

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1420 Session of
2007

INTRODUCED BY RAYMOND, DONATUCCI, BARRAR, BELFANTI, BENNINGHOFF,
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WANSACZ, WATSON, WOJNAROSKI, YOUNGBLOOD, NAILOR, SIPTROTH AND
CALTAGIRONE, JUNE 5, 2007

SENATOR RAFFERTY, LAW AND JUSTICE, IN SENATE, AS AMENDED,
OCTOBER 15, 2007

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 further providing for the ~~definition of "distributor";~~ <—
18 DEFINITIONS OF "CASE," "DISTRIBUTOR" AND "IMPORTING <—
19 DISTRIBUTOR"; providing for the ~~definition of~~ DEFINITIONS OF <—
20 "HOLIDAY PACKAGE," "OUT-OF-STATE SMALL MANUFACTURER" AND
21 "small manufacturer"; ~~and~~ PROVIDING FOR MANUFACTURER'S <—
22 PACKAGING EQUIPMENT GRANT FUND; further providing for SALE OF <—
23 MALT OR BREWED BEVERAGES BY LIQUOR LICENSEES, FOR malt and
24 brewed beverages manufacturers', distributors' and importing
25 distributors' licenses, for malt and brewed beverages

1 alternating brewers' licenses, FOR SALES AND MINIMUM <—
2 QUANTITIES, for distributors' and importing distributors'
3 restrictions on sales, storage, etc., FOR RETAIL DISPENSERS' <—
4 RESTRICTIONS ON PURCHASES AND SALES, FOR INTERLOCKING
5 BUSINESS PROHIBITED and for breweries; PROVIDING FOR <—
6 MANUFACTURER GRANT PROGRAM AND FOR PRODUCT ROTATION; AND
7 FURTHER PROVIDING FOR EXCHANGE OF CERTAIN LICENSES AND FOR
8 MONEYS PAID INTO THE STATE STORES FUND FOR USE OF THE
9 COMMONWEALTH.

10 This act shall be construed as an enactment of the General
11 Assembly's support for the 3-tier system for alcoholic beverages
12 production, distribution and sale that, through uniform
13 Statewide regulation, provides this Commonwealth regulatory
14 authority over the production, storage, distribution,
15 transportation, sale and consumption of alcoholic beverages by
16 and to its citizens, for the benefit of the public health and
17 welfare and this Commonwealth's economic stability. The General
18 Assembly intends that the liquor laws shall be enforced in order
19 to restrict sales to minors, collect all State and local taxes
20 due on the commerce in alcoholic beverages, establish open,
21 transparent and accountable distribution systems for alcoholic
22 beverages and the intent to exercise, to the fullest extent
23 allowed, all the authority granted a state under the Twenty-
24 first Amendment.

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

27 ~~Section 1. The definition of "distributor" in section 102 of~~ <—
28 ~~the act of April 12, 1951 (P.L.90, No.21), known as the Liquor~~
29 ~~Code, reenacted and amended June 29, 1987 (P.L.32, No.14) and~~
30 ~~amended May 31, 1996 (P.L.312, No.49), is amended and the~~
31 ~~section is amended by adding definitions to read:~~

32 ~~Section 102. Definitions. The following words or phrases,~~
33 ~~unless the context clearly indicates otherwise, shall have the~~
34 ~~meanings ascribed to them in this section:~~

1 * * *

2 ~~"Distributor" shall mean any person licensed by the board to~~
3 ~~engage in the purchase only from [Pennsylvania] small~~
4 ~~manufacturers and from importing distributors and the resale of~~
5 ~~malt or brewed beverages, except to importing distributors and~~
6 ~~distributors, in the original sealed containers as prepared for~~
7 ~~the market by the manufacturer at the place of manufacture, but~~
8 ~~not for consumption on the premises where sold, and in~~
9 ~~quantities of not less than a case or original containers~~
10 ~~containing one hundred twenty eight ounces or more which may be~~
11 ~~sold separately.~~

