

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1383 Session of
1979

INTRODUCED BY F. TAYLOR, LEHR, HASAY, GRAY, McMONAGLE,
LETTERMAN, COCHRAN, ZELLER, B. F. O'BRIEN, DeMEDIO,
A. K. HUTCHINSON, STUBAN, GIAMMARCO, CALTAGIRONE,
CAPPABIANCA, DAVIES, McCALL, RODGERS, GATSKI, KOLTER, TRELLO,
MILANOVICH, SWEET, CHESS, BARBER AND SCHMITT, MAY 23, 1979

REFERRED TO COMMITTEE ON LIQUOR CONTROL, MAY 23, 1979

AN ACT

1 Amending the act of April 12, 1951 (P.L.90, No.21), entitled "An
2 act relating to alcoholic liquors, alcohol and malt and
3 brewed beverages; amending, revising, consolidating and
4 changing the laws relating thereto; regulating and
5 restricting the manufacture, purchase, sale, possession,
6 consumption, importation, transportation, furnishing, holding
7 in bond, holding in storage, traffic in and use of alcoholic
8 liquors, alcohol and malt and brewed beverages and the
9 persons engaged or employed therein; defining the powers and
10 duties of the Pennsylvania Liquor Control Board; providing
11 for the establishment and operation of State liquor stores,
12 for the payment of certain license fees to the respective
13 municipalities and townships, for the abatement of certain
14 nuisances and, in certain cases, for search and seizure
15 without warrant; prescribing penalties and forfeitures;
16 providing for local option, and repealing existing laws,"
17 providing for an official seal; defining subwarehouse;
18 increasing the number of members on the board; further
19 providing for powers and duties of the board; providing for
20 self-service stores; further providing for audits by the
21 Auditor General; further providing for the amount of malt or
22 brewed beverages which may be sold for consumption off the
23 premises; providing for a private catering license; further
24 providing for unlawful acts and disposition of forfeited
25 property.

26 The General Assembly of the Commonwealth of Pennsylvania
27 hereby enacts as follows:

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

1 No.21), known as the "Liquor Code," is amended by adding
2 definitions to read:

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

6 * * *

7 "Official Seal" shall mean and include any insignia approved
8 by the board that is required to be affixed to a package, as
9 herein defined.

10 * * *

11 "Subwarehouse" shall mean an operation established by the
12 board for the purpose of preparing orders of liquor and alcohol
13 in less than case lots for distribution to Pennsylvania Liquor
14 Stores, which is located within a board warehouse but is
15 distinct therefrom.

16 * * *

17 Section 2. Section 201 of the act, amended November 23, 1976
18 (P.L.1123, No.235), is amended to read:

19 Section 201. Appointment of Members; Terms; Salaries.--An
20 independent administrative board to be known as the
21 "Pennsylvania Liquor Control Board" is hereby created. The board
22 shall consist of [three] five members, two of whom shall be
23 members of consumer groups, to be appointed by the Governor by
24 and with the advice and consent of two-thirds of all the members
25 of the Senate. [Of the original members, one shall be appointed
26 for a term of two years, one for a term of four years, and one
27 for a term of six years from the date of his appointment and
28 until his successor shall have been appointed and qualified.]
29 Any person serving as a member of the board on the effective
30 date of this amendatory act shall continue to serve for the

1 remainder of his appointed term and until his successor shall
2 have been appointed and qualified. Of the original members
3 representing consumer groups, one shall be appointed for a term
4 of four years and one for a term of six years from the date of
5 his appointment and until his successor shall have been
6 appointed and qualified. Thereafter, all appointments shall be
7 for terms of six years or until successors are appointed and
8 qualified. Each of the members shall receive an annual salary of
9 twenty-four thousand dollars (\$24,000), except the chairman, who
10 shall receive an annual salary of twenty-five thousand dollars
11 (\$25,000).

12 Section 3. Sections 203 and 206 of the act are amended to
13 read:

14 Section 203. Chairman of Board.--The board shall elect one
15 of its members as chairman. The chairman shall, when present,
16 preside at all meetings, and in his absence a member designated
17 by the chairman shall preside.

18 [Two] Three members of the board shall constitute a quorum,
19 and any action or order of the board shall require the approval
20 of at least [two] three members.

21 Section 206. Board Subject to Administrative Code.--[Except]
22 Subject to the provisions of sections 207(f.1) and 301 and
23 except as otherwise expressly provided by law, the board shall
24 be subject to all the provisions of The Administrative Code of
25 one thousand nine hundred twenty-nine, as amended, which apply
26 generally to independent administrative boards and commissions.

