

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1346 Session of
1997

INTRODUCED BY GLADECK, TULLI, CONTI, BARLEY, FARGO,
E. Z. TAYLOR, CORNELL, SCHRODER, FLICK, JAMES, D. W. SNYDER,
STEIL, ROSS AND RYAN, APRIL 17, 1997

REFERRED TO COMMITTEE ON LIQUOR CONTROL, APRIL 17, 1997

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 providing for the establishment, implementation and operation
18 of a system of wine and spirits stores for the sale of wine
19 and liquor for off-premises consumption, for the enforcement
20 of underage consumption provisions and for the establishment
21 of the Wine and Spirits Stores Fund; and further providing
22 for certain hearings, for renewal of licenses, for revocation
23 and suspension of licenses, for local options, for disorderly
24 conduct, for nuisances and for fines and penalties.

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

27 Section 1. Section 102 of the act of April 12, 1951 (P.L.90,
28 No.21), known as the Liquor Code, reenacted and amended June 29,

1 1987 (P.L.32, No.14), is amended by adding definitions to read:

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

5 * * *

6 "Municipal police officer" shall mean any full-time or part-
7 time employe of a city, borough, incorporated town, township or
8 home rule municipality of like classification or county police
9 department assigned to criminal or traffic law enforcement
10 duties. The term shall not include persons employed to check
11 parking meters or to perform only administrative duties and
12 auxiliary and fire police.

13 * * *

14 "Wine and spirits store" shall mean and include any premises
15 licensed by the Board under Article VIII-A where liquor or wine
16 is offered for sale in the original sealed containers as
17 prepared for the market by the manufacturer at the place of
18 manufacture but not for consumption on the premises where sold.

19 * * *

20 Section 2. Section 104(c) and (d) of the act, amended
21 December 7, 1990 (P.L.622, No.160) and December 20, 1996
22 (P.L.1513, No.196), are amended to read:

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

24 (c) Except as otherwise expressly provided, the purpose of
25 this act is to prohibit the manufacture of and transactions in
26 liquor, alcohol and malt or brewed beverages which take place in
27 this Commonwealth, except by and under the control of the board
28 as herein specifically provided, and every section and provision
29 of the act shall be construed accordingly; to provide a
30 structure in this Commonwealth for a distribution system,

1 including the establishment of [Pennsylvania liquor] wine and
2 spirits stores and licensing of importing distributors and
3 distributors; and to preserve manufacturers of liquor and
4 alcohol and malt and brewed beverages selling those products
5 within this Commonwealth. The provisions of this act dealing
6 with the manufacture, importation, sale, distribution and
7 disposition of liquor, alcohol and malt or brewed beverages
8 within the Commonwealth through the instrumentality of the
9 board, licensees and otherwise, provide the means by which such
10 control shall be made effective. This act shall not be construed
11 as forbidding, affecting or regulating any transaction which is
12 not subject to the legislative authority of this Commonwealth.

13 (d) The provisions of this act are intended to create a
14 system for distribution that shall include the fixing of
15 wholesale prices for liquor and alcohol and controls placed on
16 prices for malt and brewed beverages and which shall be
17 construed as integral to the preservation of the system, without
18 which the Commonwealth's control of the sale of liquor and
19 alcohol and malt and brewed beverages would not be possible.

20 * * *

21 Section 3. Sections 207 and 208 of the act are amended to
22 read:

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

25 (a) To buy, import or have in its possession for sale, and
26 sell liquor and alcohol in the manner set forth in this act:

27 Provided, however, That all purchases shall be made subject to
28 the approval of the State Treasurer, or his designated deputy.

29 [The board shall buy liquor and alcohol at the lowest price and
30 in the greatest variety reasonably obtainable.] The board shall

1 purchase at the lowest price obtainable and provide all readily
2 available brands of alcohol, wine and liquor requested by a wine
3 and spirits licensee for resale in a wine and spirits store.

4 (b) To control the manufacture, possession, sale,
5 consumption, importation, use, storage, transportation and
6 delivery of liquor, alcohol and malt or brewed beverages in
7 accordance with the provisions of this act, and to fix the
8 wholesale [and retail] prices at which liquors and alcohol shall
9 be sold [at Pennsylvania Liquor Stores]. Prices shall be
10 proportional with prices paid by the board to its suppliers and
11 shall reflect any advantage obtained through volume purchases by
12 the board. The board may establish a preferential price
13 structure for wines produced within this Commonwealth for the
14 promotion of such wines, as long as the price structure is
15 uniform within each class of wine purchased by the board. The
16 board shall require each Pennsylvania manufacturer and each
17 nonresident manufacturer of liquors, other than wine, selling
18 such liquors to the board, which are not manufactured in this
19 Commonwealth, to make application for and be granted a permit by
20 the board before such liquors not manufactured in this
21 Commonwealth shall be purchased from such manufacturer. Each
22 such manufacturer shall pay for such permit a fee which, in the
23 case of a manufacturer of this Commonwealth, shall be equal to
24 that required to be paid, if any, by a manufacturer or
25 wholesaler of the state, territory or country of origin of the
26 liquors, for selling liquors manufactured in Pennsylvania, and
27 in the case of a nonresident manufacturer, shall be equal to
28 that required to be paid, if any, in such state, territory or
29 country by Pennsylvania manufacturers doing business in such
30 state, territory or country. In the event that any such

1 manufacturer shall, in the opinion of the board, sell or attempt
2 to sell liquors to the board through another person for the
3 purpose of evading this provision relating to permits, the board
4 shall require such person, before purchasing liquors from him or
5 it, to take out a permit and pay the same fee as hereinbefore
6 required to be paid by such manufacturer. All permit fees so
7 collected shall be paid into the [State] Wine and Spirits Stores
8 Fund. The board shall not purchase any alcohol or liquor
9 fermented, distilled, rectified, compounded or bottled in any
10 state, territory or country, the laws of which result in
11 prohibiting the importation therein of alcohol or liquor,
12 fermented, distilled, rectified, compounded or bottled in
13 Pennsylvania.

14 [(c) To determine the municipalities within which
15 Pennsylvania Liquor Stores shall be established and the
16 locations of the stores within such municipalities.]

17 (d) To grant and issue all licenses and to grant, issue,
18 suspend and revoke all permits authorized to be issued under
19 this act.

20 (e) Through the Department of General Services as agent, to
21 lease and furnish and equip such buildings, rooms and other
22 accommodations as shall be required for the operation of this
23 act.

24 (f) To appoint, fix the compensation and define the powers
25 and duties of such managers, officers, inspectors, examiners[,
26 clerks] and other employes as shall be required for the
27 operation of this act, subject to the provisions of The
28 Administrative Code of 1929 and the Civil Service Act.

29 (g) To determine the nature, form and capacity of all
30 packages and original containers to be used for containing

1 liquor, alcohol or malt or brewed beverages.

2 (h) Without in any way limiting or being limited by the
3 foregoing, to do all such things and perform all such acts as
4 are deemed necessary or advisable for the purpose of carrying
5 into effect the provisions of this act and the regulations made
6 thereunder.

7 (i) From time to time, to make such regulations not
8 inconsistent with this act as it may deem necessary for the
9 efficient administration of this act. The board shall cause such
10 regulations to be published and disseminated throughout the
11 Commonwealth in such manner as it shall deem necessary and
12 advisable or as may be provided by law. Such regulations adopted
13 by the board shall have the same force as if they formed a part
14 of this act.

15 [(j) By regulation, to provide for the use of a computerized
16 referral system to assist consumers in locating special items at
17 Pennsylvania Liquor Stores and for the use of electronic
18 transfer of funds and credit cards for the purchase of liquor
19 and alcohol at Pennsylvania Liquor Stores.]

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

24 (a) The equipment and management of [Pennsylvania Liquor
25 Stores and] warehouses in which liquor and alcohol are kept [or
26 sold], and the books and records to be kept therein.

27 (b) The duties and conduct of the officers and employes of
28 the board.

29 (c) The purchase, as provided in this act, of liquor and
30 alcohol, and its supply to [Pennsylvania Liquor Stores] wine and

1 spirits stores.

2 [(d) The classes, varieties and brands of liquor and alcohol
3 to be kept and sold in Pennsylvania Liquor Stores. In making
4 this determination the board shall meet not less than twice a
5 year.

6 (e) The issuing and distribution of price lists for the
7 various classes, varieties or brands of liquor and alcohol kept
8 for sale by the board under this act.]

9 (f) The labeling of liquor and alcohol sold under this act
10 and of liquor and alcohol lawfully acquired by any person prior
11 to January first, one thousand nine hundred thirty-four.

12 (g) Forms to be used for the purposes of this act.

13 (h) The issuance of licenses and permits and the conduct,
14 management, sanitation and equipment of places licensed or
15 included in permits.

16 [(i) The place and manner of depositing the receipts of
17 Pennsylvania Liquor Stores and the transmission of balances to
18 the Treasury Department through the Department of Revenue.]

19 (j) The solicitation by resident or nonresident vendors of
20 liquor from Pennsylvania licensees and other persons of orders
21 for liquor to be sold through the [Pennsylvania Liquor Stores]
22 wine and spirits stores and, in the case of nonresident vendors,
23 the collection therefrom of license fees for such privilege at
24 the same rate as provided herein for importers' licenses.

25 (k) Standards for the operation of wine and spirits stores.

26 Section 4. Section 215 of the act is repealed.

27 Section 5. The act is amended by adding sections to read:

28 Section 217. Enforcement by Municipal Police Officers.--(a)
29 Municipal police officers shall have the power to investigate
30 licensees for violations of this act and of the regulations of

1 the board adopted pursuant to this act as specified in
2 subsection (b) for the express purpose of providing the Bureau
3 of Liquor Control Enforcement with evidence upon which an
4 administrative citation may be filed.

5 (b) Municipal police officers shall have the power to
6 investigate a licensee for violations of the following
7 provisions of this act and regulations promulgated pursuant to
8 this act:

9 (1) Section 406(a)(3).

10 (2) Section 471.

11 (3) Section 493(1).

12 (4) Section 493(10).

13 (5) Section 493(14).

14 (6) Section 493(16).

15 (7) Section 499.

16 (8) 18 Pa.C.S. § 5503 (relating to disorderly conduct).

17 (9) 40 Pa. Code § 5.32(a) (relating to
18 restrictions/exceptions).

19 (10) 40 Pa. Code § 5.32(c).

20 (c) Within thirty (30) days of the completion of his
21 investigation, the municipal police officer shall notify the
22 licensee of the nature of the violation by registered mail
23 return receipt requested at the licensee's business address and
24 forward his investigation to the Bureau of Liquor Control
25 Enforcement for approval. Notification in this manner
26 constitutes compliance with the requirement of the Bureau of
27 Liquor Control Enforcement to notify the licensee under section
28 471(b) of this act.

29 (d) Upon approval of the municipal police officer's
30 investigation, the Bureau of Liquor Control Enforcement shall

1 issue a citation against the licensee, in accordance with the
2 provisions of this act, to show cause why such license should
3 not be suspended or revoked or a fine imposed, or both.

4 (e) Except as provided in subsection (f), in conducting an
5 investigation pursuant to this act, a municipal police officer
6 can enter a licensed premises only when the licensed premises
7 are open for the transaction of business or when patrons, guests
8 or members are in that portion of the licensed premises wherein
9 either liquor or malt or brewed beverages are sold. Failure to
10 permit a municipal police officer to enter the licensed premises
11 under these circumstances is a violation of section 493(21) of
12 this act.

13 (f) In conducting an investigation pursuant to this act,
14 municipal police officers may conduct an inspection or search
15 without warrant of the licensed premises for minors or for
16 patrons "after hours." Any other investigation or search of
17 licensed premises shall only occur with a search warrant issued
18 by a duly authorized magistrate or with the consent of the
19 licensee or the licensee's board-approved manager. Municipal
20 police officers may seize without warrant all evidence of any
21 violation of this act for which they are authorized to
22 investigate.

23 (g) Prior to investigating licensees for violations of this
24 act and of the regulations thereunder, the municipal police
25 officers must successfully complete a training regimen provided
26 by the Bureau of Liquor Control Enforcement in administrative
27 investigations and enforcement of this act.

28 (h) Nothing in this section shall affect the authority of a
29 municipal police officer to conduct an investigation for
30 criminal violations of this act or for violations of any penal

1 statute.