12 * * *

13 ~~"Out of State small manufacturer" shall mean a small~~
14 ~~manufacturer located outside this Commonwealth with a maximum~~
15 ~~production of three hundred thousand barrels of malt or brewed~~
16 ~~beverages per year. In determining the annual production, the~~
17 ~~out of State small manufacturer shall include a portion of the~~
18 ~~production of any other manufacturer who holds, directly or~~
19 ~~indirectly, an ownership interest in it or with whom it has a~~
20 ~~distribution agreement in this Commonwealth. If another~~
21 ~~manufacturer holds, directly or indirectly, an ownership~~
22 ~~interest in the out of State small manufacturer, the percentage~~
23 ~~of that interest shall be applied to the manufacturer's total~~
24 ~~production of malt or brewed beverage products to determine the~~
25 ~~amount that shall be included in determining the maximum~~
26 ~~production for the out of State small manufacturer. If the out-~~
27 ~~of State small manufacturer has a distribution agreement with a~~
28 ~~larger manufacturer for distribution in this Commonwealth, the~~
29 ~~distributing manufacturer's total distribution in this~~
30 ~~Commonwealth shall be added to the out of State small~~

1 ~~manufacturer's production to determine whether the three hundred~~
2 ~~thousand barrel mark has been reached.~~

3 ~~"Small manufacturer" shall mean a manufacturer of malt or~~
4 ~~brewed beverages that produces no more than three hundred~~
5 ~~thousand barrels of malt or brewed beverages per year. Only malt~~
6 ~~or brewed beverages for which the manufacturer is responsible~~
7 ~~for paying the malt beverage tax shall be considered in~~
8 ~~calculating the total number of barrels produced per year for a~~
9 ~~manufacturer.~~

10 * * *

11 ~~Section 2. Section 431 of the act, amended December 20, 1996~~
12 ~~(P.L.1513, No.196), December 21, 1998 (P.L.1202, No.155) and~~
13 ~~December 8, 2004 (P.L.1810, No.239), is amended to read:~~

14 ~~Section 431. Malt and Brewed Beverages Manufacturers',~~
15 ~~Distributors' and Importing Distributors' Licenses.—(a) The~~
16 ~~board shall issue to any person a resident of this Commonwealth~~
17 ~~of good repute who applies therefor, and pays the license fee~~
18 ~~hereinafter prescribed, a manufacturer's license to produce and~~
19 ~~manufacture malt or brewed beverages, and to transport, sell and~~
20 ~~deliver malt or brewed beverages from the place of manufacture~~
21 ~~only in original containers, in quantities of not less than a~~
22 ~~case or original containers containing one hundred twenty eight~~
23 ~~ounces or more which may be sold separately anywhere within the~~
24 ~~Commonwealth. The application for such license shall be in such~~
25 ~~form and contain such information as the board shall require.~~
26 ~~All such licenses shall be granted for a license period to be~~
27 ~~determined by the board. Every manufacturer shall keep at his or~~
28 ~~its principal place of business, within the Commonwealth daily~~
29 ~~permanent records which shall show, (1) the quantities of raw~~
30 ~~materials received and used in the manufacture of malt or brewed~~

~~1 beverages and the quantities of malt or brewed beverages
2 manufactured and stored, (2) the sales of malt or brewed
3 beverages, (3) the quantities of malt or brewed beverages stored
4 for hire or transported for hire by or for the licensee, and (4)
5 the names and addresses of the purchasers or other recipients
6 thereof. Every place licensed as a manufacturer shall be subject
7 to inspection by members of the board or by persons duly
8 authorized and designated by the board, at any and all times of
9 the day or night, as they may deem necessary, for the detection
10 of violations of this act or of the rules and regulations of the
11 board, or for the purpose of ascertaining the correctness of the
12 records required to be kept by licensees. The books and records
13 of such licensees shall at all times be open to inspection by
14 members of the board or by persons duly authorized and
15 designated by the board. Members of the board and its duly
16 authorized agents shall have the right, without hindrance, to
17 enter any place which is subject to inspection hereunder or any
18 place where such records are kept for the purpose of making such
19 inspections and making transcripts thereof. Whenever any checks
20 issued in payment of filing and/or license fees shall be
21 returned to the board as dishonored, the board shall charge a
22 fee of five dollars (\$5.00) per hundred dollars or fractional
23 part thereof, plus all protest fees, to the maker of such check
24 submitted to the board. Failure to make full payment or pay the
25 face amount of the check in full and all charges thereon as
26 herein required within ten days after demand has been made by
27 the board upon the maker of the check or upon notification to
28 the board by the Department of Revenue or the Department of
29 Labor and Industry of its objection, the license of such person
30 shall immediately become invalid and shall remain invalid until~~

