

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1178 Session of
1985INTRODUCED BY SHUMAKER, SCANLON, MADIGAN, RHOADES AND MELLOW,
OCTOBER 28, 1985

AS AMENDED ON THIRD CONSIDERATION, DECEMBER 9, 1985

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 reestablishing and renaming the Pennsylvania Liquor Control
18 Board; establishing the Bureau of Consumer Relations;
19 providing powers and duties of the Office of Administrative
20 Law Judge, the Office of Attorney General and law enforcement
21 agencies; adding certain definitions; providing for review of
22 liquor regulations, for statements of licensing policies, for
23 special occasion permits for volunteer ambulance companies,
24 volunteer rescue companies and women's auxiliaries, for wine-
25 based beverages, for manufacturers' records of sales in each
26 county, for revocation of licenses for tax delinquency, for
27 point-of-sale advertising, and for the revocation of a
28 license for unlawful possession or transportation of liquor
29 or alcohol; further providing for the appointment and
30 compensation of board members, for audits, for restrictions
31 on employee outside employment, for store hours, for sales by
32 stores and licensees, for rebates and for disposition of
33 money in the Liquor License Fund; prohibiting pornography and

1 obscene material on licensed premises; prohibiting unlawful
2 advertising; providing for civil and criminal penalties; and
3 making appropriations.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. The definitions of "board" and "regulation" in
7 section 102 of the act of April 12, 1951 (P.L.90, No.21), known
8 as the Liquor Code, are amended and the section is amended by
9 adding definitions to read:

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

13 * * *

14 "Board" shall mean the Pennsylvania [Liquor] Alcohol Beverage
15 and Marketing AND Control Board. <—

16 * * *

17 "Division" shall mean the Liquor Code Enforcement Division of
18 the Office of Attorney General.

19 * * *

20 "Law Enforcement Agency" shall include, but not be limited
21 to, county detectives, the Liquor Code Enforcement Division of
22 the Office of Attorney General, the Bureau of Criminal
23 Investigations of the Office of Attorney General and the
24 Pennsylvania State Police.

25 * * *

26 "Malt coolers" shall mean a malt or brewed beverage with an
27 alcohol content of less than eight per centum consisting of a
28 blend of a barley-based malt or brewed beverage, fruit pulp
29 and/or fruit juices and other ingredients.

30 * * *

31 "Regulation" shall mean any regulation prescribed by the

1 board or the Attorney General for carrying out the provisions of
2 this act.

3 * * *

4 "Wine coolers" shall mean a wine-based beverage with an
5 alcohol content of less than eight per centum consisting of a
6 blend of wine, fruit pulp and/or fruit juices and other
7 ingredients.

8 * * *

9 Section 2. Section 104(c) of the act is amended to read:

10 Section 104. Interpretation of Act.--* * *

11 (c) Except as otherwise expressly provided, the purpose of
12 this act is to prohibit the manufacture of and transactions in
13 liquor, alcohol and malt or brewed beverages which take place in
14 this Commonwealth, except by and under the control of the board
15 or the division, as herein specifically provided, and every
16 section and provision of the act shall be construed accordingly.
17 The provisions of this act dealing with the manufacture,
18 importation, sale and disposition of liquor, alcohol and malt or
19 brewed beverages within the Commonwealth through the
20 instrumentality of the board, the division and otherwise,
21 provide the means by which such control shall be made effective.
22 This act shall not be construed as forbidding, affecting or
23 regulating any transaction which is not subject to the
24 legislative authority of this Commonwealth.

25 * * *

26 Section 3. Section 201 of the act, amended November 23, 1976
27 (P.L.1123, No.235), is amended to read:

28 Section 201. Appointment of Members; Terms; Salaries.--An
29 independent administrative board to be known as the
30 "Pennsylvania [Liquor] Alcohol Beverage and Marketing AND

<—

1 Control Board" is hereby created. The board shall consist of
2 three members to be appointed by the Governor by and with the
3 advice and consent of [two-thirds] a majority of all the members
4 of the Senate. Should the Governor fail to appoint a nominee
5 within ninety (90) days of a vacancy or the expiration of a
6 term, the power to appoint a member shall pass to the Lieutenant
7 Governor or the next person in line of gubernatorial succession
8 as provided by the Constitution of Pennsylvania. Each appointing
9 authority shall have ninety (90) days in which to advance a
10 nominee. Failure to do so shall result in relinquishment of the
11 right to appoint to the next person in line of succession. [Of
12 the original members, one shall be appointed for a term of two
13 years, one for a term of four years, and one for a term of six
14 years from the date of his appointment and until his successor
15 shall have been appointed and qualified. Thereafter, all] Except
16 when a member is appointed to fill an unexpired term all
17 appointments shall be for terms of six years or until successors
18 are appointed and qualified. No member shall serve more than
19 ninety (90) days beyond the expiration of his term. Each of the
20 members shall receive an annual salary of [twenty-four thousand
21 dollars (\$24,000)] forty-two thousand five hundred dollars
22 (\$42,500), except the chairman, who shall receive an annual
23 salary of [twenty-five thousand dollars (\$25,000).] forty-five
24 thousand dollars (\$45,000). Board members shall devote full time
25 to their official duties. No board member shall hold any office
26 or position the duties of which are incompatible with his board
27 duties or be engaged in any employment or vocation, for which he
28 receives any remuneration, except as provided in this section.

29 Section 4. Sections 205 and 206 of the act are amended to
30 read:

1 Section 205. Bonds Required of Members and Secretary.--
2 Before entering upon the duties of their respective offices or
3 positions, each member of the board and the secretary shall
4 execute and file with the State Treasurer a bond in such penal
5 sum as shall be fixed by the Executive Board of this
6 Commonwealth upon recommendation of the Governor, but the amount
7 of any such bond shall not be less than ten thousand dollars
8 (\$10,000). Bonds in such penal sums as shall be fixed by the
9 Executive Board likewise shall be executed and filed with the
10 State Treasurer by such employees of the Pennsylvania Liquor
11 Control Board as the head of such board shall, with the approval
12 of the Executive Board, prescribe. Such bonds shall be payable
13 to the Commonwealth of Pennsylvania and shall be conditioned for
14 the faithful performance of the members', secretary's or
15 employees' duties imposed by law or by lawful authority and that
16 the person bonded will not knowingly violate the provisions of
17 this act. All bonds required to be given under this section
18 shall, before being accepted by the State Treasurer, be approved
19 by the [Department of Justice] Office of Attorney General, and
20 unless the Commonwealth shall establish its own indemnity fund,
21 all such bonds shall be given with security approved by the
22 [Department of Justice] Office of Attorney General. If the
23 Commonwealth shall establish its own indemnity fund, the
24 Executive Board may, nevertheless, require any bond given
25 hereunder to be executed by a surety or sureties satisfactory to
26 the [Department of Justice] Office of Attorney General. The cost
27 of such bonds required to be executed by a surety or sureties
28 shall be borne by the board as part of its operating expense.

29 Section 206. Board Subject to Administrative Code.--Except
30 as otherwise expressly provided by law, the board shall be

1 subject to all the provisions of The Administrative Code of one
2 thousand nine hundred twenty-nine, as amended, which apply
3 generally to independent administrative boards and commissions.
4 Nothing in this section shall be construed to require the Office
5 of Comptroller to perform any post audits on the board or the
6 Pennsylvania Liquor Store system. All audits shall be performed
7 by the Auditor General as provided in section 306.

8 Section 5. Section 207(b), (e) and (j) of the act, amended
9 January 13, 1966 (1965 P.L.1301, No.518) and July 27, 1973
10 (P.L.247, No.70), are amended and the section is amended by
11 adding clauses to read:

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

14 * * *

15 (b) To control the manufacture, possession, sale,
16 consumption, importation, use, storage, transportation and
17 delivery of liquor, alcohol and malt or brewed beverages in
18 accordance with the provisions of this act, and to fix the
19 wholesale and retail prices at which liquors and alcohol shall
20 be sold at Pennsylvania Liquor Stores.[: Provided, That in
21 fixing the sale prices, the board shall not give any preference
22 or make any discrimination as to classes, brands or otherwise,
23 except 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, or except where special sales are deemed
27 necessary to move unsaleable merchandise or except where the
28 addition of a service or handling charge to the fixed sales
29 price of any merchandise in the same comparable price bracket,
30 regardless of class, brand or otherwise, is, in the opinion of

1 the board, required for the efficient operation of the State
2 store system.] The board shall require each Pennsylvania <—
3 manufacturer and each nonresident manufacturer of liquors, other
4 than wine, selling such liquors to the board, which are not
5 manufactured in this Commonwealth, to make application for and
6 be granted a permit by the board before such liquors not
7 manufactured in this Commonwealth shall be purchased from such
8 manufacturer. Each such manufacturer shall pay for such permit a
9 fee which, in the case of a manufacturer of this Commonwealth,
10 shall be equal to that required to be paid, if any, by a
11 manufacturer or wholesaler of the state, territory or country of
12 origin of the liquors, for selling liquors manufactured in
13 Pennsylvania, and in the case of a nonresident manufacturer,
14 shall be equal to that required to be paid, if any, in such
15 state, territory or country by Pennsylvania manufacturers doing
16 business in such state, territory or country. In the event that
17 any such manufacturer shall, in the opinion of the board, sell
18 or attempt to sell liquors to the board through another person
19 for the purpose of evading this provision relating to permits,
20 the board shall require such person, before purchasing liquors
21 from him or it, to take out a permit and pay the same fee as
22 hereinbefore required to be paid by such manufacturer. All
23 permit fees so collected shall be paid into the State Stores
24 Fund. The board shall not purchase any alcohol or liquor
25 fermented, distilled, rectified, compounded or bottled in any
26 state, territory or country, the laws of which result in
27 prohibiting the importation therein of alcohol or liquor,
28 fermented, distilled, rectified, compounded or bottled in
29 Pennsylvania.

30 * * *

1 (e) Through the Department of [Property and Supplies]
2 General Services as agent, to lease and furnish and equip such
3 buildings, rooms and other accommodations as shall be required
4 for the operation of this act.

5 * * *

6 [(j) To investigate, whenever any person complains, or when
7 the board is aware that there is reasonable grounds to believe
8 liquor or malt or brewed beverage is being sold on premises not
9 licensed under the provisions of this act. If the investigation
10 produces evidence of the unlawful sale of liquor or malt or
11 brewed beverage or of any other violation of the provisions of
12 this act, the board shall cause the prosecution of the person or
13 persons believed to have been criminally liable for the unlawful
14 acts. Any equipment or appurtenances actually used in the
15 commission of the unlawful acts may be confiscated upon
16 direction of the board. The confiscation by or under the
17 direction of the board shall not, in any manner, divest or
18 impair the rights or interest of any bona fide lien holder in
19 the equipment or appurtenances, who had no knowledge that the
20 same was being used in violation of this act.]

21 * * *

22 (k) To publish a clear and concise statement of its policies
23 and priorities concerning licensing within ninety (90) days of
24 the effective date of this amendatory act and once every two
25 years after the first publication.

26 (l) To publish a clear and concise statement of its policies
27 and priorities concerning the enforcement function within ninety
28 (90) days of the effective date of this amendatory act.

29 (m) To strictly construe the full force and effect of this
30 act and all the laws of this Commonwealth and to ensure that all

1 employees comply with the provisions of this act.

2 (n) To create an interagency work group consisting of
3 members of the board, chief counsel of the board, executive
4 director of the board, representatives from the Departments of
5 Revenue and Labor and Industry, and the Offices of Treasury,
6 Auditor General and Attorney General. This group shall meet
7 monthly. Its purpose shall be to promote the efficient operation
8 of the board with all other departments and units of government
9 within the Commonwealth. The first meeting of this work group
10 shall be held within one hundred twenty (120) days of this
11 amendatory act.

12 (o) To fix all fees required pursuant to this act subject to
13 the act of June 25, 1982 (P.L.633, No.181), known as the
14 "Regulatory Review Act."

15 (p) To promulgate rules and regulations to enforce the
16 provisions of section 498 and to suspend the license of any
17 licensee who violates this section.

18 Section 6. Sections 209 and 210 of the act are repealed.

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

20 Section 211. Office of Administrative Law Judge.--(a) There
21 is hereby created within the board an autonomous office to be
22 known as the Office of Administrative Law Judge.

23 (b) The Governor shall appoint a Chief Administrative Law
24 Judge and as many administrative law judges as may, from time to
25 time, be necessary for the holding of hearings required or
26 permitted under this act.

27 (c) Administrative law judges shall preside at all citation
28 and other enforcement hearings required or permitted under this
29 act.

30 (d) Administrative law judges appointed pursuant to this

1 section shall be learned in the law and shall be members in good
2 standing of the bar of the Supreme Court of Pennsylvania.

3 (e) Administrative law judges appointed pursuant to this
4 section shall be afforded employment security as provided by the
5 act of August 5, 1941 (P.L.752, No.286), known as the "Civil
6 Service Act."

7 (f) Compensation for the administrative law judges shall be
8 established by the Executive Board.

9 (g) Administrative law judges shall devote full time to
10 their official duties and shall perform no duties inconsistent
11 with their duties and responsibilities as administrative law
12 judges.

13 Section 212. Powers of the Liquor Code Enforcement
14 Division.--(a) There is hereby created within the Office of
15 Attorney General the Liquor Code Enforcement Division which
16 shall be responsible for enforcing this act and the regulations
17 promulgated pursuant thereto.

18 (b) The Attorney General shall appoint an Executive Director
19 of the division and shall fix his compensation.

20 (c) The employes of the division who are designated by the
21 Executive Director of the division as law enforcement officers
22 are hereby declared to be peace officers and are hereby given
23 police power throughout the Commonwealth:

24 (1) To investigate whenever there are reasonable grounds to
25 believe liquor or malt or brewed beverage is being sold on
26 premises not licensed under the provisions of this act. If the
27 investigation produces evidence of the unlawful sale of liquor
28 or malt or brewed beverage or any other violation of the
29 provisions of this act, the employe of the Liquor Code
30 Enforcement Division involved in the investigation shall

institute criminal proceedings against the person or persons
believed to have been criminally liable, as otherwise provided
by law or rule of court.

(2) To arrest on view, except in private homes, without
warrant, any person actually engaged in the unlawful sale,
importation, manufacture or transportation or having unlawful
possession of liquor, alcohol or malt or brewed beverages
contrary to the provisions of this act or any other law of this
Commonwealth.

