

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 11 Session of 2011

INTRODUCED BY TURZAI, KILLION, MUSTIO, SAYLOR, CHRISTIANA, AUMENT, BEAR, BLOOM, CREIGHTON, DAY, DUNBAR, ELLIS, EVANKOVICH, GABLER, GILLEN, GILLESPIE, GINGRICH, GROVE, HARRIS, HELM, KNOWLES, KRIEGER, LAWRENCE, MALONEY, MARSICO, METCALFE, MILLER, MOUL, OBERLANDER, PERRY, QUIGLEY, RAPP, REESE, ROAE, ROCK, SACCONI, SCHRODER, SIMMONS, SONNEY, STEVENSON, SWANGER, TALLMAN AND VULAKOVICH, SEPTEMBER 13, 2011

REFERRED TO COMMITTEE ON LIQUOR CONTROL, SEPTEMBER 13, 2011

AN ACT

1 Amending the act of April 12, 1951 (P.L.90, No.21), entitled, as
 2 reenacted, "An act relating to alcoholic liquors, alcohol and
 3 malt and brewed beverages; amending, revising, consolidating
 4 and changing the laws relating thereto; regulating and
 5 restricting the manufacture, purchase, sale, possession,
 6 consumption, importation, transportation, furnishing, holding
 7 in bond, holding in storage, traffic in and use of alcoholic
 8 liquors, alcohol and malt and brewed beverages and the
 9 persons engaged or employed therein; defining the powers and
 10 duties of the Pennsylvania Liquor Control Board; providing
 11 for the establishment and operation of State liquor stores,
 12 for the payment of certain license fees to the respective
 13 municipalities and townships, for the abatement of certain
 14 nuisances and, in certain cases, for search and seizure
 15 without warrant; prescribing penalties and forfeitures;
 16 providing for local option, and repealing existing laws,"
 17 further providing for enforcement; providing for the
 18 privatization of sales of wine and spirits in this
 19 Commonwealth through abolition of the State Liquor Stores,
 20 through establishment of a franchise and license system for
 21 sale of wine and spirits and through imposition of a tax on
 22 wine, spirits and beer; and making a related repeal.

23 The General Assembly of the Commonwealth of Pennsylvania

24 hereby enacts as follows:

25 Section 1. Section 102 of the act of April 12, 1951 (P.L.90,

1 No.21), known as the Liquor Code, reenacted and amended June 29,
2 1987 (P.L.32, No.14), is amended by adding a definition to read:

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

6 * * *

7 "Municipal police department" shall mean a police department
8 of a county, city, borough, town or township.

9 * * *

10 Section 2. Section 104(c) and (d) of the act, amended
11 December 7, 1990 (P.L.662, No.160) and December 20, 1996
12 (P.L.1513, No.196), are amended to read:

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

14 (c) Except as otherwise expressly provided, the purpose of
15 this act is to prohibit the manufacture of and transactions in
16 liquor, alcohol and malt or brewed beverages which take place in
17 this Commonwealth, except by and under the control of the board
18 as herein specifically provided, and every section and provision
19 of the act shall be construed accordingly; to provide a
20 structure in this Commonwealth for a distribution system,
21 including the [establishment of Pennsylvania liquor stores and]
22 licensing of wine and spirits wholesalers, wine and spirits
23 retailers, importing distributors and distributors; and to
24 preserve manufacturers of liquor and alcohol and malt and brewed
25 beverages selling those products within this Commonwealth. The
26 provisions of this act dealing with the manufacture,
27 importation, sale, distribution and disposition of liquor,
28 alcohol and malt or brewed beverages within the Commonwealth
29 through [the instrumentality of the board,] licensees and
30 otherwise, provide the means by which such control shall be made

1 effective. This act shall not be construed as forbidding,
2 affecting or regulating any transaction which is not subject to
3 the legislative authority of this Commonwealth.

4 (d) The provisions of this act are intended to create a
5 system for distribution [that shall include the fixing of prices
6 for] of liquor and alcohol and controls placed on prices for
7 malt and brewed beverages, and each of which shall be construed
8 as integral to the preservation of the system, without which
9 system the Commonwealth's control of the sale of liquor and
10 alcohol and malt and brewed beverages and the Commonwealth's
11 promotion of its policy of temperance and responsible conduct
12 with respect to alcoholic beverages would not be possible.

13 * * *

14 Section 3. Section 207(a), (b), (c) and (j) of the act,
15 amended November 30, 2004 (P.L.1727, No.221) and December 8,
16 2004 (P.L.1810, No.239), are amended to read:

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

19 [(a) To buy, import or have in its possession for sale and
20 sell liquor, alcohol, corkscrews, wine and liquor accessories,
21 trade publications, gift cards, gift certificates, wine- or
22 liquor-scented candles and wine glasses in the manner set forth
23 in this act: Provided, however, That all purchases shall be made
24 subject to the approval of the State Treasurer, or his
25 designated deputy. The board shall buy liquor and alcohol at the
26 lowest price and in the greatest variety reasonably obtainable.]

27 (b) To control the manufacture, possession, sale,
28 consumption, importation, use, storage, transportation and
29 delivery of liquor, alcohol and malt or brewed beverages in
30 accordance with the provisions of this act[, and to fix the

1 wholesale and retail prices at which liquors and alcohol shall
2 be sold at Pennsylvania Liquor Stores. Prices shall be
3 proportional with prices paid by the board to its suppliers and
4 shall reflect any advantage obtained through volume purchases by
5 the board. The board may establish a preferential price
6 structure for wines produced within this Commonwealth for the
7 promotion of such wines, as long as the price structure is
8 uniform within each class of wine purchased by the board. The
9 board shall require each Pennsylvania manufacturer and each
10 nonresident manufacturer of liquors, other than wine, selling
11 such liquors to the board, which are not manufactured in this
12 Commonwealth, to make application for and be granted a permit by
13 the board before such liquors not manufactured in this
14 Commonwealth shall be purchased from such manufacturer. Each
15 such manufacturer shall pay for such permit a fee which, in the
16 case of a manufacturer of this Commonwealth, shall be equal to
17 that required to be paid, if any, by a manufacturer or
18 wholesaler of the state, territory or country of origin of the
19 liquors, for selling liquors manufactured in Pennsylvania, and
20 in the case of a nonresident manufacturer, shall be equal to
21 that required to be paid, if any, in such state, territory or
22 country by Pennsylvania manufacturers doing business in such
23 state, territory or country. In the event that any such
24 manufacturer shall, in the opinion of the board, sell or attempt
25 to sell liquors to the board through another person for the
26 purpose of evading this provision relating to permits, the board
27 shall require such person, before purchasing liquors from him or
28 it, to take out a permit and pay the same fee as hereinbefore
29 required to be paid by such manufacturer. All permit fees so
30 collected shall be paid into the State Stores Fund. The board

1 shall not purchase any alcohol or liquor fermented, distilled,
2 rectified, compounded or bottled in any state, territory or
3 country, the laws of which result in prohibiting the importation
4 therein of alcohol or liquor, fermented, distilled, rectified,
5 compounded or bottled in Pennsylvania.

6 (c) To determine the municipalities within which
7 Pennsylvania Liquor Stores shall be established and the
8 locations of the stores within such municipalities].

9 * * *

10 [(j) By regulation, to provide for the use of a computerized
11 referral system to assist consumers in locating special items at
12 Pennsylvania Liquor Stores and for the use of electronic
13 transfer of funds and credit cards for the purchase of liquor
14 and alcohol at Pennsylvania Liquor Stores.]

15 * * *

16 Section 4. Section 208 of the act is amended to read:

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

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

24 (b) The duties and conduct of the officers and employes of
25 the board.

26 [(c) The purchase, as provided in this act, of liquor and
27 alcohol, and its supply to Pennsylvania Liquor Stores.

28 (d) The classes, varieties and brands of liquor and alcohol
29 to be kept and sold in Pennsylvania Liquor Stores. In making
30 this determination the board shall meet not less than twice a

1 year.

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

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

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

9 (h) The issuance of licenses and permits and the conduct,
10 management, sanitation and equipment of places licensed or
11 included in permits.

12 [(i) The place and manner of depositing the receipts of
13 Pennsylvania Liquor Stores and the transmission of balances to
14 the Treasury Department through the Department of Revenue.

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

21 Section 4.1. Section 211(a) of the act, amended October 5,
22 1994 (P.L.537, No.80), is amended to read:

23 Section 211. Enforcement.--(a) There is created within the
24 Pennsylvania State Police a Bureau of Liquor Control Enforcement
25 [which]. The enforcement bureau and municipal police departments
26 shall be responsible for enforcing this act and any regulations
27 promulgated pursuant thereto. Officers and investigators
28 assigned to the bureau or a municipal police department shall
29 have the power and their duty shall be:

30 (1) To investigate whenever there are reasonable grounds to

1 believe liquor, alcohol or malt or brewed beverages are being
2 sold on premises not licensed under the provisions of this act.
3 If the investigation produces evidence of the unlawful sale of
4 liquor or malt or brewed beverages or any other violation of the
5 provisions of this act, the officer involved in the
6 investigation shall institute criminal proceedings against the
7 person or persons believed to have been criminally liable, as
8 otherwise provided by law or rule of court.

9 (2) To arrest on view, except in private homes, without
10 warrant, any person actually engaged in the unlawful sale,
11 importation, manufacture or transportation or having unlawful
12 possession of liquor, alcohol or malt or brewed beverages
13 contrary to the provisions of this act or any other law of this
14 Commonwealth or any person whom the officer/investigator, while
15 in the performance of his assigned duties under and pursuant to
16 this act and any regulations promulgated under this act,
17 observes to be in violation of any of the following provisions:

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

20 18 Pa.C.S. § 3304 (relating to criminal mischief).

21 18 Pa.C.S. § 4101 (relating to forgery).

22 18 Pa.C.S. § 5503 (relating to disorderly conduct).

23 18 Pa.C.S. § 5505 (relating to public drunkenness and
24 similar misconduct).

25 18 Pa.C.S. § 5512 (relating to lotteries, etc.).

26 18 Pa.C.S. § 5513 (relating to gambling devices,
27 gambling, etc.).

28 18 Pa.C.S. § 5514 (relating to pool selling and
29 bookmaking).

30 18 Pa.C.S. § 6307 (relating to misrepresentation of age

1 to secure liquor or malt or brewed beverages).

2 18 Pa.C.S. § 6308 (relating to purchase, consumption,
3 possession or transportation of liquor or malt or brewed
4 beverages).

5 18 Pa.C.S. § 6309 (relating to representing that minor is
6 of age).

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

9 18 Pa.C.S. § 6310.3 (relating to carrying a false
10 identification card).

11 (3) Upon reasonable and probable cause, to search for and to
12 seize, without warrant or process, except in private homes, any
13 liquor, alcohol or malt or brewed beverages unlawfully
14 possessed, manufactured, sold, imported or transported and any
15 stills, equipment, materials, utensils, vehicles, boats,
16 vessels, animals, aircraft, or any of them, which are or have
17 been used in the unlawful manufacture, sale, importation or
18 transportation of the same. Such liquor, alcohol, malt or brewed
19 beverages, stills, equipment, materials, utensils, vehicles,
20 boats, vessels, animals or aircraft so seized shall be disposed
21 of as hereinafter provided.

22 (4) To investigate and issue citations for any violations of
23 this act or any laws of this Commonwealth relating to liquor,
24 alcohol or malt or brewed beverages, or any regulations of the
25 board adopted pursuant to such laws or any violation of any laws
26 of this Commonwealth or of the Federal Government, relating to
27 the payment of taxes on liquor, alcohol or malt or brewed
28 beverages by any licensee, his officers, servants, agents or
29 employes.

30 (5) To arrest any person who engages in the following

1 offenses when the said offenses are committed against the
2 officer/investigator or any person accompanying and assisting
3 the officer/investigator while the said officer/investigator is
4 performing assigned duties under and pursuant to this act and
5 any regulations promulgated under this act:

6 18 Pa.C.S. § 2701 (relating to simple assault).

7 18 Pa.C.S. § 2702 (relating to aggravated assault).

8 18 Pa.C.S. § 2705 (relating to recklessly endangering
9 another person).

10 18 Pa.C.S. § 2706 (relating to terroristic threats).

11 18 Pa.C.S. § 2709 (relating to harassment [and
12 stalking]).

13 18 Pa.C.S. § 5104 (relating to resisting arrest or other
14 law enforcement).

15 18 Pa.C.S. § 5501 (relating to riot).

16 (6) To serve and execute warrants issued by the proper
17 authorities for offenses referred to in this subsection and to
18 serve subpoenas.

19 (7) To arrange for the administration of chemical tests of
20 breath, blood or urine, including preliminary breath tests, to
21 persons for the purpose of determining the alcoholic content of
22 blood or the presence of a controlled substance by qualified
23 personnel of a State or local police department or qualified
24 personnel of a clinical laboratory licensed and approved by the
25 Department of Health.

26 * * *

27 Section 5. Section 213 of the act, amended April 29, 1994
28 (P.L.212, No.30), is repealed:

29 [Section 213. Bureau of Consumer Relations.--The board shall
30 establish a Bureau of Consumer Relations which shall be

1 responsible for handling all consumer complaints and
2 suggestions. The bureau shall develop a system-wide program for
3 investigating all complaints and suggestions and implementing
4 improvements into the State store system. The management of the
5 bureau shall be vested in a director, who shall be assisted by
6 such other personnel as the board deems necessary.]

7 Section 6. Section 215 of the act, amended June 25, 2010
8 (P.L.217, No.35), is repealed:

9 [Section 215. Wine and Spirits Marketing.--(e) The board is
10 authorized to participate in or sponsor wine and spirits events
11 for the purpose of educating consumers as to the wines and
12 spirits available in this Commonwealth. The wine and spirits to
13 be used for the event may be acquired through the State store
14 system or may be donated from outside this Commonwealth.
15 Participation in the tastings may be conditioned on the purchase
16 of a ticket to the event. The event may include events occurring
17 on premises licensed by the board, and the board may sell wine
18 and spirits for off-premises consumption in an area designated
19 by the board for such sale.]

20 Section 7. Section 301 of the act, amended July 9, 1976
21 (P.L.527, No.125), is repealed:

22 [Section 301. Board to Establish State Liquor Stores.--(a)
23 The board shall establish, operate and maintain at such places
24 throughout the Commonwealth as it shall deem essential and
25 advisable, stores to be known as "Pennsylvania Liquor Stores,"
26 for the sale of liquor and alcohol in accordance with the
27 provisions of and the regulations made under this act; except
28 that no store not so already located shall be located within
29 three hundred feet of any elementary or secondary school, nor
30 within a dry municipality without there first having been a

1 referendum approving such location. When the board shall have
2 determined upon the location of a liquor store in any
3 municipality, it shall give notice of such location by public
4 advertisement in two newspapers of general circulation. In
5 cities of the first class, the location shall also be posted for
6 a period of at least fifteen days following its determination by
7 the board as required in section 403(g) of this act. The notice
8 shall be posted in a conspicuous place on the outside of the
9 premises in which the proposed store is to operate or, in the
10 event that a new structure is to be built in a similarly visible
11 location. If, within five days after the appearance of such
12 advertisement, or of the last day upon which the notice was
13 posted, fifteen or more taxpayers residing within a quarter of a
14 mile of such location, or the City Solicitor of the city of the
15 first class, shall file a protest with the court of common pleas
16 of the county averring that the location is objectionable
17 because of its proximity to a church, a school, or to private
18 residences, the court shall forthwith hold a hearing affording
19 an opportunity to the protestants and to the board to present
20 evidence. The court shall render its decision immediately upon
21 the conclusion of the testimony and from the decision there
22 shall be no appeal. If the court shall determine that the
23 proposed location is undesirable for the reasons set forth in
24 the protest, the board shall abandon it and find another
25 location. The board may establish, operate and maintain such
26 establishments for storing and testing liquors as it shall deem
27 expedient to carry out its powers and duties under this act.

28 (b) The board may lease the necessary premises for such
29 stores or establishments, but all such leases shall be made
30 through the Department of General Services as agent of the

1 board. The board, through the Department of General Services,
2 shall have authority to purchase such equipment and appointments
3 as may be required in the operation of such stores or
4 establishments.]

5 Section 7.1. Sections 302 and 303 of the act are repealed:

6 [Section 302. Selection of Personnel.--Officers and employes
7 of the board, except as herein otherwise provided, shall be
8 appointed and employed subject to the provisions of the Civil
9 Service Act.