1 ~~payment and all charges are received by the board.~~

2 ~~(a.1) Any [out of State] manufacturer whose products are~~
3 ~~sold and delivered within this Commonwealth shall be authorized:~~
4 ~~to rent, lease or otherwise acquire space from an importing~~
5 ~~distributor or bailee for hire authorized by this act at no more~~
6 ~~than two locations per manufacturer for use of a segregated~~
7 ~~portion of a warehouse or other storage facility owned or~~
8 ~~operated by the importing distributor or bailee for hire at~~
9 ~~which the [out of State] manufacturer may store, repackage and~~
10 ~~sell malt or brewed beverages to any importing distributor to~~
11 ~~whom the [out of State] manufacturer has granted distribution~~
12 ~~rights pursuant to subsection (b) or to any purchaser outside~~
13 ~~this Commonwealth for delivery outside this Commonwealth; or to~~
14 ~~ship to its storage facility outside this Commonwealth. Such~~
15 ~~manufacturer may compensate the importing distributor or bailee~~
16 ~~for hire for any related storage, repackaging or delivery~~
17 ~~services. The [out of State] manufacturer must file with the~~
18 ~~Liquor Control Board the rate of compensation to be paid. A~~
19 ~~separate written application must be filed to acquire storage~~
20 ~~licenses, and the board may establish the information that must~~
21 ~~be provided on the application. The initial filing must be made~~
22 ~~prior to any payments being made, and any subsequent changes in~~
23 ~~the rate of compensation must be filed within thirty days of any~~
24 ~~such change. Nothing in this act authorizing storage facilities~~
25 ~~for [out of State] manufacturers is intended to make any change~~
26 ~~in the manner malt or brewed beverages are distributed through~~
27 ~~the three tier system.~~

28 ~~(a.2) The board shall issue to [a holder of a manufacturer's~~
29 ~~license] a small manufacturer no more than two storage licenses~~
30 ~~per small manufacturer to cover storage facilities separate from~~

1 ~~the location of the manufacturing facility. A small manufacturer~~
2 ~~may use its storage facilities to receive, store, repackage,~~
3 ~~sell and distribute malt or brewed beverages in the same manner~~
4 ~~as it can at its place of manufacture or it may rent, lease or~~
5 ~~otherwise acquire space from an importing distributor or bailee~~
6 ~~for hire authorized by this act in the same manner as [an out of~~
7 ~~State] a manufacturer as set forth in subsection (a.1). A~~
8 ~~separate written application must be filed to acquire storage~~
9 ~~licenses, and the board is empowered to establish what~~
10 ~~information must be provided on that application. Nothing in~~
11 ~~this act authorizing off site storage facilities for~~
12 ~~manufacturers is intended to make any change in the manner malt~~
13 ~~or brewed beverages are distributed through the three tier~~
14 ~~system.~~

15 ~~(a.3) An applicant for an out of State small manufacturer~~
16 ~~license shall file a written application with the board in such~~
17 ~~form and containing such information as the board shall from~~
18 ~~time to time prescribe. The application and license fees and the~~
19 ~~restrictions on who may apply for the license shall be the same~~
20 ~~as the fees and restrictions imposed on in State small~~
21 ~~manufacturer applicants. In addition, the out of State small~~
22 ~~manufacturer must obtain a sales tax license from the department~~
23 ~~prior to submitting the application to the board. The~~
24 ~~information contained in the application shall be provided by~~
25 ~~the board to the department upon request. In order to continue~~
26 ~~to be eligible to hold an out of State small manufacturer~~
27 ~~license, the out of State small manufacturer may not produce in~~
28 ~~excess of three hundred thousand barrels of malt or brewed~~
29 ~~beverages per year, as that calculation is defined in section~~
30 ~~102. No out of State small manufacturer licensee or its~~

