

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 929 Session of
1991

INTRODUCED BY GLADECK, FARMER, NOYE, REBER, LANGTRY, LAWLESS,
NAHILL, HECKLER, FOX, SAURMAN, HAGARTY, FLICK, BUNT, CORNELL,
STRITTMATTER AND E. Z. TAYLOR, APRIL 2, 1991

REFERRED TO COMMITTEE ON LIQUOR CONTROL, APRIL 2, 1991

AN ACT

1 Amending the act of April 12, 1951 (P.L.90, No.21), entitled, as
2 reenacted, "An act relating to alcoholic liquors, alcohol and
3 malt and brewed beverages; amending, revising, consolidating
4 and changing the laws relating thereto; regulating and
5 restricting the manufacture, purchase, sale, possession,
6 consumption, importation, transportation, furnishing, holding
7 in bond, holding in storage, traffic in and use of alcoholic
8 liquors, alcohol and malt and brewed beverages and the
9 persons engaged or employed therein; defining the powers and
10 duties of the Pennsylvania Liquor Control Board; providing
11 for the establishment and operation of State liquor stores,
12 for the payment of certain license fees to the respective
13 municipalities and townships, for the abatement of certain
14 nuisances and, in certain cases, for search and seizure
15 without warrant; prescribing penalties and forfeitures;
16 providing for local option, and repealing existing laws,"
17 establishing a private liquor system; and imposing a tax.

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

20 Section 1. Section 102 of the act of April 12, 1951 (P.L.90,
21 No.21), known as the Liquor Code, reenacted and amended June 29,
22 1987 (P.L.32, No.14), is amended by adding definitions to read:

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

1 * * *

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

7 "Private wholesale distributor" shall mean and include any
8 person licensed by the commission who purchases wine or liquor
9 from the commission, a manufacturer, another private wholesale
10 liquor distributor, or a private retail store for the purpose of
11 sale to any private retail store, to another private wholesale
12 distributor, or for export.

13 * * *

14 Section 2. The heading of Article II of the act is amended
15 to read:

16 ARTICLE II.

17 Pennsylvania [Liquor Control Board] Alcoholic Beverage
18 Commission.

19 Section 3. Sections 201 and 203 of the act are amended to
20 read:

21 Section 201. Appointment of Members; Terms; Salaries.--[An
22 independent administrative board to be known as the
23 "Pennsylvania Liquor Control Board" is hereby created. The board
24 shall consist of three members to be appointed by the Governor
25 by and with the advice and consent of two-thirds of all the
26 members of the Senate, not more than two of whom shall be from
27 the same political party as the Governor. Of the members first
28 appointed after the effective date of this amendatory act, one
29 member shall serve a term of three years, one member shall serve
30 a term of four years, and one member shall serve a term of five

1 years. Subsequent terms shall be for four years, ending on the
2 third Tuesday in May. No member upon the expiration of his term
3 shall continue to hold office until his successor shall be duly
4 appointed and qualified. Each of the members shall receive an
5 annual salary of forty thousand dollars (\$40,000), except the
6 chairman, who shall receive an annual salary of forty-two
7 thousand dollars (\$42,000).] (a) An independent administrative
8 board to be known as the "Pennsylvania Alcoholic Beverage
9 Commission" is hereby created. The commission shall consist of
10 five members to be appointed by the Governor by and with the
11 advice and consent of a majority of the members of the Senate,
12 not more than two of whom shall be from the same political party
13 as the Governor. Of the members first appointed after the
14 effective date of this amendatory act, one member shall serve a
15 term of one year, one member shall serve a term of two years,
16 one member shall serve a term of three years, one member shall
17 serve a term of four years, and one member shall serve a term of
18 five years. Subsequent terms shall be for six years, ending on
19 the third Tuesday in May. A member of the commission shall
20 continue to serve in office for up to six months following the
21 expiration of his term or until his successor shall be duly
22 appointed and qualified, whichever period is shorter. No member
23 shall continue to serve in office for more than six months
24 following the expiration of the member's term of office. Each of
25 the members shall receive an annual salary as determined by the
26 Executive Board.