2 Section 218. Confectionery Containing Alcohol or Liquor.--

3 (a) Notwithstanding the prohibition against the manufacture of
4 confectionery containing alcohol as set forth in the fifth
5 clause of subsection (a) of section 3 of the act of May 13, 1909
6 (P.L.520, No.292), referred to as the Pure Food Law, the
7 manufacture, storage, transportation and delivery to points out-
8 of-State by manufacturers of confectionery containing alcohol or
9 liquor is permitted.

10 (b) The sale of confectionery containing alcohol or liquor
11 is prohibited within this Commonwealth.

12 (c) This section is not intended to cover, govern, nor
13 control the sale of confectionery containing tinctures or
14 extracts used for flavoring purposes or solvents for glazes.

15 Section 6. Sections 301, 302, 303, 304, 305, 305.1 and 306
16 of the act are repealed.

17 Section 7. Section 436(e) and (f) of the act are amended to
18 read:

19 Section 436. Application for Distributors', Importing
20 Distributors' and Retail Dispensers' Licenses.--Application for
21 distributors', importing distributors' and retail dispensers'
22 licenses, or for the transfer of an existing license to another
23 premises not then licensed, shall contain or have attached
24 thereto the following information and statements:

25 * * *

26 (e) That the applicant is not, or in case of a partnership
27 or association, that the members or partners are not, and in the
28 case of a corporation, that the officers and directors are not,
29 in any manner pecuniarily interested, either directly or
30 indirectly, in the profits of any other class of business

1 regulated under this article, except [as] a wine and spirits
2 store or as otherwise hereinafter permitted.

3 (f) That applicant is the only person in any manner
4 pecuniarily interested in the business so asked to be licensed,
5 and that no other person shall be in any manner pecuniarily
6 interested therein during the continuance of the license, except
7 [as] a wine and spirits store or as otherwise hereinafter
8 permitted.

9 * * *

10 Section 8. Section 464 of the act, amended October 5, 1994
11 (P.L.522, No.77), is amended to read:

12 Section 464. Hearings Upon Refusal of Licenses, Renewals or
13 Transfers; Appeals.--The board may of its own motion, and shall
14 upon the written request of any applicant for club, hotel or
15 restaurant liquor license, or any applicant for any malt or
16 brewed beverage license other than a public service license, or
17 for renewal or transfer thereof, or for the renewal of an
18 amusement permit, whose application for such license, renewal or
19 transfer, or the renewal of an amusement permit, has been
20 refused, fix a time and place for hearing of such application
21 for license or for renewal or transfer thereof, or the renewal
22 of an amusement permit, notice of which hearing shall be mailed
23 to the applicant at the address given in his application. Such
24 hearing shall be before a hearing examiner designated by the
25 board. At such hearing, the board shall present its reasons for
26 its refusal or withholding of license, renewal or transfer
27 thereof, or its refusal for renewal of an amusement permit. The
28 applicant may appear in person or by counsel, may cross-examine
29 the witnesses for the board and may present evidence which shall
30 likewise be subject to cross-examination by the board. Such

1 hearing shall be stenographically recorded. The hearing examiner
2 shall thereafter report, with the examiner's recommendation, to
3 the board in each case. The board shall thereupon grant or
4 refuse the license, renewal or transfer thereof or the renewal
5 of an amusement permit. In considering the renewal of a license
6 or amusement permit, the board shall not refuse any such renewal
7 on the basis of the propriety of the original issuance or any
8 prior renewal of such license or amusement permit. If the board
9 shall refuse such license, renewal or transfer or the renewal of
10 an amusement permit, following such hearing, notice in writing
11 of such refusal shall be mailed to the applicant at the address
12 given in his application. In all such cases, the board shall
13 file of record at least a brief statement in the form of an
14 opinion of the reasons for the ruling or order and furnish a
15 copy thereof to the applicant. Any applicant who has appeared at
16 any hearing, as above provided, who is aggrieved by the refusal
17 of the board to issue any such license or to renew or transfer
18 any such license or to renew any amusement permit may appeal, or
19 any church, hospital, charitable institution, school or public
20 playground located within three hundred feet of the premises
21 applied for, aggrieved by the action of the board in granting
22 the issuance or renewal of any such license or the transfer of
23 any such license, may take an appeal limited to the question of
24 such grievance, within twenty days from date of refusal or
25 grant, to the court of common pleas of the county in which the
26 premises or permit applied for is located. Such appeal shall be
27 upon petition of the aggrieved party, who shall serve a copy
28 thereof upon the board, whereupon a hearing shall be held upon
29 the petition by the court upon ten days' notice to the board.
30 The said appeal shall act as a supersedeas unless upon

1 sufficient cause shown the court shall determine otherwise. The
2 court shall hear the application de novo on questions of fact,
3 administrative discretion and such other matters as are
4 involved, at such time as it shall fix, of which notice shall be
5 given to the board. The court shall either sustain or over-rule
6 the action of the board and either order or deny the issuance of
7 a new license or the renewal or transfer of the license or the
8 renewal of an amusement permit to the applicant.

9 Section 9. Section 470(a) of the act, amended April 29, 1994
10 (P.L.212, No.30), is amended to read:

11 Section 470. Renewal of Licenses; Temporary Provisions for
12 Licensees in Armed Service.--(a) All applications for renewal
13 of licenses under the provisions of this article shall be filed
14 with a new bond, tax clearance from the Department of Revenue
15 and the Department of Labor and Industry and requisite license
16 and filing fees at least sixty days before the expiration date
17 of same: Provided, however, That the board, in its discretion,
18 may accept a renewal application filed less than sixty days
19 before the expiration date of the license with the required bond
20 and fees, upon reasonable cause shown and the payment of an
21 additional filing fee of one hundred dollars (\$100.00) for late
22 filing: And provided further, That except where the failure to
23 file a renewal application on or before the expiration date has
24 created a license quota vacancy after said expiration date which
25 has been filled by the issuance of a new license, after such
26 expiration date, but before the board has received a renewal
27 application within the time prescribed herein the board, in its
28 discretion, may, after hearing, accept a renewal application
29 filed within ten months after the expiration date of the license
30 with the required bond and fees upon the payment of an

1 additional filing fee of two hundred fifty dollars (\$250.00) for
2 late filing. Where any such renewal application is filed less
3 than sixty days before the expiration date, or subsequent to the
4 expiration date, no license shall issue upon the filing of the
5 renewal application until the matter is finally determined by
6 the board and if an appeal is taken from the board's action the
7 courts shall not order the issuance of the renewal license until
8 final determination of the matter by the courts. A renewal
9 application will not be considered filed unless accompanied by a
10 new bond and the requisite filing and license fees and any
11 additional filing fee required by this section. Unless the
12 [board] director of the Bureau of Licensing shall have given ten
13 days' previous notice to the applicant of objections to the
14 renewal of his license, based upon violation by the licensee or
15 his servants, agents or employes of any of the laws of the
16 Commonwealth or regulations of the board relating to the
17 manufacture, transportation, use, storage, importation,
18 possession or sale of liquors, alcohol or malt or brewed
19 beverages, or the conduct of a licensed establishment, or unless
20 the applicant has by his own act become a person of ill repute,
21 or unless the premises do not meet the requirements of this act
22 or the regulations of the board, the license of a licensee shall
23 be renewed.

24 * * *

25 Section 10. Section 471 of the act is amended to read:

26 Section 471. Revocation and Suspension of Licenses; Fines.--

27 (a) Upon learning of any violation of this act or any laws of
28 this Commonwealth relating to liquor, alcohol or malt or brewed
29 beverages, or of any regulations of the board adopted pursuant
30 to such laws, or any violation of any laws of this Commonwealth

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

14 (b) Hearing on such citations shall be held in the same
15 manner as provided herein for hearings on applications for
16 license. [Upon such hearing,]

17 (b.1) Upon a hearing under subsection (b) and if satisfied
18 that any such violation has occurred or for other sufficient
19 cause, the administrative law judge shall immediately suspend or
20 revoke the license, or impose a fine of not less than fifty
21 dollars (\$50) nor more than one thousand dollars (\$1,000), or
22 both, notifying the licensee by registered letter addressed to
23 his licensed premises.

24 (b.2) If the licensee has been cited and found to have
25 violated section 493(1) insofar as it relates to sales to
26 minors, section 493(10) insofar as it relates to lewd, immoral
27 or improper entertainment or section 493(14), (16) or (21), or
28 has been found to be a public nuisance pursuant to section 611,
29 or if the owner or operator of the licensed premises or any
30 authorized agent of the owner or operator has been convicted of

1 any violation of the act of April 14, 1972 (P.L.233, No.64),
2 known as "The Controlled Substance, Drug, Device and Cosmetic
3 Act," or of 18 Pa.C.S. § 5902 (relating to prostitution and
4 related offenses) or 6301 (relating to corruption of minors), at
5 or relating to the licensed premises, the administrative law
6 judge shall immediately suspend or revoke the license, or impose
7 a fine of not less than one thousand dollars (\$1,000) nor more
8 than five thousand dollars (\$5,000), or both.

9 (b.3) If the licensee has been found in three administrative
10 citations within a four-year period to have violated section
11 493(1) insofar as it relates to sales to minors or service to
12 visibly intoxicated patrons, or if the owner or operator of the
13 licensed premises or any authorized agent of the owner or
14 operator has been convicted three or more times of any violation
15 of the act of April 14, 1972 (P.L.233, No.64), known as "The
16 Controlled Substance, Drug, Device and Cosmetic Act," or of 18
17 Pa.C.S. § 5902 or 6301, the administrative law judge shall
18 impose a fine of not less then two thousand five hundred dollars
19 (\$2,500) nor more than five thousand dollars (\$5,000) for the
20 third and any subsequent offense, and a mandatory suspension of
21 three days. The board shall also institute license revocation
22 proceedings. A licensee's appeal from this subsection shall not
23 act as a supersedeas.

24 (b.4) The administrative law judge shall notify the licensee
25 by registered mail, addressed to the licensed premises, of
26 [such] a suspension, revocation or fine imposed under this
27 section. The increased civil penalty imposed by [this]
28 subsection (b.2) shall not be used to require any licensee to
29 increase the amount of the bond required by this act. In the
30 event the fine is not paid within twenty days of the

1 adjudication, the administrative law judge shall suspend or
2 revoke the license, notifying the licensee by registered mail
3 addressed to the licensed premises. Suspensions and revocations
4 shall not go into effect until thirty days have elapsed from the
5 date of the adjudication during which time the licensee may take
6 an appeal as provided for in this act. When a license is
7 revoked, the licensee's bond may be forfeited.

8 (b.5) Any licensee whose license is revoked shall be
9 ineligible to have a license under this act until the expiration
10 of three years from the date such license was revoked. In the
11 event a license is revoked, no license shall be granted for the
12 premises or transferred to the premises in which the said
13 license was conducted for a period of at least one year after
14 the date of the revocation of the license conducted in the said
15 premises, except in cases where the licensee or a member of his
16 immediate family is not the owner of the premises, in which case
17 the board may, in its discretion, issue or transfer a license
18 within the said year.

19 (b.6) In the event the bureau or the person who was fined or
20 whose license was suspended or revoked shall feel aggrieved by
21 the adjudication of the administrative law judge, there shall be
22 a right to appeal to the board. The appeal shall be based solely
23 on the record before the administrative law judge. The board
24 shall affirm the decision of the administrative law judge if it
25 is based on substantial evidence; otherwise, the board shall
26 reverse the decision of the administrative law judge. In the
27 event the bureau or the person who was fined or whose license
28 was suspended or revoked shall feel aggrieved by the decision of
29 the board, there shall be a right to appeal to the court of
30 common pleas in the same manner as herein provided for appeals

1 from refusals to grant licenses solely on the record. Each of
2 the appeals shall act as a supersedeas unless, upon sufficient
3 cause shown, the reviewing authority shall determine otherwise;
4 however, if the licensee has been cited and found to have
5 violated section [493(1) insofar as it relates to sales to
6 minors, section] 493(10) insofar as it relates to lewd, immoral
7 or improper entertainment or section 493(14), (16) or (21), or
8 has been found to be a public nuisance pursuant to section 611,
9 or if the owner or operator of the licensed premises or any
10 authorized agent of the owner or operator has been convicted of
11 any violation of "The Controlled Substance, Drug, Device and
12 Cosmetic Act," or of 18 Pa.C.S. § 5902 or 6301, at or relating
13 to the licensed premises, its appeal shall not act as a
14 supersedeas unless the reviewing authority determines otherwise
15 upon sufficient cause shown.