~~1 officers, directors, shareholders or members shall hold any
2 interest in any other license issued by the board; nor shall any
3 out of State manufacturer licensee or its officers, directors,
4 shareholders or members, either directly or indirectly, lend
5 moneys, credit or equivalent thereof, to any other licensee; nor
6 shall any out of State manufacturer licensee or its officers,
7 directors, shareholders or members guarantee the payment of any
8 bond, mortgage, note or other obligations of any other licensee;
9 nor shall any out of State manufacturer licensee or its
10 officers, directors, shareholders or members be the owner,
11 proprietor or lessor of any place for which any other license
12 has been issued by the board. Out of State small manufacturer
13 licensees are deemed to have submitted to the jurisdiction of
14 the board, any other Commonwealth agency and the courts of this
15 Commonwealth for purposes of enforcement of this section and any
16 related laws, rules or regulations. Out of State small
17 manufacturer licensees are subject to citation by the
18 enforcement bureau under section 471 and nonrenewal by the board
19 under section 470. The department may promulgate regulations
20 requiring the filing of periodic reports by out of State small
21 manufacturers to ensure compliance with the provisions of this
22 section. A holder of an out of State small manufacturer license
23 may deliver malt or brewed beverages it has manufactured to any
24 holder of any retail license issued by the board. In doing so,
25 the out of State small manufacturer must use its own vehicles
26 and may not, in the Commonwealth, use the services of a
27 transporter for hire or other commercial carrier. If the out of
28 State small manufacturer chooses to self distribute in this
29 Commonwealth, it is not permitted to utilize storage services or
30 facilities otherwise available under section 431(a.1).~~

1 ~~(b) The board shall issue to any reputable person who~~
2 ~~applies therefor, and pays the license fee hereinafter~~
3 ~~prescribed, a distributor's or importing distributor's license~~
4 ~~for the place which such person desires to maintain for the sale~~
5 ~~of malt or brewed beverages, not for consumption on the premises~~
6 ~~where sold, and in quantities of not less than a case or~~
7 ~~original containers containing one hundred twenty eight ounces~~
8 ~~or more which may be sold separately as prepared for the market~~
9 ~~by the manufacturer at the place of manufacture. The board shall~~
10 ~~have the discretion to refuse a license to any person or to any~~
11 ~~corporation, partnership or association if such person, or any~~
12 ~~officer or director of such corporation, or any member or~~
13 ~~partner of such partnership or association shall have been~~
14 ~~convicted or found guilty of a felony within a period of five~~
15 ~~years immediately preceding the date of application for the said~~
16 ~~license: And provided further, That, in the case of any new~~
17 ~~license or the transfer of any license to a new location, the~~
18 ~~board may, in its discretion, grant or refuse such new license~~
19 ~~or transfer if such place proposed to be licensed is within~~
20 ~~three hundred feet of any church, hospital, charitable~~
21 ~~institution, school or public playground, or if such new license~~
22 ~~or transfer is applied for a place which is within two hundred~~
23 ~~feet of any other premises which is licensed by the board: And~~
24 ~~provided further, That the board shall refuse any application~~
25 ~~for a new license or the transfer of any license to a new~~
26 ~~location if, in the board's opinion, such new license or~~
27 ~~transfer would be detrimental to the welfare, health, peace and~~
28 ~~morals of the inhabitants of the neighborhood within a radius of~~
29 ~~five hundred feet of the place proposed to be licensed. The~~
30 ~~board shall refuse any application for a new license or the~~