10 Section 303. Management of Pennsylvania Liquor Stores.--
11 Every Pennsylvania Liquor Store shall be conducted by a person
12 appointed in the manner provided in the Civil Service Act who
13 shall be known as the "manager" and who shall, under the
14 directions of the board, be responsible for carrying out the
15 provisions of this act and the regulations adopted by the board
16 under this act as far as they relate to the conduct of such
17 stores.]

18 Section 7.2. Section 304 of the act, amended December 8,
19 2004 (P.L.1810, No.239), is repealed:

20 [Section 304. When Sales May Be Made at Pennsylvania Liquor
21 Stores.--(a) Except as provided for in subsection (b), every
22 Pennsylvania Liquor Store shall be open for business week days,
23 except holidays as that term is defined in section 102. The
24 board may, with the approval of the Governor, temporarily close
25 any store in any municipality.

26 (b) Certain Pennsylvania Liquor Stores operated by the board
27 shall be open for Sunday retail sales between the hours of noon
28 and five o'clock postmeridian, except that no Sunday sales shall
29 occur on Easter Sunday or Christmas day. The board shall open up
30 to twenty-five per centum of the total number of Pennsylvania

1 Liquor Stores at its discretion for Sunday sales as provided for
2 in this subsection. The board shall submit yearly reports to the
3 Appropriations and the Law and Justice Committees of the Senate
4 and the Appropriations and the Liquor Control Committees of the
5 House of Representatives summarizing the total dollar value of
6 sales under this section.]

7 Section 7.3. Section 305 of the act, amended May 8, 2003
8 (P.L.1, No.1), July 17, 2003 (P.L.63, No.15), November 30, 2004
9 (P.L.1727, No.221), December 8, 2004 (P.L.1810, No.239) and July
10 6, 2005 (P.L.135, No.39), is repealed:

11 [Section 305. Sales by Pennsylvania Liquor Stores.--(a) The
12 board shall in its discretion determine where and what classes,
13 varieties and brands of liquor and alcohol it shall make
14 available to the public and where such liquor and alcohol will
15 be sold. Every Pennsylvania Liquor Store shall be authorized to
16 sell combination packages. If a person desires to purchase a
17 class, variety or brand of liquor or alcohol not currently
18 available from the board, he or she may place a special order
19 for such item so long as the order is for two or more bottles.
20 The board may require a reasonable deposit from the purchaser as
21 a condition for accepting the order. The customer shall be
22 notified immediately upon the arrival of the goods.

23 In computing the retail price of such special orders for
24 liquor or alcohol, the board shall not include the cost of
25 freight or shipping before applying the mark-up and taxes but
26 shall add the freight or shipping charges to the price after the
27 mark-up and taxes have been applied.

28 Unless the customer pays for and accepts delivery of any such
29 special order within ten days after notice of arrival, the store
30 may place it in stock for general sale and the customer's

1 deposit shall be forfeited.

2 (b) Every Pennsylvania Liquor Store shall sell liquors at
3 wholesale to hotels, restaurants, clubs, and railroad, pullman
4 and steamship companies licensed under this act; and, under the
5 regulations of the board, to pharmacists duly licensed and
6 registered under the laws of the Commonwealth, and to
7 manufacturing pharmacists, and to reputable hospitals approved
8 by the board, or chemists. Sales to licensees shall be made at a
9 price that includes a discount of ten per centum from the retail
10 price. The board may sell to registered pharmacists only such
11 liquors as conform to the Pharmacopoeia of the United States,
12 the National Formulary, or the American Homeopathic
13 Pharmacopoeia. The board may sell at special prices under the
14 regulations of the board, to United States Armed Forces
15 facilities which are located on United States Armed Forces
16 installations and are conducted pursuant to the authority and
17 regulations of the United States Armed Forces. All other sales
18 by such stores shall be at retail. A person entitled to purchase
19 liquor at wholesale prices may purchase the liquor at any
20 Pennsylvania Liquor Store upon tendering cash, check or credit
21 card for the full amount of the purchase. For this purpose, the
22 board shall issue a discount card to each licensee identifying
23 such licensee as a person authorized to purchase liquor at
24 wholesale prices. Such discount card shall be retained by the
25 licensee. The board may contract through the Commonwealth
26 bidding process for delivery to wholesale licensees at the
27 expense of the licensee receiving the delivery.

28 (c) Whenever any checks issued in payment of liquor or
29 alcohol purchased from State Liquor Stores by persons holding
30 wholesale purchase permit cards issued by the board shall be

1 returned to the board as dishonored, the board shall charge a
2 fee of five dollars per hundred dollars or fractional part
3 thereof, plus all protest fees, to the maker of such check
4 submitted to the board. Failure to pay the face amount of the
5 check in full and all charges thereon as herein required within
6 ten days after demand has been made by the board upon the maker
7 of the check shall be cause for revocation or suspension of any
8 license issued by the board to the person who issued such check
9 and the cancellation of the wholesale purchase permit card held
10 by such person.

11 (d) No liquor or alcohol package shall be opened on the
12 premises of a Pennsylvania Liquor Store. No manager or other
13 employe of the board employed in a Pennsylvania Liquor Store
14 shall allow any liquor or alcohol to be consumed on the store
15 premises, nor shall any person consume any liquor or alcohol on
16 such premises, except liquor and alcohol which is part of a
17 tasting conducted pursuant to the board's regulations. Such
18 tastings may also be conducted in the board's headquarters or
19 regional offices.

20 (e) The board may sell tax exempt alcohol to the
21 Commonwealth of Pennsylvania and to persons to whom the board
22 shall, by regulation to be promulgated by it, issue special
23 permits for the purchase of such tax exempt alcohol.

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

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

3 (f) Every purchaser of liquor, alcohol, corkscrews, wine or
4 liquor accessories, trade publications, gift cards, gift
5 certificates, wine- or liquor-scented candles or wine glasses
6 from a Pennsylvania Liquor Store shall receive a numbered
7 receipt which shall show the price paid therefor and such other
8 information as the board may prescribe. Copies of all receipts
9 issued by a Pennsylvania Liquor Store shall be retained by and
10 shall form part of the records of such store.

11 (g) The board is hereby authorized and empowered to adopt
12 and enforce appropriate rules and regulations to insure the
13 equitable wholesale and retail sale and distribution, through
14 the Pennsylvania Liquor Stores, of available liquor and alcohol
15 at any time when the demand therefor is greater than the supply.

16 (h) Every Pennsylvania Liquor Store shall sell gift
17 certificates and gift cards which may be redeemed for any
18 product sold by the board. In addition, the board may sell
19 corkscrews, wine and liquor accessories, wine- or liquor-scented
20 candles, trade publications and wine sleeves at Pennsylvania
21 Liquor Stores.

22 (i) Notwithstanding any other provision of law to the
23 contrary, the board may sell wine in containers having a
24 capacity of six liters or less.]

25 Section 7.4. Section 306 of the act is repealed:

26 [Section 306. Audits by Auditor General.--(a) It shall be
27 the duty of the Department of the Auditor General to make all
28 audits which may be necessary in connection with the
29 administration of the financial affairs of the board and the
30 Pennsylvania Liquor Stores operated and maintained by the board.

1 Such audits shall be conducted in accordance with generally
2 accepted accounting principles. Nothing herein shall be
3 construed to require the Auditor General to conduct biannual
4 inventories.

5 (b) At least one audit shall be made each year of the
6 affairs of the board, and all collections made by the
7 Pennsylvania Liquor Stores shall be audited quarterly. A copy of
8 the annual audit of the affairs of the board shall be submitted
9 to each member of the General Assembly.

10 (c) Special audits of the affairs of the board and the
11 Pennsylvania Liquor Stores maintained and operated by the board
12 may be made whenever they may, in the judgment of the Auditor
13 General, appear necessary, and shall be made whenever the
14 Governor shall call upon the Auditor General to make them.

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

18 (e) Unless the Department of the Auditor General shall
19 neglect or refuse to make annual, quarterly or special Audits,
20 as hereinabove required, it shall be unlawful for the board to
21 expend any money appropriated to it by the General Assembly for
22 any audit of its affairs, except for the payment of the
23 compensation and expenses of such auditors as are regularly
24 employed as part of the administrative staff of the board.]

25 Section 8. The act is amended by adding an article to read:

26 ARTICLE III-A

27 WINE AND SPIRITS DISTRIBUTION

28 SUBARTICLE A

29 GENERAL PROVISIONS

30 Section 301-A. Scope of article.

1 This article relates to liquor distribution privatization.

2 Section 302-A. Legislative intent.

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

5 (1) The sale of liquor at wholesale or retail should no
6 longer be by the Commonwealth, but rather by private persons
7 licensed and regulated by the Commonwealth.

8 (2) The health and welfare of the citizens of this
9 Commonwealth will be adequately protected by the regulation
10 of private licensees through strict enforcement of laws and
11 rules relating to the purchase and sale of liquor.

12 (3) The sale of liquor through wholesale and retail
13 licensees will improve customer service, selection and price.

14 (4) The operation and efficiency of State government
15 will be improved.

16 (b) Purpose.--The General Assembly recognizes the following
17 public policy purposes and declares that the following
18 objectives of the Commonwealth are to be served by this article:

19 (1) The authorization of wine and spirits wholesale and
20 retail licenses is intended to continue and enhance the
21 generation of revenue to the Commonwealth related to the
22 wholesale and retail sale of liquor.

23 (2) The transition to a privately owned and operated
24 wholesale and retail liquor distribution system shall be
25 accomplished in a manner that protects the public through
26 regulation and policing of all activities involved in the
27 wholesale and retail sale of liquor.

28 (3) The establishment of wine and spirits wholesale and
29 retail licenses is intended to provide broad economic
30 opportunities to the citizens of this Commonwealth and shall

1 be implemented in such a manner as to prevent monopolization
2 by establishing reasonable restrictions on the control of
3 wholesale and retail licensees.

4 (4) The transition to a privately owned and operated
5 wholesale and retail liquor distribution system shall be
6 accomplished in a manner that creates incentives and
7 facilitates the transition of Pennsylvania Liquor Store and
8 other effected employees to other employment.

9 (5) The transition to a privately owned and operated
10 wholesale and retail liquor distribution system shall be
11 accomplished in a manner that minimizes disruption of
12 services to the public.

13 (6) With the transition to a privately owned and
14 operated wholesale and retail liquor distribution system, it
15 is necessary to enhance alcohol education efforts to ensure
16 against the illegal sale of alcohol, prevent and combat the
17 illegal consumption of alcohol by minors and visibly
18 intoxicated persons, and discourage the intemperate use of
19 alcohol.

20 (7) Participation in the wholesale and retail sale of
21 liquor by any wholesale or retail licensee shall be deemed a
22 privilege, conditioned upon the proper and continued
23 qualification of the licensee and upon the discharge of the
24 affirmative responsibility of each licensee to provide the
25 department and the board with assistance and information
26 necessary to assure that the policies declared by this
27 article are achieved.

28 Section 303-A. Definitions.

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

1 context clearly indicates otherwise:

2 "Adjusted store net profit factor." The net profit factor
3 for each Pennsylvania Liquor Store divided by the number of
4 retail zones which the department assigns to each Pennsylvania
5 Liquor Store for purposes of determining the minimum bid.

6 "Affiliate" or "person affiliated with." A person that
7 directly or indirectly, through one or more intermediaries,
8 controls, is controlled by or is under common control with a
9 specified person.

10 "Agency." The Pennsylvania Higher Education Assistance
11 Agency.

12 "Bid-rigging." The concerted activity of two or more persons
13 to determine in advance, or attempt to influence, the selected
14 bidder for a wine and spirits retail license. The term includes
15 any of the following:

16 (1) Conspiring or cooperating in the preparation of
17 bids, including the determination of bid amounts.

18 (2) Submitting prearranged bids, agreed-upon higher or
19 lower bids or other complementary bids.

20 (3) Agreeing to submit identical bids.

21 (4) Agreeing to coordinate the retail zones in which a
22 person will or will not submit a bid.

23 (5) Agreeing to share profits with or give an equity
24 interest to a person who does not submit the high bid.

25 (6) Agreeing to set up territories to restrict
26 competition.

27 (7) Agreeing not to submit a bid.

28 "Blended brand valuation." For any particular brand of
29 liquor, the sum of the wholesale profit margin on each product
30 of a brand.

1 "Brand of liquor." A liquor product or series of liquor
2 products produced by a single manufacturer.

3 "Change in control." For purposes of wholesale or retail
4 licensees, the acquisition by a person or group of persons
5 acting in concert of more than 20% of a licensee's securities or
6 other ownership interests, with the exception of any ownership
7 interest of the person that existed at the time of initial
8 licensing, or more than 20% of the securities or other ownership
9 interests of a corporation or other legal entity which owns,
10 directly or indirectly, at least 20% of the securities or other
11 ownership interests of the licensee.

12 "Commission." The State Civil Service Commission.

13 "Controlling interest." As follows:

14 (1) For a publicly traded legal entity, an interest in a
15 legal entity, applicant or licensee whereby a person's sole
16 voting rights under State law or corporate articles or bylaws
17 entitles the person to elect or appoint one or more of the
18 members of the board of directors or other governing board or
19 the ownership, directly or indirectly, of 5% or more of the
20 securities of the publicly traded corporation.

21 (2) For a privately held corporation, partnership,
22 limited liability company or other form of privately held
23 legal entity, the holding of any securities in the legal
24 entity.

25 "Countywide adjusted net profit factor." Fifty percent of
26 the sales to unlicensed customers minus the taxes and cost of
27 goods sold for all existing Pennsylvania Liquor Stores located
28 in a given county divided by the existing number of Pennsylvania
29 Liquor Stores located in that county.

30 "Department." The Department of General Services of the

1 Commonwealth.

2 "Displaced employee." A full-time employee of the board
3 whose employment is terminated as a sole and direct result of
4 the board's decision to cease wholesale and retail operations
5 under this article. The term shall not include a person who is
6 terminated for cause or who resigns, is furloughed or is
7 otherwise separated from employment for any other reason.

8 "Institution of higher education." A public or private
9 institution within this Commonwealth authorized by the
10 Department of Education to grant a certificate, associate degree
11 or higher degree. The term includes a branch or satellite campus
12 of the institution.

13 "Licensed premises" or "controlled area." The areas approved
14 by the department or the board to be utilized by a wholesale or
15 retail licensee for the distribution of liquor.

16 "Net profit factor." Fifty percent of the sales to
17 unlicensed customers minus taxes and cost of goods sold for each
18 existing Pennsylvania Liquor Store for the most recent available
19 12-month period.

20 "Retail acquisition factor." As follows:

21 (1) For Class A wine and spirits retail licenses, the
22 term shall mean a factor of five applied to the adjusted
23 store net profit factor for each retail zone.

24 (2) For Class B wine and spirits retail licenses, the
25 term shall mean a factor of 2.25 applied to the Statewide
26 adjusted net profit factor of each retail zone.

27 "Retail licensee." A person that holds a wine and spirits
28 retail license under this article.

29 "Retail zone." An area, as established by the department,
30 for which a wine and spirits retail license authorizes the

1 distribution of wine and spirits. The location of each
2 Pennsylvania Liquor Store shall be in a separate zone.

3 "Variable pricing." For purposes of the wholesale sale of
4 liquor, any disparity in the price of an item sold to one
5 licensee as compared to the price of the same item to another
6 licensee or a licensee of a different classification. The term
7 shall not include discounts for volume purchases.

8 "Wholesale acquisition factor." A factor of 2.5 applied to
9 the wholesale profit margin of a brand of liquor in determining
10 the wholesale license fee.

11 "Wholesale licensee." A person that holds a wine and spirits
12 wholesale license under this article.

13 "Wholesale profit margin." For any particular liquor
14 product, 20% of the total of costs of goods sold of the product
15 over the most recent 12-month period for which information is
16 available.

17 "Wine and spirits retail license." A license issued by the
18 department or the board authorizing a person to sell and
19 distribute wine and spirits to the public for off-premises
20 consumption.

21 "Wine and spirits wholesale license." A license issued by
22 the department or the board authorizing a person to sell and
23 distribute liquor on a wholesale basis to retail licensees and
24 other licensees under this act.

25 Section 304-A. Reports to General Assembly.

26 (a) Annual report.--One year after the effective date of
27 this section, and each year thereafter, the board, in
28 cooperation with the department, shall submit to the General
29 Assembly an annual report on wholesale and retail alcohol sales
30 in this Commonwealth and the implementation of this article,

1 including the total revenue earned by the issuance of licenses
2 under this article for the wholesale and retail sale of liquor
3 in this Commonwealth.