27 (b) Immediately upon the effective date of this section, the
28 Pennsylvania Liquor Control Board is abolished and, except as
29 otherwise provided, all administrative functions, duties and
30 responsibilities, and all personnel, allocations, equipment,

1 files, records, contracts, agreements, obligations and other
2 materials which are used, employed or expended in connection
3 with the powers, duties or functions of the Pennsylvania Liquor
4 Control Board are hereby transferred to the Pennsylvania
5 Alcoholic Beverage Commission with the same force and effect as
6 if the appropriations had been made to and said items had been
7 the property of the commission in the first instance and as if
8 said contracts, agreements and obligations had been incurred or
9 entered into by said commission. All references in this act to
10 the Pennsylvania Liquor Control Board or to the board and in any
11 other law to the Pennsylvania Liquor Control Board, shall be
12 deemed references to the Pennsylvania Alcoholic Beverage
13 Commission.

14 (c) Immediately upon the effective date of this section, all
15 functions, duties and responsibilities of the Pennsylvania
16 Liquor Control Board concerning the investigation and
17 prosecution of Liquor Code violations, the enforcement of Liquor
18 Code restrictions, and the collection of all taxes, and all
19 personnel, allocations, equipment, files, records, contracts,
20 agreements, obligations and other materials which are used,
21 employed or expended in connection with such powers, duties or
22 functions are hereby transferred to the Liquor Code Enforcement
23 Bureau of the Department of Revenue with the same force and
24 effect as if the appropriations had been made to and said items
25 had been property of the Liquor Code Enforcement Bureau of the
26 Department of Revenue in the first instance and as if said
27 contracts, agreements and obligations had been incurred or
28 entered into by said Liquor Code Enforcement Bureau of the
29 Department of Revenue.

30 (d) All personnel transferred pursuant to this act shall

1 retain any civil service employment status assigned to said
2 personnel.

3 Section 203. Chairman of [Board] Commission.--(a) The
4 Governor shall designate one of the [board] members as chairman
5 [who shall serve in that position at the pleasure of the
6 Governor]. The chairman shall, when present, preside at all
7 meetings, and in his absence a member designated by the chairman
8 shall preside.

9 (b) [Two] Three members of the [board] commission shall
10 constitute a quorum, and any action or order of the [board]
11 commission shall require the approval of at least [two] three
12 members.

13 Section 4. The act is amended by adding an article to read:

14 ARTICLE VIII-A.

15 Private Retail and Wholesale Sale of Wine and
16 Liquor for Off-premises Consumption.

17 Section 801-A. Legislative Intent.--It is the purpose of
18 this article to deregulate the retail and wholesale sale of
19 liquor and wine for off-premises consumption in order to provide
20 Pennsylvania consumers with the improved service, enhanced
21 supply availability and lower prices which result from vigorous
22 competition in the free enterprise system. It is the intent of
23 the General Assembly to accomplish deregulation in a manner
24 which minimizes any disruption of service to the public,
25 maximizes opportunities for small business and minority business
26 in Pennsylvania, makes fair and reasonable provisions to avoid
27 hardships to employees of State stores, maintains the degree of
28 control over the distribution of liquor and wine necessary to
29 avoid the infiltration of the industry by organized crime and
30 other corrupt influences, discourages alcohol abuse and

1 preserves adequate tax revenue to the Commonwealth.

2 Section 802-A. Restrictions on the Private Retail and
3 Wholesale Wine and Liquor System.--The provisions of this act,
4 except as otherwise provided, shall apply to the private retail
5 and wholesale system for the sale of wine and liquor only as
6 provided in this article.

