

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL**No. 2184** Session of
2014

INTRODUCED BY DiGIROLAMO, HARKINS, DAVIS, MILLARD, SCHLOSSBERG, FREEMAN, KORTZ, MURT, MCCARTER, DERMODY, J. HARRIS, D. MILLER, BROWNLEE, ROZZI, O'BRIEN, MUNDY, FABRIZIO, B. BOYLE, MOLCHANY, FRANKEL, MARKOSEK, GOODMAN, M. DALEY, HARHAI, PASHINSKI, THOMAS, READSHAW, WATERS, CALTAGIRONE, PAINTER, STURLA, P. DALEY, BRIGGS, P. COSTA, HANNA, DeLUCA, BIZZARRO, SCAVELLO, MULLERY, SIMS, V. BROWN, GALLOWAY, FLYNN, BARBIN, NEILSON, KULA, BRADFORD, CLAY, SABATINA, DONATUCCI, CONKLIN, GIBBONS, GERGELY, MICCARELLI, KINSEY, D. COSTA, FARINA, MAHONEY, DEASY, KAVULICH, KIM, SANTARSIERO, WHITE, LONGIETTI, SCHREIBER, COHEN, PARKER, MIRANDA, W. KELLER, PETRI, BISHOP, SNYDER, YOUNGBLOOD, CARROLL, K. BOYLE, DAVIDSON, CRUZ, MCNEILL, MATZIE, McGEEHAN, D. EVANS, DELISSIO, GAINEY, HAGGERTY, KIRKLAND, VITALI, SAMUELSON, MIRABITO, SAINATO, BURNS, WHEATLEY, DEAN, ROEBUCK, HALUSKA, NEUMAN AND PETRARCA, APRIL 15, 2014

REFERRED TO COMMITTEE ON LIQUOR CONTROL, APRIL 15, 2014

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," in
17 Pennsylvania Liquor Control Board, further providing for
18 general powers of board; in Pennsylvania Liquor Stores,
19 further providing for board to establish State liquor stores,

1 for when sales may be made at Pennsylvania liquor stores, for
2 sales by Pennsylvania liquor stores; in licenses and
3 regulations and liquor and alcohol and malt and brewed
4 beverages, further providing for renewal of licenses and
5 temporary provisions for licensees in armed service, for
6 revocation and suspension of licenses and fines and for
7 shipment of wine into Commonwealth; providing for direct
8 shipment of wine; further providing for unlawful acts
9 relative to liquor, malt and brewed beverages and licensees;
10 and, in disposition of moneys collected under provisions of
11 act, further providing for moneys paid into the State Stores
12 Fund for use of the Commonwealth.

13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 Section 1. Section 207 of the act of April 12, 1951 (P.L.90,
16 No.21), known as the Liquor Code, reenacted and amended June 29,
17 1987 (P.L.32, No.14), and amended February 21, 2002 (P.L.103,
18 No.10) and December 8, 2004 (P.L.1810, No.239), is amended to
19 read:

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

22 (a) To buy, import or have in its possession for sale and
23 sell liquor, alcohol, corkscrews, wine and liquor accessories,
24 trade publications, gift cards, gift certificates, wine- or
25 liquor-scented candles and wine glasses in the manner set forth
26 in this act: Provided, however, That all purchases shall be made
27 subject to the approval of the State Treasurer, or his
28 designated deputy. The board shall buy liquor and alcohol at the
29 lowest price and in the greatest variety reasonably obtainable.
30 Such sales and purchases may be to or from persons or entities
31 located both in and outside this Commonwealth.

32 (b) To control the manufacture, possession, sale,
33 consumption, importation, use, storage, transportation and
34 delivery of liquor, alcohol and malt or brewed beverages in
35 accordance with the provisions of this act, and to fix the
36 wholesale and retail prices at which liquors and alcohol shall

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

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

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

10 (d) To grant and issue all licenses and to grant, issue,
11 suspend and revoke all permits authorized to be issued under
12 this act.

13 (e) Through the Department of General Services as agent, to
14 lease and furnish and equip such buildings, rooms and other
15 accommodations as shall be required for the operation of this
16 act.

17 (f) To appoint, fix the compensation and define the powers
18 and duties of such managers, officers, inspectors, examiners,
19 clerks and other employes as shall be required for the operation
20 of this act, subject to the provisions of The Administrative
21 Code of 1929 and the Civil Service Act.