(3) Upon reasonable and probable cause, to search for and to
seize, without warrant or process, except in private homes, any
liquor, alcohol and malt or brewed beverages unlawfully
possessed, manufactured, sold, imported or transported and any
stills, equipment, materials, utensils, vehicles, boats,
vessels, animals, aircraft, or any of them, which are or have
been used in the unlawful manufacture, sale, importation or
transportation of the same. Such liquor, alcohol, malt or brewed
beverages, stills, equipment, materials, utensils, vehicles,
boats, vessels, animals or aircraft so seized shall be disposed
of as hereinafter provided.

(4) To investigate, issue citations for, and prosecute said
citations for any violations of this act or any laws of this
Commonwealth relating to liquor, alcohol or malt or brewed
beverages, or any regulations of the board adopted pursuant to
such laws, of any violation of any laws of this Commonwealth or
of the United States of America, relating to the payment of
taxes on liquor, alcohol or malt or brewed beverages by any
licensee, his officers, servants, agents or employees.

(d) Any equipment or appurtenance actually used in the
commission of the unlawful acts may be confiscated. The

1 confiscation shall not, in any manner, divest or impair the
2 rights or interest of any bona fide lienholder in the equipment
3 or appurtenance.

4 (e) The authority given the Liquor Code Enforcement Division
5 pursuant to this section shall not be exclusive.

6 Section 213. Restrictions on Members of the Board, the
7 Attorney General and Certain Employees.--(a) Neither a member
8 nor employe of the board, nor an employe of the Office of
9 Administrative Law Judge, nor the Attorney General, nor an
10 employe of the division shall be directly or indirectly
11 interested or engaged in any other business or undertaking
12 dealing in liquor, alcohol or malt or brewed beverages, whether
13 as owner, part owner, partner, member of syndicate, shareholder,
14 agent or employe and whether for his own benefit or in a
15 fiduciary capacity for some other person.

16 (b) Neither a member of the board, nor the Attorney General,
17 nor any employe thereof, nor any employe of any law enforcement
18 agency shall solicit or receive directly or indirectly, any
19 commission, remuneration or gift whatsoever, from any person
20 having sold, selling or offering liquor or alcohol for sale to
21 the board for use in Pennsylvania liquor stores, or from any
22 person holding or seeking a license under the provisions of this
23 act.

24 Section 214. Fees for Licenses and Permits.--Unless
25 specifically set forth in this act, all fees for permits and
26 licenses or applications, renewals or transfers shall be as
27 established in section 614-A of the act of April 9, 1929
28 (P.L.177, No.175), known as "The Administrative Code of 1929."

29 Section 215. Restrictions on Employes of the Board.--Except
30 as provided herein, no management level administrative employe

1 or professional employe of the board may engage in any other
2 employment outside the board. Any such employe desiring other
3 employment must petition the board for the granting of an
4 exemption. The board may grant the exemption provided that the
5 outside employment creates no conflict of interest and that the
6 employment meets the criteria set forth by the Governor for
7 executive branch governing outside employment.

8 Section 216. Bureau of Consumer Relations.--The board shall
9 establish a Bureau of Consumer Relations which will be
10 responsible for handling all consumer complaints and
11 suggestions. This bureau will develop a system-wide program for
12 investigating all complaints and suggestions and implementing
13 improvements into the State store system.

14 Section 217. Prohibitions.--(a) The board is prohibited
15 from making any contract or otherwise doing business with any
16 corporation, vendor or service contractor that has not complied
17 with all regulatory and statutory requirements of any other
18 agency of the Commonwealth.

19 (b) The board is prohibited from making any contract or
20 otherwise doing business with any transportation carrier for
21 hire of liquor, wine or malt or brewed beverages who has not
22 obtained the proper permits from the Pennsylvania Public Utility
23 Commission as required in 66 Pa.C.S. Ch. 25 (relating to
24 contract carrier by motor vehicle and broker).

25 Section 8. Section 304 of the act, amended March 5, 1973
26 (P.L.1, No.1), is amended to read:

27 Section 304. When Sales May Be Made at Pennsylvania Liquor
28 Stores.--Every Pennsylvania Liquor Store shall be open for
29 business week days, except legal holidays as defined in section
30 113 of the act of November 30, 1965 (P.L.847, No.356), known as

1 the "Banking Code of 1965," or any day on which a general,
2 municipal, special or primary election is being held[, during
3 such hours as the board, in its discretion]. Store managers,
4 subject to board approval, shall determine the hours of
5 operation, but shall not be open longer than fourteen hours in
6 any one day nor later than eleven o'clock postmeridian[:
7 Provided, That the]. Where a State Liquor Store is located
8 within a retail sales area consisting of three or more retail
9 stores, the hours of operation of such State Liquor Store shall
10 conform to the general practice of business in the area of the
11 store, where possible. The Pennsylvania Liquor Stores in the
12 case of a special election for members of the General Assembly
13 or members of the Congress of the United States, when such
14 special election is held on other than a primary, municipal or
15 general election day, shall be open in those Legislative or
16 Congressional Districts as though the day were not a special
17 election day. The board may, with the approval of the Governor,
18 temporarily close any store in any municipality.

19 Section 9. Section 305(a) and (b) of the act, added or
20 amended October 2, 1974 (P.L.668, No.222) and October 4, 1974
21 (P.L.672, No.224), are amended to read:

22 Section 305. Sales by Pennsylvania Liquor Stores.--(a)
23 Every Pennsylvania Liquor Store shall keep in stock for sale
24 such classes, varieties and brands of liquor and alcohol malt
25 coolers as the board shall prescribe. If any person shall desire
26 to purchase any class, variety or brand of liquor or alcohol
27 which any such store does not have in stock, it shall be the
28 duty of such store immediately to order the same upon the
29 payment of a reasonable deposit by the purchaser in such
30 proportion of the approximate cost of the order as shall be

1 prescribed by the regulations of the board. No purchaser may be
2 required to purchase more than two bottles or containers of the
3 product. The customer shall be notified immediately upon the
4 arrival of the goods.

5 In computing the retail price of such special orders for
6 liquor or alcohol, the board shall not include the cost of
7 freight or shipping before applying the mark-up and taxes but
8 shall add the freight or shipping charges to the price after the
9 mark-up and taxes have been applied.

10 Unless the customer pays for and accepts delivery of any such
11 special order within [five] ten days after notice of arrival,
12 the store may place it in stock for general sale and the
13 customer's deposit shall be forfeited.

14 (b) Every Pennsylvania Liquor Store shall sell liquors at
15 wholesale to hotels, restaurants, clubs, and railroad, pullman
16 and steamship companies licensed under this act; and, under the
17 regulations of the board, to pharmacists duly licensed and
18 registered under the laws of the Commonwealth, and to
19 manufacturing pharmacists, and to reputable hospitals approved
20 by the board, or chemists. The board may sell to registered
21 pharmacists only such liquors as conform to the Pharmacopoeia of
22 the United States, the National Formulary, or the American
23 Homeopathic Pharmacopoeia. The board may sell at special prices
24 under the regulations of the board, to United States Armed
25 Forces facilities which are located on United States Armed
26 Forces installations and are conducted pursuant to the authority
27 and regulations of the United States Armed Forces. All other
28 sales by such stores shall be at retail. No liquor shall be sold
29 except for cash, except that the board may, by regulation,
30 authorize the acceptance of checks or credit cards in accordance

1 with the regulations of the board for liquor sold at wholesale.
2 The board shall have power to designate certain stores for
3 wholesale or retail sales exclusively. The board may provide by
4 regulation for delivery to wholesale licensees. Any person so
5 entitled to purchase liquor at wholesale prices may purchase the
6 liquor at any of the board-designated liquor stores.

7 * * *

8 Section 10. Section 306 of the act is amended to read:

9 Section 306. Audits by Auditor General.--(a) It shall be
10 the sole duty of the Department of the Auditor General to make
11 all post audits which may be necessary in connection with the
12 administration of the financial affairs of the board and the
13 Pennsylvania Liquor Stores operated and maintained by the board.
14 No other agency shall conduct any post audits. Such audits shall
15 be conducted in accord with generally accepted accounting
16 procedures. Nothing herein shall be construed to require the
17 Auditor General to conduct biannual inventories.

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

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

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

29 (e) Unless the Department of the Auditor General shall
30 neglect or refuse to make annual, quarterly or special audits,

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

6 Section 11. Section 406(a)(2) of the act, amended May 9,
7 1984 (P.L.246, No.54), is amended to read:

8 Section 406. Sales by Liquor Licensees; Restrictions.--(a)

9 * * *

10 (2) Hotel and restaurant liquor licensees, airport
11 restaurant liquor licensees, municipal golf course restaurant
12 liquor licensees and privately-owned public golf course
13 restaurant licensees may sell liquor and malt or brewed
14 beverages only after seven o'clock antemeridian of any day until
15 two o'clock antemeridian of the following day, except Sunday,
16 and except as hereinafter provided, may sell liquor and malt or
17 brewed beverages on Sunday between the hours of twelve o'clock
18 midnight and two o'clock antemeridian. These licensees may
19 discount the price of drinks during any two-hour period between
20 the hours of five o'clock postmeridian and nine o'clock
21 postmeridian.

22 * * *

23 Section 12. Section 407 of the act is amended to read:

24 Section 407. Sale of Malt or Brewed Beverages by Liquor
25 Licensees.--Every liquor license issued to a hotel, restaurant,
26 club, or a railroad, pullman or steamship company under this
27 subdivision (A) for the sale of liquor shall authorize the
28 licensee to sell malt or brewed beverages at the same places but
29 subject to the same restrictions and penalties as apply to sales
30 of liquor, except that licensees other than clubs may sell malt

1 or brewed beverages for consumption off the premises where sold
2 in quantities of not more than one hundred forty-four fluid
3 ounces in a single sale to one person. Nothing in this section
4 shall be construed to permit the sale of open bottles or other
5 containers for consumption off the licensed premises. No
6 licensee under this subdivision (A) shall at the same time be
7 the holder of any other class of license, except a retail
8 dispenser's license authorizing the sale of malt or brewed
9 beverages only.

10 Section 13. Section 408.4(a) and (d.1) of the act, added or
11 amended July 9, 1984 (P.L.659, No.137), are amended to read:

12 Section 408.4. Special Occasion Permits.--(a) Upon
13 application of any hospital, church, synagogue, volunteer fire
14 company, volunteer ambulance company, volunteer rescue squad,
15 bona fide sportsmen's club in existence for at least ten years,
16 or the auxiliary of any of the foregoing, and upon payment of [a
17 fee of fifteen dollars (\$15)] the required fee per day, the
18 board shall issue a special occasion permit good for a period of
19 not more than five consecutive days. Special occasion permits
20 may also be issued to a museum operated by a nonprofit
21 corporation in a city of the third class or a nonprofit
22 corporation engaged in the performing arts in a city of the
23 third class for a period of not more than six nonconsecutive or
24 ten consecutive days at [a fee of fifteen dollars (\$15) per day]
25 the required fee.

26 * * *

27 (d.1) The hours during which the holder of a special
28 occasion permit may sell liquor or malt or brewed beverages
29 shall be limited to the hours set forth in section 406 which are
30 applicable to hotel and restaurant licensees, except on Sunday

1 when the special permit hours shall be limited to eleven o'clock
2 antemeridian and eleven o'clock postmeridian regardless of
3 quantity of sales. The hours during which a nonprofit
4 corporation engaged in the performing arts in a city of the
5 third class may sell liquor or malt or brewed beverages pursuant
6 to a special occasion permit shall be limited to those hours set
7 forth in section 408.3(g.1).

8 * * *

9 Section 14. Section 431(a) and (b) of the act, amended
10 August 17, 1965 (P.L.346, No.182) and October 9, 1967 (P.L.395,
11 No.179), are amended to read:

12 Section 431. Malt and Brewed Beverages Manufacturers',
13 Distributors' and Importing Distributors' Licenses.--(a) The
14 board shall issue to any person a resident of this Commonwealth
15 of good repute who applies therefor, pays the license fee
16 hereinafter prescribed, and files the bond hereinafter required,
17 a manufacturer's license to produce and manufacture malt or
18 brewed beverages, and to transport, sell and deliver malt or
19 brewed beverages or wine coolers at or from one or more places
20 of manufacture or storage, only in original containers, in
21 quantities of not less than a case of twenty-four containers,
22 each container holding seven fluid ounces or more, or a case of
23 twelve containers, each container holding twenty-four fluid
24 ounces or more, except original containers containing one
25 hundred twenty-eight ounces or more which may be sold separately
26 anywhere within the Commonwealth. Licenses for places of storage
27 shall be limited to those maintained by manufacturers on July
28 eighteenth, one thousand nine hundred thirty-five, and the board
29 shall issue no licenses for places of storage in addition to
30 those maintained on July eighteenth, one thousand nine hundred

1 thirty-five. The application for such license shall be in such
2 form and contain such information as the board shall require.
3 All such licenses shall be granted for the calendar year. Every
4 manufacturer shall keep at his or its principal place of
5 business, within the Commonwealth daily permanent records which
6 shall show, (1) the quantities of raw materials received and
7 used in the manufacture of malt or brewed beverages and the
8 quantities of malt or brewed beverages manufactured and stored,
9 (2) the sales of malt or brewed beverages on an individual
10 county basis, (3) the quantities of malt or brewed beverages
11 stored for hire or transported for hire by or for the licensee,
12 and (4) the names and addresses of the purchasers or other
13 recipients thereof. Every place licensed as a manufacturer shall
14 be subject to inspection by members of the board or by persons
15 duly authorized and designated by the board, at any and all
16 times of the day or night, as they may deem necessary, for the
17 detection of violations of this act or of the rules and
18 regulations of the board, or for the purpose of ascertaining the
19 correctness of the records required to be kept by licensees. The
20 books and records of such licensees shall at all times be open
21 to inspection by members of the board or by persons duly
22 authorized and designated by the board. Members of the board and
23 its duly authorized agents shall have the right, without
24 hindrance, to enter any place which is subject to inspection
25 hereunder or any place where such records are kept for the
26 purpose of making such inspections and making transcripts
27 thereof.

28 (b) The board shall issue to any reputable person who
29 applies therefor, pays the license fee hereinafter prescribed,
30 and files the bond hereinafter required, a distributor's or

1 importing distributor's license for the place which such person
2 desires to maintain for the sale of malt or brewed beverages or
3 wine coolers, not for consumption on the premises where sold,
4 and in quantities of not less than twenty-four containers, each
5 container holding seven fluid ounces or more, or twelve
6 containers, each container holding twenty-four fluid ounces or
7 more, except original containers containing one hundred twenty-
8 eight ounces or more which may be sold separately and such
9 containers to be the original containers as prepared for the
10 market by the manufacturer at the place of manufacture: And
11 provided further, That the board shall have the discretion to
12 refuse a license to any person or to any corporation,
13 partnership or association if such person, or any officer or
14 director of such corporation, or any member or partner of such
15 partnership or association shall have been convicted or found
16 guilty of a felony within a period of five years immediately
17 preceding the date of application for the said license.

