

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 592 Session of
2005

INTRODUCED BY BARRAR, BALDWIN, KILLION, LEDERER AND
E. Z. TAYLOR, FEBRUARY 16, 2005

REFERRED TO COMMITTEE ON LIQUOR CONTROL, FEBRUARY 16, 2005

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 transfer of the functions and duties of the
18 Bureau of Liquor Control Enforcement of the Pennsylvania
19 State Police to municipal and regional police departments.

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

22 Section 1. The definitions of "enforcement bureau" and
23 "social gathering" in section 102 of the act of April 12, 1951
24 (P.L.90, No.21), known as the Liquor Code, reenacted and amended
25 June 29, 1987 (P.L.32, No.14) and added May 8, 2003 (P.L.1,
26 No.1), are amended and the section is amended by adding a

1 definition 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 "Enforcement authority" shall mean a municipal or regional
7 police department, or in those areas not served by a municipal
8 or regional police department, the term shall mean the
9 Pennsylvania State Police.

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

12 * * *

13 "Social gathering" shall mean events marketed to or catering
14 to minors in whole or in part for which proper notice has been
15 provided to the [Bureau of Enforcement] enforcement authority
16 and at which time no alcohol is served and all alcohol is
17 removed or secured by lock and key at the licensed premises.

18 * * *

19 Section 2. Section 206.1 of the act, amended December 9,
20 2002 (P.L.1653, No.212), is amended to read:

21 Section 206.1. Board and Enforcement [Bureau] Authority
22 Subject to State Ethics and Adverse Interest Acts.--(a) Except
23 to the extent that the penalties provided in section 210 of this
24 act for violations are more stringent, the board, its members
25 and all of its employes and employes of the enforcement [bureau]
26 authority shall be subject to the act of October 4, 1978
27 (P.L.883, No.170), referred to as the Public Official and
28 Employee Ethics Law, and the act of July 19, 1957 (P.L.1017,
29 No.451), known as the "State Adverse Interest Act."

30 (b) Membership on the board and employment or continued

1 employment as an employe of the board or enforcement [bureau]
2 authority is conditioned upon compliance with all of the
3 provisions of the acts specified in subsection (a), including,
4 but not limited to, the filing of statements of financial
5 interests required by section 5 of the Public Official and
6 Employee Ethics Law. Acceptance or retention of employment shall
7 be deemed as voluntary consent to submit to the financial
8 reporting requirements of the Public Official and Employee
9 Ethics Law as a condition of employment. Failure to timely
10 comply with the requirements shall result in immediate
11 termination of employment. Both the board and the enforcement
12 [bureau] authority are subject to the provisions of 65 Pa.C.S.
13 Ch. 11 (relating to ethics standards and financial disclosure).

14 Section 3. Section 210 of the act, amended December 21, 1988
15 (P.L.1879, No.183), is amended to read:

16 Section 210. Restrictions on Members of the Board [and
17 Certain Employes of Commonwealth].--(a) A member or employe of
18 the board [or enforcement bureau] or a member of the immediate
19 family of a member or employe of the board [or enforcement
20 bureau] shall not be directly or indirectly interested or
21 engaged in any other business or undertaking within the
22 Commonwealth dealing in liquor, alcohol, or malt or brewed
23 beverages, whether as owner, part owner, partner, member of
24 syndicate, holder of stock exceeding five percent (5%) of the
25 equity at fair market value of the business, independent
26 contractor or manager of a licensed establishment required under
27 40 Pa. Code § 5.23 (relating to appointment of managers), and
28 whether for his own benefit or in a fiduciary capacity for some
29 other person. For the purpose of this subsection only, "employe
30 of the board [or Enforcement Bureau]" shall mean any individual

1 employed by the board [or Enforcement Bureau] who is responsible
2 for taking or recommending official action of a nonministerial
3 nature with regard to:

4 (1) contracting or procurement;

5 (2) administering or monitoring grants or subsidies;

6 (3) planning or zoning;

7 (4) inspecting, licensing, regulating or auditing any
8 person; or

9 (5) any other activity where the official action has an
10 economic impact of greater than a de minimis nature on the
11 interests of any person.

12 (b) No member or employe of the board [or enforcement
13 bureau] or a member of the immediate family of a member or
14 employe of the board [or enforcement bureau] nor any employe of
15 the Commonwealth shall solicit or receive, directly or
16 indirectly, any commission, remuneration or gift whatsoever,
17 from any person having sold, selling or offering liquor or
18 alcohol for sale to the board for use in Pennsylvania Liquor
19 Stores.

20 (c) No person convicted of an infamous crime may be employed
21 as a member or employe by the board [or enforcement bureau].

22 (d) No member or employe of the board [or enforcement
23 bureau] may use his position with the board [or enforcement
24 bureau], or any confidential information received through his
25 position with the board [or enforcement bureau], to obtain
26 financial gain, other than compensation provided by law, for
27 himself, a member of his immediate family or a business with
28 which he is associated.

29 (e) No person may offer or give to a member or employe of
30 the board [or enforcement bureau] or a member of his immediate

1 family or a business with which he is associated, and no member
2 or employe of the board [or enforcement bureau] may solicit or
3 accept anything of value, including a gift, loan, political
4 contribution, reward or promise of future employment, based on
5 an understanding that the vote, official action or judgment of
6 the member or employe of the board [or enforcement bureau] would
7 be influenced thereby.

8 (f) No member or employe of the board [or enforcement
9 bureau] or a member of his immediate family or any business in
10 which the member or employe or a member of his immediate family
11 is a director, officer or owner or holder of stock exceeding
12 five percent (5%) of the equity at fair market value of the
13 business may enter into any contract valued at five hundred
14 dollars (\$500) or more to provide goods or services to the board
15 [or enforcement bureau] unless the contract has been awarded to
16 the lowest responsible bidder through an open and public
17 process, including prior public notice and subsequent public
18 disclosure of all proposals considered and contracts awarded.

19 (g) No former member or employe of the board [or enforcement
20 bureau] may represent a person, with or without compensation, on
21 any matter before the board [or enforcement bureau] for one year
22 after leaving the board [or enforcement bureau].

