

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 389 Session of
1995

INTRODUCED BY GREENLEAF, HART, HECKLER AND TILGHMAN,
FEBRUARY 1, 1995

REFERRED TO LAW AND JUSTICE, FEBRUARY 1, 1995

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 establishing the Liquor Law Enforcement Bureau, the Liquor
18 Licensing Bureau, the Liquor Licensing Hearing Bureau and the
19 Alcoholic Beverage Control Coordinating Council; imposing a
20 tax; and making repeals.

21 The General Assembly of the Commonwealth of Pennsylvania
22 hereby enacts as follows:

23 Section 1. The definition of "enforcement bureau" in section
24 102 of the act of April 12, 1951 (P.L.90, No.21), known as the
25 Liquor Code, reenacted and amended June 29, 1987 (P.L.32,
26 No.14), is amended and the section is amended by adding

1 definitions to read:

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

5 * * *

6 "Department" shall mean the Department of Revenue.

7 * * *

8 "Enforcement bureau" shall mean the [Bureau of] Liquor
9 [Control] Law Enforcement Bureau of the Pennsylvania State
10 Police.

11 * * *

12 "Private retail store" shall mean and include any premises
13 licensed by the department where wine and liquor, or only wine
14 is offered for sale or resale in the original sealed containers
15 as prepared for the market by the manufacturer or wholesale
16 distributor but not for consumption on the premises where sold.

17 "Private wholesale distributor" shall mean and include any
18 person licensed by the department who purchases wine or liquor
19 from the department, a manufacturer, another private wholesale
20 liquor distributor, or a private retail store for the purpose of
21 sale to any private retail store, to another private wholesale
22 distributor, or for export.

23 * * *

24 Section 2. Sections 211, 212, 213, 214 and 215 of the act
25 are repealed.

26 Section 3. The act is amended by adding sections to read:

27 Section 216. Liquor Law Enforcement Bureau.--The Liquor Law
28 Enforcement Bureau is hereby established within the Pennsylvania
29 State Police under the supervision and control of the
30 Commissioner of the Pennsylvania State Police. This bureau shall

1 assume the responsibilities of the board with regard to the
2 prosecution of licensees for violations of the laws and
3 regulations of this Commonwealth relating to liquor. Alleged
4 criminal violations shall be prosecuted by the Attorney General
5 or local district attorneys before the courts of common pleas in
6 the manner provided by the act of October 15, 1980 (P.L.950,
7 No.164), known as the "Commonwealth Attorneys Act."

8 Section 217. Liquor Licensing Bureau.--The Liquor Licensing
9 Bureau is hereby established within the Department of Revenue to
10 permanently assume the responsibility to issue licenses for the
11 sale of wine and liquor for off-premises consumption and for
12 wholesale wine and liquor distribution and to assume the
13 responsibilities of the board with regard to the issuance,
14 renewal, transfer, exchange, suspension or revocation of
15 licenses. Prior notice of any proposed license issuance,
16 renewals, transfers, exchanges, suspensions or revocations shall
17 be provided by the Licensing Bureau to the Liquor Law
18 Enforcement Bureau.

19 Section 218. Liquor Licensing Hearing Bureau.--The Liquor
20 Licensing Hearing Bureau is hereby established within the
21 Department of Revenue to conduct adjudications regarding any
22 refusals to issue, renew, transfer or exchange a license or any
23 suspension or revocation of licenses, bond forfeitures and other
24 civil fines and penalties. Initial decisions of the hearing
25 bureau shall be made by hearing examiners learned in the law and
26 may be appealed to a three-person hearing board established
27 within the hearing bureau by the Alcoholic Beverage Control
28 Coordinating Council. Hearings and appeals from decisions of the
29 hearing board shall be as provided in Title 2 of the
30 Pennsylvania Consolidated Statutes (relating to administrative

1 law and procedure).

2 Section 219. Alcoholic Beverage Control Coordinating
3 Council.--(a) The Alcoholic Beverage Control Coordinating
4 Council is hereby created as an advisory board within the
5 Executive Office of the Governor to supervise the
6 administration, implementation and enforcement of the laws of
7 this Commonwealth relating to alcoholic beverages and to perform
8 the powers and duties assigned to the council pursuant to this
9 section.

10 (b) The council shall consist of the Secretary of
11 Agriculture, the Secretary of the Budget, the Secretary of
12 Environmental Resources, the Secretary of General Services, the
13 Secretary of Health, the Secretary of Revenue, the Commissioner
14 of the Pennsylvania State Police and the Majority and Minority
15 Leaders of the Senate and the House of Representatives or their
16 designees. The Governor shall designate a member of the council
17 to serve as chairman. The council may appoint any staff
18 necessary to assist it in the discharge of its duties and
19 responsibilities.

