
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1000 Session of
1997

INTRODUCED BY HECKLER, LOEPER, TILGHMAN, GREENLEAF, HART,
ARMSTRONG AND THOMPSON, MAY 14, 1997

REFERRED TO LAW AND JUSTICE, MAY 14, 1997

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 providing for the establishment, implementation and operation
18 of a system of wine and spirits stores for the sale of wine
19 and liquor for off-premises consumption, for the enforcement
20 of underage consumption provisions and for the establishment
21 of the Wine and Spirits Stores Fund; and further providing
22 for certain hearings, for renewal of licenses, for revocation
23 and suspension of licenses, for local options, for disorderly
24 conduct, for nuisances and for fines and penalties.

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

27 Section 1. Section 102 of the act of April 12, 1951 (P.L.90,
28 No.21), known as the Liquor Code, reenacted and amended June 29,

1 1987 (P.L.32, No.14), is amended by adding 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 "Municipal police officer" shall mean any full-time or part-
7 time employe of a city, borough, incorporated town, township or
8 home rule municipality of like classification or county police
9 department assigned to criminal or traffic law enforcement
10 duties. The term shall not include persons employed to check
11 parking meters or to perform only administrative duties and
12 auxiliary and fire police.

13 * * *

14 "Wine and spirits store" shall mean and include any premises
15 licensed by the Board under Article VIII-A where liquor or wine
16 is offered for sale in the original sealed containers as
17 prepared for the market by the manufacturer at the place of
18 manufacture but not for consumption on the premises where sold.

19 * * *

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

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

24 (c) Except as otherwise expressly provided, the purpose of
25 this act is to prohibit the manufacture of and transactions in
26 liquor, alcohol and malt or brewed beverages which take place in
27 this Commonwealth, except by and under the control of the board
28 as herein specifically provided, and every section and provision
29 of the act shall be construed accordingly; to provide a
30 structure in this Commonwealth for a distribution system,

1 including the establishment of [Pennsylvania liquor] wine and
2 spirits stores and licensing of importing distributors and
3 distributors; and to preserve manufacturers of liquor and
4 alcohol and malt and brewed beverages selling those products
5 within this Commonwealth. The provisions of this act dealing
6 with the manufacture, importation, sale, distribution and
7 disposition of liquor, alcohol and malt or brewed beverages
8 within the Commonwealth through the instrumentality of the
9 board, licensees and otherwise, provide the means by which such
10 control shall be made effective. This act shall not be construed
11 as forbidding, affecting or regulating any transaction which is
12 not subject to the legislative authority of this Commonwealth.

13 (d) The provisions of this act are intended to create a
14 system for distribution that shall include the fixing of
15 wholesale prices for liquor and alcohol and controls placed on
16 prices for malt and brewed beverages and which shall be
17 construed as integral to the preservation of the system, without
18 which the Commonwealth's control of the sale of liquor and
19 alcohol and malt and brewed beverages would not be possible.

20 * * *

21 Section 3. Sections 207 and 208 of the act are amended to
22 read:

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

25 (a) To buy, import or have in its possession for sale, and
26 sell liquor and alcohol in the manner set forth in this act:

27 Provided, however, That all purchases shall be made subject to
28 the approval of the State Treasurer, or his designated deputy.

29 [The board shall buy liquor and alcohol at the lowest price and
30 in the greatest variety reasonably obtainable.] The board shall

1 purchase at the lowest price obtainable and provide all readily
2 available brands of alcohol, wine and liquor requested by a wine
3 and spirits licensee for resale in a wine and spirits store.

4 (b) To control the manufacture, possession, sale,
5 consumption, importation, use, storage, transportation and
6 delivery of liquor, alcohol and malt or brewed beverages in
7 accordance with the provisions of this act, and to fix the
8 wholesale [and retail] prices at which liquors and alcohol shall
9 be sold [at Pennsylvania Liquor Stores]. Prices shall be
10 proportional with prices paid by the board to its suppliers and
11 shall reflect any advantage obtained through volume purchases by
12 the board. The board may establish a preferential price
13 structure for wines produced within this Commonwealth for the
14 promotion of such wines, as long as the price structure is
15 uniform within each class of wine purchased by the board. The
16 board shall require each Pennsylvania manufacturer and each
17 nonresident manufacturer of liquors, other than wine, selling
18 such liquors to the board, which are not manufactured in this
19 Commonwealth, to make application for and be granted a permit by
20 the board before such liquors not manufactured in this
21 Commonwealth shall be purchased from such manufacturer. Each
22 such manufacturer shall pay for such permit a fee which, in the
23 case of a manufacturer of this Commonwealth, shall be equal to
24 that required to be paid, if any, by a manufacturer or
25 wholesaler of the state, territory or country of origin of the
26 liquors, for selling liquors manufactured in Pennsylvania, and
27 in the case of a nonresident manufacturer, shall be equal to
28 that required to be paid, if any, in such state, territory or
29 country by Pennsylvania manufacturers doing business in such
30 state, territory or country. In the event that any such

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

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

17 (d) To grant and issue all licenses and [to grant, issue,
18 suspend and revoke all] permits authorized to be issued under
19 this act.

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

24 (f) To appoint, fix the compensation and define the powers
25 and duties of such managers, officers, inspectors, examiners[,
26 clerks] and other employes as shall be required for the
27 operation of this act, subject to the provisions of The
28 Administrative Code of 1929 and the Civil Service Act.

29 (g) To determine the nature, form and capacity of all
30 packages and original containers to be used for containing

1 liquor, alcohol or malt or brewed beverages.

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

7 (i) From time to time, to make such regulations not
8 inconsistent with this act as it may deem necessary for the
9 efficient administration of this act. The board shall cause such
10 regulations to be published and disseminated throughout the
11 Commonwealth in such manner as it shall deem necessary and
12 advisable or as may be provided by law. Such regulations adopted
13 by the board shall have the same force as if they formed a part
14 of this act.

15 [(j) By regulation, to provide for the use of a computerized
16 referral system to assist consumers in locating special items at
17 Pennsylvania Liquor Stores and for the use of electronic
18 transfer of funds and credit cards for the purchase of liquor
19 and alcohol at Pennsylvania Liquor Stores.]

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

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

27 (b) The duties and conduct of the officers and employes of
28 the board.

29 (c) The purchase, as provided in this act, of liquor and
30 alcohol, and its supply to [Pennsylvania Liquor Stores] wine and

1 spirits stores.

2 [(d) The classes, varieties and brands of liquor and alcohol
3 to be kept and sold in Pennsylvania Liquor Stores. In making
4 this determination the board shall meet not less than twice a
5 year.

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

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

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

13 (h) The issuance of licenses and permits and the conduct,
14 management, sanitation and equipment of places licensed or
15 included in permits.

16 [(i) The place and manner of depositing the receipts of
17 Pennsylvania Liquor Stores and the transmission of balances to
18 the Treasury Department through the Department of Revenue.]

19 (j) The solicitation by resident or nonresident vendors of
20 liquor from Pennsylvania licensees and other persons of orders
21 for liquor to be sold through the [Pennsylvania Liquor Stores]
22 wine and spirits stores and, in the case of nonresident vendors,
23 the collection therefrom of license fees for such privilege at
24 the same rate as provided herein for importers' licenses.

25 (k) Standards for the operation of wine and spirits stores.

26 Section 4. Section 215 of the act is repealed.

27 Section 5. The act is amended by adding sections to read:

28 Section 217. Enforcement by Municipal Police Officers.--(a)
29 Municipal police officers shall have the power to investigate
30 licensees for violations of this act and of the regulations of

1 the board adopted pursuant to this act as specified in
2 subsection (b) for the express purpose of providing the Bureau
3 of Liquor Control Enforcement with evidence upon which an
4 administrative citation may be filed.

5 (b) Municipal police officers shall have the power to
6 investigate a licensee for violations of the following
7 provisions of this act and regulations promulgated pursuant to
8 this act:

9 (1) Section 406(a)(3).

10 (2) Section 493(1).

11 (3) Section 493(10).

12 (4) Section 493(14).

13 (5) Section 493(16).

14 (6) Section 499.

15 (7) Section 818-A.

16 (8) 18 Pa.C.S. § 5503 (relating to disorderly conduct).

17 (9) 40 Pa. Code § 5.32(a) (relating to
18 restrictions/exceptions).

19 (10) 40 Pa. Code § 5.32(c).

20 (c) Within thirty (30) days of the completion of his
21 investigation, the municipal police officer shall notify the
22 licensee of the nature of the violation by registered mail
23 return receipt requested at the licensee's business address and
24 forward his investigation to the Bureau of Liquor Control
25 Enforcement for approval. Notification in this manner
26 constitutes compliance with the requirement of the Bureau of
27 Liquor Control Enforcement to notify the licensee under section
28 471(b) of this act.

29 (d) Upon approval of the municipal police officer's
30 investigation, the Bureau of Liquor Control Enforcement shall

1 issue a citation against the licensee, in accordance with the
2 provisions of this act, to show cause why such license should
3 not be suspended or revoked or a fine imposed, or both.

4 (e) Except as provided in subsection (f), in conducting an
5 investigation pursuant to this act, a municipal police officer
6 can enter a licensed premises only when the licensed premises
7 are open for the transaction of business or when patrons, guests
8 or members are in that portion of the licensed premises wherein
9 either liquor or malt or brewed beverages are sold. Failure to
10 permit a municipal police officer to enter the licensed premises
11 under these circumstances is a violation of section 493(21) of
12 this act.

13 (f) In conducting an investigation pursuant to this act,
14 municipal police officers may conduct an inspection or search
15 without warrant of the licensed premises for minors or for
16 patrons "after hours." Any other investigation or search of
17 licensed premises shall only occur with a search warrant issued
18 by a duly authorized magistrate or with the consent of the
19 licensee or the licensee's board-approved manager. Municipal
20 police officers may seize without warrant all evidence of any
21 violation of this act for which they are authorized to
22 investigate.

23 (g) Prior to investigating licensees for violations of this
24 act and of the regulations thereunder, the municipal police
25 officers must successfully complete a training regimen provided
26 by the Bureau of Liquor Control Enforcement in administrative
27 investigations and enforcement of this act.

28 (h) Nothing in this section shall affect the authority of a
29 municipal police officer to conduct an investigation for
30 criminal violations of this act or for violations of any penal

1 statute.

2 Section 218. Confectionery Containing Alcohol or Liquor.--

3 (a) Notwithstanding the prohibition against the manufacture of
4 confectionery containing alcohol as set forth in the fifth
5 clause of subsection (a) of section 3 of the act of May 13, 1909
6 (P.L.520, No.292), referred to as the Pure Food Law, the
7 manufacture, storage, transportation and delivery to points out-
8 of-State by manufacturers of confectionery containing alcohol or
9 liquor is permitted.

10 (b) The sale of confectionery containing alcohol or liquor
11 is prohibited within this Commonwealth.

12 (c) This section is not intended to cover, govern, nor
13 control the sale of confectionery containing tinctures or
14 extracts used for flavoring purposes or solvents for glazes.

15 Section 6. Sections 301, 302, 303, 304, 305, 305.1 and 306
16 of the act are repealed.

17 Section 7. Section 436(e) and (f) of the act are amended to
18 read:

19 Section 436. Application for Distributors', Importing
20 Distributors' and Retail Dispensers' Licenses.--Application for
21 distributors', importing distributors' and retail dispensers'
22 licenses, or for the transfer of an existing license to another
23 premises not then licensed, shall contain or have attached
24 thereto the following information and statements:

25 * * *

26 (e) That the applicant is not, or in case of a partnership
27 or association, that the members or partners are not, and in the
28 case of a corporation, that the officers and directors are not,
29 in any manner pecuniarily interested, either directly or
30 indirectly, in the profits of any other class of business

1 regulated under this article, except [as] a wine and spirits
2 store or as otherwise hereinafter permitted.