23 (h) No member or employe of the board [or enforcement
24 bureau] or an advisor or consultant thereto having recommended
25 to the board [or enforcement bureau] either the making of a
26 contract or a course of action of which the making of a contract
27 is an express or implied part, may, at any time thereafter, have
28 an adverse interest in that contract.

29 (i) No member or employe of the board [or enforcement
30 bureau] may influence or attempt to influence the making of, or

1 supervise or deal with, a contract with the board [or
2 enforcement bureau] in which he has an adverse interest.

3 (j) No member or employe of the board [or enforcement
4 bureau] may have an adverse interest in a contract with the
5 board [or enforcement bureau].

6 (k) No person having an adverse interest in a contract with
7 the board [or enforcement bureau] may become an employe of the
8 board [or enforcement bureau] until the adverse interest has
9 been wholly divested.

10 (l) No member or employe of the board [or enforcement
11 bureau], except in the performance of his duties as such
12 employe, may, for remuneration, directly or indirectly,
13 represent a person upon a matter pending before the board [or
14 enforcement bureau].

15 (m) (1) Any person who violates the provisions of this
16 section shall have his employment by the board [or enforcement
17 bureau] immediately terminated by the appropriate person having
18 the power to terminate and shall be liable to the board [or
19 enforcement bureau] to reimburse the board [or enforcement
20 bureau] for all compensation received by him from the board [or
21 enforcement bureau] while employed in violation of subsection
22 (c).

23 (2) Any person who violates the provisions of subsections
24 (b), (d) or (e) shall be guilty of a felony and, upon conviction
25 thereof, shall be sentenced to pay a fine of not more than ten
26 thousand dollars (\$10,000) or to undergo imprisonment for not
27 more than five (5) years, or both.

28 (3) Any person who violates the provisions of subsections
29 (a) or (f) through (l) shall be guilty of a misdemeanor and,
30 upon conviction thereof, shall be sentenced to pay a fine of not

1 more than one thousand dollars (\$1,000) or to undergo
2 imprisonment for not more than one (1) year, or both.

3 (4) Any person who obtains financial gain from violating any
4 provisions of this section, in addition to any other penalty
5 provided by law, shall pay into the accounts of the board a sum
6 of money equal to three (3) times the financial gain resulting
7 from the violation.

8 (5) Any person who violates the provisions of this section
9 shall be barred for a period of five (5) years from engaging in
10 any business or contract with the board [or enforcement bureau].

11 (6) The penalties and sanctions provided by this subsection
12 shall supersede any similar penalties and sanctions provided by
13 the act of July 19, 1957 (P.L.1017, No.451), known as the "State
14 Adverse Interest Act," and the act of October 4, 1978 (P.L.883,
15 No.170), referred to as the Public Official and Employee Ethics
16 Law.

17 (n) As used in this section, the following words and phrases
18 shall have the meanings given to them in this subsection:

19 "Business" shall mean a corporation, partnership, sole
20 proprietorship, firm, enterprise, franchise, association,
21 organization, self-employed individual, holding company, joint-
22 stock company, receivership, trust or legal entity organized for
23 profit or as a not-for-profit corporation or organization.

24 "Immediate family" shall mean a spouse residing in the
25 person's household and minor dependent children.

26 "Infamous crime" shall mean a violation and conviction for an
27 offense which would disqualify an individual from holding public
28 office pursuant to section 6 of Article II of the Constitution
29 of Pennsylvania; a conviction within the preceding ten (10)
30 years for a violation of this section or of 18 Pa.C.S. § 4113

1 (relating to misapplication of entrusted property and property
2 of government or financial institutions), Ch. 47 (relating to
3 bribery and corrupt influence), Ch. 49 (relating to
4 falsification and intimidation), Ch. 51 (relating to obstructing
5 governmental operations) or Ch. 53 (relating to abuse of
6 office); or a violation of the laws of this Commonwealth or
7 another state or the Federal Government for which an individual
8 has been convicted within the preceding ten (10) years and which
9 is classified as a felony.

10 Section 4. Section 211 of the act, amended October 5, 1994
11 (P.L.537, No.80) and July 17, 2003 (P.L.63, No.15), is amended
12 to read:

13 Section 211. Enforcement.--(a) There is created within the
14 Pennsylvania State Police a Bureau of Liquor Control Enforcement
15 which shall be responsible for enforcing this act and any
16 regulations promulgated pursuant thereto. Officers and
17 investigators assigned to the bureau shall have the power and
18 their duty shall be:

19 (1) To investigate whenever there are reasonable grounds to
20 believe liquor, alcohol or malt or brewed beverages are being
21 sold on premises not licensed under the provisions of this act.
22 If the investigation produces evidence of the unlawful sale of
23 liquor or malt or brewed beverages or any other violation of the
24 provisions of this act, the officer involved in the
25 investigation shall institute criminal proceedings against the
26 person or persons believed to have been criminally liable, as
27 otherwise provided by law or rule of court.

28 (2) To arrest on view, except in private homes, without
29 warrant, any person actually engaged in the unlawful sale,
30 importation, manufacture or transportation or having unlawful

1 possession of liquor, alcohol or malt or brewed beverages
2 contrary to the provisions of this act or any other law of this
3 Commonwealth or any person whom the officer/investigator, while
4 in the performance of his assigned duties under and pursuant to
5 this act and any regulations promulgated under this act,
6 observes to be in violation of any of the following provisions:

7 18 Pa.C.S. § 3302 (relating to causing or risking
8 catastrophe).

9 18 Pa.C.S. § 3304 (relating to criminal mischief).

10 18 Pa.C.S. § 4101 (relating to forgery).

11 18 Pa.C.S. § 5503 (relating to disorderly conduct).

12 18 Pa.C.S. § 5505 (relating to public drunkenness).

13 18 Pa.C.S. § 5512 (relating to lotteries, etc.).

14 18 Pa.C.S. § 5513 (relating to gambling devices,
15 gambling, etc.).

16 18 Pa.C.S. § 5514 (relating to pool selling and
17 bookmaking).

18 18 Pa.C.S. § 6307 (relating to misrepresentation of age
19 to secure liquor or malt or brewed beverages).

20 18 Pa.C.S. § 6308 (relating to purchase, consumption,
21 possession or transportation of liquor or malt or brewed
22 beverages).

23 18 Pa.C.S. § 6309 (relating to representing that minor is
24 of age).

