

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

**HOUSE BILL****No. 2778** Session of  
2004

INTRODUCED BY BARRAR, HORSEY AND YOUNGBLOOD, JUNE 30, 2004

REFERRED TO COMMITTEE ON LIQUOR CONTROL, JUNE 30, 2004

## 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 transfer of the functions and duties of the  
18 Bureau of Liquor Control Enforcement of the Pennsylvania  
19 State Police to municipal and regional police departments.

20 The General Assembly of the Commonwealth of Pennsylvania

21 hereby enacts as follows:

22 Section 1. The definitions of "enforcement bureau" and  
23 "social gathering" in section 102 of the act of April 12, 1951  
24 (P.L.90, No.21), known as the Liquor Code, reenacted and amended  
25 June 29, 1987 (P.L.32, No.14) and added May 8, 2003 (P.L.1,  
26 No.1), are amended and the section is amended by adding a

1 definition 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 "Enforcement authority" shall mean a municipal or regional  
7 police department, or in those areas not served by a municipal  
8 or regional police department, the term shall mean the  
9 Pennsylvania State Police.

10 ["Enforcement bureau" shall mean the Bureau of Liquor Control  
11 Enforcement of the Pennsylvania State Police.]

12 \* \* \*

13 "Social gathering" shall mean events marketed to or catering  
14 to minors in whole or in part for which proper notice has been  
15 provided to the [Bureau of Enforcement] enforcement authority  
16 and at which time no alcohol is served and all alcohol is  
17 removed or secured by lock and key at the licensed premises.

18 \* \* \*

19 Section 2. Section 206.1 of the act, amended December 9,  
20 2002 (P.L.1653, No.212), is amended to read:

21 Section 206.1. Board and Enforcement [Bureau] Authority  
22 Subject to State Ethics and Adverse Interest Acts.--(a) Except  
23 to the extent that the penalties provided in section 210 of this  
24 act for violations are more stringent, the board, its members  
25 and all of its employes and employes of the enforcement [bureau]  
26 authority shall be subject to the act of October 4, 1978  
27 (P.L.883, No.170), referred to as the Public Official and  
28 Employee Ethics Law, and the act of July 19, 1957 (P.L.1017,  
29 No.451), known as the "State Adverse Interest Act."

30 (b) Membership on the board and employment or continued

1 employment as an employe of the board or enforcement [bureau]  
2 authority is conditioned upon compliance with all of the  
3 provisions of the acts specified in subsection (a), including,  
4 but not limited to, the filing of statements of financial  
5 interests required by section 5 of the Public Official and  
6 Employee Ethics Law. Acceptance or retention of employment shall  
7 be deemed as voluntary consent to submit to the financial  
8 reporting requirements of the Public Official and Employee  
9 Ethics Law as a condition of employment. Failure to timely  
10 comply with the requirements shall result in immediate  
11 termination of employment. Both the board and the enforcement  
12 [bureau] authority are subject to the provisions of 65 Pa.C.S.  
13 Ch. 11 (relating to ethics standards and financial disclosure).

14 Section 3. Section 210 of the act, amended December 21, 1988  
15 (P.L.1879, No.182), is amended to read:

16 Section 210. Restrictions on Members of the Board [and  
17 Certain Employes of Commonwealth].--(a) A member or employe of  
18 the board [or enforcement bureau] or a member of the immediate  
19 family of a member or employe of the board [or enforcement  
20 bureau] shall not be directly or indirectly interested or  
21 engaged in any other business or undertaking within the  
22 Commonwealth dealing in liquor, alcohol, or malt or brewed  
23 beverages, whether as owner, part owner, partner, member of  
24 syndicate, holder of stock exceeding five percent (5%) of the  
25 equity at fair market value of the business, independent  
26 contractor or manager of a licensed establishment required under  
27 40 Pa. Code § 5.23 (relating to appointment of managers), and  
28 whether for his own benefit or in a fiduciary capacity for some  
29 other person. For the purpose of this subsection only, "employe  
30 of the board [or Enforcement Bureau]" shall mean any individual

1 employed by the board [or Enforcement Bureau] who is responsible  
2 for taking or recommending official action of a nonministerial  
3 nature with regard to:

4 (1) contracting or procurement;

5 (2) administering or monitoring grants or subsidies;

6 (3) planning or zoning;

7 (4) inspecting, licensing, regulating or auditing any  
8 person; or

9 (5) any other activity where the official action has an  
10 economic impact of greater than a de minimis nature on the  
11 interests of any person.

12 (b) No member or employe of the board [or enforcement  
13 bureau] or a member of the immediate family of a member or  
14 employe of the board [or enforcement bureau] nor any employe of  
15 the Commonwealth shall solicit or receive, directly or  
16 indirectly, any commission, remuneration or gift whatsoever,  
17 from any person having sold, selling or offering liquor or  
18 alcohol for sale to the board for use in Pennsylvania Liquor  
19 Stores.

20 (c) No person convicted of an infamous crime may be employed  
21 as a member or employe by the board [or enforcement bureau].

22 (d) No member or employe of the board [or enforcement  
23 bureau] may use his position with the board [or enforcement  
24 bureau], or any confidential information received through his  
25 position with the board [or enforcement bureau], to obtain  
26 financial gain, other than compensation provided by law, for  
27 himself, a member of his immediate family or a business with  
28 which he is associated.

29 (e) No person may offer or give to a member or employe of  
30 the board [or enforcement bureau] or a member of his immediate

1 family or a business with which he is associated, and no member  
2 or employe of the board [or enforcement bureau] may solicit or  
3 accept anything of value, including a gift, loan, political  
4 contribution, reward or promise of future employment, based on  
5 an understanding that the vote, official action or judgment of  
6 the member or employe of the board [or enforcement bureau] would  
7 be influenced thereby.

8 (f) No member or employe of the board [or enforcement  
9 bureau] or a member of his immediate family or any business in  
10 which the member or employe or a member of his immediate family  
11 is a director, officer or owner or holder of stock exceeding  
12 five percent (5%) of the equity at fair market value of the  
13 business may enter into any contract valued at five hundred  
14 dollars (\$500) or more to provide goods or services to the board  
15 [or enforcement bureau] unless the contract has been awarded to  
16 the lowest responsible bidder through an open and public  
17 process, including prior public notice and subsequent public  
18 disclosure of all proposals considered and contracts awarded.

19 (g) No former member or employe of the board [or enforcement  
20 bureau] may represent a person, with or without compensation, on  
21 any matter before the board [or enforcement bureau] for one year  
22 after leaving the board [or enforcement bureau].