1 ~~transfer of any license to a location where the sale of liquid~~
2 ~~fuels or oil is conducted. The board may enter into an agreement~~
3 ~~with the applicant concerning additional restrictions on the~~
4 ~~license in question. If the board and the applicant enter into~~
5 ~~such an agreement, such agreement shall be binding on the~~
6 ~~applicant. Failure by the applicant to adhere to the agreement~~
7 ~~will be sufficient cause to form the basis for a citation under~~
8 ~~section 471 and for the nonrenewal of the license under section~~
9 ~~470. If the board enters into an agreement with an applicant~~
10 ~~concerning additional restrictions, those restrictions shall be~~
11 ~~binding on subsequent holders of the license until the license~~
12 ~~is transferred to a new location or until the board enters into~~
13 ~~a subsequent agreement removing those restrictions. If the~~
14 ~~application in question involves a location previously licensed~~
15 ~~by the board, then any restrictions imposed by the board on the~~
16 ~~previous license at that location shall be binding on the~~
17 ~~applicant unless the board enters into a new agreement~~
18 ~~rescinding those restrictions. The board shall require notice to~~
19 ~~be posted on the property or premises upon which the licensee or~~
20 ~~proposed licensee will engage in sales of malt or brewed~~
21 ~~beverages. This notice shall be similar to the notice required~~
22 ~~of hotel, restaurant and club liquor licensees.~~

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

~~1 of malt or brewed beverages or from manufacturers or importing
2 distributors licensed under this article. In the case of an
3 importing distributor, the holder of such a license shall be
4 authorized to store and repackage malt or brewed beverages owned
5 by a manufacturer at a segregated portion of a warehouse or
6 other storage facility authorized by section 441(d) and operated
7 by the importing distributor within its appointed territory and
8 deliver such beverages to another importing distributor who has
9 been granted distribution rights by the manufacturer as provided
10 herein. The importing distributor shall be permitted to receive
11 a fee from the manufacturer for any related storage, repackaging
12 or delivery services. In the case of a bailee for hire hired by
13 a manufacturer, the holder of such a permit shall be authorized:
14 to receive, store and repackage malt or brewed beverages
15 produced by that manufacturer for sale by that manufacturer to
16 importing distributors to whom that manufacturer has given
17 distribution rights pursuant to this subsection or to purchasers
18 outside this Commonwealth for delivery outside this
19 Commonwealth; or to ship to that manufacturer's storage
20 facilities outside this Commonwealth. The bailee for hire shall
21 be permitted to receive a fee from the manufacturer for any
22 related storage, repackaging or delivery services. The bailee
23 for hire shall, as required in Article V of this act, keep
24 complete and accurate records of all transactions, inventory,
25 receipts and shipments and make all records and the licensed
26 areas available for inspection by the board and for the
27 Pennsylvania State Police, Bureau of Liquor Control Enforcement,
28 during normal business hours.~~

~~29 Each [out of State] manufacturer of malt or brewed beverages,
30 excluding small manufacturers, whose products are sold and~~

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

19 ~~When a [Pennsylvania] small manufacturer of malt or brewed~~
20 ~~beverages licensed under this article names or constitutes a~~
21 ~~distributor or importing distributor as the primary or original~~
22 ~~supplier of his product, he shall also designate the specific~~
23 ~~geographical area for which the said distributor or importing~~
24 ~~distributor is given distributing rights, and such distributor~~
25 ~~or importing distributor shall not sell or deliver the products~~
26 ~~of such manufacturer to any person issued a license under the~~
27 ~~provisions of this act whose licensed premises are not located~~
28 ~~within the geographical area for which distributing rights have~~
29 ~~been given to the distributor and importing distributor by the~~
30 ~~said manufacturer: Provided, That the importing distributor~~

1 ~~holding such distributing rights for such product shall not sell~~
2 ~~or deliver the same to another importing distributor without~~
3 ~~first having entered into a written agreement with the said~~
4 ~~secondary importing distributor setting forth the terms and~~
5 ~~conditions under which such products are to be resold within the~~
6 ~~territory granted to the primary importing distributor by the~~
7 ~~manufacturer. Nothing herein contained shall be construed to~~
8 ~~prevent any manufacturer from authorizing the importing~~
9 ~~distributor holding the distributing rights for a designated~~
10 ~~geographical area from selling the products of such manufacturer~~
11 ~~to another importing distributor also holding distributing~~
12 ~~rights from the same manufacturer for another geographical area,~~
13 ~~providing such authority be contained in writing and a copy~~
14 ~~thereof be given to each of the importing distributors so~~
15 ~~affected.~~