22 (g) To determine the nature, form and capacity of all
23 packages and original containers to be used for containing
24 liquor, alcohol or malt or brewed beverages.

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

30 (i) From time to time, to make such regulations not

1 inconsistent with this act as it may deem necessary for the
2 efficient administration of this act. The board shall cause such
3 regulations to be published and disseminated throughout the
4 Commonwealth in such manner as it shall deem necessary and
5 advisable or as may be provided by law. Such regulations adopted
6 by the board shall have the same force as if they formed a part
7 of this act.

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

13 (k) To issue grants to various entities for alcohol
14 education and prevention efforts.

15 (l) Notwithstanding any other provision of law to the
16 contrary, to enter into agreements with governmental units of
17 this Commonwealth and other states, for the purchase or sale of
18 goods and services with, from or to the governmental units. This
19 authority includes, but is not limited to, the purchase or sale
20 of alcohol.

21 (m) To be licensed as a lottery sales agent, as set forth in
22 section 305 of the act of August 26, 1971 (P.L.351, No.91),
23 known as the "State Lottery Law," and to take any actions
24 authorized by such designation, except that no bond, insurance
25 or indemnification may be required from the board.

26 (n) To establish and implement a customer relations
27 management program for the purpose of offering incentives, such
28 as coupons or discounts on certain products, to unlicensed
29 customers of the board.

30 Section 2. Section 301 of the act is amended to read:

1 Section 301. Board to Establish State Liquor Stores.--(a)
2 The board shall establish, operate and maintain at such places
3 throughout the Commonwealth as it shall deem essential and
4 advisable, stores to be known as "Pennsylvania Liquor Stores,"
5 for the sale of liquor and alcohol in accordance with the
6 provisions of and the regulations made under this act; except
7 that no store not so already located shall be located within
8 three hundred feet of any elementary or secondary school, nor
9 within a dry municipality without there first having been a
10 referendum approving such location. When the board shall have
11 determined upon the location of a liquor store in any
12 municipality, it shall give notice of such location by public
13 advertisement in two newspapers of general circulation. In
14 cities of the first class, the location shall also be posted for
15 a period of at least fifteen days following its determination by
16 the board as required in section 403(g) of this act. The notice
17 shall be posted in a conspicuous place on the outside of the
18 premises in which the proposed store is to operate or, in the
19 event that a new structure is to be built in a similarly visible
20 location. If, within five days after the appearance of such
21 advertisement, or of the last day upon which the notice was
22 posted, fifteen or more taxpayers residing within a quarter of a
23 mile of such location, or the City Solicitor of the city of the
24 first class, shall file a protest with the court of common pleas
25 of the county averring that the location is objectionable
26 because of its proximity to a church, a school, or to private
27 residences, the court shall forthwith hold a hearing affording
28 an opportunity to the protestants and to the board to present
29 evidence. The court shall render its decision immediately upon
30 the conclusion of the testimony and from the decision there

1 shall be no appeal. If the court shall determine that the
2 proposed location is undesirable for the reasons set forth in
3 the protest, the board shall abandon it and find another
4 location. Notwithstanding any other provision of law to the
5 contrary, the board may operate and maintain stores within other
6 businesses, including, but not limited to, supermarkets or large
7 retail stores selling packaged foods for human consumption,
8 owned by private persons or entities consistent with the
9 requirements of this section and under such conditions and
10 regulations as the board may enforce. The board may establish,
11 operate and maintain such establishments for storing and testing
12 liquors as it shall deem expedient to carry out its powers and
13 duties under this act.

14 (b) The board may lease the necessary premises for such
15 stores or establishments, but all such leases shall be made
16 through the Department of General Services as agent of the
17 board. Notwithstanding any other provision of law to the
18 contrary, the Department of General Services shall have no more
19 than ninety days from the date the board officially approves a
20 lease recommendation to send the final lease packet to the
21 appropriate agencies for further processing. The Department of
22 General Services shall be required to submit quarterly reports
23 to the chairman and minority chairman of the Law and Justice
24 Committee of the Senate and the chairman and minority chairman
25 of the Liquor Control Committee of the House of Representatives,
26 indicating the number of lease recommendations approved by the
27 board during the preceding quarter, and whether the
28 corresponding final lease packets were sent to the appropriate
29 agencies within the ninety-day deadline. If the Department of
30 General Services fails to regularly submit these quarterly

1 reports or fails to regularly meet the ninety-day deadline
2 imposed by this subsection, then the General Assembly may
3 consider legislation that would allow the board to lease
4 premises for its stores without the involvement of the
5 Department of General Services. The board, through the
6 Department of General Services, shall have authority to purchase
7 such equipment and appointments as may be required in the
8 operation of such stores or establishments.

