23 (ii) The laws of this Commonwealth concerning
24 alcoholic beverages licensure and liability and driving
25 under the influence of alcoholic beverages.

26 (iii) Methods of recognizing problem drinkers and
27 techniques for intervening with problem drinkers.

28 (iv) Methods of identifying false driver's licenses
29 and other documents used as evidence of age and identity
30 to prevent the sale of alcohol to minors.

1 (v) Prevention of fetal alcohol syndrome.

2 (3) It is necessary to reduce the number of individuals
3 who drive while under the influence of intoxicating liquor
4 and mitigate the physical and property damage caused by that
5 behavior.

6 (4) It is necessary to reduce the frequency of alcohol-
7 related birth defects.

8 Section 802-B. Definitions.

9 The following words and phrases when used in this article
10 shall have the meanings given to them in this section unless the
11 context clearly indicates otherwise:

12 "Alcoholic beverage." Any of the following:

13 (1) Liquor.

14 (2) Malt or brewed beverages.

15 (3) Wine.

16 "Certificate." An authorization under section 804-B to
17 provide a program.

18 "Chairman." The chairman of the Pennsylvania Liquor Control
19 Board.

20 "Committee." The Alcohol Server Education Advisory
21 Committee.

22 "License." A license issued under Article IV to sell, serve
23 or dispense alcoholic beverages for consumption and not for
24 resale.

25 "Licensee." A person that holds a license. The term shall
26 include only State liquor stores, not restaurants, taverns and
27 clubs.

28 "Permit." An authorization under section 805-B to serve
29 alcoholic beverages.

30 "Program." An alcohol seller education course and

1 examination.

2 "Provider." A person that provides a program.

3 "Seller." An individual who sells alcoholic beverages for a
4 licensee.

5 Section 803-B. Administration.

6 (a) Board.--

7 (1) The board has the following powers:

8 (i) Approve programs and accept security under
9 section 804-B(b) and (c).

10 (ii) Impose sanctions under section 807-B.

11 (iii) Promulgate regulations to implement this
12 article in accordance with section 801-B.

13 (2) The board has the following duties:

14 (i) Implement this article in accordance with
15 section 801-B.

16 (ii) Issue certifications under section 804-B(d).

17 (iii) Establish its own program if no other programs
18 are certified under section 804-B.

19 (iv) Transmit to the Legislative Reference Bureau
20 for publication in the Pennsylvania Bulletin a notice
21 which:

22 (A) lists certified programs for the initial
23 implementation of this article; or

24 (B) states that the board has its own program.

25 (v) Issue permits under section 805-B(b).

26 (b) Committee.--

27 (1) The Alcohol Seller Education Advisory Committee is
28 established. The committee shall consist of the following
29 members:

30 (i) The chairman.

1 (ii) The Secretary of Health or a designee.

2 (iii) The Secretary of Transportation or a designee.

3 (iv) The following individuals appointed by the
4 chairman:

5 (A) Three representatives of the retail liquor
6 industry.

7 (B) A representative of the wholesale liquor
8 industry.

9 (C) A representative of the insurance industry.

10 (D) A representative of a nonprofit organization
11 the primary purpose of which is to reduce driving
12 under the influence in this Commonwealth.

13 (2) A member under paragraph (1)(i), (ii) or (iii) shall
14 serve ex officio. A member under paragraph (1)(iv) shall
15 serve a term of four years.

16 (3) The chairman shall serve as chair of the committee.

17 (4) Five members constitute a quorum.

18 (5) Members under paragraph (1)(iv) shall serve without
19 compensation but shall be reimbursed for reasonable and
20 necessary expenses in discharging their functions.

21 (6) The committee shall meet as often as necessary, but
22 at least two times per year, to assist the board with the
23 development of all of the following:

24 (i) Standards, course requirements and materials for
25 programs.

26 (ii) Procedures attendant to the programs.

27 (iii) Certification standards for providers and
28 instructors.

29 Section 804-B. Programs.

30 (a) Authorization.--The board may certify programs.

1 (b) Standards.--To be approved, a program curriculum must
2 include the following subjects:

3 (1) The effect alcohol has on the body and behavior,
4 including the effect on an individual's ability to operate a
5 motor vehicle when intoxicated.

6 (2) The effect alcohol has on an individual when used in
7 combination with drugs.