27 Section 4. Subsections (b), (e) and (f) of section 207 of
28 the act, subsection (b) amended July 27, 1973 (P.L.247, No.70),
29 are amended and the section is amended by adding subsections to
30 read:

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

3 * * *

4 (b) To control the manufacture, possession, sale,
5 consumption, importation, use, storage, transportation and
6 delivery of liquor, alcohol and malt or brewed beverages in
7 accordance with the provisions of this act, and to fix the
8 wholesale and retail prices at which liquors and alcohol shall
9 be sold at Pennsylvania Liquor Stores[: Provided, That in fixing
10 the sale prices, the board shall not give any preference or make
11 any discrimination as to classes, brands or otherwise, except to
12 the extent and for the length of time necessary to sell such
13 classes or brands in compliance with any Federal action freezing
14 or otherwise controlling the price of said classes or brands, or
15 except where special sales are deemed necessary to move
16 unsaleable merchandise, or except where the addition of a
17 service or handling charge to the fixed sales price of any
18 merchandise in the same comparable price bracket, regardless of
19 class, brand or otherwise, is, in the opinion of the board,
20 required for the efficient operation of the State store system.

21 The] subject to the provisions of (b.1). The board shall require
22 each Pennsylvania manufacturer and each nonresident manufacturer
23 of liquors, other than wine, selling such liquors to the board,
24 which are not manufactured in this Commonwealth, to make
25 application for and be granted a permit by the board before such
26 liquors not manufactured in this Commonwealth shall be purchased
27 from such manufacturer. Each such manufacturer shall pay for
28 such permit a fee which, in the case of a manufacturer of this
29 Commonwealth, shall be equal to that required to be paid, if
30 any, by a manufacturer or wholesaler of the state, territory or

1 country of origin of the liquors, for selling liquors
2 manufactured in Pennsylvania, and in the case of a nonresident
3 manufacturer, shall be equal to that required to be paid, if
4 any, in such state, territory or country by Pennsylvania
5 manufacturers doing business in such state, territory or
6 country. In the event that any such manufacturer shall, in the
7 opinion of the board, sell or attempt to sell liquors to the
8 board through another person for the purpose of evading this
9 provision relating to permits, the board shall require such
10 person, before purchasing liquors from him or it, to take out a
11 permit and pay the same fee as hereinbefore required to be paid
12 by such manufacturer. All permit fees so collected shall be paid
13 into the State Stores Fund. The board shall not purchase any
14 alcohol or liquor fermented, distilled, rectified, compounded or
15 bottled in any state, territory or country, the laws of which
16 result in prohibiting the importation therein of alcohol or
17 liquor, fermented, distilled, rectified, compounded or bottled
18 in Pennsylvania.

19 (b.1) In fixing the wholesale and retail prices at which
20 liquors and alcohol shall be sold at Pennsylvania Liquor Stores
21 the board shall not give any preference or make any
22 discrimination as to classes, brands or otherwise except:

23 (1) to the extent and for the length of time necessary to
24 sell such classes or brands in compliance with any Federal
25 action freezing or otherwise controlling the price of said
26 classes or brands;

27 (2) where special sales are deemed necessary to move
28 unsaleable merchandise;

29 (3) where the addition of a service or handling charge to
30 the fixed sales price of any merchandise in the same comparable

1 price bracket, regardless of class, brand or otherwise, is, in
2 the opinion of the board, required for the efficient operation
3 of the State store system; or

4 (4) that the board may utilize a variable mark-up based upon
5 the cost of merchandise to the board, regardless of class, brand
6 or otherwise: Provided, however, That any such mark-up shall be
7 applied uniformly to all merchandise in the same comparable cost
8 bracket.

9 * * *

10 (e) [Through the Department of Property and Supplies as
11 agent, to] To lease and furnish and equip such buildings, rooms
12 and other accommodations as shall be required for the operation
13 of this act.

14 (f) To appoint, fix the compensation and define the powers
15 and duties of such managers, officers, inspectors, examiners,
16 clerks and other employes as shall be required for the operation
17 of this act, subject to the provisions of The Administrative
18 Code of 1929 and the Civil Service Act. In fixing the
19 compensation of Pennsylvania Liquor Store managers and clerks,
20 the board may establish a system based, in whole or in part,
21 upon sales commissions.

22 (f.1) To negotiate and enter into all labor contracts on its
23 own behalf with any collective bargaining unit representing
24 employes of the board. The power of the board under this clause
25 shall be exclusive and shall not be subject to interference from
26 or the approval of any other department, board, agency or
27 commission.