3 (f) That applicant is the only person in any manner
4 pecuniarily interested in the business so asked to be licensed,
5 and that no other person shall be in any manner pecuniarily
6 interested therein during the continuance of the license, except
7 [as] a wine and spirits store or as otherwise hereinafter
8 permitted.

9 * * *

10 Section 8. Section 464 of the act, amended October 5, 1994
11 (P.L.522, No.77), is amended to read:

12 Section 464. Hearings Upon Refusal of Licenses, Renewals or
13 Transfers; Appeals.--The board may of its own motion, and shall
14 upon the written request of any applicant for club, hotel or
15 restaurant liquor license, or any applicant for any malt or
16 brewed beverage license other than a public service license, or
17 for renewal or transfer thereof, or for the renewal of an
18 amusement permit, whose application for such license, renewal or
19 transfer, or the renewal of an amusement permit, has been
20 refused, fix a time and place for hearing of such application
21 for license or for renewal or transfer thereof, or the renewal
22 of an amusement permit, notice of which hearing shall be mailed
23 to the applicant at the address given in his application. Such
24 hearing shall be before a hearing examiner designated by the
25 board. At such hearing, the board shall present its reasons for
26 its refusal or withholding of license, renewal or transfer
27 thereof, or its refusal for renewal of an amusement permit. The
28 applicant may appear in person or by counsel, may cross-examine
29 the witnesses for the board and may present evidence which shall
30 likewise be subject to cross-examination by the board. Such

1 hearing shall be stenographically recorded. The hearing examiner
2 shall thereafter report, with the examiner's recommendation, to
3 the board in each case. The board shall thereupon grant or
4 refuse the license, renewal or transfer thereof or the renewal
5 of an amusement permit. In considering the renewal of a license
6 or amusement permit, the board shall not refuse any such renewal
7 on the basis of the propriety of the original issuance or any
8 prior renewal of such license or amusement permit. If the board
9 shall refuse such license, renewal or transfer or the renewal of
10 an amusement permit, following such hearing, notice in writing
11 of such refusal shall be mailed to the applicant at the address
12 given in his application. In all such cases, the board shall
13 file of record at least a brief statement in the form of an
14 opinion of the reasons for the ruling or order and furnish a
15 copy thereof to the applicant. Any applicant who has appeared at
16 any hearing, as above provided, who is aggrieved by the refusal
17 of the board to issue any such license or to renew or transfer
18 any such license or to renew any amusement permit may appeal, or
19 any church, hospital, charitable institution, school or public
20 playground located within three hundred feet of the premises
21 applied for, aggrieved by the action of the board in granting
22 the issuance or renewal of any such license or the transfer of
23 any such license, may take an appeal limited to the question of
24 such grievance, within twenty days from date of refusal or
25 grant, to the court of common pleas of the county in which the
26 premises or permit applied for is located. Such appeal shall be
27 upon petition of the aggrieved party, who shall serve a copy
28 thereof upon the board, whereupon a hearing shall be held upon
29 the petition by the court upon ten days' notice to the board.
30 The said appeal shall act as a supersedeas unless upon

1 sufficient cause shown the court shall determine otherwise. The
2 court shall hear the application de novo on questions of fact,
3 administrative discretion and such other matters as are
4 involved, at such time as it shall fix, of which notice shall be
5 given to the board. The court shall either sustain or over-rule
6 the action of the board and either order or deny the issuance of
7 a new license or the renewal or transfer of the license or the
8 renewal of an amusement permit to the applicant.

9 Section 9. Section 470(a) of the act, amended April 29, 1994
10 (P.L.212, No.30), is amended to read:

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

1 additional filing fee of two hundred fifty dollars (\$250.00) for
2 late filing. Where any such renewal application is filed less
3 than sixty days before the expiration date, or subsequent to the
4 expiration date, no license shall issue upon the filing of the
5 renewal application until the matter is finally determined by
6 the board and if an appeal is taken from the board's action the
7 courts shall not order the issuance of the renewal license until
8 final determination of the matter by the courts. A renewal
9 application will not be considered filed unless accompanied by a
10 new bond and the requisite filing and license fees and any
11 additional filing fee required by this section. Unless the
12 [board] director of the Bureau of Licensing shall have given ten
13 days' previous notice to the applicant of objections to the
14 renewal of his license, based upon violation by the licensee or
15 his servants, agents or employes of any of the laws of the
16 Commonwealth or regulations of the board relating to the
17 manufacture, transportation, use, storage, importation,
18 possession or sale of liquors, alcohol or malt or brewed
19 beverages, or the conduct of a licensed establishment, or unless
20 the applicant has by his own act become a person of ill repute,
21 or unless the premises do not meet the requirements of this act
22 or the regulations of the board, the license of a licensee shall
23 be renewed.

24 * * *

25 Section 10. Section 471 of the act is amended to read:

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

27 (a) Upon learning of any violation of this act or any laws of
28 this Commonwealth relating to liquor, alcohol or malt or brewed
29 beverages, or of any regulations of the board adopted pursuant
30 to such laws, or any violation of any laws of this Commonwealth

1 or of the Federal Government relating to the payment of taxes on
2 liquor, alcohol or malt or brewed beverages by any licensee
3 within the scope of this [article] act, his officers, servants,
4 agents or employes, or upon any other sufficient cause shown,
5 the enforcement bureau may, within one year from the date of
6 such violation or cause appearing, cite such licensee to appear
7 before an administrative law judge, not less than ten nor more
8 than sixty days from the date of sending such licensee, by
9 registered mail, a notice addressed to him at his licensed
10 premises, to show cause why such license should not be suspended
11 or revoked or a fine imposed, or both. The bureau shall also
12 send a copy of the hearing notice to the municipality in which
13 the premises is located.

14 (b) Hearing on such citations shall be held in the same
15 manner as provided herein for hearings on applications for
16 license. [Upon such hearing,]

17 (b.1) Upon a hearing under subsection (b) and if satisfied
18 that any such violation has occurred or for other sufficient
19 cause, the administrative law judge shall immediately suspend or
20 revoke the license, or impose a fine of not less than fifty
21 dollars (\$50) nor more than one thousand dollars (\$1,000), or
22 both, notifying the licensee by registered letter addressed to
23 his licensed premises.

24 (b.2) If the licensee has been cited and found to have
25 violated section 493(1) insofar as it relates to sales to
26 minors, section 493(10) insofar as it relates to lewd, immoral
27 or improper entertainment or section 493(14), (16) or (21), or
28 has been found to be a public nuisance pursuant to section 611,
29 or if the [owner] licensee or operator of the licensed premises
30 or any authorized agent of the [owner] licensee or operator has

1 been convicted of or has been cited and found by the
2 administrative law judge to have committed any violation of the
3 act of April 14, 1972 (P.L.233, No.64), known as "The Controlled
4 Substance, Drug, Device and Cosmetic Act," or of 18 Pa.C.S. §
5 5902 (relating to prostitution and related offenses) or 6301
6 (relating to corruption of minors), at or relating to the
7 licensed premises, the administrative law judge shall
8 immediately suspend or revoke the license, or impose a fine of
9 not less than one thousand dollars (\$1,000) nor more than five
10 thousand dollars (\$5,000), or both.

11 (b.3) If the licensee has been found in three administrative
12 citations within a four-year period to have violated section
13 493(1) insofar as it relates to sales to minors or service to
14 visibly intoxicated patrons, or if the licensee or operator of
15 the licensed premises or any authorized agent of the licensee or
16 operator has been convicted three or more times of any violation
17 of the act of April 14, 1972 (P.L.233, No.64), known as "The
18 Controlled Substance, Drug, Device and Cosmetic Act," or of 18
19 Pa.C.S. § 5902 or 6301 or any combination of these violations
20 and offenses, the administrative law judge shall impose a fine
21 of not less then two thousand five hundred dollars (\$2,500) nor
22 more than five thousand dollars (\$5,000) for the third and any
23 subsequent offense, and a mandatory suspension of three days.
24 The board shall also institute license revocation proceedings. A
25 licensee's appeal from this subsection shall not act as a
26 supersedeas.

27 (b.4) The administrative law judge shall notify the licensee
28 by registered mail, addressed to the licensed premises, of
29 [such] a suspension, revocation or fine imposed under this
30 section. The increased civil penalty imposed by [this]

1 subsection (b.2) shall not be used to require any licensee to
2 increase the amount of the bond required by this act. In the
3 event the fine is not paid within twenty days of the
4 adjudication, the administrative law judge shall suspend or
5 revoke the license, notifying the licensee by registered mail
6 addressed to the licensed premises. Suspensions and revocations
7 shall not go into effect until thirty days have elapsed from the
8 date of the adjudication during which time the licensee may take
9 an appeal as provided for in this act. When a license is
10 revoked, the licensee's bond may be forfeited.

11 (b.5) Any licensee whose license is revoked shall be
12 ineligible to have a license under this act until the expiration
13 of three years from the date such license was revoked. In the
14 event a license is revoked, no license shall be granted for the
15 premises or transferred to the premises in which the said
16 license was conducted for a period of at least one year after
17 the date of the revocation of the license conducted in the said
18 premises, except in cases where the licensee or a member of his
19 immediate family is not the owner of the premises, in which case
20 the board may, in its discretion, issue or transfer a license
21 within the said year.

22 (b.6) In the event the bureau or the person who was fined or
23 whose license was suspended or revoked shall feel aggrieved by
24 the adjudication of the administrative law judge, there shall be
25 a right to appeal to the board. The appeal shall be based solely
26 on the record before the administrative law judge. [The board
27 shall affirm the decision of the administrative law judge if it
28 is based on substantial evidence; otherwise, the board shall
29 reverse the decision of the administrative law judge.] The
30 board's review shall be based upon substantial evidence, abuse

1 of discretion or an error of law. In the event the bureau or the
2 person who was fined or whose license was suspended or revoked
3 shall feel aggrieved by the decision of the board, there shall
4 be a right to appeal to the court of common pleas in [the same
5 manner as herein provided for appeals from refusals to grant
6 licenses.] accord with 42 Pa.C.S. § 5105 (relating to right to
7 appellate review). The court's review shall be based solely on
8 the record. The court's review shall be based upon substantial
9 evidence, abuse of discretion or error of law. Each of the
10 appeals shall act as a supersedeas unless, upon sufficient cause
11 shown, the reviewing authority shall determine otherwise;
12 however, if the licensee has been cited and found to have
13 violated section 493(1) insofar as it relates to sales to
14 minors, section 493(10) insofar as it relates to lewd, immoral
15 or improper entertainment or section 493(14), (16) or (21), or
16 has been found to be a public nuisance pursuant to section 611,
17 or if the owner or operator of the licensed premises or any
18 authorized agent of the owner or operator has been convicted of
19 any violation of "The Controlled Substance, Drug, Device and
20 Cosmetic Act," or of 18 Pa.C.S. § 5902 or 6301, at or relating
21 to the licensed premises, or if the licensee has been cited and
22 found by the administrative law judge to have violated "The
23 Controlled Substance, Drug, Device and Cosmetic Act," its appeal
24 shall not act as a supersedeas unless the reviewing authority
25 determines otherwise upon sufficient cause shown.

