



HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

HOUSE BILL NO. 466

PRINTERS NO. 521

PRIME SPONSOR: Turzai

COST / (SAVINGS)

FUND	FY 2014/15	FY 2015/16
State Stores Fund	\$0	See fiscal impact
State Stores Fund Restricted Account	\$0	See fiscal impact
General Fund	\$0	See fiscal impact

SUMMARY: House Bill 466, printer's number 521, amends the act of April 12, 1951 (P.L. 90, No. 21), as reenacted and amended, known as The Liquor Code, to provide for the divestiture by the Commonwealth of the wholesale and retail wine and spirits distribution business. There are varying effective dates which are outlined in the analysis section below.

ANALYSIS: The bill amends the Liquor Code to provide for a multi-phased divestiture of the retail wine and spirits distribution system followed by divestiture of the wholesale distribution system. The bill initially provides for 1,200 wine and spirits retail licenses. The wine and spirits retail licenses are allocated by county based on the number of beer distributors located in each county. New grocery store licenses are to be evenly distributed throughout each county on a per capita basis, with a minimum of two per county. Pennsylvania Liquor Control Board (PLCB) retail stores shall close within six months after the number of private wine and spirit retail licenses plus grocery store licenses equals twice the number of State liquor stores in each county. As PLCB stores close, the Department of General Services (DGS), in consultation with the PLCB, can determine if there is need to add additional licenses beyond the original 1,200. Up to 600 additional licenses may be issued if it is deemed necessary. The bill also provides for package reform, wine-to-go permits and spirits-to-go permits. An application surcharge is provided to offset the administrative license renewal costs of the PLCB. Fines are also increased by the bill. More specific detail on the proposed changes to the Liquor Code follows.

Retail Wine and Spirits Divestiture

1. Grocery Stores – the bill provides that grocery stores, defined as places which primarily sell food, supplies for the table and food products for human consumption off the premises and which have an area under one roof of 10,000 square feet or more, shall be able to apply for retail liquor licenses to sell wine only for consumption off the premises. Application for licenses begins 60 days after enactment.
 - Quota is one license per each 15,000 residents of a county. Each county shall be guaranteed 2 licenses regardless of the number of residents.
 - License Fees range from \$97,500 to \$187,500.
 - Renewal fees are \$2,000 or \$4,000 depending on county classification, every two years.
 - Sales may occur 7 a.m. to 11 p.m. every day except Sunday, unless a Sunday sales permit is obtained for an additional fee of \$1,500 per year. Sunday sales hours are 9 a.m. to 11 p.m.
 - No more than 12 bottles of wine may be sold in a single sale.
 - Sales may not occur at customer self-scan points of sale.
 - Store clerks must be 18 years of age to process wine sales in grocery stores.

2. Beer Distributors – beginning four months after enactment currently licensed beer distributors have first right of refusal for 12 months to purchase wine and/or spirits licenses.
 - Fees for wine licenses range from \$7,500 to \$37,500 depending on county.
 - Fees for spirits licenses range from \$30,000 to \$60,000 depending on county.
 - Fees for distributors choosing to sell both wine and spirits are the sum of the fees for the individual licenses.
 - Beer distributors have the option of paying for wine and/or spirits licenses over 48 months but a 5% interest assessment is applied if the monthly payment plan is chosen.
 - License renewal required every two years at a cost of \$1,000.
 - Sales may occur 9 a.m. to 11 p.m. every day except Sunday, unless a Sunday sales permit is obtained for an additional fee of \$1,000 per year. Sunday sales hours are 9 a.m. to 9 p.m.
 - Required to use a transaction scan device for sales to any individual who appears younger than 35.

3. New Retail Licensees – at the conclusion of the 12-month beer distributor application period, remaining wine and/or spirits licenses become available to other currently unlicensed entities.
 - Fees for wine licenses range from \$97,500 to \$187,500 depending on county.
 - Fees for spirits licenses range from \$142,500 to \$262,500 depending on county.
 - Fees for new licensees choosing to sell both wine and spirits are the sum of the fees for the individual licenses.
 - License renewal required every two years at cost of \$1,000.
 - Sales may occur 9 a.m. to 11 p.m. every day except Sunday, unless a Sunday sales permit is obtained for an additional fee of \$1,000 per year. Sunday sales hours are 9 a.m. to 9 p.m.
 - Required to use a transaction scan device for sales to any individual who appears younger than 35.