9 Section 3. Section 304 of the act, amended December 8, 2004
10 (P.L.1810, No.239), is amended to read:

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

17 (b) Certain Pennsylvania Liquor Stores operated by the board
18 [shall] may be open for Sunday retail sales between the hours of
19 [noon] nine o'clock postmeridian and [five] nine o'clock
20 postmeridian, except that no Sunday sales shall occur on Easter
21 Sunday or Christmas day. The board shall open [up to twenty-five
22 per centum of the total number of Pennsylvania Liquor Stores at
23 its discretion], at its discretion, as many Pennsylvania Liquor
24 Stores as it deems necessary for Sunday sales as provided for in
25 this subsection. The board shall submit yearly reports to the
26 Appropriations and the Law and Justice Committees of the Senate
27 and the Appropriations and the Liquor Control Committees of the
28 House of Representatives summarizing the total dollar value of
29 sales under this section.

30 Section 4. Section 305(b) of the act, amended July 6, 2005

1 (P.L.135, No.39), is amended and the section is amended by
2 adding a subsection to read:

3 Section 305. Sales by Pennsylvania Liquor Stores.--* * *

4 (b) Every Pennsylvania Liquor Store shall sell liquors at
5 wholesale to hotels, restaurants, clubs, and railroad, pullman
6 and steamship companies licensed under this act; and, under the
7 regulations of the board, to pharmacists duly licensed and
8 registered under the laws of the Commonwealth, and to
9 manufacturing pharmacists, and to reputable hospitals approved
10 by the board, or chemists. Sales to licensees shall be made at a
11 price that includes a discount of ten per centum from the retail
12 price. The board may sell to registered pharmacists only such
13 liquors as conform to the Pharmacopoeia of the United States,
14 the National Formulary, or the American Homeopathic
15 Pharmacopoeia. The board may sell at special prices under the
16 regulations of the board, to United States Armed Forces
17 facilities which are located on United States Armed Forces
18 installations and are conducted pursuant to the authority and
19 regulations of the United States Armed Forces. All other sales
20 by such stores shall be at retail[.], except that incentives,
21 such as coupons or discounts on certain products, may be offered
22 to unlicensed customers of the board as provided for under
23 sections 207(m) and 493(24)(iii) of this act. A person entitled
24 to purchase liquor at wholesale prices may purchase the liquor
25 at any Pennsylvania Liquor Store upon tendering cash, check or
26 credit card for the full amount of the purchase. For this
27 purpose, the board shall issue a discount card to each licensee
28 identifying such licensee as a person authorized to purchase
29 liquor at wholesale prices. Such discount card shall be retained
30 by the licensee. The board may contract through the Commonwealth

1 bidding process for delivery to wholesale licensees at the
2 expense of the licensee receiving the delivery.

3 * * *

4 (j) If the board becomes a licensed lottery sales agent, as
5 set forth in section 305 of the act of August 26, 1971 (P.L.351,
6 No.91), known as the "State Lottery Law," then the following
7 shall apply, notwithstanding the provisions of the "State
8 Lottery Law":

9 (i) The Secretary of Revenue shall permit the board to
10 operate and maintain Pennsylvania lottery instant ticket vending
11 machines, player-activated terminals and technologies or systems
12 subsequently approved by the Department of Revenue for the self-
13 service sale of lottery tickets and games in Pennsylvania Liquor
14 Stores. The board and the Secretary of Revenue shall mutually
15 agree upon the number and location of the stores authorized to
16 conduct self-service sales of lottery tickets and games.

17 (ii) The board shall not be required to post any type of
18 bond prior to conducting self-service sales of lottery tickets
19 and games.

20 (iii) Any commissions, compensation or any type of incentive
21 award based upon the sale of lottery tickets and games shall be
22 deposited by the board into the State Stores Fund.