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

23 Section 804-A. Phase One of Deregulation.--(a) Not later
24 than September 1, 1992, the commission shall conduct public
25 sales to the highest responsible bidders of exclusive five (5)
26 year licenses to make retail sales of liquor and wine for off-
27 premises consumption:

28 (1) The commission shall offer for sale a license to replace
29 each of the State stores operating on January 1, 1992.

30 (2) The commission shall offer for sale, together with the

license, all of the stock of wine and liquor equipment and other assets of the State store which is replaced by the license. Prior to the sale, the commission shall make available for public inspection the most recent inventory of the stock, equipment and other assets of each State store, as well as a recent sales history for each State store. Bids will be accepted only for licenses together with acquisition of the stock, equipment and other assets of the respective State store.

(3) The commission may establish a staggered schedule of sales of licenses between May 1, 1992, and September 1, 1992, in order to maintain the operation of certain State stores during the sale of others and thereby maintain a continuous level of service to the public.

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

(5) Each successful bidder must agree to continuously operate a retail store for the duration of the license and to provide a level of service, including but not limited to, hours of operation and product availability, reasonably equivalent to the level of service provided by the State store which the licensee replaces. The commission may either on its own motion or following the investigation of complaints from residents of the affected community by the Liquor Code Enforcement Bureau, revoke the license of any retail store not operating an establishment or not providing a reasonable level of consumer service. Following the revocation of any license to operate a retail store, the commission shall conduct a public sale to grant to the highest responsible bidder a replacement license

1 for the duration of the five (5) year license period.

2 (6) Each retail store shall be located within a radius of
3 the State store which it replaces based on the characteristics
4 of the community in which the State store is located, based on
5 area definitions as used in the 1990 census of population. If
6 the State store is within an urbanized area the store shall be
7 within a one (1) mile radius. If the State store is outside the
8 urbanized area, but within a Standard Metropolitan Statistical
9 Area (SMSA) the store shall be within a four (4) mile radius. In
10 all other circumstances, the store shall be within a ten (10)
11 mile radius. The commission may expand or reduce the required
12 radius for good cause shown following public hearings.

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

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

25 (9) Any licenses authorized but not issued under clause (8),
26 may, following two (2) years of the awarding of initial
27 licenses, be granted by public sale to the highest responsible
28 bidder.

29 (10) All proceeds of sales of licenses shall be deposited in
30 the Liquor System Deregulation Account within the General Fund

1 and shall be utilized pursuant to the provisions of section 813-
2 A.

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

9 (b) Between January 1, 1992, and February 28, 1992, the
10 commission will accept and review applications for private
11 wholesale wine distributor licenses pursuant to the requirements
12 of sections 807-A and 810-A:

13 (1) In addition to other licensing requirements, initial
14 applicants must indicate each brand of wine which the
15 distributor intends to sell and estimate the anticipated volume
16 of sales for each brand.

17 (2) Initial private wholesale wine distributor licenses will
18 be granted by the commission beginning March 1, 1992. Each
19 initial licensee shall be assigned by the commission an
20 allocation of the remaining stock of any wine owned by the
21 commission and held in any wholesale warehouse. Allocations
22 shall be made separately for each brand of wine held by the
23 commission and assigned to each initial licensee based on the
24 brands indicated in the license application and upon the
25 estimated sales volume of the licensee. Each licensee shall
26 agree to purchase, prior to making any other purchases of each
27 brand of wine, the outstanding stock of the commission of the
28 brand allocated to the licensee, at the cost of the wine to the
29 commission plus a twenty-five per centum markup. Between March
30 1, 1992, and March 1, 1993, no private wholesale licensee may

1 sell or offer for sale any brand of wine not identified in the
2 license application. Any brand of wine in the wholesale
3 inventory of the commission which cannot be reasonably allocated
4 to licensees, either because of insufficient stock held by the
5 commission, or because of a lack of sufficient interest in such
6 brands by licensees, and any other stocks of wine held by the
7 commission in wholesale inventory and not sold by January 1,
8 1987, may at the discretion of the commission either be disposed
9 of at public sale to the highest responsible bidder, or assigned
10 to all initial wholesale licensees based on their total
11 estimated sales volumes. The initial licensees must agree to
12 purchase any wine so allocated from the commission at the cost
13 of such wine to the commission plus a twenty-five per centum
14 mark-up.