4 (b) Review.--Five years following the effective date of this
5 section, the board, in cooperation with the department, shall
6 conduct a thorough review of the operations of wholesale
7 licensees and retail licensees. The board, in cooperation with
8 the department, shall submit a copy of this review and any
9 recommendations relating to the expansion of existing retail
10 zones to the General Assembly. The same review shall be
11 conducted ten years following the effective date of this
12 section.

13 Section 305-A. Powers and duties of the department and the
14 board.

15 (a) Orderly transition.--It shall be the power and duty of
16 the department and the board to implement this article and
17 effect an orderly transition to a privately owned and operated
18 wholesale and retail liquor distribution system in this
19 Commonwealth in a manner that is consistent with this article
20 and the laws of this Commonwealth and which maintains a
21 continuous level of service to the public. The department shall
22 be primarily responsible to administer the transition to a
23 privately owned wholesale and retail liquor distribution system.
24 The board shall be primarily responsible for enforcement of this
25 article and this act on the liquor distribution operations of
26 private wholesale and retail licensees and the administration of
27 this article once the privatization transition is completed.

28 (b) Specific duties.--Within 180 days of the effective date
29 of this section, the department shall utilize the authority
30 provided for under section 306-A and any other powers of the

1 department and with the full cooperation and assistance of the
2 board, shall, at a minimum, have completed all of the following
3 duties:

4 (1) Establishment of an application process and schedule
5 for the investigation and award of wine and spirits wholesale
6 licenses under this article.

7 (2) Establishment of a blended brand valuation for each
8 brand of liquor sold by Pennsylvania Liquor Stores in this
9 Commonwealth.

10 (3) Establishment of retail zones to be utilized by the
11 department in conducting the auction of Class A wine and
12 spirits retail licenses under this article.

13 (4) Assignment of the 500 Class B wine and spirits
14 retail licenses to counties across this Commonwealth,
15 excluding counties of the first class, to be utilized by the
16 department in conducting Class B auctions.

17 (5) Establishment of a process for the auction of wine
18 and spirits retail licenses under this article.

19 (6) Establishment of minimum bid amounts for each wine
20 and spirits retail license to be auctioned under this
21 article.

22 (7) Establishment of procedures and standards governing
23 the relationship between wholesale licensees and
24 manufacturers and the ability and terms upon which that
25 relationship may be terminated.

26 Section 306-A. Temporary regulations.

27 (a) Promulgation.--In order to facilitate the prompt
28 implementation of this article, regulations promulgated by the
29 department shall be deemed temporary regulations which shall
30 expire no later than three years following the effective date of

1 this section. The department may promulgate temporary
2 regulations not subject to:

3 (1) Sections 201, 202 and 203 of the act of July 31,
4 1968 (P.L.769, No.240), referred to as the Commonwealth
5 Documents Law.

6 (2) The act of June 25, 1982 (P.L.633, No.181), known as
7 the Regulatory Review Act.

8 (b) Expiration.--The authority provided to the department to
9 adopt temporary regulations under subsection (a) shall expire on
10 January 1, 2014. Regulations adopted after this period shall be
11 promulgated as provided by law.

12 Section 307-A. Order of transition to private distribution
13 system.

14 (a) Wholesale transition.--The department shall transition
15 the board's wholesale distribution function to privately owned
16 and operated wholesale licensees before divesting the board's
17 retail operations. The transition must substantially divest the
18 board of all operations relating to the wholesale distribution
19 of alcohol in this Commonwealth within one year of the effective
20 date of this section.

21 (b) Retail transition.--Twenty-four months following the
22 effective date of this section, the department shall
23 substantially divest the board of all operations relating to the
24 retail sale of alcohol in this Commonwealth. The department may
25 extend this transition period by up to six months by certifying
26 to the President pro tempore of the Senate, the Minority Leader
27 of the Senate, the Speaker of the House of Representatives and
28 the Minority Leader of the House of Representatives that, due to
29 circumstances beyond its control, the department cannot complete
30 the retail transition in the 24-month period. The department

1 shall provide a detailed explanation of the circumstances which
2 cause the delay with its certification to the General Assembly.

3 (c) Prohibition.--Except as necessary to ensure a continuous
4 level of service to the public and subject to section 328-A, the
5 board shall not engage in any wholesale or retail distribution
6 of alcohol within this Commonwealth following completion of the
7 wholesale and retail transitions.

8 (d) Cooperation required.--The board shall fully cooperate
9 with the department in all aspects of implementation of this
10 article and shall provide the department with all records in the
11 possession of the board upon request.

12 SUBARTICLE B

13 PRIVATIZATION OF WHOLESALE LIQUOR DISTRIBUTION

14 Section 308-A. Wholesale divestiture.

15 (a) Authorized wine and spirits wholesale licenses.--

16 (1) One wine and spirits wholesale license may be issued
17 by the department to each successful applicant. The license
18 shall authorize the distribution of the brands of liquor to
19 retail licensees and other licensees authorized to sell or
20 distribute liquor under this act, as proposed by an applicant
21 and approved by the department.

22 (2) Subject to the restrictions enumerated under section
23 313-A, wholesale licensees may distribute more than one brand
24 of liquor under the same wine and spirits wholesale license.

25 (3) Upon application by a wholesale licensee, the board
26 may amend the authorization under a wine and spirits
27 wholesale license to include or exclude additional brands of
28 liquor.

29 (b) Wholesale license fee.--

30 (1) At the time of license issuance, the department

1 shall impose a one-time license fee to be paid by each
2 successful applicant for a wine and spirits wholesale license
3 in an amount equal to the blended brand valuation for each
4 brand of liquor authorized by the license multiplied by the
5 wholesale acquisition factor.

6 (2) (i) Within the time prescribed under section 305-A,
7 the department shall determine and publish as a notice in
8 the Pennsylvania Bulletin the license fee for each brand
9 of liquor sold at Pennsylvania Liquor Stores for a
10 continuous period of at least one year prior to the
11 effective date of this section.

12 (ii) For any brand of liquor that is not sold at
13 Pennsylvania Liquor Stores for a continuous period of one
14 year prior to the effective date of this section and is
15 proposed to be distributed by an applicant for a wine and
16 spirits wholesale license, the department shall determine
17 and publish the applicable license fee by considering the
18 blended brand valuation for the brand from a comparable
19 jurisdiction and applying the wholesale acquisition
20 factor.

21 (iii) In the event that data is not available from a
22 comparable jurisdiction to establish the blended brand
23 valuation for the brand, the department shall determine
24 the license fee by utilizing the license fee from a
25 comparable brand sold at Pennsylvania Liquor Stores.

26 (3) If, at any time during the term of a wine and
27 spirits wholesale license, the wholesale licensee proposes to
28 sell and distribute a new brand of liquor not previously sold
29 in this Commonwealth, the wholesale licensee shall apply to
30 the board for permission to sell the brand and pay an

1 additional license fee determined in accordance with this
2 section.

3 (c) Term.--

4 (1) A wine and spirits wholesale license, after payment
5 of the license fee, shall be in effect unless suspended,
6 revoked or not renewed by the board upon good cause
7 consistent with the license requirements as provided for
8 under this article.

9 (2) The license of a wholesale licensee in good standing
10 shall be renewed every two years consistent with this
11 article.

12 (3) Nothing under this subsection shall be construed to
13 relieve a wholesale licensee of the affirmative duty to
14 notify the board of any changes relating to the status of its
15 license or to any other information contained in the
16 application materials on file with the department or the
17 board.

18 Section 309-A. (Reserved).

19 Section 310-A. Application for wine and spirits wholesale
20 license.

21 (a) Applications.--An application for a wine and spirits
22 wholesale license shall be submitted on a form and in a manner
23 as shall be required by the department.

24 (b) Eligibility.--A person may be eligible to apply for a
25 wine and spirits wholesale license if the person satisfies all
26 of the following:

27 (1) Neither the applicant nor any affiliate of the
28 applicant has applied for or holds a wine and spirits retail
29 license.

30 (2) The applicant, if a corporation, a limited liability

1 company, limited partnership, partnership, association or
2 other legal entity, is organized under the laws of this
3 Commonwealth.

4 (3) The applicant, if a natural person, is a citizen of
5 the United States and a resident of this Commonwealth.

6 (4) Neither the applicant nor any affiliate of the
7 applicant, executive officer, director or general or limited
8 partner of the applicant, or person holding, directly or
9 indirectly, a controlling interest in the applicant has been
10 convicted of a felony or crime identified in subsection
11 (d) (9).

12 (c) Other licenses.--Nothing under this article or act shall
13 be construed to prohibit a properly licensed importing
14 distributor of malt and brewed beverages from applying for and,
15 if approved, being issued a wine and spirits wholesale license.

16 (d) General requirements.--In addition to any other
17 information required under this article or as may be required by
18 the department, the applicant for a wine and spirits wholesale
19 license shall include, at a minimum, the following:

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

21 (2) A statement as to whether the applicant is an
22 individual, corporation, limited liability company, limited
23 partnership, partnership or association and the state of
24 incorporation or organization.

25 (3) The names and residence addresses of each executive
26 officer, director, general or limited partner and person
27 holding a controlling interest in the applicant.

28 (4) If the applicant is an association, the names and
29 residence addresses of the persons constituting the
30 association.

1 (5) A statement of the brands of liquor the applicant
2 proposes to distribute and, for each brand, whether the
3 applicant proposes to engage in wholesale distribution on a
4 Statewide or regional basis.

5 (6) The proposed location and proof of ownership or
6 lease for the wholesale operation, including any proposed
7 warehouses, if available.

8 (7) Floor plans for any facility proposed to be used in
9 wholesale operations and existing design plans for any
10 facility that is planned, but not yet constructed, to the
11 extent they are available.

12 (8) Information disclosing all arrests of the applicant
13 and any affiliate of the applicant, executive officer,
14 director or general or limited partner of the applicant or
15 person holding a controlling interest in the applicant and
16 all citations issued to the same for nonsummary offenses.
17 The information shall include:

18 (i) A brief description of the circumstances
19 surrounding the arrest or issuance of the citation.

20 (ii) The specific offense charged or cited.

21 (iii) The ultimate disposition of the charge or
22 citation, including the details of any dismissal, plea
23 bargain, conviction, sentence, pardon, expungement or
24 order of accelerated rehabilitative disposition.

25 (9) A sworn statement that the applicant and any
26 affiliate of the applicant, executive officer, director or
27 general or limited partner of the applicant or person holding
28 a controlling interest in the applicant have never been
29 convicted:

30 (i) of any crime involving fraud, moral turpitude or

1 racketeering within a period of ten years immediately
2 preceding the date of the application;

3 (ii) of any felony or equivalent crime; or

4 (iii) in any Federal or state jurisdiction,
5 including this Commonwealth, of the violation of any
6 Federal or state liquor law.

7 (10) A statement that the applicant intends to
8 continuously operate as a wholesale licensee for the duration
9 of the license term and to provide a level of service,
10 including product availability, reasonably equivalent to the
11 level of service currently provided by the Commonwealth.

12 (11) A financial statement in a form and containing such
13 information as the department shall prescribe to indicate the
14 applicant's financial capability to operate the wholesale
15 operation and the estimated volume of wholesale business to
16 be conducted annually.

17 (12) (i) A current tax lien certificate issued by the
18 Department of Revenue for the applicant and any affiliate
19 of the applicant, executive officer, director or general
20 or limited partner of the applicant or person holding a
21 controlling interest in the applicant.

22 (ii) Any unpaid taxes identified on a tax lien
23 certificate required to be filed with the application
24 must be paid before the application is considered
25 complete and reviewed by the department.

26 (13) A signature and verification by oath or
27 affirmation, or under penalty of unsworn falsification to
28 authorities, by the applicant, if a natural person, or, when
29 the applicant is a legal entity, a person specifically
30 authorized by the legal entity to sign the application, to

1 which shall be attached written evidence of that authority.

2 (e) Additional information.--An applicant shall have a
3 continuing duty during the application process to provide any
4 other information determined to be appropriate by the
5 department.

6 (f) Amended application.--When a change occurs in any
7 information provided to the department as part of the
8 application process, the applicant shall immediately notify the
9 department of the change and timely provide amended information
10 to the department in a form and manner determined by the
11 department.

12 (g) Application fees and investigative costs.--

13 (1) An application filing fee of \$10,000 shall be due
14 upon application for a wine and spirits wholesale license.

15 (2) The department shall establish, charge and collect
16 fees from an applicant to recover the costs directly related
17 to the department's review and investigation of that
18 applicant's application for a wine and spirits wholesale
19 license. The board shall have the same duty relating to fees
20 as to applications for renewal.

21 Section 311-A. Review and investigation of application.

22 (a) Completeness of application.--

23 (1) (i) The department may not consider an incomplete
24 application and shall notify the applicant in writing if
25 an application is incomplete.

26 (ii) An application shall be considered incomplete
27 if it does not include all applicable fees and all
28 information and accompanying documentation required by
29 the department, including the payment of any unpaid taxes
30 identified on any tax lien certificate required to be

1 filed with the application.

2 (2) A notification of incompleteness shall state the
3 deficiencies in the application that must be corrected prior
4 to consideration of the merits of the application.

5 (3) The applicant shall be afforded a reasonable period
6 of time, as determined by the department, to cure the
7 deficiencies.

8 (4) If the applicant fails to timely cure noticed
9 deficiencies, the application shall be deemed denied by the
10 department without further action.

11 (b) Investigation.--After receipt of an application for a
12 wine and spirits wholesale license and a determination that the
13 application is complete, the department shall conduct an
14 investigation of the application as deemed necessary or
15 desirable. The investigation shall include, and the applicant
16 shall have the burden of demonstrating, at a minimum, the
17 following:

18 (1) The truth and veracity of the information provided
19 in the application.

20 (2) The applicant's cooperation and the cooperation of
21 any affiliate of the applicant, executive officer, director
22 or general or limited partner of the applicant or person
23 holding a controlling interest in the applicant in the
24 application process and with any request by the department or
25 the board for any information deemed necessary for licensure.

26 (3) The good character, integrity and suitability of the
27 applicant and any affiliate of the applicant, executive
28 officer, director or general or limited partner of the
29 applicant or person holding a controlling interest in the
30 applicant.

1 (4) The applicant possesses sufficient financial
2 resources to:

3 (i) Operate as a wholesale licensee.

4 (ii) Pay all taxes due and owing to the
5 Commonwealth.

6 (iii) Assume liability for the safe operation of the
7 wholesale operations.

8 (5) The applicant possesses sufficient business ability
9 and experience to create and maintain a successful and
10 efficient wholesale operation that provides service at a
11 level that is reasonably equivalent to the level of service
12 currently provided in this Commonwealth at the time of
13 enactment of this article.

14 (6) The physical facilities proposed to be used in the
15 applicant's wholesale operations are located and designed in
16 such a manner as to:

17 (i) Assure that all warehouses are located within
18 this Commonwealth.

19 (ii) Exist as a self-contained unit, with limited
20 customer access.

21 (iii) Not have any interior connection with any
22 other business or with any residential building without
23 prior board approval.

24 (iv) Provide adequate security to protect the
25 applicant's inventory from unauthorized sale or
26 diversion.

27 (v) Protect the public interest.

28 (c) Assistance with investigations.--The department may
29 enter into an agreement with the Pennsylvania State Police or
30 the Office of Inspector General to assist the department in the

1 conduct of investigations under this section and to provide for
2 the reimbursement of actual costs incurred for providing the
3 assistance.

4 Section 312-A. Issuance of licenses.

5 (a) Notification.--Upon completion of the investigation
6 under section 311-A, the department shall inform the applicant
7 in writing of its decision to approve or deny the application.

8 (b) Approval.--

9 (1) If the application is approved, the department shall
10 also notify the successful applicant of the licensing fee
11 due, as required by section 308-A(b)(1), based on the brand
12 licensing fees established under section 308-A(b)(2) for the
13 brands of liquor approved for the applicant.

14 (2) If wholesale distribution of a brand of liquor for
15 an applicant is approved for a region of this Commonwealth,
16 and on less than a Statewide basis, the department shall
17 calculate the licensing fee for that brand through a pro rata
18 allocation of the wholesale profit margin for that brand
19 associated with the region for which wholesale distribution
20 is approved.

21 (c) Denial.--

22 (1) If an application is denied, the department shall
23 provide the applicant with the specific reasons for the
24 denial in the written notification required under subsection
25 (a).

