

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1772 Session of
1983

INTRODUCED BY GLADECK, RYAN, POTT, FLICK, CORNELL, NAHILL,
E. Z. TAYLOR, GREENWOOD, BOYES, BURD, BOOK, MORRIS, SAURMAN
AND BUNT, DECEMBER 6, 1983

REFERRED TO COMMITTEE ON LIQUOR CONTROL, DECEMBER 6, 1983

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 establishing a private liquor system; and imposing a tax.

18 The General Assembly of the Commonwealth of Pennsylvania
19 hereby enacts as follows:

20 Section 1. The table of contents of the act of April 12,
21 1951 (P.L.90, No.21), known as the Liquor Code, is amended by
22 adding an article to read:

23 Article VIII-A.

24 Private Retail and Wholesale Sale of Wine and

25 Liquor for Off-premises Consumption

1 Section 801-A. Legislative Intent.
2 Section 802-A. Restrictions on the Private Retail and Wholesale
3 Wine and Liquor System.
4 Section 803-A. Detailed Plan for Deregulation.
5 Section 804-A. Phase One of Deregulation.
6 Section 805-A. Phase Two of Deregulation.
7 Section 806-A. Phase Three of Deregulation.
8 Section 807-A. General License Requirements.
9 Section 808-A. Private Retail Wine and Liquor Store Licenses.
10 Section 809-A. Private Retail Wine Licenses.
11 Section 810-A. Private Wholesale Distributor Licenses.
12 Section 811-A. Local Option.
13 Section 812-A. Prohibited Acts and Offenses.
14 Section 813-A. Liquor System Deregulation Account.
15 Section 814-A. Taxation.
16 Section 815-A. Labor Policy.

17 Section 2. Section 102 of the act is amended by adding
18 definitions to read:

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

22 * * *

23 "Private retail store" shall mean and include any premises
24 licensed by the commission where wine and liquor, or only wine,
25 is offered for sale or resale in the original sealed containers
26 as prepared for the market by the manufacturer or wholesale
27 distributor but not for consumption on the premises where sold.

28 "Private wholesale distributor" shall mean and include any
29 person licensed by the commission who purchases wine or liquor
30 from the commission, a manufacturer, another private wholesale

1 liquor distributor, or a private retail store for the purpose of
2 sale to any private retail store, to another private wholesale
3 distributor, or for export.

4 * * *

5 Section 3. The heading of Article II of the act is amended
6 to read:

7 Article II.

8 Pennsylvania [Liquor Control Board] Alcoholic Beverage
9 Commission

10 Section 4. Section 201 of the act, amended November 23, 1976
11 (P.L.1123, No.235), is amended to read:

12 Section 201. Appointment of Members; Terms; Salaries.--(a)
13 An independent administrative board to be known as the
14 "Pennsylvania [Liquor Control Board] Alcoholic Beverage
15 Commission" is hereby created. The board shall consist of
16 [three] five members to be appointed by the Governor by and with
17 the advice and consent of [two-thirds] a majority of [all] the
18 members of the Senate. Of the original members, one shall be
19 appointed for a term of [two years,] one year, one for a term of
20 [four] two years, [and] one for a term of [six]three years, one
21 for a term of four years and one for a term of five years from
22 the date of his appointment [and until his successor shall have
23 been appointed and qualified]. Thereafter, all appointments
24 shall be for terms of six years. Members of the commission shall
25 continue to serve in office for up to six months following the
26 expiration of their term of office or until successors are
27 appointed and qualified, whichever period is shorter. No member
28 shall continue to serve in office for more than six months
29 following the expiration of the member's term of office. Each of
30 the members shall receive an annual salary [of twenty-four

1 thousand dollars (\$24,000), except the chairman, who shall
2 receive an annual salary of twenty-five thousand dollars
3 (\$25,000)] as determined by the Executive Board.

4 (b) Immediately upon the effective date of this section, the
5 Pennsylvania Liquor Control Board is abolished and, except as
6 otherwise provided, all administrative functions, duties and
7 responsibilities, and all personnel, allocations, equipment,
8 files, records, contracts, agreements, obligations and other
9 materials which are used, employed or expended in connection
10 with the powers, duties or functions of the Pennsylvania Liquor
11 Control Board are hereby transferred to the Pennsylvania
12 Alcoholic Beverage Commission with the same force and effect as
13 if the appropriations had been made to and said items had been
14 the property of the commission in the first instance and as if
15 said contracts, agreements and obligations had been incurred or
16 entered into by said commission. All references in this act to
17 the Pennsylvania Liquor Control Board or to the board and in any
18 other law to the Pennsylvania Liquor Control Board, shall be
19 deemed references to the Pennsylvania Alcoholic Beverage
20 Commission.