26 (b.7) In any hearing on an application for a supersedeas
27 under this section, the reviewing authority may consider, in
28 addition to other relevant evidence, documentary evidence,
29 including records of the bureau, showing the prior history of
30 citations, fines, suspensions or revocations against the

1 licensee; and the reviewing authority may also consider, in
2 addition to other relevant evidence, evidence of any recurrence
3 of the unlawful activity occurring between the date of the
4 citation which is the subject of the appeal and the date of the
5 hearing. No penalty provided by this section shall be imposed
6 for any violations provided for in this act unless the bureau
7 notifies the licensee of its nature within thirty days of the
8 completion of the investigation.

9 (c) [If] Except as provided in subsections (b.2) and (b.3),
10 if the violation in question is a third or subsequent violation
11 of this act or Title 18 of the Pennsylvania Consolidated
12 Statutes (relating to crimes and offenses), occurring within a
13 period of four years, the administrative law judge shall impose
14 a suspension or revocation.

15 Section 11. Section 472 of the act, amended May 31, 1996
16 (P.L.312, No.49), is amended to read:

17 Section 472. Local Option.--(a) In any municipality or any
18 part of a municipality where such municipality is split so that
19 each part thereof is separated by another municipality, an
20 election may be held, subject to subsection (c), on the date of
21 the primary election immediately preceding any municipal
22 election, but [not];

23 (1) not oftener than once in four years, to determine the
24 will of the electors with respect to the granting of liquor
25 licenses to hotels, restaurants and clubs[, not];

26 (2) not oftener than once in four years, to determine the
27 will of the electors with respect to the granting of liquor
28 licenses to privately-owned private golf courses or to
29 privately-owned public golf courses[, not];

30 (3) not oftener than once in four years, to determine the

1 will of the electors with respect to the granting of licenses to
2 retail dispensers of malt and brewed beverages[, not];

3 (4) not oftener than once in four years, to determine the
4 will of the electors with respect to granting of licenses to
5 wholesale distributors and importing distributors[, not];

6 (5) not more than once in two years, to determine the will
7 of the electors with respect to the granting of club liquor
8 licenses or club retail dispenser licenses to incorporated units
9 of national veterans' organizations[, or not]; or

10 (6) subject to the authorization in subsection (a.2), not
11 more than once in four years, to determine the will of the
12 electors with respect to the establishment, operation and
13 maintenance [by the board of Pennsylvania liquor stores,] of
14 wine and spirits stores; within the limits of such municipality
15 or part of a split municipality, under the provisions of this
16 act[: Provided, however, Where].

17 (a.1) Where an election shall have been held at the primary
18 preceding a municipal election in any year, another election may
19 be held under the provisions of this act at the primary
20 occurring the fourth year after such prior election: And
21 provided further, That an election on the question of
22 establishing and operating a [State liquor] wine and spirits
23 store shall be initiated only in those municipalities, or that
24 part of a split municipality that shall have voted against the
25 granting of liquor licenses; and that an election on the
26 question of granting wholesale distributor and importing
27 distributor licenses shall be initiated only in those
28 municipalities or parts of split municipalities that shall have
29 at a previous election voted against the granting of dispenser's
30 licenses.

1 (a.2) In those municipalities, or that part of a split
2 municipality that voted against the establishment of State
3 liquor stores, the question relating to the establishment of
4 wine and spirits stores may appear on the primary ballot first
5 following passage of this subsection and subsequent to that time
6 at any primary election immediately preceding a municipal
7 election in any year at least four years thereafter. In all
8 municipalities that have opted to exclude State liquor stores at
9 elections preceding the adoption of this subsection, the
10 exclusion of wine and spirits stores will continue until a later
11 election at which a majority of the voting electors vote "yes"
12 on the question.

13 (a.3) Whenever electors equal to at least twenty-five per
14 centum of the highest vote cast for any office in the
15 municipality or part of a split municipality at the last
16 preceding general election shall file a petition with the county
17 board of elections of the county for a referendum on the
18 question of granting any of said classes of licenses [or the
19 establishment of Pennsylvania liquor stores] or the continued
20 operation or maintenance of a wine and spirits store, the said
21 county board of elections shall cause a question to be placed on
22 the ballots or on the voting machine board and submitted at the
23 primary immediately preceding the municipal election. Separate
24 petitions must be filed for each question to be voted on. Said
25 proceedings shall be in the manner and subject to the provisions
26 of the election laws which relate to the signing, filing and
27 adjudication of nomination petitions, insofar as such provisions
28 are applicable.

29 (a.4) The following are the specific forms for each
30 question:

1 (1) When the question is in respect to the granting of
2 liquor licenses, it shall be in the following form:

3 Do you favor the granting of liquor licenses
4 for the sale of liquor in..... Yes
5 of.....? No

6 (2) When the question is in respect to the granting of
7 liquor licenses, for privately-owned private golf courses, it
8 shall be in the following form:

9 Do you favor the granting of liquor licenses for
10 privately-owned private golf courses for the sale
11 of liquor in.....by..... Yes
12 of.....? No

13 (3) When the question is in respect to the granting of
14 liquor licenses, for privately-owned public golf courses, it
15 shall be in the following form:

16 Do you favor the granting of liquor licenses for
17 privately-owned public golf courses for the sale
18 of liquor in.....by..... Yes
19 of.....? No

20 (4) When the question is in respect to the granting of
21 licenses to retail dispensers of malt and brewed beverages, it
22 shall be in the following form:

23 Do you favor the granting of malt and brewed
24 beverage retail dispenser licenses for
25 consumption on premises where sold in the..... Yes
26 of.....? No

27 (5) When the question is in respect to the granting of
28 licenses to wholesale distributors of malt or brewed beverages
29 and importing distributors, it shall be in the following form:

30 Do you favor the granting of malt and brewed

1 beverage wholesale distributor's and importing
2 distributor's licenses not for consumption on
3 premises where sold in the..... Yes
4 of.....? No

5 (6) When the question is in respect to the granting of club
6 liquor licenses to incorporated units of national veterans'
7 organizations, it shall be in the following form:

8 Do you favor the granting of club liquor licenses
9 to incorporated units of national veterans' organizations
10 in the..... Yes
11 of.....? No

12 (7) When the question is in respect to the granting of club
13 retail dispenser licenses to incorporated units of national
14 veterans' organizations, it shall be in the following form:

15 Do you favor the granting of club retail dispenser
16 licenses to incorporated units of national veterans'
17 organizations in the..... Yes
18 of.....? No

19 (8) When the question is in respect to the establishment,
20 operation and maintenance of [Pennsylvania liquor stores] retail
21 liquor stores, it shall be in the following form:

22 Do you favor the establishment, operation
23 and maintenance of [Pennsylvania liquor] wine and spirits
24 stores in the..... Yes
25 of.....? No

26 (a.5) In case of a tie vote, the status quo shall obtain. If
27 a majority of the voting electors on any such question vote
28 "yes," then liquor licenses shall be granted by the board to
29 hotels, restaurants and clubs, or liquor licenses shall be
30 granted by the board to privately-owned private golf courses or

1 to privately-owned public golf courses, or malt and brewed
2 beverage retail dispenser licenses or wholesale distributor's
3 and importing distributor's license for the sale of malt or
4 brewed beverages shall be granted by the board, or club liquor
5 licenses or club retail dispenser licenses shall be granted by
6 the board to incorporated units of national veterans'
7 organizations, or [the board may establish, operate and maintain
8 Pennsylvania liquor stores] wine and spirits store licenses
9 shall be granted to individuals or corporations for
10 establishing, operating and maintaining wine and spirits stores
11 in accordance with Article VIII-A of this act, as the case may
12 be, in such municipality or part of a split municipality, as
13 provided by this act; but if a majority of the electors voting
14 on any such question vote "no," then the board shall have no
15 power to grant or to renew upon their expiration any licenses of
16 the class so voted upon in such municipality or part of a split
17 municipality; or if the negative vote is on the question in
18 respect to the establishment, operation and maintenance of
19 [Pennsylvania liquor stores, the board shall not open and
20 operate a Pennsylvania liquor] wine and spirits stores, the
21 board shall not license a wine and spirits store in such
22 municipality or part of a split municipality, nor continue to
23 operate a then existing Pennsylvania liquor store in the
24 municipality or part of a split municipality for more than two
25 years thereafter or after the expiration of the term of the
26 lease on the premises occupied by such store, whichever period
27 is less, unless and until at a later election a majority of the
28 voting electors vote "yes" on such question.

29 (b) To be eligible for the local option under this section,
30 the incorporated unit of a national veterans' organization must

1 have been incorporated on or before a date ten years prior to
2 the filing of its application after authorization under local
3 option. In each municipality, licenses approved under the local
4 option for incorporated units of national veterans'
5 organizations may not exceed four.

6 (c) For the first year that the local option is authorized
7 for the incorporated units of national veterans' organizations,
8 the local option election for the incorporated units of national
9 veterans' organizations may be held at the primary election
10 preceding any election.

11 Section 12. Section 491(2), (3), (7), (10) and (13) of the
12 act are amended to read:

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

15 It shall be unlawful--

16 * * *

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

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

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

27 None of the provisions herein contained shall prohibit nor
28 shall it be unlawful for any consul general, consul or other
29 diplomatic officer of a foreign government to import into
30 Pennsylvania, transport or have in his possession liquor upon

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

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

30 (3) Purchase of Liquor or Alcohol. For any person within

1 this Commonwealth, by himself or by an employe or agent, to
2 attempt to purchase, or directly or indirectly, or upon any
3 pretense or device whatsoever, to purchase any liquor or alcohol
4 from any person or source other than a Pennsylvania Liquor Store
5 or a wine and spirits store, except in accordance with the
6 provisions of this act or the regulations of the board.

7 * * *

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

17 * * *

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

25 * * *

26 (13) Violation of Certain Rules and Regulations of Board.
27 For any person, to violate any rules and regulations adopted by
28 the board to insure the equitable wholesale and retail sale and
29 distribution of liquor and alcohol through the Pennsylvania
30 Liquor Stores or wine and spirits stores.

1 * * *

2 Section 13. Section 493 introductory paragraph, (11), (12),
3 (13), (14), (20), (24) and (26) of the act, amended May 31, 1996
4 (P.L.312, No.49), are amended and the section is amended by
5 adding a clause to read:

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

11 It shall be unlawful--

12 * * *

13 (11) Licensees Employed by Others. For any hotel, restaurant
14 or club liquor licensee, wine and spirits store licensee, or any
15 malt or brewed beverage licensee, or any servant, agent or
16 employe of such licensee, to be at the same time employed,
17 directly or indirectly, by any other person engaged in the
18 manufacture, sale, transportation or storage of liquor, malt or
19 brewed beverages or alcohol: Provided, That any person (except a
20 licensee or the manager, officer or director of a licensee) who
21 is employed by a retail licensee to prepare or serve food and
22 beverages may be employed in the same capacity by another retail
23 licensee during other hours or on other days.

24 (12) Failure to Have Records on Premises. For any liquor
25 licensee[, or any importing distributor, or retail dispenser]
26 under this act, to fail to keep on the licensed premises for a
27 period of at least two years complete and truthful records
28 covering the operation of his licensed business, particularly
29 showing the date of all purchases of liquor and malt or brewed
30 beverages, the actual price paid therefor, and the name of the

1 vendor, including State Store receipts or wine and spirits store
2 receipts, or for any licensee under this act, his servants,
3 agents or employes, to refuse the board or an authorized employe
4 of the board or the enforcement bureau access thereto or the
5 opportunity to make copies of the same when the request is made
6 during business hours.