16 ~~(b.1) (1) Any person in this Commonwealth or elsewhere who~~
17 ~~shall purchase or in any manner whatsoever acquire or otherwise~~
18 ~~succeed to the business of a manufacturer, assets or rights to~~
19 ~~import, market, ship into this Commonwealth or distribute a~~
20 ~~brand of beer, or to use and exploit any trademark incorporated~~
21 ~~as part of a brand of beer produced by such a manufacturer shall~~
22 ~~be obligated to all terms of the manufacturer's franchise~~
23 ~~agreements in effect on the effective date of the purchase,~~
24 ~~acquisition or succession, or, if earlier, at the time the~~
25 ~~agreement contemplating the purchase, acquisition or succession~~
26 ~~is actually made.~~

27 ~~(2) "Purchase" or "acquisition," for purposes of this~~
28 ~~section, includes, but is not limited to, a purchase,~~
29 ~~acquisition, lease, license or assignment of all or a~~
30 ~~controlling interest in the capital stock or operating assets,~~

1 including brand trademarks rights; merger; any corporate
2 reorganization or consolidation; and also, without limitation,
3 any license, cross license, joint venture or other agreement or
4 arrangement, directly or indirectly, transferring, substituting
5 or materially changing the person or persons authorized by the
6 one owning or controlling a brand or any trademark as part of a
7 brand, to produce, import, ship, market or distribute the brand
8 of beer into or within this Commonwealth.

9 (3) ~~"Manufacturer," as used in this subsection, shall mean~~
10 ~~any person, including any agent of such person, who (i) is~~
11 ~~licensed as a manufacturer of malt or brewed beverages located~~
12 ~~within the Commonwealth of Pennsylvania, (ii) holds a~~
13 ~~distributor or importing distributor license, or (iii)~~
14 ~~manufactures any malt beverage, has title to any malt beverage~~
15 ~~products or has the contractual right to distribute any malt~~
16 ~~beverage product, whether licensed in this Commonwealth or not,~~
17 ~~who enters into an "agreement" with any importing distributor~~
18 ~~licensed to do business in this Commonwealth.~~

19 (c) ~~The aforesaid licenses shall be issued only to reputable~~
20 ~~individuals, partnerships and associations who are, or whose~~
21 ~~members are, citizens of the United States and have for two~~
22 ~~years prior to the date of their applications been residents of~~
23 ~~the Commonwealth of Pennsylvania or to reputable corporations~~
24 ~~organized or duly registered under the laws of the Commonwealth~~
25 ~~of Pennsylvania. Such licenses shall be issued to corporations~~
26 ~~duly organized or registered under the laws of the Commonwealth~~
27 ~~of Pennsylvania only when it appears that all of the officers~~
28 ~~and directors of the corporation are citizens of the United~~
29 ~~States and have been are residents of the Commonwealth of~~
30 ~~Pennsylvania for a period of at least two years prior to the~~

1 ~~date of application, and that at least fifty one per centum of~~
2 ~~the capital stock of such corporation is actually owned by~~
3 ~~individuals who are citizens of the United States and have been~~
4 ~~are residents of the Commonwealth of Pennsylvania for a period~~
5 ~~of at least two years prior to the date of application:~~
6 ~~Provided, That the provisions of this subsection with respect to~~
7 ~~residence requirements shall not apply to individuals, partners,~~
8 ~~officers, directors and owners of capital stock, of corporations~~
9 ~~licensed or applying for licenses as manufacturers of malt or~~
10 ~~brewed beverages, nor shall the provisions of this subsection~~
11 ~~with respect to stockholder requirements apply to corporations~~
12 ~~licensed or applying for licenses as manufacturers of malt or~~
13 ~~brewed beverages.~~