21 (c) Immediately upon the effective date of this section, all
22 functions, duties and responsibilities of the Pennsylvania
23 Liquor Control Board concerning the investigation and
24 prosecution of Liquor Code violations, the enforcement of Liquor
25 Code restrictions, and the collection of all taxes, and all
26 personnel, allocations, equipment, files, records, contracts,
27 agreements, obligations and other materials which are used,
28 employed or expended in connection with such powers, duties or
29 functions are hereby transferred to the Liquor Code Enforcement
30 Bureau of the Department of Revenue with the same force and

1 effect as if the appropriations had been made to and said items
2 had been property of the bureau in the first instance and as if
3 said contracts, agreements and obligations had been incurred or
4 entered into by said bureau.

5 (d) All personnel transferred pursuant to this act shall
6 retain any civil service employment status assigned to said
7 personnel.

8 Section 5. Section 203 of the act is amended to read:

9 Section 203. Chairman of [Board] Commission.--The [board
10 shall elect one of its] Governor shall appoint one of the
11 members as chairman. The chairman shall, when present, preside
12 at all meetings, and in his absence a member designated by the
13 chairman shall preside.

14 [Two] Three members of the [board] commission shall
15 constitute a quorum, and any action or order of the [board]
16 commission shall require the approval of at least [two] three
17 members.

18 Section 6. The act is amended by adding an article to read:

19 Article VIII-A.

20 Private Retail and Wholesale Sale of Wine and
21 Liquor for Off-premises Consumption

22 Section 801-A. Legislative Intent.--It is the purpose of
23 this article to deregulate the retail and wholesale sale of
24 liquor and wine for off-premises consumption in order to provide
25 Pennsylvania consumers with the improved service, enhanced
26 supply availability and lower prices which result from vigorous
27 competition in the free enterprise system. It is the intent of
28 the General Assembly to accomplish deregulation in a manner
29 which minimizes any disruption of service to the public,
30 maximizes opportunities for small business and minority business

1 in Pennsylvania, makes fair and reasonable provisions to avoid
2 hardships to employes of State stores, maintains the degree of
3 control over the distribution of liquor and wine necessary to
4 avoid the infiltration of the industry by organized crime and
5 other corrupt influences, discourages alcohol abuse and
6 preserves adequate tax revenue to the Commonwealth.

7 Section 802-A. Restrictions on the Private Retail and
8 Wholesale Wine and Liquor System.--The provisions of this act,
9 except as otherwise provided, shall apply to the private retail
10 and wholesale system for the sale of wine and liquor only as
11 provided in this article.

12 Section 803-A. Detailed Plan for Deregulation.--Within
13 ninety (90) days of the effective date of this section, the
14 commission shall cause to be published, in conformity with the
15 requirements of this section, as a notice in the Pennsylvania
16 Bulletin, as provided by 45 Pa.C.S. § 725(a)(3) (relating to
17 additional contents of Pennsylvania Bulletin), a detailed
18 proposed plan for the deregulation of retail and wholesale wine
19 and liquor sales. Hearings shall be conducted concerning the
20 proposed plan, and a final plan shall be adopted and published
21 as a notice in the Pennsylvania Bulletin, as provided by 45
22 Pa.C.S. § 725(a)(3), within not more than one (1) year from the
23 effective date of this section. The plan shall specify a
24 detailed timetable for the various stages of deregulation, shall
25 specify plans for minimizing any disruption of supplies of wine
26 and liquor to the public, and shall outline detailed procedures
27 for the award of licenses.

28 Section 804-A. Phase One of Deregulation.--(a) Not later
29 than September 1, 1985, the commission shall conduct public
30 sales to the highest responsible bidders of exclusive five (5)

1 year licenses to make retail sales of liquor and wine for off-
2 premises consumption.

3 (1) The commission shall offer for sale a license to replace
4 each of the State stores operating on January 1, 1985.

5 (2) The commission shall offer for sale, together with the
6 license, all of the stock of wine and liquor equipment and other
7 assets of the State store which is replaced by the license.
8 Prior to the sale, the commission shall make available for
9 public inspection the most recent inventory of the stock,
10 equipment and other assets of each State store, as well as a
11 recent sales history for each State store. Bids will be accepted
12 only for licenses together with acquisition of the stock,
13 equipment and other assets of the respective State store.

14 (3) The commission may establish a staggered schedule of
15 sales of licenses between May 1, 1985, and September 1, 1985, in
16 order to maintain the operation of certain State stores during
17 the sale of others and thereby maintain a continuous level of
18 service to the public.

19 (4) Each successful bidder must satisfy all of the licensing
20 requirements of sections 807-A and 808-A and pay any required
21 license fees, in addition to amounts bid to acquire retail
22 operating rights.