20 (c) The function of the council shall be to provide for
21 planning, oversight and coordination of the activities of State
22 agencies involved in the regulation of alcoholic beverages
23 following the termination of the board. The council shall not
24 permanently assume any direct responsibilities for the
25 administration, regulation and control of alcoholic beverages.

26 (d) The council shall develop plans to be approved by the
27 Secretary of Administration for the transfer to other State
28 agencies of all employees of the board not transferred to the
29 Department of Revenue, the Pennsylvania State Police or other
30 departments. Within the limits of available Commonwealth

resources, the plan shall provide for the placement of all employees of the board and shall not result in the furlough or reduction in pay for any employees of the board.

(e) This section shall expire two (2) years from the effective date of this section.

Section 4. The act is amended by adding an article to read:

ARTICLE VIII-A.

PRIVATE RETAIL AND WHOLESALE SALE OF WINE
AND LIQUOR FOR OFF-PREMISES CONSUMPTION.

Section 801-A. Legislative Intent.--It is the purpose of this article to deregulate the retail and wholesale sale of liquor and wine for off-premises consumption in order to provide Pennsylvania consumers with the improved service, enhanced supply availability and lower prices which result from vigorous competition in the free enterprise system. It is the intent of the General Assembly to accomplish deregulation in a manner which minimizes any disruption of service to the public, maximizes opportunities for small business and minority business in Pennsylvania, makes fair and reasonable provisions to avoid hardships to employees of State liquor stores, maintains the degree of control over the distribution of liquor and wine necessary to avoid the infiltration of the industry by organized crime and other corrupt influences, discourages alcohol abuse and preserves adequate tax revenue to the Commonwealth.

Section 802-A. Restrictions on the Private Retail and Wholesale Wine and Liquor System.--The provisions of this act, except as otherwise provided, shall apply to the private retail and wholesale system for the sale of wine and liquor only as provided in this article.

Section 803-A. Detailed Plan for Deregulation.--Within

1 ninety (90) days of the effective date of this section, the
2 department shall cause to be published, in conformity with the
3 requirements of this section, as a notice in the Pennsylvania
4 Bulletin, as provided by 45 Pa.C.S. § 725(a)(3) (relating to
5 additional contents of Pennsylvania Bulletin), a detailed
6 proposed plan for the disposition of the State store system
7 which provides for the continued operation of each State-owned
8 liquor store for up to ninety (90) days following the auction of
9 the right to purchase the property of the store. The department
10 shall further provide for the continued operation of liquor
11 wholesale distribution for a maximum period of twelve (12)
12 months to provide an adequate supply of consumer products and
13 services during the phase-in of operations of private retail
14 outlets and wholesale distributors. Each State-owned liquor
15 store may remain in operation for not more than forty-five (45)
16 days, but not later than June 30, 1997, following the opening of
17 a substitute privately licensed wine and liquor store in order
18 to assure adequate continuity of services to the public. Upon
19 the termination of operations of any State liquor store, its
20 property, fixtures and surplus inventory shall be sold to the
21 successful bidder upon the terms of the winning bid at auction.

22 Section 804-A. Phase One of Deregulation.--(a) Not later
23 than September 1, 1996, the department shall conduct public
24 sales to the highest responsible bidders of exclusive three (3)
25 year licenses to make retail sales of liquor and wine for off-
26 premises consumption. The public sales and operation of the
27 stores shall conform to the following procedure:

28 (1) The department shall offer for sale a license to replace
29 each of the State liquor stores operating on January 1, 1996.

30 (2) The department shall offer for sale, together with the

license, all of the stock of wine and liquor, equipment and other assets of the State liquor store. Prior to the sale, the department shall make available for public inspection the most recent inventory of the stock, equipment and other assets of each State liquor store, as well as a recent sales history for each State liquor store. Bids will be accepted only for licenses together with acquisition of the stock, equipment and other assets of the respective State liquor store.

(3) The department may establish a staggered schedule of sales of licenses between May 1, 1996, and September 1, 1996, in order to maintain the operation of certain State liquor stores during the sale of others and thereby maintain a continuous level of service to the public.

(4) Each successful bidder must satisfy all of the licensing requirements of sections 806-A and 807-A and pay any required license fees, in addition to amounts bid to acquire retail operating rights.

(5) Each successful bidder must agree to continuously operate a retail store for the duration of the license and to provide a level of service, including, but not limited to, hours of operation and product availability, reasonably equivalent to the level of service provided by the State liquor store which the retail store replaces. The department may, either on its own motion or following the investigation of complaints from residents of the affected community by the Pennsylvania State Police, revoke the license of any retail store not operating an establishment or not providing a reasonable level of consumer service. Following the revocation of any license to operate a retail store, the department shall conduct a public sale to grant to the highest responsible bidder a replacement license

1 for the duration of the three (3) year license period.