23 Section 5. Section 470(a) of the act, amended December 22,
24 2011 (P.L.530, No.113), is amended to read:

25 Section 470. Renewal of Licenses; Temporary Provisions for
26 Licensees in Armed Service.--(a) All applications for renewal
27 of licenses under the provisions of this article shall be filed
28 with tax clearance from the Department of Revenue and the
29 Department of Labor and Industry and requisite license and
30 filing fees at least sixty days before the expiration date of

1 same: Provided, however, That the board, in its discretion, may
2 accept nunc pro tunc a renewal application filed less than sixty
3 days before the expiration date of the license with the required
4 fees, upon reasonable cause shown and the payment of an
5 additional filing fee of one hundred dollars (\$100.00) for late
6 filing: And provided further, That except where the failure to
7 file a renewal application on or before the expiration date has
8 created a license quota vacancy after said expiration date which
9 has been filled by the issuance of a new license, after such
10 expiration date, but before the board has received a renewal
11 application nunc pro tunc within the time prescribed herein the
12 board, in its discretion, may, after hearing, accept a renewal
13 application filed within two years after the expiration date of
14 the license with the required fees upon the payment of an
15 additional filing fee of two hundred fifty dollars (\$250.00) for
16 late filing. In addition, the renewal application must indicate
17 the total dollar amount of alcoholic beverages sold by the
18 licensee during the twelve-month period immediately preceding
19 the filing of the renewal application. Where any such renewal
20 application is filed less than sixty days before the expiration
21 date, or subsequent to the expiration date, no license shall
22 issue upon the filing of the renewal application until the
23 matter is finally determined by the board and if an appeal is
24 taken from the board's action the courts shall not order the
25 issuance of the renewal license until final determination of the
26 matter by the courts. The board may enter into an agreement with
27 the applicant concerning additional restrictions on the license
28 in question. If the board and the applicant enter into such an
29 agreement, such agreement shall be binding on the applicant.
30 Failure by the applicant to adhere to the agreement will be

1 sufficient cause to form the basis for a citation under section
2 471 and for the nonrenewal of the license under this section. A
3 renewal application will not be considered filed unless
4 accompanied by the requisite filing and license fees and any
5 additional filing fee required by this section. Unless the board
6 shall have given ten days' previous notice to the applicant of
7 objections to the renewal of his license, based upon violation
8 by the licensee or his servants, agents or employes of any of
9 the laws of the Commonwealth or regulations of the board
10 relating to the manufacture, transportation, use, storage,
11 importation, possession or sale of liquors, alcohol or malt or
12 brewed beverages, or the conduct of a licensed establishment, or
13 unless the applicant has by his own act become a person of ill
14 repute, or unless the premises do not meet the requirements of
15 this act or the regulations of the board, the license of a
16 licensee shall be renewed. Notwithstanding any other provision
17 of this act, a noise violation shall not be the sole basis for
18 objection by the board to the renewal of a license unless the
19 licensee has received six prior adjudicated noise citations
20 within a twenty-four-month period.

21 * * *

22 Section 6. Section 471(b) of the act, amended July 6, 2005
23 (P.L.135, No.39), is amended to read:

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

25 * * *

26 (b) Hearing on such citations shall be held in the same
27 manner as provided herein for hearings on applications for
28 license. Upon such hearing, if satisfied that any such violation
29 has occurred or for other sufficient cause, the administrative
30 law judge shall immediately suspend or revoke the license, or

1 impose a fine of not less than [fifty dollars (\$50)] one hundred
2 dollars (\$100) nor more than [one thousand dollars (\$1,000),]
3 the greater of two thousand dollars (\$2,000) or 10% of the
4 average gross monthly sales of alcoholic beverages sold by the
5 licensee during the twelve-month period immediately preceding
6 the filing of the licensee's renewal application, or both,
7 notifying the licensee by registered letter addressed to his
8 licensed premises.

9 (b.1) If the licensee has been cited and found to have
10 violated section 493(1) insofar as it relates to sales to minors
11 or sales to a visibly intoxicated person, section 493(10)
12 insofar as it relates to lewd, immoral or improper entertainment
13 or section 493(14), (16) or (21), or has been found to be a
14 public nuisance pursuant to section 611, or if the owner or
15 operator of the licensed premises or any authorized agent of the
16 owner or operator has been convicted of any violation of the act
17 of April 14, 1972 (P.L.233, No.64), known as "The Controlled
18 Substance, Drug, Device and Cosmetic Act," or of 18 Pa.C.S. §
19 5902 (relating to prostitution and related offenses) or 6301
20 (relating to corruption of minors), at or relating to the
21 licensed premises, the administrative law judge shall
22 immediately suspend or revoke the license, or impose a fine [of
23 not less than one thousand dollars (\$1,000)] two thousand
24 dollars (\$2,000) nor more than [five thousand dollars (\$5,000)]
25 the greater of ten thousand dollars (\$10,000) or 10% of the
26 average gross monthly sales of alcoholic beverages sold by the
27 licensee during the twelve-month period immediately preceding
28 the filing of the licensee's renewal application, or both.
29 However, if a licensee has been cited and found to have violated
30 section 493(1) as it relates to sales to minors or sales to a