23 (5) Each successful bidder must agree to continuously
24 operate a retail store for the duration of the license and to
25 provide a level of service, including but not limited to, hours
26 of operation and product availability, reasonably equivalent to
27 the level of service provided by the State store which the
28 licensee replaces. The commission may either on its own motion
29 or following the investigation of complaints from residents of
30 the affected community by the Liquor Code Enforcement Bureau,

revoke the license of any retail store not operating an establishment or not providing a reasonable level of consumer service. Following the revocation of any license to operate a retail store, the commission shall conduct a public sale to grant to the highest responsible bidder a replacement license for the duration of the five (5) year license period.

(6) Each retail store shall be located within a radius of the State store which it replaces based on the characteristics of the community in which the State store is located, based on area definitions as used in the 1980 census of population. If the State store is within an urbanized area the store shall be within a one (1) mile radius. If the State store is outside the urbanized area, but within a Standard Metropolitan Statistical Area (SMSA) the store shall be within a four (4) mile radius. In all other circumstances, the store shall be within a ten (10) mile radius. The commission may expand or reduce the required radius for good cause shown following public hearings.

(7) Any single individual, corporation or association shall be allowed to hold no more than ten licenses for private retail wine and liquor stores.

(8) Each successful bidder for a license shall be entitled to apply to the commission, within two (2) years of the award of a license, for one additional license to operate a store at any location within the county in which the original license was granted, or in a county contiguous with such county. An additional license shall not be granted, and any additional license granted may be subject to revocation, if the licensee is not operating a store authorized by the original license or is not providing a reasonable level of consumer service.

(9) Any licenses authorized but not issued under clause (8),

1 may, following two (2) years of the awarding of initial
2 licenses, be granted by public sale to the highest responsible
3 bidder.

4 (10) All proceeds of sales of licenses shall be deposited in
5 the Liquor System Deregulation Account within the General Fund
6 and shall be utilized pursuant to the provisions of section 813-
7 A.

8 (11) The commission shall in its announcement of each sale
9 of licenses, establish the schedule, terms, conditions,
10 limitations and procedures for submission, consideration and
11 award of bids. The decision of the commission to accept or
12 reject any bid shall be final and is not appealable as an
13 adjudication.

14 (b) Between January 1, 1985, and February 28, 1985, the
15 commission will accept and review applications for private
16 wholesale wine distributor licenses pursuant to the requirements
17 of sections 807-A and 810-A.

18 (1) In addition to other licensing requirements, initial
19 applicants must indicate each brand of wine which the
20 distributor intends to sell and estimate the anticipated volume
21 of sales for each brand.

22 (2) Initial private wholesale wine distributor licenses will
23 be granted by the commission beginning March 1, 1985. Each
24 initial licensee shall be assigned by the commission an
25 allocation of the remaining stock of any wine owned by the
26 commission and held in any wholesale warehouse. Allocations
27 shall be made separately for each brand of wine held by the
28 commission and assigned to each initial licensee based on the
29 brands indicated in the license application and upon the
30 estimated sales volume of the licensee. Each licensee shall

1 agree to purchase, prior to making any other purchases of each
2 brand of wine, the outstanding stock of the commission of the
3 brand allocated to the licensee, at the cost of the wine to the
4 commission plus a twenty-five per centum markup. Between March
5 1, 1985, and March 1, 1986, no private wholesale licensee may
6 sell or offer for sale any brand of wine not identified in the
7 license application. Any brand of wine in the wholesale
8 inventory of the commission which cannot be reasonably allocated
9 to licensees, either because of insufficient stock held by the
10 commission, or because of a lack of sufficient interest in such
11 brands by licensees, and any other stocks of wine held by the
12 commission in wholesale inventory and not sold by January 1,
13 1986, may at the discretion of the commission either be disposed
14 of at public sale to the highest responsible bidder, or else
15 assigned to all initial wholesale licensees based on their total
16 estimated sales volumes. The initial licensees must agree to
17 purchase any wine so allocated from the commission at the cost
18 of such wine to the commission plus a twenty-five per centum
19 mark-up.

20 (c) Beginning January 1, 1986, the commission will accept
21 and review additional applications for private wholesale wine
22 distributor licenses pursuant to the requirements of sections
23 807-A and 810-A. The additional licenses shall be awarded by the
24 commission commencing March 1, 1986.

25 (d) Beginning September 1, 1985, the commission shall
26 accept, review and grant private retail wine licenses pursuant
27 to the provisions of sections 807-A and 809-A.

28 Section 805-A. Phase Two of Deregulation.--(a) Between
29 January 1, 1987, and February 28, 1987, the commission shall
30 accept and review initial private wholesale liquor distributor

1 applications pursuant to the requirements of sections 807-A and
2 810-A.