Wholesale Divestiture – effective date provides for wholesale divestiture process to begin 16 months after enactment with completion mandated to occur six months after commencement. DGS is charged with the responsibility of overseeing the transition to a privately owned wholesale distribution system (as well as the retail wine and spirits distribution system).

- Wholesale licenses are to be sold based on brands. A wholesale licensee may distribute more than one brand of liquor under the same license.
- A wholesale license fee is to be paid based on a blended brand valuation, which is equal to 20% of the cost of goods sold for a particular liquor product in the most recent 12-month period times 2.5.
- A fee of \$10,000 is payable at time of application for a wine and spirits wholesale license.
- Wine and spirits wholesale licenses are to be renewed every two years at a fee of \$5,000.
- Products must be distributed on a statewide basis.
- Wholesale licensee may not engage in variable pricing, engage in unfair or deceptive trade practices, or intentionally exclude competing brands.

Package Reform will be done through an annual permitting process.

- Restaurants, hotels and eating place licensees as well as grocery stores currently holding a restaurant license may obtain a permit for \$500. The permit allows the sale of up to 24 bottles so long as they are not sold in pre-packaged configurations of larger than a 12-pack.
- Distributors may obtain a permit for \$1,000 that would allow the sale of growlers, 6-packs and 12-packs in any quantity.

Wine-to-go Permits allow for the sale of up to 6 bottles of wine for consumption off the licensed premises and may be obtained by restaurant licensees for an annual permit fee of \$500.

Spirits-to-go Permits allow for the sale of an unopened bottle of liquor for consumption off the licensed premises and may be obtained by hotel or restaurant licensees for an annual permit fee of \$500.

Retail Dispenser Upgrade fee allows an existing eating place licensee to upgrade to a full restaurant license upon payment of a one-time \$30,000 fee.

Displaced Employee Transition Assistance - Subchapter D of the bill provides transition assistance for displaced employees, which are defined as salaried PLCB employees whose employment is terminated as a sole and direct result of privatization of liquor distribution in the Commonwealth. The definition of displaced employee specifically excludes intermittent liquor store clerks and seasonal liquor store clerks. Assistance to be provided to displaced employees includes the following:

- 1) the addition of three (3) extra points on Civil Service exam scores and preference over nonveteran candidates for non-Civil Service jobs;
- 2) two years of career training and post-secondary education grants through PHEAA of \$2,000 per year for full-time attendance and \$1,000 per year for part-time attendance at an institution of higher education within this Commonwealth, including career training and adult education courses of study, within one year of the date of displacement from State service; and
- 3) re-employment tax credit of \$2,000 per taxable year for two years for private sector employers who hire displaced employees on a full-time basis within one year of displacement. Displaced employee must be employed by the employer for a period of not less than one year.

The bill also makes the following additional amendments to the Liquor Code:

- Immediately removes the 25% limitation on the number of PA Liquor Stores that may be open for Sunday retail sales and increases the hours of Sunday operations from 12 p.m. to 5 p.m. to 9 a.m. to 9 p.m.
- Immediately increases the licensee discount on wine and spirits from 10% to 14% from the retail price until the wholesale divestiture process is complete.
- Adds a new application surcharge of \$700 for the renewal of all existing liquor licenses (will not apply to new licenses).
- Removes prohibition of the sale of alcohol at gas stations.
- Limits the distribution of hotel and restaurant licensees, collected under Section 405 of the Liquor Code, to only municipalities that receive services from a municipal police department; otherwise the fees collected shall be transferred to the liquor control enforcement bureau.
- Increases the number of distributor's or importing distributor's licenses that a person may be issued to five but no more than one in a county (current limitation is no more than one license).
- Increases fines for violations of the Liquor Code.
- Permits wine and spirits retail licensees to establish and implement consumer relations marketing programs for the purpose of offering incentives conditioned on the purchase of wine and spirits.
- Provides authority for the LCB to adjust fees by regulation to fund the State Police enforcement requirements under this act and the LCB's administrative, licensing, and regulatory functions.

FISCAL IMPACT: Assuming an enactment date of June 30, 2015, this legislation is estimated to have the following impacts:

Restricted Revenue Account within the State Stores Fund

One-time License Fees

A total of \$1,167,400,000 is estimated to be generated from one-time license fees that will be deposited in a restricted account created within the State Stores Fund. This estimate is comprised of the following:

Retail Wine and Spirits Stores License Fees = \$404,600,000

Assumes beer distributors and current restaurant and hotel licensees purchase 75% of the first 1,200 licenses made available. As State Stores close it is assumed that beer distributors and restaurant and hotel licensees will purchase 25% of the additional 600 licenses = \$86,100,000.