28 * * *

29 Section 5. Subsection (f) of section 208 of the act, amended
30 October 11, 1972 (P.L.906, No.215), is amended to read:

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

5 * * *

6 (f) The sealing and labeling of liquor and alcohol sold
7 under this act and of liquor and alcohol lawfully acquired by
8 any person prior to January first, one thousand nine hundred
9 thirty-four. This section shall not be construed to authorize
10 the board to require that packages containing wine have affixed
11 thereto the official seal of the board.

12 Section 6. Section 301 of the act, amended July 9, 1976
13 (P.L.527, No.125), is amended to read:

14 Section 301. Board to Establish State Liquor Stores.--The
15 board shall establish, operate and maintain at such places
16 throughout the Commonwealth as it shall deem essential and
17 advisable, stores to be known as "Pennsylvania Liquor Stores,"
18 for the sale of liquor and alcohol in accordance with the
19 provisions of and the regulations made under this act; except
20 that no store not so already located shall be located within
21 three hundred feet of any elementary or secondary school, nor
22 within a dry municipality without there first having been a
23 referendum approving such location. When the board shall have
24 determined upon the location of a liquor store in any
25 municipality, it shall give notice of such location by public
26 advertisement in two newspapers of general circulation. In
27 cities of the first class, the location shall also be posted for
28 a period of at least fifteen days following its determination by
29 the board as required in section 403(g) of this act. The notice
30 shall be posted in a conspicuous place on the outside of the

1 premises in which the proposed store is to operate or, in the
2 event that a new structure is to be built in a similarly visible
3 location. If, within five days after the appearance of such
4 advertisement, or of the last day upon which the notice was
5 posted, fifteen or more taxpayers residing within a quarter of a
6 mile of such location, or the City Solicitor of the city of the
7 first class, shall file a protest with the court of common pleas
8 of the county averring that the location is objectionable
9 because of its proximity to a church, a school, or to private
10 residences, the court shall forthwith hold a hearing affording
11 an opportunity to the protestants and to the board to present
12 evidence. The court shall render its decision immediately upon
13 the conclusion of the testimony and from the decision there
14 shall be no appeal. If the court shall determine that the
15 proposed location is undesirable for the reasons set forth in
16 the protest, the board shall abandon it and find another
17 location. The board may establish, operate and maintain such
18 establishments for storing and testing liquors as it shall deem
19 expedient to carry out its powers and duties under this act:
20 Provided, however, That the board shall not maintain or
21 establish subwarehouses for the storage and distribution of
22 liquor and alcohol.

23 The board may lease the necessary premises for such stores or
24 establishments[, but all such leases shall be made through the
25 Department of General Services as agent of the board. The board,
26 through the Department of General Services,] and shall have
27 authority to purchase such equipment and appointments as may be
28 required in the operation of such stores or establishments. Any
29 such lease or purchase shall not be subject to the approval of
30 the Department of General Services or any other department,

1 board, agency or commission.

2 Section 7. The act is amended by adding sections to read:

3 Section 301.1. Self-service Stores.--(a) All new
4 Pennsylvania Liquor Stores established by the board after the
5 effective date of this amendatory act shall be self-service
6 stores.

7 (b) The board shall convert to self-service stores all
8 Pennsylvania Liquor Stores in existence on the effective date of
9 this amendatory act which are capable of such conversion:
10 Provided, however, That within two years of the effective date
11 of this amendatory act no less than fifty per centum of all
12 Pennsylvania Liquor Stores shall be self-service stores.

13 Section 303.1. Transfer of Liquor and Alcohol.--The board
14 shall establish a system for the transfer of liquor and alcohol
15 from one Pennsylvania Liquor Store to another by its supervisory
16 personnel to alleviate stock shortages within particular stores.
17 Any person authorized to make such transfers shall execute and
18 file with the State Treasurer a bond in such penal sum as shall
19 be established by the board.

20 Section 303.2. Customer Assistance.--Employees of
21 Pennsylvania Liquor Stores may assist customers in the selection
22 of merchandise, if the customer requests such assistance. Such
23 assistance may include the recommendation of a specific brand,
24 provided that such employe advise the customer of the
25 availability of at least two other brands within the same price
26 bracket.

27 Section 303.3. Advertisements.--(a) Subject to the
28 provisions of the Federal Alcohol Administration Act (27 U.S.C.
29 § 205(f)), and the regulations promulgated thereunder, the board
30 may utilize promotional advertisements for Pennsylvania Liquor

1 Stores through the medium of radio, television, newspapers,
2 magazines, billboard signs or similar forms of publication. In
3 any such advertisement, the board shall not make reference to
4 any specific brand.