23 (h) No member or employe of the board [or enforcement  
24 bureau] or an advisor or consultant thereto having recommended  
25 to the board [or enforcement bureau] either the making of a  
26 contract or a course of action of which the making of a contract  
27 is an express or implied part, may, at any time thereafter, have  
28 an adverse interest in that contract.

29 (i) No member or employe of the board [or enforcement  
30 bureau] may influence or attempt to influence the making of, or

1 supervise or deal with, a contract with the board [or  
2 enforcement bureau] in which he has an adverse interest.

3 (j) No member or employe of the board [or enforcement  
4 bureau] may have an adverse interest in a contract with the  
5 board [or enforcement bureau].

6 (k) No person having an adverse interest in a contract with  
7 the board [or enforcement bureau] may become an employe of the  
8 board [or enforcement bureau] until the adverse interest has  
9 been wholly divested.

10 (l) No member or employe of the board [or enforcement  
11 bureau], except in the performance of his duties as such  
12 employe, may, for remuneration, directly or indirectly,  
13 represent a person upon a matter pending before the board [or  
14 enforcement bureau].

15 (m) (1) Any person who violates the provisions of this  
16 section shall have his employment by the board [or enforcement  
17 bureau] immediately terminated by the appropriate person having  
18 the power to terminate and shall be liable to the board [or  
19 enforcement bureau] to reimburse the board [or enforcement  
20 bureau] for all compensation received by him from the board [or  
21 enforcement bureau] while employed in violation of subsection  
22 (c).

23 (2) Any person who violates the provisions of subsections  
24 (b), (d) or (e) shall be guilty of a felony and, upon conviction  
25 thereof, shall be sentenced to pay a fine of not more than ten  
26 thousand dollars (\$10,000) or to undergo imprisonment for not  
27 more than five (5) years, or both.

28 (3) Any person who violates the provisions of subsections  
29 (a) or (f) through (l) shall be guilty of a misdemeanor and,  
30 upon conviction thereof, shall be sentenced to pay a fine of not

1 more than one thousand dollars (\$1,000) or to undergo  
2 imprisonment for not more than one (1) year, or both.

3 (4) Any person who obtains financial gain from violating any  
4 provisions of this section, in addition to any other penalty  
5 provided by law, shall pay into the accounts of the board a sum  
6 of money equal to three (3) times the financial gain resulting  
7 from the violation.

8 (5) Any person who violates the provisions of this section  
9 shall be barred for a period of five (5) years from engaging in  
10 any business or contract with the board [or enforcement bureau].

11 (6) The penalties and sanctions provided by this subsection  
12 shall supersede any similar penalties and sanctions provided by  
13 the act of July 19, 1957 (P.L.1017, No.451), known as the "State  
14 Adverse Interest Act," and the act of October 4, 1978 (P.L.883,  
15 No.170), referred to as the Public Official and Employee Ethics  
16 Law.

17 (n) As used in this section, the following words and phrases  
18 shall have the meanings given to them in this subsection:

19 "Business" shall mean a corporation, partnership, sole  
20 proprietorship, firm, enterprise, franchise, association,  
21 organization, self-employed individual, holding company, joint-  
22 stock company, receivership, trust or legal entity organized for  
23 profit or as a not-for-profit corporation or organization.

24 "Immediate family" shall mean a spouse residing in the  
25 person's household and minor dependent children.

26 "Infamous crime" shall mean a violation and conviction for an  
27 offense which would disqualify an individual from holding public  
28 office pursuant to section 6 of Article II of the Constitution  
29 of Pennsylvania; a conviction within the preceding ten (10)  
30 years for a violation of this section or of 18 Pa.C.S. § 4113

1 (relating to misapplication of entrusted property and property  
2 of government or financial institutions), Ch. 47 (relating to  
3 bribery and corrupt influence), Ch. 49 (relating to  
4 falsification and intimidation), Ch. 51 (relating to obstructing  
5 governmental operations) or Ch. 53 (relating to abuse of  
6 office); or a violation of the laws of this Commonwealth or  
7 another state or the Federal Government for which an individual  
8 has been convicted within the preceding ten (10) years and which  
9 is classified as a felony.

10 Section 4. Section 211 of the act, amended October 5, 1994  
11 (P.L.537, No.80) and July 17, 2003 (P.L.63, No.15), is amended  
12 to read:

13 Section 211. Enforcement.--(a) There is created within the  
14 Pennsylvania State Police a Bureau of Liquor Control Enforcement  
15 which shall be responsible for enforcing this act and any  
16 regulations promulgated pursuant thereto. Officers and  
17 investigators assigned to the bureau shall have the power and  
18 their duty shall be:

19 (1) To investigate whenever there are reasonable grounds to  
20 believe liquor, alcohol or malt or brewed beverages are being  
21 sold on premises not licensed under the provisions of this act.  
22 If the investigation produces evidence of the unlawful sale of  
23 liquor or malt or brewed beverages or any other violation of the  
24 provisions of this act, the officer involved in the  
25 investigation shall institute criminal proceedings against the  
26 person or persons believed to have been criminally liable, as  
27 otherwise provided by law or rule of court.

28 (2) To arrest on view, except in private homes, without  
29 warrant, any person actually engaged in the unlawful sale,  
30 importation, manufacture or transportation or having unlawful



1 possession of liquor, alcohol or malt or brewed beverages  
2 contrary to the provisions of this act or any other law of this  
3 Commonwealth or any person whom the officer/investigator, while  
4 in the performance of his assigned duties under and pursuant to  
5 this act and any regulations promulgated under this act,  
6 observes to be in violation of any of the following provisions:

7           18 Pa.C.S. § 3302 (relating to causing or risking  
8 catastrophe).

9           18 Pa.C.S. § 3304 (relating to criminal mischief).

10           18 Pa.C.S. § 4101 (relating to forgery).

11           18 Pa.C.S. § 5503 (relating to disorderly conduct).

12           18 Pa.C.S. § 5505 (relating to public drunkenness).

13           18 Pa.C.S. § 5512 (relating to lotteries, etc.).

14           18 Pa.C.S. § 5513 (relating to gambling devices,  
15 gambling, etc.).

16           18 Pa.C.S. § 5514 (relating to pool selling and  
17 bookmaking).

18           18 Pa.C.S. § 6307 (relating to misrepresentation of age  
19 to secure liquor or malt or brewed beverages).

20           18 Pa.C.S. § 6308 (relating to purchase, consumption,  
21 possession or transportation of liquor or malt or brewed  
22 beverages).

23           18 Pa.C.S. § 6309 (relating to representing that minor is  
24 of age).

25           18 Pa.C.S. § 6310.1 (relating to selling or furnishing  
26 liquor or malt or brewed beverages to minors).

27           18 Pa.C.S. § 6310.3 (relating to carrying a false  
28 identification card).