26 (2) The applicant shall be entitled to a hearing on the
27 denial, if a hearing is requested within ten days of the
28 department's notification. An applicant requesting a hearing
29 must do so in writing on a form and in a manner prescribed by
30 the department.

1 (3) Any hearing conducted under this section shall
2 comply with 2 Pa.C.S. § 505 (relating to evidence and cross-
3 examination).

4 (d) Issuance.--After approval of an application, the
5 department shall issue a wine and spirits wholesale license to
6 the applicant, if the applicant has completed all of the
7 following acts:

8 (1) Paid the license fee required under this article.
9 Payment shall be made by certified check or wire transfer to
10 a designated restricted account in the State Stores Fund.

11 (2) Paid any outstanding application or investigation
12 fees.

13 (3) Executed and delivered to the department the
14 statement of conditions required under section 313-A.

15 (4) Purchased the board's existing and marketable
16 warehouse inventory of all brands of liquor the applicant is
17 being authorized to distribute at the board's original cost,
18 subject to the excise tax provided for under section 336-A,
19 plus an administrative fee to be determined by the board.

20 (5) Fulfilled any other conditions required by the
21 department or the board or provided for by this article.

22 (e) License as privilege.--

23 (1) Nothing contained under this article is intended or
24 shall be construed to create an entitlement to a wine and
25 spirits wholesale license.

26 (2) The authorization to participate in the distribution
27 and sale of liquor as a wholesale licensee is a privilege
28 conditioned upon this article.

29 (f) Other licenses.--Nothing under this article or this act
30 shall be construed to prohibit a wholesale licensee from

1 applying for and, if approved, being issued a license as an
2 importing distributor of malt and brewed beverages.

3 Section 313-A. Wholesale licensee statement of conditions.

4 (a) Statement of conditions.--The department shall develop a
5 statement of conditions to be executed by each wholesale
6 licensee governing the wine and spirits wholesale licensee.

7 (b) Conditions.--In addition to any other conditions the
8 department deems necessary or appropriate for a specific
9 wholesale licensee, a statement of conditions under this section
10 shall include, at a minimum, the following conditions and impose
11 the following obligations and requirements on an ongoing basis:

12 (1) Wholesale licensees may not under any circumstances
13 sell liquor to persons not licensed under this act.

14 (2) Wholesale licensees shall serve all licensees
15 eligible to purchase liquor under this act and shall make
16 liquor available for sale to those licensees under the same
17 pricing structure.

18 (3) Except for wholesale licensees that hold an
19 importing distributor license under section 431, wholesale
20 licensees may not under any circumstances sell malt or brewed
21 beverages.

22 (4) Wholesale licensees may not under any circumstances
23 engage in variable pricing in sales of liquor to persons
24 licensed under this act.

25 (5) Wholesale licensees shall acquire liquor exclusively
26 from a licensed manufacturer or importer of wine and spirits
27 as provided under this act and keep a detailed log of all
28 wholesale liquor transactions, both acquisitions and sales to
29 licensees under this act.

30 (6) A wholesale licensee's licensed premises and all

1 facilities involved in its wholesale operations, including
2 any changes to those facilities during the term of the
3 license, shall be subject to the inspection, investigation
4 and approval of the department or the board.

5 (7) Wholesale licensees shall maintain adequate security
6 to protect the licensee's inventory from unauthorized sale or
7 diversion and prevent its unauthorized distribution.

8 (8) Wholesale licensees may engage in any separate
9 business activity upon any licensed premises, but only with
10 prior approval of the board.

11 (9) Wholesale licensees may sell liquor between 2 a.m.
12 of any Monday and 12 midnight of the following Saturday.

13 (10) Wholesale licensees shall collect and remit to the
14 Department of Revenue the excise tax as provided under
15 section 336-A.

16 (11) The wholesale licensee shall be considered a
17 Pennsylvania Liquor Store for the purposes of collecting and
18 remitting taxes consistent with the act of March 4, 1971
19 (P.L.6, No.2), known as the Tax Reform Code of 1971, from
20 persons licensed to sell liquor for on-premises consumption
21 under Article IV.

22 (12) Wholesale licensees shall notify the board within
23 15 days of any change in persons holding a controlling
24 interest in the licensee.

25 (13) Wholesale licensees shall notify the board within
26 15 days of becoming aware of any arrest or criminal
27 indictments or convictions by the wholesale licensee or any
28 affiliate of the licensee, executive officer, director or
29 general or limited partner of the licensee or person holding
30 a controlling interest in the licensee.

1 (14) Wholesale licensees shall notify the board within
2 15 days of becoming aware of any violation of this act by the
3 licensee or any affiliate of the licensee, executive officer,
4 director or general or limited partner of the licensee,
5 person holding a controlling interest in the licensee or
6 employee of the licensee.

7 (15) Neither a wholesale licensee, nor any of its
8 affiliates, shall, at any time, seek to be approved or be
9 approved by the department or the board to distribute brands
10 of liquor in a manner which results in the licensee
11 controlling more than 50% of the liquor distributed in the
12 wholesale market of this Commonwealth.

13 (16) Wholesale licensees shall make the licensed
14 premises, all of the facilities involved in the wholesale
15 operation and all of the business and financial books and
16 records of the wholesale operation available at any time for
17 inspection and audit by the department or the board.

18 (17) Wholesale licensees shall cooperate fully in any
19 inquiry or investigation by the department or the board and
20 provide any information requested by the department or the
21 board.

22 (18) Wholesale licensees, if a corporation, a limited
23 liability company, limited partnership, partnership,
24 association or other legal entity, shall at all times be
25 organized under the laws of this Commonwealth.

26 (19) Wholesale licensees, if a natural person, shall at
27 all times be a citizen of the United States and a resident of
28 this Commonwealth.

29 (c) Sanctions.--A wholesale licensee that fails to comply
30 with any condition contained in the licensee's statement of

1 conditions shall be subject to board-imposed administrative
2 sanctions or other penalties authorized under sections 471 and
3 494.

4 (d) Transition.--Notwithstanding any law or regulation to
5 the contrary, during the period of divestiture of wine and
6 spirits wholesale operations, the following shall apply:

7 (1) The board shall have no authority to levy or collect
8 the tax imposed under the act of June 9, 1936 (Sp.Sess.,
9 P.L.13, No.4) entitled "An act imposing an emergency State
10 tax on liquor, as herein defined, sold by the Pennsylvania
11 Liquor Control Board; providing for the collection and
12 payment of such tax; and imposing duties upon the Department
13 of Revenue and the Pennsylvania Liquor Control Board," for or
14 on any brand of liquor purchased from a wholesale licensee.

15 (2) The board shall have no authority to apply a retail
16 mark up on any brand of liquor purchased from a wholesale
17 licensee of more than 25%.

18 Section 314-A. Loss of rights to wholesale brands of liquor.

19 The procedures and standards established by the department
20 under section 305-A(b) to govern the relationship between
21 wholesale licensees and manufacturers shall, at a minimum,
22 incorporate the following principles:

23 (1) A manufacturer having a contract, including all
24 agreements, understandings or other arrangements, whether
25 written or oral, with a wholesale licensee for the
26 distribution in this Commonwealth of a brand or brands of
27 liquor may terminate the distribution rights and transfer
28 such rights to another wholesale licensee upon the voluntary
29 agreement of both wholesale licensees. In the event of a
30 voluntary termination and transfer, the manufacturer shall

1 provide written notice of that fact to the board indicating
2 that affected wholesale licensees have both agreed to the
3 termination and transfer. A copy of the notification to the
4 board shall be provided to both wholesale licensees.

5 (2) If a wholesale licensee does not agree to the
6 termination or transfer of its distribution rights, the
7 manufacturer may terminate or transfer the rights only for
8 good cause, as defined by the department or the board, or
9 upon payment to the terminated wholesale licensee of
10 reasonable compensation, as determined by the board to
11 reflect the value of the wholesale licensee's business
12 related to the terminated brand of liquor.

13 (3) Whether voluntary or involuntary, the termination
14 and transfer of the right to distribute the brand of liquor
15 shall comply with section 327-A.

16 SUBARTICLE C

17 PRIVATIZATION OF RETAIL LIQUOR DISTRIBUTION

18 Section 315-A. Retail divestiture through issuance of retail
19 licenses.

20 (a) Initiation of divestiture.--No later than one year
21 following the effective date of this article, and following
22 completion of the wholesale transition, the department shall
23 initiate the divestiture of the Pennsylvania Liquor Store system
24 through the auction of wine and spirits retail licenses.

25 (b) Authorized retail licenses.--The department shall be
26 authorized to issue 1,250 wine and spirits retail licenses to
27 successful bidders in the retail license auction process.

28 (c) License classification.--There shall be two classes of
29 wine and spirits retail licenses as follows:

30 (1) There shall be 750 Class A wine and spirits retail

1 licenses authorized for issuance to successful bidders
2 consistent with this article. The following shall apply:

3 (i) Except for Class A licenses in cities of the
4 first class, Class A licenses shall authorize the
5 operation of a retail wine and spirits store in a
6 specific retail zone in an establishment that exceeds
7 15,000 square feet of retail floor space and dedicates a
8 minimum of 600 linear feet of shelf space for the sale of
9 liquor.

10 (ii) Class A licenses located in a city of the first
11 class shall authorize the operation of a retail wine and
12 spirits store in a specific retail zone in an
13 establishment which shall not be subject to minimum
14 square feet of retail space.

15 (2) There shall be 500 Class B wine and spirits retail
16 licenses authorized for issuance consistent with this
17 article. Class B licenses shall authorize the operation of a
18 retail wine and spirits store in an establishment that has
19 less than 15,000 square feet in retail floor space.

20 (d) Retail licenses in cities of the first class.--The
21 following shall govern wine and spirits retail licenses for
22 cities of the first class. The following shall apply:

23 (1) Of the 750 Class A wine and spirits retail licenses
24 authorized under subsection (c)(1), the department shall be
25 authorized to issue 60 Class A retail licenses to authorize
26 the operation of a wine and spirits store within a city of
27 the first class.

28 (2) No Class B wine and spirits retail licenses shall be
29 authorized to operate a wine and spirits store within a city
30 of the first class.

1 (3) The remaining 690 Class A licenses and 500 Class B
2 licenses shall authorize the operation of a wine and spirits
3 store in a location in this Commonwealth outside of a city of
4 the first class.

5 (e) Other licenses.--Nothing under this article or this act
6 may prohibit a retail licensee from applying for and, if
7 approved, being issued a license that authorizes the licensee to
8 sell malt and brewed beverages at retail for off-premises
9 consumption.

10 Section 316-A. Establishment of retail zones and assignment of
11 Class B licenses.

12 (a) Establishment of retail zones.--During the initial
13 implementation period as prescribed under section 305-A(b), the
14 department, with the full cooperation and assistance of the
15 board, shall establish retail zones for the issuance of Class A
16 wine and spirits retail licenses, consistent with the following:

17 (1) The department shall establish 750 retail zones
18 across this Commonwealth.

19 (2) No more than 60 of these retail zones may be located
20 within a city of the first class, and the remaining 690
21 retail zones shall be located in areas outside of a city of
22 the first class.

23 (3) Retail zones shall be determined by the department
24 based on historic liquor sales and population density, and in
25 a manner that assures that each existing liquor store
26 location is within a different retail zone.

27 (4) The department shall establish the retail zones
28 through the promulgation of temporary regulations and shall
29 publish these temporary regulations in the Pennsylvania
30 Bulletin.

1 (b) Assignment of Class B licenses.--During the initial
2 implementation period as prescribed under section 305-A(b), the
3 department, with the full cooperation and assistance of the
4 board, shall assign Class B wine and spirits retail licenses
5 consistent with the following:

6 (1) The department shall assign Class B wine and spirits
7 retail licenses to counties across this Commonwealth,
8 excluding counties of the first class.

9 (2) In assigning Class B licenses the department shall
10 balance the factor of historic sales of liquor and population
11 density with the policy objective of assuring adequate and
12 reasonable liquor distribution in all areas of this
13 Commonwealth.

14 (3) The department shall assign Class B licenses through
15 the promulgation of temporary regulations and shall publish
16 the temporary regulations in the Pennsylvania Bulletin.
17 Section 317-A. Conduct of retail auctions.

18 (a) Class A and Class B auctions.--The department shall
19 conduct two retail auctions for wine and spirits retail
20 licenses. The first auction shall be limited to Class A wine and
21 spirits retail licenses and shall be commenced one year from the
22 effective date of this article. The second auction shall be
23 limited to Class B wine and spirits retail licenses and shall be
24 commenced as soon as practicable after the Class A retail
25 license auction is completed.

26 (b) Class A auctions.--The department shall accept bids and
27 conduct an auction for a Class A retail license for each retail
28 zone.

29 (c) Class B auctions.--The department shall conduct an
30 auction for Class B retail licenses for each county in this

1 Commonwealth to which a Class B license has been assigned.

2 Section 318-A. Retail auction requirements.

3 (a) Conduct of auctions.--Class A and Class B retail
4 auctions shall be conducted by the department consistent with
5 the following:

6 (1) The department shall establish a deadline for
7 submission of bids for all auctions.

8 (2) The department shall review the submission of timely
9 bids to determine compliance with the minimum bid
10 requirements of section 323-A. Bids that do not comply with
11 the minimum bid amount will be rejected for submission.
12 Bidder identification information and bid amount for each
13 accepted bid shall be made subject to public disclosure.

14 (3) Except for Class B countywide auctions, the
15 department shall review the bids and identify the three
16 highest bids for each retail auction. All bidders in an
17 individual auction shall be notified of the three highest
18 bids in the auction in which they are participating.

19 (4) For each Class B countywide auction, the department
20 shall identify the number of highest bids which equals two
21 times the number of Class B licenses assigned by the
22 department to a given county. The department shall notify all
23 bidders of the high bidders identified in each Class B
24 auction.

25 (5) For each retail auction, the department shall
26 establish a best and final offer period in which the highest
27 bidders identified under paragraphs (3) and (4) will be
28 provided an opportunity to submit a revised bid amount that
29 will represent its best and final offer. In no case may a
30 bidder submit a best and final offer that includes a bid

1 amount which is less than the bidder's original bid.

2 (6) For Class A retail license auctions, the department
3 shall review the best and final offers and shall select a
4 high bidder for each auction.

5 (7) For Class B retail license auctions, the department
6 shall review the best and final offers and shall select a
7 high bidder for each Class B license assigned to a specific
8 county.

9 (b) Other bidders.--Nothing under this article or act shall
10 prohibit a person licensed by the department to sell malt and
11 brewed beverages at retail for off-premises consumption from
12 submitting a bid and, if successful, being issued a wine and
13 spirits retail license.

14 (c) Bidder collusion strictly prohibited.--It shall be
15 unlawful for any person to conspire, collude or combine with
16 another in order to commit or attempt to commit bid-rigging
17 involving a wine and spirits retail license.

18 (d) Fines and imprisonment.--A person who violates
19 subsection (c) commits a felony of the third degree and shall,
20 upon conviction, be sentenced to pay a fine of not more than
21 \$1,000,000, if an entity other than an individual, or a fine of
22 not more than \$50,000, if an individual, or to serve a term of
23 imprisonment of not more than one year, or both.

24 (e) Alternate civil penalty.--In lieu of criminal
25 prosecution for violation of subsection (c), the Attorney
26 General may bring an action for a civil penalty. In this action,
27 a person found by a court to have violated subsection (c) shall
28 be liable for a civil penalty of not more than \$100,000.

29 (f) Disqualification, termination and debarment.--In
30 addition to any other criminal or civil penalties imposed under

1 this section, the following shall apply in the event a person is
2 convicted or found liable of a violation of subsection (c):

3 (1) The person shall be disqualified from bidding on or
4 holding a wine and spirits retail license or holding any
5 other license authorized under this act for a period of three
6 years.

7 (2) If the person holds a wine and spirits retail
8 license, or any other license authorized under this act, the
9 license shall be terminated by the board immediately upon the
10 conviction or determination of liability.

11 (3) The conviction or determination of liability may be
12 grounds for debarment or suspension under 62 Pa.C.S. § 531
13 (relating to debarment or suspension).

14 (g) Responsibility for enforcement.--

15 (1) The Office of Attorney General and the district
16 attorneys of the several counties shall have concurrent
17 jurisdiction for the investigation and prosecution of
18 violations of subsection (c).

