



HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

HOUSE BILL NO. 1690

PRINTERS NO. 2559

PRIME SPONSOR: Turzai

COST / (SAVINGS)

FUND	FY 2015/16	FY 2016/17
General Fund	See fiscal impact	See fiscal impact
State Stores Fund	See fiscal impact	See fiscal impact

SUMMARY: House Bill 1690, printer's number 2559, 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; providing for grocery store retail permits; clarifying provisions of the liquid fuels exclusion; and making changes to the provisions of holding a license in safekeeping.

The effective date is 60 days after enactment.

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 wine and liquor enhanced permit holders are selling wine and liquor within the proximity of the state store. Wine and liquor enhanced 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. Wine and liquor 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.

Wine or Liquor Enhanced Permits

- Creates wine and liquor enhanced 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 initial fees as follows:

County Classification	Wine Enhanced Permit	Liquor Enhanced Permit
First Class or Second Class	\$30,000	\$52,500
Second Class A or Third Class	\$37,500	\$60,000
Fourth Class or Fifth Class	\$22,500	\$45,000
Sixth Class or Seventh Class	\$15,000	\$37,500
Eighth Class	\$7,500	\$30,000

- 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 20th 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.

Wine and Liquor Expanded Permits

- Creates wine and liquor expanded permits for restaurant and hotel licensees allowing a permit holder to sell up to 4.5 liters 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 total annual wine and liquor sales of the permit holder in the previous year.
- All fees from expanded wine and liquor permits shall be paid into the General Fund.

Grocery Store Retail Permits

- Creates grocery store retail permits to allow grocery stores to apply for retail liquor licenses to sell wine only for consumption off the premises. Application for licenses begins 60 days after enactment.
- Grocery stores are 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.
- 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.
- Permit fees are as follows:

County Classification	Grocery Store Retail Permit Fee
First Class or Second Class	\$165,000
Second Class A or Third Class	\$187,500
Fourth Class or Fifth Class	\$142,500
Sixth Class or Seventh Class	\$120,000
Eighth Class	\$97,500

- Annual renewal fees are \$2,000 or \$4,000 based on total annual wine sales of the permit holder in the previous year.
- 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.
- Grocery store permit holder may sell up to 9 liters of wine in a single sale.
- All fees from grocery store retail permits shall be paid into the General Fund.

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.

Option to Upgrade Retail Dispenser License

- Provides retail dispenser licensees with the option to upgrade their license to a restaurant liquor license upon payment of a one-time upgrade fee of \$30,000.

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 1st through 4th class counties and from \$2,500 to \$5,000 for 5th through 8th class counties. Provides for this amount to double from the previous year for each subsequent year.

Displaced Employee Transition Assistance

- Directs the Department of General Services to designate individuals to serve on a committee to manage staffing transition and displacement of employees during the divestiture process.
- Provides transition assistance for displaced employees, which are defined as salaried PLCB employees whose employment is terminated as a sole and direct result of closing Pennsylvania liquor stores. 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:
 - the addition of three (3) extra points on Civil Service exam scores and preference over nonveteran candidates for non-Civil Service jobs;
 - 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, including career training and adult education courses of study, within one year of the date of displacement from State service; and
 - 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.
- Costs for Transition Assistance programs shall be paid from the State Stores Fund.

Taxation of Wine and Liquor

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

FISCAL IMPACT: Assuming an enactment date of November 30, 2015 (effective date of 60 days from enactment), this legislation will result in additional revenues to the General Fund estimated to be \$431.4 million in fiscal year 2015-16 from the initial purchase of wholesale lease permits (\$199.8 million); the initial purchase of wine and liquor enhanced permit fees (\$59.4 million); expanded permit fees (\$33.7 million); and grocery store retail permit fees (\$138.5 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 approximately \$300 million in 2016-17.

Wine and Liquor Enhanced Permits

A total of \$59.4 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 \$144.0 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 \$9.6 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. 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. Assuming wholesale permit holders commence operations no later than July 1, 2016, three quarterly renewal payments will be received in fiscal year 2016-17. 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.

Wine and Liquor Expanded 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.

Grocery Store Retail Permits

A total of \$138.5 million is estimated to be generated in fiscal year 2015-16 from the initial fees for grocery store retail permits. This estimate assumes that 832 grocery store retail permits are obtained based on a minimum 2 per county. Renewal fees for grocery store retail permits are estimated to generate \$3.3 million annually. All revenues generated from grocery store retail permits and renewal fees are deposited in the General Fund.

Retail Dispenser Upgrade Fees

As of February 2015 there were 450 active retail dispenser licensees. Additional revenues will be generated to the extent that a retail dispenser upgrades its license to a restaurant license.

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.

Displaced Employee Transition Assistance

Assuming 1,908 individuals (75% of current full-time salaried state store related workforce) all utilize the full \$2,000 each year for two years of education grants or re-employment tax credits, a maximum cost of \$7,632,000 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 State Stores Fund.

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.

PREPARED BY: Ritchie LaFaver
 Lisa Taglang
 House Appropriations Committee (R)
DATE: November 19, 2015

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