



# HOUSE COMMITTEE ON APPROPRIATIONS

## FISCAL NOTE

HOUSE BILL NO. 466

PRINTERS NO. 1985

PRIME SPONSOR: Turzai

### COST / (SAVINGS)

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

**SUMMARY:** House Bill 466, printer's number 1985, 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 of both the wholesale and retail wine and spirits distribution business by providing for the closure of Pennsylvania liquor stores; providing for career training and postsecondary education grant eligibility; providing for wholesale permits and wholesale licenses; providing for wine or liquor expanded permits; providing for wine or liquor enhanced permits; clarifying provisions of the liquid fuels exclusion; and making changes to the provisions of holding a license in safekeeping.

**ANALYSIS:** The bill amends the Liquor Code providing a multi-phased divestiture of the wholesale and retail wine and spirits distribution system. Pennsylvania liquor stores (state stores) shall be closed when enhanced wine and liquor permit holders are selling wine and liquor within the proximity of the state store. Enhanced wine and liquor permits equal to the number of distributors and importing distributors shall be first made available for purchase by distributors and importing distributors and then be auctioned to unlicensed entities. Wholesale permits shall be made available for a 10-year lease period. At the conclusion of the 10-year lease period, wholesale licenses shall be made available to the holders of wholesale permits to complete the divestiture of the wine and liquor wholesale operations. Expanded permits shall be made available to restaurants and hotels for off-premise consumption of wine and liquor. More specific details on the changes to the Liquor Code are as follows:

#### Closure of State Stores

- The board must take into consideration the availability and accessibility of wine and liquor to the public through the private retail market prior to closing a state store.
- The board must identify the two closest distributors or importing distributors to a state store.
- If one of the distributors or importing distributors is selling wine and liquor, or if there is an unlicensed entity selling wine or liquor within the same proximity, the board shall close the store.
- A state store designated for closure shall cease operations within 60 days.
- The board shall arrange for the disposition of the liquor remaining in inventory by either (1) coordinating with the vendor of record to repurchase the products, (2) selling the products to holders of wine or liquor enhanced permits or (3) transporting the products to another state store.
- The Department of General Services, in consultation with the board, shall establish a procedure for the sale of the nonliquor inventory, property and fixtures. All proceeds shall be deposited in the State Stores Fund.
- The board shall provide immediate notice to the lessor and shall reimburse the lessor for any outstanding renovation costs that were incurred during the term of the current lease as of the effective date of the act.

### **Enhanced Wine and Liquor Permits**

- Creates enhanced wine and liquor permits for the retail sale of unlimited quantities of wine and liquor for off premise consumption.
- The number of permits available shall be equal to the number of licensed distributors and importing distributors in existence on the effective date.
- Distributors and importing distributors may purchase a wine and/or liquor enhanced permit during the first 6-month period for an initial fee of \$45,000 for an enhanced wine permit and \$45,000 for an enhanced liquor permit.
- After the initial 6-month period, any remaining available enhanced wine or liquor permits will be auctioned to unlicensed entities. The board will post a listing of available permits 60 days after the close of the 6-month period. Applications will be accepted over a 60-day period from the posting of the availability of the permits.
- The minimum bid for an enhanced wine permit shall be \$150,000 and the minimum bid for an enhanced liquor permit shall be \$150,000.
- Annual renewal fees for all enhanced wine and liquor permits shall range from \$2,000 to \$6,000 based on the wholesale purchase amount of the permit holder in the previous year.
- All fees from enhanced wine and liquor permits shall be paid into the General Fund.

### **Wholesale Lease and Divestiture**

- Creates wholesale lease permits which shall be made available to licensed importers within 30 days of the effective date.
- The board shall approve and issue a wholesale lease permit within 60 days of receiving the application if the applicant meets the requirements and remits the initial fee.
- The initial fee shall be equal to 15% of the cost of goods sold by the board for the products identified in the application in the most recent 12-month period.
- The wholesale lease permit shall be valid for a 10-year period and shall be subject to a renewal fee equal to 15% of the gross receipts on the sale of wine and liquor by the permit holder. Upon commencing wholesale operations, the renewal fee shall be paid on a quarterly basis for each calendar quarter and be due on the 20<sup>th</sup> day of April, July, October and January for the previous calendar quarter.
- Any product currently not sold in Pennsylvania must be registered with the board for a fee of \$2,500.
- At the conclusion of the 10-year wholesale lease period, the holder of a wholesale permit shall be granted a wholesale license to continue operations for a fee of 5% of the gross receipts of wine and liquor sold by the permit holder with an annual renewal fee also equal to 5% of the gross receipts.
- The board is prohibited from selling products at wholesale when wholesale permit holders have commenced operations.
- All fees from wholesale permits and wholesale licenses shall be paid into the General Fund.

### **Expanded Wine and Liquor Permits**

- Creates expanded wine and liquor permits for restaurant and hotel licensees allowing a permit holder to sell up to 192 ounces of wine and up to 1.75 liters of liquor for off premise consumption.
- Restaurant and hotel licensees may purchase a wine and/or liquor expanded permit for an initial fee of \$2,500 for an expanded wine permit and \$2,500 for an expanded liquor permit.
- Annual renewal fees for all expanded wine and liquor permits shall range from \$1,000 to \$3,000 based on the wholesale purchase amount of the permit holder in the previous year.
- All fees from expanded wine and liquor permits shall be paid into the General Fund.