2 (6) Each retail store shall be located within a prescribed
3 radius of the State liquor store which it replaces based on the
4 characteristics of the community in which the State liquor store
5 is located, based on area definitions as used in the 1990 census
6 of population. If the State liquor store is within an urbanized
7 area, the store shall be within a one (1) mile radius. If the
8 State liquor store is outside the urbanized area but within a
9 Standard Metropolitan Statistical Area (SMSA), the store shall
10 be within a four (4) mile radius. In all other circumstances,
11 the store shall be within a ten (10) mile radius. The department
12 may expand or reduce the required radius for good cause shown
13 following public hearings.

14 (7) Any single individual, corporation or association shall
15 be allowed to hold no more than ten (10) licenses for private
16 retail wine and liquor stores.

17 (8) Each successful bidder for a license shall be entitled
18 to apply to the department, within two (2) years of the award of
19 a license, for one (1) additional license to operate a store at
20 any location within the county in which the original license was
21 granted, or in a county contiguous with such county. An
22 additional license shall not be granted, and any additional
23 license granted may be subject to revocation, if the licensee is
24 not operating a store authorized by the original license or is
25 not providing a reasonable level of consumer service.

26 (9) Any licenses authorized but not issued under clause (8)
27 may, following two (2) years of the awarding of initial
28 licenses, be sold at public sale to the highest responsible
29 bidder.

30 (10) All proceeds of sales of licenses shall be deposited in

1 the Liquor System Deregulation Account within the General Fund
2 and shall be utilized pursuant to the provisions of section 813-
3 A.

4 (11) The department shall, in its announcement of each sale
5 of licenses, establish the schedule, terms, conditions,
6 limitations and procedures for submission, consideration and
7 award of bids. The decision of the department to accept or
8 reject any bid shall be final and is not appealable as an
9 adjudication.

10 (b) (1) Between April 1, 1996, and June 30, 1996, the
11 department will accept and review applications for private
12 wholesale wine distributor licenses pursuant to the requirements
13 of sections 806-A and 809-A.

14 (2) In addition to other licensing requirements, initial
15 applicants must indicate each brand of wine which the
16 distributor intends to sell and estimate the anticipated volume
17 of sales for each brand.

18 (3) Initial private wholesale wine distributor licenses will
19 be granted by the department beginning July 1, 1996. Each
20 initial licensee shall be assigned by the department an
21 allocation of the remaining stock of any wine owned by the
22 department and held in any wholesale warehouse. Allocations
23 shall be made separately for each brand of wine held by the
24 department and assigned to each initial licensee based on the
25 brands indicated in the license application and upon the
26 estimated sales volume of the licensee. Each licensee shall
27 agree to purchase, prior to making any other purchases of each
28 brand of wine, the outstanding stock of the department of the
29 brand allocated to the licensee, at the cost of the wine to the
30 department plus a twenty-five (25) per centum markup. Between

1 July 1, 1996, and July 1, 1997, no private wholesale licensee
2 may sell or offer for sale any brand of wine not identified in
3 the license application. Any brand of wine in the wholesale
4 inventory of the department which cannot be reasonably allocated
5 to licensees, either because of insufficient stock held by the
6 department, or because of a lack of sufficient interest in such
7 brands by licensees, and any other stocks of wine held by the
8 department in wholesale inventory and not sold by January 1,
9 1997, may at the discretion of the department either be disposed
10 of at public sale to the highest responsible bidder, or else
11 assigned to all initial wholesale licensees based on their total
12 estimated sales volumes. The initial licensees must agree to
13 purchase any wine so allocated from the department at the cost
14 of such wine to the department plus a twenty-five (25) per
15 centum markup.

16 (c) Beginning April 1, 1997, the department will accept and
17 review additional applications for private wholesale wine
18 distributor licenses pursuant to the requirements of sections
19 806-A and 809-A. The additional licenses shall be awarded by the
20 department commencing July 1, 1997.

21 (d) Beginning September 1, 1996, the department shall
22 accept, review and grant private retail wine licenses pursuant
23 to the provisions of sections 806-A and 808-A.

24 Section 805-A. Phase Two of Deregulation.--(a) Between July
25 1, 1997, and September 30, 1997, the department shall accept and
26 review initial private wholesale liquor distributor applications
27 pursuant to the requirements of sections 806-A and 809-A in
28 accordance with the following procedure:

29 (1) Initial license applicants must specify each brand of
30 liquor the applicant intends to distribute, and for each brand

1 must estimate the anticipated sales volume.

2 (2) The department shall award initial licenses commencing
3 October 1, 1997.