15 (c) Beginning January 1, 1993, the commission will accept
16 and review additional applications for private wholesale wine
17 distributor licenses pursuant to the requirements of sections
18 807-A and 810-A. The additional licenses shall be awarded by the
19 commission commencing March 1, 1993.

20 (d) Beginning September 1, 1992, the commission shall
21 accept, review and grant private retail wine licenses pursuant
22 to the provisions of sections 807-A and 809-A.

23 Section 805-A. Phase Two of Deregulation.--(a) Between
24 January 1, 1994, and February 28, 1994, the commission shall
25 accept and review initial private wholesale liquor distributor
26 applications pursuant to the requirements of sections 807-A and
27 810-A:

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

1 (2) The commission shall award initial licenses commencing
2 May 1, 1994.

3 (3) Each initial licensee shall be assigned by the
4 commission an allocation of the remaining stock of any liquor
5 owned by the commission and held in any wholesale warehouse.
6 Allocations shall be made separately for each brand of liquor
7 held by the commission and assigned to each initial licensee
8 based on the brands indicated in the license application and
9 based upon the cost of the liquor to the commission plus a
10 twenty-five per centum markup. Each licensee shall, prior to
11 making any other purchases of each brand of liquor, agree to
12 purchase the outstanding stock of the commission of the brands
13 allocated to the licensee. Between May 1, 1994, and May 1, 1995,
14 no private wholesale liquor licensee may sell or offer for sale
15 any brand of liquor not identified in the license application.
16 Any brands of liquor in the wholesale inventory of the
17 commission which cannot reasonably be allocated to licensees,
18 either because of inadequate stock held by the commission, or
19 because of a lack of sufficient interest in such brands by
20 licensees, and any other stock of liquor held by the commission
21 in wholesale inventory and not sold by January 1, 1995, may at
22 the discretion of the commission either be disposed of at public
23 sale to the highest responsible bidder, or else assigned to all
24 initial wholesale licensees based on their total estimated sales
25 volumes. The initial licensees must agree to purchase any liquor
26 so allocated at the cost of the liquor to the commission plus a
27 twenty-five per centum markup.

28 (b) Additional applications for private wholesale liquor
29 distributor licenses will be accepted by the commission
30 commencing January 1, 1995, and additional licenses may be

1 awarded commencing May 1, 1995, pursuant to the requirements of
2 section 809-A.

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

10 Section 806-A. Phase Three of Deregulation.--(a) Commencing
11 August 1, 1997, the commission may grant and renew private
12 retail wine and liquor licenses subject to the provisions of
13 sections 807-A and 808-A, without limitation as to the number of
14 licenses granted, or the geographical locations within which
15 licensees are permitted to operate, except as provided by
16 section 811-A. Private retail wine and liquor licenses shall be
17 granted pursuant to this section to qualified applicants upon
18 the payment of proper fees and the posting of required bonds,
19 but without the requirement to purchase the license by
20 competitive bidding.

21 (b) Restrictions upon the operation of retail wine and
22 liquor licensees established pursuant to section 804-A(a)(6) and
23 (7) and wholesale liquor licensees established pursuant to
24 section 805-A(c) shall be rescinded effective August 1, 1997.

25 Section 807-A. General License Requirements.--(a) Every
26 applicant for a license for a private retail liquor and wine
27 store pursuant to section 808-A, for a private retail wine store
28 pursuant to section 809-A, or for a private wholesale liquor
29 distributorship, or a private wholesale wine distributorship
30 pursuant to section 810-A, shall comply with the requirements of

1 this section.

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

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

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

20 (e) If the applicant is a corporation, the application must
21 show that the corporation was created under the laws of
22 Pennsylvania or holds a certificate of authority to transact
23 business in Pennsylvania.