25 18 Pa.C.S. § 6310.1 (relating to selling or furnishing
26 liquor or malt or brewed beverages to minors).

27 18 Pa.C.S. § 6310.3 (relating to carrying a false
28 identification card).

29 (3) Upon reasonable and probable cause, to search for and to
30 seize, without warrant or process, except in private homes, any

1 liquor, alcohol or malt or brewed beverages unlawfully
2 possessed, manufactured, sold, imported or transported and any
3 stills, equipment, materials, utensils, vehicles, boats,
4 vessels, animals, aircraft, or any of them, which are or have
5 been used in the unlawful manufacture, sale, importation or
6 transportation of the same. Such liquor, alcohol, malt or brewed
7 beverages, stills, equipment, materials, utensils, vehicles,
8 boats, vessels, animals or aircraft so seized shall be disposed
9 of as hereinafter provided.

10 (4) To investigate and issue citations for any violations of
11 this act or any laws of this Commonwealth relating to liquor,
12 alcohol or malt or brewed beverages, or any regulations of the
13 board adopted pursuant to such laws or any violation of any laws
14 of this Commonwealth or of the Federal Government, relating to
15 the payment of taxes on liquor, alcohol or malt or brewed
16 beverages by any licensee, his officers, servants, agents or
17 employes.

18 (5) To arrest any person who engages in the following
19 offenses when the said offenses are committed against the
20 officer/investigator or any person accompanying and assisting
21 the officer/investigator while the said officer/investigator is
22 performing assigned duties under and pursuant to this act and
23 any regulations promulgated under this act:

24 18 Pa.C.S. § 2701 (relating to simple assault).

25 18 Pa.C.S. § 2702 (relating to aggravated assault).

26 18 Pa.C.S. § 2705 (relating to recklessly endangering
27 another person).

28 18 Pa.C.S. § 2706 (relating to terroristic threats).

29 18 Pa.C.S. § 2709 (relating to harassment and stalking).

30 18 Pa.C.S. § 5104 (relating to resisting arrest or other

1 law enforcement).

2 18 Pa.C.S. § 5501 (relating to riot).

3 (6) To serve and execute warrants issued by the proper
4 authorities for offenses referred to in this subsection and to
5 serve subpoenas.

6 (7) To arrange for the administration of chemical tests of
7 breath, blood or urine, including preliminary breath tests, to
8 persons for the purpose of determining the alcoholic content of
9 blood or the presence of a controlled substance by qualified
10 personnel of a State or local police department or qualified
11 personnel of a clinical laboratory licensed and approved by the
12 Department of Health.

13 (b) Any equipment or appurtenance actually used in the
14 commission of the unlawful acts may be confiscated. The
15 confiscation shall not, in any manner, divest or impair the
16 rights or interest of any bona fide lienholder in the equipment
17 or appurtenance.

18 (c) The Pennsylvania State Police Commissioner shall assign
19 State Police Officers to such supervisory and other capacities
20 in the enforcement bureau as he deems necessary. All other
21 personnel of the enforcement bureau shall be civilians.

22 (d) The Office of Chief Counsel for the Pennsylvania State
23 Police shall represent the enforcement bureau in all enforcement
24 proceedings brought before the Office of Administrative Law
25 Judge or any other adjudicatory body.

26 (e) Nothing in this act shall be construed to change the
27 status of civilian enforcement agents for the purposes of the
28 act of July 23, 1970 (P.L.563, No.195), known as the "Public
29 Employe Relations Act," or cause civilian enforcement agents to
30 be considered policemen for the purposes of the act of June 24,

1 1968 (P.L.237, No.111), referred to as the Policemen and Firemen
2 Collective Bargaining Act.

3 (f) In addition to the information provided to the General
4 Assembly and the Legislative Data Processing Center under
5 sections 613 and 614 of the act of April 9, 1929 (P.L.177,
6 No.175), known as "The Administrative Code of 1929,"
7 respectively, the Pennsylvania State Police shall provide to the
8 chairman and minority chairman of the Appropriations Committee
9 of the Senate and the chairman and minority chairman of the
10 Appropriations Committee of the House of Representatives any
11 other information as requested. The Pennsylvania State Police
12 shall also provide:

13 (1) a copy of the most recently completed audit of
14 expenditures of the enforcement bureau; and

15 (2) a report detailing the demographic characteristics of
16 the bureau's complement of civilian officers. Such report shall
17 include information relating to workplace diversity as contained
18 in section two of the Governor's Annual Workforce Report
19 relating to equal employment.] (a) The enforcement of this act
20 shall be vested in the enforcement authority.

21 (b) Employees of the enforcement bureau terminated under this
22 act who have civil service status or who are covered by union
23 contracts shall fill any existing vacancies within the
24 administrative branch of State government in their grade and
25 position. If there are more employes than vacant positions at
26 the time of termination, then terminated employes shall receive
27 employment in the first vacancies that shall thereafter exist in
28 their grade and position.

29 Section 5. Section 211.1 of the act, added July 2, 1993
30 (P.L.429, No.61), is amended to read:

1 Section 211.1. Legal Opinions.--Upon written request by a
2 licensee, the board or its counsel shall issue a legal opinion
3 regarding any subject matter relating to this act or any
4 regulation promulgated pursuant to it. This legal opinion shall
5 be binding on the enforcement [bureau] authority.

6 Section 6. Section 412(g) of the act, added December 9, 2002
7 (P.L.1653, No.212), is amended to read:

8 Section 412. Public Venue License.--* * *

9 (g) The board may issue multiple licenses under this section
10 for use in a public venue with permanent seating of at least
11 thirty-five thousand people. If the board does issue more than
12 one license for a specific public venue, written notice of the
13 event must be provided to the enforcement [bureau] authority at
14 least forty-eight hours in advance of the dispensing of any
15 liquor or malt or brewed beverages. The notice shall include the
16 date, time and specific licensed areas to be used. No more than
17 one license issued under this section shall be in effect at any
18 location at any time of day at the same time.