18 Except as hereinafter provided, such license shall authorize
19 the holder thereof to sell or deliver malt or brewed beverages
20 or wine coolers in quantities above specified anywhere within
21 the Commonwealth of Pennsylvania, which, in the case of
22 distributors, have been purchased only from persons licensed
23 under this act as manufacturers or importing distributors, and
24 in the case of importing distributors, have been purchased from
25 manufacturers or persons outside this Commonwealth engaged in
26 the legal sale of malt or brewed beverages or wine coolers or
27 from manufacturers or importing distributors licensed under this
28 article.

29 Each out of State manufacturer of malt or brewed beverages or
30 wine coolers whose products are sold and delivered in this

1 Commonwealth shall give distributing rights for such products in
2 designated geographical areas to specific importing
3 distributors, and such importing distributor shall not sell or
4 deliver malt or brewed beverages or wine coolers manufactured by
5 the out of State manufacturer to any person issued a license
6 under the provisions of this act whose licensed premises are not
7 located within the geographical area for which he has been given
8 distributing rights by such manufacturer: Provided, That the
9 importing distributor holding such distributing rights for such
10 product shall not sell or deliver the same to another importing
11 distributor without first having entered into a written
12 agreement with the said secondary importing distributor setting
13 forth the terms and conditions under which such products are to
14 be resold within the territory granted to the primary importing
15 distributor by the manufacturer.

16 When a Pennsylvania manufacturer of malt or brewed beverages
17 or wine coolers licensed under this article names or constitutes
18 a distributor or importing distributor as the primary or
19 original supplier of his product, he shall also designate the
20 specific geographical area for which the said distributor or
21 importing distributor is given distributing rights, and such
22 distributor or importing distributor shall not sell or deliver
23 the products of such manufacturer to any person issued a license
24 under the provisions of this act whose licensed premises are not
25 located within the geographical area for which distributing
26 rights have been given to the distributor and importing
27 distributor by the said manufacturer: Provided, That the
28 importing distributor holding such distributing rights for such
29 product shall not sell or deliver the same to another importing
30 distributor without first having entered into a written

1 agreement with the said secondary importing distributor setting
2 forth the terms and conditions under which such products are to
3 be resold within the territory granted to the primary importing
4 distributor by the manufacturer. Nothing herein contained shall
5 be construed to prevent any manufacturer from authorizing the
6 importing distributor holding the distributing rights for a
7 designated geographical area from selling the products of such
8 manufacturer to another importing distributor also holding
9 distributing rights from the same manufacturer for another
10 geographical area, providing such authority be contained in
11 writing and a copy thereof be given to each of the importing
12 distributors so affected. All wine coolers shall be subject to
13 the same rate of taxation as wines and spirits for sale in this
14 Commonwealth.

15 * * *

16 Section 15. Section 468 of the act is amended by adding a
17 subsection to read:

18 Section 468. Licenses Not Assignable; Transfers.--* * *

19 (d) The license shall constitute a privilege between the
20 board and the licensee. As between the licensee and third
21 parties the license shall constitute property.

22 Section 16. Section 471 of the act, amended January 13, 1966
23 (1965 P.L.1301, No.518) and repealed in part June 3, 1971
24 (P.L.118, No.6), is amended to read:

25 Section 471. Revocation and Suspension of Licenses; Fines.--
26 [Upon learning of any violation of this act or any laws of this
27 Commonwealth relating to liquor, alcohol or malt or brewed
28 beverages, or of any regulations of the board adopted pursuant
29 to such laws, of any violation of any laws of this Commonwealth
30 or of the United States of America relating to the tax-payment

1 of liquor or malt or brewed beverages by any licensee within the
2 scope of this article, his officers, servants, agents or
3 employes, or upon any other sufficient cause shown, the board
4 may, within one year from the date of such violation or cause
5 appearing, cite such licensee to appear before it or its
6 examiner, not less than ten nor more than sixty days from the
7 date of sending such licensee, by registered mail, a notice
8 addressed to him at his licensed premises, to show cause why
9 such license should not be suspended or revoked or a fine
10 imposed. Hearings on such citations shall be held in the same
11 manner as provided herein for hearings on applications for
12 license. Upon such hearing, if satisfied that any such violation
13 has occurred or for other sufficient cause, the board shall
14 immediately suspend or revoke the license, or impose a fine of
15 not less than fifty dollars (\$50) nor more than one thousand
16 dollars (\$1,000), notifying the licensee by registered letter
17 addressed to his licensed premises. In the event the fine is not
18 paid within twenty days of the order the board shall suspend or
19 revoke the license, notifying the licensee by registered mail
20 addressed to his licensed premises. Suspensions and revocations
21 shall not go into effect until twenty days have elapsed from the
22 date of notice of issuance of the board's order, during which
23 time the licensee may take an appeal as provided for in this
24 act. When a license is revoked, the licensee's bond may be
25 forfeited by the board. Any licensee whose license is revoked
26 shall be ineligible to have a license under this act until the
27 expiration of three years from the date such license was
28 revoked. In the event the board shall revoke a license, no
29 license shall be granted for the premises or transferred to the
30 premises in which the said license was conducted for a period of

1 at least one year after the date of the revocation of the
2 license conducted in the said premises, except in cases where
3 the licensee or a member of his immediate family is not the
4 owner of the premises, in which case the board may, in its
5 discretion, issue or transfer a license within the said year. In
6 all such cases, the board shall file of record at least a brief
7 statement in the form of an opinion of the reasons for the
8 ruling or order. In the event the person who was fined or whose
9 license was suspended or revoked by the board shall feel
10 aggrieved by the action of the board, he shall have the right to
11 appeal to the court of quarter sessions or the county court of
12 Allegheny County in the same manner as herein provided for
13 appeals from refusals to grant licenses. Upon appeal, the court
14 so appealed to shall, in the exercise of its discretion,
15 sustain, reject, alter or modify the findings, conclusions and
16 penalties of the board, based on the findings of fact and
17 conclusions of law as found by the court. The aforesaid appeal
18 shall act as a supersedeas unless upon sufficient cause shown
19 the court shall determine otherwise. No penalty provided by this
20 section shall be imposed by the board or any court for any
21 violations provided for in this act unless the enforcement
22 officer or the board notifies the licensee of its nature and of
23 the date of the alleged violation within ten days of the
24 completion of the investigation which in no event shall exceed
25 ninety days.] (a) Upon learning of any violation of this act or
26 any laws of this Commonwealth relating to liquor, alcohol or
27 malt or brewed beverages, or of any regulations of the board
28 adopted pursuant to such laws, or any violation of any laws of
29 this Commonwealth or of the Federal Government relating to the
30 payment of taxes on liquor or malt or brewed beverages by any

1 licensee within the scope of this article, his officers,
2 servants, agents or employes, or upon any other sufficient cause
3 shown, the division may, within one year from the date of such
4 violation or cause appearing, cite such licensee to appear
5 before an administrative law judge, not less than ten nor more
6 than sixty days from the date of sending such licensee, by
7 registered mail, a notice addressed to him at his licensed
8 premises, to show cause why such license should not be suspended
9 or revoked or a fine imposed, or both. The division shall also
10 send a copy of the hearing notice to the municipality in which
11 the premises is located.

12 (b) Hearing on such citations shall be held in the same
13 manner as provided herein for hearings on applications for
14 license. Upon such hearing, if satisfied that any such violation
15 has occurred or for other sufficient cause, the administrative
16 law judge shall immediately suspend or revoke the license, or
17 impose a fine of not less than fifty dollars (\$50) nor more than
18 one thousand dollars (\$1,000), or both, notifying the licensee
19 by registered letter addressed to his licensed premises. If the
20 licensee has been cited and found to have violated section
21 493(1) insofar as it relates to sales to minors, (10) insofar as
22 it relates to lewd, immoral or improper entertainment, (14),
23 (16) or (21) or has been found to be a public nuisance pursuant
24 to section 611, or if the owner or operator of the licensed
25 premises or any authorized agent of the owner or operator has
26 been convicted of any violation of the act of April 14, 1972
27 (P.L.233, No.64), known as "The Controlled Substance, Drug,
28 Device and Cosmetic Act," or of 18 Pa.C.S. § 5902 (relating to
29 prostitution and related offenses) or 6301 (relating to
30 corruption of minors), at or relating to the licensed premises,

1 the administrative law judge shall immediately suspend or revoke
2 the license, or impose a fine not to exceed five thousand
3 dollars (\$5,000), or both. The administrative law judge shall
4 notify the licensee by registered mail, addressed to the
5 licensed premises, of such suspension, revocation or fine. The
6 increased civil penalty imposed by this subsection shall not be
7 used to require any licensee to increase the amount of the bond
8 required by this act. In the event the fine is not paid within
9 twenty days of the adjudication the administrative law judge
10 shall suspend or revoke the license, notifying the licensee by
11 registered mail addressed to the licensed premises. Suspensions
12 and revocations shall not go into effect until thirty days have
13 elapsed from the date of the adjudication during which time the
14 licensee may take an appeal as provided for in this act. When a
15 license is revoked, the licensee's bond may be forfeited. Any
16 licensee whose license is revoked shall be ineligible to have a
17 license under this act until the expiration of three years from
18 the date such license was revoked. In the event a license is
19 revoked, no license shall be granted for the premises or
20 transferred to the premises in which the said license was
21 conducted for a period of at least one year after the date of
22 the revocation of the license conducted in the said premises,
23 except in cases where the licensee or a member of his immediate
24 family is not the owner of the premises, in which case the board
25 may, in its discretion, issue or transfer a license within the
26 said year. In the event the division or the person who was fined
27 or whose license was suspended or revoked shall feel aggrieved
28 by the adjudication of the administrative law judge, there shall
29 be a right to appeal to the court of common pleas in the same
30 manner as herein provided for appeals from refusals to grant

1 licenses. The aforesaid appeal shall act as a supersedeas unless
2 upon sufficient cause shown the court shall determine otherwise;
3 however, if the licensee has been cited and found to have
4 violated section 493(1) insofar as it relates to sales to
5 minors, (10) insofar as it relates to lewd, immoral or improper
6 entertainment, (14), (16) or (21) or has been found to be a
7 public nuisance pursuant to section 611, or if the owner or
8 operator of the licensed premises or any authorized agent of the
9 owner or operator has been convicted of any violation of the act
10 of April 14, 1972 (P.L.233, No.64), known as "The Controlled
11 Substance, Drug, Device and Cosmetic Act," or of 18 Pa.C.S. §
12 5902 (relating to prostitution and related offenses) or 6301
13 (relating to corruption of minors), at or relating to the
14 licensed premises, its appeal shall not act as a supersedeas
15 unless the court determines otherwise upon sufficient cause
16 shown. In any hearing on an application for a supersedeas under
17 this section the court may consider, in addition to other
18 relevant evidence, documentary evidence, including records of
19 the division, showing the prior history of citations, fines,
20 suspensions or revocations against the licensee; and the court
21 may also consider, in addition to other relevant evidence,
22 evidence of any recurrence of the unlawful activity occurring
23 between the date of the citation which is the subject of the
24 appeal and the date of the hearing by the court. No penalty
25 provided by this section shall be imposed for any violations
26 provided for in this act unless the division notifies the
27 licensee of its nature within thirty days of the completion of
28 the investigation.

29 (c) (1) Upon reasonable cause, any law enforcement agency
30 may cite a licensee within the scope of this article for any

1 violation of this act or of any laws of this Commonwealth
2 relating to liquor, alcohol or malt or brewed beverages, or of
3 any regulation adopted pursuant to such laws, of any violation
4 of any laws of this Commonwealth or of the United States of
5 America relating to the payment of taxes on liquor or malt or
6 brewed beverages by any licensee within the scope of this act,
7 his officers, servants, agents or employes, or upon any other
8 sufficient cause shown. Upon reasonable cause any police officer
9 of any municipality may cite a licensee within the scope of this
10 article for any violations of section 493(1) insofar as it
11 relates to sales to minors, (10) insofar as it relates to lewd,
12 immoral or improper entertainment, (14), (16), or (21), or any
13 violation of the act of April 14, 1972 (P.L.233, No.64), known
14 as "The Controlled Substance, Drug, Device and Cosmetic Act," or
15 of 18 Pa.C.S. § 5902 (relating to prostitution and related
16 offenses) or 6301 (relating to corruption of minors) or of any
17 violations of any laws of this Commonwealth relating to the
18 payment of taxes on liquor, alcohol, or malt or brewed
19 beverages.

20 (2) The citations allowed by clause (1) shall be on forms
21 designed and provided by the division.

22 (3) Any citation issued by a law enforcement agency pursuant
23 to this section shall identify the alleged violation and shall
24 include the date of said violation. A copy of said citation
25 shall be served by the law enforcement agency by delivering the
26 citation to the licensed premises and leaving it with the
27 licensee or any officer, servant, agent or employe of the
28 licensee found on the premises. If neither the licensee nor any
29 officer, servant, agent or employe of the licensee is found on
30 the premises, the citation may be served by leaving a copy

1 thereof at the licensed premises. A copy of the citation may be
2 delivered as provided in this subsection at the time that the
3 violation is observed or detected by the law enforcement agency
4 or within thirty days following the later of either:

5 (i) the observance or detection of the violation; or

6 (ii) the completion of the investigation disclosing the
7 violation.

8 (4) Upon issuing any citation as herein provided, the law
9 enforcement agency issuing the citation shall promptly provide a
10 copy of the citation to the division. Upon receipt of such a
11 citation, the division shall schedule a hearing on the citation
12 not less than ten nor more than sixty days after a copy of the
13 citation was served as provided in clause (3). Any such hearing
14 shall be before an administrative law judge. At the hearing, the
15 licensee will be required to show cause why the license should
16 not be suspended or revoked or a fine imposed, or both. The
17 hearing provided for by this subsection shall be identical in
18 form and substance to a hearing on a citation issued pursuant to
19 subsection (a). The division shall, by registered mail, notify
20 the licensee and the law enforcement agency issuing the citation
21 of the date, time and place for the hearing.

22 (5) Upon providing a copy of the citation to the division as
23 provided in clause (4), the law enforcement agency shall, in
24 addition, supply the division with the names and addresses of
25 all witnesses known to the law enforcement agency that may be
26 required to prosecute the citation. The division shall command
27 the appearance at the scheduled hearing of those persons,
28 including members of the law enforcement agency, necessary to
29 prosecute the citation.

30 (6) The authority given to law enforcement agencies under

1 this subsection shall be in addition to any other authority
2 which said agencies possess.