24 (f) Each application shall be signed and verified by oath or
25 affirmation by the owner, if a natural person, or, in the case
26 of an association, by a member or partner thereof, or, in the
27 case of a corporation, by an executive officer thereof or any
28 person specifically authorized by the corporation to sign the
29 application, to which shall be attached written evidence of his
30 authority. If the applicant is an association, the application

1 shall set forth the names and addresses of the persons
2 constituting the association, and if a corporation, the names
3 and addresses of the principal officers and stockholders
4 thereof.

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

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

12 (1) the applicant or any person directly or indirectly
13 interested in the license holds, either by appointment or
14 election, any public office which involves the duty to enforce
15 any of the penal laws of the United States or the penal laws of
16 the Commonwealth or any penal ordinance or resolution of any
17 political subdivision of this Commonwealth;

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

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

24 (4) the applicant or any persons with a financial interest
25 in the license are under indictment for a felony or under
26 investigation by a legally constituted grand jury. In such
27 instance, the commission shall withhold approval or disapproval
28 of the license until such time as all legal proceedings related
29 to the felony are resolved; or

30 (5) the applicant, or any person with a financial interest

1 in a license granted pursuant to this article, holds a license
2 or permit for the manufacture of liquor, wine, malt or brewed
3 beverages.

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

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

21 (k) If any false statement is intentionally made in any part
22 of the application, the affiant shall be deemed guilty of a
23 misdemeanor of the second degree and, upon conviction, shall be
24 subject to the penalties provided by Title 18 of the
25 Pennsylvania Consolidated Statutes (relating to crimes and
26 offenses).

27 (l) Licenses shall be nontransferable and nonassignable from
28 one person to another except upon death of the licensee, in
29 which case the transfer of the license to a member of the
30 immediate family may be provided for by regulation of the

1 commission, but the license may be transferred from one location
2 to another only through reapplication to the commission.

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

5 (n) The commission may divide the State into convenient
6 license districts and may hold hearings on applications for
7 licenses and renewals thereof, as it deems necessary, at a
8 convenient place or places in each of said districts, at such
9 times as it shall fix for the purpose of hearing testimony for
10 and against applications for new licenses and renewals thereof.

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

13 (p) The term of any license granted shall be up to five (5)
14 years, as determined by the commission. The commission may
15 establish a staggered schedule of license expiration and renewal
16 dates to facilitate the efficient processing of license renewal
17 applications.

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

26 Section 808-A. Private Retail Wine and Liquor Store
27 Licenses.--(a) Subject to the provisions of this article and
28 the regulations promulgated under this article, the commission
29 shall have authority to issue a private retail wine and liquor
30 license to a person, corporation or association for any premises

1 for the purpose of establishing, operating and maintaining a
2 private retail wine and liquor store. The licenses shall entitle
3 the private retail wine and liquor store to purchase liquor and
4 wine from private wholesale distributors or from the commission
5 and to keep on the premises such liquor and wine and, subject to
6 the provisions of this article and the regulations made
7 thereunder, to sell the same for off-premises consumption, and
8 to any hotel, restaurant, club or other establishment authorized
9 to sell wine and liquor for on-premises consumption pursuant to
10 this act.

11 (b) Every applicant for a new license or for the transfer of
12 an existing license to another premises not then licensed shall
13 post, for a period of at least fifteen (15) days beginning with
14 the day the application is filed with the commission, in a
15 conspicuous place on the outside of the premises or at the
16 proposed new location for which the license is applied, a notice
17 of the application, in such form, of such size, and containing
18 such information as the commission may require by its
19 regulations. Proof of the posting of the notice shall be filed
20 with the commission.

21 (c) The premises of all private retail wine and liquor
22 stores shall be self-contained units with limited customer
23 access. All purchases made within the limitations of the
24 premises shall be paid for at a location within the confines of
25 the wine and liquor sales area.