16 (b.7) In any hearing on an application for a supersedeas
17 under this section, the reviewing authority may consider, in
18 addition to other relevant evidence, documentary evidence,
19 including records of the bureau, showing the prior history of
20 citations, fines, suspensions or revocations against the
21 licensee; and the reviewing authority may also consider, in
22 addition to other relevant evidence, evidence of any recurrence
23 of the unlawful activity occurring between the date of the
24 citation which is the subject of the appeal and the date of the
25 hearing. No penalty provided by this section shall be imposed
26 for any violations provided for in this act unless the bureau
27 notifies the licensee of its nature within thirty days of the
28 completion of the investigation.

29 (c) [If] Except as provided in subsections (b.2) and (b.3),
30 if the violation in question is a third or subsequent violation

1 of this act or Title 18 of the Pennsylvania Consolidated
2 Statutes (relating to crimes and offenses), occurring within a
3 period of four years, the administrative law judge shall impose
4 a suspension or revocation.

5 Section 11. Section 472 of the act, amended May 31, 1996
6 (P.L.312, No.49), is amended to read:

7 Section 472. Local Option.--(a) In any municipality or any
8 part of a municipality where such municipality is split so that
9 each part thereof is separated by another municipality, an
10 election may be held, subject to subsection (c), on the date of
11 the primary election immediately preceding any municipal
12 election, but [not];

13 (1) not oftener than once in four years, to determine the
14 will of the electors with respect to the granting of liquor
15 licenses to hotels, restaurants and clubs[, not];

16 (2) not oftener than once in four years, to determine the
17 will of the electors with respect to the granting of liquor
18 licenses to privately-owned private golf courses or to
19 privately-owned public golf courses[, not];

20 (3) not oftener than once in four years, to determine the
21 will of the electors with respect to the granting of licenses to
22 retail dispensers of malt and brewed beverages[, not];

23 (4) not oftener than once in four years, to determine the
24 will of the electors with respect to granting of licenses to
25 wholesale distributors and importing distributors[, not];

26 (5) not more than once in two years, to determine the will
27 of the electors with respect to the granting of club liquor
28 licenses or club retail dispenser licenses to incorporated units
29 of national veterans' organizations[, or not]; or

30 (6) subject to the authorization in subsection (a.2), not

1 more than once in four years, to determine the will of the
2 electors with respect to the establishment, operation and
3 maintenance [by the board of Pennsylvania liquor stores,] of
4 wine and spirits stores; within the limits of such municipality
5 or part of a split municipality, under the provisions of this
6 act[: Provided, however, Where].

7 (a.1) Where an election shall have been held at the primary
8 preceding a municipal election in any year, another election may
9 be held under the provisions of this act at the primary
10 occurring the fourth year after such prior election: And
11 provided further, That an election on the question of
12 establishing and operating a [State liquor] wine and spirits
13 store shall be initiated only in those municipalities, or that
14 part of a split municipality that shall have voted against the
15 granting of liquor licenses; and that an election on the
16 question of granting wholesale distributor and importing
17 distributor licenses shall be initiated only in those
18 municipalities or parts of split municipalities that shall have
19 at a previous election voted against the granting of dispenser's
20 licenses.

21 (a.2) In those municipalities, or that part of a split
22 municipality that voted against the establishment of State
23 liquor stores, the question relating to the establishment of
24 wine and spirits stores may appear on the primary ballot first
25 following passage of this subsection and subsequent to that time
26 at any primary election immediately preceding a municipal
27 election in any year at least four years thereafter. In all
28 municipalities that have opted to exclude State liquor stores at
29 elections preceding the adoption of this subsection, the
30 exclusion of wine and spirits stores will continue until a later

1 election at which a majority of the voting electors vote "yes"
2 on the question.

3 (a.3) Whenever electors equal to at least twenty-five per
4 centum of the highest vote cast for any office in the
5 municipality or part of a split municipality at the last
6 preceding general election shall file a petition with the county
7 board of elections of the county for a referendum on the
8 question of granting any of said classes of licenses [or the
9 establishment of Pennsylvania liquor stores] or the continued
10 operation or maintenance of a wine and spirits store, the said
11 county board of elections shall cause a question to be placed on
12 the ballots or on the voting machine board and submitted at the
13 primary immediately preceding the municipal election. Separate
14 petitions must be filed for each question to be voted on. Said
15 proceedings shall be in the manner and subject to the provisions
16 of the election laws which relate to the signing, filing and
17 adjudication of nomination petitions, insofar as such provisions
18 are applicable.

19 (a.4) The following are the specific forms for each
20 question:

21 (1) When the question is in respect to the granting of
22 liquor licenses, it shall be in the following form:

23 Do you favor the granting of liquor licenses
24 for the sale of liquor in..... Yes
25 of.....? No

26 (2) When the question is in respect to the granting of
27 liquor licenses, for privately-owned private golf courses, it
28 shall be in the following form:

29 Do you favor the granting of liquor licenses for
30 privately-owned private golf courses for the sale

1 of liquor in.....by..... Yes
2 of.....? No

3 (3) When the question is in respect to the granting of
4 liquor licenses, for privately-owned public golf courses, it
5 shall be in the following form:

6 Do you favor the granting of liquor licenses for
7 privately-owned public golf courses for the sale
8 of liquor in.....by..... Yes
9 of.....? No

10 (4) When the question is in respect to the granting of
11 licenses to retail dispensers of malt and brewed beverages, it
12 shall be in the following form:

13 Do you favor the granting of malt and brewed
14 beverage retail dispenser licenses for
15 consumption on premises where sold in the..... Yes
16 of.....? No

17 (5) When the question is in respect to the granting of
18 licenses to wholesale distributors of malt or brewed beverages
19 and importing distributors, it shall be in the following form:

20 Do you favor the granting of malt and brewed
21 beverage wholesale distributor's and importing
22 distributor's licenses not for consumption on
23 premises where sold in the..... Yes
24 of.....? No

25 (6) When the question is in respect to the granting of club
26 liquor licenses to incorporated units of national veterans'
27 organizations, it shall be in the following form:

28 Do you favor the granting of club liquor licenses
29 to incorporated units of national veterans' organizations
30 in the..... Yes

1 of.....? No

2 (7) When the question is in respect to the granting of club
3 retail dispenser licenses to incorporated units of national
4 veterans' organizations, it shall be in the following form:

5 Do you favor the granting of club retail dispenser
6 licenses to incorporated units of national veterans'
7 organizations in the..... Yes

8 of.....? No

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

12 Do you favor the establishment, operation
13 and maintenance of [Pennsylvania liquor] wine and spirits
14 stores in the..... Yes

15 of.....? No

16 (a.5) In case of a tie vote, the status quo shall obtain. If
17 a majority of the voting electors on any such question vote
18 "yes," then liquor licenses shall be granted by the board to
19 hotels, restaurants and clubs, or liquor licenses shall be
20 granted by the board to privately-owned private golf courses or
21 to privately-owned public golf courses, or malt and brewed
22 beverage retail dispenser licenses or wholesale distributor's
23 and importing distributor's license for the sale of malt or
24 brewed beverages shall be granted by the board, or club liquor
25 licenses or club retail dispenser licenses shall be granted by
26 the board to incorporated units of national veterans'
27 organizations, or [the board may establish, operate and maintain
28 Pennsylvania liquor stores] wine and spirits store licenses
29 shall be granted to individuals or corporations for
30 establishing, operating and maintaining wine and spirits stores

1 in accordance with Article VIII-A of this act, as the case may
2 be, in such municipality or part of a split municipality, as
3 provided by this act; but if a majority of the electors voting
4 on any such question vote "no," then the board shall have no
5 power to grant or to renew upon their expiration any licenses of
6 the class so voted upon in such municipality or part of a split
7 municipality; or if the negative vote is on the question in
8 respect to the establishment, operation and maintenance of
9 [Pennsylvania liquor stores, the board shall not open and
10 operate a Pennsylvania liquor] wine and spirits stores, the
11 board shall not license a wine and spirits store in such
12 municipality or part of a split municipality, nor continue to
13 operate a then existing Pennsylvania liquor store in the
14 municipality or part of a split municipality for more than two
15 years thereafter or after the expiration of the term of the
16 lease on the premises occupied by such store, whichever period
17 is less, unless and until at a later election a majority of the
18 voting electors vote "yes" on such question.

19 (b) To be eligible for the local option under this section,
20 the incorporated unit of a national veterans' organization must
21 have been incorporated on or before a date ten years prior to
22 the filing of its application after authorization under local
23 option. In each municipality, licenses approved under the local
24 option for incorporated units of national veterans'
25 organizations may not exceed four.

26 (c) For the first year that the local option is authorized
27 for the incorporated units of national veterans' organizations,
28 the local option election for the incorporated units of national
29 veterans' organizations may be held at the primary election
30 preceding any election.

1 Section 12. Section 491(2), (3), (7), (10) and (13) of the
2 act are amended to read:

3 Section 491. Unlawful Acts Relative to Liquor, Alcohol and
4 Liquor Licensees.--

5 It shall be unlawful--

6 * * *

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

26 None of the provisions herein contained shall prohibit nor
27 shall it be unlawful for any person to import into Pennsylvania,
28 transport or have in his possession, an amount of liquor not
29 exceeding one gallon in volume upon which a State tax has not
30 been paid, if it can be shown to the satisfaction of the board

1 that such person purchased the liquor in a foreign country or
2 United States territory and was allowed to bring it into the
3 United States. Neither shall the provisions contained herein
4 prohibit nor make it unlawful for (i) any member of the armed
5 forces on active duty, or (ii) any retired member of the armed
6 forces, or (iii) any totally disabled veteran, or (iv) the
7 spouse of any person included in the foregoing classes of
8 persons to import into Pennsylvania, transport or have in his
9 possession an amount of liquor not exceeding one gallon per
10 month in volume upon which the State tax has not been paid, so
11 long as such liquor has been lawfully purchased from a package
12 store established and maintained under the authority of the
13 United States and is in containers identified in accordance with
14 regulations issued by the Department of Defense. Such liquor
15 shall not be possessed, offered for sale or sold on any licensed
16 premises.

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

26 Any person violating the provisions of this clause for a
27 first offense involving the possession or transportation in
28 Pennsylvania of any liquor in a package (bottle or other
29 receptacle) or wine not purchased from a Pennsylvania Liquor
30 Store or a wine and spirits store or from a licensed limited

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

20 (3) Purchase of Liquor or Alcohol. For any person within
21 this Commonwealth, by himself or by an employe or agent, to
22 attempt to purchase, or directly or indirectly, or upon any
23 pretense or device whatsoever, to purchase any liquor or alcohol
24 from any person or source other than a Pennsylvania Liquor Store
25 or a wine and spirits store, except in accordance with the
26 provisions of this act or the regulations of the board.

27 * * *

28 (7) Sales of Liquor by Manufacturers and Licensed Importers.
29 For any manufacturer or licensed importer of liquor in this
30 Commonwealth, his agents, servants or employes, to sell or offer

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

7 * * *

8 (10) Fortifying, Adulterating or Contaminating Liquor. For
9 any licensee, including a wine and spirits store licensee, or
10 any employe or agent of a licensee or of the board, to fortify,
11 adulterate or contaminate any liquor, except as permitted by the
12 regulations of the board, or to refill wholly or in part, with
13 any liquid or substance whatsoever, any liquor bottle or other
14 liquor container.

15 * * *

16 (13) Violation of Certain Rules and Regulations of Board.
17 For any person, to violate any rules and regulations adopted by
18 the board to insure the equitable wholesale and retail sale and
19 distribution of liquor and alcohol through the Pennsylvania
20 Liquor Stores or wine and spirits stores.

21 * * *

22 Section 13. Section 493 introductory paragraph, (11), (12),
23 (13), (14), (18), (19), (20), (24) and (26) of the act, amended
24 April 29, 1994 (P.L.212, No.30) and May 31, 1996 (P.L.312,
25 No.49), are amended and the section is amended by adding a
26 clause to read:

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

1 clearly indicates otherwise.

2 It shall be unlawful--

3 * * *

4 (11) Licensees Employed by Others. For any hotel, restaurant
5 or club liquor licensee, wine and spirits store licensee, or any
6 malt or brewed beverage licensee, or any servant, agent or
7 employe of such licensee, to be at the same time employed,
8 directly or indirectly, by any other person engaged in the
9 manufacture, sale, transportation or storage of liquor, malt or
10 brewed beverages or alcohol: Provided, That any person (except a
11 licensee or the manager, officer or director of a licensee) who
12 is employed by a retail licensee to prepare or serve food and
13 beverages may be employed in the same capacity by another retail
14 licensee during other hours or on other days.