7 (13) Retail Licensees Employing Minors. For any hotel,
8 restaurant or club liquor licensee, or any retail dispenser, to
9 employ or to permit any minor under the age of eighteen to serve
10 any alcoholic beverages or to employ or permit any minor under
11 the age of sixteen to render any service whatever in or about
12 the licensed premises, nor shall any entertainer under the age
13 of eighteen be employed or permitted to perform in any licensed
14 premises in violation of the labor laws of this Commonwealth:
15 Provided, That in accordance with board regulations minors
16 between the ages of sixteen and eighteen may be employed to
17 serve food, clear tables and perform other similar duties, not
18 to include the dispensing or serving of alcoholic beverages. The
19 provisions of this clause shall not apply to any wine and
20 spirits store licensee under Article VIII-A of this act.

21 (14) Permitting Undesirable Persons or Minors to Frequent
22 Premises. For any hotel, restaurant or club liquor licensee, or
23 wine and spirits store licensee, or any retail dispenser, his
24 servants, agents or employes, to permit persons of ill repute,
25 known criminals, prostitutes or minors to frequent his licensed
26 premises or any premises operated in connection therewith,
27 except minors accompanied by parents, guardians, or under proper
28 supervision or except minors who frequent any restaurant or
29 retail dispensing licensee whose sales of food and non-alcoholic
30 beverages are equal to seventy per centum or more of the

1 combined gross sales of both food and alcoholic beverages on the
2 condition that alcoholic beverages may not be served at the
3 table or booth at which the said minor is seated at the time
4 (unless said minor is under proper supervision as hereinafter
5 defined) and on the further condition that only table service of
6 alcoholic beverages or take-out service of beer shall be
7 permitted in the room wherein the minor is located: Provided,
8 however, That it shall not be unlawful for any hotel, restaurant
9 or club liquor licensee or any retail dispenser to permit minors
10 under proper supervision upon the licensed premises or any
11 premises operated in connection therewith for the purpose of a
12 social gathering, even if such gathering is exclusively for
13 minors: And provided further, That no liquor shall be sold,
14 furnished or given to such minors nor shall the licensee
15 knowingly permit any liquor or malt or brewed beverages to be
16 sold, furnished or given to or be consumed by any minor, and the
17 area of such gathering shall be segregated from the remainder of
18 the licensed premises. In the event the area of such gathering
19 cannot be segregated from the remainder of the licensed
20 premises, all alcoholic beverages must be either removed from
21 the licensed premises or placed under lock and key during the
22 time the gathering is taking place. Notice of such gathering
23 shall be given the board as it may, by regulation, require. Any
24 licensee violating the provisions of this clause shall be
25 subject to the provisions of section 471.

26 "Proper supervision," as used in this clause, means the
27 presence, on that portion of the licensed premises where a minor
28 or minors are present, of one person twenty-five years of age or
29 older for every fifty minors or part thereof who is directly
30 responsible for the care and conduct of such minor or minors

1 while on the licensed premises and in such proximity that the
2 minor or minors are constantly within his sight or hearing. The
3 presence of the licensee or any employe or security officer of
4 the licensee shall not constitute proper supervision.

5 * * *

6 (20) (i) Retail Liquor and Retail Malt or Brewed Beverages
7 Licensee's Inside Advertisements. For any retail liquor, or any
8 wine and spirits store licensee, or retail malt or brewed
9 beverages licensee, to display or permit the display in the show
10 window or doorways of his licensed premises, any placard or sign
11 advertising the brands of liquor or malt or brewed beverages, if
12 the total display area of any such placard or sign advertising
13 the product or products exceeds six hundred square inches.
14 Nothing herein shall prohibit a licensee from displaying inside
15 his licensed premises point of sale displays advertising brand
16 names of products sold by him, other than a window or door
17 display: Provided, That the total cost of all such point of sale
18 advertising matter relating to any one brand shall not exceed
19 the sum of one hundred forty dollars (\$140) at any one time, and
20 no single piece of advertising shall exceed a cost of seventy
21 dollars (\$70). The board is authorized to make annual
22 adjustments to the cost limitations on point of display
23 advertising to reflect any changes in such limitations by the
24 United States Bureau of Alcohol, Tobacco and Firearms or its
25 successors in accordance with 27 CFR 6.83 (relating to product
26 displays) and 27 CFR 6.85 (relating to retailer advertising
27 specialties). All such advertising material, including the
28 window and door signs, may be furnished by a manufacturer,
29 distributor or importing distributor. The restrictions on
30 advertising set forth in subclause (ii) and in clauses (20.1)

1 and (20.2) shall also apply to this subclause.

2 (ii) Cooperative Advertising. No distributor or importing
3 distributor, directly or indirectly, independent or otherwise,
4 shall, except by prior written agreement, be required to
5 participate with a manufacturer in the purchase of any
6 advertising of a brand name product in any name, in any form,
7 whether it be radio, television, newspaper, magazine or
8 otherwise.

9 * * *

10 (24) Things of Value Offered as Inducement. For any licensee
11 under the provisions of this [article,] act, or any licensee
12 under Article VIII-A, or the board or any manufacturer, or any
13 employe or agent of a manufacturer, licensee or of the board, to
14 offer to give anything of value or to solicit or receive
15 anything of value as a premium for the return of caps, stoppers,
16 corks, stamps or labels taken from any bottle, case, barrel or
17 package containing liquor or malt or brewed beverage, or to
18 offer or give or solicit or receive anything of value as a
19 premium or present to induce directly the purchase of liquor or
20 malt or brewed beverage, or for any licensee, manufacturer or
21 other person to offer or give to trade or consumer buyers any
22 prize, premium, gift or other inducement to purchase liquor or
23 malt or brewed beverages, except advertising novelties of
24 nominal value which the board shall define. This section shall
25 not prevent any manufacturer or any agent of a manufacturer from
26 offering only on licensed premises and honoring coupons which
27 offer monetary rebates on purchases of wines and spirits through
28 State Liquor Stores or wine and spirits stores and purchases of
29 malt or brewed beverages in accordance with conditions or
30 regulations established by the board. Further, no manufacturer

1 or any agent of a manufacturer shall honor any coupons without
2 proof of purchase in the form of a sales slip or receipt
3 attached to the coupons. This section shall not apply to the
4 return of any monies specifically deposited for the return of
5 the original container to the owners thereof.

6 * * *

7 (26) Worthless Checks. For any retail liquor licensee, wine
8 and spirits store licensee, or any retail dispenser, distributor
9 or importing distributor, to make, draw, utter, issue or
10 deliver, or cause to be made, drawn, uttered, issued or
11 delivered, any check, draft or similar order, for the payment of
12 money in payment for any purchase of malt or brewed beverages,
13 when such retail liquor licensee, wine and spirits store
14 licensee, retail dispenser, distributor or importing
15 distributor, has not sufficient funds in, or credit with, such
16 bank, banking institution, trust company or other depository,
17 for the payment of such check. Any person who is a licensee
18 under the provisions of this article, or any licensee under
19 Article VIII-A, who shall receive in payment for malt or brewed
20 beverages sold by him any check, draft or similar order for the
21 payment of money, which is subsequently dishonored by the bank,
22 banking institution, trust company or other depository, upon
23 which drawn, for any reason whatsoever, shall, within five days
24 of receipt of notice of such dishonor, notify by certified mail
25 the person who presented the said worthless check, draft or
26 similar order.

27 * * *

28 (29) Disorderly conduct. For any licensee, including a wine
29 and spirits store licensee, its servant, agent or employe to
30 engage in or permit disorderly conduct on property adjacent to

1 its licensed premises under its control, including, but not
2 limited to, the sidewalk and parking lot.

3 (30) Open container. For any licensee, including a wine and
4 spirits store licensee, to permit the sale of liquor or malt or
5 brewed beverages in an open container for off-premises
6 consumption.

7 Section 14. Section 494 of the act, amended April 29, 1994
8 (P.L.212, No.30), is amended to read:

9 Section 494. Penalties.--(a) Any person who shall violate
10 any of the provisions of this article, except as otherwise
11 specifically provided, shall be guilty of a misdemeanor and,
12 upon conviction thereof, shall be sentenced to pay a fine of not
13 less than one hundred dollars (\$100), nor more than five hundred
14 dollars (\$500), and on failure to pay such fine, to imprisonment
15 for not less than one month, nor more than three months, and for
16 any subsequent offense, shall be sentenced to pay a fine not
17 less than three hundred dollars (\$300), nor more than five
18 hundred dollars (\$500), and to undergo imprisonment for a period
19 not less than three months, nor more than one year, or both. If
20 the person, at or relating to the licensed premises, violates
21 section [493(1), (10)] 493(10), (14), (16) or (21), or [if the
22 owner or operator of the licensed premises or any authorized
23 agent of the owner or operator violates the act of April 14,
24 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug,
25 Device and Cosmetic Act," or] 18 Pa.C.S. § 5902 (relating to
26 prostitution and related offenses) or 6301 (relating to
27 corruption of minors), he shall be sentenced to pay a fine not
28 exceeding five thousand dollars (\$5,000) or to undergo
29 imprisonment for a period not less than three months, nor more
30 than one year, or both.

1 (a.1) (1) Any person who violates the provisions of clause
2 (1) of section 493 shall be guilty of a misdemeanor of the
3 second degree. If the licensee or operator of the licensed
4 premises or any authorized agent of the licensee or operator
5 violates "The Controlled Substance, Drug, Device and Cosmetic
6 Act," he or she shall, in addition to any other penalty, be
7 guilty of a misdemeanor of the second degree. The person shall
8 be sentenced to pay a fine of not less than five hundred dollars
9 (\$500) nor more than one thousand dollars (\$1,000) for a first
10 offense. In addition to the fine required by this subsection,
11 the person may be sentenced to undergo imprisonment for a period
12 of not less than three months nor more than one year.

13 (2) For any subsequent offense, the person shall pay a fine
14 of not less than one thousand dollars (\$1,000) nor more than two
15 thousand five hundred dollars (\$2,500). In addition to the fine
16 required by this subsection, the person shall be sentenced to
17 imprisonment of not less than three months nor more than one
18 year.

19 (b) The right to suspend and revoke licenses granted under
20 this article shall be in addition to the penalty set forth in
21 this section.

22 (c) A person convicted of selling or offering to sell any
23 liquor or malt or brewed beverage without being licensed is in
24 violation of this article and shall, in addition to any other
25 penalty prescribed by law, be sentenced to pay a fine of
26 [twenty-five dollars (\$25) for each bottle of beer and] one
27 hundred dollars (\$100) for each bottle of beer and five hundred
28 dollars (\$500) for each bottle of wine or liquor found on the
29 premises where the sale was made or attempted. In addition, all
30 beer, wine and liquor found on the premises shall be

1 confiscated. If a person fails to pay the full amount of the
2 fine levied under this subsection, the premises on which the
3 beer, wine or liquor was found shall be subject to a lien in the
4 amount of the unpaid fine if the premises are owned by the
5 person against whom the fine was levied or by any other person
6 who had knowledge of the proscribed activity. The lien shall be
7 superior to any other liens on the premises other than a duly
8 recorded mortgage.

9 Section 15. Section 495(b), (c), (e) and (f) of the act,
10 amended December 20, 1996 (P.L.1523, No.199), are amended and
11 the section is amended by adding a subsection to read:

12 Section 495. Identification cards; Licenses [and State
13 Liquor Store Employes] Saved from Prosecution.--* * *

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

21 (c) In addition to the presentation of such identification
22 card, the [agent of the State Liquor Store or the] licensee, or
23 his servant, agent or employe, may require the person whose age
24 may be in question to fill in and sign a form containing
25 language approved by the board or containing the following:

26 19
27 I,....., hereby represent
28 to, a [State Store or]
29 licensee of the board, that I am of full age and discretion
30 and over the age of 21 years, having been born on

1 19..... at

2 This statement is made to induce said store or licensee above
3 named to sell or otherwise furnish alcoholic beverages to the
4 undersigned.