29       (3) Upon reasonable and probable cause, to search for and to  
30 seize, without warrant or process, except in private homes, any

1 liquor, alcohol or malt or brewed beverages unlawfully  
2 possessed, manufactured, sold, imported or transported and any  
3 stills, equipment, materials, utensils, vehicles, boats,  
4 vessels, animals, aircraft, or any of them, which are or have  
5 been used in the unlawful manufacture, sale, importation or  
6 transportation of the same. Such liquor, alcohol, malt or brewed  
7 beverages, stills, equipment, materials, utensils, vehicles,  
8 boats, vessels, animals or aircraft so seized shall be disposed  
9 of as hereinafter provided.

10 (4) To investigate and issue citations for any violations of  
11 this act or any laws of this Commonwealth relating to liquor,  
12 alcohol or malt or brewed beverages, or any regulations of the  
13 board adopted pursuant to such laws or any violation of any laws  
14 of this Commonwealth or of the Federal Government, relating to  
15 the payment of taxes on liquor, alcohol or malt or brewed  
16 beverages by any licensee, his officers, servants, agents or  
17 employes.

18 (5) To arrest any person who engages in the following  
19 offenses when the said offenses are committed against the  
20 officer/investigator or any person accompanying and assisting  
21 the officer/investigator while the said officer/investigator is  
22 performing assigned duties under and pursuant to this act and  
23 any regulations promulgated under this act:

24 18 Pa.C.S. § 2701 (relating to simple assault).

25 18 Pa.C.S. § 2702 (relating to aggravated assault).

26 18 Pa.C.S. § 2705 (relating to recklessly endangering  
27 another person).

28 18 Pa.C.S. § 2706 (relating to terroristic threats).

29 18 Pa.C.S. § 2709 (relating to harassment and stalking).

30 18 Pa.C.S. § 5104 (relating to resisting arrest or other

1 law enforcement).

2 18 Pa.C.S. § 5501 (relating to riot).

3 (6) To serve and execute warrants issued by the proper  
4 authorities for offenses referred to in this subsection and to  
5 serve subpoenas.

6 (7) To arrange for the administration of chemical tests of  
7 breath, blood or urine, including preliminary breath tests, to  
8 persons for the purpose of determining the alcoholic content of  
9 blood or the presence of a controlled substance by qualified  
10 personnel of a State or local police department or qualified  
11 personnel of a clinical laboratory licensed and approved by the  
12 Department of Health.

13 (b) Any equipment or appurtenance actually used in the  
14 commission of the unlawful acts may be confiscated. The  
15 confiscation shall not, in any manner, divest or impair the  
16 rights or interest of any bona fide lienholder in the equipment  
17 or appurtenance.

18 (c) The Pennsylvania State Police Commissioner shall assign  
19 State Police Officers to such supervisory and other capacities  
20 in the enforcement bureau as he deems necessary. All other  
21 personnel of the enforcement bureau shall be civilians.

22 (d) The Office of Chief Counsel for the Pennsylvania State  
23 Police shall represent the enforcement bureau in all enforcement  
24 proceedings brought before the Office of Administrative Law  
25 Judge or any other adjudicatory body.

26 (e) Nothing in this act shall be construed to change the  
27 status of civilian enforcement agents for the purposes of the  
28 act of July 23, 1970 (P.L.563, No.195), known as the "Public  
29 Employe Relations Act," or cause civilian enforcement agents to  
30 be considered policemen for the purposes of the act of June 24,

1 1968 (P.L.237, No.111), referred to as the Policemen and Firemen  
2 Collective Bargaining Act.

3 (f) In addition to the information provided to the General  
4 Assembly and the Legislative Data Processing Center under  
5 sections 613 and 614 of the act of April 9, 1929 (P.L.177,  
6 No.175), known as "The Administrative Code of 1929,"  
7 respectively, the Pennsylvania State Police shall provide to the  
8 chairman and minority chairman of the Appropriations Committee  
9 of the Senate and the chairman and minority chairman of the  
10 Appropriations Committee of the House of Representatives any  
11 other information as requested. The Pennsylvania State Police  
12 shall also provide:

13 (1) a copy of the most recently completed audit of  
14 expenditures of the enforcement bureau; and

15 (2) a report detailing the demographic characteristics of  
16 the bureau's complement of civilian officers. Such report shall  
17 include information relating to workplace diversity as contained  
18 in section two of the Governor's Annual Workforce Report  
19 relating to equal employment.] (a) The enforcement of this act  
20 shall be vested in the enforcement authority.

21 (b) Employees of the enforcement bureau terminated under this  
22 act who have civil service status or who are covered by union  
23 contracts shall fill any existing vacancies within the  
24 administrative branch of State government in their grade and  
25 position. If there are more employes than vacant positions at  
26 the time of termination, then terminated employes shall receive  
27 employment in the first vacancies that shall thereafter exist in  
28 their grade and position.

29 Section 5. Section 211.1 of the act, added July 2, 1993  
30 (P.L.429, No.61), is amended to read:

1 Section 211.1. Legal Opinions.--Upon written request by a  
2 licensee, the board or its counsel shall issue a legal opinion  
3 regarding any subject matter relating to this act or any  
4 regulation promulgated pursuant to it. This legal opinion shall  
5 be binding on the enforcement [bureau] authority.

6 Section 6. Sections 412(g) and 431(b) of the act, amended or  
7 added December 9, 2002 (P.L.1653, No.212), are amended to read:

8 Section 412. Public Venue License.--\* \* \*

9 (g) The board may issue multiple licenses under this section  
10 for use in a public venue with permanent seating of at least  
11 thirty-five thousand people. If the board does issue more than  
12 one license for a specific public venue, written notice of the  
13 event must be provided to the enforcement [bureau] authority at  
14 least forty-eight hours in advance of the dispensing of any  
15 liquor or malt or brewed beverages. The notice shall include the  
16 date, time and specific licensed areas to be used. No more than  
17 one license issued under this section shall be in effect at any  
18 location at any time of day at the same time.