3 (d) If the violation in question is a third or subsequent
4 violation of this act or [the act of June 24, 1939 (P.L.872),
5 known as "The Penal Code,"] Title 18 of the Pennsylvania
6 Consolidated Statutes (relating to crimes and offenses),
7 occurring within a period of four years the [board]
8 administrative law judge shall impose a suspension or
9 revocation.

10 [The jurisdiction of the county court of Allegheny County
11 conferred hereby shall be exclusive within the territorial
12 limits of its jurisdiction.]

13 (e) At all hearings held to adjudicate citations issued by a
14 law enforcement agency pursuant to this section, the law
15 enforcement agency shall be represented by the chief prosecuting
16 attorney of the division or an assistant prosecuting attorney.
17 The Attorney General shall appoint a chief prosecuting attorney
18 and so many assistant prosecuting attorneys as he deems
19 necessary and appropriate. In addition to representing the law
20 enforcement agencies at citation hearings or other hearings
21 before administrative law judges, the chief prosecuting attorney
22 and the assistant prosecuting attorneys shall represent the law
23 enforcement agencies during all appeals in the courts and shall
24 render advice and legal assistance to law enforcement agencies
25 in matters arising under this act.

26 Section 17. Section 472 of the act, amended July 11, 1980
27 (P.L.558, No.117), is amended to read:

28 Section 472. Local Option.--In any municipality or any part
29 of a municipality where such municipality is split so that each
30 part thereof is separated by another municipality, an election

1 may be held on the date of the primary election immediately
2 preceding any municipal election, but not oftener than once in
3 four years, to determine the will of the electors with respect
4 to the granting of liquor licenses to hotels, restaurants and
5 clubs, not oftener than once in four years, with respect to the
6 granting of licenses to retail dispensers of malt and brewed
7 beverages, not oftener than once in four years with respect to
8 granting of licenses to wholesale distributors and importing
9 distributors, or not more than once in four years with respect
10 to the establishment, operation and maintenance by the board of
11 Pennsylvania liquor stores, within the limits of such
12 municipality or part of a split municipality, under the
13 provisions of this act: Provided, however, Where an election
14 shall have been held at the primary preceding a municipal
15 election in any year, another election may be held under the
16 provisions of this act at the primary occurring the fourth year
17 after such prior election: And provided further, That an
18 election on the question of establishing and operating a State
19 liquor store shall be initiated only in those municipalities, or
20 that part of a split municipality that shall have voted against
21 the granting of liquor licenses; and that an election on the
22 question of granting wholesale distributor and importing
23 distributor licenses shall be initiated only in those
24 municipalities or parts of split municipalities that shall have
25 at a previous election voted against the granting of dispenser's
26 licenses. Whenever electors equal to at least [twenty-five]
27 ~~forty~~ THIRTY-THREE per centum of the highest vote cast for any
28 office in the municipality or part of a split municipality at
29 the last preceding general election shall file a petition with
30 the county board of elections of the county for a referendum on

<—

1 the question of granting any of said classes of licenses or the
2 establishment of Pennsylvania liquor stores, the said county
3 board of elections shall cause a question to be placed on the
4 ballots or on the voting machine board and submitted at the
5 primary immediately preceding the municipal election. Separate
6 petitions must be filed for each question to be voted on. Said
7 proceedings shall be in the manner and subject to the provisions
8 of the [election laws] Pennsylvania Election Code which relate
9 to the signing, filing, time restrictions and adjudication of
10 nomination petitions, insofar as such provisions are applicable.
11 Notice of the pending referendum questions must be published by
12 the county board of elections in one newspaper of general
13 circulation in the municipality two weeks after the necessary
14 petitions have been filed. Petitioners must also serve notice on
15 all licensees whose licenses will be affected. Objections to the
16 filing of such a petition may be filed in the manner prescribed
17 in the Pennsylvania Election Code.

18 When the question is in respect to the granting of liquor
19 licenses, it shall be in the following form:

20 Do you favor the granting of liquor licenses
21 for the sale of liquor in..... Yes
22 of.....? No

23 When the question is in respect to the granting of licenses
24 to retail dispensers of malt and brewed beverages, it shall be
25 in the following form:

26 Do you favor the granting of malt and brewed
27 beverage retail dispenser licenses for
28 consumption on premises where sold in the..... Yes
29 of.....? No

30 When the question is in respect to the granting of licenses

1 to wholesale distributors of malt or brewed beverages and
2 importing distributors, it shall be in the following form:

3 Do you favor the granting of malt and brewed
4 beverage wholesale distributor's and importing
5 distributor's licenses not for consumption on
6 premises where sold in the..... Yes
7 of.....? No

8 When the question is in respect to the establishment,
9 operation and maintenance of Pennsylvania liquor stores it shall
10 be in the following form:

11 Do you favor the establishment, operation
12 and maintenance of Pennsylvania liquor
13 stores in the..... Yes
14 of.....? No

15 In case of a tie vote, the status quo shall obtain. If a
16 majority of the voting electors on any such question vote "yes,"
17 then liquor licenses shall be granted by the board to hotels,
18 restaurants and clubs, or malt and brewed beverage retail
19 dispenser licenses or wholesale distributor's and importing
20 distributor's license for the sale of malt or brewed beverages
21 shall be granted by the board, or the board may establish,
22 operate and maintain Pennsylvania liquor stores, as the case may
23 be, in such municipality or part of a split municipality, as
24 provided by this act; but if a majority of the electors voting
25 on any such question vote "no," then the board shall have no
26 power to grant or to renew upon their expiration any licenses of
27 the class so voted upon in such municipality or part of a split
28 municipality; or if the negative vote is on the question in
29 respect to the establishment, operation and maintenance of
30 Pennsylvania liquor stores, the board shall not open and operate

1 a Pennsylvania liquor store in such municipality or part of a
2 split municipality, nor continue to operate a then existing
3 Pennsylvania liquor store in the municipality or part of a split
4 municipality for more than two years thereafter or after the
5 expiration of the term of the lease on the premises occupied by
6 such store, whichever period is less, unless and until at a
7 later election a majority of the voting electors vote "yes" on
8 such question.

9 Section 18. The act is amended by adding sections to read:

10 Section 477. Revocation for Tax Delinquency.--(a) The
11 Department of Revenue shall notify the board by certified mail
12 of any State, personal, corporate or sales tax delinquency, any
13 unemployment compensation account delinquency of any licensee or
14 the existence of any tax liens.

15 (b) Within sixty (60) days of the receipt of such notice
16 from the Department of Revenue, the board shall issue a citation
17 to the licensee containing:

18 (1) The amount of the delinquency.

19 (2) The existence of any tax liens filed against the
20 licensee.

21 (3) A statement that the licensee should immediately contact
22 the Department of Revenue. Failure to contact the Department of
23 Revenue may result in license revocation.

24 (c) The licensee must respond to the citation within sixty
25 (60) days of its issuance by:

26 (1) paying the total amount of State tax owed; or

27 (2) arranging a payment plan with the Department of Revenue.
28 The Department of Revenue shall promulgate rules and regulations
29 for establishing an equitable payment plan.

30 (d) If the licensee fails to respond within the sixty (60)

days, the board shall set the time and place for a hearing on
revocation. The hearing must be held within one hundred twenty
(120) days of the original citation issued by the board. Notice
of the hearing shall be given to the licensee and to the
Department of Revenue. If, at the time of hearing, the licensee
has failed to begin a good faith effort to pay tax arrearages,
the license shall be revoked.

(e) Any license revoked under this section may be returned
to the licensee upon determination by the Department of Revenue
that a payment plan for all tax arrearages has been established.

Section 477.1. Applicants to Provide State Tax
Identification Numbers and Statement of State Tax Status; Waiver
of Confidentiality of Information in the Possession of the
Department of Revenue and other Departments; Review of State Tax
Status.--(a) An applicant for the grant, renewal or transfer of
any license issued pursuant to this article shall provide to the
board, upon forms approved by the Department of Revenue, the
following:

(1) the applicant's State personal income tax identification
number;

(2) the applicant's State sales tax number;

(3) the applicant's State corporation tax number;

(4) the applicant's State employer withholding tax number;

(5) the applicant's unemployment compensation account
number; and

(6) a statement that:

(i) all State tax reports have been filed and all State
taxes paid; or

(ii) all State taxes are subject to a timely administrative
or judicial appeal; or

1 (iii) all State taxes are subject to a duly approved
2 deferred payment plan.

3 (b) An applicant for the grant, renewal or transfer of any
4 license issued pursuant to this article shall, by the filing of
5 an application insofar as it relates to the board, waive any
6 confidentiality with respect to State tax information regarding
7 said applicant in the possession of the Department of Revenue,
8 the Office of Attorney General or the Department of Labor and
9 Industry, regardless of the source of that information and shall
10 consent to the providing of that information to the board by the
11 Department of Revenue, the Office of Attorney General or the
12 Department of Labor and Industry.

13 (c) Upon receipt of any application for the grant, renewal
14 or transfer of any license issued pursuant to this article, the
15 board shall review the State tax status of the applicant. The
16 board shall request State tax information regarding the
17 applicant from the Department of Revenue, the Office of Attorney
18 General or the Department of Labor and Industry and said
19 information shall be provided.

20 (d) The board shall not approve any application for the
21 grant, renewal or transfer of any license issued pursuant to
22 this article where the applicant has failed to:

23 (1) provide any of the information required by subsection
24 (a); or

25 (2) file required State tax reports; or

26 (3) pay any State taxes not subject to a timely
27 administrative or judicial appeal or subject to a duly
28 authorized deferred payment plan.

29 (e) For the purpose of this section the term "applicant"
30 shall include the transferor and transferee of any license

1 issued under this act.

2 Section 19. Section 491 of the act, amended July 18, 1961
3 (P.L.789, No.347), May 5, 1970 (P.L.342, No.110), October 11,
4 1972 (P.L.906, No.215), October 2, 1974 (P.L.665, No.220),
5 October 10, 1974 (P.L.692, No.231), December 12, 1980 (P.L.1195,
6 No.221) and February 9, 1984 (P.L.21, No.8), is amended to read:

7 Section 491. Unlawful Acts Relative to Liquor, Alcohol and
8 Liquor Licensees.--

9 It shall be unlawful--

10 (1) Sales of Liquor. For any person, by himself or by an
11 employe or agent, to expose or keep for sale, or directly or
12 indirectly, or upon any pretense or upon any device, to sell or
13 offer to sell any liquor within this Commonwealth, except in
14 accordance with the provisions of this act and the regulations
15 of the board. This clause shall not be construed to prohibit
16 hospitals, physicians, dentists or veterinarians who are
17 licensed and registered under the laws of this Commonwealth from
18 administering liquor in the regular course of their professional
19 work and taking into account the cost of the liquor so
20 administered in making charges for their professional service,
21 or a pharmacist duly licensed and registered under the laws of
22 this Commonwealth from dispensing liquor on a prescription of a
23 duly licensed physician, dentist or veterinarian, or selling
24 medical preparations containing alcohol, or using liquor in
25 compounding prescriptions or medicines and making a charge for
26 the liquor used in such medicines, or a manufacturing pharmacist
27 or chemist from using liquor in manufacturing preparations unfit
28 for beverage purposes and making a charge for the liquor so
29 used. All such liquors so administered or sold by hospitals,
30 physicians, dentists, veterinarians, pharmacists or chemists

1 shall conform to the Pharmacopoeia of the United States, the
2 National Formulary, or the American Homeopathic Pharmacopoeia.
3 This clause shall not be construed to prohibit an executor or an
4 administrator of a decedent's estate from selling privately or
5 at public auction liquor which was an asset of the decedent. The
6 board shall establish regulations to ensure that State taxes
7 from the sales will be paid by the estate from the proceeds of
8 the sale. The board may not prohibit a sale of liquor for the
9 reason that it was not lawfully acquired prior to January 1,
10 1934 or has not been purchased from a Pennsylvania liquor store
11 or in compliance with Pennsylvania law.

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

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

22 None of the provisions herein contained shall prohibit nor
23 shall it be unlawful for any consul general, consul or other
24 diplomatic officer of a foreign government to import into
25 Pennsylvania, transport or have in his possession liquor upon
26 which a State tax has not been paid, if it can be shown to the
27 satisfaction of the board that such person acquired the liquor
28 in a foreign country and was allowed to bring it into the United
29 States. Such liquor shall not be possessed, offered for sale or
30 sold on any licensed premises.

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

25 (3) Purchase of Liquor or Alcohol. For any person within
26 this Commonwealth, by himself or by an employe or agent, to
27 attempt to purchase, or directly or indirectly, or upon any
28 pretense or device whatsoever, to purchase any liquor or alcohol
29 from any person or source other than a Pennsylvania Liquor
30 Store, except in accordance with the provisions of this act or

1 the regulations of the board.

2 (4) Possession and Use of Decaners. For any person to use
3 decaners of alcoholic beverages except that the use of
4 decaners or other similar receptacles by licensees shall be
5 permitted in the case of wines and then only in accordance with
6 the regulations of the board, but nothing herein contained shall
7 prohibit the manufacture and possession of wine as provided in
8 clause (2) of this section.

9 (5) Failure to Break Empty Liquor Containers. For any
10 restaurant, hotel or club licensee, his servants, agents or
11 employes, to fail to break any package in which liquors were
12 contained, except those decanter packages that the board
13 determines to be decorative, within twenty-four hours after the
14 original contents were removed therefrom.

15 (6) Sales by Restaurant and Hotel Liquor Licensees. For any
16 restaurant or hotel licensee, his servants, agents or employes,
17 to sell any liquor or malt or brewed beverages for consumption
18 on the licensed premises except in a room or rooms or place on
19 the licensed premises at all times accessible to the use and
20 accommodation of the general public, but this section shall not
21 be interpreted to prohibit a hotel licensee, or a restaurant
22 licensee when the restaurant is located in a hotel, from selling
23 liquor or malt or brewed beverages in any room of such hotel
24 occupied by a bona fide guest or to prohibit a restaurant
25 licensee from selling liquor or malt or brewed beverages in a
26 bowling alley when no minors are present where the restaurant
27 and bowling alley are immediately adjacent and under the same
28 roof.

29 (7) Sales of Liquor by Manufacturers and Licensed Importers.
30 For any manufacturer or licensed importer of liquor in this

1 Commonwealth, his agents, servants or employes, to sell or offer
2 to sell any liquor in this Commonwealth except to the board for
3 use in Pennsylvania Liquor Stores, and in the case of a
4 manufacturer, to the holder of a sacramental wine license or an
5 importer's license, but a manufacturer or licensed importer may
6 sell or offer to sell liquor to persons outside of this
7 Commonwealth.

8 (8) Importation and Sales of Alcohol. For any person, to
9 import alcohol into this Commonwealth, or to sell alcohol to any
10 person, except in accordance with the regulations of the board.