8 (3) The laws of this Commonwealth concerning alcoholic
9 beverages licensure and liability and driving under the
10 influence of alcoholic beverages.

11 (4) Methods of recognizing problem drinkers and
12 techniques for intervening with problem drinkers.

13 (5) Methods of identifying false driver's licenses and
14 other documents used as evidence of age and identity to
15 prevent the sale of alcohol to minors.

16 (6) The incidence of alcohol-related birth defects.

17 (c) Security.--If a program is approved under subsection
18 (b), the provider must furnish security acceptable to the board
19 in the amount of \$5,000 to guarantee satisfactory provision of
20 the program in accordance with section 801-B over a period of
21 five years.

22 (d) Certification.--

23 (1) The board shall certify a program if all of the
24 following apply:

25 (i) The program is approved under subsection (b).

26 (ii) Security is accepted under subsection (c).

27 (2) Certification is valid for five years and is subject
28 to renewal in accordance with this section.

29 Section 805-B. Permits.

30 (a) Requirements.--To receive a permit, a seller must do all

1 of the following:

2 (1) Complete within the immediately preceding year a
3 program which is:

4 (i) certified under section 804-B; or

5 (ii) conducted by the board.

6 (2) Pay a fee set by regulation of the board.

7 (b) Issuance.--The board shall issue a permit to a seller
8 who complies with subsection (a). No person shall be employed as
9 a seller in a licensed premises unless that person obtains
10 alcohol seller training within 30 days of employment.

11 (c) Term.--A permit is valid for five years and is subject
12 to renewal in accordance with this section.

13 Section 806-B. Permit required.

14 (a) Prohibition.--A licensee may not employ a seller unless
15 all of the following apply:

16 (1) The seller has a valid permit.

17 (2) The seller's permit is on the premises of the
18 licensee where the seller is employed.

19 (b) Penalty.--

20 (1) A licensee that violates subsection (a)(1) commits a
21 misdemeanor of the first degree.

22 (2) A licensee that violates subsection (a)(2) commits a
23 summary offense.

24 Section 807-B. Sanctions.

25 (a) Certificates.--If the board determines that a provider
26 is not providing its program in a manner satisfactory to the
27 board in accordance with section 801-B, the board may do all of
28 the following:

29 (1) Suspend the certificate.

30 (2) Revoke the certificate.

1 (3) Proceed against the provider's security under
2 section 804-B.

3 (b) Permits.--

4 (1) A seller is subject to sanction under paragraph (2)
5 for any of the following:

6 (i) Violation of section 493.

7 (ii) Violation of 18 Pa.C.S. § 6310.1 (relating to
8 selling or furnishing liquor or malt or brewed beverages
9 to minors).

10 (2) If the board determines that a seller has committed
11 a violation specified in paragraph (1), the board may do all
12 of the following:

13 (i) Suspend the permit.

14 (ii) Revoke the permit.

15 (c) Penalties.--

16 (1) In addition to any other penalties available, the
17 following penalties may be imposed for sales to minors or
18 intoxicated persons in violation of the provisions of this
19 article:

20 (i) The chairman may suspend a seller's seller
21 permit for a period of 30 days or fine the seller an
22 amount not less than \$2,000, or both, if the chairman
23 finds that the seller is guilty of a first offense of
24 selling an alcoholic beverage to an intoxicated person or
25 to a minor.

26 (ii) The chairman may suspend a seller's seller
27 permit for a period of one year or impose a \$5,000 fine,
28 or both, if the chairman finds that the seller is guilty
29 of a second offense, arising separately from the incident
30 giving rise to the first offense, of selling an alcoholic

1 beverage to an intoxicated person or to a minor.

2 (iii) The chairman may permanently revoke a seller's
3 seller permit or impose a \$10,000 fine, or both, if the
4 chairman finds that the seller is guilty of a third
5 offense, arising separately from the incidents giving
6 rise to the first and second offenses, of selling
7 alcoholic beverages to an intoxicated person or to a
8 minor.

9 (iv) The chairman may suspend a licensee's license
10 for a period of 30 days or fine the licensee an amount
11 not less than \$2,000, or both, if the chairman finds that
12 the licensee is guilty of a first offense of selling an
13 alcoholic beverage to an intoxicated person or a minor.

14 (v) The chairman may suspend a licensee's license
15 for a period of one year or fine the licensee an amount
16 not less than \$5,000, or both, if the chairman finds that
17 the licensee is guilty of a second offense, arising
18 separately from the incident giving rise to the first
19 offense of selling an alcoholic beverage to an
20 intoxicated person or a minor.