4 (3) Each initial licensee shall be assigned by the
5 department an allocation of the remaining stock of any liquor
6 owned by the department and held in any wholesale warehouse.
7 Allocations shall be made separately for each brand of liquor
8 held by the department and assigned to each initial licensee
9 based on the brands indicated in the license application and
10 based upon the cost of the liquor to the department plus a
11 twenty-five (25) per centum markup. Each licensee shall, prior
12 to making any other purchases of each brand of liquor, agree to
13 purchase the outstanding stock of the department of the brands
14 allocated to the licensee. Between October 1, 1997, and October
15 1, 1998, no private wholesale liquor licensee may sell or offer
16 for sale any brand of liquor not identified in the license
17 application. Any brands of liquor in the wholesale inventory of
18 the department which cannot reasonably be allocated to
19 licensees, either because of inadequate stock held by the
20 department, or because of a lack of sufficient interest in such
21 brands by licensees, and any other stock of liquor held by the
22 department in wholesale inventory and not sold by March 1, 1998,
23 may at the discretion of the department either be disposed of at
24 public sale to the highest responsible bidder, or else assigned
25 to all initial wholesale licensees based on their total
26 estimated sales volumes. The initial licensees must agree to
27 purchase any liquor so allocated at the cost of the liquor to
28 the department plus a twenty-five (25) per centum markup.

29 (b) Additional applications for private wholesale liquor
30 distributor licenses will be accepted by the department

1 commencing July 1, 1998, and additional licenses may be awarded
2 commencing October 1, 1998, pursuant to the requirements of
3 section 808-A.

4 (c) Private wholesale liquor licensees authorized pursuant
5 to this section may sell liquor only to private retail wine and
6 liquor stores located within the same marketing region, as
7 established by the department, in which the premises of the
8 wholesale liquor licensee are located. The department shall not
9 authorize any private wholesale licensee to operate at a
10 premises within more than one such marketing region.

11 (d) (1) Commencing August 1, 1999, the department may grant
12 and renew private retail wine and liquor licenses subject to the
13 provisions of sections 806-A and 807-A. In addition to the
14 limitations provided by section 810-A, the department may limit
15 the number of licenses granted in any geographical location.
16 Private retail wine and liquor licenses shall be granted
17 pursuant to this section to qualified applicants upon the
18 payment of proper fees and the posting of required bonds, but
19 without the requirement to purchase the license by competitive
20 bidding.

21 (2) Restrictions upon the operation of retail wine and
22 liquor licensees established pursuant to section 804-A(a)(6) and
23 (7) and wholesale liquor licensees established pursuant to
24 section 805-A(c) shall be rescinded, effective August 1, 1999.

25 Section 806-A. General License Requirements.--(a) Every
26 applicant for a license for a private retail liquor and wine
27 store pursuant to section 807-A, for a private retail wine store
28 pursuant to section 808-A, or for a private wholesale liquor
29 distributorship, or a private wholesale wine distributorship
30 pursuant to section 809-A, shall comply with the requirements of

1 this section.

2 (b) Each applicant shall file a written application with the
3 department in the form and containing such information as the
4 department shall from time to time prescribe. The application
5 shall be accompanied by a filing fee in an amount determined by
6 the department sufficient to cover costs related to reviewing
7 and processing license applications. The department may
8 establish a schedule of fees for various types of licenses and
9 vary the license fee charged based on the volume of sales
10 anticipated.

11 (c) With each initial application, every applicant shall
12 provide a financial statement in the form and containing such
13 information as the department shall from time to time prescribe
14 to indicate the applicant's financial capability to provide a
15 reasonable level of service to the public or to retail stores
16 and the estimated volume of business to be conducted in this
17 Commonwealth.

18 (d) With each initial application and each renewal, the
19 applicant shall identify the location and ownership of the
20 proposed site or sites for the operation of licensed activities.

21 (e) If the applicant is a corporation, the application must
22 show that the corporation was created under the laws of
23 Pennsylvania or holds a certificate of authority to transact
24 business in Pennsylvania.

25 (f) Each application shall be signed and verified by oath or
26 affirmation by the owner, if a natural person, or, in the case
27 of an association, by a member or partner thereof, or, in the
28 case of a corporation, by an executive officer thereof or any
29 person specifically authorized by the corporation to sign the
30 application, to which shall be attached written evidence of his

1 authority. If the applicant is an association, the application
2 shall set forth the names and addresses of the persons
3 constituting the association, and if a corporation, the names
4 and addresses of the principal officers and stockholders
5 thereof.

6 (g) Every applicant for a new or renewal license must
7 demonstrate that all taxes due and payable to the Commonwealth
8 have been paid for the most recently completed accounting period
9 and that no delinquent tax payments are outstanding for prior
10 periods.