### **Career Training and Postsecondary Education Grant Eligibility**

- Provides for employees displaced as a result of wholesale and retail divestiture with an additional 4 years should their eligibility under the Pennsylvania Higher Education Assistance Agency's state grant program otherwise be expired.

### **Liquid Fuels**

- Prohibits the board from licensing an area where liquid fuels or oil is sold.
- Provides that a licensee may not have an interior connection with a location that sells liquid fuels or oil unless it first receives permission from the board regardless of whether the licensee or another party is selling the liquid fuels or oil.

### **Licenses in Safekeeping**

- Reduces the initial term for a license to remain in safekeeping from 3 years to 2 years.
- Provides for an increase in the fee to keep a license in safekeeping beyond the initial 2 years from \$5,000 to \$10,000 for 1<sup>st</sup> through 4<sup>th</sup> class counties and from \$2,500 to \$5,000 for 5<sup>th</sup> through 8<sup>th</sup> class counties. Provides for this amount to double from the previous year for each subsequent year.

### **Taxation of Wine and Liquor**

- Provides for the imposition of taxes on wine and liquor in the same manner as it currently exists.

The act shall take effect in 60 days.

**FISCAL IMPACT:** Enactment of this legislation will result in additional revenues to the General Fund estimated to be \$359.1 million in fiscal year 2015-16 from the initial purchase of wine and liquor enhanced and extended permit fees (\$101.8 million), the initial purchase of wholesale lease permit fees (\$199.8 million) and renewal fees from wholesale permit holder's from one quarter of gross receipts (\$57.5 million). Provisions in the legislation requiring the privatization and divestiture of the wholesale and retail operations will reduce the amount of revenue deposited into the State Stores Fund. As a result, the board will be required to reduce its wholesale and retail footprint by reducing operating costs. One-time revenues collected from sales of nonliquor inventory, property and fixtures as state stores are closed will be deposited in the State Stores Fund. Furthermore, privatizing the wholesale and retail operations will result in additional income taxes paid to the Commonwealth by the businesses owning the new licenses as well as increased liquor tax and sales tax collections from the repatriation of purchases of wine and liquor across state borders. It is estimated that the net fiscal impact to the Commonwealth will be additional revenues of at least \$220 million in 2015-16.

### **Enhanced Wine and Liquor Permits**

A total of \$68.1 million is estimated to be generated in fiscal year 2015-16 from the initial fees for distributors and importing distributors purchasing enhanced wine and liquor permits. This estimate assumes that 60% of the total number of distributors and importing distributors will purchase both a wine and liquor enhanced permit during the initial 6-month period that the permits are available. At the end of the 6-month period the board shall post a listing of the available permits within 60 days. Applications will then be accepted over a 60-day period after which time the enhanced permits will be auctioned to unlicensed entities. It is estimated that the auction will generate a total of \$151.5 million in revenues at the minimum price of \$150,000 each for a wine permit and liquor permit. The revenues from the auction of the permits will be received in fiscal year 2016-17. Renewal fees for enhanced permits are estimated to generate \$10.1 million annually. All revenues generated from enhanced wine and liquor permits and renewal fees are deposited into the General Fund.

### **Wholesale Lease and Divestiture**

A total of \$199.8 million is estimated to be generated in fiscal year 2015-16 from the initial fees for a licensed importer to purchase a wholesale lease permit for a 10-year period. Assuming wholesale permit holders commence operations beginning January 1, 2016, an estimated \$57.5 million will be received in 2015-16 from the quarterly renewal fees on gross receipts of the wholesale permit holder. For fiscal years 2016-17 through 2024-25 the holder of a wholesale permit will pay a renewal fee of 15% of each calendar quarter gross receipts from the sale of wine and liquor. A wholesale permit holder may register any product not currently being sold in Pennsylvania for a fee of \$2,500.

At the conclusion of the 10-year lease period, the holder of a wholesale lease shall pay a fee of 5% of its gross receipts to obtain a wholesale license. Wholesale license renewal fees equal to 5% of the gross receipts on the sale of wine and liquor of the licensee shall be paid annually.

All revenues generated from wholesale lease permits and wholesale licenses as well as all renewal fees are deposited into the General Fund.

### **Expanded Wine and Liquor Permits**

A total of \$33.7 million is estimated to be generated in fiscal year 2015-16 from the initial fees for restaurant and hotel licensees purchasing expanded wine and liquor permits. This estimate assumes that 60% of the total number of restaurant and hotel licensees will purchase both a wine and liquor expanded permit. Renewal fees for expanded permit holders are estimated to generate \$27.0 million annually. All revenues generated from expanded wine and liquor permits and renewal fees are deposited into the General Fund.

### **Business Profits and Border Bleed**

Privatizing the wholesale and retail operations of the board will result in additional income taxes paid by the businesses owning the new permits estimated to be between \$2.4 million to \$5.0 million annually.

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.

### **Administration and Enforcement**

All fees and fines currently deposited in the State Stores Fund will continue. It is estimated that the new permit fees and renewal fees along with the additional tax revenues that will be received from private businesses and the repatriation of the sales of wine and liquor across state borders will generate revenues over and above the amounts needed to fund the administration and enforcement duties of the board as the Commonwealth moves forward to full divestiture of the wholesale and retail operations of the sale of wine and liquor.

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