19 Section 7. Section 431(b) of the act, amended December 8,
20 2004 (P.L.1810, No.239), is amended to read:

21 Section 431. Malt and Brewed Beverages Manufacturers',
22 Distributors' and Importing Distributors' Licenses.--* * *

23 (b) The board shall issue to any reputable person who
24 applies therefor, and pays the license fee hereinafter
25 prescribed, a distributor's or importing distributor's license
26 for the place which such person desires to maintain for the sale
27 of malt or brewed beverages, not for consumption on the premises
28 where sold, and in quantities of not less than a case or
29 original containers containing one hundred twenty-eight ounces
30 or more which may be sold separately as prepared for the market

1 by the manufacturer at the place of manufacture. The board shall
2 have the discretion to refuse a license to any person or to any
3 corporation, partnership or association if such person, or any
4 officer or director of such corporation, or any member or
5 partner of such partnership or association shall have been
6 convicted or found guilty of a felony within a period of five
7 years immediately preceding the date of application for the said
8 license: And provided further, That, in the case of any new
9 license or the transfer of any license to a new location, the
10 board may, in its discretion, grant or refuse such new license
11 or transfer if such place proposed to be licensed is within
12 three hundred feet of any church, hospital, charitable
13 institution, school or public playground, or if such new license
14 or transfer is applied for a place which is within two hundred
15 feet of any other premises which is licensed by the board: And
16 provided further, That the board shall refuse any application
17 for a new license or the transfer of any license to a new
18 location if, in the board's opinion, such new license or
19 transfer would be detrimental to the welfare, health, peace and
20 morals of the inhabitants of the neighborhood within a radius of
21 five hundred feet of the place proposed to be licensed. The
22 board shall refuse any application for a new license or the
23 transfer of any license to a location where the sale of liquid
24 fuels or oil is conducted. The board may enter into an agreement
25 with the applicant concerning additional restrictions on the
26 license in question. If the board and the applicant enter into
27 such an agreement, such agreement shall be binding on the
28 applicant. Failure by the applicant to adhere to the agreement
29 will be sufficient cause to form the basis for a citation under
30 section 471 and for the nonrenewal of the license under section

1 470. If the board enters into an agreement with an applicant
2 concerning additional restrictions, those restrictions shall be
3 binding on subsequent holders of the license until the license
4 is transferred to a new location or until the board enters into
5 a subsequent agreement removing those restrictions. If the
6 application in question involves a location previously licensed
7 by the board, then any restrictions imposed by the board on the
8 previous license at that location shall be binding on the
9 applicant unless the board enters into a new agreement
10 rescinding those restrictions. The board shall require notice to
11 be posted on the property or premises upon which the licensee or
12 proposed licensee will engage in sales of malt or brewed
13 beverages. This notice shall be similar to the notice required
14 of hotel, restaurant and club liquor licensees.

15 Except as hereinafter provided, such license shall authorize
16 the holder thereof to sell or deliver malt or brewed beverages
17 in quantities above specified anywhere within the Commonwealth
18 of Pennsylvania, which, in the case of distributors, have been
19 purchased only from persons licensed under this act as
20 manufacturers or importing distributors, and in the case of
21 importing distributors, have been purchased from manufacturers
22 or persons outside this Commonwealth engaged in the legal sale
23 of malt or brewed beverages or from manufacturers or importing
24 distributors licensed under this article. In the case of an
25 importing distributor, the holder of such a license shall be
26 authorized to store and repackage malt or brewed beverages owned
27 by a manufacturer at a segregated portion of a warehouse or
28 other storage facility authorized by section 441(d) and operated
29 by the importing distributor within its appointed territory and
30 deliver such beverages to another importing distributor who has

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

22 Each out of State manufacturer of malt or brewed beverages
23 whose products are sold and delivered in this Commonwealth shall
24 give distributing rights for such products in designated
25 geographical areas to specific importing distributors, and such
26 importing distributor shall not sell or deliver malt or brewed
27 beverages manufactured by the out of State manufacturer to any
28 person issued a license under the provisions of this act whose
29 licensed premises are not located within the geographical area
30 for which he has been given distributing rights by such

1 manufacturer. Should a licensee accept the delivery of such malt
2 or brewed beverages in violation of this section, said licensee
3 shall be subject to a suspension of his license for at least
4 thirty days: Provided, That the importing distributor holding
5 such distributing rights for such product shall not sell or
6 deliver the same to another importing distributor without first
7 having entered into a written agreement with the said secondary
8 importing distributor setting forth the terms and conditions
9 under which such products are to be resold within the territory
10 granted to the primary importing distributor by the
11 manufacturer.

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

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

9 * * *

10 Section 8. Section 461(b.2) of the act, amended February 21,
11 2002 (P.L.103, No.10), is amended to read:

12 Section 461. Limiting Number of Retail Licenses To Be Issued
13 In Each County.--* * *

14 (b.2) Qualified applicants under subsection (b.1) shall
15 receive a provisional license for one hundred twenty days,
16 exclusive of periods of safekeeping. After ninety days from the
17 date of issuance, the licensee may file an application for a
18 permanent license. A license shall be issued if the licensee
19 establishes that for ninety consecutive days from the date of
20 initial issue its sales of food and nonalcoholic beverages is
21 equal to at least seventy per centum (70%) of its combined gross
22 sales of food and alcoholic beverages. Licensees shall not be
23 subject to citation by the [Enforcement Bureau] enforcement
24 authority for a violation of the requirement that food and
25 nonalcoholic beverages equal at least seventy per centum (70%)
26 of the combined gross sales of food and alcoholic beverages
27 during the provisional licensing period.

28 * * *

29 Section 9. Section 471 of the act, amended or added December
30 20, 2000 (P.L.992, No.141), February 21, 2002 (P.L.103, No.10)

1 and December 9, 2002 (P.L.1653, No.212), is amended to read:

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

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

20 (b) Hearing on such citations shall be held in the same
21 manner as provided herein for hearings on applications for
22 license. Upon such hearing, if satisfied that any such violation
23 has occurred or for other sufficient cause, the administrative
24 law judge shall immediately suspend or revoke the license, or
25 impose a fine of not less than fifty dollars (\$50) nor more than
26 one thousand dollars (\$1,000), or both, notifying the licensee
27 by registered letter addressed to his licensed premises. If the
28 licensee has been cited and found to have violated section
29 493(1) insofar as it relates to sales to minors or sales to a
30 visibly intoxicated person, section 493(10) insofar as it