21 (vi) The chairman may permanently revoke a
22 licensee's license or fine the licensee an amount not
23 less than \$10,000, or both, if the chairman finds that
24 the licensee is guilty of a third offense, arising
25 separately from the incident giving rise to the first and
26 second offenses of selling an alcoholic beverage to an
27 intoxicated person or a minor.

28 (2) No person whose seller permit is suspended or
29 revoked under this section may be a seller of alcoholic
30 beverages on a licensed premises during the period of

1 suspension or revocation.

2 (3) No person whose seller permit is suspended may serve
3 alcoholic beverages on or after the date of suspension unless
4 the person obtains a new seller permit.

5 (4) Nothing in this article shall be interpreted to
6 waive any license holder's liability that may arise under
7 this article.

8 (d) Administrative agency law.--This section is subject to 2
9 Pa.C.S. Chs. 5 Subch. A (relating to practice and procedure of
10 Commonwealth agencies) and 7 Subch. A (relating to judicial
11 review of Commonwealth agency action).

12 Section 808-B. Minors in licensed premises.

13 (a) Violation by licensee.--A person licensed under this
14 article or any employee, agent or lessee of that person who
15 permits a minor to enter and remain in any area that is
16 prohibited to the use of minors commits a violation of this
17 article.

18 (b) Violation by minor.--A minor shall not enter or attempt
19 to enter any area of a licensed premises that is posted or
20 otherwise identified as being prohibited to the use of minors,
21 unless accompanied by an adult. A person who violates the
22 provisions of this subsection commits a misdemeanor.

23 Section 809-B. Age verification.

24 (a) Notwithstanding any other provision of law, a seller
25 shall ask for and receive an acceptable form of identification
26 from anyone purchasing alcoholic beverages. If an acceptable
27 form of identification is not produced, the sale shall not be
28 completed. Acceptable forms of identification shall include only
29 the following, nonexpired documents:

30 (1) A photo driver's license issued by any state or the

District of Columbia.

(2) A nondriver identification card issued by any state or the District of Columbia.

(3) A military photo identification card.

(4) A United States passport.

(5) A foreign passport, if the management of the seller's establishment approves.

Section 810-B. Appropriation.

An amount, or as much thereof as may be necessary, is hereby appropriated to the board for the fiscal year July 1, 2007, to June 30, 2008, to carry out the provisions of this article.

ARTICLE VIII-C

STATE LIQUOR STATE SALE RECOMMENDATION

Section 801-C. Definitions.

The following words and phrases when used in this article shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Qualified investment bank." An investment bank having extensive experience in similar scale sale of companies and assets.

"Request for proposal." The term as it is defined under 62 Pa.C.S. § 103 (relating to definitions).

Section 802-C. Selection of qualified investment banker.

(a) Solicitation.--The board shall solicit proposals from qualified investment banks to advise the Commonwealth as to the best way to structure a process to sell the State liquor stores to private bidders.

(b) Contents.--The request for proposal prepared by the board shall include all of the following:

(1) The goals and objectives of the Commonwealth,

1 including obtaining the highest possible profit for the
2 Commonwealth while at the same time observing those
3 parameters and restrictions which the Commonwealth wishes to
4 impose.

5 (2) The qualifications sought and the matters required
6 to be covered by any proposal submitted.

7 (3) A requirement that the qualified investment bank
8 analyze various ways in which the assets of the State liquor
9 stores could be sold, including performing a sensitivity
10 analysis of the impact of different restrictions and mixes of
11 assets on the range of prices likely to be received through
12 the process.

13 Section 803-C. Report.

14 The qualified investment bank selected under section 802-C
15 shall, within 180 days of its selection, issue a report to the
16 board making recommendations regarding the best process to use
17 to divest the State liquor stores. A copy of the report shall be
18 sent by the board to the chairman and minority chairman of the
19 Law and Justice Committee of the Senate and the chairman and
20 minority chairman of the Liquor Control Committee of the House
21 of Representatives.

22 Section 2. This act shall take effect as follows:

23 (1) Section 806-B of the act shall take effect 270 days
24 after publication of the notice under section 803-B(a)(2)(iv)
25 of the act.

26 (2) The remainder of this act shall take effect
27 immediately.