11 (h) The department shall not grant a license to any
12 applicant if:

13 (1) the applicant or any person directly or indirectly
14 interested in the license holds, either by appointment or
15 election, any public office.

16 (2) the applicant has been convicted of a felony within the
17 five (5) years immediately preceding the date of application;

18 (3) the applicant receives funds for the financing of any
19 part of the private retail liquor store from any individual who
20 has been convicted of a felony within the five (5) years
21 immediately preceding the date of application;

22 (4) the applicant or any persons with a financial interest
23 in the license are under indictment for a felony or under
24 investigation by a legally constituted grand jury. In such
25 instance, the department shall withhold approval or disapproval
26 of the license until such time as all legal proceedings related
27 to the felony are resolved; or

28 (5) the applicant, or any person with a financial interest
29 in a license granted pursuant to this article, holds a license
30 or permit for the manufacture of liquor, wine, malt or brewed

1 beverages.

2 (i) The department may require licensees to post bonds in
3 amounts determined by the department pursuant to section 465.

4 (j) All applications for licenses shall be thoroughly
5 reviewed by the department, by the enforcement bureau and by
6 appropriate law enforcement agencies before approval or
7 disapproval. Reviews shall include thorough review of the
8 required financial statement and any other information which
9 shall be required by the department. Upon review of the
10 application and upon receipt of the proper fees and bond, and
11 upon being satisfied that the statements in the application are
12 true, that the applicant is a person of good repute, that the
13 applicant meets all the requirements of this article and the
14 regulations of the department, and that the issuance of the
15 license is not prohibited by any of the provisions of this
16 article, the department shall grant and issue to the applicant a
17 license.

18 (k) If any false statement is intentionally made in any part
19 of the application, the affiant shall be deemed guilty of a
20 misdemeanor of the second degree and, upon conviction, shall be
21 subject to the penalties provided by Title 18 of the
22 Pennsylvania Consolidated Statutes (relating to crimes and
23 offenses).

24 (l) Licenses shall be nontransferable and nonassignable from
25 one person to another except upon death of the licensee, in
26 which case the transfer of the license to a member of the
27 immediate family may be provided for by regulation of the
28 department, but the license may be transferred from one location
29 to another only through reapplication to the department.

30 (m) Licenses shall be revocable by the Pennsylvania State

1 Police for cause.

2 (n) The department may divide the State into convenient
3 license districts and may hold hearings on applications for
4 licenses and renewals thereof, as it deems necessary, at a
5 convenient place or places in each of the districts, at such
6 times as it shall fix for the purpose of hearing testimony for
7 and against applications for new licenses and renewals thereof.

8 (o) All licensees shall maintain on any licensed premises
9 such records as the department may prescribe.

10 (p) The term of any license granted shall be up to five (5)
11 years, as determined by the department. The department may
12 establish a staggered schedule of license expiration and renewal
13 dates to facilitate the efficient processing of license renewal
14 applications.

15 (q) Licenses granted by this article shall not be subject to
16 the provisions of sections 407, 461, 468, 491(2), 492(19) and
17 (20) and 493(2) and the provisions of the act of June 24, 1939
18 (P.L.806, No.358), entitled "An act limiting the number of
19 licenses for the retail sale of liquor, malt or brewed
20 beverages, or malt and brewed beverages, to be issued by the
21 Pennsylvania Liquor Control Board; defining hotels, and
22 prescribing the accommodations required of hotels in certain
23 municipalities."

24 Section 807-A. Private Retail Wine and Liquor Store
25 Licenses.--(a) Subject to the provisions of this article and
26 the regulations promulgated under this article, the department
27 shall have authority to issue a private retail wine and liquor
28 license to a person, corporation or association for any premises
29 for the purpose of establishing, operating and maintaining a
30 private retail wine and liquor store. The licenses shall entitle

1 the private retail wine and liquor store to purchase liquor and
2 wine from private wholesale distributors or from the department
3 and to keep on the premises such liquor and wine and, subject to
4 the provisions of this article and the regulations made
5 thereunder, to sell the same for off-premises consumption, and
6 to any hotel, restaurant, club or other establishment authorized
7 to sell wine and liquor for on-premises consumption pursuant to
8 this act.

9 (b) Every applicant for a new license or for the transfer of
10 an existing license to another premises not then licensed shall
11 post, for a period of at least fifteen (15) days beginning with
12 the day the application is filed with the department, in a
13 conspicuous place on the outside of the premises or at the
14 proposed new location for which the license application is made,
15 a notice of the application, in such form, of such size, and
16 containing such information as the department may require by its
17 regulations. Proof of the posting of the notice shall be filed
18 with the department.

19 (c) The premises of all private retail wine and liquor
20 stores shall be self-contained units with limited customer
21 access. All purchases made within the premises shall be paid for
22 at a location within the confines of the wine and liquor sales
23 area.