Assumes all remaining licenses are purchased by currently unlicensed entities = \$318,500,000.

Grocery Store License Fees = \$138,200,000

Assumes 830 grocery store licenses (minimum 2 per county based on 2013 census data).

Wine and Spirits Wholesale License and Application Fees = \$615,600,000

Assumes 30 applicants for licenses and fees are based on the 2013-14 PLCB cost of goods sold.

Retail Dispenser License Upgrade Fees = \$9,000,000

Assumes 66% of current retail dispensers choose to upgrade their license.

In the first year after enactment it is assumed that 75% of the 1,200 eligible wine and spirits licenses will be purchased by distributors, 830 grocery store licenses will be purchased and 300 retail dispenser upgrade fees will be paid. This will result in approximately \$221,300,000 of the one-time revenue being deposited in the restricted account created within the State Stores Fund during 2015-16.

Assistance for Displaced Employees

Assuming 2,352 individuals (72% of current full-time salaried PLCB workforce) all utilize the full \$2,000 each year for two years of education grants or re-employment tax credits, a maximum cost of \$9,408,000 will be realized over a period of several fiscal years. Education grants would first be available in 2016-17 with tax credits first being available in 2017-18 due to the requirement of being employed for a full year for a company to claim the tax credit. These costs are to be paid from the restricted account.

State Stores Fund

Annually Recurring Permits and Surcharges

A total of \$31,400,000 is estimated to be generated on an annual basis and deposited in the State Stores Fund for operating and enforcement costs beginning in fiscal year 2015-16. This estimate is comprised of the following:

Revenue from new Permit Fees = \$17,400,000

75% of retail wine and spirits licensees purchase Sunday sales permits.

100% of grocery stores purchase Sunday sales permits.

75% of hotel and restaurant licensees purchase wine-to-go and spirits-to-go permits.

90% of distributors purchase package reform permits.

75% of restaurant, hotel and retail dispensers purchase package reform permits.

Application Surcharges for current licensees = \$14,000,000

Estimate is based on information provided by the PLCB for a \$700 surcharge on all license renewal applications.

Biennial Recurring License Renewal Fees

A total of \$6.8 million in additional revenue will be received from the biennial renewal of wine and spirits licenses and grocery store licenses. These fees will first be realized in part in fiscal year 2017-18 based on the timing of the initial year of issuance of each license.

Licensee Discount

The increase in the discount for PLCB sales to licensees from 10% to 14% that will be extended to licensees until the wholesale divestiture process is completed will reduce revenue to the State Stores Fund by approximately \$48,000,000 in 2015-16 (\$18,900,000 for existing licensees and \$29,100,000 for half a year for new licensees that will only become operational in the second half of 2015-16).

General Fund

Border Bleed

Studies have indicated that up to 900,000 cases of spirits and 2 million cases of wine are purchased out-of-state by Pennsylvania residents resulting in the loss of approximately \$100 million to \$300 million in revenues each year. Privatizing the liquor wholesale and retail operations will result in the repatriation of these sales. Applying the 18% liquor tax and the 6% sales tax to such purchases would result in additional tax revenues to the General Fund estimated to be in the range of \$24 million to \$72 million.

Sunday Sales

Removing the 25% limitation on the number of PA Liquor Stores that may be open for Sunday retail sales and increasing the hours of Sunday operations is estimated to generate additional sales of \$18 million to \$20 million. Applying the 18% liquor tax and the 6% sales tax to such purchases would result in additional tax revenues to the General Fund estimated to be in the range of \$4.3 million to \$4.8 million.

Business Profits

Privatizing the wholesale and retail operations of the PLCB will result in additional income taxes paid by the businesses owning the new licenses estimated to be in the range of \$2.4 million to \$5.0 million.

Administration and Enforcement

Annual fees and fines deposited in the State Stores Fund of approximately \$50 million when the Commonwealth is fully divested of the sale of wine and spirits is assumed to be sufficient to cover the annual costs to regulate and oversee the wholesale and retail wine and spirits industry. The restricted revenue account may also be accessed to cover any additional costs that may arise as the divestiture process unfolds and the private wine and spirits retail and wholesale market stabilizes in the Commonwealth. Finally, any funds that may be necessary to cover costs incurred by PLCB for the administration of this act or by the State Police for enforcement of this act over and above this amount are expected to be covered by the ability of the PLCB to provide license fee renewal adjustments through the Regulatory Review process.

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House Appropriations Committee (R)

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Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.