26 (d) Every license application for a private retail wine and
27 liquor store shall contain a description of the premises for
28 which the applicant desires a license and shall set forth such
29 other material, information and description or plan of the
30 premises where it is proposed to keep and sell liquor as may be

1 required by the regulations of the commission.

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

14 (f) In the case of any new license or the transfer of any
15 license to a new location, the commission may, in its
16 discretion, grant or refuse such new license or transfer if such
17 place proposed to be licensed is within three hundred (300) feet
18 of any church, hospital, charitable institution, school or
19 public playground, or if the new license or transfer is applied
20 for a place which is within two hundred (200) feet of any other
21 premises which is licensed by the commission. The commission
22 shall refuse any application for a new license or the transfer
23 of any license to a new location if, in the board's opinion, the
24 new license or transfer would be detrimental to the welfare,
25 health, peace and morals of the inhabitants of the neighborhood
26 within a radius of five hundred (500) feet of the place proposed
27 to be licensed.

28 (g) Private retail wine and liquor stores may sell related
29 merchandise within the controlled area of the store. The
30 commission shall promulgate regulations stipulating what

additional related merchandise may be offered for retail sale in private retail wine and liquor stores, but no licensee shall engage on the same premises in the retail sale of motor fuel.

(h) No liquor or wine package shall be opened on the premises of a private licensed retail store. No licensee nor any employe of any licensee shall allow any liquor or alcohol to be consumed on the premises, nor shall any person consume any liquor on the premises.

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

(b) Private retail wine licenses shall be granted only to applicants also engaged in, or proposing to engage in, the retail sale of groceries with an average monthly inventory of at least one thousand five hundred dollars (\$1,500) in foodstuffs, or to applicants operating, or proposing to operate, specialty wine shops primarily devoted to the retail sale of wine and other incidental merchandise as approved by regulations adopted by the commission. A speciality wine shop shall maintain a minimum inventory of one thousand five hundred dollars (\$1,500)

1 in wine. No private retail wine license shall be granted to any
2 person engaged on the same premises in retail sales of motor
3 fuel or malt or brewed beverages.

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

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

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

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

25 (d) Each licensed wholesaler shall establish one or more
26 warehouses for the storage and distribution of wine or liquor at
27 locations approved by the commission. A separate application
28 shall be submitted, and a separate application fee paid, for
29 each warehouse licensed pursuant to this section. All wine or
30 liquor sold to private retail stores licensed pursuant to this

1 article shall be distributed through a warehouse located within
2 this Commonwealth.

3 (e) No wine or liquor package shall be opened on the
4 premises of a licensed wholesale distributor. No licensee nor
5 employee of any licensee shall allow any wine or liquor to be
6 consumed on the premises, nor shall any person consume any
7 liquor on the premises.

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

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

19 (b) The governing body of any municipality may at any time
20 adopt ordinances regulating the hours of operation, prohibiting
21 Sunday sales, or specifying permissible locations for the
22 operation of private retail stores.

23 (c) Separate ordinances may be adopted for each part of a
24 municipality split so that each part thereof is separated by
25 another municipality.

26 (d) Separate ordinances may be adopted with respect to
27 private retail wine and liquor stores licensed pursuant to
28 section 808-A and private retail wine stores licensed pursuant
29 to section 809-A.

30 (e) Private retail store licenses shall not be granted

1 within any municipality which, on the effective date of this
2 article, has prohibited the operation of wholesale distributors
3 of malt or brewed beverages or Pennsylvania liquor stores
4 pursuant to section 472, unless such municipality adopts an
5 ordinance permitting the operation of private retail wine and
6 liquor stores or private retail wine stores, or both, within the
7 municipality, or within a split part of a municipality separated
8 by another municipality. An ordinance permitting licensed
9 activities within either part of a split municipality shall be
10 required, even if operations pursuant to section 472 were
11 prohibited only in one part of such municipality.

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

16 (g) Any municipality adopting an ordinance pursuant to this
17 section shall file a copy of such regulation with the commission
18 at least thirty (30) days prior to the effective date of the
19 ordinance.