19 (2) The Office of Attorney General shall have the
20 authority to investigate and bring a civil action to enforce
21 subsection (c). In furtherance of the responsibilities under
22 this subsection, the Attorney General shall have the
23 administrative subpoena powers set forth under section 919 of
24 the act of April 9, 1929 (P.L.177, No.175), known as The
25 Administrative Code of 1929.

26 Section 319-A. Postqualification of selected bidders.

27 (a) Investigation.--Upon selection of a high bidder in each
28 auction, the department shall conduct an investigation of each
29 high bidder based upon the information submitted to evaluate
30 whether:

1 (1) the selected bidder qualifies as a responsible and
2 suitable person to hold a wine and spirits retail liquor
3 license and operate a wine and spirits store location;

4 (2) the selected bidder has proposed an acceptable
5 facility and location for a wine and spirits store; and

6 (3) the selected bidder's planned operation is compliant
7 with this article, including the statement of conditions
8 required under section 324-A.

9 (b) Additional information.--The department may require
10 additional information from a selected bidder and conduct onsite
11 inspections, as necessary, to complete the postqualification
12 process.

13 (c) Assistance with investigations.--The department may
14 enter into an agreement with the Pennsylvania State Police or
15 the Office of Inspector General to assist the department in the
16 conduct of investigations under this section and that provides
17 for the reimbursement of actual costs incurred for providing
18 assistance under such an agreement.

19 (d) Public input hearings.--During the postqualification
20 process, the department shall schedule public input hearings in
21 six regions of this Commonwealth, including one for each city of
22 the first class, at which interested members of the public will
23 be provided the opportunity to testify regarding selected bidder
24 qualifications, including the location of proposed wine and
25 spirits stores. The testimony of each public witness shall be
26 considered by the department in the postqualification
27 investigation of selected bidders to which the testimony
28 applies.

29 (e) Investigative fees.--The department shall have the
30 authority to establish, charge and collect fees from a selected

1 bidder to recover the costs directly related to the department's
2 investigation within the postqualification process.

3 (f) Acceptance of qualifications.--A high bidder's
4 qualifications will be accepted by the department if the
5 department's investigation reveals the following:

6 (1) the bid information was truthful;

7 (2) the bidder and its officers, directors and
8 principals are of good character, integrity and suitability;

9 (3) the bidder possesses sufficient financial resources
10 to operate a wine and spirits store, pay all taxes due and
11 meet all other financial obligations;

12 (4) the bidder possesses sufficient business ability to
13 operate a wine and spirits store; and

14 (5) the proposed facilities are compliant with all of
15 the operational requirements of the statement of conditions
16 under section 324-A and the requirements of this article.

17 (g) Offsets.--Within the postqualification investigation
18 process for all selected bidders the department shall take all
19 necessary steps to assure that no two wine and spirits stores
20 are located within one-quarter mile from each other.

21 (h) Issuance of license.--If a selected bidder's
22 qualifications are accepted by the department, the department
23 shall qualify the bidder and shall issue a wine and spirits
24 retail license upon the occurrence of the following:

25 (1) The execution and deliverance to the department and
26 the board of the statement of conditions required under
27 section 324-A.

28 (2) The payment of the bid amount. The bid amount shall
29 be paid by certified check or wire transfer to a designated
30 restricted account established in the State Stores Fund.

1 (3) Payment of any outstanding bid or investigation
2 fees.

3 (4) Fulfillment of any other conditions required by the
4 department.

5 (i) Qualifications unacceptable.--If a selected bidder's
6 qualifications are not accepted by the department, the
7 department shall identify the next highest bidder that was not
8 selected in that auction and conduct a postqualification
9 investigation of that bidder, consistent with subsection (a).

10 (j) Approval of qualifications.--If the qualifications of
11 the bidder selected are approved by the department under
12 subsection (f), the department shall issue a license to the
13 successful bidder consistent with the requirements of subsection
14 (h).

15 (k) Repeat of process.--If the second highest bidder is not
16 approved, the department shall repeat the postqualification
17 process for the next highest unselected bidder in that auction.

18 (l) Additional procedures.--If the second highest bidder in
19 an auction is not approved by the department, the department
20 shall determine whether to proceed with a new auction or conduct
21 an additional best and final offer period to consider additional
22 bids from the original auction.

23 (m) License is a privilege.--Nothing contained under this
24 article is intended or may be construed to create an entitlement
25 to a wine and spirits retail license. The authorization to
26 participate in the distribution and sale of liquor as a retail
27 licensee is a privilege conditioned upon this article.

28 (n) Terms of licensure.--A wine and spirits retail license,
29 after payment of the license fee, shall be in effect unless
30 suspended, revoked or not renewed by the board upon good cause

1 consistent with the license requirements as provided for under
2 this article. The license of a retail licensee in good standing
3 shall be subject to renewal every two years consistent with this
4 article. Nothing under this subsection may relieve a retail
5 licensee of the affirmative duty to notify the board of any
6 changes relating to the status of its license or to any other
7 information contained in the application materials on file with
8 the department or the board.

9 Section 320-A. Auctions with no or insufficient minimum bids.

10 (a) Reconduct of Class A auctions with modified bid.--If the
11 department conducts a Class A retail auction and no bid is
12 submitted that is equal to or greater than the minimum bid
13 established under section 323-A, the department shall reconduct
14 the auction. Taking into consideration the bids received and
15 rejected in the initial auction, if any, the department, in its
16 discretion, shall establish a modified minimum bid for the
17 reconduct of the auction.

18 (b) Insufficient number of minimum bids.--As to the Class B
19 auctions, if an insufficient number of bids that meet or exceed
20 the minimum bid are submitted, the department shall select the
21 bids that meet or exceed the minimum bid subject to
22 postqualification and, in its discretion, may conduct a new
23 auction for the remaining Class B licenses without a minimum bid
24 or with a modified minimum bid.

25 Section 321-A. Protest of bid selection.

26 (a) Protest.--Within five days of the selection of a bidder
27 in an auction conducted under sections 317-A and 318-A, a bidder
28 that is not selected by the department for the wine and spirits
29 retail license for a particular zone may file a protest in
30 writing with the department. An unselected bidder that fails to

1 submit a timely protest as required by this section shall waive
2 its opportunity to challenge or appeal the selection of the
3 department.

4 (b) Requirements for protests.--A protest filed under this
5 section shall comply with the following requirements:

6 (1) For Class A auctions and Class B auctions, the
7 subject matter of a protest is restricted to the conduct of
8 the auction for the specific retail zone in which the
9 protester participated. No person may protest an auction in
10 which that person did not participate as a bidder.

11 (2) An unselected bidder that files a protest must be
12 represented by an attorney at law.

13 (3) A bidder that files a protest under this section
14 waives its right to, and is disqualified from, being selected
15 by the department as the next highest bidder for
16 postqualification under section 319-A.

17 (4) As a prerequisite to the filing of a protest, and at
18 the time of the filing of a protest, the protester shall
19 provide the department with a bond, letter of credit or other
20 form of security acceptable to the department in an amount
21 equal to the amount of the selected bid. For protests
22 involving the Statewide Class B auction, the accepted
23 security shall be in an amount equal to the highest bid
24 received from any bidder. If the bid protest does not result
25 in the overturning of the department's bid selection for the
26 specific retail zone protested, and the selected bidder does
27 not pay the bid amount for any reason, the protester shall
28 forfeit its security to the department.

29 Section 322-A. Content of bids.

30 Each bid submitted to participate in a retail auction shall

1 meet the following requirements:

2 (1) The bid shall include a summary page which clearly
3 identifies:

4 (i) The name, address and tax identification number
5 of the bidder.

6 (ii) The class of license for which the bid is being
7 submitted.

8 (iii) The retail zone for which the bid is being
9 submitted.

10 (iv) Whether the bidding is being submitted for a
11 retail zone within a city of the first class.

12 (v) The amount of the bid.

13 (vi) The amount of the minimum bid for the retail
14 auction in which the bidder is participating.

15 (2) A general description of the bid and the location of
16 the proposed wine and spirits store.

17 (3) Whether the applicant is an individual, corporation,
18 limited liability company, limited partnership, partnership
19 or association or other legal entity and the state of
20 incorporation or organization and the names and residence
21 addresses of each executive officer, director, general or
22 limited partner and person holding a controlling interest in
23 the applicant.

24 (4) If the bidder is an association, the bid shall set
25 forth the names and addresses of the persons constituting the
26 association.

27 (5) If the bidder is a corporation, limited liability
28 company, limited partnership, partnership, association or
29 other legal entity, the bid must show that the entity is
30 organized under the laws of this Commonwealth.

1 (6) If the bidder is a natural person, the bid must show
2 that the bidder is a citizen of the United States and a
3 resident of this Commonwealth and that the bidder is not
4 acting as an agent for any other person, partnership,
5 association or group of persons beneficially interested in
6 the license.

7 (7) The proposed location and ownership of the site for
8 the wine and spirits store, as well as floor plans of
9 existing facilities to be utilized in the bidder's retail
10 operation and design plans for any facilities not yet
11 constructed, to the extent they are available.

12 (8) Information disclosing all arrests of the applicant
13 and any affiliate of the applicant, executive officer,
14 director or general or limited partner of the applicant or
15 person holding a controlling interest in the applicant and
16 all citations issued to the same for nonsummary offenses.
17 The information shall include:

18 (i) A brief description of the circumstances
19 surrounding the arrest or issuance of the citation.

20 (ii) The specific offense charged or cited.

21 (iii) The ultimate disposition of the charge or
22 citation, including the details of any dismissal, plea
23 bargain, conviction, sentence, pardon, expungement or
24 order of accelerated rehabilitative disposition.

25 (9) A sworn statement that the bidder and any affiliate
26 of the bidder, executive officer, director or general or
27 limited partner of the bidder or person holding a controlling
28 interest in the bidder have never been convicted of any crime
29 involving fraud, moral turpitude or racketeering within a
30 period of ten years immediately preceding the date of the

1 bid, been convicted of any felony or equivalent crime, or
2 been convicted in any Federal or state jurisdiction,
3 including this Commonwealth, of the violation of any Federal
4 or state liquor law.

5 (10) A statement that the bidder will continuously
6 operate a wine and spirits store for the duration of the
7 two-year license period and will provide a level of service,
8 including hours of operation and product availability
9 reasonably equivalent to the level of service currently
10 provided in the same geographic area.

11 (11) The bidder shall provide a financial statement,
12 consistent with the requirements prescribed by the
13 department, which demonstrates the financial capability to
14 operate the wine and spirits store and the estimated volume
15 of business to be conducted.

16 (12) A current tax lien certificate issued by the
17 Department of Revenue for the bidder and any affiliate of the
18 bidder, executive officer, director or general or limited
19 partner of the bidder, or person holding a controlling
20 interest in the bidder. Any unpaid taxes identified on a tax
21 lien certificate required to be filed with the bid shall be
22 paid before the bid is accepted for submission by the
23 department.

24 (13) There shall be a bid filing fee of \$10,000 which
25 will be submitted by certified check with the bid.

26 (14) The bid shall be signed and verified by oath or
27 affirmation by the owner, if a natural person or, in the case
28 of an association, by a member or partner thereof or, in the
29 case of a corporation or limited liability company, by an
30 executive officer thereof or any person specifically

1 authorized by the corporation to sign the bid, to which shall
2 be attached written evidence of that authority.

3 (15) A noncollusion affidavit, executed by the bidder,
4 if a natural person, or a person specifically authorized by
5 bidder, if a legal entity, to sign the affidavit, certifying
6 that neither the bidder, nor any affiliate of the bidder,
7 executive officer, director or general or limited partner of
8 the bidder, or person holding a controlling interest in the
9 bidder has engaged in collusion, bid-rigging or other
10 prohibited activity in relation to the bid. The form and
11 content of the noncollusion affidavit shall be determined by
12 the department. Failure of any bidder to provide the required
13 noncollusion affidavit shall disqualify the bid unless cured
14 within a time period determined by the department. Any
15 required noncollusion affidavit shall state whether or not
16 the bidder and any affiliate of the bidder, executive
17 officer, director or general or limited partner of the
18 bidder, or person holding a controlling interest in the
19 bidder has been convicted or found liable for any act
20 prohibited by Federal or state law in any jurisdiction
21 involving conspiracy or collusion with respect to bidding on
22 any public contract or in relation to the sale or lease of
23 any public asset within the last three years. An affirmative
24 statement by the bidder that the bidder, or any affiliate of
25 the bidder, executive officer, director or general or limited
26 partner of the bidder, or person holding a controlling
27 interest in the bidder, has been convicted or found liable on
28 such grounds may be grounds for the department to find the
29 bidder not suitable.

30 (16) A bidder shall have a continuing duty during the

1 auction process to update information in the bid and provide
2 any other information determined to be appropriate by the
3 department.

4 Section 323-A. Minimum bid for retail auctions.

5 During the initial implementation period as provided for by
6 section 305-A(b), the department shall establish minimum bid
7 amounts for each retail auction consistent with the following
8 requirements:

9 (1) For Class A retail auctions, the department shall
10 establish the minimum bid for each retail zone by first
11 identifying each retail zone that does not have an existing
12 Pennsylvania Liquor Store located in that zone and assigning
13 each retail zone to the existing Pennsylvania Liquor Store
14 closest in proximity to that retail zone. The department
15 shall then establish the minimum bid for each retail zone by
16 calculating the adjusted store net profit factor for that
17 zone and multiplying it by the retail acquisition factor for
18 Class A retail licenses.

19 (2) For all Class B retail auctions, the department
20 shall calculate one minimum bid for each county auction by
21 dividing the countywide adjusted net profit factor by the sum
22 of the number of Class A licenses located in a specific
23 county and the number of Class B licenses assigned by the
24 department to that county and then multiplying that sum by
25 the retail acquisition factor for Class B licenses.

26 (3) The department shall establish minimum bids for all
27 retail auctions through promulgation of temporary regulations
28 under section 306-A and shall publish the temporary
29 regulations in the Pennsylvania Bulletin.

30 Section 324-A. Retail licensee statement of conditions.

1 (a) Statement of conditions.--The department shall develop a
2 statement of conditions to be executed by each retail licensee
3 governing the wine and spirits retail licensee.

4 (b) Conditions.--In addition to any other conditions the
5 department, in consultation with the board, deems necessary or
6 appropriate for a specific retail licensee, a statement of
7 conditions under this section shall include, at a minimum, the
8 following conditions, and impose the following obligations and
9 requirements on an ongoing basis:

10 (1) Retail licensees shall be strictly prohibited from
11 selling or distributing liquor to persons under 21 years of
12 age or persons that are visibly intoxicated.

13 (2) No retail licensee shall operate a retail wine and
14 spirits store located within one-quarter mile of another wine
15 and spirits store.

16 (3) A retail licensee's wine and spirits store and all
17 facilities involved in its retail operations, including any
18 changes to those facilities during the term of the license,
19 shall be subject to the inspection, investigation and
20 approval of the department or the board.

21 (4) Retail licensees shall maintain adequate security to
22 protect the licensee's inventory from unauthorized sale or
23 diversion and prevent its unauthorized distribution.

24 (5) No retail licensee shall engage in any separate
25 business activity upon any licensed premises without prior
26 approval of the board and under no circumstances shall any
27 retail licensee operate a wine and spirits store at a
28 location that sells or distributes fuel.

29 (6) Wine and spirits retail licensees may not sell wine
30 or spirits to Article IV licensees and other wine and spirits

1 retail licensees except in an emergency, as defined by
2 regulation by the board.

3 (7) (Reserved).

4 (8) Retail licensees shall notify the board within 15
5 days of any change in persons holding a controlling interest
6 in the licensee.

7 (9) Retail licensees shall notify the board within 15
8 days of becoming aware of any arrest or criminal indictments
9 or convictions by the retail licensee or any affiliate of the
10 licensee, executive officer, director or general or limited
11 partner of the licensee or person holding a controlling
12 interest in the licensee.

13 (10) Retail licensees shall notify the board within 15
14 days of becoming aware of any violation of this act by the
15 licensee or any affiliate of the licensee, executive officer,
16 director or general or limited partner of the licensee,
17 person holding a controlling interest in the licensee or
18 employee of the licensee.

19 (11) With the exception of retail licensees which
20 operate a distributor of malt and brewed beverages, the
21 premises of each wine and spirits store shall be a self-
22 contained unit with limited customer access dedicated solely
23 to the sale of liquor and permitted merchandise. Purchases
24 made within the limitations of the premises shall be paid for
25 at a location within the confines of the liquor sales area.
26 With the exception of wine and spirits retail licensees that
27 also hold a license under section 401, no wine and spirits
28 store shall have any interior connection with any other
29 business or with any residential building except as approved
30 by the board.