3 (1) Initial license applicants must specify each brand of
4 liquor the applicant intends to distribute, and for each brand
5 must estimate the anticipated sales volume.

6 (2) The commission shall award initial licenses commencing
7 May 1, 1987.

8 (3) Each initial licensee shall be assigned by the
9 commission an allocation of the remaining stock of any liquor
10 owned by the commission and held in any wholesale warehouse.
11 Allocations shall be made separately for each brand of liquor
12 held by the commission and assigned to each initial licensee
13 based on the brands indicated in the license application and
14 based upon the cost of the liquor to the commission plus a
15 twenty-five per centum markup. Each licensee shall, prior to
16 making any other purchases of each brand of liquor, agree to
17 purchase the outstanding stock of the commission of the brands
18 allocated to the licensee. Between May 1, 1987, and May 1, 1988,
19 no private wholesale liquor licensee may sell or offer for sale
20 any brand of liquor not identified in the license application.
21 Any brands of liquor in the wholesale inventory of the
22 commission which cannot reasonably be allocated to licensees,
23 either because of inadequate stock held by the commission, or
24 because of a lack of sufficient interest in such brands by
25 licensees, and any other stock of liquor held by the commission
26 in wholesale inventory and not sold by January 1, 1988, may at
27 the discretion of the commission either be disposed of at public
28 sale to the highest responsible bidder, or else assigned to all
29 initial wholesale licensees based on their total estimated sales
30 volumes. The initial licensees must agree to purchase any liquor

1 so allocated at the cost of the liquor to the commission plus a
2 twenty-five per centum markup.

3 (b) Additional applications for private wholesale liquor
4 distributor licenses will be accepted by the commission
5 commencing January 1, 1988, and additional licenses may be
6 awarded commencing May 1, 1988, pursuant to the requirements of
7 section 809-A.

8 (c) Private wholesale liquor licensees authorized pursuant
9 to this section may sell liquor only to private retail wine and
10 liquor stores located within the same marketing region, as
11 established by the commission, in which the premises of the
12 wholesale liquor licensee are located. The commission shall not
13 authorize any private wholesale licensee to operate at premises
14 within more than one such marketing region.

15 Section 806-A. Phase Three of Deregulation.--(a) Commencing
16 August 1, 1990, the commission may grant and renew private
17 retail wine and liquor licenses subject to the provisions of
18 sections 807-A and 808-A, without limitation as to the number of
19 licenses granted, or the geographical locations within which
20 licensees are permitted to operate, except as provided by
21 section 811-A. Private retail wine and liquor licenses shall be
22 granted pursuant to this section to qualified applicants upon
23 the payment of proper fees and the posting of required bonds,
24 but without the requirement to purchase the license by
25 competitive bidding.

26 (b) Restrictions upon the operation of retail wine and
27 liquor licensees established pursuant to section 804-A(a)(6) and
28 804-A(a)(7) and wholesale liquor licensees established pursuant
29 to section 805-A(c) shall be rescinded effective August 1, 1990.

30 Section 807-A. General License Requirements.--(a) Every

applicant for a license for a private retail liquor and wine store pursuant to section 808-A, for a private retail wine store pursuant to section 809-A, or for a private wholesale liquor distributorship, or a private wholesale wine distributorship pursuant to section 810-A, shall comply with the requirements of this section.

(b) Each applicant shall file a written application with the commission in the form and containing the information as the commission shall from time to time prescribe, which shall be accompanied by a filing fee in an amount determined by the commission sufficient to cover related costs of reviewing and processing license applications. The commission may establish a schedule of fees for various types of licenses and vary the license fee charged based on the volume of sales anticipated.

(c) With each initial application, every applicant shall provide a financial statement in the form and containing the information as the commission shall from time to time prescribe to indicate the applicant's financial capability to provide a reasonable level of service to the public or to retail stores and the estimated volume of business to be conducted in this Commonwealth.

(d) With each initial application and each renewal, the applicant shall identify the location and ownership of the proposed site or sites for the operation of licensed activities.

(e) 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.

(f) 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 person specifically authorized by the corporation to sign the application, to which shall be attached written evidence of his authority. If the applicant is an association, the application shall set forth the names and addresses of the persons constituting the association, and if a corporation, the names and addresses of the principal officers and stockholders thereof.

(g) Every applicant for a new or renewal license must demonstrate that all taxes due and payable to the Commonwealth have been paid for the most recently completed accounting period and that no delinquent tax payments are outstanding for prior periods.

(h) The commission shall not grant a license to any applicant if:

(1) the applicant or any person directly or indirectly interested in the license 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;

(2) the applicant has been convicted of a felony within the five (5) years immediately preceding the date of application;

(3) the applicant receives funds for the financing of any part of the private retail liquor store from any individual who has been convicted of a felony within the five (5) years immediately preceding the date of application; or

(4) the applicant or any persons with a financial interest

1 in the license are under indictment for a felony or under
2 investigation by a legally constituted grand jury. In such
3 instance, the commission shall withhold approval or disapproval
4 of the license until such time as all legal proceedings related
5 to the felony are resolved.