15 (12) Failure to Have Records on Premises. For any liquor
16 licensee, or any importing distributor, or retail dispenser, to
17 fail to keep on the licensed premises for a period of at least
18 two years complete and truthful records covering the operation
19 of his licensed business, particularly showing the date of all
20 purchases of liquor and malt or brewed beverages, the actual
21 price paid therefor, and the name of the vendor, including State
22 Store receipts or wine and spirits store receipts, or for any
23 licensee, his servants, agents or employes, to refuse the board
24 or an authorized employe of the board or the enforcement bureau
25 access thereto or the opportunity to make copies of the same
26 when the request is made during business hours.

27 (13) Retail Licensees Employing Minors. For any hotel,
28 restaurant or club liquor licensee, or wine and spirits store
29 licensee, or any retail dispenser, to employ or to permit any
30 minor under the age of eighteen to serve any alcoholic beverages

1 or to employ or permit any minor under the age of sixteen to
2 render any service whatever in or about the licensed premises,
3 nor shall any entertainer under the age of eighteen be employed
4 or permitted to perform in any licensed premises in violation of
5 the labor laws of this Commonwealth: Provided, That in
6 accordance with board regulations minors between the ages of
7 sixteen and eighteen may be employed to serve food, clear tables
8 and perform other similar duties, not to include the dispensing
9 or serving of alcoholic beverages. The provisions of this clause
10 shall not apply to any wine and spirits store licensee under
11 Article VIII-A of this act.

12 (14) Permitting Undesirable Persons or Minors to Frequent
13 Premises. For any hotel, restaurant or club liquor licensee, or
14 wine and spirits store licensee, or any retail dispenser, his
15 servants, agents or employes, to permit persons of ill repute,
16 known criminals, prostitutes or minors to frequent his licensed
17 premises or any premises operated in connection therewith,
18 except minors accompanied by parents, guardians, or under proper
19 supervision or except minors who frequent any restaurant or
20 retail dispensing licensee whose sales of food and non-alcoholic
21 beverages are equal to seventy per centum or more of the
22 combined gross sales of both food and alcoholic beverages on the
23 condition that alcoholic beverages may not be served at the
24 table or booth at which the said minor is seated at the time
25 (unless said minor is under proper supervision as hereinafter
26 defined) and on the further condition that only table service of
27 alcoholic beverages or take-out service of beer shall be
28 permitted in the room wherein the minor is located: Provided,
29 however, That it shall not be unlawful for any hotel, restaurant
30 or club liquor licensee or any retail dispenser to permit minors

1 under proper supervision upon the licensed premises or any
2 premises operated in connection therewith for the purpose of a
3 social gathering, even if such gathering is exclusively for
4 minors: And provided further, That no liquor shall be sold,
5 furnished or given to such minors nor shall the licensee
6 knowingly permit any liquor or malt or brewed beverages to be
7 sold, furnished or given to or be consumed by any minor, and the
8 area of such gathering shall be segregated from the remainder of
9 the licensed premises. In the event the area of such gathering
10 cannot be segregated from the remainder of the licensed
11 premises, all alcoholic beverages must be either removed from
12 the licensed premises or placed under lock and key during the
13 time the gathering is taking place. Notice of such gathering
14 shall be given the board as it may, by regulation, require. Any
15 licensee violating the provisions of this clause shall be
16 subject to the provisions of section 471.

17 "Proper supervision," as used in this clause, means the
18 presence, on that portion of the licensed premises where a minor
19 or minors are present, of one person twenty-five years of age or
20 older for every fifty minors or part thereof who is directly
21 responsible for the care and conduct of such minor or minors
22 while on the licensed premises and in such proximity that the
23 minor or minors are constantly within his sight or hearing. The
24 presence of the licensee or any employe or security officer of
25 the licensee shall not constitute proper supervision.

26 * * *

27 (18) Displaying Price of Liquor or Malt or Brewed Beverages.
28 For any restaurant, hotel or club liquor licensee, or any wine
29 and spirits store licensee, or any importing distributor,
30 distributor or retail dispenser, or the servants, agents or

1 employes of such licensees, to display on the outside of any
2 licensed premises or to display any place within the licensed
3 premises where it can be seen from the outside, any
4 advertisement whatsoever referring, directly or indirectly, to
5 the price at which the licensee will sell liquor or malt or
6 brewed beverages.

7 (19) Licensee's Outside Advertisements. For any retail
8 liquor licensee, or any wine and spirits store licensee, or any
9 retail dispenser, distributor or importing distributor, to
10 display in any manner whatsoever on the outside of his licensed
11 premises, or on any lot of ground on which the licensed premises
12 are situate, or on any building of which the licensed premises
13 are a part, a sign of any kind, printed, painted or electric,
14 advertising any brand of liquor or malt or brewed beverage, and
15 it shall be likewise unlawful for any manufacturer, distributor
16 or importing distributor, to permit the display of any sign
17 which advertises his products on any lot of ground on which such
18 licensed premises are situate, or on any building of which such
19 licensed premises are a part, but nothing shall prohibit the use
20 of the trade name of that manufacturer, distributor or importing
21 distributor.

22 (20) (i) Retail Liquor and Retail Malt or Brewed Beverages
23 Licensee's Inside Advertisements. For any retail liquor, or any
24 wine and spirits store licensee, or retail malt or brewed
25 beverages licensee, to display or permit the display in the show
26 window or doorways of his licensed premises, any placard or sign
27 advertising the brands of liquor or malt or brewed beverages, if
28 the total display area of any such placard or sign advertising
29 the product or products exceeds six hundred square inches.
30 Nothing herein shall prohibit a licensee from displaying inside

1 his licensed premises point of sale displays advertising brand
2 names of products sold by him, other than a window or door
3 display: Provided, That the total cost of all such point of sale
4 advertising matter relating to any one brand shall not exceed
5 the sum of one hundred forty dollars (\$140) at any one time, and
6 no single piece of advertising shall exceed a cost of seventy
7 dollars (\$70). The board is authorized to make annual
8 adjustments to the cost limitations on point of display
9 advertising to reflect any changes in such limitations by the
10 United States Bureau of Alcohol, Tobacco and Firearms or its
11 successors in accordance with 27 CFR 6.83 (relating to product
12 displays) and 27 CFR 6.85 (relating to retailer advertising
13 specialties). All such advertising material, including the
14 window and door signs, may be furnished by a manufacturer,
15 distributor or importing distributor. The restrictions on
16 advertising set forth in subclause (ii) and in clauses (20.1)
17 and (20.2) shall also apply to this subclause.

18 (ii) Cooperative Advertising. No distributor or importing
19 distributor, directly or indirectly, independent or otherwise,
20 shall, except by prior written agreement, be required to
21 participate with a manufacturer in the purchase of any
22 advertising of a brand name product in any name, in any form,
23 whether it be radio, television, newspaper, magazine or
24 otherwise.

25 * * *

26 (24) Things of Value Offered as Inducement. For any licensee
27 under the provisions of this article, or any licensee under
28 Article VIII-A, or the board or any manufacturer, or any employe
29 or agent of a manufacturer, licensee or of the board, to offer
30 to give anything of value or to solicit or receive anything of

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

22 * * *

23 (26) Worthless Checks. For any retail liquor licensee, wine
24 and spirits store licensee, or any retail dispenser, distributor
25 or importing distributor, to make, draw, utter, issue or
26 deliver, or cause to be made, drawn, uttered, issued or
27 delivered, any check, draft or similar order, for the payment of
28 money in payment for any purchase of malt or brewed beverages,
29 when such retail liquor licensee, wine and spirits store
30 licensee, retail dispenser, distributor or importing

1 distributor, has not sufficient funds in, or credit with, such
2 bank, banking institution, trust company or other depository,
3 for the payment of such check. Any person who is a licensee
4 under the provisions of this article, or any licensee under
5 Article VIII-A, who shall receive in payment for malt or brewed
6 beverages sold by him any check, draft or similar order for the
7 payment of money, which is subsequently dishonored by the bank,
8 banking institution, trust company or other depository, upon
9 which drawn, for any reason whatsoever, shall, within five days
10 of receipt of notice of such dishonor, notify by certified mail
11 the person who presented the said worthless check, draft or
12 similar order.

13 * * *

14 (29) Disorderly conduct. For any licensee, including a wine
15 and spirits store licensee, its servant, agent or employe to
16 engage in or permit disorderly conduct on property adjacent to
17 its licensed premises under its control, including, but not
18 limited to, the sidewalk and parking lot.

19 (30) Open container. For any licensee, including a wine and
20 spirits store licensee, to permit the sale of liquor or malt or
21 brewed beverages in an open container for off-premises
22 consumption.

23 Section 14. Section 494 of the act, amended April 29, 1994
24 (P.L.212, No.30), is amended to read:

25 Section 494. Penalties.--(a) Any person who shall violate
26 any of the provisions of this article, except as otherwise
27 specifically provided, shall be guilty of a misdemeanor and,
28 upon conviction thereof, shall be sentenced to pay a fine of not
29 less than one hundred dollars (\$100), nor more than five hundred
30 dollars (\$500), and on failure to pay such fine, to imprisonment

1 for not less than one month, nor more than three months, and for
2 any subsequent offense, shall be sentenced to pay a fine not
3 less than three hundred dollars (\$300), nor more than five
4 hundred dollars (\$500), and to undergo imprisonment for a period
5 not less than three months, nor more than one year, or both. If
6 the person, at or relating to the licensed premises, violates
7 section [493(1), (10)] 493(10), (14), (16) or (21), or [if the
8 owner or operator of the licensed premises or any authorized
9 agent of the owner or operator violates the act of April 14,
10 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug,
11 Device and Cosmetic Act," or] 18 Pa.C.S. § 5902 (relating to
12 prostitution and related offenses) or 6301 (relating to
13 corruption of minors), he shall be sentenced to pay a fine not
14 exceeding five thousand dollars (\$5,000) or to undergo
15 imprisonment for a period not less than three months, nor more
16 than one year, or both.

17 (a.1) (1) Any person who violates the provisions of clause
18 (1) of section 493 of this act or if the owner or operator of
19 the licensed premises or any authorized agent of the owner or
20 operator violates "The Controlled Substance, Drug, Device and
21 Cosmetic Act" shall be guilty of a misdemeanor of the second
22 degree. In addition, the administrative law judge shall order
23 the person to pay a fine of not less than five hundred dollars
24 (\$500) nor more than one thousand dollars (\$1,000) for a first
25 offense. In addition to the fine required by this subsection,
26 the person may be sentenced to undergo imprisonment for a period
27 of not less than three months nor more than one year.

28 (2) For any subsequent offense, the administrative law judge
29 shall order the person to pay a fine of not less than one
30 thousand dollars (\$1,000) nor more than two thousand five

1 hundred dollars (\$2,500). In addition to the fine required by
2 this subsection, the person shall be sentenced to imprisonment
3 of not less than three months nor more than one year.

4 (b) The right to suspend and revoke licenses granted under
5 this article shall be in addition to the penalty set forth in
6 this section.

7 (c) A person convicted of selling or offering to sell any
8 liquor or malt or brewed beverage without being licensed is in
9 violation of this article and shall, in addition to any other
10 penalty prescribed by law, be sentenced to pay a fine of
11 [twenty-five dollars (\$25) for each bottle of beer and] one
12 hundred dollars (\$100) for each bottle of beer and five hundred
13 dollars (\$500) for each bottle of wine or liquor found on the
14 premises where the sale was made or attempted. In addition, all
15 beer, wine and liquor found on the premises shall be
16 confiscated. If a person fails to pay the full amount of the
17 fine levied under this subsection, the premises on which the
18 beer, wine or liquor was found shall be subject to a lien in the
19 amount of the unpaid fine if the premises are owned by the
20 person against whom the fine was levied or by any other person
21 who had knowledge of the proscribed activity. The lien shall be
22 superior to any other liens on the premises other than a duly
23 recorded mortgage.

24 Section 15. Section 495(b), (c), (e) and (f) of the act,
25 amended December 20, 1996 (P.L.1523, No.199), are amended and
26 the section is amended by adding a subsection to read:

27 Section 495. Identification cards; Licenses [and State
28 Liquor Store Employees] Saved from Prosecution.--* * *

29 (b) Such identification card shall be presented by the
30 holder thereof upon request of any [State Liquor Store or any]

1 licensee, or the servant, agent or employe thereof, for the
2 purpose of aiding such store, licensee, or the servant, agent or
3 employe to determine whether or not such person is twenty-one
4 years of age and upwards, when such person desires alcoholic
5 beverage at a [State Liquor Store or] licensed establishment.