1 (12) Each retail licensee shall design its controlled
2 area in a manner and with adequate safeguards to ensure that
3 its liquor products are secure and that the area may not be
4 accessed during prohibited hours of operation.

5 (13) No retail licensee may hold, directly or
6 indirectly:

7 (i) More than 40 of the Class A wine and spirits
8 retail licenses within this Commonwealth.

9 (ii) More than five Class B licenses within this
10 Commonwealth. Any Class B license held by a retail
11 licensee shall count against the limitations under
12 subparagraph (i) for Class A licenses.

13 (iii) More than 10% of the wine and spirits retail
14 licenses in any one county which has ten or more wine and
15 spirits retail licenses.

16 (iv) More than one wine and spirits retail license
17 in any one county which has less than ten wine and
18 spirits retail licenses.

19 (14) Every wine and spirits store may sell liquor for
20 consumption off-premises. In addition to the sale of liquor,
21 wine and spirits stores may sell related merchandise within
22 the controlled area of the store. Sales of related
23 merchandise shall not exceed 30% of the gross annual sales of
24 any wine and spirits store. Unless the retail licensee also
25 has a license to sell malt and brewed beverages, no wine and
26 spirits store shall have authority under any circumstances to
27 sell malt or brewed beverages. The board shall promulgate
28 regulations setting forth what additional related merchandise
29 may be offered for retail sale in wine and spirits stores.

30 (15) Retail licensees shall make the licensed premises,

1 all of the facilities involved in the retail operation and
2 all of the business and financial books and records of the
3 retail operation available at any time for inspection and
4 audit by the board.

5 (16) Wine and spirits store licensees may sell wine or
6 spirits between 8 a.m. and 11 p.m. of any day except Sunday
7 to persons not licensed under this act.

8 (17) In addition to the hours authorized under paragraph
9 (16), wine and spirits store licensees may, upon purchasing a
10 permit from the board at an annual fee of \$1,000, sell wine
11 or spirits to persons not licensed under this act or to a
12 holder of a special occasion permit on Sunday between the
13 hours of 12 noon and 9 p.m.

14 (18) No wine and spirits licensee shall employ a person
15 under 18 years of age to work in the controlled area, and no
16 employee under 21 years of age shall be permitted to engage
17 in the sale of liquor.

18 (19) Neither the licensee nor any affiliate of the
19 licensee, at any time, may hold a wine and spirits wholesale
20 license.

21 (20) The licensee, if a corporation, a limited liability
22 company, limited partnership, partnership, association or
23 other legal entity, shall at all times be organized under the
24 laws of this Commonwealth.

25 (21) The licensee, if a natural person, shall at all
26 times be a citizen of the United States and a resident of
27 this Commonwealth.

28 (22) Each licensee shall assure that all wine and
29 spirits store managers and at least 75% of the employees of a
30 wine and spirits store shall complete Responsible Alcohol

1 Management Control Program training in accordance with
2 section 471.1.

3 (23) A retail licensee shall not be permitted by the
4 board to keep its wine and spirits retail license in
5 safekeeping for a period which exceeds two years.

6 (24) Except for employees permitted under paragraph
7 (18), a retail licensee shall ensure that no person under 21
8 years of age is permitted to enter the controlled area unless
9 accompanied by an adult.

10 (25) In addition to section 495(b) and (c), a wine and
11 spirits retail licensee shall assure the use of swipe
12 identification card technology to verify the age of any
13 person who appears to be under 30 years of age. The board
14 shall promulgate regulations as are necessary for the
15 implementation of swipe identification card technology.

16 (26) The retail licensee is strictly prohibited from
17 selling a liquor product at a price less than the underlying
18 cost of the product.

19 (27) The retail licensee shall be considered a
20 Pennsylvania Liquor Store for the purposes of collecting and
21 remitting taxes consistent with the act of March 4, 1971
22 (P.L.6, No.2), known as the Tax Reform Code of 1971, from a
23 person other than a person licensed to sell liquor for on-
24 premises consumption under Article IV.

25 (c) Sanctions.--A retail licensee that fails to abide by any
26 condition contained in the licensee's statement of conditions
27 shall be subject to board-imposed administrative sanctions or
28 other penalties authorized under sections 471 and 494.

29 SUBARTICLE D

30 MISCELLANEOUS PROVISIONS AND CLOSING OF STATE STORES

1 Section 325-A. License renewals.

2 (a) Renewal.--Licenses issued under this article shall be
3 subject to renewal every two years. The application for renewal
4 shall be submitted on a form as directed by the board at least
5 30 days prior to the expiration of the license and shall
6 include, at a minimum, an update of the information contained in
7 the initial and any prior renewal applications and the payment
8 of any renewal application filing fee required by this article.
9 A license for which a completed renewal application and fee has
10 been received by the board will continue in effect unless and
11 until the board sends written notification to the licensee that
12 the board has denied the renewal of the license.

13 (b) Renewal fee.--An application filing fee of \$1,000 shall
14 be due upon application for the renewal of a wine and spirits
15 wholesale license. The board shall have the authority, from time
16 to time, to adjust the renewal application filing fee to ensure
17 that the fee adequately recovers the costs associated with
18 licensure renewal. In addition, the board shall collect fees
19 from a renewal applicant to recover the costs of a renewal
20 investigation.

21 (c) Renewal hearings.--The board may hold hearings on
22 renewal applications as it deems necessary at a time and in a
23 format as it shall fix. A licensee whose renewal application is
24 denied shall be entitled to a hearing before the board in
25 accordance with section 464.

26 (d) Revocation or failure to renew.--In addition to any
27 other sanctions the board may impose, the board may, at its
28 discretion, suspend, revoke or deny renewal of any license
29 issued under this article if it finds that the applicant, or any
30 of its affiliates, executive officers, directors or general or

1 limited partners, or persons holding a controlling interest in
2 the applicant is in violation of any provision of this act, have
3 furnished the board with false or misleading information or are
4 no longer suitable for licensure. In the event of a revocation
5 or failure to renew, the applicant's authorization to conduct
6 business as a wholesale or retail licensee shall immediately
7 cease and all fees paid in connection with it shall be deemed
8 forfeited. In the event of a suspension, the applicant's
9 authorization to conduct business shall immediately cease until
10 the board notifies the applicant that the suspension is no
11 longer in effect.

12 (e) Affirmative duty.--Nothing under this section shall
13 relieve a licensee of the affirmative duty to notify the board
14 of any changes relating to the status of its license or to any
15 other information contained in the application materials filed
16 with the board.

17 Section 326-A. Sale, assignment or transfer of license.

18 (a) Prohibition.--No person may sell, assign or otherwise
19 transfer a wine and spirits wholesale or retail license granted
20 under this article without the prior written approval of the
21 board and payment of the fee under subsection (d).

22 (b) Change of control.--For the purposes of this section, a
23 change of control of a wholesale or retail licensee shall be
24 deemed to be a sale, assignment or transfer of a wine and
25 spirits wholesale or retail license. A licensee shall notify the
26 board immediately upon becoming aware of any proposed or
27 contemplated change of control.

28 (c) Compliance.--Any person to whom a wine and spirits
29 wholesale or retail license is sold, assigned or transferred
30 shall qualify under and comply with this article prior to the

1 sale, assignment or transfer of said license.

2 (d) Transfer fee.--The transfer of a wine and spirits
3 wholesale or retail license shall be subject to a transfer fee
4 equal to 1% of the license fee paid for that license and shall
5 be paid as a condition of the transfer of the license. The
6 transfer fee applicable to the transfer of brands of liquor
7 under section 327-A(b) shall not apply to the transfer of a wine
8 and spirits wholesale license.

9 Section 327-A. Transfer of brands of liquor.

10 (a) Prohibition.--No brand of liquor offered for sale in
11 this Commonwealth may be transferred to a different wholesale
12 licensee without prior approval from the board.

13 (b) Transfer fee.--An application to the board to transfer
14 the right to distribute a brand of liquor shall be subject to an
15 application fee equal to 1% of the initial license fee
16 attributable to that brand of liquor.

17 Section 328-A. Suspension or revocation.

18 (a) Authority of board.--The board shall have the authority
19 to suspend or revoke a license issued under this article when
20 the board finds that any of the following apply:

21 (1) The licensee has violated this act or any
22 regulations of the board.

23 (2) The licensee has knowingly presented to the board
24 false, incomplete or misleading information.

25 (3) The licensee has pleaded guilty, entered a plea of
26 nolo contendere or has been found guilty of a felony by a
27 judge or jury in a Federal or state court.

28 (4) The licensee failed to operate the business or to
29 provide a reasonable level of consumer service.

30 (b) Hearings.--Suspension and revocation hearings shall be

1 held in accordance with the procedures under section 514.

2 (c) Sales prohibited.--No person may sell liquor at any
3 premises if the license applicable to that premises has been
4 forfeited, suspended or revoked or has expired.

5 (d) Public sale.--In the event of the revocation, forfeiture
6 or surrender of any retail license in accordance with this
7 article, the board shall conduct an auction to replace the
8 licensee, consistent with the procedures and requirements under
9 this article.

10 Section 329-A. Closure of Pennsylvania Liquor Stores.

11 (a) Schedule of closure.--The department, in consultation
12 with the board, shall develop a schedule of closure for the
13 Pennsylvania Liquor Stores that is designed to ensure continuous
14 service to the public during the transition to the private
15 wholesale and retail distribution of liquor. The following shall
16 apply:

17 (1) Each retail licensee shall provide the department
18 and the board with 30 days' notice of the anticipated date of
19 the licensee's start of retail operations.

20 (2) Upon receipt of the notice under paragraph (1), the
21 department and the board shall take all necessary steps to
22 enable any Pennsylvania Liquor Store located within the
23 retail zone for that retail licensee to close within five
24 days of the commencement of the retail licensee's operations.

25 (b) Sale of State store inventory.--The department, in
26 consultation with the board, shall establish a procedure for the
27 sale of the inventory, property and fixtures of all Pennsylvania
28 Liquor Stores consistent with Article XXIV-A of the act of April
29 9, 1929 (P.L.177, No.175), known as The Administrative Code of
30 1929. Wholesale and retail licensees shall have the opportunity

1 to bid on the items to be sold or otherwise participate in the
2 sale. All proceeds from the sales shall be deposited into the
3 State Stores Fund.

4 Section 330-A. State Stores Fund.

5 All fees, assessments, bid amounts or other charges paid by
6 wholesale or retail applicants, bidders or licensees shall be
7 paid or transferred into a restricted account in the State
8 Stores Fund.

9 Section 331-A. Return of fee or bid.

10 (a) Wholesale license fee.--The entire wholesale license fee
11 paid by a wholesale licensee under section 312-A(d)(1) shall be
12 returned if this article is amended or otherwise altered by an
13 act of the General Assembly within five years of the effective
14 date of this section to change provisions relating to the loss
15 of rights to wholesale brands of liquors under section 314-A.

16 (b) Retail bid amount.--The entire retail bid amount paid by
17 a retail licensee under section 319-A(h)(2) shall be returned if
18 this article is amended or otherwise altered by an act of the
19 General Assembly within five years of the effective date of this
20 section to change the authorization of additional retail
21 licenses under section 315-A.

22 SUBARTICLE E

23 REEMPLOYMENT AND RETRAINING OF

24 DISPLACED BOARD EMPLOYEES

25 Section 332-A. Preference in public employment hiring.

26 (a) Commonwealth examinations.--A displaced employee who
27 successfully passes a civil service appointment examination for
28 a paid position administered under the act of August 5, 1941
29 (P.L.752, No.286), known as the Civil Service Act, and in the
30 classified service existing under the commission's jurisdiction

1 and who further establishes the qualifications required by law
2 for appointment to the position, shall be marked or graded an
3 additional three points above the mark or grade credited for the
4 examination. The total mark or grade obtained by the displaced
5 employee shall represent the final mark or grade of the
6 employee and shall determine his standing on any eligibility
7 list certified or furnished to the appointing power.

8 (b) Certification.--The commission shall require the board
9 to certify a list of displaced employees under subsection (a)
10 and placement on that list by the board shall establish
11 eligibility for the preference granted under subsection (a).

12 (c) Noncivil service positions.--If a paid State position
13 does not require a civil service examination, a displaced
14 employee who possesses the requisite qualifications and is
15 eligible to appointment in a paid State position shall be given
16 a preference in the appointment by the appointing authority.

17 (d) Eligibility.--

18 (1) A displaced employee's eligibility for the mark-up
19 provided under subsection (a) and for the preference for
20 noncivil service positions provided under subsection (c)
21 shall cease upon the occurrence of one of the following:

22 (i) The displaced employee's appointment or hiring
23 into a position in the classified service existing under
24 the commission's jurisdiction or into a paid State
25 position where no civil service examination is required.

26 (ii) Two years from the board's implementation of
27 its decision to cease wholesale and retail operations
28 under this article.

29 (2) In order to be eligible for the mark-up provided
30 under subsection (a) and for the preference for noncivil

1 service positions provided under subsection (c), a displaced
2 worker must be terminated as a sole and direct result of the
3 decision to cease wholesale and retail operations under this
4 article and must work until the final day set by the board
5 for that employee's job function.

6 Section 333-A. Educational grant eligibility.

7 (a) Eligibility.--A displaced employee shall be eligible for
8 a two-year educational grant for attending a program of
9 instruction at an institution of higher education in the
10 following amount:

11 (1) \$1,000 per year for attendance on a full-time basis;

12 or

13 (2) \$500 per year for attendance on a part-time basis.

14 (b) Certification.--The board shall certify the list of
15 displaced employees to the agency.

16 (c) Grant award.--The agency shall make a determination of
17 grant eligibility and shall pay the grant directly to the
18 institution of higher education attended by the displaced
19 employee in a manner consistent with the agency's regulations.

20 Section 334-A. Reemployment tax credit.

21 (a) Eligibility.--A displaced employee shall be eligible for
22 a two-year reemployment tax credit voucher in the amount of
23 \$1,000 per taxable year. The voucher shall be made available to
24 each displaced employee upon termination of employment. Each
25 voucher shall be certified by the board before the voucher is
26 provided to the displaced employee and the Department of Revenue
27 shall be informed of each displaced employee to whom a voucher
28 has been provided.

29 (b) Transfer of voucher.--An employer in this Commonwealth
30 who employs a displaced employee on a full-time basis may, upon

1 transfer of the voucher from the employee to the employer, use
2 the voucher as a credit against the State tax liability of the
3 business, if the employer can demonstrate the following:

4 (1) That the employee for whom the tax credit is being
5 sought was terminated from a State store within 12 months of
6 being employed by the employer.

7 (2) That the former board employee has been employed by
8 the employer seeking the tax credit on a full-time basis for
9 a period not less than one year.

10 (c) Voucher submittal.--The employer shall submit the tax
11 credit voucher to the Department of Revenue along with the
12 information required under subsection (b) (1) and (2) in
13 conjunction with the filing of a State business tax identified
14 under subsection (d) (2).

15 (d) Amount of credit.--

16 (1) An employer may claim a reemployment tax credit for
17 every job filled by a displaced employee of \$1,000 per
18 taxable year for a maximum of two taxable years.

19 (2) An employer may apply the reemployment tax credit to
20 100% of the employer's:

21 (i) State corporate net income tax, capital stock
22 and franchise tax or the personal tax of a shareholder of
23 the company if the company is a Pennsylvania S
24 corporation.

25 (ii) Gross premium tax, gross receipts tax, bank and
26 trust company shares tax, mutual thrift institution tax
27 or title insurance company shares tax.

28 (iii) Any combination of the taxes under
29 subparagraphs (i) and (ii).

30 (3) A displaced employee whose subsequent employment is

1 terminated with an employer who has utilized the reemployment
2 tax credit voucher to claim a one-year \$1,000 tax credit may
3 transfer the voucher to a new employer who may use the
4 remaining \$1,000 tax credit as a claim against the business
5 tax liability identified under paragraph (2).

6 (4) The term of the reemployment tax credit voucher may
7 not exceed two years from the date the voucher is provided to
8 the qualified former board employee.

9 Section 335-A. Protection of existing benefits.

10 (a) Contract benefits.--Nothing under this section shall be
11 deemed to affect:

12 (1) Pension benefits accrued prior to the date of
13 separation occurring as a sole and direct result of the
14 decision to cease wholesale and retail operations under this
15 article.