5 (b) The board may utilize promotional advertisements on the
6 premises of Pennsylvania Liquor Stores.

7 Section 8. Section 304, subsection (d) of section 305 and
8 section 306, section 304 amended March 5, 1973 (P.L.1, No.1),
9 subsection (d) of section 305 amended October 11, 1972 (P.L.906,
10 No.215), are amended to read:

11 Section 304. When Sales May Be Made at Pennsylvania Liquor
12 Stores.--Every Pennsylvania Liquor Store shall be open for
13 business week days, except legal holidays or any day on which a
14 general, municipal, special or primary election is being held,
15 during such hours as the board, in its discretion, shall
16 determine, but shall not be open longer than fourteen hours in
17 any one day nor later than eleven o'clock postmeridian:

18 Provided, That the Pennsylvania Liquor Stores in the case of a
19 special election for members of the General Assembly or members
20 of the Congress of the United States, when such special election
21 is held on other than a primary, municipal or general election
22 day, shall be open in those Legislative or Congressional
23 Districts as though the day were not a special election day: And
24 provided further, That the board, in its discretion, may limit
25 the hours and days of service in the interests of the board and
26 the general public. The board may[, with the approval of the
27 Governor,] temporarily close any store in any municipality.

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

29 (d) No liquor or alcohol, except wine, shall be sold to any
30 purchaser except in a package bearing the official seal of the

1 board required by this act and no package shall be opened on the
2 premises of a Pennsylvania Liquor Store. No manager or other
3 employe of the board employed in a Pennsylvania Liquor Store
4 shall allow any liquor or alcohol to be consumed on the store
5 premises, nor shall any person consume any liquor or alcohol on
6 such premises.

7 * * *

8 Section 306. Audits by Auditor General.--It shall be the
9 duty of the Department of the Auditor General to make all audits
10 which may be necessary in connection with the administration of
11 the financial affairs of the board and the Pennsylvania Liquor
12 Stores operated and maintained by the board.

13 The Department of the Auditor General is further authorized
14 to conduct such pre-audits, post-audits, performance audits and
15 management audits as appear necessary in the judgment of the
16 Auditor General.

17 At least one audit shall be made each year of the affairs of
18 the board, and all collections made by the Pennsylvania Liquor
19 Stores shall be audited quarterly.

20 Special audits of the affairs of the board and the
21 Pennsylvania Liquor Stores maintained and operated by the board
22 may be made whenever they may, in the judgment of the Auditor
23 General, appear necessary, and shall be made whenever the
24 Governor shall call upon the Auditor General to make them.

25 Copies of all audits made by the Department of the Auditor
26 General shall be promptly submitted to the board and to the
27 Governor.

28 Unless the Department of the Auditor General shall neglect or
29 refuse to make annual, quarterly or special Audits, as
30 hereinabove required, it shall be unlawful for the board to

1 expend any money appropriated to it by the General Assembly for
2 any audit of its affairs, except for the payment of the
3 compensation and expenses of such auditors as are regularly
4 employed as part of the administrative staff of the board.

5 Section 9. Section 401 of the act, subsection (b) amended
6 June 1, 1972 (P.L.355, No.95), is amended to read:

7 Section 401. Authority to Issue Liquor Licenses to Hotels,
8 Restaurants and Clubs.--(a) Subject to the provisions of this
9 act and regulations promulgated under this act, the board shall
10 have authority to issue a retail liquor license for any premises
11 kept or operated by a hotel, restaurant or club and specified in
12 the license entitling the hotel, restaurant or club to purchase
13 liquor from a Pennsylvania Liquor Store and to keep on the
14 premises such liquor and, subject to the provisions of this act
15 and the regulations made thereunder, to sell the same and also
16 malt or brewed beverages to guests, patrons or members for
17 consumption on the hotel, restaurant or club premises. Such
18 licensees, other than clubs, shall be permitted to sell malt or
19 brewed beverages for consumption off the premises where sold in
20 quantities of not more than [one hundred forty-four] one hundred
21 ninety-two fluid ounces in a single sale to one person. Such
22 licenses shall be known as hotel liquor licenses, restaurant
23 liquor licenses and club liquor licenses, respectively. No
24 person who holds, either by appointment or election, any public
25 office which involves the duty to enforce any of the penal laws
26 of the United States of America or the penal laws of the
27 Commonwealth of Pennsylvania or any penal ordinance or
28 resolution of any political subdivision of this Commonwealth
29 shall be issued any hotel or restaurant liquor license, nor
30 shall such a person have any interest, directly or indirectly,

1 in any such license.