6 (5) the applicant, or any person with a financial interest
7 in a license granted pursuant to this article, holds a license
8 or permit for the manufacture of liquor, wine, malt or brewed
9 beverages.

10 (i) The commission may require licensees to post bonds in
11 amounts determined by the commission pursuant to the provisions
12 of sections 465 and 466.

13 (j) All applications for licenses shall be thoroughly
14 reviewed by the commission, by the Bureau of Liquor Law
15 Enforcement and by appropriate law enforcement agencies before
16 approval or disapproval. Reviews shall include thorough review
17 of the required financial statement and any other information
18 which shall be required by the commission. Upon review of the
19 application and upon receipt of the proper fees and bond, and
20 upon being satisfied of the truth of the statements in the
21 application, that the applicant is a person of good repute, that
22 the applicant meets all the requirements of this article and the
23 regulations of the commission, and that the issuance of the
24 license is not prohibited by any of the provisions of this
25 article, the commission shall grant and issue to the applicant a
26 license.

27 (k) If any false statement is intentionally made in any part
28 of the application, the affiant shall be deemed guilty of a
29 misdemeanor of the second degree and, upon conviction, shall be
30 subject to the penalties provided by Title 18 of the

1 Pennsylvania Consolidated Statutes (relating to crimes and
2 offenses).

3 (l) Licenses shall be nontransferable and nonassignable from
4 one person to another except upon death of the licensee, in
5 which case the transfer of the license to a member of the
6 immediate family may be provided for by regulation of the
7 commission, but the license may be transferred from one location
8 to another only through reapplication to the commission.

9 (m) Licenses shall be revocable by the Bureau of Liquor Law
10 Enforcement for cause.

11 (n) The commission may divide the State into convenient
12 license districts and may hold hearings on applications for
13 licenses and renewals thereof, as it deems necessary, at a
14 convenient place or places in each of said districts, at such
15 times as it shall fix for the purpose of hearing testimony for
16 and against applications for new licenses and renewals thereof.

17 (o) All licensees shall maintain on any licensed premises
18 such records as the commission may prescribe.

19 (p) The term of any license granted shall be up to five (5)
20 years, as determined by the commission. The commission may
21 establish a staggered schedule of license expiration and renewal
22 dates to facilitate the efficient processing of license renewal
23 applications.

24 (q) Licenses granted by this article shall not be subject to
25 the provisions of sections 407, 461, 468, 491(2), 492(19) and
26 (20), and section 493(2) and the provisions of the act of June
27 24, 1939 (P.L.806, No.358), entitled "An act limiting the number
28 of licenses for the retail sale of liquor, malt or brewed
29 beverages, to be issued by the Pennsylvania Liquor Control
30 Board; defining hotels, and prescribing the accommodations

1 required of hotels in certain municipalities."

2 Section 808-A. Private Retail Wine and Liquor Store

3 Licenses.--(a) Subject to the provisions of this article and

4 the regulations promulgated under this article, the commission

5 shall have authority to issue a private retail wine and liquor

6 license to a person, corporation or association for any premises

7 for the purpose of establishing, operating and maintaining a

8 private retail wine and liquor store. The licenses shall entitle

9 the private retail wine and liquor store to purchase liquor and

10 wine from private wholesale distributors or from the commission

11 and to keep on the premises such liquor and wine and, subject to

12 the provisions of this article and the regulations made

13 thereunder, to sell the same for off-premises consumption, and

14 to any hotel, restaurant, club or other establishment authorized

15 to sell wine and liquor for on-premises consumption pursuant to

16 this act.

17 (b) Every applicant for a new license or for the transfer of

18 an existing license to another premises not then licensed shall

19 post, for a period of at least fifteen (15) days beginning with

20 the day the application is filed with the commission, in a

21 conspicuous place on the outside of the premises or at the

22 proposed new location for which the license is applied, a notice

23 of the application, in such form, of such size, and containing

24 such information as the commission may require by its

25 regulations. Proof of the posting of the notice shall be filed

26 with the commission.

27 (c) The premises of all private retail wine and liquor

28 stores shall be self-contained units with limited customer

29 access. All purchases made within the limitations of the

30 premises shall be paid for at a location within the confines of

1 the wine and liquor sales area.

2 (d) Every license application for a private retail wine and
3 liquor store shall contain a description of the premises for
4 which the applicant desires a license and shall set forth such
5 other material, information and description of plan of that
6 premises where it is proposed to keep and sell liquor as may be
7 required by the regulations of the commission.