24 (d) Every license application for a private retail wine and
25 liquor store shall contain a description of the premises for
26 which the applicant desires a license. The application shall
27 also set forth such other material, information and a
28 description or plan of the premises where it is proposed to keep
29 and sell liquor as may be required by the regulations of the
30 department.

1 (e) The descriptions, information and plans referred to in
2 this section shall show the proposed location at the time the
3 application is made, and shall show any alterations proposed to
4 be made thereto, or the new building proposed to be constructed
5 after the approval by the department of the application for a
6 license or for the transfer of an existing license to another
7 premises not then licensed. No physical alterations,
8 improvements or changes shall be required to be made nor shall
9 any new building for any such purpose be required to be
10 constructed until approval of the application for license or for
11 the transfer of an existing license to another premises not then
12 licensed by the department.

13 (f) In the case of any new license or the transfer of any
14 license to a new location, the department may, in its
15 discretion, grant or refuse a new license or transfer if the
16 place proposed to be licensed is within three hundred (300) feet
17 of any church, hospital, charitable institution, school or
18 public playground, or if the new license or transfer is applied
19 for at a place which is within two hundred (200) feet of any
20 other premises which is licensed by the department. The
21 department shall refuse any application for a new license or the
22 transfer of any license to a new location if, in the board's
23 opinion, the new license or transfer would be detrimental to the
24 welfare, health, peace and morals of the inhabitants of the
25 neighborhood within a radius of five hundred (500) feet of the
26 place proposed to be licensed.

27 (g) Private retail wine and liquor stores may sell related
28 merchandise within the controlled area of the store. The
29 department shall promulgate regulations stipulating the
30 additional related merchandise that may be offered for retail

1 sale in private retail wine and liquor stores, but no licensee
2 shall engage on the same premises in the retail sale of motor
3 fuel.

4 (h) No liquor or wine package shall be opened on the
5 premises of a private licensed retail store. No licensee nor any
6 employee of any licensee shall allow any liquor or alcohol to be
7 consumed on the premise, nor shall any person consume any liquor
8 on the premises.

9 Section 808-A. Private Retail Wine Licenses.--(a) Subject
10 to the provisions of this article and the regulations
11 promulgated under this article, the department shall have the
12 authority to issue a private retail wine license to a person,
13 corporation or association for any premises for the purpose of
14 establishing, operating and maintaining a private retail wine
15 store. The licenses shall entitle the private retail wine store
16 to purchase wine from private licensed distributors or from the
17 department, to keep on the premises such wine, subject to the
18 provisions of this article and the regulations made thereunder,
19 and to sell the same for off-premises consumption, and to any
20 hotel, restaurant, club or other establishment authorized to
21 sell wine for on-premises consumption pursuant to this act.
22 Private wine licenses shall be available to grocery stores and
23 convenience stores. In the case of a grocery store or a
24 convenience store, to the extent possible, the wine shall be
25 located in one section of the store.

26 (b) Any private retail wine store shall also comply with the
27 requirements of section 808-A, except for subsection (c).

28 Section 809-A. Private Wholesale Distributor Licenses.--(a)
29 Subject to the provisions of this article, and the regulations
30 promulgated under this article, the department shall have the

authority to issue private liquor wholesale distributor licenses and private wine wholesale distributor licenses.

(b) The license shall entitle the licensee to sell wine or liquor to the department, to any private retail store licensed pursuant to this article, to any hotel, restaurant, club or other establishment authorized to sell wine and liquor for on-premises consumption pursuant to this act, to pharmacists, hospitals, armed forces facilities pursuant to section 305(b), to another wholesale distributor licensed under this section, or to export wine or liquor from this Commonwealth.

(c) The license shall entitle the licensee to purchase wine or liquor from the department, from any Pennsylvania or nonresident manufacturer, from any out-of-State retail store, from any out-of-State wholesaler, from any wholesale distributor licensed under this section, or from any private retail store licensed under this article.

(d) Each licensed wholesaler shall establish one or more warehouses for the storage and distribution of wine or liquor at locations approved by the department. A separate application shall be submitted, and a separate application fee paid, for each warehouse licensed pursuant to this section. All wine or liquor sold to private retail stores licensed pursuant to this article shall be distributed through a warehouse located within this Commonwealth.

(e) No wine or liquor package shall be opened on the premises of a licensed wholesale distributor. No licensee nor employe of any licensee shall allow any wine or liquor to be consumed on the premises, nor shall any person consume any liquor on the premises.

(f) No private wholesale distributor of liquor, or any

person with a financial interest in a wholesale license for the distribution of liquor, may hold a private retail store license granted pursuant to this article.