2 (b) The board may issue to any club which caters to groups
3 of non-members, either privately or for functions, a catering
4 license, and the board shall, by its rules and regulations,
5 define what constitutes catering under this subsection except
6 that any club which is issued a catering license shall not be
7 prohibited from catering on Sundays during the hours which the
8 club may lawfully serve liquor, malt or brewed beverages.

9 Section 10. Section 405 of the act, subsection (d) added
10 July 18, 1961 (P.L.790, No.348), is amended and a section is
11 added to read:

12 Section 405. License Fees.--(a) License fees for hotel,
13 private catering and restaurant liquor licenses shall be
14 graduated according to the population of the municipality as
15 determined by the last preceding decennial census of the United
16 States in which the hotel or restaurant is located, as follows:

17 In municipalities having a population of less than fifteen
18 hundred inhabitants, one hundred fifty dollars (\$150.00).

19 In municipalities, except townships, having a population of
20 fifteen hundred and more but less than ten thousand inhabitants,
21 and in townships having a population of fifteen hundred and more
22 but less than twelve thousand inhabitants, two hundred dollars
23 (\$200.00).

24 In municipalities, except townships, having a population of
25 ten thousand and more but less than fifty thousand inhabitants,
26 and in townships having a population of twelve thousand and more
27 but less than fifty thousand inhabitants, three hundred dollars
28 (\$300.00).

29 In those having a population of fifty thousand and more but
30 less than one hundred thousand inhabitants, four hundred dollars

1 (\$400.00).

2 In those having a population of one hundred thousand and more
3 but less than one hundred fifty thousand inhabitants, five
4 hundred dollars (\$500.00).

5 In those having a population of one hundred fifty thousand
6 and more inhabitants, six hundred dollars (\$600.00).

7 (b) Every applicant for a club liquor license shall pay to
8 the board a license fee of fifty dollars (\$50.00), except clubs
9 to which catering licenses are issued, in which cases the
10 license fees shall be the same as for hotels and restaurants
11 located in the same municipality.

12 (c) All license fees authorized under this section shall be
13 collected by the board for [the] use [of the municipalities in
14 which such fees were collected] in enforcement of this act.

15 (d) Whenever any checks issued in payment of filing and/or
16 license fees shall be returned to the board as dishonored, the
17 board shall charge a fee of five dollars (\$5.00) per hundred
18 dollars, or fractional part thereof, plus all protest fees, to
19 the maker of such check submitted to the board. Failure to pay
20 the face amount of the check in full and all charges thereon as
21 herein required within ten days after demand has been made by
22 the board upon the maker of the check, the license of such
23 person, if issued, shall immediately terminate and be cancelled
24 without any action on the part of the board.

25 Section 408.6. Private Catering Liquor License.--(a) The
26 board is authorized to issue a private catering liquor license
27 to any person whose primary business is the catering of food,
28 permitting the private catering liquor licensee to purchase
29 liquor from a Pennsylvania Liquor Store and to furnish liquor or
30 malt or brewed beverages, or both, by the glass, open bottle, or

other container, or in any mixture to be served with food prepared by the licensee in conjunction with bona fide catering arrangements and only for consumption on any premises where such food is being served, except where prohibited by local option. No person who holds, either by appointment or election, any public office which involves the duty to enforce any of the penal laws of the United States of America or the penal laws of the Commonwealth of Pennsylvania or any penal ordinance or resolution of any political subdivision of this Commonwealth shall be issued a private catering liquor license, nor shall such a person have any interest directly or indirectly, in any such license.

(b) Every applicant for a private catering liquor license shall file a written application with the board in such form and containing such information as the board shall prescribe, which shall be accompanied by a filing fee of twenty dollars (\$20.00), the prescribed license fee, and the bond hereinafter specified.

If the applicant is a natural person, his application must show that he is a citizen of the United States and has been a resident of this Commonwealth for at least two years immediately preceding his application.

If the applicant is a corporation, the application must show that the corporation was created under the laws of Pennsylvania or holds a certificate of authority to transact business in Pennsylvania, and that all officers, directors and stockholders are citizens of the United States.

Each application shall be signed and verified by oath or affirmation by the owner, if a natural person, or, in the case of an association, by a member or partner thereof, or, in the case of a corporation, by an executive officer thereof, or any

1 person specifically authorized by the corporation to sign the
2 application, to which shall be attached written evidence of his
3 authority.

4 If the applicant is an association, the application shall set
5 forth the names and addresses of the persons constituting the
6 association, and if a corporation, the names and addresses of
7 the principal officers thereof.