11 (9) Possession of Alcohol. For any person, to have alcohol
12 in his possession, except in accordance with the provisions of
13 this act and the regulations of the board.

14 (10) Fortifying, Adulterating or Contaminating Liquor. For
15 any licensee or any employe or agent of a licensee or of the
16 board, to fortify, adulterate or contaminate any liquor, except
17 as permitted by the regulations of the board, or to refill
18 wholly or in part, with any liquid or substance whatsoever, any
19 liquor bottle or other liquor container.

20 (11) Importation of Liquor. For any person, other than the
21 board or the holder of a sacramental wine license or of an
22 importer's license, to import any liquor whatsoever into this
23 Commonwealth, but this section shall not be constructed to
24 prohibit railroad and pullman companies from selling liquors
25 purchased outside the Commonwealth in their dining, club and
26 buffet cars which are covered by public service liquor licenses
27 and which are operated in this Commonwealth.

28 (12) Delivery of Liquor by Certain Licensees. For a liquor
29 licensee permitted to deliver liquor, to make any deliveries
30 except in his own vehicles bearing his name, address and license

1 number on each side in letters not smaller than four inches in
2 height, or in the vehicle of another person duly authorized to
3 transport liquor within this Commonwealth.

4 (13) Violation of Certain Rules and Regulations of Board.

5 For any person, to violate any rules and regulations adopted by
6 the board to insure the equitable wholesale and retail sale and
7 distribution of liquor and alcohol through the Pennsylvania
8 Liquor Stores.

9 (14) Offering Commission or Gift to Members of Board [or
10 State Employe], the Attorney General or certain employes. For
11 any person selling or offering to sell liquor or alcohol to, or
12 purchasing at wholesale liquor or alcohol from, the board,
13 either directly or indirectly, to pay or offer to pay any
14 commission, profit or remuneration, or to make or offer to make
15 any gift to any member or employe of the board [or other employe
16 of the Commonwealth or to anyone on behalf of such member or
17 employe], the Attorney General, any employe thereof or any
18 employe of a law enforcement agency or anyone on behalf of such
19 persons.

20 Section 20. Section 493 of the act, amended June 14, 1957
21 (P.L.322, No.170), June 15, 1961 (P.L.423, No.211), September
22 25, 1967 (P.L.307, No.135), March 5, 1970 (P.L.137, No.55),
23 August 1, 1975 (P.L.161, No.83), June 15, 1977 (P.L.12, No.9),
24 March 9, 1982 (P.L.174, No.55) and May 9, 1984 (P.L.246, No.54),
25 is amended to read:

26 Section 493. Unlawful Acts Relative to Liquor, Malt and
27 Brewed Beverages and Licensees.--The term "licensee," when used
28 in this section, shall mean those persons licensed under the
29 provisions of Article IV, unless the context clearly indicates
30 otherwise.

1 It shall be unlawful--

2 (1) Furnishing Liquor or Malt or Brewed Beverages to Certain
3 Persons. For any licensee or the board, or any employe, servant
4 or agent of such licensee or of the board, or any other person,
5 to sell, furnish or give any liquor or malt or brewed beverages,
6 or to permit any liquor or malt or brewed beverages to be sold,
7 furnished or given, to any person visibly intoxicated, or to any
8 insane person, or to any minor, or to habitual drunkards, or
9 persons of known intemperate habits.

10 (2) Purchase or Sale of Liquor or Malt or Brewed Beverages
11 on Credit. For any licensee, his agent, servant or employe, to
12 sell or offer to sell or purchase or receive any liquor or malt
13 or brewed beverages except for cash, excepting credit extended
14 by a hotel or club to a bona fide guest or member, or by
15 railroad or pullman companies in dining, club or buffet cars to
16 passengers, for consumption while enroute, holding authorized
17 credit cards issued by railroad or railroad credit bureaus or by
18 hotel, restaurant and public service licensees to customers
19 holding credit cards issued in accordance with regulations of
20 the board or credit cards issued by banking institutions subject
21 to State or Federal regulation: Provided further, That nothing
22 herein contained shall be construed to prohibit the use of
23 checks or drafts drawn on a bank, banking institution, trust
24 company or similar depository, organized and existing under the
25 laws of the United States of America or the laws of any state,
26 territory or possession thereof, in payment for any liquor or
27 malt or brewed beverages if the purchaser is the payor of the
28 check or draft and the licensee is the payee. No right of action
29 shall exist to collect any claim for credit extended contrary to
30 the provisions of this clause. Nothing herein contained shall

1 prohibit a licensee from crediting to a purchaser the actual
2 price charged for original containers returned by the original
3 purchaser as a credit on any sale, or from refunding to any
4 purchaser the amount paid by such purchaser for such containers
5 or as a deposit on containers when title is retained by the
6 vendor, if such original containers have been returned to the
7 licensee. Nothing herein contained shall prohibit a manufacturer
8 from extending usual and customary credit for liquor or malt or
9 brewed beverages sold to customers or purchasers who live or
10 maintain places of business outside of the Commonwealth of
11 Pennsylvania, when the liquor or malt or brewed beverages so
12 sold are actually transported and delivered to points outside of
13 the Commonwealth: Provided, however, That as to all transactions
14 affecting malt or brewed beverages to be resold or consumed
15 within this Commonwealth, every licensee shall pay and shall
16 require cash deposits on all returnable original containers and
17 all such cash deposits shall be refunded upon return of the
18 original containers.

19 (3) Exchange of Liquor or Malt or Brewed Beverages For
20 Merchandise, etc. For any licensee or the board, or any employe,
21 servant or agent of a licensee or of the board, to sell, offer
22 to sell or furnish any liquor or malt or brewed beverages to any
23 person on a pass book or store order, or to receive from any
24 person any goods, wares, merchandise or other articles in
25 exchange for liquor or malt or brewed beverages.

26 (4) Peddling Liquor or Malt or Brewed Beverages. For any
27 person, to hawk or peddle any liquor or malt or brewed beverages
28 in this Commonwealth.

29 (5) Failure to Have Brands as Advertised. For any licensee,
30 his servants, agents or employes, to advertise or hold out for

1 sale any liquor or malt or brewed beverages by trade name or
2 other designation which would indicate the manufacturer or place
3 of production of the said liquor or malt or brewed beverages,
4 unless he shall actually have on hand and for sale a sufficient
5 quantity of the particular liquor or malt or brewed beverages so
6 advertised to meet requirements to be normally expected as a
7 result of such advertisement or offer.

8 (6) Brand or Trade Name on Spigot. For any licensee, his
9 agents, servants or employes, to furnish or serve any malt or
10 brewed beverages from any faucet, spigot or other dispensing
11 apparatus, unless the trade name or brand of the product served
12 shall appear in full sight of the customer and in legible
13 lettering upon such faucet, spigot or dispensing apparatus.

14 (7) Alcoholic Strength on Label of Malt or Brewed Beverages.
15 For any licensee, or his servants, agents or employes, to
16 transport, sell, deliver or purchase any malt or brewed
17 beverages upon which there shall appear a label or other
18 informative data which in any manner refers to the alcoholic
19 contents of the malt or brewed beverage, or which refers in any
20 manner to the original alcoholic strength, extract or balling
21 proof from which such malt or brewed beverage was produced. This
22 clause shall not be construed to prohibit a manufacturer from
23 designating upon the label or descriptive data the alcoholic
24 content of malt or brewed beverages intended for shipment into
25 another state or territory, when the laws of such state or
26 territory require that the alcoholic content of the malt or
27 brewed beverage must be stated upon the package.

28 (8) Advertisements on Labels Giving Alcoholic Content of
29 Malt or Brewed Beverages. For any manufacturer or other
30 licensee, or his servants, agents or employes, to issue, publish

1 or post, or cause to be issued, published or posted, any
2 advertisement of any malt or brewed beverage including a label
3 which shall refer in any manner to the alcoholic strength of the
4 malt or brewed beverage manufactured, sold or distributed by
5 such licensees, or to use in any advertisement or label such
6 words as "full strength," "extra strength," "high test," "high
7 proof," "pre-war strength," or similar words or phrases, which
8 would lead or induce a consumer to purchase a brand of malt or
9 brewed beverage on the basis of its alcoholic content, or to use
10 in or on any advertisement or label any numeral, unless
11 adequately explained in type of the same size, prominence and
12 color, or for any licensee to purchase, transport, sell or
13 distribute any malt or brewed beverage advertised or labeled
14 contrary to the provisions of this clause.

15 (9) Retail Licensees Furnishing Free Lunch, etc. For any
16 retail liquor licensee or any retail dispenser, his agents,
17 servants or employes, to furnish, give or sell below a fair cost
18 any lunch to any consumer, except such articles of food as the
19 board may authorize and approve.

20 (10) Entertainment on Licensed Premises (Except Clubs);
21 Permits; Fees. For any licensee, his servants, agents or
22 employes, except club licensees, to permit in any licensed
23 premises or in any place operated in connection therewith,
24 dancing, theatricals or floor shows of any sort, or moving
25 pictures other than television, or such as are exhibited through
26 machines operated by patrons by the deposit of coins, which
27 project pictures on a screen not exceeding in size twenty-four
28 by thirty inches and which forms part of the machine, unless the
29 licensee shall first have obtained from the board a special
30 permit to provide such entertainment, or for any licensee, under

1 any circumstances, to permit in any licensed premises any lewd,
2 immoral or improper entertainment, regardless of whether a
3 permit to provide entertainment has been obtained or not. The
4 board shall have power to provide for the issue of such special
5 permits, and to collect a fee for such permits equal to one-
6 fifth of the annual license fee [but not less than twenty-five
7 dollars (\$25)]. All such fees shall be paid into the State
8 Stores Fund. No such permit shall be issued in any municipality
9 which, by ordinance, prohibits amusements in licensed places.
10 Any violation of this clause shall, in addition to the penalty
11 herein provided, subject the licensee to suspension or
12 revocation of his permit and his license.

13 (11) Licensees Employed by Others. For any hotel, restaurant
14 or club liquor licensee, or any malt or brewed beverage
15 licensee, or any servant, agent or employe of such licensee, to
16 be at the same time employed, directly or indirectly, by any
17 other person engaged in the manufacture, sale, transportation or
18 storage of liquor, malt or brewed beverages or alcohol:

19 Provided, That any person (except a licensee or the manager,
20 officer or director of a licensee) who is employed by a retail
21 licensee to prepare or serve food and beverages may be employed
22 in the same capacity by another retail licensee during other
23 hours or on other days.

24 (12) Failure to Have Records on Premises. For any liquor
25 licensee, or any importing distributor, distributor or retail
26 dispenser, to fail to keep on the licensed premises for a period
27 of at least two years complete and truthful records covering the
28 operation of his licensed business, particularly showing the
29 date of all purchases of liquor and malt or brewed beverages,
30 the actual price paid therefor, and the name of the vendor,

1 including State Store receipts, or for any licensee, his
2 servants, agents or employes, to refuse the board or the
3 division or an authorized employe or agent of the board or the
4 division access thereto or the opportunity to make copies of the
5 same when the request is made during business hours.

6 (13) Retail Licensees Employing Minors. For any hotel,
7 restaurant or club liquor licensee, or any retail dispenser, to
8 employ or to permit any minor under the age of eighteen to serve
9 any alcoholic beverages or to employ or permit any minor under
10 the age of sixteen to render any service whatever in or about
11 the licensed premises, nor shall any entertainer under the age
12 of eighteen be employed or permitted to perform in any licensed
13 premises in violation of the labor laws of this Commonwealth:
14 Provided, That in accordance with board regulations minors
15 between the ages of sixteen and eighteen may be employed to
16 serve food, clear tables and perform other similar duties, not
17 to include the dispensing or serving of alcoholic beverages.

18 (14) Permitting Undesirable Persons or Minors to Frequent
19 Premises. For any hotel, restaurant or club liquor licensee, or
20 any retail dispenser, his servants, agents or employes, to
21 permit persons of ill repute, known criminals, prostitutes or
22 minors to frequent his licensed premises or any premises
23 operated in connection therewith, except minors accompanied by
24 parents, guardians, or under proper supervision or except minors
25 who frequent any restaurant or retail dispensing licensee whose
26 sales of food and non-alcoholic beverages are equal to seventy
27 per centum or more of the combined gross sales of both food and
28 alcoholic beverages on the condition that alcoholic beverages
29 may not be served at the table or booth at which the said minor
30 is seated at the time (unless said minor is under proper

1 supervision as hereinafter defined) and on the further condition
2 that only table service of alcoholic beverages or take-out
3 service of beer shall be permitted in the room wherein the minor
4 is located: Provided, however, That it shall not be unlawful for
5 any hotel, restaurant or club liquor licensee or any retail
6 dispenser to permit minors under proper supervision upon the
7 licensed premises or any premises operated in connection
8 therewith for the purpose of a social gathering, even if such
9 gathering is exclusively for minors: And provided further, That
10 no liquor shall be sold, furnished or given to such minors nor
11 shall the licensee knowingly permit any liquor or malt or brewed
12 beverages to be sold, furnished or given to or be consumed by
13 any minor, and the area of such gathering shall be segregated
14 from the remainder of the licensed premises. In the event the
15 area of such gathering cannot be segregated from the remainder
16 of the licensed premises, all alcoholic beverages must be either
17 removed from the licensed premises or placed under lock and key
18 during the time the gathering is taking place. Notice of such
19 gathering shall be given the [Liquor Control Board] board as it
20 may, by regulation, require. Any licensee violating the
21 provisions of this clause shall be subject to the provisions of
22 section 471.

23 "Proper supervision," as used in this clause, means the
24 presence, on that portion of the licensed premises where a minor
25 or minors are present, of one person twenty-five years of age or
26 older for every fifty minors or part thereof who is directly
27 responsible for the care and conduct of such minor or minors
28 while on the licensed premises and in such proximity that the
29 minor or minors are constantly within his sight or hearing. The
30 presence of the licensee or any employe or security officer of

1 the licensee shall not constitute proper supervision.

2 (15) Cashing Pay Roll, Public Assistance, Unemployment
3 Compensation or Any Other Relief Checks. For any licensee or his
4 servants, agents or employes to cash pay roll checks or to cash,
5 receive, handle or negotiate in any way Public Assistance,
6 Unemployment Compensation or any other relief checks.

7 (16) Furnishing or Delivering Liquor or Malt or Brewed
8 Beverages at Unlawful Hours. For any licensee, his servants,
9 agents or employes, to give, furnish, trade, barter, serve or
10 deliver any liquor or malt or brewed beverages to any person
11 during hours or on days when the licensee is prohibited by this
12 act from selling liquor or malt or brewed beverages.