1 relates to lewd, immoral or improper entertainment or section
2 493(14), (16) or (21), or has been found to be a public nuisance
3 pursuant to section 611, or if the owner or operator of the
4 licensed premises or any authorized agent of the owner or
5 operator has been convicted of any violation of the act of April
6 14, 1972 (P.L.233, No.64), known as "The Controlled Substance,
7 Drug, Device and Cosmetic Act," or of 18 Pa.C.S. § 5902
8 (relating to prostitution and related offenses) or 6301
9 (relating to corruption of minors), at or relating to the
10 licensed premises, the administrative law judge shall
11 immediately suspend or revoke the license, or impose a fine of
12 not less than one thousand dollars (\$1,000) nor more than five
13 thousand dollars (\$5,000), or both. However, if a licensee has
14 been cited and found to have violated section 493(1) as it
15 relates to sales to minors or sales to a visibly intoxicated
16 person but at the time of the sale the licensee was in
17 compliance with the requirements set forth in section 471.1 and
18 the licensee had not sold to minors or visibly intoxicated
19 persons in the previous four years, then the administrative law
20 judge shall immediately suspend or revoke the license, or impose
21 a fine of not less than fifty dollars (\$50) nor more than one
22 thousand dollars (\$1,000), or both. The administrative law judge
23 shall notify the licensee by registered mail, addressed to the
24 licensed premises, of such suspension, revocation or fine. In
25 the event the fine is not paid within twenty days of the
26 adjudication, the administrative law judge shall suspend or
27 revoke the license, notifying the licensee by registered mail
28 addressed to the licensed premises. Suspensions and revocations
29 shall not go into effect until thirty days have elapsed from the
30 date of the adjudication during which time the licensee may take

1 an appeal as provided for in this act. Any licensee whose
2 license is revoked shall be ineligible to have a license under
3 this act until the expiration of three years from the date such
4 license was revoked. In the event a license is revoked, no
5 license shall be granted for the premises or transferred to the
6 premises in which the said license was conducted for a period of
7 at least one year after the date of the revocation of the
8 license conducted in the said premises, except in cases where
9 the licensee or a member of his immediate family is not the
10 owner of the premises, in which case the board may, in its
11 discretion, issue or transfer a license within the said year. In
12 the event the [bureau] enforcement authority or the person who
13 was fined or whose license was suspended or revoked shall feel
14 aggrieved by the adjudication of the administrative law judge,
15 there shall be a right to appeal to the board. The appeal shall
16 be based solely on the record before the administrative law
17 judge. The board shall only reverse the decision of the
18 administrative law judge if the administrative law judge
19 committed an error of law, abused its discretion or if its
20 decision is not based on substantial evidence. In the event the
21 [bureau] enforcement authority or the person who was fined or
22 whose license was suspended or revoked shall feel aggrieved by
23 the decision of the board, there shall be a right to appeal to
24 the court of common pleas in the same manner as herein provided
25 for appeals from refusals to grant licenses. Each of the appeals
26 shall act as a supersedeas unless, upon sufficient cause shown,
27 the reviewing authority shall determine otherwise; however, if
28 the licensee has been cited and found to have violated section
29 493(1) insofar as it relates to sales to minors or sales to a
30 visibly intoxicated person, section 493(10) insofar as it

1 relates to lewd, immoral or improper entertainment or section
2 493(14), (16) or (21), or has been found to be a public nuisance
3 pursuant to section 611, or if the owner or operator of the
4 licensed premises or any authorized agent of the owner or
5 operator has been convicted of any violation of "The Controlled
6 Substance, Drug, Device and Cosmetic Act," or of 18 Pa.C.S. §
7 5902 or 6301, at or relating to the licensed premises, its
8 appeal shall not act as a supersedeas unless the reviewing
9 authority determines otherwise upon sufficient cause shown. In
10 any hearing on an application for a supersedeas under this
11 section, the reviewing authority may consider, in addition to
12 other relevant evidence, documentary evidence, including records
13 of the [bureau] enforcement authority, showing the prior history
14 of citations, fines, suspensions or revocations against the
15 licensee; and the reviewing authority may also consider, in
16 addition to other relevant evidence, evidence of any recurrence
17 of the unlawful activity occurring between the date of the
18 citation which is the subject of the appeal and the date of the
19 hearing. No penalty provided by this section shall be imposed
20 for any violations provided for in this act unless the [bureau]
21 enforcement authority notifies the licensee of its nature within
22 thirty days of the completion of the investigation.

23 (c) The administrative law judge may consider the licensee's
24 prior citation history when imposing a penalty. If the violation
25 in question is a third or subsequent violation of any offense
26 referred to in subsection (b) or Title 18 of the Pennsylvania
27 Consolidated Statutes (relating to crimes and offenses),
28 occurring within a period of four years, the administrative law
29 judge shall impose a suspension or revocation.

30 (d) If a licensee has been cited and found to have violated

1 section 493(1) as it relates to sales to minors or sales to a
2 visibly intoxicated person, the administrative law judge, in
3 addition to the penalties set forth in subsection (b), may
4 require the licensee to comply with the requirements set forth
5 in section 471.1 pertaining to responsible alcohol management.
6 Such compliance may be required for a period of up to one year.
7 Failure to adhere with such an order is sufficient cause for the
8 issuance of a citation under subsection (a).

9 Section 10. Section 491(5) of the act, amended October 5,
10 1994 (P.L.522, No.77), is amended to read:

11 Section 491. Unlawful Acts Relative to Liquor, Alcohol and
12 Liquor Licensees.--

13 It shall be unlawful--

14 * * *

15 (5) Failure to Properly Dispose of Empty Liquor Containers.
16 For any restaurant, hotel or club licensee, his servants, agents
17 or employes, to fail to break any package in which liquors were
18 contained, except those decanter packages that the board
19 determines to be decorative, within twenty-four hours after the
20 original contents were removed therefrom, unless the licensee
21 participates in either a municipal recycling program, in
22 accordance with the act of July 28, 1988 (P.L.556, No.101),
23 known as the "Municipal Waste Planning, Recycling and Waste
24 Reduction Act," or a voluntary recycling program. The licensee
25 shall provide proof in writing of the participation in a
26 recycling program upon the demand of the [Bureau of Liquor
27 Control Enforcement of the Pennsylvania State Police]
28 enforcement authority. The proof of participation shall be
29 provided in a manner as prescribed by the Pennsylvania Liquor
30 Control Board.