5 Serial Number of Identification Card:

6 I understand that I am subject to a fine of
7 [\$300.00 and sixty] \$500.00 and ninety days imprisonment for
8 any misrepresentation herein.

9

(Name)

11

(Address)

13 Witness:

14 Name.....

15 Address.....

16 The forms shall be printed in a manner approved by the board
17 and shall be filed alphabetically by the [State Liquor Store or]
18 wine and spirits store or other licensee in a file box
19 containing a suitable alphabetical index at or before the close
20 of business on the day that the form is executed, and any such
21 form shall be subject to examination by any officer, agent or
22 employe of the enforcement bureau at any and all times.

23 * * *

24 (e) Any such signed form in the possession of a wine and
25 spirits store or other licensee [or an employe of a State Liquor
26 Store] or an employe thereof may be offered as a defense in all
27 civil and criminal prosecutions for serving a minor, and no
28 penalty shall be imposed if the administrative law judge or the
29 courts are satisfied that the licensee [or State Liquor Store
30 employe] acted in good faith.

1 * * *

2 (e.1) All wine and spirits stores shall maintain and utilize
3 an age verification scanning device which meets the technical
4 specifications established by the Department of Transportation
5 to verify the age of a purchaser. For purposes of this
6 subsection, an "age scanning device" is an electronic device
7 which verifies a person's date of birth which is encoded on that
8 person's driver's license or other form of identification.

9 (f) A photograph or photocopy or other visual or video
10 presentation of the identification card set forth in subsection
11 (a) in the possession of a wine and spirits store licensee, a
12 licensee or an employe [of a State Liquor Store] thereof may be
13 offered as a defense in all civil and criminal prosecutions for
14 serving a minor, and no penalty shall be imposed if the
15 administrative law judge or the courts are satisfied that the
16 wine and spirits store licensee, a licensee or [State Liquor
17 Store] employe thereof acted in good faith.

18 Section 16. Sections 496 and 611 of the act are amended to
19 read:

20 Section 496. Reporting of Worthless Checks.--Any person who
21 is a licensee under the provisions of this article or under the
22 provisions of Article VIII-A, who shall receive in payment for
23 malt or brewed beverages sold by him any check, draft or similar
24 order, for the payment of money, which is subsequently
25 dishonored by the bank, banking institution, trust company or
26 other depository, upon which drawn, for any reason whatsoever,
27 shall, within twenty days of receipt of notice of such dishonor,
28 notify the board thereof. Such notification to the board shall
29 be in such manner and form as the board shall direct.

30 Section 611. Nuisances; Actions To Enjoin.--(a) Any room,

1 house, building, boat, vehicle, structure or place, except a
2 private home, where liquor, alcohol or malt or brewed beverages
3 are manufactured, possessed, sold, transported, offered for
4 sale, bartered or furnished, or stored in bond, or stored for
5 hire, in violation of this act or any regulation of the board or
6 any penal law, and all such liquids, beverages and property kept
7 or used in maintaining the same, are hereby declared to be
8 common nuisances, and any person who maintains such a common
9 nuisance shall be guilty of a misdemeanor and, upon conviction
10 thereof, shall be subject to the same penalties provided in
11 section four hundred ninety four of this act.

12 (b) An action to enjoin any nuisance defined in this act may
13 be brought in the name of the Commonwealth of Pennsylvania by
14 the Attorney General, by the district attorney of the proper
15 county, notwithstanding the provisions of the act of October 15,
16 1980 (P.L.950, No.164), known as the "Commonwealth Attorneys
17 Act," by the Chief Counsel of the Pennsylvania State Police with
18 the consent of the district attorney or by a person who resides
19 or has a place of business within five hundred feet of the
20 location of the alleged nuisance. Such action shall be brought
21 and tried as an action in equity and may be brought in any court
22 having jurisdiction to hear and determine equity cases within
23 the county in which the offense occurs. If it is made to appear,
24 by affidavit or otherwise, to the satisfaction of the court that
25 such nuisance exists, a temporary writ of injunction shall
26 forthwith issue, restraining the defendant from conducting or
27 permitting the continuance of such nuisance until the conclusion
28 of the proceedings. If a temporary injunction is prayed for, the
29 court may issue an order restraining the defendant and all other
30 persons from removing or in any way interfering with the

1 liquids, beverages or other things used in connection with the
2 violation of this act constituting such nuisance. No bond shall
3 be required in instituting such proceedings brought in the name
4 of the Commonwealth by the Attorney General [or], the district
5 attorney or the Chief Counsel of the Pennsylvania State Police
6 with the consent of the district attorney. Where such
7 proceedings are brought by a person, the court, upon application
8 of the defendant and prior to any injunction being issued, may
9 direct the plaintiff to post bond in such amount as the court
10 may find to be reasonable and sufficient. It shall not be
11 necessary for the court to find the property involved was being
12 unlawfully used, as aforesaid, at the time of the hearing, but
13 on finding that the material allegations of the petition are
14 true, the court shall order that no liquor, alcohol or malt or
15 brewed beverage shall be manufactured, sold, offered for sale,
16 transported, bartered or furnished, or stored in bond, or stored
17 for hire in such room, house, building, structure, boat,
18 vehicle, or place, or any part thereof.

19 (c) Upon the decree of the court ordering such nuisance to
20 be abated, the court may, upon proper cause shown, order that
21 the room, house, building, structure, boat, vehicle or place
22 shall not be occupied or used for one year thereafter, but the
23 court may, in its discretion, permit it to be occupied or used
24 if the owner, lessee, tenant or occupant thereof shall give bond
25 with sufficient surety to be approved by the court making the
26 order in the penal and liquidated sum of not less than five
27 hundred dollars (\$500.00), payable to the Commonwealth of
28 Pennsylvania, for use of the county in which said proceedings
29 are instituted, and conditioned that neither liquor, alcohol,
30 nor malt or brewed beverages will thereafter be manufactured,

1 sold, transported, offered for sale, bartered or furnished, or
2 stored in bond, or stored for hire therein or thereon in
3 violation of this act, and that he will pay all fines, costs and
4 damages that may be assessed for any violation of this act upon
5 said property.

6 (d) The injunctive remedy under this section shall in no way
7 limit the authority of the Bureau of Liquor Control Enforcement
8 to seek the imposition of a fine or the suspension or
9 revocation, or both, of any licensee issued under this act.

10 Section 17. Section 802 of the act, amended May 28, 1993
11 (P.L.42, No.13), April 29, 1994 (P.L.212, No.30) and July 11,
12 1996 (P.L.654, No.111), is amended to read:

13 [Section 802. Moneys Paid Into The State Stores Fund for Use
14 of the Commonwealth.--(a) All moneys, except fees to be paid
15 into the Liquor License Fund as provided by section 801,
16 collected, received or recovered under the provisions of this
17 act for license fees, permit fees, filing fees and registration
18 fees, from forfeitures, sales of forfeited property, compromise
19 penalties and sales of liquor and alcohol at the Pennsylvania
20 Liquor Stores, shall be paid into the State Treasury through the
21 Department of Revenue into a special fund to be known as "The
22 State Stores Fund."

23 (c) Two per centum of annual profits from the sale of liquor
24 and alcohol shall be annually transferred to the Department of
25 Health for use by the Office of Drug and Alcohol Programs, or
26 its successor in function, for the following purposes:

27 (1) Treatment and rehabilitation of persons addicted to the
28 excessive use of alcoholic beverages.

29 (2) Promotion of education, prevention and early
30 intervention programs designed to eliminate abuse and addiction

1 to alcohol or other mood-altering substances or secure
2 appropriate treatment for the already addicted.

3 (3) Study of the problem of addiction.

4 (d) All other moneys in such fund shall be available for the
5 purposes for which they are appropriated by law.

6 (e) Annually, the General Assembly shall make an
7 appropriation from the State Stores Fund to provide for the
8 operational expenses of the enforcement bureau.

9 (f) Any moneys in the State Stores Fund, from time to time,
10 which may not be required for any of the purposes specified in
11 this act or in the act of December 20, 1933 (Sp.Sess., P.L.89,
12 No.15), entitled "An act appropriating the moneys in The State
13 Stores Fund," shall be paid over into the General Fund and shall
14 be available for the payment of appropriations made from the
15 General Fund. The Pennsylvania Liquor Control Board, with the
16 approval of the Governor, shall, from time to time, fix the
17 amount of money which may be so paid over into the General Fund
18 and by its requisition shall direct the Department of the
19 Auditor General and the Treasury Department to transfer such
20 moneys from the State Stores Fund to the General Fund. The
21 Pennsylvania Liquor Control Board shall, immediately upon voting
22 to pay over any moneys from the State Stores Fund to the General
23 Fund, notify the chairman and minority chairman of the
24 Appropriations Committee of the Senate and the chairman and
25 minority chairman of the Appropriations Committee of the House
26 of Representatives of such transfer of moneys.

27 (g) The sum of five million dollars (\$5,000,000) shall be
28 transferred from The State Stores Fund in accordance with
29 subsection (f) to the Children's Health Fund for health care for
30 indigent children established by section 1296 of the act of

1 March 4, 1971 (P.L.6, No.2), known as the "Tax Reform Code of
2 1971," to carry out the provisions of the act of December 2,
3 1992 (P.L.741, No.113), known as the "Children's Health Care
4 Act," for the fiscal year July 1, 1996, to June 30, 1997. Funds
5 transferred under this subsection shall not be subject to the
6 limitation set forth in section 3101 of the "Children's Health
7 Care Act."]

8 Section 802. Wine and Spirits Stores Fund.--There is hereby
9 established a special fund in the State Treasury to be known as
10 the Wine and Spirits Stores Fund which shall replace the State
11 Stores Fund and into which shall be deposited all of the
12 following:

13 (1) All moneys previously deposited into the former State
14 Stores Fund.

15 (2) Except for fees to be paid into the Liquor License Fund
16 pursuant to section 801, any and all other moneys collected,
17 received or recovered under the provisions of this act,
18 including license fees, application fees, franchise fees, moneys
19 from forfeitures and the sale of forfeited property.

20 (3) Monetary proceeds from the sale of inventory of State
21 stores.

22 (4) Moneys from penalties, wholesale profits and sales at
23 existing State stores.

24 Money shall remain in the fund until expended under section 823-
25 A.

26 Section 18. The act is amended by adding an article to read:

27 ARTICLE VIII-A.

28 RETAIL SALE OF WINE AND LIQUOR.

29 Section 801-A. Legislative Intent.--(a) The General
30 Assembly hereby finds and declares that:

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

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

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

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

11 (b) It is the purpose of the General Assembly to:

12 (1) continue and increase revenue to the Commonwealth;

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

16 (3) create incentives and facilitate the transition of
17 employes to other employment;

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

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

21 Section 802-A. Definitions.--The following words and
22 phrases, unless the context clearly indicates otherwise, shall
23 have the meanings ascribed to them in this section:

24 "Franchise" shall mean a written agreement between the board
25 and a successful bidder in which the board agrees to issue a
26 wine and spirits store license to the successful bidder for a
27 period of ten (10) years within a specified geographic area for
28 the establishment and operation of a wine and spirits store
29 consistent with the provisions of this act.

30 "Licensee" shall mean any person who successfully bids for a

1 franchise and who applies for and receives a license for the
2 operation of a wine and spirits store for the retail sale of
3 wine and liquor for off-premises consumption.

4 Section 803-A. Closure of State Stores and Initial
5 Franchises.--(a) It shall be the power and duty of the board to
6 carry out an orderly transition to a wine and spirits store
7 system in a manner which is consistent with this article and
8 other laws of this Commonwealth and which maintains a continuous
9 level of service to the public.