13 (17) Licensees, etc., Interested or Employed in
14 Manufacturing or Sale of Equipment or Fixtures. For any
15 licensee, or any officer, director, stockholder, servant, agent
16 or employe of any licensee, to own any interest, directly or
17 indirectly, in or be employed or engaged in any business which
18 involves the manufacture or sale of any equipment, furnishings
19 or fixtures to any hotel, restaurant or club licensees, or to
20 any importing distributors, distributors or retail dispensers:
21 Provided, however, That as to malt or brewed beverage licensees,
22 the provisions of this subsection shall not apply to such a
23 conflicting interest if it has existed for a period of not less
24 than three years prior to the first day of January, one thousand
25 nine hundred thirty-seven, and the board shall approve.

26 (18) Displaying Price of Liquor or Malt or Brewed Beverages.
27 For any restaurant, hotel or club liquor licensee, or any
28 importing distributor, distributor or retail dispenser, or the
29 servants, agents or employes of such licensees, to display on
30 the outside of any licensed premises or to display any place

1 within the licensed premises where it can be seen from the
2 outside, any advertisement whatsoever referring, directly or
3 indirectly, to the price at which the licensee will sell liquor
4 or malt or brewed beverages.

5 (19) Licensee's Outside Advertisements. For any retail
6 liquor licensee or any retail dispenser, distributor or
7 importing distributor, to display in any manner whatsoever on
8 the outside of his licensed premises, or on any lot of ground on
9 which the licensed premises are situate, or on any building of
10 which the licensed premises are a part, a sign of any kind,
11 printed, painted or electric, advertising any brand of liquor or
12 malt or brewed beverage, and it shall be likewise unlawful for
13 any manufacturer, distributor or importing distributor, to
14 permit the display of any sign which advertises either his
15 products or himself on any lot of ground on which such licensed
16 premises are situate, or on any building of which such licensed
17 premises are a part.

18 (20) (i) Retail Liquor and Retail Malt or Brewed Beverages
19 Licensee's Inside Advertisements. For any retail liquor or
20 retail malt or brewed beverages licensee, to display or permit
21 the display in the show window or doorways of his licensed
22 premises, any placard or sign advertising the brands of liquor
23 or malt or brewed beverages produced by any one manufacturer, if
24 the total display area of any such placard or sign advertising
25 the products of any one manufacturer exceeds three hundred
26 square inches. Nothing herein shall prohibit a licensee from
27 displaying inside his licensed premises point of sale displays
28 advertising brand names of products sold by him, other than a
29 window or door display: Provided, That the total cost of all
30 such point of sale advertising matter relating to any one brand

1 of any one manufacturer shall not exceed the sum of seventy
2 dollars (\$70) at any one time, and no single piece of
3 advertising shall exceed a cost of thirty-five dollars (\$35) or
4 such higher dollar amounts as may be provided by regulation
5 found in 27 CFR 6.85B. All such advertising material, including
6 the window and door signs, may be furnished by a manufacturer,
7 distributor or importing distributor. The restrictions on
8 advertising set forth in subclause (ii) and in clauses (20.1)
9 and (20.2) shall also apply to this subclause.

10 (ii) Cooperative Advertising. No distributor or importing
11 distributor, directly or indirectly, independent or otherwise,
12 shall, except by prior written agreement, be required to
13 participate with a manufacturer in the purchase of any
14 advertising of a brand name product in any name, in any form,
15 whether it be radio, television, newspaper, magazine or
16 otherwise.

17 (20.1) Manufacturer Shall Not Require Advertising. For a
18 manufacturer to require a distributor or importing distributor
19 to purchase any type of advertising.

20 (20.2) Advertising Shall Be Ordered and Authorized in
21 Advance. For any advertising to be done on behalf of a
22 distributor or importing distributor which was not ordered and
23 authorized in advance by the distributor or importing
24 distributor.

25 (21) Refusing The Right of Inspection. For any licensee, or
26 his servants, agents or employees, to refuse the board or the
27 division or any of [its] their authorized employees or agents the
28 right to inspect completely the entire licensed premises at any
29 time during which the premises are open for the transaction of
30 business, or when patrons, guests or members are in that portion

1 of the licensed premises wherein either liquor or malt or brewed
2 beverages are sold.

3 (22) Allowance or Rebate to Induce Purchases. For any
4 licensee, or his servants, agents or employes, to offer, pay,
5 make or allow, or for any licensee, or his servants, agents or
6 employes, to solicit or receive any allowance or rebate, refunds
7 or concessions, whether in the form of money or otherwise, to
8 induce directly the purchase of liquor or malt or brewed
9 beverages. This section shall not prevent any manufacturer or
10 any agent of a manufacturer from offering and honoring coupons
11 which offer monetary rebates on purchase of wines and spirits
12 through State Liquor Stores or any malt or brewed beverage in
13 accordance with regulations adopted by the board.

14 (23) Money or Valuables Given to Employees to Influence
15 Actions of Their Employers. For any licensee, or any agent,
16 employe or representative of any licensee, to give or permit to
17 be given, directly or indirectly, money or anything of
18 substantial value, in an effort to induce agents, employes or
19 representatives of customers or prospective customers to
20 influence their employer or principal to purchase or contract to
21 purchase liquor or malt or brewed beverages from the donor of
22 such gift, or to influence such employers or principals to
23 refrain from dealing or contracting to deal with other
24 licensees.

25 (24) Things of Value Offered as Inducement. For any licensee
26 under the provisions of this article, or the board or any
27 manufacturer, or any employe or agent of a manufacturer,
28 licensee or of the board, to offer to give anything of value or
29 to solicit or receive anything of value as a premium for the
30 return of caps, stoppers, corks, stamps or labels taken from any

1 bottle, case, barrel or package containing liquor or malt or
2 brewed beverage, or to offer or give or solicit or receive
3 anything of value as a premium or present to induce directly the
4 purchase of liquor or malt or brewed beverage, or for any
5 licensee, manufacturer or other person to offer or give to trade
6 or consumer buyers any prize, premium, gift or other inducement
7 to purchase liquor or malt or brewed beverages, except
8 advertising novelties of nominal value which the board shall
9 define[: Provided, however, That this]. This section shall not
10 prevent any manufacturer or any agent of a manufacturer from
11 offering and honoring coupons which offer monetary rebates of
12 purchases of wines and spirits through State Liquor Stores or
13 any malt or brewed beverage in accordance with regulations
14 adopted by the board. Further, no manufacturer or any agent of a
15 manufacturer shall honor any coupons without proof of purchase
16 in the form of a sales slip or receipt attached to the coupons.
17 This section not apply to the return of any monies specifically
18 deposited for the return of the original container to the owners
19 thereof.

20 (25) Employment [of Females] in Licensed Places.[--]For any
21 licensee or his agent, to employ or permit the employment of any
22 [female] person at his licensed hotel, restaurant or eating
23 place for the purpose of enticing customers, or to encourage
24 them to drink liquor, or make assignations for improper
25 purposes: Provided, That nothing in this section shall be
26 construed to prevent the employment of any [female waitress]
27 person who regularly takes orders for food from serving food,
28 liquor or malt or brewed beverages at tables; also, that nothing
29 shall prevent any such licensees from employing any [female]
30 person as stenographer, hotel secretary, clerk or other employe

1 for their respective positions: Provided further, That nothing
2 in this section shall be so construed as to prevent the [wife]
3 spouse of any such licensee or agent or any employed [female]
4 person from mixing or serving liquor or malt or brewed beverages
5 behind the bar of any such licensed place.

6 Any person violating the provisions of this clause shall be
7 guilty of a misdemeanor and, upon conviction of the same, shall
8 be sentenced to pay a fine of not less than one hundred dollars
9 (\$100), nor more than five hundred dollars (\$500), for each and
10 every [female] person so employed, or undergo an imprisonment of
11 not less than three (3) months, nor more than one (1) year, or
12 either or both, at the discretion of the court having
13 jurisdiction of the case. The [board] administrative law judge
14 shall have the power to revoke or refuse licenses for violation
15 of this clause.

16 (26) Worthless Checks. For any retail liquor licensee or any
17 retail dispenser, distributor or importing distributor, to make,
18 draw, utter, issue or deliver, or cause to be made, drawn,
19 uttered, issued or delivered, any check, draft or similar order,
20 for the payment of money in payment for any purchase of malt or
21 brewed beverages, when such retail liquor licensee, retail
22 dispenser, distributor or importing distributor, has not
23 sufficient funds in, or credit with, such bank, banking
24 institution, trust company or other depository, for the payment
25 of such check. Any person who is a licensee under the provisions
26 of this article, who shall receive in payment for malt or brewed
27 beverages sold by him any check, draft or similar order for the
28 payment of money, which is subsequently dishonored by the bank,
29 banking institution, trust company or other depository, upon
30 which drawn, for any reason whatsoever, shall, within five days

1 of receipt of notice of such dishonor, notify by certified mail
2 the person who presented the said worthless check, draft or
3 similar order.

4 (27) Distributors and Importing Distributors Employing
5 Minors. For any distributor or importing distributor to employ
6 minors under the age of eighteen but persons eighteen and over
7 may be employed to sell and deliver malt and brewed beverages.

8 (28) Pornographic Material. For any licensee to sell,
9 furnish or display any obscene materials as defined in 18
10 Pa.C.S. § 5903 (relating to obscene and other sexual materials)
11 on the licensed premises.

12 Section 21. Section 494 of the act, amended May 25, 1956
13 (1955 P.L.1955, No.583), is amended to read:

14 Section 494. Penalties.--(a) Any person who shall violate
15 any of the provisions of this article, except as otherwise
16 specifically provided, shall be guilty of a misdemeanor and,
17 upon conviction thereof, shall be sentenced to pay a fine of not
18 less than one hundred dollars (\$100), nor more than five hundred
19 dollars (\$500), and on failure to pay such fine, to imprisonment
20 for not less than one month, nor more than three months, and for
21 any subsequent offense, shall be sentenced to pay a fine not
22 less than three hundred dollars (\$300), nor more than five
23 hundred dollars (\$500), [and] or to undergo imprisonment for a
24 period not less than three months, nor more than one year, or
25 both. If the person, at or relating to the licensed premises,
26 violates section 493(1), (10), (14), (16) or (21), or if the
27 owner or operator of the licensed premises or any authorized
28 agent of the owner or operator violates the act of April 14,
29 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug,
30 Device and Cosmetic Act," or of 18 Pa.C.S. § 5902 (relating to

1 prostitution and related offenses) or 6301 (relating to
2 corruption of minors), he shall be sentenced to pay a fine not
3 exceeding five thousand dollars (\$5,000), or to undergo
4 imprisonment for a period not less than three months, nor more
5 than one year, or both.

6 (b) The right [of the board] to suspend and revoke licenses
7 granted under this article shall be in addition to the penalty
8 set forth in this section.

9 (c) If the licensee or any authorized agent of the licensee
10 is found to have violated section 491(2), the licensee's license
11 shall be revoked.

12 Section 22. Section 495 of the act, amended June 22, 1980
13 (P.L.262, No.76), is amended to read:

14 Section 495. Identification Cards; Licensees and State
15 Liquor Store Employees Saved From Prosecution.--(a) The board
16 shall issue, to any person who shall have attained the age of
17 twenty-one years, an identification card bearing said person's
18 date of birth, physical description, photograph, signature, and
19 such other information, as the board by regulation may
20 determine, attesting to the age of the applicant, upon
21 application therefor by said person, filed no earlier than
22 fifteen days prior to attaining the age of twenty-one. Such
23 cards shall be numbered and a record thereof maintained by the
24 board for a period of five years. The board may, in its
25 discretion, impose a charge for such cards in an amount to be
26 determined by it, and it may, upon proof of loss of such
27 identification card by and upon application of anyone to whom
28 such card may have been issued, issue a duplicate thereof and
29 impose a charge therefor in an amount as it may by regulation
30 prescribe. The board shall have the power to make such

1 regulations as it shall, from time to time, deem proper
2 regarding the size, style and additional content of the
3 identification card, the form and content of any application
4 therefor, the type, style and quantity of proof required to
5 verify the applicant's age, the procedure for receiving and
6 processing such application, the distribution of said card, the
7 charge to be imposed for any card more than one that it shall
8 issue to the same applicant, and all other matters the board
9 shall deem necessary or advisable for the purpose of carrying
10 into effect the provisions of this section.

11 (a.1) The photo drivers' license or identification card
12 issued by the Department of Transportation shall, for the
13 purpose of this act, be accepted as an identification card.

14 (a.2) For the purposes of this section, the term
15 identification card means a card which complies with either
16 subsection (a) or (a.1).

17 (b) Such identification card shall be presented by the
18 holder thereof upon request of any State Liquor Store or any
19 licensee, or the servant, agent or employe thereof, for the
20 purpose of aiding such store, licensee, or the servant, agent or
21 employe to determine whether or not such person is twenty-one
22 years of age and upwards, when such person desires alcoholic
23 beverage at a State Liquor Store or licensed establishment.

24 (c) In addition to the presentation of such identification
25 card, the agent of the State Liquor Store or the licensee, or
26 his servant, agent or employe, shall require the person whose
27 age may be in question to fill in and sign a card in the
28 following form:

29 19

30 I,....., hereby represent

1 to, a State Store or
2 licensee of the Pennsylvania Liquor [Control] Board
3 that I am of full age and discretion and over the age
4 of 21 years, having been born on 19.....
5 at

6 This statement is made to induce said store or licensee above
7 named to sell or otherwise furnish alcoholic beverages to the
8 undersigned.

9 Serial Number of Identification Card:

10 I understand that I am subject to a fine of
11 \$300.00 and sixty days imprisonment for any
12 misrepresentation herein.

13

14 (Name)

15

16 (Address)

17 Witness:

18 Name.....

19 Address.....

20 Such statement shall be printed upon a 3 inch by 5 inch or 4
21 inch by 5 inch file card, which card shall be filed
22 alphabetically by the State Liquor Store or licensee, at or
23 before the close of business on the day of which said
24 certificate is executed, in a file box containing a suitable
25 alphabetical index, and which card shall be subject to
26 examination by any officer, agent or employe of the [Liquor
27 Control Board] board or the division at any and all times.

28 (d) It shall be unlawful for the owner of an identification
29 card, as defined by this act, to transfer said card to any other
30 person for the purpose of aiding such person to secure alcoholic

1 beverage. Any person who shall transfer such identification card
2 for the purpose of aiding such transferee to obtain alcoholic
3 beverage shall be guilty of a misdemeanor and, upon conviction
4 thereof, shall be sentenced to pay a fine of not more than three
5 hundred dollars (\$300), or undergo imprisonment for not more
6 than sixty (60) days. Any person not entitled thereto who shall
7 have unlawfully procured or have issued or transferred to him,
8 as aforesaid, identification card or any person who shall make
9 any false statement on any card required by subsection (c)
10 hereof to be signed by him shall be guilty of a misdemeanor and,
11 upon conviction thereof, shall be sentenced to pay a fine of not
12 more than three hundred dollars (\$300), or undergo imprisonment
13 for not more than sixty (60) days.