Section 810-A. Local Option.--(a) The governing body of any municipality may, within one (1) year of the effective date of this section, and not more often than once every fourth year thereafter, consider the adoption or rescission, and adopt or rescind an ordinance prohibiting the location of any new private retail store, or the continuation of operations at any existing private retail store beyond the renewal date of the license.

(b) The governing body of any municipality may at any time adopt ordinances regulating the hours of operation, prohibiting Sunday sales, or specifying permissible locations for the operation of private retail stores.

(c) Separate ordinances may be adopted for each part of a municipality that is split so that each part thereof is separated by another municipality.

(d) Separate ordinances may be adopted with respect to private retail wine and liquor stores licensed pursuant to section 807-A and private retail wine stores licensed pursuant to section 808-A.

(e) Private retail store licenses shall not be granted within any municipality which, on the effective date of this article, has prohibited the operation of wholesale distributors of malt or brewed beverages or Pennsylvania liquor stores pursuant to section 472, unless such municipality adopts an ordinance permitting the operation of private retail wine and liquor stores or private retail wine stores, or both, within the municipality, or within a split part of a municipality separated by another municipality. An ordinance permitting licensed

1 activities within either part of a municipality that is split
2 shall be required, even if operations pursuant to section 472
3 were prohibited only in one part of such municipality.

4 (f) Prior to considering the adoption of any ordinance
5 pursuant to this section, the governing body of the municipality
6 shall hold one or more public hearings, and may conduct an
7 advisory referendum.

8 (g) Any municipality adopting an ordinance pursuant to this
9 section shall file a copy of such regulation with the department
10 at least thirty (30) days prior to the effective date of the
11 ordinance.

12 (h) Any private retail liquor store operating within a
13 municipality adopting an ordinance prohibiting operations within
14 the municipality may, with the approval of the department,
15 notwithstanding the requirements of section 804-A(a)(6),
16 transfer a licensed premise to any other municipality which has
17 not adopted any such ordinance.

18 Section 811-A. Prohibited Acts and Offenses.--Except as
19 provided by this article, private retail and wholesale licensed
20 establishments operated pursuant to this article shall be
21 subject to the requirement of sections 492, 493, 494, 509, 510,
22 518 and 519 and Article VI. No licensee, however, shall be
23 restricted, except as otherwise provided by this article, with
24 respect to advertising of the price and brand of any liquor or
25 wine, offering sales, rebates, refunds, discounts, establishing
26 the price of any liquor or wine, stocking of merchandise,
27 presentation of products or offering of brands for sale.

28 Section 812-A. Liquor System Deregulation Account.--(a) All
29 funds collected by the department from the sale of private
30 retail wine and liquor licenses during phase one of

1 deregulation, except for amounts determined by the department to
2 have been collected from the sale of inventory, equipment and
3 fixed assets of State liquor stores, shall be deposited into a
4 restricted receipt account within the State Store Fund known as
5 the Liquor System Deregulation Account, which is hereby
6 established. All other license fees, fines and penalties
7 collected pursuant to this article, and amounts collected from
8 the sale of inventory, equipment and fixed assets of State
9 liquor stores shall be paid into the State Store Fund without
10 restriction. Amounts deposited in the State Store Fund, without
11 restriction, may be utilized to pay the costs of administration,
12 licensing and enforcement by the department and the enforcement
13 bureau pursuant to this article, and for any other purpose
14 authorized by law.

15 (b) All funds in the Liquor System Deregulation Account
16 shall be utilized in the following manner:

17 (1) The sum of ten million dollars (\$10,000,000) is hereby
18 appropriated to the Department of Commerce for the purpose of
19 guaranteeing loans to the former employes of State liquor stores
20 for the purpose of acquiring licenses pursuant to this article.

21 (2) All other funds in the account are hereby appropriated
22 to the Department of Education for the purpose of providing
23 grants to public elementary and secondary schools, vocational-
24 technical schools, community colleges, State System of Higher
25 Education and State related institutions of higher education;
26 for capital equipment needed for classroom instruction,
27 including, but not limited to, computers, scientific and
28 laboratory equipment, vocational instruction equipment and other
29 equipment needed to promote career opportunities in advanced
30 technology fields.

1 (3) The appropriations provided in this section shall lapse
2 June 30, 2001.

3 (c) Upon the approval of the Governor, the State Treasurer
4 is hereby authorized and directed to transfer from the General
5 Fund to the State Store Fund amounts determined by the
6 department to be necessary to finance the costs of deregulation
7 pursuant to this article, provided that all funds transferred
8 during a fiscal year shall be returned to the General Fund not
9 later than thirty (30) days after the end of such fiscal year.