6 (c) In addition to the presentation of such identification
7 card, the [agent of the State Liquor Store or the] licensee, or
8 his servant, agent or employe, may require the person whose age
9 may be in question to fill in and sign a form containing
10 language approved by the board or containing the following:

11 19

12 I,....., hereby represent
13 to, a [State Store or]
14 licensee of the board, that I am of full age and discretion
15 and over the age of 21 years, having been born on
16 19..... at

17 This statement is made to induce said store or licensee above
18 named to sell or otherwise furnish alcoholic beverages to the
19 undersigned.

20 Serial Number of Identification Card:

21 I understand that I am subject to a fine of
22 [\$300.00 and sixty] \$500.00 and ninety days imprisonment for
23 any misrepresentation herein.

24

25 (Name)

26

27 (Address)

28 Witness:

29 Name.....

30 Address.....

1 The forms shall be printed in a manner approved by the board
2 and shall be filed alphabetically by the [State Liquor Store or]
3 wine and spirits store or other licensee in a file box
4 containing a suitable alphabetical index at or before the close
5 of business on the day that the form is executed, and any such
6 form shall be subject to examination by any officer, agent or
7 employe of the enforcement bureau at any and all times.

8 * * *

9 (e) Any such signed form in the possession of a wine and
10 spirits store or other licensee [or an employe of a State Liquor
11 Store] or an employe thereof may be offered as a defense in all
12 civil and criminal prosecutions for serving a minor, and no
13 penalty shall be imposed if the administrative law judge or the
14 courts are satisfied that the licensee [or State Liquor Store
15 employe] acted in good faith.

16 * * *

17 (e.1) All wine and spirits stores shall maintain and utilize
18 an age verification scanning device which meets the technical
19 specifications established by the Department of Transportation
20 to verify the age of a purchaser. For purposes of this
21 subsection, an "age scanning device" is an electronic device
22 which verifies a person's date of birth which is encoded on that
23 person's driver's license or other form of identification.

24 (f) A photograph or photocopy or other visual or video
25 presentation of the identification card set forth in subsection
26 (a) in the possession of a wine and spirits store licensee, a
27 licensee or an employe [of a State Liquor Store] thereof may be
28 offered as a defense in all civil and criminal prosecutions for
29 serving a minor, and no penalty shall be imposed if the
30 administrative law judge or the courts are satisfied that the

1 wine and spirits store licensee, a licensee or [State Liquor
2 Store] employe thereof acted in good faith.

3 Section 16. Sections 496 and 611 of the act are amended to
4 read:

5 Section 496. Reporting of Worthless Checks.--Any person who
6 is a licensee under the provisions of this article or under the
7 provisions of Article VIII-A, who shall receive in payment for
8 malt or brewed beverages sold by him any check, draft or similar
9 order, for the payment of money, which is subsequently
10 dishonored by the bank, banking institution, trust company or
11 other depository, upon which drawn, for any reason whatsoever,
12 shall, within twenty days of receipt of notice of such dishonor,
13 notify the board thereof. Such notification to the board shall
14 be in such manner and form as the board shall direct.

15 Section 611. Nuisances; Actions To Enjoin.--(a) Any room,
16 house, building, boat, vehicle, structure or place, except a
17 private home, where liquor, alcohol or malt or brewed beverages
18 are manufactured, possessed, sold, transported, offered for
19 sale, bartered or furnished, or stored in bond, or stored for
20 hire, in violation of this act or any regulation of the board or
21 any penal law, and all such liquids, beverages and property kept
22 or used in maintaining the same, are hereby declared to be
23 common nuisances, and any person who maintains such a common
24 nuisance shall be guilty of a misdemeanor and, upon conviction
25 thereof, shall be subject to the same penalties provided in
26 section four hundred ninety four of this act.

27 (b) An action to enjoin any nuisance defined in this act may
28 be brought in the name of the Commonwealth of Pennsylvania by
29 the Attorney General, by the district attorney of the proper
30 county, notwithstanding the provisions of the act of October 15,

1 1980 (P.L.950, No.164), known as the "Commonwealth Attorneys
2 Act," by the Chief Counsel of the Pennsylvania State Police with
3 the consent of the district attorney or by a person who resides
4 or has a place of business within five hundred feet of the
5 location of the alleged nuisance. Such action shall be brought
6 and tried as an action in equity and may be brought in any court
7 having jurisdiction to hear and determine equity cases within
8 the county in which the offense occurs. If it is made to appear,
9 by affidavit or otherwise, to the satisfaction of the court that
10 such nuisance exists, a temporary writ of injunction shall
11 forthwith issue, restraining the defendant from conducting or
12 permitting the continuance of such nuisance until the conclusion
13 of the proceedings. If a temporary injunction is prayed for, the
14 court may issue an order restraining the defendant and all other
15 persons from removing or in any way interfering with the
16 liquids, beverages or other things used in connection with the
17 violation of this act constituting such nuisance. No bond shall
18 be required in instituting such proceedings brought in the name
19 of the Commonwealth by the Attorney General [or], the district
20 attorney or the Chief Counsel of the Pennsylvania State Police
21 with the consent of the district attorney. Where such
22 proceedings are brought by a person, the court, upon application
23 of the defendant and prior to any injunction being issued, may
24 direct the plaintiff to post bond in such amount as the court
25 may find to be reasonable and sufficient. It shall not be
26 necessary for the court to find the property involved was being
27 unlawfully used, as aforesaid, at the time of the hearing, but
28 on finding that the material allegations of the petition are
29 true, the court shall order that no liquor, alcohol or malt or
30 brewed beverage shall be manufactured, sold, offered for sale,

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

4 (c) Upon the decree of the court ordering such nuisance to
5 be abated, the court may, upon proper cause shown, order that
6 the room, house, building, structure, boat, vehicle or place
7 shall not be occupied or used for one year thereafter, but the
8 court may, in its discretion, permit it to be occupied or used
9 if the owner, lessee, tenant or occupant thereof shall give bond
10 with sufficient surety to be approved by the court making the
11 order in the penal and liquidated sum of not less than five
12 hundred dollars (\$500.00), payable to the Commonwealth of
13 Pennsylvania, for use of the county in which said proceedings
14 are instituted, and conditioned that neither liquor, alcohol,
15 nor malt or brewed beverages will thereafter be manufactured,
16 sold, transported, offered for sale, bartered or furnished, or
17 stored in bond, or stored for hire therein or thereon in
18 violation of this act, and that he will pay all fines, costs and
19 damages that may be assessed for any violation of this act upon
20 said property.

21 (d) The injunctive remedy under this section shall in no way
22 limit the authority of the Bureau of Liquor Control Enforcement
23 to seek the suspension or revocation of any licensee issued
24 under this act.

25 Section 17. Section 802 of the act, amended May 28, 1993
26 (P.L.42, No.13), April 29, 1994 (P.L.212, No.30) and July 11,
27 1996 (P.L.654, No.111), is amended to read:

28 [Section 802. Moneys Paid Into The State Stores Fund for Use
29 of the Commonwealth.--(a) All moneys, except fees to be paid
30 into the Liquor License Fund as provided by section 801,

1 collected, received or recovered under the provisions of this
2 act for license fees, permit fees, filing fees and registration
3 fees, from forfeitures, sales of forfeited property, compromise
4 penalties and sales of liquor and alcohol at the Pennsylvania
5 Liquor Stores, shall be paid into the State Treasury through the
6 Department of Revenue into a special fund to be known as "The
7 State Stores Fund."

8 (c) Two per centum of annual profits from the sale of liquor
9 and alcohol shall be annually transferred to the Department of
10 Health for use by the Office of Drug and Alcohol Programs, or
11 its successor in function, for the following purposes:

12 (1) Treatment and rehabilitation of persons addicted to the
13 excessive use of alcoholic beverages.

14 (2) Promotion of education, prevention and early
15 intervention programs designed to eliminate abuse and addiction
16 to alcohol or other mood-altering substances or secure
17 appropriate treatment for the already addicted.

18 (3) Study of the problem of addiction.

19 (d) All other moneys in such fund shall be available for the
20 purposes for which they are appropriated by law.

21 (e) Annually, the General Assembly shall make an
22 appropriation from the State Stores Fund to provide for the
23 operational expenses of the enforcement bureau.

24 (f) Any moneys in the State Stores Fund, from time to time,
25 which may not be required for any of the purposes specified in
26 this act or in the act of December 20, 1933 (Sp.Sess., P.L.89,
27 No.15), entitled "An act appropriating the moneys in The State
28 Stores Fund," shall be paid over into the General Fund and shall
29 be available for the payment of appropriations made from the
30 General Fund. The Pennsylvania Liquor Control Board, with the

1 approval of the Governor, shall, from time to time, fix the
2 amount of money which may be so paid over into the General Fund
3 and by its requisition shall direct the Department of the
4 Auditor General and the Treasury Department to transfer such
5 moneys from the State Stores Fund to the General Fund. The
6 Pennsylvania Liquor Control Board shall, immediately upon voting
7 to pay over any moneys from the State Stores Fund to the General
8 Fund, notify the chairman and minority chairman of the
9 Appropriations Committee of the Senate and the chairman and
10 minority chairman of the Appropriations Committee of the House
11 of Representatives of such transfer of moneys.

12 (g) The sum of five million dollars (\$5,000,000) shall be
13 transferred from The State Stores Fund in accordance with
14 subsection (f) to the Children's Health Fund for health care for
15 indigent children established by section 1296 of the act of
16 March 4, 1971 (P.L.6, No.2), known as the "Tax Reform Code of
17 1971," to carry out the provisions of the act of December 2,
18 1992 (P.L.741, No.113), known as the "Children's Health Care
19 Act," for the fiscal year July 1, 1996, to June 30, 1997. Funds
20 transferred under this subsection shall not be subject to the
21 limitation set forth in section 3101 of the "Children's Health
22 Care Act."]

23 Section 802. Wine and Spirits Stores Fund.--There is hereby
24 established a special fund in the State Treasury to be known as
25 the Wine and Spirits Stores Fund which shall replace the State
26 Stores Fund and into which shall be deposited all of the
27 following:

28 (1) All moneys previously deposited into the former State
29 Stores Fund.

30 (2) Except for fees to be paid into the Liquor License Fund

1 pursuant to section 801, any and all other moneys collected,
2 received or recovered under the provisions of this act,
3 including license fees, application fees, franchise fees, moneys
4 from forfeitures and the sale of forfeited property.

5 (3) Monetary proceeds from the sale of inventory of State
6 stores.

7 (4) Moneys from penalties, wholesale profits and sales at
8 existing State stores.

9 Money shall remain in the fund until expended under section 824-
10 A.

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

12 ARTICLE VIII-A.

13 RETAIL SALE OF WINE AND LIQUOR.

14 Section 801-A. Legislative Intent.--(a) The General
15 Assembly hereby finds and declares that:

16 (1) the sale of liquor and wine at retail should no longer
17 be by the Commonwealth, but rather by retail licensees;

18 (2) the health and welfare of the citizens of this
19 Commonwealth will be adequately protected by the regulation of
20 private licensees through strict enforcement of laws and rules
21 relating to the sale of liquor and wine;

22 (3) the sale of liquor and wine through retail licenses will
23 improve customer service, selection and price; and

24 (4) the operation and efficiency of State government will be
25 improved.

26 (b) It is the purpose of the General Assembly to:

27 (1) continue and increase revenue to the Commonwealth;

28 (2) provide a system of controls, including limitations on
29 the number of retail applications and enforcement procedures to
30 discourage the intemperate use of liquor;

1 (3) create incentives and facilitate the transition of
2 employees to other employment;
3 (4) minimize disruption of services to the public; and
4 (5) enhance alcohol education efforts for the benefit of the
5 children of this Commonwealth.

6 Section 802-A. Definitions.--The following words and
7 phrases, unless the context clearly indicates otherwise, shall
8 have the meanings ascribed to them in this section:

9 "Franchise" shall mean a written agreement between the board
10 and a successful bidder in which the board agrees to issue a
11 wine and spirits store license to the successful bidder for a
12 period of ten (10) years within a specified geographic area for
13 the establishment and operation of a wine and spirits store
14 consistent with the provisions of this act.