1 * * *

2 Section 11. Section 493(12), (14), (21) and (26) of the act,
3 amended February 21, 2002 (P.L.103, No.10), and May 8, 2003
4 (P.L.1, No.1), are amended to read:

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

10 It shall be unlawful--

11 * * *

12 (12) Failure to Have Records on Premises. For any liquor
13 licensee, or any importing distributor, distributor or retail
14 dispenser, to fail to keep on the licensed premises for a period
15 of at least two years complete and truthful records covering the
16 operation of his licensed business, particularly showing the
17 date of all purchases of liquor and malt or brewed beverages,
18 the actual price paid therefor, and the name of the vendor,
19 including State Store receipts, or for any licensee, his
20 servants, agents or employes, to refuse the board or an
21 authorized employe of the board or the enforcement [bureau]
22 authority access thereto or the opportunity to make copies of
23 the same when the request is made during business hours.

24 * * *

25 (14) Permitting Undesirable Persons or Minors to Frequent
26 Premises. For any hotel, restaurant or club liquor licensee, or
27 any retail dispenser, his servants, agents or employes, to
28 permit persons of ill repute or prostitutes to frequent his
29 licensed premises or any premises operated in connection
30 therewith. Minors may only frequent licensed premises if: (a)

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

26 * * *

27 (21) Refusing The Right of Inspection. For any licensee, or
28 his servants, agents or employes, to refuse the board or the
29 enforcement [bureau] authority or any of their authorized
30 employes the right to inspect completely the entire licensed

1 premises at any time during which the premises are open for the
2 transaction of business, or when patrons, guests or members are
3 in that portion of the licensed premises wherein either liquor
4 or malt or brewed beverages are sold.

5 * * *

6 (26) Worthless Checks. For any retail liquor licensee or any
7 retail dispenser, distributor or importing distributor, to make,
8 draw, utter, issue or deliver, or cause to be made, drawn,
9 uttered, issued or delivered, any check, draft or similar order,
10 for the payment of money in payment for any purchase of malt or
11 brewed beverages, when such retail liquor licensee, retail
12 dispenser, distributor or importing distributor, has not
13 sufficient funds in, or credit with, such bank, banking
14 institution, trust company or other depository, for the payment
15 of such check. Any person who is a licensee under the provisions
16 of this article, who shall receive in payment for malt or brewed
17 beverages sold by him any check, draft or similar order for the
18 payment of money, which is subsequently dishonored by the bank,
19 banking institution, trust company or other depository, upon
20 which drawn, for any reason whatsoever, shall, within five days
21 of receipt of notice of such dishonor, notify by certified mail
22 the person who presented the said worthless check, draft or
23 similar order. If the violation of this clause is the first such
24 violation by the licensee that calendar year involving a check,
25 draft or similar order from the purchaser to the seller and if
26 the check, draft or similar order is subsequently honored within
27 ten days from the day it was made, drawn, uttered, issued or
28 delivered, then the enforcement [bureau] authority shall issue
29 an administrative warning in lieu of citation.

30 * * *

1 Section 12. Section 495(c) and (h) of the act, amended or
2 added December 20 1996 (P.L.1523, No.199) and December 16, 2002
3 (P.L.1806, No.221), are amended to read:

4 Section 495. Identification Cards; Licensees and State
5 Liquor Store Employes Saved From Prosecution.--* * *

6 (c) In addition to the presentation of such identification
7 card, the agent of the State Liquor Store or the licensee, or
8 his servant, agent or employe, may require the person whose age
9 may be in question to fill in and sign a form containing
10 language approved by the board or containing the following:

11 19

12 I,....., hereby represent
13 to, a State Store or
14 licensee of the board, that I am of full age and discretion
15 and over the age of 21 years, having been born on
16 19..... at

17 This statement is made to induce said store or licensee above
18 named to sell or otherwise furnish alcoholic beverages to the
19 undersigned.

20 Serial Number of Identification Card:

21 I understand that I am subject to a fine of
22 \$300.00 and sixty days imprisonment for any
23 misrepresentation herein.

24

25 (Name)

26

27 (Address)

28 Witness:

29 Name.....

30 Address.....

1 The forms shall be printed in a manner approved by the board
2 and shall be filed alphabetically by the State Liquor Store or
3 licensee in a file box containing a suitable alphabetical index
4 at or before the close of business on the day that the form is
5 executed, and any such form shall be subject to examination by
6 any officer, agent or employe of the enforcement [bureau]
7 authority at any and all times.

8 * * *

9 (h) No licensee or licensee's agent or employe shall sell or
10 otherwise disseminate the information derived from a transaction
11 scan to any third party, except to the board, the [bureau]
12 enforcement authority or other law enforcement official, for any
13 purpose, including, but not limited to, any marketing,
14 advertising or promotional activities, except that a licensee or
15 licensee's agent or employe may release that information
16 pursuant to a court order. Any person who violates this
17 subsection commits a summary offense and shall, upon conviction,
18 be sentenced to pay a fine not exceeding five hundred dollars
19 (\$500) for the first offense and to pay a fine not exceeding one
20 thousand dollars (\$1,000) for subsequent offenses.

21 Section 13. Section 507 of the act, amended December 7, 1990
22 (P.L.622, No.160) and June 30, 1992 (P.L.327, No.66), is amended
23 to read:

24 Section 507. Hearings on Licenses and Refusals.--(a) The
25 board may of its own motion, and shall upon the written request
26 of the enforcement [bureau] authority or of any applicant for
27 license or for renewal thereof whose application for such
28 license or renewal has been refused, fix a time and place for
29 hearing of such application or renewal, notice of which hearing
30 shall be sent to the [bureau] enforcement authority and to the

1 applicant, by registered mail, at the address given in his
2 application. Such hearing shall be before a hearing examiner
3 designated by the board.

4 (b) At such hearing, the board shall present its reasons for
5 its refusal or withholding of such license or renewal thereof or
6 the [bureau] enforcement authority shall present its objections
7 to the granting or renewal of the license, as the case may be.
8 The applicant may appear in person or by counsel, may cross-
9 examine the witnesses for the board or the [bureau] enforcement
10 authority, and may present evidence which shall likewise be
11 subject to cross-examination by the board or the [bureau]
12 enforcement authority. Such hearing shall be stenographically
13 recorded. The hearing examiner shall thereafter make a report,
14 including the examiner's recommendation, to the board in each
15 case. The board shall thereafter grant or refuse the license or
16 renewal thereof.