1 visibly intoxicated person but at the time of the sale the
2 licensee was in compliance with the requirements set forth in
3 section 471.1 and the licensee had not sold to minors or visibly
4 intoxicated persons in the previous four years, then the
5 administrative law judge shall immediately suspend or revoke the
6 license, or impose a fine of not less than [fifty dollars (\$50)]
7 one hundred dollars (\$100) nor more than [one thousand dollars
8 (\$1,000)] the greater of two thousand dollars (\$2,000) or 10% of
9 the average gross monthly sales of alcoholic beverages sold by
10 the licensee during the twelve-month period immediately
11 preceding the filing of the licensee's renewal application, or
12 both.

13 (b.2) The administrative law judge shall notify the licensee
14 by registered mail, addressed to the licensed premises, of such
15 suspension, revocation or fine. In the event the fine is not
16 paid within twenty days of the adjudication, the administrative
17 law judge shall suspend or revoke the license, notifying the
18 licensee by registered mail addressed to the licensed premises.
19 Suspensions and revocations shall not go into effect until
20 thirty days have elapsed from the date of the adjudication
21 during which time the licensee may take an appeal as provided
22 for in this act, except that revocations mandated in section
23 481(c) shall go into effect immediately. Any licensee whose
24 license is revoked shall be ineligible to have a license under
25 this act until the expiration of three years from the date such
26 license was revoked. In the event a license is revoked, no
27 license shall be granted for the premises or transferred to the
28 premises in which the said license was conducted for a period of
29 at least one year after the date of the revocation of the
30 license conducted in the said premises, except in cases where

1 the licensee or a member of his immediate family is not the
2 owner of the premises, in which case the board may, in its
3 discretion, issue or transfer a license within the said year. In
4 the event the bureau or the person who was fined or whose
5 license was suspended or revoked shall feel aggrieved by the
6 adjudication of the administrative law judge, there shall be a
7 right to appeal to the board. The appeal shall be based solely
8 on the record before the administrative law judge. The board
9 shall only reverse the decision of the administrative law judge
10 if the administrative law judge committed an error of law,
11 abused its discretion or if its decision is not based on
12 substantial evidence. In the event the bureau or the person who
13 was fined or whose license was suspended or revoked shall feel
14 aggrieved by the decision of the board, there shall be a right
15 to appeal to the court of common pleas in the same manner as
16 herein provided for appeals from refusals to grant licenses.
17 Each of the appeals shall act as a supersedeas unless, upon
18 sufficient cause shown, the reviewing authority shall determine
19 otherwise; however, if the licensee has been cited and found to
20 have violated section 493(1) insofar as it relates to sales to
21 minors or sales to a visibly intoxicated person, section 493(10)
22 insofar as it relates to lewd, immoral or improper entertainment
23 or section 493(14), (16) or (21), or has been found to be a
24 public nuisance pursuant to section 611, or if the owner or
25 operator of the licensed premises or any authorized agent of the
26 owner or operator has been convicted of any violation of "The
27 Controlled Substance, Drug, Device and Cosmetic Act," or of 18
28 Pa.C.S. § 5902 or 6301, at or relating to the licensed premises,
29 or if the license has been revoked under section 481(c), its
30 appeal shall not act as a supersedeas unless the reviewing

1 authority determines otherwise upon sufficient cause shown. In
2 any hearing on an application for a supersedeas under this
3 section, the reviewing authority may consider, in addition to
4 other relevant evidence, documentary evidence, including records
5 of the bureau, showing the prior history of citations, fines,
6 suspensions or revocations against the licensee; and the
7 reviewing authority may also consider, in addition to other
8 relevant evidence, evidence of any recurrence of the unlawful
9 activity occurring between the date of the citation which is the
10 subject of the appeal and the date of the hearing. If the
11 reviewing authority is the board, no hearing shall be held on
12 the application for a supersedeas; however, a decision shall be
13 made based on the application, answer and documentary evidence
14 under this subsection. If the application for a supersedeas is
15 for a license that has been revoked under section 481(c), the
16 reviewing authority shall grant the supersedeas only if it finds
17 that the licensee will likely prevail on the merits. No penalty
18 provided by this section shall be imposed for any violations
19 provided for in this act unless the bureau notifies the licensee
20 of its nature within thirty days of the completion of the
21 investigation.