10 (b) Subject to the provisions of this article, the board
11 shall establish seven hundred fifty-seven (757) franchise zones
12 within this Commonwealth for the issuance of wine and spirit
13 store licenses granting to a licensee the exclusive authority to
14 sell liquor and wine at retail for off-premises consumption
15 within each franchise zone. The board in establishing each
16 franchise zone shall ensure the delivery of services currently
17 provided by State stores. At a minimum there shall be a wine and
18 spirits store located in each county.

19 (c) (1) The board shall establish a schedule for the sale
20 of exclusive wine and spirits store franchises within the
21 franchise zones established pursuant to subsection (b) by sale
22 to the highest responsible bidder in accordance with this
23 article. The board may establish a staggered schedule for the
24 sale of wine and spirits store franchises in order to maintain a
25 continuous level of service to the public.

26 (2) The minimum bid for a franchise shall be fifty thousand
27 dollars (\$50,000).

28 (3) The franchise shall be valid for a period of ten (10)
29 years from the date of issuance unless sooner forfeited,
30 abandoned or revoked pursuant to the provisions of this act.

1 (4) No applicant may hold, directly or indirectly:
2 (i) more than ten per centum of the franchises within this
3 Commonwealth;
4 (ii) more than forty per centum of the franchises in any one
5 county which has five (5) or more franchises; and
6 (iii) all the franchises in any one county which has less
7 than five (5) franchises.

8 (d) In implementing the provisions of this article, the
9 board shall have the following additional powers and duties:

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

12 (2) Adopt an orderly procedure for the investigation,
13 processing and approval of applications for franchises and wine
14 and spirits store licenses.

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

16 (4) Disseminate information to the public relating to the
17 sale of franchises and the issuance of wine and spirits store
18 licenses.

19 (5) Make available for public inspection the most recent
20 inventory of the stock, equipment and other assets of each State
21 store as well as a history of sales by product code and State
22 store location for the last five (5) years.

23 (6) Enforce the provisions of this article.

24 Section 804-A. Application for Wine and Spirits Store
25 Franchises and Licenses.--(a) No person may bid upon, purchase
26 or otherwise acquire a wine and spirits store franchise unless
27 the applicant has satisfied all the prescribed requirements of
28 this article and the board has approved the applicant's
29 qualification to hold a wine and spirits store franchise and
30 license pursuant to this article.

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

7 (1) The name and address of the applicant.

8 (2) Whether the applicant is an individual, corporation,
9 limited liability company, limited partnership, partnership or
10 association; the state of incorporation or organization, the
11 names and residence addresses of each executive officer,
12 director or general or limited partner; and the names and
13 residence addresses of any person or interested individual
14 owning, directly or indirectly, any legal or equitable interest
15 in the operations of the licensed wine and spirits store
16 proposed to be operated by the applicants, including all
17 stockholders of any closed corporation and all stockholders
18 having an ownership interest of five per centum or more of the
19 voting stock of a public corporation. As provided in section
20 404, parties not listed on the application, or any amendment
21 thereof, can have no ownership interest in a licensed business.

22 (3) If the applicant is an association, the application
23 shall set forth the names and addresses of the persons
24 constituting the association.

25 (4) If the applicant is a corporation, the application must
26 show that:

27 (i) the corporation was incorporated under the laws of
28 Pennsylvania or holds a certificate of authority to transact
29 business in Pennsylvania; and

30 (ii) all officers, directors and stockholders with an

1 interest of five per centum or more in the stock of the
2 corporation are citizens of the United States.

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

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

12 (7) A sworn statement that the applicant and all parties
13 with any direct or indirect interests in the operation of a wine
14 and spirits store have never been convicted in this Commonwealth
15 of any crime involving fraud, moral turpitude or racketeering or
16 within a period of ten (10) years immediately preceding the date
17 of the application or have been convicted of any felony or of an
18 equivalent crime in another state or of any crime in this or any
19 other Federal or state court for a violation of any Federal or
20 state liquor law. If the applicant is a corporation, limited
21 partnership, partnership or association, the application shall
22 contain a sworn statement that none of the executive officers,
23 directors or general or limited partners, or any person owning,
24 directly or indirectly, at least five per centum of the
25 outstanding stock of or partnership interests in such applicant
26 has been so convicted.

27 (8) A statement that the applicant will continuously operate
28 a wine and spirits store for the duration of the ten (10) year
29 franchise period and will provide a level of service, including,
30 but not limited to, hours of operation and product availability

1 reasonably equivalent to the level of service currently provided
2 in the same geographic area.

3 (c) In addition to the application filed under subsection
4 (a), the applicant shall provide a financial statement in the
5 form and containing such information as the board shall from
6 time to time prescribe to indicate the applicant's financial
7 capability to operate the wine and spirits store and the
8 estimated volume of business to be conducted in the wine and
9 spirits store.

10 (d) The application shall be signed and verified by oath or
11 affirmation by the owner, if a natural person, or, in the case
12 of an association, by a member or partner thereof, or, in the
13 case of a corporation, by an executive officer thereof or any
14 person specifically authorized by the corporation to sign the
15 application, to which shall be attached written evidence of that
16 authority.

17 (e) An applicant shall provide the board any additional
18 information the board may request.

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

22 Section 805-A. Issuance of Licenses.--(a) Only those
23 applicants for wine and spirits store licenses issued pursuant
24 to this section who meet all of the requirements of this
25 subsection shall be qualified to participate in the sale
26 conducted under this article. The qualifications are as follows:

27 (1) applicants shall demonstrate, by submitting financial
28 statements, that the applicants possess sufficient financial
29 resources to operate a licensed wine and spirits store, pay all
30 taxes due and owing to the Commonwealth and assume liability for

1 the safe operation of the licensed premises;

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

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

12 (b) Licenses shall be issued pursuant to this section to
13 successful bidders upon demonstration that the licensee will
14 comply with all of the following terms and conditions:

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

18 (2) notice shall be given to the board within fifteen (15)
19 days of any criminal indictments or convictions as provided in
20 section 804-A(b)(7) and the ownership interest of any parties
21 subject to such convictions shall be totally divested by the
22 licensee within thirty (30) days of the date of any conviction,
23 guilty plea or plea of nolo contendere;

24 (3) licensees shall continue to maintain the bonding for the
25 operation of the wine and spirits store required by this
26 article;

27 (4) licensees shall remit to the board the emergency liquor
28 tax as provided by the act of June 9, 1936 (1st Sp.Sess.,
29 P.L.13, No.4), entitled "An act imposing an emergency State tax
30 on liquor, as herein defined, sold by the Pennsylvania Liquor

1 Control Board; providing for the collection and payment of such
2 tax; and imposing duties upon the Department of Revenue and the
3 Pennsylvania Liquor Control Board"; licensees shall remit to the
4 Department of Revenue the sales and use tax as provided by
5 Article II of the act of March 4, 1971 (P.L.6, No.2), known as
6 the "Tax Reform Code of 1971";

7 (5) licensees shall acquire wine and liquor exclusively from
8 the wholesale system as provided in this act and shall keep a
9 detailed log of all wholesale wine and liquor transactions;

10 (6) licensees shall establish adequate security to protect
11 their inventory from unauthorized sale or diversion and prevent
12 its unauthorized distribution; and

13 (7) no licensee shall locate or operate any wine and spirits
14 store in any grocery store, convenience store, pharmacy or in
15 any premises where the retail sale of motor fuel or malt or
16 brewed beverages is conducted.

17 Section 806-A. Disqualification.--(a) The board shall
18 disqualify an applicant for a franchise or a wine and spirits
19 store license if:

20 (1) The applicant has been convicted of a crime as provided
21 in clause (4).

22 (2) Any executive officer, director or general or limited
23 partner of the applicant, or any person owning, directly or
24 indirectly, at least five per centum of the outstanding stock of
25 or partnership interest in the applicant, has been convicted of
26 a crime as provided in clause (4).

27 (3) The applicant receives funds for the financing of any
28 part of the wine and spirits store from any individual who has
29 been convicted of a crime as provided in clause (4).

30 (4) In any instance in which an applicant or persons with

1 financial interest in the license are under indictment for a
2 felony or under investigation by a legally constituted grand
3 jury, the board shall withhold approval or disapproval of the
4 license until such time as all legal proceedings related to the
5 felony are resolved.

6 (5) The applicant provides false or misleading information.

7 (b) If any false statement is intentionally made in any part
8 of the application, the affiant shall be guilty of a misdemeanor
9 of the second degree and, upon conviction, shall be subject to
10 the penalties provided by this act. In addition, the applicant
11 shall be denied a franchise and a license or, if already
12 granted, the franchise and license shall be revoked.

13 Section 807-A. Application Procedure.--(a) Upon receipt of
14 an application for a wine and spirits store franchise and
15 license, and any other information the board may require, the
16 board shall conduct an investigation of the applicant as deemed
17 necessary or desirable.

18 (b) Upon the completion of an investigation under subsection
19 (a), the board shall inform the applicant, in writing, whether
20 the application has been approved or denied and shall post a
21 copy of the decision in the office of the board.

22 (c) If an application is denied, the board shall provide the
23 applicant with the specific reasons for the denial. The
24 applicant shall be entitled to a hearing if a hearing is
25 requested within five (5) days of the decision.

26 (d) Every applicant for a wine and spirits store license or
27 for the transfer of an existing license to another premises not
28 then licensed shall post, for a period of at least sixty (60)
29 days beginning with the day the application is filed with the
30 board, in a conspicuous place on the outside of the premises or

1 at the proposed new location for which the license is applied, a
2 notice of the application in the form, of the size, and
3 containing all information as the board may require by
4 regulation.

5 (e) The board shall hold a hearing on any application for a
6 wine and spirits store license upon the request of any resident
7 residing within a radius of five hundred (500) feet of the
8 premises, if the request is filed within fifteen (15) days of
9 posting the notice of application under subsection (d). The
10 board and any hearing examiner of the board shall give
11 appropriate evidentiary weight to any testimony of such
12 residents at the hearing. The board may provide for the holding
13 of such hearings by hearing examiners as provided in this act.
14 The board shall refuse any application for a wine and spirits
15 store license which could be detrimental to the welfare, health,
16 peace and morals of the inhabitants of the neighborhood within a
17 radius of five hundred (500) feet of the premises proposed to be
18 licensed.

19 (f) The board shall approve or disapprove the location and
20 notify the successful bidder or licensee of its decision.

21 Section 808-A. Physical Limitations.--(a) The premises of
22 each wine and spirits store shall be a self-contained unit with
23 limited customer access dedicated solely to the sale of liquor
24 and permitted merchandise. All purchases made within the
25 limitations of the premises shall be paid for at a location
26 within the confines of the liquor sales area. No wine and
27 spirits store shall have any interior connection with any other
28 business or with any residential building.

29 (b) Upon notice of a successful bid on a franchise or an
30 application to relocate, each applicant for a wine and spirits

1 store license shall submit a description of the premises and any
2 other material, information and description of the plan of that
3 premises where it is proposed to keep and sell liquor as may be
4 required by the regulations of the board.

5 (c) The descriptions, information and plans under subsection
6 (b) shall show the proposed location, and shall show any
7 alterations proposed to be made to the described premises, or
8 the new building proposed to be constructed after the approval
9 by the board of the application for a franchise or for the
10 transfer of an existing license to another premises not then
11 licensed.

12 Section 809-A. Denial of Application.--Hearings on the
13 denial of an application or on the failure to renew a license
14 shall be held in accordance with the procedures established in
15 section 464 of this act.