17 (c) Hearings and adjudications pursuant to this section
18 shall be in accordance with 2 Pa.C.S. Ch. 5 Subch. A (relating
19 to practice and procedure of Commonwealth agencies).

20 Section 14. Section 514 of the act, amended December 21,
21 1998 (P.L.1202, No.155), is amended to read:

22 Section 514. Suspension and Revocation of Licenses.--(a)
23 Upon learning of any violation of this act or of any rule or
24 regulation promulgated by the board under the authority of this
25 act, or any violation of any laws of this Commonwealth or of the
26 United States of America relating to the tax payment of alcohol,
27 liquor or malt or brewed beverages by the holder of a license
28 issued under the provisions of this article, or upon other
29 sufficient cause, the enforcement [bureau] authority may, within
30 one year from the date of such violation or cause appearing,

1 cite such licensee to appear before an administrative law judge
2 not less than ten (10) nor more than sixty (60) days from the
3 date of sending such licensee, by registered mail, a notice
4 addressed to his licensed premises, to show cause why the
5 license should not be suspended or revoked. Hearings on such
6 citations shall be held in the same manner as provided herein
7 for hearings on applications for license. And upon such hearing,
8 if satisfied that any such violation has occurred or for other
9 sufficient cause, the administrative law judge shall immediately
10 suspend or revoke such license, notifying the licensee thereof
11 by registered letter addressed to his licensed premises, or to
12 the address given in his application where no licensed premises
13 is maintained in Pennsylvania.

14 (b) Any licensee whose license is revoked shall be
15 ineligible to have a license under this act or under any other
16 act relating to alcohol, liquor or malt or brewed beverages
17 until the expiration of three (3) years from the date such
18 license was revoked. In the event of a revocation, no license
19 shall be granted for the premises or transferred to the premises
20 in which said license was conducted for a period of at least one
21 (1) year after the date of the revocation of the license
22 conducted in the said premises, except in cases where the
23 licensee or a member of his immediate family is not the owner of
24 the premises, in which case the board may, in its discretion,
25 issue or transfer a license within said year. Such hearing
26 before and adjudication by an administrative law judge shall be
27 in accordance with 2 Pa.C.S. Ch. 5 Subch. A (relating to
28 practice and procedure of Commonwealth agencies).

29 Section 15. Sections 515, 519, 602(e), 603 and 604 of the
30 act are amended to read:

1 Section 515. Appeals.--The board, the enforcement [bureau]
2 authority or any applicant or any licensee aggrieved by any
3 decision refusing, suspending or revoking a license under the
4 provisions of this article may appeal to the court of the county
5 in which the licensed premises or the premises to be licensed
6 are located. In the event an applicant or a licensee shall have
7 no place of business established within the Commonwealth, his
8 appeal shall be to the Commonwealth Court. Such appeal shall be
9 in accordance with 2 Pa.C.S. Ch. 7 Subch. A (relating to
10 judicial review of Commonwealth agency action).

11 Section 519. Penalties.--Any person or persons who knowingly
12 violate any of the provisions of this article, or any person who
13 shall violate any of the conditions of any license issued under
14 the provisions of this article, or who shall falsify any record
15 or report required by this article to be kept, or who shall
16 violate any rule or regulation of the board, or who shall
17 interfere with, hinder or obstruct any inspection authorized by
18 this article, or prevent any member of the board or the
19 enforcement [bureau] authority or any person duly authorized and
20 designated by the board or the [bureau] enforcement authority
21 from entering any place which such member of the board or the
22 [bureau] enforcement authority or such person is authorized by
23 this article to enter for the purpose of making an inspection,
24 or who shall violate any other provision of this article, shall
25 be guilty of a misdemeanor and, upon conviction thereof, shall
26 be sentenced to pay a fine of not less than one hundred dollars
27 (\$100), nor more than five thousand dollars (\$5000), or undergo
28 imprisonment of not more than three (3) years, or both, at the
29 discretion of the court.

30 Section 602. Forfeiture Proceedings.--* * *

1 (e) At the time of said hearing, if the Commonwealth shall
2 produce evidence that the property in question was unlawfully
3 possessed or used, the burden shall be upon the claimant to show
4 (1) that he is the owner of said property, (2) that he lawfully
5 acquired the same, and (3) that it was not unlawfully used or
6 possessed.

7 In the event such claimant shall prove by competent evidence
8 to the satisfaction of the court that said liquor, alcohol or
9 malt or brewed beverage, or still, equipment, material, utensil,
10 vehicle, boat, vessel, container, animal or aircraft was
11 lawfully acquired, possessed and used, then the court may order
12 the same returned or delivered to the claimant; but if it
13 appears that said liquor, alcohol or malt or brewed beverage or
14 still, equipment, material or utensil was unlawfully possessed
15 or used, the court shall order the same destroyed, delivered to
16 a hospital, or turned over to the board or enforcement [bureau]
17 authority, as hereinafter provided, or if it appears that said
18 vehicle, boat, vessel, container, animal or aircraft was
19 unlawfully possessed or used, the court may, in its discretion,
20 adjudge same forfeited and condemned as hereinafter provided.

21 Section 603. Disposition of Forfeited Property.--If, upon
22 petition as hereinbefore provided and hearing before the court
23 of common pleas, it appears that any liquor, alcohol, or malt or
24 brewed beverage or still, equipment, material or utensil was so
25 illegally possessed, or used, such liquor, alcohol or malt or
26 brewed beverage or still, equipment, material or utensil shall
27 be adjudged forfeited and condemned, or if it appears that any
28 vehicle, boat, vessel, container, animal or aircraft was so used
29 in the illegal manufacture or transportation of liquor, alcohol
30 or malt or brewed beverage, such property may, in the discretion

1 of the court, be adjudged forfeited and condemned and in such
2 case shall be disposed of as follows:

3 (a) Upon conviction of any person of a violation of any of
4 the provisions of this act, the court shall order the sheriff to
5 destroy all condemned liquor, alcohol or malt or brewed beverage
6 and property seized or obtained from such defendants, except
7 that the court may order the liquor, alcohol or malt or brewed
8 beverages, or any part thereof, to be delivered to a hospital
9 for its use, and make return to the court of compliance with
10 said order, and any vehicle, container, boat, vessel, animals or
11 aircraft seized under the provisions of this act shall be
12 disposed of as hereinafter provided.