22 * * *

23 Section 7. Section 488 of the act, added February 21, 2002
24 (P.L.103, No.10), is amended to read:

25 Section 488. Shipment of Wine [into Commonwealth.--(a) The
26 shipment of wine from out-of-State to residents of this
27 Commonwealth is prohibited, except as otherwise provided for in
28 this section.] to Pennsylvania Liquor Stores.--(a) (Reserved).

29 (b) Notwithstanding any other provision of this act or law
30 to the contrary, a person licensed by another state as a

1 producer, supplier, importer, wholesaler, distributor or
2 retailer of wine and who obtains a [direct wine shipper] direct-
3 to-store wine shipper license as provided for in this section
4 may ship up to nine liters per month of any wine [not included ◀
5 on the list provided for in subsection (c)] on the [Internet] ◀
6 order of any resident of this Commonwealth who is at least
7 twenty-one (21) years of age for such resident's personal use
8 and not for resale.

9 (c) [Each month, the board shall publish on the Internet a
10 list of all classes, varieties and brands of wine available for
11 sale in the Pennsylvania Liquor Stores. A person holding a
12 direct shipper license may ship only those classes, varieties
13 and brands of wine not included on the list at the time an
14 Internet order is placed.] (Reserved).

15 (d) [An out-of-State] A direct-to-store wine shipper shall:

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

18 (2) Report to the board each year the total amount of wine
19 shipped [into this Commonwealth] to Pennsylvania Liquor Stores
20 in the preceding calendar year.

21 (3) Permit the board, the enforcement bureau or the
22 Secretary of Revenue, or their designated representatives, to
23 perform an audit of the [out-of-State] direct-to-store wine
24 shipper's records upon request.

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

29 (e) A [direct] direct-to-store wine shipper may ship wine on
30 the [Internet] order of a resident into this Commonwealth

1 provided that the wine is shipped to a Pennsylvania Liquor Store
2 selected by the resident. The wine will be subject to taxes in
3 the same manner as wine sold directly by the board. The wine
4 will not be released by the State store until all moneys due,
5 including all taxes and fees, have been paid by the resident.

6 (f) A person shall sign an affidavit provided by the
7 Pennsylvania Liquor Store where the wine was delivered to
8 stating that the wine will only be used for the person's
9 personal use. Any person who resells wine obtained under this
10 section commits a misdemeanor of the second degree.

11 (g) The board may promulgate such rules and regulations as
12 are necessary to implement and enforce the provisions of this
13 section. The board may charge the resident a fee to cover the
14 cost associated with processing the [Internet] order.

15 (h) The board shall submit [monthly] annual reports to the
16 Appropriations Committee and the Law and Justice Committee of
17 the Senate and to the Appropriations Committee and the Liquor
18 Control Committee of the House of Representatives summarizing
19 the number of [direct] direct-to-store wine shipper licenses
20 issued by the board, the quantity of wine sold and shipped by
21 direct-to-store wine shipper licensees pursuant to this section
22 and the total dollar value of sales under this section.

23 (i) The term "wine" as used in this section shall mean
24 liquor which is fermented from [grapes and other fruits, having
25 alcoholic content of twenty-four per centum or less. The term
26 "wine" shall not include malt or brewed beverages nor shall wine
27 include any products containing alcohol derived from malt,
28 grain, cereal, molasses or cactus] an agricultural commodity as
29 that term is defined in section 505.2(c).

30 Section 8. The act is amended by adding a section to read:

1 Section 489. Direct Shipment of Wine.--(a) Notwithstanding
2 any other provision of law to the contrary, a person licensed by
3 the board or another state as a producer of wine, and who
4 obtains a license as provided for in this section, may ship up
5 to eighteen liters per month of any wine on the order of any
6 resident of this Commonwealth who is at least twenty-one years
7 of age for such resident's personal use and not for resale.