15 "Licensee" shall mean any person who successfully bids for a
16 franchise and who applies for and receives a license for the
17 operation of a wine and spirits store for the retail sale of
18 wine and liquor for off-premises consumption.

19 Section 803-A. Closure of State Stores and Initial
20 Franchises.--(a) It shall be the power and duty of the board to
21 carry out an orderly transition to a wine and spirits store
22 system in a manner which is consistent with this article and
23 other laws of this Commonwealth and which maintains a continuous
24 level of service to the public.

25 (b) Subject to the provisions of this article, the board
26 shall establish seven hundred fifty-seven (757) franchise zones
27 within this Commonwealth for the issuance of wine and spirit
28 store licenses granting to a licensee the exclusive authority to
29 sell liquor and wine at retail for off-premises consumption
30 within each franchise zone. The board in establishing each

1 franchise zone shall ensure the delivery of services currently
2 provided by State stores. At a minimum there shall be a wine and
3 spirits store located in each county.

4 (c) (1) The board shall establish a schedule for the sale
5 of exclusive wine and spirits store franchises within the
6 franchise zones established pursuant to subsection (b) by sale
7 to the highest responsible bidder in accordance with this
8 article. The board may establish a staggered schedule for the
9 sale of wine and spirits store franchises in order to maintain a
10 continuous level of service to the public.

11 (2) The minimum bid for a franchise shall be fifty thousand
12 dollars (\$50,000).

13 (3) The franchise shall be valid for a period of ten (10)
14 years from the date of issuance unless sooner forfeited,
15 abandoned or revoked pursuant to the provisions of this act.

16 (4) No applicant may hold, directly or indirectly:

17 (i) more than ten per centum of the franchises within this
18 Commonwealth;

19 (ii) more than forty per centum of the franchises in any one
20 county which has five (5) or more franchises; and

21 (iii) all the franchises in any one county which has less
22 than five (5) franchises.

23 (d) In implementing the provisions of this article, the
24 board shall have the following additional powers and duties:

25 (1) Prescribe application forms for persons desiring to
26 acquire a wine and spirits store license.

27 (2) Adopt an orderly procedure for the investigation,
28 processing and approval of applications for franchises and wine
29 and spirits store licenses.

30 (3) Develop the form of the wine and spirits store license.

1 (4) Disseminate information to the public relating to the
2 sale of franchises and the issuance of wine and spirits store
3 licenses.

4 (5) Make available for public inspection the most recent
5 inventory of the stock, equipment and other assets of each State
6 store as well as a history of sales by product code and State
7 store location for the last five (5) years.

8 (6) Enforce the provisions of this article, including the
9 imposition of civil penalties when appropriate.

10 Section 804-A. Application for Wine and Spirits Store
11 Franchises and Licenses.--(a) No person may bid upon, purchase
12 or otherwise acquire a wine and spirits store franchise unless
13 the applicant has satisfied all the prescribed requirements of
14 this article and the board has approved the applicant's
15 qualification to hold a wine and spirits store franchise and
16 license pursuant to this article.

17 (b) Prior to the submission of a bid for a retail liquor
18 store franchise, each applicant shall file a written
19 application, with any required application fee, in such form and
20 containing such information as the board shall from time to time
21 prescribe. The application shall contain, at a minimum, the
22 following:

23 (1) The name and address of the applicant.

24 (2) Whether the applicant is an individual, corporation,
25 limited liability company, limited partnership, partnership or
26 association; the state of incorporation or organization, the
27 names and residence addresses of each executive officer,
28 director or general or limited partner; and the names and
29 residence addresses of any person or interested individual
30 owning, directly or indirectly, any legal or equitable interest

1 in the operations of the licensed wine and spirits store
2 proposed to be operated by the applicants, including all
3 stockholders of any closed corporation and all stockholders
4 having an ownership interest of five per centum or more of the
5 voting stock of a public corporation. As provided in section
6 404, parties not listed on the application, or any amendment
7 thereof, can have no ownership interest in a licensed business.

8 (3) If the applicant is an association, the application
9 shall set forth the names and addresses of the persons
10 constituting the association.

11 (4) If the applicant is a corporation, the application must
12 show that:

13 (i) the corporation was incorporated under the laws of
14 Pennsylvania or holds a certificate of authority to transact
15 business in Pennsylvania; and

16 (ii) all officers, directors and stockholders with an
17 interest of five per centum or more in the stock of the
18 corporation are citizens of the United States.

19 (5) If the applicant is a natural person, the application
20 must show that the applicant is a citizen of the United States
21 and has been a resident of this Commonwealth for at least one
22 (1) year immediately preceding the application and that the
23 applicant is not acting as an agent for any other person,
24 partnership, association or group of persons beneficially
25 interested in the license.

26 (6) The proposed location and ownership of the site for the
27 wine and spirits store, if available.

28 (7) A sworn statement that the applicant and all parties
29 with any direct or indirect interests in the operation of a wine
30 and spirits store have never been convicted in this Commonwealth

1 of any crime involving fraud, moral turpitude or racketeering or
2 within a period of ten (10) years immediately preceding the date
3 of the application or have been convicted of any felony or of an
4 equivalent crime in another state or of any crime in this or any
5 other Federal or state court for a violation of any Federal or
6 state liquor law. If the applicant is a corporation, limited
7 partnership, partnership or association, the application shall
8 contain a sworn statement that none of the executive officers,
9 directors or general or limited partners, or any person owning,
10 directly or indirectly, at least five per centum of the
11 outstanding stock of or partnership interests in such applicant
12 has been so convicted.

13 (8) A statement that the applicant will continuously operate
14 a wine and spirits store for the duration of the ten (10) year
15 franchise period and will provide a level of service, including,
16 but not limited to, hours of operation and product availability
17 reasonably equivalent to the level of service currently provided
18 in the same geographic area.

19 (c) In addition to the application filed under subsection
20 (a), the applicant shall provide a financial statement in the
21 form and containing such information as the board shall from
22 time to time prescribe to indicate the applicant's financial
23 capability to operate the wine and spirits store and the
24 estimated volume of business to be conducted in the wine and
25 spirits store.

26 (d) The application shall be signed and verified by oath or
27 affirmation by the owner, if a natural person, or, in the case
28 of an association, by a member or partner thereof, or, in the
29 case of a corporation, by an executive officer thereof or any
30 person specifically authorized by the corporation to sign the

1 application, to which shall be attached written evidence of that
2 authority.

3 (e) An applicant shall provide the board any additional
4 information the board may request.

5 (f) When a change occurs in any information provided to the
6 board, an amended application shall immediately be submitted to
7 the board in the same manner as the original application.

8 Section 805-A. Issuance of Licenses.--(a) Only those
9 applicants for wine and spirits store licenses issued pursuant
10 to this section who meet all of the requirements of this
11 subsection shall be qualified to participate in the sale
12 conducted under this article. The qualifications are as follows:

13 (1) applicants shall demonstrate, by submitting financial
14 statements, that the applicants possess sufficient financial
15 resources to operate a licensed wine and spirits store, pay all
16 taxes due and owing to the Commonwealth and assume liability for
17 the safe operation of the licensed premises;

18 (2) applicants shall file a certificate obtained from the
19 Department of Revenue indicating whether the applicant has any
20 current tax deficiencies due and owing the Commonwealth. No
21 applicant shall be permitted to participate in the sale of
22 franchises pursuant to this article if that applicant has any
23 outstanding tax assessments or deficiencies except for amounts
24 subject to timely appeal; and

25 (3) all required bonds and letters of credit shall be posted
26 and are subject to forfeiture for violations of this article in
27 the same manner as provided by sections 465 and 466 of this act.

28 (b) Licenses shall be issued pursuant to this section to
29 successful bidders upon demonstration that the licensee will
30 comply with all of the following terms and conditions:

1 (1) notice shall be given to the board within fifteen (15)
2 days of any change in financial interests as provided by
3 subsection (a)(1);

4 (2) notice shall be given to the board within fifteen (15)
5 days of any criminal indictments or convictions as provided in
6 section 804-A(b)(7) and the ownership interest of any parties
7 subject to such convictions shall be totally divested by the
8 licensee within thirty (30) days of the date of any conviction,
9 guilty plea or plea of nolo contendere;

10 (3) licensees shall continue to maintain the bonding for the
11 operation of the wine and spirits store required by this
12 article;

13 (4) licensees shall remit to the board the emergency liquor
14 tax as provided by the act of June 9, 1936 (1st Sp.Sess.,
15 P.L.13, No.4), entitled "An act imposing an emergency State tax
16 on liquor, as herein defined, sold by the Pennsylvania Liquor
17 Control Board; providing for the collection and payment of such
18 tax; and imposing duties upon the Department of Revenue and the
19 Pennsylvania Liquor Control Board"; licensees shall remit to the
20 Department of Revenue the sales and use tax as provided by
21 Article II of the act of March 4, 1971 (P.L.6, No.2), known as
22 the "Tax Reform Code of 1971";

23 (5) licensees shall acquire wine and liquor exclusively from
24 the wholesale system as provided in this act and shall keep a
25 detailed log of all wholesale wine and liquor transactions;

26 (6) licensees shall establish adequate security to protect
27 their inventory from unauthorized sale or diversion and prevent
28 its unauthorized distribution; and

29 (7) no licensee shall locate or operate any wine and spirits
30 store in any grocery store, convenience store, pharmacy or in

1 any premises where the retail sale of motor fuel or malt or
2 brewed beverages is conducted.

3 Section 806-A. Disqualification.--(a) The board shall
4 disqualify an applicant for a franchise or a wine and spirits
5 store license if:

6 (1) The applicant has been convicted of a crime as provided
7 in clause (4).

8 (2) Any executive officer, director or general or limited
9 partner of the applicant, or any person owning, directly or
10 indirectly, at least five per centum of the outstanding stock of
11 or partnership interest in the applicant, has been convicted of
12 a crime as provided in clause (4).

13 (3) The applicant receives funds for the financing of any
14 part of the wine and spirits store from any individual who has
15 been convicted of a crime as provided in clause (4).

16 (4) In any instance in which an applicant or persons with
17 financial interest in the license are under indictment for a
18 felony or under investigation by a legally constituted grand
19 jury, the board shall withhold approval or disapproval of the
20 license until such time as all legal proceedings related to the
21 felony are resolved.

22 (5) The applicant provides false or misleading information.

23 (b) If any false statement is intentionally made in any part
24 of the application, the affiant shall be guilty of a misdemeanor
25 of the second degree and, upon conviction, shall be subject to
26 the penalties provided by this article. In addition, the
27 applicant shall be denied a franchise and a license or, if
28 already granted, the franchise and license shall be revoked.

29 Section 807-A. Application Procedure.--(a) Upon receipt of
30 an application for a wine and spirits store franchise and

1 license, and any other information the board may require, the
2 board shall conduct an investigation of the applicant as deemed
3 necessary or desirable.

4 (b) Upon the completion of an investigation under subsection
5 (a), the board shall inform the applicant, in writing, whether
6 the application has been approved or denied and shall post a
7 copy of the decision in the office of the board.

8 (c) If an application is denied, the board shall provide the
9 applicant with the specific reasons for the denial. The
10 applicant shall be entitled to a hearing if a hearing is
11 requested within five (5) days of the decision.

12 (d) Every applicant for a wine and spirits store license or
13 for the transfer of an existing license to another premises not
14 then licensed shall post, for a period of at least sixty (60)
15 days beginning with the day the application is filed with the
16 board, in a conspicuous place on the outside of the premises or
17 at the proposed new location for which the license is applied, a
18 notice of the application in the form, of the size, and
19 containing all information as the board may require by
20 regulation.

21 (e) The board shall hold a hearing on any application for a
22 wine and spirits store license upon the request of any resident
23 residing within a radius of five hundred (500) feet of the
24 premises, if the request is filed within fifteen (15) days of
25 posting the notice of application under subsection (d). The
26 board and any hearing examiner of the board shall give
27 appropriate evidentiary weight to any testimony of such
28 residents at the hearing. The board may provide for the holding
29 of such hearings by hearing examiners as provided in this act.
30 The board shall refuse any application for a wine and spirits

1 store license which could be detrimental to the welfare, health,
2 peace and morals of the inhabitants of the neighborhood within a
3 radius of five hundred (500) feet of the premises proposed to be
4 licensed.

5 (f) The board shall approve or disapprove the location and
6 notify the successful bidder or licensee of its decision.