8 Every applicant for a private catering liquor license shall
9 publish notice once in a newspaper of general circulation in the
10 area of his principle place of business that such application
11 has been filed with the board. Proof of publication of such
12 notice shall be filed with the board prior to the issuance of a
13 license.

14 If any false statement is intentionally made in any part of
15 the application, the affiant shall be deemed guilty of a
16 misdemeanor and, upon conviction, shall be subject to the
17 penalties provided by this act.

18 (c) Upon receipt of the application, the proper fees and
19 bond, and upon being satisfied of the truth of the statements in
20 the application that the applicant is the only person in any
21 manner pecuniarily interested in the business so asked to be
22 licensed and that no other person will be in any manner
23 pecuniarily interested therein during the continuance of the
24 license, and that the applicant is a person of good repute, that
25 the applicant seeks a license for a private catering business,
26 and that the issuance of such license is not prohibited by any
27 of the provisions of this act, the board shall grant and issue
28 to the applicant such a license: Provided, however, That the
29 board shall have the discretion to refuse a license to any
30 person or to any corporation, partnership or association if such

1 person, or any officer or director of such corporation or any
2 member or partner of such partnership or association shall have
3 been convicted or found guilty of a felony within a period of
4 five years immediately preceding the date of application for the
5 said license.

6 (d) The penal sum of the bond which shall be filed by an
7 applicant for a private catering liquor license pursuant to
8 section 465 shall be two thousand dollars (\$2,000.00).

9 (e) A private catering liquor license shall not be
10 transferrable. Any licensee who terminates a private catering
11 business shall return the license to the board.

12 (f) A private catering liquor license shall be subject to
13 the provisions of section 406 regarding hours of sale except
14 that sales shall be permitted on Sunday between the hours of one
15 o'clock postmeridian and two o'clock antemeridian, Monday.

16 (g) Licenses issued under the provisions of this section
17 shall not be subject to the quota restrictions of section 461.

18 (h) The license shall be issued for the same period as
19 provided for restaurant liquor licenses and shall be renewed as
20 in section 402.

21 Section 11. Section 411 of the act, subsection (e) and the
22 last paragraph amended, July 9, 1976 (P.L.963, No.188), is
23 amended to read:

24 Section 411. Interlocking Business Prohibited.--(a) No
25 manufacturer and no officer or director of any manufacturer
26 shall at the same time be a holder of a hotel, private catering,
27 restaurant or club liquor license, nor be the owner, proprietor
28 or lessor of any place covered by any hotel, restaurant or club
29 liquor license.

30 (b) No manufacturer, importer or sacramental wine licensee,

1 and no officer or director of a manufacturer, importer or
2 sacramental wine licensee shall own any stock or have any
3 financial interest in any hotel, private catering business or
4 restaurant licensed under this act.

5 (c) Excepting as herein provided, no manufacturer, or
6 officer, director, stockholder, agent or employe of a
7 manufacturer shall in any wise be interested, either directly or
8 indirectly, in the ownership or leasehold of any property or the
9 equipment of any property or any mortgage lien against the same,
10 for which a hotel, private catering, restaurant or club license
11 is granted; nor shall a manufacturer, importer or sacramental
12 wine licensee, or officer, director, stockholder, agent or
13 employe of a manufacturer, importer or sacramental wine
14 licensee, either directly or indirectly, lend any moneys,
15 credit, or give anything of value or the equivalent thereof to,
16 or guarantee the payment of any bond, mortgage, note or other
17 obligation of, any hotel, restaurant, private catering or club
18 licensee, his servant, agent or employe, for equipping, fitting
19 out, or maintaining and conducting, either in whole or in part,
20 a hotel, restaurant, private catering business or club licensed
21 for the selling of liquor for use and consumption upon the
22 premises.

23 (d) Excepting as herein provided, no hotel licensee,
24 restaurant licensee, private catering licensee or club licensee,
25 and no officer, director, stockholder, agent or employe of any
26 such licensee shall in any wise be interested, either directly
27 or indirectly, in the ownership or leasehold of any property or
28 the equipment of any property or any mortgage lien against the
29 same, used by a manufacturer in manufacturing liquor or malt or
30 brewed beverages; nor shall any hotel, restaurant, private

1 catering or club licensee, or any officer, director,
2 stockholder, agent or employe of any such licensee, either
3 directly or indirectly, lend any moneys, credit, or give
4 anything of value or the equivalent thereof, to any manufacturer
5 for equipping, fitting out, or maintaining and conducting,
6 either in whole or in part, an establishment used for the
7 manufacture of liquor or malt or brewed beverages.