19 Section 431. Malt and Brewed Beverages Manufacturers',  
20 Distributors' and Importing Distributors' Licenses.--\* \* \*

21 (b) The board shall issue to any reputable person who  
22 applies therefor, and pays the license fee hereinafter  
23 prescribed, a distributor's or importing distributor's license  
24 for the place which such person desires to maintain for the sale  
25 of malt or brewed beverages, not for consumption on the premises  
26 where sold, and in quantities of not less than a case or  
27 original containers containing one hundred twenty-eight ounces  
28 or more which may be sold separately as prepared for the market  
29 by the manufacturer at the place of manufacture. The board shall  
30 have the discretion to refuse a license to any person or to any

1 corporation, partnership or association if such person, or any  
2 officer or director of such corporation, or any member or  
3 partner of such partnership or association shall have been  
4 convicted or found guilty of a felony within a period of five  
5 years immediately preceding the date of application for the said  
6 license: And provided further, That, in the case of any new  
7 license or the transfer of any license to a new location, the  
8 board may, in its discretion, grant or refuse such new license  
9 or transfer if such place proposed to be licensed is within  
10 three hundred feet of any church, hospital, charitable  
11 institution, school or public playground, or if such new license  
12 or transfer is applied for a place which is within two hundred  
13 feet of any other premises which is licensed by the board: And  
14 provided further, That the board shall refuse any application  
15 for a new license or the transfer of any license to a new  
16 location if, in the board's opinion, such new license or  
17 transfer would be detrimental to the welfare, health, peace and  
18 morals of the inhabitants of the neighborhood within a radius of  
19 five hundred feet of the place proposed to be licensed. The  
20 board shall refuse any application for a new license or the  
21 transfer of any license to a location where the sale of liquid  
22 fuels or oil is conducted. The board may enter into an agreement  
23 with the applicant concerning additional restrictions on the  
24 license in question. If the board and the applicant enter into  
25 such an agreement, such agreement shall be binding on the  
26 applicant. Failure by the applicant to adhere to the agreement  
27 will be sufficient cause to form the basis for a citation under  
28 section 471 and for the nonrenewal of the license under section  
29 470. If the board enters into an agreement with an applicant  
30 concerning additional restrictions, those restrictions shall be

1 binding on subsequent holders of the license until the license  
2 is transferred to a new location or until the board enters into  
3 a subsequent agreement removing those restrictions. If the  
4 application in question involves a location previously licensed  
5 by the board, then any restrictions imposed by the board on the  
6 previous license at that location shall be binding on the  
7 applicant unless the board enters into a new agreement  
8 rescinding those restrictions. The board shall require notice to  
9 be posted on the property or premises upon which the licensee or  
10 proposed licensee will engage in sales of malt or brewed  
11 beverages. This notice shall be similar to the notice required  
12 of hotel, restaurant and club liquor licensees.

13       Except as hereinafter provided, such license shall authorize  
14 the holder thereof to sell or deliver malt or brewed beverages  
15 in quantities above specified anywhere within the Commonwealth  
16 of Pennsylvania, which, in the case of distributors, have been  
17 purchased only from persons licensed under this act as  
18 manufacturers or importing distributors, and in the case of  
19 importing distributors, have been purchased from manufacturers  
20 or persons outside this Commonwealth engaged in the legal sale  
21 of malt or brewed beverages or from manufacturers or importing  
22 distributors licensed under this article. In the case of an  
23 importing distributor, the holder of such a license shall be  
24 authorized to store malt or brewed beverages owned by an out of  
25 State manufacturer at a segregated portion of a warehouse or  
26 other storage facility authorized by section 441(d) and operated  
27 by the importing distributor within its appointed territory and  
28 deliver such beverages to another importing distributor who has  
29 been granted distribution rights by the out of State  
30 manufacturer as provided herein. The importing distributor shall

1 be permitted to receive a fee from the out of State manufacturer  
2 for any related storage or delivery services. In the case of a  
3 bailee for hire hired by an out of State manufacturer, the  
4 holder of such a permit shall be authorized: to receive or store  
5 malt or brewed beverages under the same conditions as permitted  
6 for a distributor or importing distributor under section 441(f)  
7 produced by that out of State manufacturer for sale by that  
8 manufacturer to importing distributors to whom that out of State  
9 manufacturer has given distribution rights pursuant to this  
10 subsection or to purchasers outside this Commonwealth for  
11 delivery outside this Commonwealth; or to ship to that out of  
12 State manufacturer's storage facilities outside this  
13 Commonwealth. The bailee for hire shall be permitted to receive  
14 a fee from the out of State manufacturer for any related storage  
15 or delivery services. The bailee for hire shall, as required in  
16 Article V of this act, keep complete and accurate records of all  
17 transactions, inventory, receipts and shipments and make all  
18 records and the licensed areas available for inspection by the  
19 board and for the [Pennsylvania State Police, Bureau of Liquor  
20 Control Enforcement] enforcement authority, during normal  
21 business hours.

22 Each out of State manufacturer of malt or brewed beverages  
23 whose products are sold and delivered in this Commonwealth shall  
24 give distributing rights for such products in designated  
25 geographical areas to specific importing distributors, and such  
26 importing distributor shall not sell or deliver malt or brewed  
27 beverages manufactured by the out of State manufacturer to any  
28 person issued a license under the provisions of this act whose  
29 licensed premises are not located within the geographical area  
30 for which he has been given distributing rights by such



1 manufacturer. Should a licensee accept the delivery of such malt  
2 or brewed beverages in violation of this section, said licensee  
3 shall be subject to a suspension of his license for at least  
4 thirty days: Provided, That the importing distributor holding  
5 such distributing rights for such product shall not sell or  
6 deliver the same to another importing distributor without first  
7 having entered into a written agreement with the said secondary  
8 importing distributor setting forth the terms and conditions  
9 under which such products are to be resold within the territory  
10 granted to the primary importing distributor by the  
11 manufacturer.

12 When a Pennsylvania manufacturer of malt or brewed beverages  
13 licensed under this article names or constitutes a distributor  
14 or importing distributor as the primary or original supplier of  
15 his product, he shall also designate the specific geographical  
16 area for which the said distributor or importing distributor is  
17 given distributing rights, and such distributor or importing  
18 distributor shall not sell or deliver the products of such  
19 manufacturer to any person issued a license under the provisions  
20 of this act whose licensed premises are not located within the  
21 geographical area for which distributing rights have been given  
22 to the distributor and importing distributor by the said  
23 manufacturer: Provided, That the importing distributor holding  
24 such distributing rights for such product shall not sell or  
25 deliver the same to another importing distributor without first  
26 having entered into a written agreement with the said secondary  
27 importing distributor setting forth the terms and conditions  
28 under which such products are to be resold within the territory  
29 granted to the primary importing distributor by the  
30 manufacturer. Nothing herein contained shall be construed to

1 prevent any manufacturer from authorizing the importing  
2 distributor holding the distributing rights for a designated  
3 geographical area from selling the products of such manufacturer  
4 to another importing distributor also holding distributing  
5 rights from the same manufacturer for another geographical area,  
6 providing such authority be contained in writing and a copy  
7 thereof be given to each of the importing distributors so  
8 affected.