14 ~~(d) (1) All distributing rights as hereinabove required~~
15 ~~shall be in writing, shall be equitable in their provisions and~~
16 ~~shall be substantially similar as to terms and conditions with~~
17 ~~all other distributing rights agreements between the~~
18 ~~manufacturer giving such agreement and its other importing~~
19 ~~distributors and distributors shall not be modified, cancelled,~~
20 ~~terminated or rescinded by the manufacturer without good cause,~~
21 ~~and shall contain a provision in substance or effect as follows:~~
22 ~~"The manufacturer recognizes that the importing distributor and~~
23 ~~distributor are free to manage their business in the manner the~~
24 ~~importing distributor and distributor deem best and that this~~
25 ~~prerogative vests in the importing distributor and distributor~~
26 ~~the exclusive right to establish a selling price, to select the~~
27 ~~brands of malt or brewed beverages they wish to handle and to~~
28 ~~determine the efforts and resources which the importing~~
29 ~~distributor and distributor will exert to develop and promote~~
30 ~~the same of the manufacturer's products handled by the importing~~

~~1 distributor and distributor. However, the manufacturer expects
2 that the importing distributor and distributor will price
3 competitively the products handled by them, devote reasonable
4 effort and resources to the sale of such products and maintain a
5 reasonable sales level." "Good cause" shall mean the failure by
6 any party to an agreement, without reasonable excuse or
7 justification, to comply substantially with an essential,
8 reasonable and commercially acceptable requirement imposed by
9 the other party under the terms of an agreement.~~

~~10 (2) After January 1, 1980, no manufacturer shall enter into
11 any agreement with more than one distributor or importing
12 distributor for the purpose of establishing more than one
13 agreement for designated brand or brands of malt or brewed
14 beverages in any one territory. Each franchise territory which
15 is granted by a manufacturer shall be geographically contiguous.
16 All importing distributors shall maintain sufficient records to
17 evidence compliance of this section. With regard to any
18 territorial distribution authority granted to an importing
19 distributor by a manufacturer of malt or brewed beverages after
20 January 1, 1996, the records shall establish that each and every
21 case of a brand of malt or brewed beverages for which the
22 importing distributor is assigned was sold, resold, stored,
23 delivered or transported by the importing distributor, either
24 from a point or to a point with the assigned geographically
25 contiguous territory, to any person or persons, whether such
26 person or persons are licensed by this act or not licensed by
27 this act.~~

~~28 (3) Except for discontinuance of a brand or a valid
29 termination for good cause, the purchaser of the assets of the
30 manufacturer as defined in this act shall become obligated to~~

1 ~~all the territorial and brand designations of the agreement in~~
2 ~~effect on the date of purchase. Purchase of assets as defined~~
3 ~~for the purposes of this act shall include, but not be limited~~
4 ~~to, the sale of stock, sale of assets, merger, lease, transfer~~
5 ~~or consolidation.~~

6 ~~(4) The court of common pleas of the county wherein the~~
7 ~~licensed premises of the importing distributor or distributor~~
8 ~~are located is hereby vested with jurisdiction and power to~~
9 ~~enjoin the modification, rescission, cancellation or termination~~
10 ~~of a franchise or agreement between a manufacturer and an~~
11 ~~importing distributor or distributor at the instance of such~~
12 ~~importing distributor or distributor who is or might be~~
13 ~~adversely affected by such modification, rescission,~~
14 ~~cancellation or termination, and in granting an injunction the~~
15 ~~court shall provide that no manufacturer shall supply the~~
16 ~~customers or territory of the importing distributor or~~
17 ~~distributor by servicing the territory or customers through~~
18 ~~other importing distributors or distributors or any other means~~
19 ~~while the injunction is in effect: Provided, however, That any~~
20 ~~injunction issued under this subsection shall require the~~
21 ~~posting of sufficient bond against damages arising from an~~
22 ~~injunction improvidently granted and a showing that the danger~~
23 ~~of irrevocable loss or damage is immediate and that during the~~
24 ~~pendency of such injunction the importing distributor or~~
25 ~~distributor shall continue to service the accounts of the~~
26 ~~manufacturer in good faith.~~