8 (e) Except as herein provided, no hotel, restaurant, private
9 catering, retail dispenser or club licensee, and no officer,
10 director or stockholder, agent or employe of any such licensee
11 shall in any wise be interested, directly or indirectly, in the
12 ownership or leasehold of any property or the equipment of any
13 property or any mortgage lien against the same, used by a
14 distributor, importing distributor, or by an importer or
15 sacramental wine licensee, in the conduct of his business; nor
16 shall any hotel, restaurant, private catering, retail dispenser
17 or club licensee, or any officer, director, stockholder, agent
18 or employe of any such licensee, either directly or indirectly,
19 lend any moneys, credit, or give anything of value or the
20 equivalent thereof, to any distributor, importing distributor,
21 importer or sacramental wine licensee, for equipping, fitting
22 out, or maintaining and conducting, either in whole or in part,
23 an establishment used in the conduct of his business.

24 The purpose of this section is to require a separation of the
25 financial and business interests between manufacturers and
26 holders of hotel, private catering or restaurant liquor licenses
27 and, as herein provided, of club licenses, issued under this
28 article, and no person shall, by any device whatsoever, directly
29 or indirectly, evade the provisions of the section. But in view
30 of existing economic conditions, nothing contained in this

1 section shall be construed to prohibit the ownership of property
2 or conflicting interest by a manufacturer of any place occupied
3 by a licensee under this article after the manufacturer has
4 continuously owned and had a conflicting interest in such place
5 for a period of at least five years prior to July eighteenth,
6 one thousand nine hundred thirty-five: Provided, however, That
7 this clause shall not prohibit any hotel, restaurant, private
8 catering or club liquor licensee from owning land which is
9 leased to, and the buildings thereon owned by, a holder of a
10 retail dispenser's license; and nothing in this clause shall
11 prevent the issuance of a retail dispenser's license to a lessee
12 of such lands who owns the buildings thereon: And, provided
13 further, That nothing contained in this section shall be
14 construed to prohibit any hotel, restaurant, private catering,
15 retail dispenser or club licensee or any officer, director or
16 stockholder, agent or employe of any such licensee from having a
17 financial or other interest, directly or indirectly in the
18 ownership or leasehold of any property or the equipment of any
19 property or any mortgage lien against same, used, leased by an
20 importer or sacramental wine licensee for the exclusive purpose
21 of maintaining commercial offices and on the condition that said
22 property is not used for the storage or sale of liquor or malt
23 or brewed beverages in any quantity.

24 Section 12. Section 439 of the act is amended by adding a
25 subsection to read:

26 Section 439. Malt or Brewed Beverage License Fees.--* * *

27 (j) Whenever any checks issued in payment of filing and/or
28 license fees shall be returned to the board as dishonored, the
29 board shall charge a fee of five dollars (\$5) per one hundred
30 dollars (\$100), or fractional part thereof, plus all protest

1 fees, to the maker of such check submitted to the board. Failure
2 to pay the face amount of the check in full and all charges
3 thereon as herein required within ten days after demand has been
4 made by the board upon the maker of the check, the license of
5 such person, if issued, shall immediately terminate and be
6 cancelled without any action on the part of the board.

7 Section 13. Clauses (2) and (4) of section 491 of the act,
8 clause (2) amended October 2, 1974 (P.L.665, No.220) and October
9 10, 1974 (P.L.692, No.231) and clause (4) amended October 11,
10 1972 (P.L.906, No.215), are amended and the section is amended
11 by adding a clause to read:

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

14 It shall be unlawful--

15 * * *

16 (2) Possession or Transportation of Liquor or Alcohol. For
17 any person, except a manufacturer or the board or the holder of
18 a sacramental wine license or of an importer's license, to
19 possess or transport any liquor or alcohol within this
20 Commonwealth which was not lawfully acquired prior to January
21 first, one thousand nine hundred and thirty-four, or has not
22 been purchased from a Pennsylvania Liquor Store or a licensed
23 limited winery in Pennsylvania, except miniatures totalling less
24 than one gallon purchased by a collector of the same in another
25 state or foreign country, or in accordance with the board's
26 regulations. The burden shall be upon the person possessing or
27 transporting such liquor or alcohol to prove that it was so
28 acquired. But nothing herein contained shall prohibit the
29 manufacture or possession of wine by any person in his home for
30 consumption of himself, his family and guests and not for sale,

1 not exceeding, during any one calendar year, two hundred
2 gallons, any other law to the contrary notwithstanding. Such
3 wine shall not be manufactured, possessed, offered for sale or
4 sold on any licensed premises.