13 (b) In any case in which the defendant is acquitted of a
14 violation of this act and denies the ownership or possession
15 thereof, or no claimant appears for same, or appearing, is
16 unable to sustain claim thereof, the court shall order all
17 condemned liquor, alcohol and malt or brewed beverages and
18 property (except vehicles, boats, vessels, containers, animals
19 and aircraft) publicly destroyed by the sheriff, except that the
20 court may order the liquor, alcohol or malt or brewed beverages,
21 or any part thereof, to be delivered to a hospital for its use.
22 Return of compliance with said order shall be made by the
23 sheriff to the court.

24 (c) In the case of any vehicle, boat, vessel, container,
25 animal or aircraft seized under the provisions of this act and
26 condemned, the court shall order the same to be delivered to the
27 enforcement [bureau] authority for its use or for sale or
28 disposition by the [bureau] enforcement authority, in its
29 discretion. Notice of such sale shall be given in such manner as
30 the [bureau] enforcement authority may prescribe. The proceeds

1 of such sale shall be paid into the State Stores Fund.

2 Section 604. Motor Vehicle Licenses To Be Revoked.--In
3 addition to the foregoing provisions, the court may, in its
4 order of condemnation, and in every conviction under this act
5 where it shall appear that liquor, alcohol or malt or brewed
6 beverages were unlawfully transported in a motor vehicle,
7 declare that the license issued by the Department of
8 Transportation for any motor vehicle so forfeited and condemned,
9 or issued to any defendant convicted of transporting liquor,
10 alcohol or malt or brewed beverages in any motor vehicle, shall
11 be forfeited and revoked, and it shall be the duty of the clerk
12 of the court in which such conviction is had and order of
13 condemnation made to certify such conviction to the Secretary of
14 Transportation, who shall suspend or revoke the license issued
15 for such motor vehicles: Provided, That a license may be issued
16 for such motor vehicle to the board or the enforcement [bureau]
17 authority or to any purchaser of the vehicle after the sale
18 thereof, as above provided.

19 Section 16. Section 611(b) of the act, amended February 18,
20 1998 (P.L.162, No.25), is amended to read:

21 Section 611. Nuisances; Actions To Enjoin.--* * *

22 (b) An action to enjoin any nuisance defined in this act may
23 be brought in the name of the Commonwealth of Pennsylvania by
24 the Attorney General, by the [Pennsylvania State Police through
25 its Bureau of Liquor Control Enforcement] enforcement authority,
26 by the municipality wherein the establishment is located, by the
27 district attorney of the proper county or by a person who
28 resides or has a place of business within five hundred feet of
29 the location of the alleged nuisance. Such action shall be
30 brought and tried as an action in equity and may be brought in

1 any court having jurisdiction to hear and determine equity cases
2 within the county in which the offense occurs. If it is made to
3 appear, by affidavit or otherwise, to the satisfaction of the
4 court that such nuisance exists, a temporary writ of injunction
5 shall forthwith issue, restraining the defendant from conducting
6 or permitting the continuance of such nuisance until the
7 conclusion of the proceedings. If a temporary injunction is
8 prayed for, the court may issue an order restraining the
9 defendant and all other persons from removing or in any way
10 interfering with the liquids, beverages or other things used in
11 connection with the violation of this act constituting such
12 nuisance. No bond shall be required in instituting such
13 proceedings brought in the name of the Commonwealth by the
14 Attorney General, the [Pennsylvania State Police through its
15 Bureau of Liquor Control Enforcement] enforcement authority, the
16 municipality where the establishment is located or the district
17 attorney of the proper county. Where such proceedings are
18 brought by a person, the court, upon application of the
19 defendant and prior to any injunction being issued, may direct
20 the plaintiff to post bond in such amount as the court may find
21 to be reasonable and sufficient. It shall not be necessary for
22 the court to find the property involved was being unlawfully
23 used, as aforesaid, at the time of the hearing, but on finding
24 that the material allegations of the petition are true, the
25 court shall order that no liquor, alcohol or malt or brewed
26 beverage shall be manufactured, sold, offered for sale,
27 transported, bartered or furnished, or stored in bond, or stored
28 for hire in such room, house, building, structure, boat,
29 vehicle, or place, or any part thereof.

30 * * *

1 Section 17. Section 802(e) of the act is amended to read:

2 Section 802. Moneys Paid Into The State Stores Fund for Use
3 of the Commonwealth.--* * *

4 (e) Annually, the General Assembly shall make an
5 appropriation from the State Stores Fund to provide for the
6 operational expenses of the enforcement [bureau] authority.

7 * * *

8 Section 18. (a) The sum of \$17,500,000, or as much thereof
9 as may be necessary, is hereby appropriated from The State
10 Stores Fund for the fiscal year July 1, 2006, to June 30, 2007,
11 to the enforcement authorities to carry out the provisions of
12 this act. The funds appropriated shall be distributed among the
13 enforcement authorities as provided for in subsection (b).

14 (b) On July 1, 2006, and each July 1 thereafter, the
15 Pennsylvania Liquor Control Board shall distribute the moneys
16 referred to in subsection (a) to each county in this
17 Commonwealth on a pro rata basis which reflects the percentage
18 of all existing retail and wholesale licenses and special
19 occasion permits issued in the county during the previous 12-
20 month period to the total of said licenses existing and special
21 occasion permits issued in the same time period within this
22 Commonwealth. The counties shall distribute the moneys to those
23 municipalities which have existing retail and wholesale licenses
24 and special occasion permits issued on a pro rata basis, which
25 reflects the number of the retail and wholesale licenses and
26 special occasion permits in a municipality during the preceding
27 12-month period to the total number of said licenses and permits
28 issued in the county. In those municipalities that are not
29 served by municipal and/or regional police departments, those
30 funds shall be dispersed to the Pennsylvania State Police.

1 Section 19. This act shall take effect in 60 days.