9 \* \* \*

10 Section 7. Section 461(b.2) of the act, amended February 21,  
11 2002 (P.L.103, No.10), is amended to read:

12 Section 461. Limiting Number of Retail Licenses To Be Issued  
13 In Each County.--\* \* \*

14 (b.2) Qualified applicants under subsection (b.1) shall  
15 receive a provisional license for one hundred twenty days,  
16 exclusive of periods of safekeeping. After ninety days from the  
17 date of issuance, the licensee may file an application for a  
18 permanent license. A license shall be issued if the licensee  
19 establishes that for ninety consecutive days from the date of  
20 initial issue its sales of food and nonalcoholic beverages is  
21 equal to at least seventy per centum (70%) of its combined gross  
22 sales of food and alcoholic beverages. Licensees shall not be  
23 subject to citation by the [Enforcement Bureau] enforcement  
24 authority for a violation of the requirement that food and  
25 nonalcoholic beverages equal at least seventy per centum (70%)  
26 of the combined gross sales of food and alcoholic beverages  
27 during the provisional licensing period.

28 \* \* \*

29 Section 8. Section 470(b) of the act, amended December 21,  
30 1998 (P.L.1202, No.155), is amended to read:

1 Section 470. Renewal of Licenses; Temporary Provisions for  
2 Licensees in Armed Service.--\* \* \*

3 (b) In cases where a licensee or his servants, agents or  
4 employes are arrested, charged with violating any of the laws of  
5 this Commonwealth relating to liquor, alcohol or malt or brewed  
6 beverages, and where the board has on file in such cases reports  
7 of [enforcement] officers or investigators of the enforcement  
8 [bureau] authority or from other sources that a licensee or his  
9 servants, agents or employes have violated any of the  
10 aforementioned laws and a proceeding to revoke such licensee's  
11 license is or is about to be instituted, and such arrest occurs  
12 or report of violations is received or revocation proceeding  
13 instituted or about to be instituted during the time a renewal  
14 application of such license is pending before the board, the  
15 board may, in its discretion, renew the license, notwithstanding  
16 such alleged violations, but such renewal license may be revoked  
17 if and when the licensee or any of his servants, agents or  
18 employes are convicted of or plead guilty to violations under  
19 the previous license, as aforesaid, or if and when such previous  
20 license is for any reason revoked.

21 In the event such renewal license is revoked by the board,  
22 neither the license fee paid for such license nor any part  
23 thereof shall be returned to the licensee.

24 \* \* \*

25 Section 9. Section 471 of the act, amended or added December  
26 20, 2000 (P.L.992, No.141), February 21, 2002 (P.L.103, No.10)  
27 and December 9, 2002 (P.L.1653, No.212), is amended to read:

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

29 (a) Upon learning of any violation of this act or any laws of  
30 this Commonwealth relating to liquor, alcohol or malt or brewed

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

16 (b) Hearing on such citations shall be held in the same  
17 manner as provided herein for hearings on applications for  
18 license. Upon such hearing, if satisfied that any such violation  
19 has occurred or for other sufficient cause, the administrative  
20 law judge shall immediately suspend or revoke the license, or  
21 impose a fine of not less than fifty dollars (\$50) nor more than  
22 one thousand dollars (\$1,000), or both, notifying the licensee  
23 by registered letter addressed to his licensed premises. If the  
24 licensee has been cited and found to have violated section  
25 493(1) insofar as it relates to sales to minors or sales to a  
26 visibly intoxicated person, section 493(10) insofar as it  
27 relates to lewd, immoral or improper entertainment or section  
28 493(14), (16) or (21), or has been found to be a public nuisance  
29 pursuant to section 611, or if the owner or operator of the  
30 licensed premises or any authorized agent of the owner or

1 operator has been convicted of any violation of the act of April  
2 14, 1972 (P.L.233, No.64), known as "The Controlled Substance,  
3 Drug, Device and Cosmetic Act," or of 18 Pa.C.S. § 5902  
4 (relating to prostitution and related offenses) or 6301  
5 (relating to corruption of minors), at or relating to the  
6 licensed premises, the administrative law judge shall  
7 immediately suspend or revoke the license, or impose a fine of  
8 not less than one thousand dollars (\$1,000) nor more than five  
9 thousand dollars (\$5,000), or both. However, if a licensee has  
10 been cited and found to have violated section 493(1) as it  
11 relates to sales to minors or sales to a visibly intoxicated  
12 person but at the time of the sale the licensee was in  
13 compliance with the requirements set forth in section 471.1 and  
14 the licensee had not sold to minors or visibly intoxicated  
15 persons in the previous four years, then the administrative law  
16 judge shall immediately suspend or revoke the license, or impose  
17 a fine of not less than fifty dollars (\$50) nor more than one  
18 thousand dollars (\$1,000), or both. The administrative law judge  
19 shall notify the licensee by registered mail, addressed to the  
20 licensed premises, of such suspension, revocation or fine. In  
21 the event the fine is not paid within twenty days of the  
22 adjudication, the administrative law judge shall suspend or  
23 revoke the license, notifying the licensee by registered mail  
24 addressed to the licensed premises. Suspensions and revocations  
25 shall not go into effect until thirty days have elapsed from the  
26 date of the adjudication during which time the licensee may take  
27 an appeal as provided for in this act. Any licensee whose  
28 license is revoked shall be ineligible to have a license under  
29 this act until the expiration of three years from the date such  
30 license was revoked. In the event a license is revoked, no

1 license shall be granted for the premises or transferred to the  
2 premises in which the said license was conducted for a period of  
3 at least one year after the date of the revocation of the  
4 license conducted in the said premises, except in cases where  
5 the licensee or a member of his immediate family is not the  
6 owner of the premises, in which case the board may, in its  
7 discretion, issue or transfer a license within the said year. In  
8 the event the [bureau] enforcement authority or the person who  
9 was fined or whose license was suspended or revoked shall feel  
10 aggrieved by the adjudication of the administrative law judge,  
11 there shall be a right to appeal to the board. The appeal shall  
12 be based solely on the record before the administrative law  
13 judge. The board shall only reverse the decision of the  
14 administrative law judge if the administrative law judge  
15 committed an error of law, abused its discretion or if its  
16 decision is not based on substantial evidence. In the event the  
17 [bureau] enforcement authority or the person who was fined or  
18 whose license was suspended or revoked shall feel aggrieved by  
19 the decision of the board, there shall be a right to appeal to  
20 the court of common pleas in the same manner as herein provided  
21 for appeals from refusals to grant licenses. Each of the appeals  
22 shall act as a supersedeas unless, upon sufficient cause shown,  
23 the reviewing authority shall determine otherwise; however, if  
24 the licensee has been cited and found to have violated section  
25 493(1) insofar as it relates to sales to minors or sales to a  
26 visibly intoxicated person, section 493(10) insofar as it  
27 relates to lewd, immoral or improper entertainment or section  
28 493(14), (16) or (21), or has been found to be a public nuisance  
29 pursuant to section 611, or if the owner or operator of the  
30 licensed premises or any authorized agent of the owner or