8 (e) The descriptions, information and plans referred to in
9 this subsection shall show the proposed location at the time the
10 application is made, and shall show any alterations proposed to
11 be made thereto, or the new building proposed to be constructed
12 after the approval by the commission of the application for a
13 license or for the transfer of an existing license to another
14 premises not then licensed. No physical alterations,
15 improvements or changes shall be required to be made nor shall
16 any new building for any such purpose, be required to be
17 constructed until approval of the application for license or for
18 the transfer of an existing license to another premises not then
19 licensed by the commission.

20 (f) In the case of any new license or the transfer of any
21 license to a new location, the commission may, in its
22 discretion, grant or refuse such new license or transfer if such
23 place proposed to be licensed is within three hundred (300) feet
24 of any church, hospital, charitable institution, school or
25 public playground, or if the new license or transfer is applied
26 for a place which is within two hundred (200) feet of any other
27 premises which is licensed by the commission. The commission
28 shall refuse any application for a new license or the transfer
29 of any license to a new location if, in the board's opinion, the
30 new license or transfer would be detrimental to the welfare,

1 health, peace and morals of the inhabitants of the neighborhood
2 within a radius of five hundred (500) feet of the place proposed
3 to be licensed.

4 (g) Private retail wine and liquor stores may sell related
5 merchandise within the controlled area of the store. The
6 commission shall promulgate regulations stipulating what
7 additional related merchandise may be offered for retail sale in
8 private retail wine and liquor stores, but no licensee shall
9 engage on the same premises in the retail sale of motor fuel.

10 (h) No liquor or wine package shall be opened on the
11 premises of a private licensed retail store. No licensee nor any
12 employee of any licensee shall allow any liquor or alcohol to be
13 consumed on the premise, nor shall any person consume any liquor
14 on the premises.

15 Section 809-A. Private Retail Wine Licenses.--(a) Subject
16 to the provisions of this article and the regulations
17 promulgated under this article, the commission shall have the
18 authority to issue a private retail wine license to a person,
19 corporation or association for any premises for the purpose of
20 establishing, operating and maintaining a private retail wine
21 store. The licenses shall entitle the private retail wine store
22 to purchase wine from private licensed distributors or from the
23 commission and to keep on the premises such wine, subject to the
24 provisions of this article and the regulations made thereunder,
25 and to sell the same for off-premises consumption, and to any
26 hotel, restaurant, club or other establishment authorized to
27 sell wine for on-premises consumption pursuant to this act.

28 (b) Private retail wine licenses shall be granted only to
29 applicants also engaged in, or proposing to engage in, the
30 retail sale of groceries with an average monthly inventory of at

least one thousand five hundred dollars (\$1,500) in foodstuffs,
or to applicants operating, or proposing to operate, specialty
wine shops primarily devoted to the retail sale of wine and
other incidental merchandise as approved by regulations adopted
by the commission. A speciality wine shop shall maintain a
minimum inventory of one thousand five hundred dollars (\$1,500)
in wine. No private retail wine license shall be granted to any
person engaged on the same premises in retail sales of motor
fuel or malt or brewed beverages.

(c) Any private retail wine store shall also comply with the
requirements of section 808-A, except for subsection (c).

Section 810-A. Private Wholesale Distributor Licenses.--(a)
Subject to the provisions of this article, and the regulations
promulgated under this article, the commission shall have the
authority to issue private liquor wholesale distributor licenses
and private wine wholesale distributor licenses.

(b) The license shall entitle the licensee to sell wine or
liquor to the commission, to any private retail store licensed
pursuant to this article, to any hotel, restaurant, club or
other establishment authorized to sell wine and liquor for on-
premises consumption pursuant to this act, to pharmacists,
hospitals, armed forces facilities pursuant to section 305(b),
to another wholesale distributor licensed under this section, or
to export wine or liquor from this Commonwealth.

(c) The license shall entitle the licensee to purchase wine
or liquor from the commission, from any Pennsylvania or
nonresident manufacturer, from any out-of-state retail store,
from any out-of-state wholesaler, from any wholesale distributor
licensed under this section, or from any private retail store
licensed under this article.

1 (d) Each licensed wholesaler shall establish one or more
2 warehouses for the storage and distribution of wine or liquor at
3 locations approved by the commission. A separate application
4 shall be submitted, and a separate application fee paid, for
5 each warehouse licensed pursuant to this section. All wine or
6 liquor sold to private retail stores licensed pursuant to this
7 article shall be distributed through a warehouse located within
8 this Commonwealth.

9 (e) No wine or liquor package shall be opened on the
10 premises of a licensed wholesale distributor. No licensee nor
11 employee of any licensee shall allow any wine or liquor to be
12 consumed on the premises, nor shall any person consume any
13 liquor on the premises.