8 (b) Prior to issuing such a license, the board shall require
9 the person seeking the license to:

10 (1) File an application with the board.

11 (2) Pay a registration fee of one hundred dollars (\$100).

12 (3) Provide to the board a copy of the applicant's current
13 alcoholic beverage license issued by the board or another state,
14 if applicable.

15 (4) Provide documentation to the board which evidences that
16 the applicant has obtained a sales tax license from the
17 Department of Revenue.

18 (5) Obtain a tax bond, in the amount of one thousand dollars
19 (\$1,000), such that if the licensee does not pay the taxes
20 imposed under this section when due, the surety of the bond
21 shall pay all taxes and any related penalties, and any interest
22 that may be due or become due.

23 (6) Provide the board with any other information that the
24 board deems necessary and appropriate.

25 (c) The licensee shall:

26 (1) Require proof of age of the recipient, in a manner or
27 format approved by the board, before any wine is shipped to a
28 resident of this Commonwealth.

29 (2) Ensure that all boxes or exterior containers of wine
30 shipped directly to a resident of this Commonwealth are

1 conspicuously labeled with the words "CONTAINS ALCOHOL:
2 SIGNATURE OF PERSON 21 YEARS OF AGE OR OLDER REQUIRED FOR
3 DELIVERY."

4 (3) Ensure that shipments shall be delivered by an entity
5 holding a valid transporter-for-hire license issued by the board
6 and that such transporter-for-hire shall not deliver any wine
7 unless it does all of the following:

8 (i) Obtains the signature of the recipient of the wine upon
9 delivery.

10 (ii) Verifies by inspecting a valid form of photo
11 identification, as provided for in section 495(a), that the
12 recipient is at least twenty-one (21) years of age.

13 (iii) Determines that the recipient is not visibly
14 intoxicated at the time of delivery.

15 (4) On a quarterly basis, remit to the Department of Revenue
16 all taxes due on sales to residents of this Commonwealth.

17 (5) Permit the board, the enforcement bureau or the
18 Secretary of Revenue, or their designated representatives, to
19 perform an audit of the licensee's records upon request.

20 (6) Be deemed to have submitted to the jurisdiction of the
21 board, any other State agency and the courts of this
22 Commonwealth for purposes of enforcement of this section and any
23 related laws, rules or regulations, including the collection and
24 remission of taxes as required under this section.

25 (7) Annually renew its license by paying a renewal fee
26 established by the board and report to the board, at the time of
27 renewal, the total amount of wine shipped to residents of this
28 Commonwealth in the preceding calendar year.

29 (d) Wine delivered under the authority of this section is
30 subject to the sales and use tax imposed by section 202 of the

1 act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code
2 of 1971, the sales and use tax imposed by Article XXXI-B of the
3 act of July 28, 1953 (P.L.723, No.230), known as the Second
4 Class County Code, the sales and use tax imposed by the act of
5 February 12, 2004 (P.L.73, No.11), known as the
6 Intergovernmental Cooperation Authority Act for Cities of the
7 Second Class, and the emergency State tax imposed on wines sold
8 by the board under the act of June 9, 1936 (1st Sp. Sess.,
9 P.L.13, No.4), entitled "An act imposing an emergency State tax
10 on liquor, as herein defined, sold by the Pennsylvania Liquor
11 Control Board; providing for the collection and payment of such
12 tax; and imposing duties upon the Department of Revenue and the
13 Pennsylvania Liquor Control Board."

14 (e) A transporter for hire shall:

15 (1) keep records as required under section 512 pertaining to
16 the direct shipment of wine; and

17 (2) permit the board and the enforcement bureau, or their
18 designated representatives, to inspect such records in
19 accordance with section 513.

20 (f) Any person who resells wine obtained under this section
21 commits a misdemeanor of the second degree.

22 (g) Shipments of wine to persons in this Commonwealth from
23 persons who do not possess a license from the board authorizing
24 such shipments are prohibited. Any person who knowingly makes,
25 participates in, transports, imports or receives such shipment
26 commits a misdemeanor.

27 (h) The board shall submit annual reports to the
28 Appropriations and the Law and Justice Committees of the Senate
29 and to the Appropriations and the Liquor Control Committees of
30 the House of Representatives summarizing the number of licenses

1 issued by the board under this section, the quantity of wine
2 sold and shipped by licensees pursuant to this section, and the
3 total dollar value of sales under this section.