16 Section 810-A. Bidding.--(a) The granting of franchises
17 under this article shall be by sealed competitive bids to the
18 highest responsible bidder. No bid shall be considered unless
19 the bond required under this section has been submitted to the
20 board. All bids for a wine and spirits store franchise may be
21 rejected by the board if the board determines that the highest
22 bid is inadequate. Whenever the board rejects all the tendered
23 bids, the board shall begin a new bidding process for that wine
24 and spirits store franchise. The board shall notify qualified
25 bid applicants of the date and the hour of the bid openings.

26 (b) In order to participate in the bidding under this
27 section, bid applicants shall post bonds, cash, negotiable
28 securities or letters of credit equal to an amount set by the
29 board, but not less than fifty thousand dollars (\$50,000).

30 (c) Each person desiring to submit a bid must file the bid

1 with the board prior to the specified date and hour for the bid
2 openings. Failure to deliver a bid or nonreceipt of a bid prior
3 to the appointed date and hour shall constitute sufficient
4 reason for rejection of a bid. Following the award of the
5 exclusive wine and spirits store franchise within each franchise
6 zone, the board shall indicate the successful bidder. A copy of
7 each awarded bid and the bidder's application shall be
8 maintained as public record and open to public inspection in the
9 offices of the board.

10 (d) The board shall issue a franchise to a successful bidder
11 to operate a wine and spirits store within the specified
12 franchise zone upon satisfaction of all of the following
13 conditions:

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

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

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

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

29 (e) Bonds posted by unsuccessful bidders pursuant to section
30 810-A(b) of this act shall be released by the board upon

1 acceptance of the successful bid.

2 (f) Bonds posted by the successful bidder pursuant to
3 section 810-A(b) of this act shall be released by the board upon
4 payment by the successful bidder of the initial franchise fee. A
5 successful bidder's bond shall be forfeited if the initial
6 franchise fee is not paid within ninety (90) days of the date
7 the board accepts the bid and the board shall then offer the
8 franchise to the next highest responsible bidder. The board
9 shall then either issue the wine and spirits store license to
10 the next highest bidder for such license or reject all bids and
11 start the bidding process anew for such retail liquor store
12 license.

13 Section 811-A. Closure of Existing State Stores.--(a) An
14 awarded franchise and license shall grant the successful bidder
15 the opportunity to bid upon the remaining inventory, tangible
16 property and fixtures of all State stores owned by the
17 Commonwealth pursuant to this article. The board shall establish
18 a procedure for the sale of the inventory, property and fixtures
19 of all State stores consistent with Article XXIV-A of the act of
20 April 9, 1929 (P.L.177, No.175), known as "The Administrative
21 Code of 1929." All monetary proceeds from such sales shall be
22 deposited in the Wine and Spirits Store Fund.

23 (b) The board shall develop a schedule of closure for State
24 stores. Under no circumstances shall any State store remain open
25 for retail sales beyond eighteen months following the initial
26 opening date set for any wine and spirits store.

27 Section 812-A. Monthly Franchise Fee, Initial Franchise
28 Period and Renewal of Retail Liquor Store Licenses.--(a) On or
29 before the tenth day of each calendar month, each wine and
30 spirits store licensee shall deliver to the board a statement of

1 the gross sales of liquor and wine from the wine and spirits
2 store location for the preceding calendar month together with
3 payment of the one per centum monthly franchise fee applied to
4 such gross sales before the application of sales tax. Such
5 statement shall be in the form prescribed by the board and shall
6 include separate sales figures for the wine and spirits store's
7 sales of liquor, wine and other items and a statement of total
8 sales together with the calculation of the licensee's monthly
9 franchise fee.

10 (b) The initial franchise period for each retail liquor
11 store shall be ten (10) years from the effective date of the
12 wine and spirits store license.

13 (c) At the end of the initial ten-year franchise period, the
14 board shall conduct a review of each wine and spirits store
15 franchise and licensee to determine if each licensee and each
16 wine and spirits store has complied with the provisions of this
17 act and any regulations promulgated pursuant thereto. The board
18 shall also review the service provided by each wine and spirits
19 store to determine its adequacy. The board may decline to renew
20 the franchise and license of any wine and spirits store which
21 has substantially failed to comply with the provisions of this
22 act or which has failed to provide an adequate level of service
23 to the public.

24 (d) At the end of the initial ten (10) year franchise
25 period, the board shall determine the amount of the franchise
26 renewal fee to be paid by the wine and spirits store licensee in
27 order to retain the franchise for another ten (10) year period.
28 The renewal fee shall be a percentage of the annual gross sales
29 of the wine and spirits store, as determined by the board, but
30 not less than the amount of the original bid for the franchise.

1 If the wine and spirits store licensee remits the franchise
2 renewal fee as herein provided and is successfully reviewed by
3 the board pursuant to subsection (c), the licensee shall retain
4 the franchise for a second ten (10) year period.

5 (e) Should the wine and spirits store licensee fail to remit
6 the franchise renewal fee within ninety (90) days of
7 notification of the fee from the board, the franchise shall be
8 rebid in the same manner as provided in section 810-A of this
9 act. Applicants shall submit to the board the same information
10 required for the initial issuance of the exclusive franchise and
11 wine and spirits store license and any additional information
12 required by the board by such dates as prescribed by the board.

13 (f) The requirements and procedures set forth in this
14 section shall apply to all franchises and licenses at the end of
15 each ten (10) year period.

16 Section 813-A. Sale, Assignment or Transfer of License.--(a)
17 No person may sell, assign or otherwise transfer a wine and
18 spirits store franchise and license without the prior written
19 approval of the board.

20 (b) For purposes of this section, the merger of a wine and
21 spirits store licensee or the sale of more than fifty per centum
22 of the outstanding stock of or partnership interests in the wine
23 and spirits store licensee shall be deemed to be a sale,
24 assignment or transfer of a wine and spirits store franchise and
25 license under this section.

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

29 Section 814-A. Renewal or Transfer.--(a) The board shall
30 hold hearings on renewals or transfers as it deems necessary at

1 such times as it shall fix for the purpose of hearing such
2 testimony. The board shall hold a hearing on any application for
3 a renewal of a wine and spirits store license or the transfer of
4 any such license to a new location, upon the request of any
5 person with standing to testify under subsection (b), if the
6 request is filed with the board within the first fifteen (15)
7 days of posting of the notice of application pursuant to section
8 807-A of this act. The board may provide for the holding of such
9 hearings by hearing examiners as provided in this act.

10 (b) Where a hearing is held in the case of an application
11 for a license or the transfer of a license under this article,
12 the board shall permit residents residing within a radius of
13 five hundred feet of the premises to testify at the hearing. The
14 board and any hearing examiner of the board shall give
15 appropriate evidentiary weight to any testimony of such
16 residents given at the hearing.

17 (c) The board shall refuse any application for a renewal or
18 transfer which would be detrimental to the welfare, health,
19 peace and morals of the inhabitants of the neighborhood within a
20 radius of five hundred feet of the place proposed to be
21 licensed.

22 Section 815-A. Surrender, Revocation or Forfeiture of Wine
23 and Spirits Store Franchise or License.--Any wine and spirits
24 store licensee may surrender its franchise and license to the
25 board at any time. Upon surrender, revocation or forfeiture of a
26 franchise or license, the board shall proceed to reissue the
27 exclusive wine and spirits store franchise within the franchise
28 zone by the bidding process provided in this article.

29 Section 816-A. Sales by Wine and Spirits Stores.--(a) Every
30 wine and spirits store may sell liquor for consumption off-

1 premises. In addition to the sale of liquor, wine and spirits
2 stores may sell related merchandise within the controlled area
3 of the store. Sales of related merchandise shall not exceed
4 thirty per centum of the gross annual sales of any wine and
5 spirits store. Wine and spirits stores have no authority under
6 any circumstances to sell malt or brewed beverages. The board
7 shall promulgate regulations setting forth what additional
8 related merchandise may be offered for retail sale in wine and
9 spirits stores.

10 (b) No licensee shall engage in any separate business
11 activities upon any licensed premises without prior approval of
12 the board.

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

17 (d) Wine and spirits store licensees may not sell liquor
18 between eleven o'clock postmeridian and eight o'clock
19 antemeridian or between the hours of eleven o'clock postmeridian
20 Saturday and eight o'clock antemeridian on Monday.

21 (e) Nothing in this act, or any regulation promulgated
22 thereunder, shall prohibit or prevent any wine and spirits store
23 licensee from employing any person who is at least twenty-one
24 (21) years of age to directly serve the public and who is at
25 least sixteen (16) years of age to stock shelves and perform
26 related work.

27 Section 817-A. Records.--All of the business and financial
28 books and records and the wine and spirits store location shall
29 be available at any time for inspection and audit by the board
30 and the enforcement bureau. The board and the enforcement bureau

1 may audit all books and records and audit the physical inventory
2 of the wine and spirits store at any time. The board shall audit
3 each wine and spirits store at least once every three years.
4 Failure to permit a review or an audit under this section is
5 grounds for revocation.

6 Section 818-A. Civil Penalties.--(a) In addition to the
7 penalties set forth in sections 471 and 494 of this act, any
8 wine and spirits store licensee who violates any provision of
9 this article or regulation promulgated pursuant thereto may be
10 assessed a civil penalty by the administrative law judge of not
11 less than one hundred dollars (\$100) and not more than one
12 thousand dollars (\$1,000) per violation. Each violation shall
13 constitute a separate offense. In determining the amount of the
14 penalty, the administrative law judge shall consider all of the
15 following:

16 (1) the wine and spirits licensee's history of previous
17 violations;

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

20 (3) the gravity of the violation; and

21 (4) the demonstrated good faith of the wine and spirits
22 licensee charged in attempting to achieve compliance after
23 notification of a violation.

24 (b) A civil penalty shall be assessed after the
25 administrative law judge has given at least ten (10) days'
26 notice to the wine and spirits store licensee. Notice shall be
27 in writing, shall state the reason for the proposed penalty and
28 the amount thereof, and shall designate a time and place for a
29 hearing. Notice shall be sent by certified mail to the address
30 for which the wine and spirits store license was issued.

1 Section 819-A. Suspension or Revocation.--(a) The
2 administrative law judge shall have the power to refuse to issue
3 and the power to suspend or revoke a wine and spirits store
4 license or impose a fine, or both, when the administrative law
5 judge finds that:

6 (1) the licensee has violated any of the provisions of this
7 act or any regulations of the board;

8 (2) the applicant or licensee has knowingly presented to the
9 board or to the enforcement bureau false, incomplete or
10 misleading information relating to licensure or to the operation
11 of a franchise;

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

15 (4) no licensee shall operate any theater, circus, museum or
16 other place of amusement or any bowling alley, game room, video
17 arcade or other recreational area or have any passageway or
18 connection between a licensed premises and a place of amusement
19 or recreation;

20 (5) no licensee shall permit the consumption of alcoholic
21 beverages on the premises of the licensed establishment, except
22 for the sampling or tasting of products as approved by the
23 board; or

24 (6) locate a wine and spirits store within three hundred
25 (300) feet of any church, school, hospital, charitable
26 institution or playground.

27 (b) The board shall have the power to refuse to issue or to
28 suspend or revoke a wine and spirits store license or franchise
29 if the licensee failed to operate the wine and spirits store or
30 to provide a reasonable level of consumer service.

1 (c) Suspension and revocation hearings shall be held in
2 accordance with the procedures in section 514 of this act.

3 (d) No person may sell liquor at any outlet if the wine and
4 spirits store license applicable to that outlet has been
5 forfeited, suspended, revoked, or has expired.

6 (e) In the event of the revocation, forfeiture or surrender
7 of any wine and spirits store license in accordance with this
8 act, the board shall revoke the franchise and conduct a public
9 sale to grant to the highest responsible bidder a replacement
10 license for the duration of the franchise period as prescribed
11 by the board.