14 (f) No private wholesale distributor of liquor, or any
15 person with a financial interest in a wholesale license for the
16 distribution of liquor, may hold a private retail store license
17 granted pursuant to this article.

18 Section 811-A. Local Option.--(a) The governing body of any
19 municipality may, within one (1) year of the effective date of
20 this section, and not more often than once every fourth year
21 thereafter, consider the adoption or rescission, and adopt or
22 rescind an ordinance prohibiting the location of any new private
23 retail store, or the continuation of operations at any existing
24 private retail store beyond the renewal date for such licenses.

25 (b) The governing body of any municipality may at any time
26 adopt ordinances regulating the hours of operation, prohibiting
27 Sunday sales, or specifying permissible locations for the
28 operation of private retail stores.

29 (c) Separate ordinances may be adopted for each part of a
30 municipality split so that each part thereof is separated by

1 another municipality.

2 (d) Separate ordinances may be adopted with respect to
3 private retail wine and liquor stores licensed pursuant to
4 section 808-A and private retail wine stores licensed pursuant
5 to section 809-A.

6 (e) Private retail store licenses shall not be granted
7 within any municipality which, on the effective date of this
8 article, has prohibited the operation of wholesale distributors
9 of malt or brewed beverages or Pennsylvania liquor stores
10 pursuant to section 472, unless such municipality adopts an
11 ordinance permitting the operation of private retail wine and
12 liquor stores or private retail wine stores, or both, within the
13 municipality, or within a split part of a municipality separated
14 by another municipality. An ordinance permitting licensed
15 activities within either part of a split municipality shall be
16 required, even if operations pursuant to section 472 were
17 prohibited only in one part of such municipality.

18 (f) Prior to considering the adoption of any ordinance
19 pursuant to this section, the governing body of the municipality
20 shall hold one or more public hearings, and may conduct an
21 advisory referendum.

22 (g) Any municipality adopting an ordinance pursuant to this
23 section shall file a copy of such regulation with the commission
24 at least thirty (30) days prior to the effective date of the
25 ordinance.

26 (h) Any private retail liquor store operating within a
27 municipality adopting an ordinance prohibiting operations within
28 the municipality may, with the approval of the commission,
29 notwithstanding the requirements of section 804-A(a)(6),
30 transfer a licensed premise to any other municipality which has

1 not adopted any such ordinance.

2 Section 812-A. Prohibited Acts and Offenses.--Except as
3 provided by this article, private retail and wholesale licensed
4 establishments operated pursuant to this article shall be
5 subject to the requirement of sections 492, 493, 494, 509, 510,
6 518 and 519 and Article VI. No licensee, however, shall be
7 restricted, except as otherwise provided by this article, with
8 respect to the advertising of the price and brand of any liquor
9 or wine, with respect to offering sales, rebates, refunds,
10 discounts or as to establishing the price of any liquor or wine,
11 and with respect to the stocking of merchandise, the
12 presentation of products or the offering of brands for sale.

13 Section 813-A. Liquor System Deregulation Account.--(a) All
14 funds collected by the commission from the sale of private
15 retail wine and liquor licenses during phase one of
16 deregulation, except for amounts determined by the commission as
17 collected from the sale of inventory, equipment and fixed assets
18 of State stores, shall be deposited into a restricted receipt
19 account within the State Store Fund known as the Liquor System
20 Deregulation Account. All other license fees, fines and
21 penalties collected pursuant to this article, and amounts
22 collected from the sale of inventory, equipment and fixed assets
23 of State stores shall be paid into the State Store Fund without
24 restriction. Amounts deposited in the State Store Fund, without
25 restriction, may be utilized to pay the costs of administration,
26 licensing and enforcement by the commission and the Liquor Code
27 Enforcement Bureau pursuant to this article, and for any other
28 purpose authorized by law.

29 (b) All funds in the Liquor System Deregulation Account
30 shall be utilized in the following manner.

1 (1) The sum of ten million dollars (\$10,000,000) is hereby
2 appropriated to the Department of Commerce for the purpose of
3 guaranteeing loans to the former employes of State stores for
4 the purpose of acquiring licenses pursuant to this section.

5 (2) All other funds in the account are hereby appropriated
6 to the Department of Education for the purpose of providing
7 grants to public elementary and secondary schools, vocational
8 technical schools, community colleges, State System of Higher
9 Education and State related institutions of higher education;
10 for capital equipment needed for classroom instruction,
11 including, but not limited to, computers, scientific and
12 laboratory equipment, vocational instruction equipment and other
13 equipment needed to promote career opportunities in advanced
14 technology fields.

15 (3) The appropriations provided in this section shall lapse
16 June 30, 1991.