1 operator has been convicted of any violation of "The Controlled  
2 Substance, Drug, Device and Cosmetic Act," or of 18 Pa.C.S. §  
3 5902 or 6301, at or relating to the licensed premises, its  
4 appeal shall not act as a supersedeas unless the reviewing  
5 authority determines otherwise upon sufficient cause shown. In  
6 any hearing on an application for a supersedeas under this  
7 section, the reviewing authority may consider, in addition to  
8 other relevant evidence, documentary evidence, including records  
9 of the [bureau] enforcement authority, showing the prior history  
10 of citations, fines, suspensions or revocations against the  
11 licensee; and the reviewing authority may also consider, in  
12 addition to other relevant evidence, evidence of any recurrence  
13 of the unlawful activity occurring between the date of the  
14 citation which is the subject of the appeal and the date of the  
15 hearing. No penalty provided by this section shall be imposed  
16 for any violations provided for in this act unless the [bureau]  
17 enforcement authority notifies the licensee of its nature within  
18 thirty days of the completion of the investigation.

19 (c) The administrative law judge may consider the licensee's  
20 prior citation history when imposing a penalty. If the violation  
21 in question is a third or subsequent violation of any offense  
22 referred to in subsection (b) or Title 18 of the Pennsylvania  
23 Consolidated Statutes (relating to crimes and offenses),  
24 occurring within a period of four years, the administrative law  
25 judge shall impose a suspension or revocation.

26 (d) If a licensee has been cited and found to have violated  
27 section 493(1) as it relates to sales to minors or sales to a  
28 visibly intoxicated person, the administrative law judge, in  
29 addition to the penalties set forth in subsection (b), may  
30 require the licensee to comply with the requirements set forth

1 in section 471.1 pertaining to responsible alcohol management.  
2 Such compliance may be required for a period of up to one year.  
3 Failure to adhere with such an order is sufficient cause for the  
4 issuance of a citation under subsection (a).

5 Section 10. Section 491(5) of the act, amended October 5,  
6 1994 (P.L.522, No.77), is amended to read:

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

9 It shall be unlawful--

10 \* \* \*

11 (5) Failure to Properly Dispose of Empty Liquor Containers.  
12 For any restaurant, hotel or club licensee, his servants, agents  
13 or employes, to fail to break any package in which liquors were  
14 contained, except those decanter packages that the board  
15 determines to be decorative, within twenty-four hours after the  
16 original contents were removed therefrom, unless the licensee  
17 participates in either a municipal recycling program, in  
18 accordance with the act of July 28, 1988 (P.L.556, No.101),  
19 known as the "Municipal Waste Planning, Recycling and Waste  
20 Reduction Act," or a voluntary recycling program. The licensee  
21 shall provide proof in writing of the participation in a  
22 recycling program upon the demand of the [Bureau of Liquor  
23 Control Enforcement of the Pennsylvania State Police]  
24 enforcement authority. The proof of participation shall be  
25 provided in a manner as prescribed by the Pennsylvania Liquor  
26 Control Board.

27 \* \* \*

28 Section 11. Section 493(12), (14), (21) and (26) of the act,  
29 amended February 21, 2002 (P.L.103, No.10), and May 8, 2003  
30 (P.L.1, No.1), are amended to read:



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

6 It shall be unlawful--

7 \* \* \*

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

20 \* \* \*

21 (14) Permitting Undesirable Persons or Minors to Frequent  
22 Premises. For any hotel, restaurant or club liquor licensee, or  
23 any retail dispenser, his servants, agents or employes, to  
24 permit persons of ill repute or prostitutes to frequent his  
25 licensed premises or any premises operated in connection  
26 therewith. Minors may only frequent licensed premises if: (a)  
27 they are accompanied by a parent; (b) they are accompanied by a  
28 legal guardian; (c) they are under proper supervision; (d) they  
29 are attending a social gathering; or (e) the hotel, restaurant  
30 or retail dispenser licensee has gross sales of food and

1 nonalcoholic beverages equal to fifty per centum or more of its  
2 combined gross sale of both food and alcoholic beverages. If a  
3 minor is frequenting a hotel, restaurant or retail dispenser  
4 licensee under subsection (e), then the minor may not sit at the  
5 bar section of the premises, nor may any alcoholic beverages be  
6 served at the table or booth at which the said minor is seated  
7 unless said minor is with a parent, legal guardian or under  
8 proper supervision. Further, if a hotel, restaurant, club liquor  
9 licensee or retail dispenser is hosting a social gathering under  
10 subsection (d), then written notice at least forty-eight hours  
11 in advance of such gathering shall be given to the [Bureau of  
12 Enforcement] enforcement authority. If a minor is frequenting  
13 licensed premises with proper supervision under subsection (c),  
14 each supervisor can supervise up to twenty minors, except for  
15 premises located in cities of the first class, where each  
16 supervisor can supervise up to five minors. Notwithstanding any  
17 other provisions of this section, if the minors are on the  
18 premises as part of a school-endorsed function, then each  
19 supervisor can supervise fifty minors. Nothing in this clause  
20 shall be construed to make it unlawful for minors to frequent  
21 public venues or performing arts facilities.

22 \* \* \*

23 (21) Refusing The Right of Inspection. For any licensee, or  
24 his servants, agents or employes, to refuse the board or the  
25 enforcement [bureau] authority or any of their authorized  
26 employes the right to inspect completely the entire licensed  
27 premises at any time during which the premises are open for the  
28 transaction of business, or when patrons, guests or members are  
29 in that portion of the licensed premises wherein either liquor  
30 or malt or brewed beverages are sold.

1 \* \* \*

2 (26) Worthless Checks. For any retail liquor licensee or any  
3 retail dispenser, distributor or importing distributor, to make,  
4 draw, utter, issue or deliver, or cause to be made, drawn,  
5 uttered, issued or delivered, any check, draft or similar order,  
6 for the payment of money in payment for any purchase of malt or  
7 brewed beverages, when such retail liquor licensee, retail  
8 dispenser, distributor or importing distributor, has not  
9 sufficient funds in, or credit with, such bank, banking  
10 institution, trust company or other depository, for the payment  
11 of such check. Any person who is a licensee under the provisions  
12 of this article, who shall receive in payment for malt or brewed  
13 beverages sold by him any check, draft or similar order for the  
14 payment of money, which is subsequently dishonored by the bank,  
15 banking institution, trust company or other depository, upon  
16 which drawn, for any reason whatsoever, shall, within five days  
17 of receipt of notice of such dishonor, notify by certified mail  
18 the person who presented the said worthless check, draft or  
19 similar order. If the violation of this clause is the first such  
20 violation by the licensee that calendar year involving a check,  
21 draft or similar order from the purchaser to the seller and if  
22 the check, draft or similar order is subsequently honored within  
23 ten days from the day it was made, drawn, uttered, issued or  
24 delivered, then the enforcement [bureau] authority shall issue  
25 an administrative warning in lieu of citation.