12 Section 820-A. Reemployment Tax Credit.--(a) A full-time
13 employe of a Pennsylvania State store whose employment is
14 terminated as a result of the closing of a State store shall be
15 eligible for a two (2) year reemployment tax credit voucher in
16 the amount of one thousand dollars (\$1,000) per taxable year.
17 Such voucher shall be made available to each qualified employe
18 of a Pennsylvania State store upon termination of employment by
19 the Liquor Control Board. Each voucher shall be certified by the
20 Liquor Control Board before the voucher is provided to the
21 qualified employe, and the Department of Revenue shall be
22 informed of each qualified employe to whom a voucher has been
23 provided.

24 (b) Any employer in this Commonwealth who employs such a
25 former employe of a Pennsylvania State store may, upon transfer
26 of the voucher from the employe to the employer, use the voucher
27 as a credit against the State tax liability of the business,
28 provided that the employer can demonstrate the following:

29 (1) That the employe for which the tax credit is being
30 sought was terminated from a Pennsylvania State store within

1 twelve months of being employed by the employer.

2 (2) That the former State store employe has been employed by
3 the employer seeking the tax credit for a period not less than
4 one (1) year.

5 (c) The employer shall submit the tax credit voucher to the
6 Department of Revenue along with the information required under
7 subsection (b)(1) and (2) in conjunction with the filing of a
8 State business tax identified in subsection (d)(2).

9 (d) (1) An employer may claim a reemployment tax credit for
10 every job filled by a former Pennsylvania State store employe of
11 one thousand dollars (\$1,000) per taxable year for a maximum of
12 two (2) taxable years.

13 (2) An employer may apply the reemployment tax credit to one
14 hundred per centum of the employer's State corporate net income
15 tax, capital stock and franchise tax or the personal tax of a
16 shareholder of the company if the company is a Pennsylvania S
17 corporation, gross premiums tax, gross receipts tax, bank and
18 trust company shares tax, mutual thrift institution tax, title
19 insurance company shares tax, personal income tax or the
20 personal income tax of a shareholder of a Pennsylvania S
21 corporation or any combination thereof.

22 (3) A former Pennsylvania State store employe whose
23 employment is terminated with an employer who has utilized the
24 reemployment tax credit voucher to claim a one (1) year one
25 thousand dollar (\$1,000) tax credit, may transfer the voucher to
26 a new employer who may use the remaining one thousand dollar
27 (\$1,000) tax credit as a claim against the business tax
28 liability identified in clause (2).

29 (4) The term of the reemployment tax credit voucher may not
30 exceed three years from the date the voucher is provided to the

1 qualified former Pennsylvania State store employe.

2 Section 821-A. Annual Reports.--On or before October 31,
3 2007, and each year thereafter, the board shall submit to the
4 General Assembly an annual report on retail alcohol sales in
5 this Commonwealth and the implementation of this article,
6 including, but not limited to, the total revenue earned by the
7 issuance of wine and spirits store license.

8 Section 822-A. Review.--Five (5) years following the
9 effective date of this article, the board shall conduct a
10 thorough review of the operations of the wine and spirits
11 stores. The board shall submit a copy of this review and any
12 recommendations relating to the expansion of existing franchise
13 zones to the General Assembly. The same review shall be
14 conducted ten (10) years following the sale of the first wine
15 and spirits store franchise.

16 Section 823-A. Disposition of Proceeds.--All proceeds from
17 initial franchise sales, wholesale sales, monthly franchise
18 fees, bid forfeitures and other monies designated for deposit in
19 the Wine and Spirits Stores Fund under this article and all
20 other proceeds which are deposited in the Wine and Spirits
21 Stores Fund are appropriated and shall be allocated as provided
22 in this section. Proceeds shall mean all revenues and receipts
23 less all costs of administration and operation of the board,
24 including enforcement costs and including the costs attributable
25 to the operations of the Pennsylvania State Police as certified
26 by the Governor, and any other expenses related to the operation
27 of the liquor system. The proceeds shall be allocated in the
28 order set forth:

29 (1) Seventy-one million three hundred eighty thousand
30 dollars (\$71,380,000) shall be transferred to the General Fund

1 each year.

2 (2) An amount equal to the total amount of tax credits
3 certified by the board pursuant to section 821-A(a) of this act
4 in a fiscal year shall be transferred to the General Fund.

5 (3) Three million dollars (\$3,000,000) per year shall be
6 transferred to the Department of Transportation to be used for
7 grants to district attorneys, municipal police departments and
8 the Pennsylvania State Police for training, testing,
9 certification and operation of programs designed to combat
10 driving under the influence, including sobriety checkpoints.

11 (4) Four million dollars (\$4,000,000) per year shall be
12 transferred to the Department of Health for use by the Office of
13 Drug and Alcohol Programs, or its successor in function for
14 distribution. Not less than fifty per centum of the funds shall
15 be used for the promotion of education and prevention programs
16 designed to eliminate abuse and addiction to alcohol and
17 controlled substances for children under eighteen (18) years of
18 age.

19 (5) Two million five hundred thousand dollars (\$2,500,000)
20 shall be transferred to the Department of Transportation for the
21 purchase of equipment and for training, testing and
22 certification of municipal police departments and the
23 Pennsylvania State Police in its use.

24 (6) The sum of five million dollars (\$5,000,000) shall be
25 transferred from The State Stores Fund in accordance with
26 subsection (f) to the Children's Health Fund for health care for
27 indigent children established by section 1296 of the act of
28 March 4, 1971 (P.L.6, No.2), known as the "Tax Reform Code of
29 1971," to carry out the provisions of the act of December 2,
30 1992 (P.L.741, No.113), known as the "Children's Health Care

1 Act," for the fiscal year July 1, 1996, to June 30, 1997. Funds
2 transferred under this subsection shall not be subject to the
3 limitation set forth in section 3101 of the "Children's Health
4 Care Act."

5 (7) The board may continue to carry over money from year to
6 year and hold in the fund a reserve of retained earnings in an
7 amount as may be approved by the Secretary of the Budget.

8 (8) Twenty-five per centum of the remaining balance of the
9 fund at the end of each fiscal year shall be transferred to the
10 Department of Education for deposit in a restricted account for
11 the purposes of providing scholarships pursuant to section 824-A
12 of this act.

13 (9) The remaining balance of the fund at the end of each
14 fiscal year shall be transferred to the Better Communities Fund
15 created and established pursuant to section 825-A of this act.

16 Section 824-A. Governor's Community Service Scholarship
17 Program.--(a) There is hereby established the Community Service
18 Scholarship Program to be administered by the Department of
19 Education.

20 (b) Scholarships granted under this section shall be
21 available to graduating students in each public school,
22 nonpublic school, comprehensive area vocational-technical school
23 and the Scotland School. Scholarships of one thousand dollars
24 (\$1,000) each per year for up to four (4) years for educational
25 costs at postsecondary institutions, to include specialized
26 technical or vocational training institutions, within this
27 Commonwealth shall be awarded annually in each public,
28 nonpublic, comprehensive area vocational-technical school and
29 the Scotland School. The Department of Education shall in
30 consultation with the Secretary of the Budget determine the

1 number and the amount of the scholarships for each school year.
2 In no event shall the number of scholarships per school exceed
3 ten per centum of the number of members of the graduating class
4 of each school year. The Department of Education may enter into
5 an agreement with the Pennsylvania Higher Education Assistance
6 Agency to distribute the scholarship funds.

7 (c) A scholarship award pursuant to this section shall not
8 be considered in determining eligibility for State higher
9 education financial assistance.

10 (d) In order to be eligible for a scholarship under this
11 section, a graduating student shall:

12 (1) Have a minimum grade point average of 3.0 or its
13 equivalent approved by the department.

14 (2) Score at the level of proficiency or above on State
15 assessment tests or an equivalent approved by the department.

16 (3) Submit a written essay regarding education and career
17 goals.

18 (4) Submit two recommendations, one from a teacher or school
19 official and one from a member of the community.

20 (5) Demonstrate a commitment to nonschool related community
21 service.

22 (e) The Department of Education shall adopt guidelines for:

23 (1) The establishment by a local board of school directors
24 of Community Service Scholarship Evaluation Boards.

25 (2) The evaluation of scholarship applications of students
26 who are eligible pursuant to subsection (d).

27 (f) (1) In order to receive scholarships pursuant to this
28 section, each local board of school directors shall establish an
29 evaluation board comprised of residents of the school district.
30 Each board shall be comprised of nine members as follows:

1 (i) One representative of a public school.
2 (ii) One representative of a private school.
3 (iii) One representative of a comprehensive area vocational
4 school.

5 (iv) Three representatives of community service
6 organizations.

7 (v) Three public members.

8 (2) Members of the evaluation board established under this
9 subsection shall be elected by the members of the local board of
10 school directors based upon recommendations from the local board
11 of school directors and from the public at large.

12 (g) A scholarship awarded under subsection (b) shall be for
13 four (4) years of postsecondary education and shall expire six
14 (6) years after the date of award.

15 Section 825-A. Better Communities Fund.--(a) There is
16 hereby created in the State Treasury a special fund known as the
17 Better Communities Fund into which shall be deposited the
18 remaining balance of the Wine and Spirits Store Fund pursuant to
19 section 823-A of this act. The board of the State Employees
20 Retirement System shall be trustees of the fund and shall have
21 exclusive control and management of the fund and full power to
22 invest the same under the same conditions that the board uses in
23 the investment of other moneys under its control.

24 (b) Moneys in the Better Communities Fund shall be used for
25 capital projects which meet the criteria in subsection (c).
26 Quarterly, or as required by the Secretary of the Budget, the
27 board of the State Employees Retirement System shall transfer to
28 the General Fund the amount certified by the Secretary of the
29 Budget as equal to the amount of debt service on bonds issued to
30 fund community asset projects.

1 (c) In order to be eligible for funding from the Better
2 Communities Fund, a project must be specifically itemized in a
3 capital budget. Projects must meet the following criteria to
4 receive funding:

5 (1) are community, historic, cultural or recreational
6 facilities. Higher education facilities may qualify for funding
7 except facilities owned or operated by a State-related
8 institution or a State System of Higher Education institution;

9 (2) are eligible for tax-exempt bond funding under existing
10 Federal law and regulation;

11 (3) have a total project cost of one million dollars
12 (\$1,000,000) or more; and

13 (4) have a nonstate participation of at least sixty-five per
14 centum which shall be identified at the time of application and
15 toward which State funds from other programs may not be used.
16 The Governor may waive a portion of the nonstate participation
17 if compelling circumstances exist. However, in no case shall the
18 nonstate participation be less than fifty per centum.

19 (d) The maximum amount of redevelopment assistance projects
20 which may be funded from the Better Communities Fund is five
21 hundred eighty million dollars (\$580,000,000), which shall be in
22 addition to the seven hundred million dollars (\$700,000,000)
23 limit provided in section 1616-1-B of the act of April 9, 1929
24 (P.L.343, No.176), known as "The Fiscal Code." Any redevelopment
25 assistance project funded from the Better Communities Fund must
26 meet the criteria in subsection (c) but does not have to fulfill
27 the requirements for redevelopment assistance projects contained
28 in section 1602-B of "The Fiscal Code."

29 (e) In addition, projects which receive funding must comply
30 with the provisions of section 1616.2-B of "The Fiscal Code" on

1 funding and administration of projects. However, the fee which
2 may be charged against bond proceeds for administrative costs
3 may not be used to pay salaries of Commonwealth employes.

4 Section 19. This act shall take effect July 1, 1997, or
5 immediately, whichever is later.