20 (h) Any private retail liquor store operating within a
21 municipality adopting an ordinance prohibiting operations within
22 the municipality may, with the approval of the commission,
23 notwithstanding the requirements of section 804-A(a)(6),
24 transfer a licensed premise to any other municipality which has
25 not adopted any such ordinance.

26 Section 812-A. Prohibited Acts and Offenses.--Except as
27 provided by this article, private retail and wholesale licensed
28 establishments operated pursuant to this article shall be
29 subject to the requirements of sections 492, 493, 494, 509, 510,
30 518 and 519 and Article VI. No licensee, however, shall be

1 restricted, except as otherwise provided by this article, with
2 respect to the advertising of the price and brand of any liquor
3 or wine, with respect to offering sales, rebates, refunds,
4 discounts or as to establishing the price of any liquor or wine,
5 and with respect to the stocking of merchandise, the
6 presentation of products or the offering of brands for sale.

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

23 (b) All funds in the Liquor System Deregulation Account
24 shall be utilized in the following manner:

25 (1) The sum of ten million dollars (\$10,000,000) is hereby
26 appropriated to the Department of Commerce for the purpose of
27 guaranteeing loans to the former employees of State stores for
28 the purpose of acquiring licenses pursuant to this section.

29 (2) All other funds in the account are hereby appropriated
30 to the Department of Education for the purpose of providing

grants to public elementary and secondary schools, vocational-
technical schools, community colleges, State System of Higher
Education and State related institutions of higher education;
for capital equipment needed for classroom instruction,
including, but not limited to, computers, scientific and
laboratory equipment, vocational instruction equipment and other
equipment needed to promote career opportunities in advanced
technology fields.

(3) The appropriations provided in this section shall lapse
June 30, 1998.

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

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

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

1 for sales by State stores.

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

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

30 (b) Any individual or group of displaced employes desiring

1 to acquire a private retail wine and liquor license, or a
2 private retail wine-only license, shall be eligible to apply to
3 the Department of Commerce for a loan guarantee of up to seventy
4 per centum of the amount borrowed to purchase a license, and to
5 acquire, stock and equip a retail store. The department shall
6 establish regulations to determine the eligibility of loan
7 guarantee applicants, procedures for filing a loan guarantee
8 application, priorities for the award of loan guarantees, and
9 other rules, procedures and guidelines necessary to administer
10 the loan guarantee program.

11 Section 5. The following acts and parts of acts are repealed
12 to the extent specified:

13 Act of June 9, 1936 (P.L.13, No.4), entitled, as reenacted
14 and amended, "An act imposing an emergency State tax on liquor,
15 as herein defined, sold by the Pennsylvania Liquor Control
16 Board; providing for the collection and payment of such tax; and
17 imposing duties upon the Department of Revenue and the
18 Pennsylvania Liquor Control Board," absolutely.

19 Last sentence of section 1 of the act of May 25, 1939
20 (P.L.191, No.99), entitled "An act authorizing transfers of sums
21 of money from the General Fund to the State Stores Fund under
22 certain conditions; providing for subsequent transfers of equal
23 sums from the State Stores Fund to the General Fund; and making
24 appropriations necessary to effect such transfers," absolutely.

25 All other acts and parts of acts, insofar as inconsistent.

26 Section 6. This act shall take effect as follows:

27 (1) The addition of section 201(c) of the act shall take
28 effect immediately.

29 (2) The remainder of this act shall take effect upon
30 Senate confirmation of a majority of the members of the

1 Pennsylvania Alcoholic Beverage Commission and, pending
2 Senate confirmation of a majority of the members of the
3 Pennsylvania Alcoholic Beverage Commission, the Pennsylvania
4 Liquor Control Board shall not execute any contract,
5 agreement, purchase order, consent decree or labor management
6 agreement without the concurrence of the Liquor Code
7 Enforcement Bureau.