26 \* \* \*

27 Section 12. Section 495(c) and (h) of the act, amended or  
28 added December 20 1996 (P.L.1523, No.199) and December 16, 2002  
29 (P.L.1806, No.221), are amended to read:

30 Section 495. Identification Cards; Licensees and State

1 Liquor Store Employees Saved From Prosecution.--\* \* \*

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

7 ..... 19

8 I,....., hereby represent  
9 to ....., a State Store or  
10 licensee of the board, that I am of full age and discretion  
11 and over the age of 21 years, having been born on  
12 ..... 19..... at .....

13 This statement is made to induce said store or licensee above  
14 named to sell or otherwise furnish alcoholic beverages to the  
15 undersigned.

16 Serial Number of Identification Card:

17 I understand that I am subject to a fine of  
18 \$300.00 and sixty days imprisonment for any  
19 misrepresentation herein.

20 .....

21 (Name)

22 .....

23 (Address)

24 Witness:

25 Name.....

26 Address.....

27

28 The forms shall be printed in a manner approved by the board  
29 and shall be filed alphabetically by the State Liquor Store or  
30 licensee in a file box containing a suitable alphabetical index

1 at or before the close of business on the day that the form is  
2 executed, and any such form shall be subject to examination by  
3 any officer, agent or employe of the enforcement [bureau]  
4 authority at any and all times.

5 \* \* \*

6 (h) No licensee or licensee's agent or employe shall sell or  
7 otherwise disseminate the information derived from a transaction  
8 scan to any third party, except to the board, the [bureau]  
9 enforcement authority or other law enforcement official, for any  
10 purpose, including, but not limited to, any marketing,  
11 advertising or promotional activities, except that a licensee or  
12 licensee's agent or employe may release that information  
13 pursuant to a court order. Any person who violates this  
14 subsection commits a summary offense and shall, upon conviction,  
15 be sentenced to pay a fine not exceeding five hundred dollars  
16 (\$500) for the first offense and to pay a fine not exceeding one  
17 thousand dollars (\$1,000) for subsequent offenses.

18 Section 13. Section 507 of the act, amended December 7, 1990  
19 (P.L.622, No.160) and June 30, 1992 (P.L.327, No.66), is amended  
20 to read:

21 Section 507. Hearings on Licenses and Refusals.--(a) The  
22 board may of its own motion, and shall upon the written request  
23 of the enforcement [bureau] authority or of any applicant for  
24 license or for renewal thereof whose application for such  
25 license or renewal has been refused, fix a time and place for  
26 hearing of such application or renewal, notice of which hearing  
27 shall be sent to the [bureau] enforcement authority and to the  
28 applicant, by registered mail, at the address given in his  
29 application. Such hearing shall be before a hearing examiner  
30 designated by the board.

1 (b) At such hearing, the board shall present its reasons for  
2 its refusal or withholding of such license or renewal thereof or  
3 the [bureau] enforcement authority shall present its objections  
4 to the granting or renewal of the license, as the case may be.  
5 The applicant may appear in person or by counsel, may cross-  
6 examine the witnesses for the board or the [bureau] enforcement  
7 authority, and may present evidence which shall likewise be  
8 subject to cross-examination by the board or the [bureau]  
9 enforcement authority. Such hearing shall be stenographically  
10 recorded. The hearing examiner shall thereafter make a report,  
11 including the examiner's recommendation, to the board in each  
12 case. The board shall thereafter grant or refuse the license or  
13 renewal thereof.

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

17 Section 14. Section 514 of the act, amended December 21,  
18 1998 (P.L.1202, No.155), is amended to read:

19 Section 514. Suspension and Revocation of Licenses.--(a)  
20 Upon learning of any violation of this act or of any rule or  
21 regulation promulgated by the board under the authority of this  
22 act, or any violation of any laws of this Commonwealth or of the  
23 United States of America relating to the tax payment of alcohol,  
24 liquor or malt or brewed beverages by the holder of a license  
25 issued under the provisions of this article, or upon other  
26 sufficient cause, the enforcement [bureau] authority may, within  
27 one year from the date of such violation or cause appearing,  
28 cite such licensee to appear before an administrative law judge  
29 not less than ten (10) nor more than sixty (60) days from the  
30 date of sending such licensee, by registered mail, a notice

1 addressed to his licensed premises, to show cause why the  
2 license should not be suspended or revoked. Hearings on such  
3 citations shall be held in the same manner as provided herein  
4 for hearings on applications for license. And upon such hearing,  
5 if satisfied that any such violation has occurred or for other  
6 sufficient cause, the administrative law judge shall immediately  
7 suspend or revoke such license, notifying the licensee thereof  
8 by registered letter addressed to his licensed premises, or to  
9 the address given in his application where no licensed premises  
10 is maintained in Pennsylvania.

11 (b) Any licensee whose license is revoked shall be  
12 ineligible to have a license under this act or under any other  
13 act relating to alcohol, liquor or malt or brewed beverages  
14 until the expiration of three (3) years from the date such  
15 license was revoked. In the event of a revocation, no license  
16 shall be granted for the premises or transferred to the premises  
17 in which said license was conducted for a period of at least one  
18 (1) year after the date of the revocation of the license  
19 conducted in the said premises, except in cases where the  
20 licensee or a member of his immediate family is not the owner of  
21 the premises, in which case the board may, in its discretion,  
22 issue or transfer a license within said year. Such hearing  
23 before and adjudication by an administrative law judge shall be  
24 in accordance with 2 Pa.C.S. Ch. 5 Subch. A (relating to  
25 practice and procedure of Commonwealth agencies).

26 Section 15. Sections 515, 519, 602(e), 603 and 604 of the  
27 act are amended to read:

28 Section 515. Appeals.--The board, the enforcement [bureau]  
29 authority or any applicant or any licensee aggrieved by any  
30 decision refusing, suspending or revoking a license under the

1 provisions of this article may appeal to the court of the county  
2 in which the licensed premises or the premises to be licensed  
3 are located. In the event an applicant or a licensee shall have  
4 no place of business established within the Commonwealth, his  
5 appeal shall be to the Commonwealth Court. Such appeal shall be  
6 in accordance with 2 Pa.C.S. Ch. 7 Subch. A (relating to  
7 judicial review of Commonwealth agency action).