7 Section 808-A. Physical Limitations.--(a) The premises of
8 each wine and spirits store shall be a self-contained unit with
9 limited customer access dedicated solely to the sale of liquor
10 and permitted merchandise. All purchases made within the
11 limitations of the premises shall be paid for at a location
12 within the confines of the liquor sales area. No wine and
13 spirits store shall have any interior connection with any other
14 business or with any residential building.

15 (b) Upon notice of a successful bid on a franchise or an
16 application to relocate, each applicant for a wine and spirits
17 store license shall submit a description of the premises and any
18 other material, information and description of the plan of that
19 premises where it is proposed to keep and sell liquor as may be
20 required by the regulations of the board.

21 (c) The descriptions, information and plans under subsection
22 (b) shall show the proposed location, and shall show any
23 alterations proposed to be made to the described premises, or
24 the new building proposed to be constructed after the approval
25 by the board of the application for a franchise or for the
26 transfer of an existing license to another premises not then
27 licensed.

28 Section 809-A. Denial or Revocation of Application.--
29 Hearings on the denial of an application or on the failure to
30 renew a license shall be held in accordance with the procedures

1 established in section 464 of this act.

2 Section 810-A. Bidding.--(a) The granting of franchises
3 under this article shall be by sealed competitive bids to the
4 highest responsible bidder. No bid shall be considered unless
5 the bond required under section 805-A has been submitted to the
6 board. All bids for a wine and spirits store franchise may be
7 rejected by the board if the board determines that the highest
8 bid is inadequate. Whenever the board rejects all the tendered
9 bids, the board shall begin a new bidding process for that wine
10 and spirits store franchise. The board shall notify qualified
11 bid applicants of the date and the hour of the bid openings.

12 (b) In order to participate in the bidding under this
13 section, bid applicants shall post bonds, cash, negotiable
14 securities or letters of credit equal to an amount set by the
15 board, but not less than fifty thousand dollars (\$50,000).

16 (c) Each person desiring to submit a bid must file the bid
17 with the board prior to the specified date and hour for the bid
18 openings. Failure to deliver a bid or nonreceipt of a bid prior
19 to the appointed date and hour shall constitute sufficient
20 reason for rejection of a bid. Following the award of the
21 exclusive wine and spirits store franchise within each franchise
22 zone, the board shall indicate the successful bidder. A copy of
23 each awarded bid and the bidder's application shall be
24 maintained as public record and open to public inspection in the
25 offices of the board. Rejection of all tendered bids by the
26 board shall result in the opening of a new bidding process for
27 that wine and spirits store franchise.

28 (d) The board shall issue a franchise to a successful bidder
29 to operate a wine and spirits store within the specified
30 franchise zone upon satisfaction of all of the following

1 conditions:

2 (1) Execution by the successful bidder of a franchise
3 agreement.

4 (2) Payment in full by the successful bidder of the amount
5 of the successful bid.

6 (3) Approval by the board of the successful bidder's
7 proposed franchise location.

8 (4) Posting by the successful bidder of bonds in an amount
9 determined by the board to reasonably reflect the cost of the
10 bidder's initial inventory. Bonds posted pursuant to this clause
11 shall be released by the board upon payment in full by the
12 successful bidder of the amount due for initial inventory or
13 shall be forfeited in the event the amount due for initial
14 inventory is not paid in full within fifteen (15) days of the
15 date such inventory was delivered to the wine and spirits store
16 location.

17 (e) Bonds posted by unsuccessful bidders pursuant to section
18 805-A(e) of this act shall be released by the board upon
19 acceptance of the successful bid.

20 (f) Bonds posted by the successful bidder pursuant to
21 section 805-A(e) of this act shall be released by the board upon
22 payment by the successful bidder of the initial franchise fee. A
23 successful bidder's bond shall be forfeited if the initial
24 franchise fee is not paid within ninety (90) days of the date
25 the board accepts the bid and the board shall then offer the
26 franchise to the next highest responsible bidder. The board
27 shall then either issue the wine and spirits store license to
28 the next highest bidder for such license or reject all bids and
29 start the bidding process anew for such retail liquor store
30 license.

1 Section 811-A. Closure of Existing State Stores.--(a) An
2 awarded franchise and license shall grant the successful bidder
3 the opportunity to bid upon the remaining inventory, tangible
4 property and fixtures of all State stores owned by the
5 Commonwealth pursuant to this article. The board shall establish
6 a procedure for the sale of the inventory, property and fixtures
7 of all State stores consistent with Article XXIV-A of the act of
8 April 9, 1929 (P.L.177, No.175), known as "The Administrative
9 Code of 1929." All monetary proceeds from such sales shall be
10 deposited in the Wine and Spirits Store Fund.

11 (b) The board shall develop a schedule of closure for State
12 stores. Under no circumstances shall any State store remain open
13 for retail sales beyond eighteen months following the initial
14 opening date set for any wine and spirits store.

15 Section 812-A. Monthly Franchise Fee, Initial Franchise
16 Period and Renewal of Retail Liquor Store Licenses.--(a) On or
17 before the tenth day of each calendar month, each wine and
18 spirits store licensee shall deliver to the board a statement of
19 the gross sales of liquor and wine from the wine and spirits
20 store location for the preceding calendar month together with
21 payment of the one per centum monthly franchise fee applied to
22 such gross sales before the application of sales tax. Such
23 statement shall be in the form prescribed by the board and shall
24 include separate sales figures for the wine and spirits store's
25 sales of liquor, wine and other items and a statement of total
26 sales together with the calculation of the licensee's monthly
27 franchise fee.

28 (b) The initial franchise period for each retail liquor
29 store shall be ten (10) years from the effective date of the
30 wine and spirits store license.

1 (c) At the end of the initial ten-year franchise period, the
2 board shall conduct a review of each wine and spirits store
3 franchise and licensee to determine if each licensee and each
4 wine and spirits store has complied with the provisions of this
5 act and any regulations promulgated pursuant thereto. The board
6 shall also review the service provided by each wine and spirits
7 store to determine its adequacy. The board may decline to renew
8 the franchise and license of any wine and spirits store which
9 has substantially failed to comply with the provisions of this
10 act or which has failed to provide an adequate level of service
11 to the public.

12 (d) At the end of the initial ten (10) year franchise
13 period, the board shall determine the amount of the franchise
14 renewal fee to be paid by the wine and spirits store licensee in
15 order to retain the franchise for another ten (10) year period.
16 The renewal fee shall be a percentage of the annual gross sales
17 of the wine and spirits store, as determined by the board, but
18 not less than the amount of the original bid for the franchise.
19 If the wine and spirits store licensee remits the franchise
20 renewal fee as herein provided and is successfully reviewed by
21 the board pursuant to subsection (c), the licensee shall retain
22 the franchise for a second ten (10) year period.

23 (e) Should the wine and spirits store licensee fail to remit
24 the franchise renewal fee within ninety (90) days of
25 notification of the fee from the board, the franchise shall be
26 rebid in the same manner as provided in section 811-A of this
27 act. Applicants shall submit to the board the same information
28 required for the initial issuance of the exclusive franchise and
29 wine and spirits store license and any additional information
30 required by the board by such dates as prescribed by the board.

1 (f) The requirements and procedures set forth in this
2 section shall apply to all franchises and licenses at the end of
3 each ten (10) year period.

4 Section 813-A. Sale, Assignment or Transfer of License.--(a)
5 No person may sell, assign or otherwise transfer a wine and
6 spirits store franchise and license without the prior written
7 approval of the board.

8 (b) For purposes of this section, the merger of a wine and
9 spirits store licensee or the sale of more than fifty per centum
10 of the outstanding stock of or partnership interests in the wine
11 and spirits store licensee shall be deemed to be a sale,
12 assignment or transfer of a wine and spirits store franchise and
13 license under this section.

14 (c) Any person to whom a wine and spirits store franchise
15 and license is sold, transferred or reissued shall comply with
16 the provisions of this act.

17 Section 814-A. Renewal or Transfer.--(a) The board shall
18 hold hearings on renewals or transfers as it deems necessary at
19 such times as it shall fix for the purpose of hearing such
20 testimony. The board shall hold a hearing on any application for
21 a renewal of a wine and spirits store license or the transfer of
22 any such license to a new location, upon the request of any
23 person with standing to testify under subsection (b), if the
24 request is filed with the board within the first fifteen (15)
25 days of posting of the notice of application pursuant to section
26 806-A of this act. The board may provide for the holding of such
27 hearings by hearing examiners as provided in this act.

28 (b) Where a hearing is held in the case of an application
29 for a license or the transfer of a license under this article,
30 the board shall permit residents residing within a radius of

1 five hundred feet of the premises to testify at the hearing. The
2 board and any hearing examiner of the board shall give
3 appropriate evidentiary weight to any testimony of such
4 residents given at the hearing.

5 (c) The board shall refuse any application for a renewal or
6 transfer which would be detrimental to the welfare, health,
7 peace and morals of the inhabitants of the neighborhood within a
8 radius of five hundred feet of the place proposed to be
9 licensed.

10 Section 815-A. Surrender, Revocation or Forfeiture of Wine
11 and Spirits Store Franchise and License.--Any wine and spirits
12 store licensee may surrender its franchise and license to the
13 board at any time. Upon surrender, revocation or forfeiture of a
14 franchise and license, the board shall proceed to reissue the
15 exclusive wine and spirits store franchise within the franchise
16 zone by the bidding process provided in this article.

17 Section 816-A. Sales by Wine and Spirits Stores.--(a) Every
18 wine and spirits store may sell liquor for consumption off-
19 premises. In addition to the sale of liquor, wine and spirits
20 stores may sell related merchandise within the controlled area
21 of the store. Sales of related merchandise shall not exceed
22 thirty per centum of the gross annual sales of any wine and
23 spirits store. Wine and spirits stores have no authority under
24 any circumstances to sell malt or brewed beverages. The board
25 shall promulgate regulations setting forth what additional
26 related merchandise may be offered for retail sale in wine and
27 spirits stores.

28 (b) No licensee shall engage in any separate business
29 activities upon any licensed premises without prior approval of
30 the board.

1 (c) All holders of licenses issued under section 401 of this
2 act shall only purchase wine and liquor from the wine and
3 spirits store in the franchise zone in which the section 401
4 licensee is located or a contiguous franchise zone thereto.

5 (d) Wine and spirits store licensees may not sell liquor
6 between eleven o'clock postmeridian and eight o'clock
7 antemeridian or between the hours of eleven o'clock postmeridian
8 Saturday and eight o'clock antemeridian on Monday.

9 (e) Nothing in this act, or any regulation promulgated
10 thereunder, shall prohibit or prevent any wine and spirits store
11 licensee from employing any person who is at least twenty-one
12 (21) years of age to directly serve the public and who is at
13 least sixteen (16) years of age to stock shelves and perform
14 related work.

15 Section 817-A. Records.--All of the business and financial
16 books and records and the wine and spirits store location shall
17 be available at any time for inspection and audit by the board.
18 The board may audit all books and records and audit the physical
19 inventory of the wine and spirits store at any time. The board
20 shall audit each wine and spirits store at least once every
21 three years. Failure to permit a review or an audit under this
22 section is grounds for revocation.

23 Section 818-A. Unlawful Acts.--(a) No licensee shall
24 operate any theater, circus, museum or other place of amusement
25 or any bowling alley, game room, video arcade or other
26 recreational area or have any passageway or connection between a
27 licensed premises and a place of amusement or recreation.

28 (b) No licensee shall permit the consumption of alcoholic
29 beverages on the premises of the licensed establishment, except
30 for the sampling or tasting of products as approved by the

1 board.

2 (c) No retail liquor store shall be located within three
3 hundred (300) feet of any church, school, hospital, charitable
4 institution or playground.

5 Section 819-A. Civil Penalties.--(a) In addition to the
6 penalties set forth in sections 471 and 494 of this act, any
7 wine and spirits store licensee who violates any provision of
8 this article or regulation promulgated pursuant thereto may be
9 assessed a civil penalty by the board of not less than one
10 hundred dollars (\$100) and not more than one thousand dollars
11 (\$1,000) per violation. Each violation shall constitute a
12 separate offense. In determining the amount of the penalty, the
13 board shall consider all of the following:

14 (1) the wine and spirits licensee's history of previous
15 violations;

16 (2) the appropriateness of such penalty to the size of the
17 business of the wine and spirits licensee charged;

18 (3) the gravity of the violation; and

19 (4) the demonstrated good faith of the wine and spirits
20 licensee charged in attempting to achieve compliance after
21 notification of a violation.