10 Section 813-A. Taxation.--(a) The tax imposed by the act of
11 December 5, 1933 (Sp.Sess., P.L.38, No.6), known as the
12 "Spirituous and Vinous Liquor Tax Law," shall be collected,
13 reported and paid by any Pennsylvania manufacturer, or from the
14 first licensed wholesale distributor, of distilled spirits,
15 rectified spirits or wines importing such products produced by
16 nonresident manufacturers into this Commonwealth. All reports
17 shall be filed and labels affixed by the appropriate
18 manufacturer or distributor.

19 (b) The tax imposed upon wine and liquor by Article II of
20 the act of March 4, 1971 (P.L.6, No.2), known as the "Tax Reform
21 Code of 1971," shall be collected, reported and paid by retail
22 stores licensed pursuant to this article, or by the department
23 for sales by State liquor stores.

24 (c) There is hereby imposed a tax at the rate of eighteen
25 (18) per centum of the net price of all liquors sold by private
26 retail stores or the department. The tax shall be collected by
27 private retail stores or by the department from purchasers of
28 liquor and paid into the State Treasury, through the department
29 in the same manner and at the same times as provided for the
30 sales tax imposed by Article II of the "Tax Reform Code of

1 1971." This tax shall apply to any alcoholic, spiritous, vinous,
2 fermented or otherwise alcoholic beverage, or by combination of
3 liquors and mixed liquor, a part of which is spiritous, vinous,
4 fermented, or otherwise alcoholic, and all drinks or drinkable
5 liquids, preparations or mixtures intended for beverage
6 purposes, which contain more than one-half of one (0.5) per
7 centum of alcohol by volume, except alcohol and malt or brewed
8 beverages. The tax may be added to wholesale and retail prices
9 at which liquor is sold or to eliminate any accounting of such
10 tax separate from sales prices. The amount of tax for any
11 taxable period shall be ascertained by dividing the entire gross
12 receipts derived from sales by private retail stores or by the
13 department during such taxable period by six and five-ninths (6
14 5/9), and the quotient thus obtained shall be deemed the amount
15 of the tax for such taxable period payable, under this section.

16 Section 814-A. Displaced employes.--(a) Any individual or
17 group of displaced employes desiring to acquire a private retail
18 wine and liquor license, or a private retail wine-only license,
19 shall be eligible to apply to the Department of Commerce for a
20 loan guarantee of up to seventy (70) per centum of the amount
21 borrowed to purchase a license, and to acquire, stock and equip
22 a retail store. The Department of Commerce shall establish
23 regulations to determine the eligibility of loan guarantee
24 applicants, procedures for filing a loan guarantee application,
25 priorities for the award of loan guarantees, and other rules,
26 procedures and guidelines necessary to administer the loan
27 guarantee program.

28 (b) (1) In the case of a position with the Liquor Control
29 Board, Liquor Law Enforcement Bureau, Liquor Licensing Bureau or
30 Liquor Licensing Hearing Bureau where no civil service

examination is required, any employe displaced because of the provisions of this section who possesses the requisite qualifications and is eligible to appointment to or promotion in a public position shall be given a preference in the appointment or promotion by the appointing power.

(2) In the case of a position with the Liquor Control Board, Liquor Law Enforcement Bureau, Liquor Licensing Bureau or Liquor Licensing Hearing Bureau where a civil service examination is required, any employe displaced because of the provisions of this section who successfully passes the civil service appointment or promotional examination shall be marked or graded an additional ten points above the mark or grade credited for the examination, and the total mark or grade thus obtained shall represent the final mark or grade of such employe and shall determine his standing on any eligible or promotional list certified or furnished to the appointing or promoting power.

(3) This subsection shall expire two (2) years from the effective date of this section.

(c) Notwithstanding any provision of 71 Pa.C.S. (relating to State government) to the contrary, any employe displaced because of the provisions of this section who is a member of the State Employees' Retirement System shall be credited with an additional ten (10%) per centum of his service if he shall retire within two years from the effective date of this section.

Section 5. (a) The following acts and parts of acts are repealed:

Act of June 9, 1936 (P.L.13, No.4), entitled, as reenacted and amended "An act imposing an emergency State tax on liquor, as herein defined, sold by the Pennsylvania Liquor Control Board; providing for the collection and payment of such tax; and

1 imposing duties upon the Department of Revenue and the
2 Pennsylvania Liquor Control Board."

3 The last sentence of section 1 of the act of May 25, 1939
4 (P.L.191, No.99), entitled "An act authorizing transfers of sums
5 of money from the General Fund to the State Stores Fund under
6 certain conditions; providing for subsequent transfers of equal
7 sums from the State Stores Fund to the General Fund; and making
8 appropriations necessary to effect such transfers."

9 (b) All other acts and parts of acts are repealed insofar as
10 they are inconsistent with this act.

11 Section 6. This act shall take effect immediately.