14 (e) The signed statement in the possession of a licensee or
15 an employe of a State Liquor Store may be offered as a defense
16 in all civil and criminal prosecutions for serving a minor, and
17 no penalty shall be imposed if the [Liquor Control Board]
18 administrative law judge or the courts are satisfied that the
19 licensee or State Liquor Store employe acted in good faith.

20 Section 23. The act is amended by adding a section to read:

21 Section 498. Unlawful Advertising.--(a) No manufacturer,
22 wholesaler or shipper whether from outside or inside the
23 Commonwealth and no licensee under this act shall cause or
24 permit the advertising in any manner whatsoever of the price of
25 any malt beverage, cordial, wine or distilled liquor offered for
26 sale in this Commonwealth: Provided, however, That the
27 provisions of this section shall not apply to price signs or
28 tags attached to or placed on merchandise for sale within the
29 licensed premises in accordance with rules and regulations of
30 the board.

1 (b) No newspaper, periodical, radio or television
2 broadcaster or broadcasting company or any other person, firm or
3 corporation with a principal place of business in this
4 Commonwealth which is engaged in the business of advertising or
5 selling advertising time or space shall accept, publish, or
6 broadcast any advertisement in this Commonwealth of the price or
7 make reference to the price of any alcoholic beverages.

8 (c) Any person who shall violate any of the provisions of
9 this section shall be guilty of a misdemeanor and upon
10 conviction shall be punished for the first offense by a fine in
11 the sum of fifty dollars (\$50) and for each additional offense
12 thereafter by a fine not exceeding the sum of one hundred
13 dollars (\$100). Publication or broadcast by any person in
14 violation of the provisions of this section shall also be
15 subject to injunctive proceedings in a court of competent
16 jurisdiction on a complaint brought by a retail licensee, or an
17 association of retail licensees.

18 (d) The provisions of this section shall not apply to any
19 trade journal which is duly recognized and authorized to be
20 exempt from the provisions of this section by the board.

21 Section 24. Section 505.2 of the act, amended November 5,
22 1981 (P.L.329, No.119) and December 17, 1982 (P.L.1390, No.319),
23 is amended to read:

24 Section 505.2. Limited Wineries.--Holders of a limited
25 winery license may:

26 (1) Produce wines only from fruits grown in Pennsylvania in
27 an amount not to exceed one hundred thousand (100,000) gallons
28 per year.

29 (2) Sell wine produced by the limited winery or purchased or
30 consigned in bulk in bond or in sealed case lots from [another]

1 one or more Pennsylvania limited [winery] wineries on the
2 licensed premises, under such conditions and regulations as the
3 board may enforce, to the Liquor Control Board, to individuals
4 and to hotel, restaurant, club and public service liquor
5 licensees, and to Pennsylvania winery licensees: Provided, That
6 a limited winery shall not, in any calendar year, purchase wine
7 produced by other limited wineries in an amount in excess of
8 fifty per centum of the wine produced by the purchasing limited
9 winery in the preceding calendar year.

10 (3) Sell wine produced by the limited winery or purchased or
11 consigned by one or more Pennsylvania limited wineries as
12 provided in clause (2) on no more than three board-approved
13 locations other than the licensed premises, with no bottling or
14 production requirement at those additional board-approved
15 locations and under such conditions and regulations as the board
16 may enforce, to the Liquor Control Board, to individuals and to
17 hotel, restaurant, club and public service liquor licensees.

18 Section 25. Sections 506(f), 507 and 514 of the act are
19 amended to read:

20 Section 506. Bonds Required.--* * *

21 (f) Every such bond shall be turned over to the [Department
22 of Justice] Office of the Attorney General to be collected if
23 and when the licensee's license shall have been revoked and his
24 bond forfeited as provided in this act.

25 Section 507. Hearings [Upon Refusal of Licenses] on Licenses
26 and Refusals.--(a) The board may of its own motion, and shall
27 upon the written request of the division or of any applicant for
28 license or for renewal thereof whose application for such
29 license or renewal has been refused, fix a time and place for
30 hearing of such application or renewal, notice of which hearing

1 shall be sent to the division and to the applicant, by
2 registered mail, at the address given in his application. Such
3 hearing shall be before the board, a member thereof, or an
4 examiner designated by the board.

5 (b) At such hearing, the board shall present its reasons for
6 its refusal or withholding of such license or renewal thereof or
7 the division shall present its objections to the granting or
8 renewal of the license, as the case may be. The applicant may
9 appear in person or by counsel, may cross-examine the witnesses
10 for the board or the division, and may present evidence which
11 shall likewise be subject to cross-examination by the board or
12 the division. Such hearing shall be stenographically recorded.
13 The examiner shall thereafter report to the board. The board
14 shall thereafter grant or refuse the license or renewal thereof.
15 [If the board shall refuse such license or renewal following
16 such hearing, notice in writing of such refusal shall be mailed
17 to the applicant at the address given in his application. In all
18 cases, the board shall file of record at least a brief statement
19 in the form of an opinion of the reasons for the ruling or
20 order.]

21 (c) Hearings and adjudications pursuant to this section
22 shall be in accordance with 2 Pa.C.S. Ch. 5 Subch. A (relating
23 to practice and procedure of Commonwealth agencies).

24 Section 514. Suspension and Revocation of Licenses.--(a)
25 Upon learning of any violation of this act or of any rule or
26 regulation promulgated by the board under the authority of this
27 act, or any violation of any laws of the Commonwealth or of the
28 United States of America relating to the tax payment of alcohol,
29 liquor or malt or brewed beverages by the holder of a license
30 issued under the provisions of this article, or upon other

1 sufficient cause, the [board] division may, within one year from
2 the date of such violation or cause appearing, cite such
3 licensee to appear before [it or its examiner] an administrative
4 law judge not less than ten (10) nor more than [fifteen (15)]
5 sixty (60) days from the date of sending such licensee, by
6 registered mail, a notice addressed to his licensed premises, to
7 show cause why the license should not be suspended or revoked.
8 Hearings on such citations shall be held in the same manner as
9 provided herein for hearings on applications for license. And
10 upon such hearing, if satisfied that any such violation has
11 occurred or for other sufficient cause, the [board]
12 administrative law judge shall immediately suspend or revoke
13 such license, notifying the licensee thereof by registered
14 letter addressed to his licensed premises, or to the address
15 given in his application where no licensed premises is
16 maintained in Pennsylvania.

17 (b) When a license is revoked, the licensee's bond may be
18 forfeited [by the board]. Any licensee whose license is revoked
19 shall be ineligible to have a license under this act or under
20 any other act relating to alcohol, liquor or malt or brewed
21 beverages until the expiration of three (3) years from the date
22 such license was revoked. In the event [the board shall revoke a
23 license] of a revocation, no license shall be granted for the
24 premises or transferred to the premises in which said license
25 was conducted for a period of at least one (1) year after the
26 date of the revocation of the license conducted in the said
27 premises, except in cases where the licensee or a member of his
28 immediate family is not the owner of the premises, in which case
29 the board may, in its discretion, issue or transfer a license
30 within said year. [In all such cases, the board shall file of

1 record at least a brief statement in the form of an opinion of
2 the reasons for the ruling or order.] Such hearing before and
3 adjudication by an administrative law judge shall be in
4 accordance with 2 Pa.C.S. Ch. 5 Subch. A (relating to practice
5 and procedure of Commonwealth agencies).

6 Section 26. Section 515 of the act, repealed in part June 3,
7 1971 (P.L.118, No.6) and April 28, 1978 (P.L.202, No.53), is
8 amended to read:

9 Section 515. Appeals.--[Any] The board, the division or any
10 applicant or any licensee aggrieved by any decision [of the
11 board] refusing, suspending or revoking a license under the
12 provisions of this article may appeal to the court of the county
13 in which the licensed premises or the premises to be licensed
14 are located. In the event an applicant or a licensee shall have
15 no place of business established within the Commonwealth, his
16 appeal shall be to the [court of Dauphin County] Commonwealth
17 Court. Such appeal shall be [upon petition of the applicant or
18 licensee, as the case may be, who shall serve a copy thereof
19 upon the board. The said appeal shall act as a supersedeas,
20 unless upon sufficient cause shown the court shall determine
21 otherwise. The court shall hear the application de novo at such
22 time as it shall fix, of which notice shall be given to the
23 board. The court shall, in the case of a refusal by the board,
24 either sustain such refusal or order the issuance of the license
25 to the applicant] in accordance with 2 Pa.C.S. Ch. 7 Subch. A
26 (relating to judicial review of Commonwealth agency action).

27 Section 27. Sections 516 and 519 of the act are amended to
28 read:

29 Section 516. Compromise Penalty In Lieu of Suspension.--In
30 those cases where the [board] administrative law judge shall

1 suspend a license, the [board] administrative law judge may
2 accept from the licensee an offer in compromise as a penalty in
3 lieu of such suspension and shall thereupon rescind its order of
4 suspension. In the case of a distillery licensee, the offer in
5 compromise shall be at the rate of one hundred dollars (\$100)
6 for each day of suspension; in the case of a bonded warehouse,
7 bailee for hire and transporter for hire licensees, twenty-five
8 dollars (\$25) for each day; and in the case of a winery
9 licensee, fifty dollars (\$50) for each day. No offer in
10 compromise may be accepted [by the board] in those cases where
11 the suspension is for a period in excess of one hundred (100)
12 days.

13 Section 519. Penalties.--Any person or persons who knowingly
14 violate any of the provisions of this article, or any person who
15 shall violate any of the conditions of any license issued under
16 the provisions of this article, or who shall falsify any record
17 or report required by this article to be kept, or who shall
18 violate any rule or regulation of the board, or who shall
19 interfere with, hinder or obstruct any inspection authorized by
20 this article, or prevent any member of the board or the division
21 or any person duly authorized and designated by the board or the
22 division from entering any place which such member of the board
23 or the division or such person is authorized by this article to
24 enter for the purpose of making an inspection, or who shall
25 violate any other provision of this article, shall be guilty of
26 a misdemeanor and, upon conviction thereof, shall be sentenced
27 to pay a fine of not less than one hundred dollars (\$100), nor
28 more than five thousand dollars (\$5000), or undergo imprisonment
29 of not more than three (3) years, or both, at the discretion of
30 the court.

1 Section 28. Sections 601, 602 and 603(c) of the act, amended
2 April 20, 1956 (1955 P.L.1508, No.499), are amended to read:

3 Section 601. Forfeiture of Property Illegally Possessed or
4 Used.--No property rights shall exist in any liquor, alcohol or
5 malt or brewed beverage illegally manufactured or possessed, or
6 in any still, equipment, material, utensil, vehicle, boat,
7 vessel, animals or aircraft used in the illegal manufacture or
8 illegal transportation of liquor, alcohol or malt or brewed
9 beverages, and the same shall be deemed contraband and
10 proceedings for its forfeiture to the Commonwealth may[, at the
11 discretion of the board,] be instituted in the manner
12 hereinafter provided. No such property when in the custody of
13 the law shall be seized or taken therefrom on any writ of
14 replevin or like process.

15 Section 602. Forfeiture Proceedings.--(a) The proceedings
16 for the forfeiture or condemnation of all property shall be in
17 rem, in which the Commonwealth shall be the plaintiff and the
18 property the defendant. A petition shall be filed in the court
19 of [quarter sessions] common pleas, verified by oath or
20 affirmation of any officer or citizen, containing the following:
21 (1) a description of the property so seized; (2) a statement of
22 the time and place where seized; (3) the owner, if known; (4)
23 the person or persons in possession, if known; (5) an allegation
24 that the same had been possessed or used or was intended for use
25 in violation of this act; (6) and, a prayer for an order of
26 forfeiture that the same be adjudged forfeited to the
27 Commonwealth, unless cause be shown to the contrary.

28 (b) A copy of said petition shall be served personally on
29 said owner if he can be found within the jurisdiction of the
30 court, or upon the person or persons in possession at the time

1 of the seizure thereof. Said copy shall have endorsed thereon a
2 notice as follows:

3 "To the Claimant of Within Described Property: You are
4 required to file an answer to this petition, setting forth your
5 title in and right to possession of said property, within
6 fifteen (15) days from the service hereof; and you are also
7 notified that if you fail to file said answer, a decree of
8 forfeiture and condemnation will be entered against said
9 property."

10 Said notice shall be signed by petitioner or his attorney, or
11 the district attorney or the Attorney General.

12 (c) If the owner of said property is unknown or outside the
13 jurisdiction of the court and there was no person in possession
14 of said property when seized, or such person so in possession
15 cannot be found within the jurisdiction of the court, notice of
16 said petition shall be given by an advertisement in only one
17 newspaper of general circulation published in the county where
18 such property shall have been seized, once a week for two (2)
19 successive weeks. No other advertisement of any sort shall be
20 necessary, any other law to the contrary notwithstanding. Said
21 notice shall contain a statement of the seizure of said
22 property, with a description thereof, the place and date of
23 seizure, and shall direct any claimants thereof to file a claim
24 therefor on or before a date given in said notice, which date
25 shall not be less than ten (10) days from the date of the last
26 publication.

27 (d) Upon the filing of any claim for said property, setting
28 forth a right of possession thereof, the case shall be deemed at
29 issue and a time be fixed for the hearing thereof.

30 (e) At the time of said hearing, if the Commonwealth shall

1 produce evidence that the property in question was unlawfully
2 possessed or used, the burden shall be upon the claimant to show
3 (1) that he is the owner of said property, (2) that he lawfully
4 acquired the same, and (3) that it was not unlawfully used or
5 possessed.

6 In the event such claimant shall prove by competent evidence
7 to the satisfaction of the court that said liquor, alcohol or
8 malt or brewed beverage, or still, equipment, material, utensil,
9 vehicle, boat, vessel, container, animal or aircraft was
10 lawfully acquired, possessed and used, then the court may order
11 the same returned or delivered to the claimant; but if it
12 appears that said liquor, alcohol or malt or brewed beverage or
13 still, equipment, material or utensil was unlawfully possessed
14 or used, the court shall order the same destroyed, delivered to
15 a hospital, or turned over to the board or division, as
16 hereinafter provided, or if it appears that said vehicle, boat,
17 vessel, container, animal or aircraft was unlawfully possessed
18 or used, the court may, in its discretion, adjudge same
19 forfeited and condemned as hereinafter provided.