22 (b) A civil penalty shall be assessed after the board has
23 given at least ten (10) days' notice to the wine and spirits
24 store licensee. Notice shall be in writing, shall state the
25 reason for the proposed penalty and the amount thereof, and
26 shall designate a time and place for a hearing. Notice shall be
27 sent by certified mail to the address for which the wine and
28 spirits store license was issued.

29 Section 820-A. Suspension or Revocation.--(a) The board
30 shall have the power to refuse to issue and the power to suspend

1 or revoke a wine and spirits store license when the board finds
2 that:

3 (1) the licensee has violated any of the provisions of this
4 act or any regulations of the board;

5 (2) the applicant or licensee has knowingly presented to the
6 board false, incomplete or misleading information relating to
7 licensure or to the operation of a franchise;

8 (3) the applicant or licensee has pleaded guilty, entered a
9 plea of nolo contendere or has been found guilty of a felony by
10 a judge or jury in any state or Federal court; or

11 (4) the licensee failed to operate the wine and spirits
12 store or to provide a reasonable level of consumer service.

13 (b) Suspension and revocation hearings shall be held in
14 accordance with the procedures in section 514 of this act.

15 (c) No person may sell liquor at any outlet if the wine and
16 spirits store license applicable to that outlet has been
17 forfeited, suspended, revoked, or has expired.

18 (d) In the event of the revocation, forfeiture or surrender
19 of any wine and spirits store license in accordance with this
20 act, the board shall also revoke the franchise and conduct a
21 public sale to grant to the highest responsible bidder a
22 replacement license for the duration of the franchise period as
23 prescribed by the board.

24 Section 821-A. Reemployment Tax Credit.--(a) A full-time
25 employe of a Pennsylvania State store whose employment is
26 terminated as a result of the closing of a State store shall be
27 eligible for a two (2) year reemployment tax credit voucher in
28 the amount of one thousand dollars (\$1,000) per taxable year.
29 Such voucher shall be made available to each qualified employe
30 of a Pennsylvania State store upon termination of employment by

1 the Liquor Control Board. Each voucher shall be certified by the
2 Liquor Control Board before the voucher is provided to the
3 qualified employe, and the Department of Revenue shall be
4 informed of each qualified employe to whom a voucher has been
5 provided.

6 (b) Any employer in this Commonwealth who employs such a
7 former employe of a Pennsylvania State store may, upon transfer
8 of the voucher from the employe to the employer, use the voucher
9 as a credit against the State tax liability of the business,
10 provided that the employer can demonstrate the following:

11 (1) That the employe for which the tax credit is being
12 sought was terminated from a Pennsylvania State store within
13 twelve months of being employed by the employer.

14 (2) That the former State store employe has been employed by
15 the employer seeking the tax credit for a period not less than
16 one (1) year.

17 (c) The employer shall submit the tax credit voucher to the
18 Department of Revenue along with the information required under
19 subsection (b)(1) and (2) in conjunction with the filing of a
20 State business tax identified in subsection (d)(2).

21 (d) (1) An employer may claim a reemployment tax credit for
22 every job filled by a former Pennsylvania State store employe of
23 one thousand dollars (\$1,000) per taxable year for a maximum of
24 two (2) taxable years.

25 (2) An employer may apply the reemployment tax credit to one
26 hundred per centum of the employer's State corporate net income
27 tax, capital stock and franchise tax or the personal tax of a
28 shareholder of the company if the company is a Pennsylvania S
29 corporation, gross premiums tax, gross receipts tax, bank and
30 trust company shares tax, mutual thrift institution tax, title

1 insurance company shares tax, personal income tax or the
2 personal income tax of a shareholder of a Pennsylvania S
3 corporation or any combination thereof.

4 (3) A former Pennsylvania State store employe whose
5 employment is terminated with an employer who has utilized the
6 reemployment tax credit voucher to claim a one (1) year one
7 thousand dollar (\$1,000) tax credit, may transfer the voucher to
8 a new employer who may use the remaining one thousand dollar
9 (\$1,000) tax credit as a claim against the business tax
10 liability identified in clause (2).

11 (4) The term of the reemployment tax credit voucher may not
12 exceed three years from the date the voucher is provided to the
13 qualified former Pennsylvania State store employe.

14 Section 822-A. Annual Reports.--On or before October 31,
15 2007, and each year thereafter, the board shall submit to the
16 General Assembly an annual report on retail alcohol sales in
17 this Commonwealth and the implementation of this article,
18 including, but not limited to, the total revenue earned by the
19 issuance of wine and spirits store license.

20 Section 823-A. Review.--Five (5) years following the
21 effective date of this article, the board shall conduct a
22 thorough review of the operations of the wine and spirits
23 stores. The board shall submit a copy of this review and any
24 recommendations relating to the expansion of existing franchise
25 zones to the General Assembly. The same review shall be
26 conducted ten (10) years following the sale of the first wine
27 and spirits store franchise.

28 Section 824-A. Disposition of Proceeds.--All proceeds from
29 the Wine and Spirits Stores Fund are appropriated for and shall
30 be allocated in the order set forth:

1 (1) Seventy-one million three hundred eighty thousand
2 dollars (\$71,380,000) shall be transferred to the General Fund
3 each year.

4 (2) An amount equal to the total amount of tax credits
5 certified by the board pursuant to section 822-A(a) of this act
6 in a fiscal year shall be transferred to the General Fund.

7 (3) Three million dollars (\$3,000,000) per year shall be
8 transferred to the Department of Transportation to be used for
9 grants to district attorneys, municipal police departments and
10 the Pennsylvania State Police for training, testing,
11 certification and operation of programs designed to combat
12 driving under the influence, including sobriety checkpoints.

13 (4) Four million dollars (\$4,000,000) per year shall be
14 transferred to the Department of Health for use by the Office of
15 Drug and Alcohol Programs, or its successor in function for
16 distribution. Not less than fifty per centum of the funds shall
17 be used for the promotion of education and prevention programs
18 designed to eliminate abuse and addiction to alcohol and
19 controlled substances for children under eighteen (18) years of
20 age.

21 (5) Two million five hundred thousand dollars (\$2,500,000)
22 shall be transferred to the Department of Transportation for the
23 purchase of equipment and for training, testing and
24 certification of municipal police departments and the
25 Pennsylvania State Police in its use.

26 (6) The sum of five million dollars (\$5,000,000) shall be
27 transferred from The State Stores Fund in accordance with
28 subsection (f) to the Children's Health Fund for health care for
29 indigent children established by section 1296 of the act of
30 March 4, 1971 (P.L.6, No.2), known as the "Tax Reform Code of

1 1971," to carry out the provisions of the act of December 2,
2 1992 (P.L.741, No.113), known as the "Children's Health Care
3 Act," for the fiscal year July 1, 1996, to June 30, 1997. Funds
4 transferred under this subsection shall not be subject to the
5 limitation set forth in section 3101 of the "Children's Health
6 Care Act."

7 (7) The board may continue to carry over money from year to
8 year and hold in the fund a reserve of retained earnings in an
9 amount as may be approved by the Secretary of the Budget.

10 (8) Twenty-five per centum of the remaining balance of the
11 fund at the end of each fiscal year shall be transferred to the
12 Department of Education for deposit in a restricted account for
13 the purposes of providing scholarships pursuant to section 825-A
14 of this act.

15 (9) The remaining balance of the fund at the end of each
16 fiscal year shall be transferred to the Better Communities Fund
17 created and established pursuant to section 826-A of this act.

18 Section 825-A. Governor's Community Service Scholarship
19 Program.--(a) There is hereby established the Community Service
20 Scholarship Program to be administered by the Department of
21 Education.

22 (b) Scholarships granted under this section shall be
23 available to graduating students in each public school,
24 nonpublic school, comprehensive area vocational-technical school
25 and the Scotland School. Scholarships of one thousand dollars
26 (\$1,000) each per year for up to four (4) years for educational
27 costs at postsecondary institutions, to include specialized
28 technical or vocational training institutions, within this
29 Commonwealth shall be awarded annually in each public,
30 nonpublic, comprehensive area vocational-technical school and

1 the Scotland School. The Department of Education shall in
2 consultation with the Secretary of the Budget determine the
3 number and the amount of the scholarships for each school year.
4 In no event shall the number of scholarships per school exceed
5 ten per centum of the number of members of the graduating class
6 of each school year. The Department of Education may enter into
7 an agreement with the Pennsylvania Higher Education Assistance
8 Agency to distribute the scholarship funds.

9 (c) A scholarship award pursuant to this section shall not
10 be considered in determining eligibility for State higher
11 education financial assistance.

12 (d) In order to be eligible for a scholarship under this
13 section, a graduating student shall:

14 (1) Have a minimum grade point average of 3.0 or its
15 equivalent approved by the department.

16 (2) Score at the level of proficiency or above on State
17 assessment tests or an equivalent approved by the department.

18 (3) Submit a written essay regarding education and career
19 goals.

20 (4) Submit two recommendations, one from a teacher or school
21 official and one from a member of the community.

22 (5) Demonstrate a commitment to nonschool related community
23 service.

24 (e) The Department of Education shall adopt guidelines for:

25 (1) The establishment by a local board of school directors
26 of Community Service Scholarship Evaluation Boards.

27 (2) The evaluation of scholarship applications of students
28 who are eligible pursuant to subsection (d).

29 (f) (1) In order to receive scholarships pursuant to this
30 section, each local board of school directors shall establish an

1 evaluation board comprised of residents of the school district.

2 Each board shall be comprised of nine members as follows:

3 (i) One representative of a public school.

4 (ii) One representative of a private school.

5 (iii) One representative of a comprehensive area vocational
6 school.

7 (iv) Three representatives of community service
8 organizations.

9 (v) Three public members.

10 (2) Members of the evaluation board established under this
11 subsection shall be elected by the members of the local board of
12 school directors based upon recommendations from the local board
13 of school directors and from the public at large.

14 (g) A scholarship awarded under subsection (b) shall be for
15 four (4) years of postsecondary education and shall expire six
16 (6) years after the date of award.

17 Section 826-A. Better Communities Fund.--(a) There is
18 hereby created in the State Treasury a special fund known as the
19 Better Communities Fund into which shall be deposited the
20 remaining balance of the Wine and Spirits Store Fund pursuant to
21 section 824-A of this act. The board of the State Employees
22 Retirement System shall be trustees of the fund and shall have
23 exclusive control and management of the fund and full power to
24 invest the same under the same conditions that the board uses in
25 the investment of other moneys under its control.

26 (b) Moneys in the Better Communities Fund shall be used for
27 capital projects which meet the criteria in subsection (c).
28 Quarterly, or as required by the Secretary of the Budget, the
29 board of the State Employees Retirement System shall transfer to
30 the General Fund the amount certified by the Secretary of the

1 Budget as equal to the amount of debt service on bonds issued to
2 fund community asset projects.

3 (c) In order to be eligible for funding from the Better
4 Communities Fund, a project must be specifically itemized in a
5 capital budget. Projects must meet the following criteria to
6 receive funding:

7 (1) are community, historic, cultural or recreational
8 facilities. Higher education facilities may qualify for funding
9 except facilities owned or operated by a State-related
10 institution or a State System of Higher Education institution;

11 (2) are eligible for tax-exempt bond funding under existing
12 Federal law and regulation;

13 (3) have a total project cost of one million dollars
14 (\$1,000,000) or more; and

15 (4) have a nonstate participation of at least sixty-five per
16 centum which shall be identified at the time of application and
17 toward which State funds from other programs may not be used.

18 The Governor may waive a portion of the nonstate participation
19 if compelling circumstances exist. However, in no case shall the
20 nonstate participation be less than fifty per centum.

21 (d) The maximum amount of redevelopment assistance projects
22 which may be funded from the Better Communities Fund is five
23 hundred eighty million dollars (\$580,000,000), which shall be in
24 addition to the seven hundred million dollars (\$700,000,000)
25 limit provided in section 1616-1-B of the act of April 9, 1929
26 (P.L.343, No.176), known as "The Fiscal Code." Any redevelopment
27 assistance project funded from the Better Communities Fund must
28 meet the criteria in subsection (c) but does not have to fulfill
29 the requirements for redevelopment assistance projects contained
30 in section 1602-B of "The Fiscal Code."

1 (e) In addition, projects which receive funding must comply
2 with the provisions of section 1616.2-B of "The Fiscal Code" on
3 funding and administration of projects. However, the fee which
4 may be charged against bond proceeds for administrative costs
5 may not be used to pay salaries of Commonwealth employes.

6 Section 19. This act shall take effect July 1, 1997, or
7 immediately, whichever is later.