16 (2) Payment of any accrued benefit derived from the
17 terms of a preexisting collective bargaining agreement
18 payable upon separation from employment.

19 (b) Effects bargaining.--As a result of the preferential
20 hiring benefits, the tax credit for subsequent employers and the
21 protection of benefits arising from an employee's pension or
22 from a preexisting collective bargaining agreement under this
23 section, the board is deemed to have satisfied all obligations
24 to bargain over the effects of its decision to cease wholesale
25 and retail operations under this article which may arise under
26 the act of June 1, 1937 (P.L.1168, No.294), known as the
27 Pennsylvania Labor Relations Act, or the act of July 23, 1970
28 (P.L.563, No.195), known as the Public Employe Relations Act.

29 (c) Affect of local regulations.--As a result of the
30 preferential hiring benefits, the tax credit for subsequent

1 employers and the protection of benefits arising from an
2 employee's pension or a preexisting collective bargaining
3 agreement under this section, any local regulations, ordinances
4 or resolutions enacted by a political subdivision regarding
5 notice to displaced workers shall be deemed to be superseded by
6 this article.

7 SUBARTICLE F

8 WINE AND SPIRITS TAXES

9 Section 336-A. Excise tax on wine and spirits.

10 (a) Duty to collect taxes.--Except as provided under
11 subsection (f), a wine and spirits wholesale licensee shall have
12 the duty to collect from every manufacturer and importer of wine
13 and spirits an excise tax for wine and spirits sold in this
14 Commonwealth at a rate prescribed under subsections (b) and (c).

15 (b) Excise tax for wines.--The excise tax rate for wine and
16 natural sparkling wine shall be as follows:

17 (1) For wines, except natural sparkling wines,
18 containing 0.5% or more alcohol by volume and less than
19 17.259% alcohol by volume, all manufacturers and distributors
20 shall pay a tax at the rate of \$8.25 per gallon.

21 (2) For wines, except natural sparkling wines,
22 containing 17.259% or more alcohol by volume, all
23 manufacturers and distributors shall pay a tax at the rate of
24 \$8.75 per gallon.

25 (3) For natural sparkling wines, all manufacturers and
26 distributors shall pay a tax at the rate of \$9 per gallon.

27 (c) Excise tax for liquors.--Except for the taxes imposed
28 under subsection (b), the excise tax rate for liquors shall be
29 as follows:

30 (1) For liquor containing less than 17.259% of alcohol

1 by volume, all manufacturers and distributors shall pay a tax
2 at the rate of \$11 per gallon.

3 (2) For liquor containing 17.259% or more of alcohol by
4 volume and not more than 55.780% of alcohol by volume, all
5 manufacturers and distributors shall pay a tax at the rate of
6 \$11.50 per gallon.

7 (3) For liquor containing more than 55.780% of alcohol
8 by volume, all manufacturers and distributors shall pay a tax
9 at the rate of \$12 per gallon.

10 (d) Inflation index.--Beginning five years from the
11 effective date of this section, the excise tax rates prescribed
12 under subsections (b) and (c) shall be increased on an annual
13 basis in an amount equal to the Consumer Price Index - Gross
14 Domestic Products.

15 (e) Remittance of excise tax.--Every wine and spirits
16 wholesale licensee within this Commonwealth shall remit taxes
17 imposed and collected under this section to the Department of
18 Revenue monthly on or before the 10th day of the month following
19 collection of the excise tax.

20 (f) Exemptions.--The taxes imposed under this section shall
21 not apply to:

22 (1) Malt or brewed beverages.

23 (2) Liquor sold to a post exchange, ship service store
24 or base exchange located in a military, naval or air force
25 reservation within this Commonwealth.

26 Section 9. Section 401(a) of the act, amended July 6, 2005
27 (P.L.135, No.39), is amended to read:

28 Section 401. Authority to Issue Liquor Licenses to Hotels,
29 Restaurants and Clubs.--(a) Subject to the provisions of this
30 act and regulations promulgated under this act, the board shall

1 have authority to issue a retail liquor license for any premises
2 kept or operated by a hotel, restaurant or club and specified in
3 the license entitling the hotel, restaurant or club to purchase
4 liquor from a [Pennsylvania Liquor Store] licensee under Article
5 III-A and to keep on the premises such liquor and, subject to
6 the provisions of this act and the regulations made thereunder,
7 to sell the same and also malt or brewed beverages to guests,
8 patrons or members for consumption on the hotel, restaurant or
9 club premises. Such licensees, other than clubs, shall be
10 permitted to sell malt or brewed beverages for consumption off
11 the premises where sold in quantities of not more than one
12 hundred ninety-two fluid ounces in a single sale to one person
13 as provided for in section 407. Such licenses shall be known as
14 hotel liquor licenses, restaurant liquor licenses and club
15 liquor licenses, respectively. No person who holds, either by
16 appointment or election, any public office which involves the
17 duty to enforce any of the penal laws of the United States of
18 America or the penal laws of the Commonwealth of Pennsylvania or
19 any penal ordinance or resolution of any political subdivision
20 of this Commonwealth shall be issued any hotel or restaurant
21 liquor license, nor shall such a person have any interest,
22 directly or indirectly, in any such license.

23 * * *

24 Section 10. Section 408.12(g), (h) and (i) of the act, added
25 July 1, 1994 (P.L.402, No.61), are amended to read:

26 Section 408.12. Wine Auction Permits.--* * *

27 (g) Any wine sold under this section shall be purchased from
28 a [Pennsylvania Liquor Store] licensee under Article III-A, a
29 Pennsylvania limited winery or any seller authorized to sell
30 wine by the bottle or case in this Commonwealth or shall be

1 donated by a person who is neither a licensee nor a permittee
2 who has legally acquired the wine and legally possesses it in
3 this Commonwealth.

4 (h) If any wine sold under this section is purchased from a
5 seller other than a [Pennsylvania Liquor Store] licensee under
6 Article III-A or a Pennsylvania limited winery, the permittee
7 shall provide thirty days' notice to the board of its intent to
8 purchase such wine. The notice shall include a description of
9 the wine to be purchased, the quantity to be purchased, the name
10 of the seller and any other information which the board may
11 require. The permittee shall comply with all board regulations
12 regarding taxes and fees.

13 (i) The permittee shall be responsible for paying to the
14 board an amount equal to all taxes which would have been paid on
15 such wine if it had been purchased from a [Pennsylvania Liquor
16 Store] licensee under Article III-A, together with a processing
17 fee to be determined by the board.

18 * * *

19 Section 11. Section 410(e) of the act is amended to read:

20 Section 410. Liquor Importers' Licenses; Fees; Privileges;
21 Restrictions.--* * *

22 (e) Importers' licenses shall permit the holders thereof to
23 bring or import liquor from other states, foreign countries, or
24 insular possessions of the United States, and purchase liquor
25 from manufacturers located within this Commonwealth, to be sold
26 outside of this Commonwealth or to [Pennsylvania Liquor Stores]
27 wholesale licensees under Article III-A within this
28 Commonwealth, or when in original containers of ten gallons or
29 greater capacity, to licensed manufacturers within this
30 Commonwealth.

1 All importations of liquor into Pennsylvania by the licensed
2 importer shall be consigned to [the board or] the principal
3 place of business or authorized place of storage maintained by
4 the licensee.

5 * * *

6 Section 12. Section 438 of the act, amended June 25, 2010
7 (P.L.217, No.35), is amended to read:

8 Section 438. Number and Kinds of Licenses Allowed Same

9 Licensee.--(a) Any retail dispenser may be granted licenses to
10 maintain, operate or conduct any number of places for the sale
11 of malt or brewed beverages, but a separate license must be
12 secured for each place where malt or brewed beverages are sold.

13 (b) No person shall possess or be issued more than [one]
14 five distributor's licenses or one importing distributor's
15 license.

16 (c) No person shall possess more than one class of license,
17 except that a holder of a retail dispenser's license may also be
18 a holder of a retail liquor license: Provided, however, That
19 nothing contained in this section shall be construed to prohibit
20 a member of the governing board of a public authority created
21 under subdivision (n) of Article XXIII of the act of August 9,
22 1955 (P.L.323, No.130), known as "The County Code," from having
23 an interest in a distributor or importing distributor license
24 notwithstanding the fact that the public authority has an
25 interest in one or more retail licenses or acts as a landlord
26 for one or more retail licenses: And, provided further, That,
27 notwithstanding any other provision of this section, an entity
28 may acquire both a manufacturer's license or a limited winery
29 license and a hotel, restaurant or retail dispenser license for
30 use at the same location and more than one location may be so

1 licensed. The licenses and a person's interest in the licenses
2 or in the entity holding the licenses shall not be subject to
3 this section.

4 Section 13. Section 472(a) of the act, amended February 21,
5 2002 (P.L.103, No.10), is amended to read:

6 Section 472. Local Option.--(a) In any municipality or any
7 part of a municipality where such municipality is split so that
8 each part thereof is separated by another municipality, an
9 election may be held, subject to subsection (c), on the date of
10 the primary election immediately preceding any municipal
11 election, but not oftener than once in four years, to determine
12 the will of the electors with respect to the granting of liquor
13 licenses to hotels, restaurants, resort facilities and clubs,
14 not oftener than once in four years, to determine the will of
15 the electors with respect to the granting of liquor licenses to
16 public venues, to performing arts facilities, to continuing care
17 retirement communities, to hotels located on property owned by
18 an accredited college or university, to privately-owned private
19 golf courses or to privately-owned public golf courses, not
20 oftener than once in four years, to determine the will of the
21 electors with respect to the granting of licenses to retail
22 dispensers of malt and brewed beverages, not oftener than once
23 in four years, to determine the will of the electors with
24 respect to granting of licenses to wholesale distributors and
25 importing distributors, not more than once in two years, to
26 determine the will of the electors with respect to the granting
27 of club liquor licenses or club retail dispenser licenses to
28 incorporated units of national veterans' organizations, not
29 oftener than once in two years to determine the will of the
30 electors with respect to the granting of special occasion

1 permits to qualified organizations, or not more than once in
2 four years, to determine the will of the electors with respect
3 to the establishment[, operation and maintenance by the board of
4 Pennsylvania liquor stores] of wine and spirits retail
5 licensees, within the limits of such municipality or part of a
6 split municipality, under the provisions of this act: Provided,
7 however, Where an election shall have been held at the primary
8 preceding a municipal election in any year, another election may
9 be held under the provisions of this act at the primary
10 occurring the fourth year after such prior election: And
11 provided further, That an election on the question of
12 establishing and operating a State liquor store shall be
13 initiated only in those municipalities, or that part of a split
14 municipality that shall have voted against the granting of
15 liquor licenses; and that an election on the question of
16 granting wholesale distributor and importing distributor
17 licenses shall be initiated only in those municipalities or
18 parts of split municipalities that shall have at a previous
19 election voted against the granting of dispenser's licenses.
20 Whenever electors equal to at least twenty-five per centum of
21 the highest vote cast for any office in the municipality or part
22 of a split municipality at the last preceding general election
23 shall file a petition with the county board of elections of the
24 county for a referendum on the question of granting any of said
25 classes of licenses [or the establishment of Pennsylvania liquor
26 stores], the said county board of elections shall cause a
27 question to be placed on the ballots or on the voting machine
28 board and submitted at the primary immediately preceding the
29 municipal election. Separate petitions must be filed for each
30 question to be voted on. Said proceedings shall be in the manner

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

4 When the question is in respect to the granting of liquor
5 licenses, it shall be in the following form:

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

9 When the question is in respect to the granting of liquor
10 licenses to resort facilities in those municipalities that do
11 not already allow the retail sale of liquor, it shall be in the
12 following form:

13 Do you favor the granting of liquor licenses to resort
14 facilities for the sale of liquor in the..... Yes
15 of.....? No

16 When the question is in respect to the granting of restaurant
17 liquor licenses for use at public venues in those municipalities
18 that do not already allow the retail sale of liquor, it shall be
19 in the following form:

20 Do you favor the granting of liquor licenses to public
21 venues for the sale of liquor in the..... Yes
22 of.....? No

23 When the question is in respect to the granting of restaurant
24 liquor licenses for use at performing arts facilities in those
25 municipalities that do not already allow the retail sale of
26 alcohol, it shall be in the following form:

27 Do you favor the granting of liquor licenses to
28 performing arts facilities for the sale of liquor in
29 the..... Yes
30 of.....? No

1 When the question is in respect to the granting of liquor
2 licenses for hotels located on property owned by an accredited
3 college or university in those municipalities that do not
4 already allow the granting of liquor licenses, it shall be in
5 the following form:

6 Do you favor the granting of liquor licenses to hotels
7 on property owned by an accredited college or university
8 in the..... Yes
9 of.....? No

10 When the question is in respect to the granting of liquor
11 licenses, for privately-owned private golf courses, it shall be
12 in the following form:

13 Do you favor the granting of liquor licenses for
14 privately-owned private golf courses for the sale of
15 liquor in.....by..... Yes
16 of.....? No

17 When the question is in respect to the granting of liquor
18 licenses, for privately-owned public golf courses, it shall be
19 in the following form:

20 Do you favor the granting of liquor licenses for
21 privately-owned public golf courses for the sale of
22 liquor in.....by..... Yes
23 of.....? No

24 When the question is in respect to the granting of liquor
25 licenses to continuing care retirement communities in those
26 municipalities that have not already approved the granting of
27 liquor licenses, it shall be in the following form:

28 Do you favor the granting of liquor licenses for Yes
29 continuing care retirement communities No
30 in.....by.....

1 of.....?

2 When the question is in respect to the granting of licenses
3 to retail dispensers of malt and brewed beverages, it shall be
4 in the following form:

5 Do you favor the granting of malt and brewed beverage
6 retail dispenser licenses for consumption on premises
7 where sold in the..... Yes
8 of.....? No

9 When the question is in respect to the granting of licenses
10 to wholesale distributors of malt or brewed beverages and
11 importing distributors, it shall be in the following form:

12 Do you favor the granting of malt and brewed beverage
13 wholesale distributor's and importing distributor's
14 licenses not for consumption on premises where sold in
15 the..... Yes
16 of.....? No

17 When the question is in respect to the granting of club
18 liquor licenses to incorporated units of national veterans'
19 organizations, it shall be in the following form:

20 Do you favor the granting of club liquor licenses to
21 incorporated units of national veterans' organizations
22 in the..... Yes
23 of.....? No

24 When the question is in respect to the granting of club
25 retail dispenser licenses to incorporated units of national
26 veterans' organizations, it shall be in the following form:

27 Do you favor the granting of club retail dispenser
28 licenses to incorporated units of national veterans'
29 organizations in the..... Yes
30 of.....? No

1 When the question is in respect to the granting of special
2 occasion permits allowing the sale of liquor by qualified
3 organizations in municipalities that do not already allow the
4 retail sale of liquor, it shall be in the following form:

5 Do you favor the granting of special occasion permits to
6 allow the sale of liquor by qualified organizations in
7 the..... Yes
8 of.....? No

9 When the question is in respect to the granting of special
10 occasion permits allowing the sale of malt or brewed beverages
11 only by qualified organizations in municipalities that do not
12 already allow the retail sale of malt or brewed beverages, it
13 shall be in the following form:

14 Do you favor the granting of special occasion permits to
15 allow the sale of malt or brewed beverages only by
16 qualified organizations in the..... Yes
17 of.....? No

18 When the question is in respect to the [establishment,
19 operation and maintenance of Pennsylvania liquor stores]
20 granting of licenses to wine and spirits retail operators it
21 shall be in the following form:

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

27 In case of a tie vote, the status quo shall obtain. If a
28 majority of the voting electors on any such question vote "yes,"
29 then liquor licenses shall be granted by the board to hotels,
30 restaurants, resort facilities and clubs, or liquor licenses

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

1 * * *

2 Section 14. Section 488 of the act, added February 21, 2002
3 (P.L.103, No.10), is amended to read:

4 Section 488. Shipment of Wine into Commonwealth.--(a) The
5 shipment of wine from out-of-State to residents of this
6 Commonwealth is prohibited, except as otherwise provided for in
7 this section.

8 (b) Notwithstanding any other provision of this act or law
9 to the contrary, a person licensed by another state as a
10 producer, supplier, importer, wholesaler, distributor or
11 retailer of wine and who obtains a direct wine shipper license
12 as provided for in this section may ship up to nine liters per
13 month of any wine not included on the list provided for in
14 subsection (c) on the Internet order of any resident of this
15 Commonwealth who is at least twenty-one (21) years of age for
16 such resident's personal use and not for resale.