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

27 Section 602. Forfeiture Proceedings.--\* \* \*

28 (e) At the time of said hearing, if the Commonwealth shall  
29 produce evidence that the property in question was unlawfully  
30 possessed or used, the burden shall be upon the claimant to show



1 (1) that he is the owner of said property, (2) that he lawfully  
2 acquired the same, and (3) that it was not unlawfully used or  
3 possessed.

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

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

30 (a) Upon conviction of any person of a violation of any of

1 the provisions of this act, the court shall order the sheriff to  
2 destroy all condemned liquor, alcohol or malt or brewed beverage  
3 and property seized or obtained from such defendants, except  
4 that the court may order the liquor, alcohol or malt or brewed  
5 beverages, or any part thereof, to be delivered to a hospital  
6 for its use, and make return to the court of compliance with  
7 said order, and any vehicle, container, boat, vessel, animals or  
8 aircraft seized under the provisions of this act shall be  
9 disposed of as hereinafter provided.

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

21 (c) In the case of any vehicle, boat, vessel, container,  
22 animal or aircraft seized under the provisions of this act and  
23 condemned, the court shall order the same to be delivered to the  
24 enforcement [bureau] authority for its use or for sale or  
25 disposition by the [bureau] enforcement authority, in its  
26 discretion. Notice of such sale shall be given in such manner as  
27 the [bureau] enforcement authority may prescribe. The proceeds  
28 of such sale shall be paid into the State Stores Fund.

29 Section 604. Motor Vehicle Licenses To Be Revoked.--In  
30 addition to the foregoing provisions, the court may, in its

1 order of condemnation, and in every conviction under this act  
2 where it shall appear that liquor, alcohol or malt or brewed  
3 beverages were unlawfully transported in a motor vehicle,  
4 declare that the license issued by the Department of  
5 Transportation for any motor vehicle so forfeited and condemned,  
6 or issued to any defendant convicted of transporting liquor,  
7 alcohol or malt or brewed beverages in any motor vehicle, shall  
8 be forfeited and revoked, and it shall be the duty of the clerk  
9 of the court in which such conviction is had and order of  
10 condemnation made to certify such conviction to the Secretary of  
11 Transportation, who shall suspend or revoke the license issued  
12 for such motor vehicles: Provided, That a license may be issued  
13 for such motor vehicle to the board or the enforcement [bureau]  
14 authority or to any purchaser of the vehicle after the sale  
15 thereof, as above provided.

16 Section 16. Section 611(b) of the act, amended February 18,  
17 1998 (P.L.162, No.25), is amended to read:

18 Section 611. Nuisances; Actions To Enjoin.--\* \* \*

19 (b) An action to enjoin any nuisance defined in this act may  
20 be brought in the name of the Commonwealth of Pennsylvania by  
21 the Attorney General, by the [Pennsylvania State Police through  
22 its Bureau of Liquor Control Enforcement] enforcement authority,  
23 by the municipality wherein the establishment is located, by the  
24 district attorney of the proper county or by a person who  
25 resides or has a place of business within five hundred feet of  
26 the location of the alleged nuisance. Such action shall be  
27 brought and tried as an action in equity and may be brought in  
28 any court having jurisdiction to hear and determine equity cases  
29 within the county in which the offense occurs. If it is made to  
30 appear, by affidavit or otherwise, to the satisfaction of the

1 court that such nuisance exists, a temporary writ of injunction  
2 shall forthwith issue, restraining the defendant from conducting  
3 or permitting the continuance of such nuisance until the  
4 conclusion of the proceedings. If a temporary injunction is  
5 prayed for, the court may issue an order restraining the  
6 defendant and all other persons from removing or in any way  
7 interfering with the liquids, beverages or other things used in  
8 connection with the violation of this act constituting such  
9 nuisance. No bond shall be required in instituting such  
10 proceedings brought in the name of the Commonwealth by the  
11 Attorney General, the [Pennsylvania State Police through its  
12 Bureau of Liquor Control Enforcement] enforcement authority, the  
13 municipality where the establishment is located or the district  
14 attorney of the proper county. Where such proceedings are  
15 brought by a person, the court, upon application of the  
16 defendant and prior to any injunction being issued, may direct  
17 the plaintiff to post bond in such amount as the court may find  
18 to be reasonable and sufficient. It shall not be necessary for  
19 the court to find the property involved was being unlawfully  
20 used, as aforesaid, at the time of the hearing, but on finding  
21 that the material allegations of the petition are true, the  
22 court shall order that no liquor, alcohol or malt or brewed  
23 beverage shall be manufactured, sold, offered for sale,  
24 transported, bartered or furnished, or stored in bond, or stored  
25 for hire in such room, house, building, structure, boat,  
26 vehicle, or place, or any part thereof.

27 \* \* \*

28 Section 17. Section 802(e) of the act is amended to read:

29 Section 802. Moneys Paid Into The State Stores Fund for Use  
30 of the Commonwealth.--\* \* \*

1 (e) Annually, the General Assembly shall make an  
2 appropriation from the State Stores Fund to provide for the  
3 operational expenses of the enforcement [bureau] authority.

4 \* \* \*

5 Section 18. (a) The sum of \$17,500,000, or as much thereof  
6 as may be necessary, is hereby appropriated from The State  
7 Stores Fund for the fiscal year July 1, 2005, to June 30, 2006,  
8 to the enforcement authorities to carry out the provisions of  
9 this act. The funds appropriated shall be distributed among the  
10 enforcement authorities as provided for in subsection (b).

11 (b) On July 1, 2005, and each July 1 thereafter, the  
12 Pennsylvania Liquor Control Board shall distribute the moneys  
13 referred to in subsection (a) to each county in this  
14 Commonwealth on a pro rata basis which reflects the percentage  
15 of all existing retail and wholesale licenses and special  
16 occasion permits issued in the county during the previous 12-  
17 month period to the total of said licenses existing and special  
18 occasion permits issued in the same time period within this  
19 Commonwealth. The counties shall distribute the moneys to those  
20 municipalities which have existing retail and wholesale licenses  
21 and special occasion permits issued on a pro rata basis, which  
22 reflects the number of the retail and wholesale licenses and  
23 special occasion permits in a municipality during the preceding  
24 12-month period to the total number of said licenses and permits  
25 issued in the county. In those municipalities that are not  
26 served by municipal and/or regional police departments, those  
27 funds shall be dispersed to the Pennsylvania State Police.

28 Section 19. This act shall take effect in 60 days.