20 Section 603. Disposition of Forfeited Property.--If, upon
21 petition as hereinbefore provided and hearing before the court
22 of [quarter sessions] common pleas, it appears that any liquor,
23 alcohol, or malt or brewed beverage or still, equipment,
24 material or utensil was so illegally possessed, or used, such
25 liquor, alcohol or malt or brewed beverage or still, equipment,
26 material or utensil shall be adjudged forfeited and condemned,
27 or if it appears that any vehicle, boat, vessel, container,
28 animal or aircraft was so used in the illegal manufacture or
29 transportation of liquor, alcohol or malt or brewed beverage,
30 such property may, in the discretion of the court, be adjudged

1 forfeited and condemned and in such case shall be disposed of as
2 follows:

3 * * *

4 (c) In the case of any vehicle, boat, vessel, container,
5 animal or aircraft seized under the provisions of this act and
6 condemned, the court shall order the same to be delivered to the
7 [board] division for its use or for sale or disposition by the
8 [board] division, in its discretion. Notice of such sale shall
9 be given in such manner as the [board] division may prescribe.
10 The proceeds of such sale shall be paid into the State Stores
11 Fund.

12 Section 29. Sections 604 and 611(b) of the act are amended
13 to read:

14 Section 604. Motor Vehicle Licenses To Be Revoked.--In
15 addition to the foregoing provisions, the court may, in its
16 order of condemnation, and in every conviction under this act
17 where it shall appear that liquor, alcohol or malt or brewed
18 beverages were unlawfully transported in a motor vehicle,
19 declare that the license issued by the Department of [Revenue]
20 Transportation for any motor vehicle so forfeited and condemned,
21 or issued to any defendant convicted of transporting liquor,
22 alcohol or malt or brewed beverages in any motor vehicle, shall
23 be forfeited and revoked, and it shall be the duty of the clerk
24 of the court in which such conviction is had and order of
25 condemnation made to certify such conviction to the Secretary of
26 [Revenue] Transportation, who shall suspend or revoke the
27 license issued for such motor vehicles: Provided, That a license
28 may be issued for such motor vehicle to the board or the
29 division or to any purchaser of the vehicle after the sale
30 thereof, as above provided.

1 Section 611. Nuisances; Actions To Enjoin.--* * *

2 (b) An action to enjoin any nuisance defined in this act may
3 be brought in the name of the Commonwealth of Pennsylvania by
4 the Attorney General [or], by the district attorney of the
5 proper county or by a person who resides or has a place of
6 business within five hundred feet of the location of the alleged
7 nuisance. Such action shall be brought and tried as an action in
8 equity and may be brought in any court having jurisdiction to
9 hear and determine equity cases within the county in which the
10 offense occurs. If it is made to appear, by affidavit or
11 otherwise, to the satisfaction of the court that such nuisance
12 exists, a temporary writ of injunction shall forthwith issue,
13 restraining the defendant from conducting or permitting the
14 continuance of such nuisance until the conclusion of the
15 proceedings. If a temporary injunction is prayed for, the court
16 may issue an order restraining the defendant and all other
17 persons from removing or in any way interfering with the
18 liquids, beverages or other things used in connection with the
19 violation of this act constituting such nuisance. No bond shall
20 be required in instituting such proceedings brought in the name
21 of the Commonwealth by the Attorney General or the district
22 attorney. Where such proceedings are brought by a person, the
23 court, upon application of the defendant and prior to any
24 injunction being issued, may direct the plaintiff to post bond
25 in such amount as the court may find to be reasonable and
26 sufficient. It shall not be necessary for the court to find the
27 property involved was being unlawfully used, as aforesaid, at
28 the time of the hearing, but on finding that the material
29 allegations of the petition are true, the court shall order that
30 no liquor, alcohol or malt or brewed beverage shall be

1 manufactured, sold, offered for sale, transported, bartered or
2 furnished, or stored in bond, or stored for hire in such room,
3 house, building, structure, boat, vehicle, or place, or any part
4 thereof.

5 * * *

6 Section 30. Section 801(b) of the act is amended to read:

7 Section 801. Moneys Paid Into Liquor License Fund and
8 Returned to Municipalities.--* * *

9 (b) The moneys in the Liquor License Fund shall, on the
10 first days of February and August of each year, be paid by the
11 board to the respective municipalities in which the respective
12 licensed places are situated, in such amounts as represent the
13 aggregate license fees collected from licenses in such
14 municipalities during the preceding period. Fifty per centum of
15 the money paid to the municipality must be used for the specific
16 purpose of enforcing the provisions of this act. In a
17 municipality where no police department is maintained, the fifty
18 per centum allocation shall be remitted to the governmental unit
19 which does provide police protection for the municipality.

20 * * *

21 Section 31. Section 802 of the act, amended September 28,
22 1961 (P.L.1728, No.702), is amended to read:

23 Section 802. Moneys Paid Into The State Stores Fund for Use
24 of the Commonwealth.--(a) All moneys, except fees to be paid
25 into the Liquor License Fund as provided by the preceding
26 section, collected, received or recovered under the provisions
27 of this act for license fees, permit fees, filing fees and
28 registration fees, from forfeitures, sales of forfeited
29 property, compromise penalties and sales of liquor and alcohol
30 at the Pennsylvania Liquor Stores, shall be paid into the State

1 Treasury through the Department of Revenue into a special fund
2 to be known as "The State Stores Fund."

3 (b) One-half of all application filing and transfer fees
4 shall be credited to a special account designated as the
5 Enforcement Officers' Retirement Account. The moneys credited to
6 this account shall be paid, annually, by the board to the State
7 Employees' Retirement Board to be paid into the State Employees'
8 Retirement Fund and credited to the Enforcement Officers'
9 Benefit Account. All other moneys in such fund shall be
10 available for the purposes for which they are appropriated by
11 law.

12 (c) The costs of all activities of the board shall be
13 appropriated annually from The State Stores Fund. Annually, at
14 the time and in accord with the procedures otherwise established
15 by law for the General Fund, the chairman of the board shall
16 submit a proposed budget for appropriation of moneys deposited
17 in The State Stores Fund. Such proposed budget shall be
18 submitted to the Governor and the General Assembly for
19 consideration in accordance with the procedures for
20 appropriations from the General Fund as provided in sections 610
21 through 620 of the act of April 9, 1929 (P.L.177, No.175), known
22 as "The Administrative Code of 1929." The budget shall include
23 recommended appropriations for the operation of the act of
24 December 20, 1933 (1st Sp.Sess., P.L.90, No.16), entitled "An
25 act making an appropriation out of the General Fund to the
26 Pennsylvania Liquor Control Board for the administration and
27 enforcement of the Pennsylvania Liquor Control Act, including
28 the establishment, operation, maintenance and equipment of
29 Pennsylvania Liquor Stores and places for the storing and
30 testing of liquors; and providing for the partial reimbursement

1 of the General Fund by making an appropriation from The State
2 Stores Fund, to be transferred in installments to the General
3 Fund," and shall also recommend an appropriation of excess
4 moneys in the fund to the General Fund.

5 (d) Whenever the Governor shall ascertain that the cash
6 balances in the General Fund and the current estimated receipts
7 shall be more than sufficient to meet the expenses of government
8 currently payable from the General Fund, the State Treasurer is
9 hereby authorized and directed to transfer such sums from the
10 General Fund to The State Stores Fund as the chairman, by
11 requisition upon the State Treasurer, and the State Treasurer,
12 by his warrant, shall direct. Any sums so transferred shall be
13 available for the purposes for which The State Stores Fund is
14 appropriated by law. Sums transferred hereunder from the General
15 Fund shall not at any time exceed, in the aggregate, the sum
16 equivalent to twelve per centum of the gross sales in dollars by
17 Pennsylvania State Liquor Stores in the preceding fiscal year.
18 Such transfer shall be deemed a loan from the General Fund to
19 the board and the loan shall be subject to the levy of interest
20 charges payable to the General Fund by the board from The State
21 Stores Fund at a rate equal to the interest rate on the most
22 recent issue of tax anticipation notes by the Commonwealth.

23 Section 32. The act is amended by adding sections to read:

24 Section 804. Funding for Enforcement.--(a) The costs of all
25 activities of the Enforcement Division of the Office of the
26 Attorney General shall be appropriated from the State Stores
27 Fund.

28 (b) Annually, at the time and in accord with the procedures
29 otherwise established by law for the General Fund, the Attorney
30 General shall submit a proposed budget for the operation of the

division. Such proposed budget shall be submitted to the Governor and the General Assembly for consideration in accordance with the procedures for appropriations from the General Fund as provided in sections 610 through 620 of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929." It shall be unlawful for the State Treasurer to honor any requisition for the expenditure of any moneys out of the State Stores Fund by the Attorney General for any purpose in excess of the amounts appropriated by the General Assembly.

(c) Moneys appropriated from the State Stores Fund shall be paid out of the fund upon warrant of the State Treasurer drawn after requisition by the Attorney General.

Section 805. Funding for Office of Administrative Law Judge.--(a) The costs of all activities of the Office of Administrative Law Judge shall be appropriated from the State Stores Fund.

(b) Annually, at the time and in accord with the procedures otherwise established by law for the General Fund, the Chief Administrative Law Judge shall submit a proposed budget for the operation of the office. Such proposed budget shall be submitted to the Governor and the General Assembly for consideration in accordance with the procedures for appropriations from the General Fund as provided in sections 610 through 620 of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929." It shall be unlawful for the State Treasurer to honor any requisition for the expenditure of any moneys out of the State Stores Fund by the Chief Administrative Law Judge for any purpose in excess of the amounts appropriated by the General Assembly.

(c) Moneys appropriated from the State Stores Fund shall be

1 paid out of the fund upon warrant of the State Treasurer drawn
2 after requisition by the Chief Administrative Law Judge.

3 Section 33. (a) Except for hearing examiners who choose to
4 continue to serve as hearing examiners for hearings held
5 pursuant to section 507 of the act, all personnel, allocations,
6 appropriations, equipment, files, records, contracts,
7 agreements, obligations and other materials which are used,
8 employed or expended in connection with the powers, duties or
9 functions transferred by this act to the Office of
10 Administrative Law Judge are hereby transferred to the Office of
11 Administrative Law Judge with the same force and effect as if
12 the allocations and appropriations had been made to and said
13 items had been the personnel and property of the office in the
14 first instance and if the contracts, agreements and obligations
15 had been incurred or entered into by the office.

16 (b) All personnel, allocations, appropriations, equipment,
17 files, records, contracts, agreements, obligations and other
18 materials which are used, employed or expended in connection
19 with the powers, duties or functions transferred by this act to
20 the division are hereby transferred to the Office of Attorney
21 General with the same force and effect as if the allocations and
22 appropriations had been made to and said items had been the
23 personnel and property of the division in the first instance and
24 if the contracts, agreements and obligations had been incurred
25 or entered into by the Office of Attorney General.

26 (c) Except for hearing examiners who choose to continue to
27 serve as hearing examiners for hearings held pursuant to section
28 507 of the act, all present employees of the Pennsylvania Liquor
29 Control Board whose powers, duties or functions are transferred
30 under subsections (a) and (b) shall be transferred to the Office

1 of Administrative Law Judge or the division as appropriate. All
2 such employees are to continue in their employment with either
3 the board, the Office of Administrative Law Judge or the
4 division with the same pay scales, salaries, wages, seniority
5 benefits, pension rights and other incidents of employment,
6 including, but not limited to, civil service status, as if this
7 act had not been effective.

8 Section 34. The Chief Administrative Law Judge and the
9 Attorney General shall separately by regulation provide for
10 appropriate training of personnel to carry out the
11 responsibilities imposed by this act upon employees of their
12 respective agencies.

13 Section 35. There is hereby established the Pennsylvania
14 Code Title 40 review committee to undertake the review of all
15 regulations pertaining to the liquor, wine and malt and brewed
16 beverage industry. The committee shall be composed of the
17 Chairman of the Senate Law and Justice Committee, the Chairman
18 of the Liquor Control Committee of the House of Representatives,
19 and nine members from throughout the liquor, wine and malt and
20 brewed beverage industry to be appointed by the board.

21 (b) The committee shall have the power to:

22 (1) study all Title 40 regulations; and

23 (2) prepare a report of the study to be presented to the
24 board and both houses of the General Assembly within one year
25 of the effective date of this amendatory act. This study
26 shall include, but not be limited to, packaging regulations,
27 satellite warehouses for distributors and language governing
28 licensee's fees. This committee shall terminate after this
29 report has been presented.

30 Section 36. This act, with respect to the Liquor Control

1 Board, shall constitute the legislation required to reestablish
2 an agency under the act of December 22, 1981 (P.L.508, No.142),
3 known as the Sunset Act.

4 Section 37. The agency known as the Alcohol Beverage
5 Marketing and Control Board shall be subject to evaluation and
6 review and shall terminate on December 31, 1989, in the manner
7 provided for the act of December 22, 1981 (P.L.508, No.142),
8 known as the Sunset Act.

9 Section 38. The presently confirmed members of the existing
10 Liquor Control Board as of December 31, 1985, shall continue to
11 serve as board members until their successors are appointed and
12 qualified.

13 Section 39. Each rule, regulation or fee of the board in
14 effect on December 31, 1985, shall remain in effect after such
15 date until repealed or amended by the board.

16 Section 40. Only those members appointed to the board after
17 the effective date of this act shall be eligible for the
18 increased salary authorized for board members pursuant to this
19 act.

20 Section 41. Only those board members appointed after on the
21 effective date of this amendatory act shall be required to
22 restrict outside employment and income pursuant to this act.

23 Section 42. (a) Section 207.1(c)(2) of the act of April 9,
24 1929 (P.L.177, No.175), known as The Administrative Code of
25 1929, is repealed to the extent that it requires a vote of two-
26 thirds of the members elected to the Senate to confirm
27 appointments to the Liquor Control Board.

28 (b) Section 207(1) of the act is repealed upon the effective
29 date of any act which transfers all enforcement duties from the
30 board to any other agency or department of the Commonwealth.

1 (c) Section 1 of the act of May 25, 1939 (P.L.191, No.99),
2 entitled "An act authorizing transfers of sums of money from the
3 General Fund to the State Stores Fund under certain conditions;
4 providing for subsequent transfers of equal sums from the State
5 Stores Fund to the General Fund; and making appropriations
6 necessary to effect such transfers," is repealed.

7 (d) All other acts or parts of acts are repealed insofar as
8 they are inconsistent with this act.

9 Section 43. The provisions of this act are severable and if
10 any of its provisions shall be held unconstitutional, the
11 decision of the court shall not affect or impair any of the
12 remaining provisions of this act.

13 Section 44. (a) Sections 3 and 42(a) of this act shall take
14 effect February 1, 1987.

15 (b) The remainder of this act shall take effect January 1,
16 1986.