17 (c) Each month, the board shall publish on the Internet a
18 list of all classes, varieties and brands of wine available for
19 sale [in the Pennsylvania Liquor Stores] by wine and spirits
20 retail licensees. A person holding a direct shipper license may
21 ship only those classes, varieties and brands of wine not
22 included on the list available for sale at the time an Internet
23 order is placed.

24 (d) An out-of-State wine shipper shall:

25 (1) Not ship more than nine liters per month on the Internet
26 order of any person in this Commonwealth.

27 (2) Report to the board each year the total of wine shipped
28 into this Commonwealth in the preceding calendar year.

29 (3) Permit the board or the Secretary of Revenue, or their
30 designated representatives, to perform an audit of the out-of-

1 State wine shipper's records upon request.

2 (4) Be deemed to have submitted to the jurisdiction of the
3 board, any other State agency and the courts of this
4 Commonwealth for purposes of enforcement of this section and any
5 related laws, rules or regulations.

6 (e) A direct shipper may ship wine on the Internet order of
7 a resident into this Commonwealth provided that the wine is
8 shipped to a [Pennsylvania Liquor Store] wine and spirits retail
9 licensee's premises selected by the resident. The wine will be
10 subject to taxes in the same manner as wine sold [directly by
11 the board] by the wine and spirits retail licensee. The wine
12 will not be released by the [State store] wine and spirits
13 retail licensee until all moneys due, including all taxes and
14 fees, have been paid by the resident.

15 (f) A person shall sign an affidavit provided by the
16 [Pennsylvania Liquor Store] wine and spirits retail licensee
17 where the wine was delivered to stating that the wine will only
18 be used for the person's personal use. Any person who resells
19 wine obtained under this section commits a misdemeanor of the
20 second degree.

21 (g) The board may promulgate such rules and regulations as
22 are necessary to implement and enforce the provisions of this
23 section. The [board] wine and spirits retail licensee may charge
24 the resident a fee to cover the cost associated with processing
25 the Internet order.

26 (h) The board shall submit monthly reports to the
27 Appropriations Committee and the Law and Justice Committee of
28 the Senate and to the Appropriations Committee and the Liquor
29 Control Committee of the House of Representatives summarizing
30 the number of direct shipper licenses issued by the board, the

1 quantity of wine sold pursuant to this section and the total
2 dollar value of sales under this section.

3 (i) The term "wine" as used in this section shall mean
4 liquor which is fermented from grapes and other fruits, having
5 alcoholic content of twenty-four per centum or less. The term
6 "wine" shall not include malt or brewed beverages nor shall wine
7 include any products containing alcohol derived from malt,
8 grain, cereal, molasses or cactus.

9 Section 15. Section 491 of the act, amended October 5, 1994
10 (P.L.522, No.77), February 21, 2002 (P.L.103, No.10), December
11 9, 2002 (P.L.1653, No.212), July 17, 2003 (P.L.63, No.15) and
12 July 7, 2006 (P.L.584, No.84), is amended to read:

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

15 It shall be unlawful--

16 (1) Sales of Liquor. For any person, by himself or by an
17 employe or agent, to expose or keep for sale, or directly or
18 indirectly, or upon any pretense or upon any device, to sell or
19 offer to sell any liquor within this Commonwealth, except in
20 accordance with the provisions of this act and the regulations
21 of the board. This clause shall not be construed to prohibit
22 hospitals, physicians, dentists or veterinarians who are
23 licensed and registered under the laws of this Commonwealth from
24 administering liquor in the regular course of their professional
25 work and taking into account the cost of the liquor so
26 administered in making charges for their professional service,
27 or a pharmacist duly licensed and registered under the laws of
28 this Commonwealth from dispensing liquor on a prescription of a
29 duly licensed physician, dentist or veterinarian, or selling
30 medical preparations containing alcohol, or using liquor in

1 compounding prescriptions or medicines and making a charge for
2 the liquor used in such medicines, or a manufacturing pharmacist
3 or chemist from using liquor in manufacturing preparations unfit
4 for beverage purposes and making a charge for the liquor so
5 used. All such liquors so administered or sold by hospitals,
6 physicians, dentists, veterinarians, pharmacists or chemists
7 shall conform to the Pharmacopoeia of the United States, the
8 National Formulary, or the American Homeopathic Pharmacopoeia.
9 This clause shall not be construed to prohibit an executor or an
10 administrator of a decedent's estate from selling privately or
11 at public auction liquor which was an asset of the decedent. The
12 board shall establish regulations to ensure that State taxes
13 from the sales will be paid by the estate from the proceeds of
14 the sale. The board may not prohibit a sale of liquor for the
15 reason that it was not lawfully acquired prior to January 1,
16 1934 or has not been purchased [from a Pennsylvania Liquor Store
17 or] in compliance with Pennsylvania law.

18 (2) Possession or Transportation of Liquor or Alcohol. For
19 any person, except a manufacturer or the board or the holder of
20 a sacramental wine license or of an importer's license, to
21 possess or transport any liquor or alcohol within this
22 Commonwealth which was not lawfully acquired prior to January
23 first, one thousand nine hundred and thirty-four, or has not
24 been legally purchased from a [Pennsylvania Liquor Store]
25 licensee under Article III-A or a licensed limited winery in
26 Pennsylvania, except in accordance with section 488 or the
27 board's regulations. In addition, it shall be lawful for anyone
28 to possess miniatures totaling less than one gallon purchased in
29 another state or a foreign country. The burden shall be upon the
30 person possessing or transporting such liquor or alcohol to

1 prove that it was so acquired. Notwithstanding this section or
2 any other provision of the law, wine may be produced by any
3 person without a license if the wine is not produced for sale
4 and total production does not exceed two hundred gallons per
5 calendar year. Wine produced in accordance with this clause may
6 be used at organized affairs, exhibitions, competitions,
7 contests, tastings or judgings if it is not sold or offered for
8 sale.

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

30 None of the provisions herein contained shall prohibit nor

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

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

1 act providing for prosecution as a misdemeanor and for the
2 forfeiture of the vehicle, boat, vessel, animal or aircraft
3 shall apply.

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

11 (4) Possession and Use of Decanters. For any person to use
12 decanters of alcoholic beverages except that the use of
13 decanters or other similar receptacles by licensees shall be
14 permitted in the case of wines and then only in accordance with
15 the regulations of the board, but nothing herein contained shall
16 prohibit the manufacture and possession of wine as provided in
17 clause (2) of this section.

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

1 of participation shall be provided in a manner as prescribed by
2 the Pennsylvania Liquor Control Board.

3 (6) Sales by Restaurant and Hotel Liquor Licensees. For any
4 restaurant or hotel licensee, his servants, agents or employes,
5 to sell any liquor or malt or brewed beverages for consumption
6 on the licensed premises except in a room or rooms or place on
7 the licensed premises at all times accessible to the use and
8 accommodation of the general public, but this section shall not
9 be interpreted to prohibit a restaurant liquor licensee from
10 providing private affairs the primary function of which is for
11 catering only to weddings or special occasions arranged twenty-
12 four hours in advance, nor to prohibit a hotel licensee, or a
13 restaurant licensee when the restaurant is located in a hotel,
14 from selling liquor or malt or brewed beverages in any room of
15 such hotel occupied by a bona fide guest or to prohibit a
16 restaurant licensee from selling liquor or malt or brewed
17 beverages in a bowling alley where the restaurant and bowling
18 alley are immediately adjacent and under the same roof.

19 (7) Sales of Liquor by Manufacturers and Licensed Importers.
20 For any manufacturer or licensed importer of liquor in this
21 Commonwealth, his agents, servants or employes, to sell or offer
22 to sell any liquor in this Commonwealth except to [the board for
23 use in Pennsylvania Liquor Stores] a wholesale licensee under
24 Article III-A, and in the case of a manufacturer, to the holder
25 of a sacramental wine license or an importer's license.
26 Notwithstanding any other provision of this act, a manufacturer
27 or licensed importer may sell or offer to sell liquor for
28 delivery outside of this Commonwealth.

29 (8) Importation and Sales of Alcohol. For any person, to
30 import alcohol into this Commonwealth, or to sell alcohol to any

1 person, except in accordance with section 488 and the provisions
2 of this act or the regulations of the board.

3 (9) Possession of Alcohol. For any person, to have alcohol
4 in his possession, except in accordance with the provisions of
5 this act and the regulations of the board.

6 (10) Fortifying, Adulterating or Contaminating Liquor. For
7 any licensee or any employe or agent of a licensee or of the
8 board, to fortify, adulterate or contaminate any liquor, except
9 as permitted by the regulations of the board, or to refill
10 wholly or in part, with any liquid or substance whatsoever, any
11 liquor bottle or other liquor container.

12 (11) Importation of Liquor. For any person, other than [the
13 board] a wine and spirits wholesale licensee or the holder of a
14 sacramental wine license, an importer's license or a direct
15 shipper's license, to import any liquor whatsoever into this
16 Commonwealth, but this section shall not be construed to
17 prohibit railroad and pullman companies from purchasing and
18 selling liquors purchased outside the Commonwealth in their
19 dining, club and buffet cars which are covered by public service
20 liquor licenses and which are operated in this Commonwealth.

21 (12) Delivery of Liquor by Certain Licensees. For a liquor
22 licensee permitted to deliver liquor, to make any deliveries
23 except in his own vehicles bearing his name, address and license
24 number on each side in letters not smaller than four inches in
25 height, or in the vehicle of another person duly authorized to
26 transport liquor within this Commonwealth.

27 (13) Violation of Certain Rules and Regulations of Board.
28 For any person, to violate any rules and regulations adopted by
29 the board [to insure the equitable] relating to wholesale and
30 retail sale and distribution of liquor and alcohol through [the

1 Pennsylvania Liquor Stores] licensees under Article III-A.

2 (14) Offering Commission or Gift to Members of Board or
3 State Employee. For any person selling or offering to sell liquor
4 or alcohol to, or purchasing at wholesale liquor or alcohol
5 from, the board, either directly or indirectly, to pay or offer
6 to pay any commission, profit or remuneration, or to make or
7 offer to make any gift to any member or employe of the board or
8 other employe of the Commonwealth or to anyone on behalf of such
9 member or employe.

10 Section 16. Section 493(1) of the act, amended December 8,
11 2004 (P.L.1810, No.239), is amended to read:

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

17 It shall be unlawful--

18 (1) Furnishing Liquor or Malt or Brewed Beverages to Certain
19 Persons. For any licensee [or the board,] or any employe,
20 servant or agent of such licensee [or of the board], or any
21 other person, to sell, furnish or give any liquor or malt or
22 brewed beverages, or to permit any liquor or malt or brewed
23 beverages to be sold, furnished or given, to any person visibly
24 intoxicated, or to any minor: Provided further, That
25 notwithstanding any other provision of law, no cause of action
26 will exist against a licensee [or the board] or any employe,
27 servant or agent of such licensee [or the board] for selling,
28 furnishing or giving any liquor or malt or brewed beverages or
29 permitting any liquor or malt or brewed beverages to be sold,
30 furnished or given to any insane person, any habitual drunkard

1 or person of known intemperate habits unless the person sold,
2 furnished or given alcohol is visibly intoxicated or is a minor.

3 * * *

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

5 Section 493.2. Unlawful Acts Relative to Wine and Spirits

6 Retail Licensee.--(a) It shall be unlawful for any wine and
7 spirits retail licensee, or any employe, servant or agent of the
8 licensee, or any other person, to sell, furnish or give any
9 liquor or malt or brewed beverages, or to permit any liquor or
10 malt or brewed beverages to be sold, furnished or given, to any
11 minor. Notwithstanding any other provision of law, no cause of
12 action will exist against a licensee or any employe, servant or
13 agent of the licensee for selling, furnishing or giving any
14 liquor or malt or brewed beverages or permitting any liquor or
15 malt or brewed beverages to be sold, furnished or given to any
16 insane person, any habitual drunkard or person of known
17 intemperate habits unless the person sold, furnished or given
18 alcohol is a minor.

19 (b) Any person who violates the provisions of subsection (a)
20 and shall, upon conviction, be sentenced to pay a fine of not
21 less than two thousand dollars (\$2,000) nor more than ten
22 thousand dollars (\$10,000) and may have the license suspended or
23 revoked.

24 Section 18. Section 495 of the act, amended December 20,
25 1996 (P.L.1523, No.199), February 21, 2002 (P.L.103, No.10) and
26 December 16, 2002 (P.L.1806, No.221) and repealed in part March
27 25, 1988 (P.L.262, No.31), is amended to read:

28 Section 495. Identification Cards; Licensees and [State
29 Liquor Store] Employes Saved From Prosecution.--(a) The valid
30 photo driver's license or identification card issued by the

1 Department of Transportation or by any other state, a valid
2 armed forces of the United States identification card, a valid
3 passport or a travel visa issued by the United States or a
4 foreign country that contains the holder's photograph shall, for
5 the purpose of this act, be accepted as an identification card.

6 (b) Such identification card shall be presented by the
7 holder thereof upon request of any [State Liquor Store or any]
8 licensee, or the servant, agent or employe thereof, for the
9 purpose of aiding such [store,] licensee, or the servant, agent
10 or employe to determine whether or not such person is twenty-one
11 years of age and upwards, when such person desires alcoholic
12 beverage at a [State Liquor Store or] licensed establishment.

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

18 19
19 I,....., hereby represent
20 to, a [State Store
21 or] licensee of the board, that I am of full age and discretion
22 and over the age of 21 years, having been born
23 on 19..... at

24 This statement is made to induce said [store or] licensee above
25 named to sell or otherwise furnish alcoholic beverages to the
26 undersigned.

27 Serial Number of Identification Card:

28 I understand that I am subject to a fine of
29 \$300.00 and sixty days imprisonment for any
30 misrepresentation herein.

1
2 (Name)
3
4 (Address)

5 Witness:
6 Name.....
7 Address.....

8 The forms shall be printed in a manner approved by the board
9 and shall be filed alphabetically by the [State Liquor Store or]
10 licensee in a file box containing a suitable alphabetical index
11 at or before the close of business on the day that the form is
12 executed, and any such form shall be subject to examination by
13 any officer, agent or employe of the enforcement bureau at any
14 and all times.

15 (e) No penalty shall be imposed on a licensee[,] or the
16 licensee's employe [or State Liquor Store employe] for serving
17 alcohol to a minor if the licensee or employe can establish that
18 the minor was required to produce an identification card as set
19 forth in subsection (a), the minor completed and signed the form
20 as set forth in subsection (c) and these documents were relied
21 upon in good faith. This defense shall apply to all civil and
22 criminal prosecutions.

23 (f) In addition to the defense set forth in subsection (e),
24 no penalty shall be imposed on a licensee[,] or the licensee's
25 employe [or State Liquor Store employe] for serving alcohol to a
26 minor if the licensee or employe can establish that the minor
27 was required to produce an identification card as set forth in
28 subsection (a), a photograph, photocopy or other visual or video
29 presentation of the identification card was made and those
30 documents were relied upon in good faith. This defense shall

1 apply to all civil and criminal prosecutions.

2 (g) In addition to the defenses set forth in subsections (e)
3 and (f), no penalty shall be imposed on a licensee[,] or a
4 licensee's employe [or Pennsylvania Liquor Store employe] for
5 serving alcohol to a minor if the licensee or employe can
6 establish that the minor was required to produce an
7 identification card as set forth in subsection (a), the
8 identification card is identified as a valid card by a
9 transaction scan device and the identification card and
10 transaction scan results were relied upon in good faith. This
11 defense shall apply to all civil and criminal prosecutions. For
12 purposes of this section, a "transaction scan device" is a
13 device capable of deciphering in an electronically readable
14 format the information encoded on the magnetic strip or bar code
15 of an identification card set forth in subsection (a).

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

28 Section 19. Repeals are as follows:

29 (1) The General Assembly declares that the repeal under
30 paragraph (2) is necessary to effectuate the addition of

1 section 336-A of the act.

2 (2) The act of June 9, 1936 (Sp.Sess., P.L.13, No.4)
3 entitled "An act imposing an emergency State tax on liquor,
4 as herein defined, sold by the Pennsylvania Liquor Control
5 Board; providing for the collection and payment of such tax;
6 and imposing duties upon the Department of Revenue and the
7 Pennsylvania Liquor Control Board," is repealed.

8 Section 20. This act shall take effect as follows:

9 (1) Section 17(3) of this act shall take effect in two
10 years.

11 (2) The remainder of this act shall take effect
12 immediately.