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

27 None of the provisions herein contained shall prohibit nor
28 shall it be unlawful for any consul general, consul or other
29 diplomatic officer of a foreign government to import into
30 Pennsylvania, transport or have in his possession liquor upon

1 which a State tax has not been paid, if it can be shown to the
2 satisfaction of the board that such person acquired the liquor
3 in a foreign country and was allowed to bring it into the United
4 States. Such liquor shall not be possessed, offered for sale or
5 sold on any licensed premises.

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

1 * * *

2 (4) [Possession and Use of Decanters] Liquor Packages
3 Without Official Seal. For any person [to use decanters of
4 alcoholic beverages except that the], except a manufacturer or
5 the board or the holder of an importer's license, to have or
6 keep any liquor, except wine, within the Commonwealth unless the
7 package (except the decanter or other receptacle containing
8 liquor for immediate consumption) in which the liquor is
9 contained while containing that liquor bears the official seal
10 of the board as originally affixed in accordance with the
11 provisions of this act or the regulations of the board. The use
12 of decanters or other similar receptacles by licensees shall be
13 permitted only in the case of wines and then only in accordance
14 with the regulations of the board, but nothing herein contained
15 shall prohibit the manufacture and possession of wine as
16 provided in clause (2) of this section.

17 * * *

18 (15) Unlawful Activities Relative to Official Seal.--For any
19 person to have, keep, use, utter, barter, buy, sell, traffic in,
20 manufacture or make any official seal of the board or facsimile
21 or reproduction thereof, unless authorized so to do by the
22 provisions of this act or by the regulations or the express
23 consent of the board.

24 Section 14. Section 603 of the act, amended April 20, 1956
25 (1955 P.L.1508, No.499), is amended to read:

26 Section 603. Disposition of Forfeited Property.--If, upon
27 petition as hereinbefore provided and hearing before the court
28 [of quarter sessions], it appears that any liquor, alcohol, or
29 malt or brewed beverage or still, equipment, material or utensil
30 was so illegally possessed, or used, such liquor, alcohol or

1 malt or brewed beverage or still, equipment, material or utensil
2 shall be adjudged forfeited and condemned, or if it appears that
3 any vehicle, boat, vessel, container, animal or aircraft was so
4 used in the illegal manufacture or transportation of liquor,
5 alcohol or malt or brewed beverage, such property may, in the
6 discretion of the court, be adjudged forfeited and condemned and
7 in such case shall be disposed of as follows:

8 [(a) Upon conviction of any person of a violation of any of
9 the provisions of this act, the court shall order the sheriff to
10 destroy all condemned liquor, alcohol or malt or brewed beverage
11 and property seized or obtained from such defendants, except
12 that the court may order the liquor, alcohol or malt or brewed
13 beverages, or any part thereof, to be delivered to a hospital
14 for its use, and make return to the court of compliance with
15 said order, and any vehicle, container, boat, vessel, animals or
16 aircraft seized under the provisions of this act shall be
17 disposed of as hereinafter provided.

18 (b) In any case in which the defendant is acquitted of a
19 violation of this act and denies the ownership or possession
20 thereof, or no claimant appears for same, or appearing, is
21 unable to sustain claim thereof, the court shall order all
22 condemned liquor, alcohol and malt or brewed beverages and
23 property (except vehicles, boats, vessels, containers, animals
24 and aircraft) publicly destroyed by the sheriff, except that the
25 court may order the liquor, alcohol or malt or brewed beverages,
26 or any part thereof, to be delivered to a hospital for its use.
27 Return of compliance with said order shall be made by the
28 sheriff to the court.]

29 (c) In the case of any liquor, alcohol, malt or brewed
30 beverage, still, equipment, material, utensil, vehicle, boat,

1 vessel, container, animal or aircraft seized under the
2 provisions of this act and condemned, the court shall order the
3 same to be delivered to the board for its use or for sale or
4 disposition by the board, in its discretion. Notice of such sale
5 shall be given in such manner as the board may prescribe. The
6 proceeds of such sale shall be paid into the State Stores Fund.

7 Section 15. Section 801 of the act is repealed.

8 Section 16. Section 802, amended September 28, 1961
9 (P.L.1728, No.702), is amended to read:

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

20 One-half of all application filing and transfer fees shall be
21 credited to a special account designated as the Enforcement
22 Officers' Retirement Account. The moneys credited to this
23 account shall be paid, annually, by the board to the State
24 Employees' Retirement Board to be paid into the State Employees'
25 Retirement Fund and credited to the Enforcement Officers'
26 Benefit Account. All other moneys in such fund shall be
27 available for the purposes for which they are appropriated by
28 law.

29 Section 17. This act shall take effect in 60 days.