4 (i) The board may promulgate such rules and regulations as
5 are necessary to implement and enforce the provisions of this
6 section.

7 (j) The term "wine" as used in this section shall mean
8 liquor which is fermented from an agricultural commodity as that
9 term is defined in section 505.2(c).

10 Section 9. Section 493(24) of the act, amended November 29,
11 2006 (P.L.1421, No.155), is amended and the section is amended
12 by adding a paragraph to read:

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

18 It shall be unlawful--

19 * * *

20 (24) (i) Things of Value Offered as Inducement. Except as
21 provided in subclause (ii), for any licensee under the
22 provisions of this article, or the board or any manufacturer, or
23 any employe or agent of a manufacturer, licensee or of the
24 board, to offer to give anything of value or to solicit or
25 receive anything of value as a premium for the return of caps,
26 stoppers, corks, stamps or labels taken from any bottle, case,
27 barrel or package containing liquor or malt or brewed beverage,
28 or to offer or give or solicit or receive anything of value as a
29 premium or present to induce directly the purchase of liquor or
30 malt or brewed beverage, or for any licensee, manufacturer or

1 other person to offer or give to trade or consumer buyers any
2 prize, premium, gift or other inducement to purchase liquor or
3 malt or brewed beverages, except advertising novelties of
4 nominal value which the board shall define. This section shall
5 not prevent any manufacturer or any agent of a manufacturer from
6 offering and honoring coupons which offer monetary rebates on
7 purchases of wines and spirits through State Liquor Stores or
8 purchases of malt or brewed beverages through distributors and
9 importing distributors in accordance with conditions or
10 regulations established by the board. The board may redeem
11 coupons offered by a manufacturer or an agent of a manufacturer
12 at the time of purchase. Coupons offered by a manufacturer or an
13 agent of a manufacturer shall not be redeemed without proof of
14 purchase. This section shall not apply to the return of any
15 monies specifically deposited for the return of the original
16 container to the owners thereof.

17 (ii) Notwithstanding subclause (i) or any other provision of
18 law, a holder of a restaurant license that is also approved to
19 hold a slot machine license or a conditional slot machine
20 license under 4 Pa.C.S. Part II (relating to gaming) may give
21 liquor and malt or brewed beverages free of charge to any person
22 actively engaged in playing a slot machine.

23 (iii) Notwithstanding subclause (i) or any other provision
24 of law, the board may establish and implement a customer
25 relations management program for the purpose of offering
26 incentives, such as coupons or discounts on certain products
27 which may be conditioned upon the purchase of liquor, to
28 unlicensed customers of the board.

29 * * *

30 (35) Sale of wine received by direct-to-store or direct

1 shipment. For any licensee to sell or offer to sell any wine
2 purchased or acquired, directly or indirectly, from a licensee
3 pursuant to the authority of section 488, or from a licensee
4 pursuant to the authority of section 489.

5 Section 10. Section 802 of the act, amended April 29, 1994
6 (P.L.212, No.30) and July 11, 1996 (P.L.654, No.111), is amended
7 to read:

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

18 (c) [Two] Two and one-half per centum of annual profits from
19 the sale of liquor and alcohol shall be annually transferred to
20 the Department of Health for use by the Office of Drug and
21 Alcohol Programs, or its successor in function, for the
22 following purposes:

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

25 (2) Promotion of education, prevention and early
26 intervention programs designed to eliminate abuse and addiction
27 to alcohol or other mood-altering substances or secure
28 appropriate treatment for the already addicted.

29 (3) Study of the problem of addiction.

30 (d) All other moneys in such fund shall be available for the

1 purposes for which they are appropriated by law.

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

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

23 (g) The sum of five million dollars (\$5,000,000) shall be
24 transferred from The State Stores Fund in accordance with
25 subsection (f) to the Children's Health Fund for health care for
26 indigent children established by section 1296 of the act of
27 March 4, 1971 (P.L.6, No.2), known as the "Tax Reform Code of
28 1971," to carry out the provisions of the act of December 2,
29 1992 (P.L.741, No.113), known as the "Children's Health Care
30 Act," for the fiscal year July 1, 1996, to June 30, 1997. Funds

1 transferred under this subsection shall not be subject to the
2 limitation set forth in section 3101 of the "Children's Health
3 Care Act."

4 Section 11. This act shall take effect in 60 days.