17 (c) Upon the approval of the Governor, the State Treasurer
18 is hereby authorized and directed to transfer from the General
19 Fund to the State Store Fund amounts determined by the
20 commission to be necessary to finance the costs of deregulation
21 pursuant to this article, provided that all funds transferred
22 during a fiscal year shall be returned to the General Fund not
23 later than 30 days after the end of such fiscal year.

24 Section 814-A. Taxation.--(a) The tax imposed by the act of
25 December 5, 1933 (Sp.Sess., P.L.38, No.6), known as the
26 "Spirituous and Vinous Liquor Tax Law," shall be collected,
27 reported and paid by any Pennsylvania manufacturer, or from the
28 first licensed wholesale distributor, of distilled spirits,
29 rectified spirits or wines importing such products produced by
30 nonresident manufacturers into this Commonwealth. All reports

1 shall be filed and labels affixed by the appropriate
2 manufacturer or distributor.

3 (b) The tax imposed upon wine and liquor by Article II of
4 the act of March 4, 1971 (P.L.6, No.2), known as the "Tax Reform
5 Code of 1971," shall be collected, reported and paid by retail
6 stores licensed pursuant to this article, or by the commission
7 for sales by State stores.

8 (c) There is hereby imposed a tax at the rate of seventeen
9 percent of the net price of all liquors sold by private retail
10 stores or the commission. The tax shall be collected by private
11 retail stores or by the commission from purchasers of liquor and
12 paid into the State Treasury, through the department in the same
13 manner and at the same times as provided for the sales tax
14 imposed by Article II of the act of March 4, 1971 (P.L.6, No.2),
15 known as the "Tax Reform Code of 1971." This tax shall apply to
16 any alcoholic, spiritous, vinous, fermented or otherwise
17 alcoholic beverage, or by combination of liquors and mixed
18 liquor, a part of which is spiritous, vinous, fermented, or
19 otherwise alcoholic, and all drinks or drinkable liquids,
20 preparations or mixtures intended for beverage purposes, which
21 contain more than one-half of one per centum of alcohol by
22 volume, except alcohol and malt or brewed beverages. The tax may
23 be added to wholesale and retail prices at which liquor is sold
24 and eliminate any accounting of such tax separate from sales
25 prices, and, in such case, the amount of tax for any taxable
26 period shall be ascertained by dividing the entire gross
27 receipts derived from sales by private retail stores or by the
28 commission during such taxable period by six and five-ninths (6
29 5/9), and the quotient thus obtained shall be deemed the amount
30 of the tax for such taxable period payable, under this section.

1 Section 815-A. Labor Policy.--(a) The Commonwealth shall
2 exercise best efforts to place any employe of the commission
3 displaced by deregulation into another suitable position within
4 State government, or to locate another suitable placement in
5 private industry or with local government.

6 (b) Any individual or group of displaced employes desiring
7 to acquire a private retail wine and liquor license, or a
8 private retail wine-only license, shall be eligible to apply to
9 the Department of Commerce for a loan guarantee of up to seventy
10 per centum of the amount borrowed to purchase a license, and to
11 acquire, stock and equip a retail store. The department shall
12 establish regulations to determine the eligibility of loan
13 guarantee applicants, procedures for filing a loan guarantee
14 application, priorities for the award of loan guarantees, and
15 other rules, procedures and guidelines necessary to administer
16 the loan guarantee program.

17 Section 7. (a) The following acts and parts of acts are
18 repealed:

19 (1) The act of June 9, 1936 (P.L.13, No.4), entitled, as
20 reenacted and amended "An act imposing an emergency State tax on
21 liquor, as herein defined, sold by the Pennsylvania Liquor
22 Control Board; providing for the collection and payment of such
23 tax; and imposing duties upon the Department of Revenue and the
24 Pennsylvania Liquor Control Board."

25 (2) The last sentence of section 1 of the act of May 25,
26 1939 (P.L.191, No.99), entitled "An act authorizing transfers of
27 sums of money from the General Fund to the State Stores Fund
28 under certain conditions; providing for subsequent transfers of
29 equal sums from the State Stores Fund to the General Fund; and
30 making appropriations necessary to effect such transfers."

1 (b) All other acts and parts of acts are repealed insofar as
2 they are inconsistent herewith.

3 Section 8. (a) The provisions of section 4 adding section
4 201(c) shall take effect immediately.

5 (b) The remainder of this act shall take effect upon Senate
6 confirmation of a majority of the members of the Pennsylvania
7 Alcoholic Beverage Commission and, pending Senate confirmation
8 of a majority of the members of the Pennsylvania Alcoholic
9 Beverage Commission, the Pennsylvania Liquor Control Board shall
10 not execute any contract, agreement, purchase order, consent
11 decree or labor management agreement without the concurrence of
12 the Liquor Code Enforcement Bureau.