27 ~~(5) The provisions of this subsection shall not apply to~~
28 ~~{Pennsylvania} small manufacturers {whose principal place of~~
29 ~~business is located in Pennsylvania} unless they name or~~
30 ~~constitute a distributor or importing distributor as a primary~~

1 ~~or original supplier of their products subsequent to the~~
2 ~~effective date of this act, or unless such [Pennsylvania] small~~
3 ~~manufacturers have named or constituted a distributor or~~
4 ~~importing distributor as a primary or original supplier of their~~
5 ~~products prior to the effective date of this act, and which~~
6 ~~status is continuing when this act becomes effective.~~

7 ~~(c) In addition to the fees under section 614 A of the act~~
8 ~~of April 9, 1929 (P.L.177, No.175), known as "The Administrative~~
9 ~~Code of 1929," the board shall assess a fee surcharge of ninety-~~
10 ~~five dollars (\$95.00) for a distributor's license and a fee~~
11 ~~surcharge of four hundred seventy dollars (\$470.00) for an~~
12 ~~importing distributor's license and a fee surcharge of seventy-~~
13 ~~five dollars (\$75.00) for brand registration. Money collected~~
14 ~~under this subsection shall be placed in a restricted account in~~
15 ~~The State Stores Fund. The board may use the money in this~~
16 ~~account to implement section 216. In the event the provisions of~~
17 ~~section 447(a)(2) and/or (c) are held invalid, then this~~
18 ~~subsection shall be void and shall not apply.~~

19 ~~(f) (1) Any malt or brewed beverage produced outside this~~
20 ~~Commonwealth that is repackaged by a bailee for hire or~~
21 ~~importing distributor on behalf of an out of State manufacturer~~
22 ~~must be returned to the out of State manufacturer and come to~~
23 ~~rest out of State before it may reenter this Commonwealth. Such~~
24 ~~repackaged malt or brewed beverages must be distributed through~~
25 ~~the three tier system. Any malt or brewed beverage that is~~
26 ~~repackaged by a bailee for hire or importing distributor on~~
27 ~~behalf of an in State manufacturer must be returned to the in~~
28 ~~State manufacturer and come to rest at the in State~~
29 ~~manufacturer's licensed facility.~~

30 ~~(2) For purposes of this section, "repackage" shall mean any~~

1 ~~change or alteration to the containers or container~~
2 ~~configuration of a case.~~

3 ~~Section 3. Section 431.1(d) of the act, added February 21,~~
4 ~~2002 (P.L.103, No.10), is amended to read:~~

5 ~~Section 431.1. Malt and Brewed Beverages Alternating~~
6 ~~Brewers' Licenses. * * *~~

7 ~~(d) Malt and brewed beverages manufactured under the~~
8 ~~authority of an alternating brewer's license must be distributed~~
9 ~~in this Commonwealth only through specific importing~~
10 ~~distributors who shall first have been given distributor rights~~
11 ~~for such products in designated geographical areas through the~~
12 ~~distribution system required for [out of State] manufacturers~~
13 ~~under section 431(b) as well as all other pertinent sections of~~
14 ~~this act. The alternating brewer must comply with section 444.~~

15 ~~* * *~~

16 ~~Section 4. Section 441(g) of the act, added December 20,~~
17 ~~1996 (P.L.1513, No.196), is amended to read:~~

18 ~~Section 441. Distributors' and Importing Distributors'~~
19 ~~Restrictions on Sales, Storage, Etc. * * *~~

20 ~~(g) All malt or brewed beverages purchased by an importing~~
21 ~~distributor from a [Pennsylvania] manufacturer of malt or brewed~~
22 ~~beverages [or from any person located outside this Commonwealth]~~
23 ~~for resale shall be invoiced to the importing distributor, shall~~
24 ~~come physically into the possession of such importing~~
25 ~~distributor and shall be unloaded into and distributed from the~~
26 ~~licensed premises of such importing distributor. The board may~~
27 ~~act to further define and control the storage and distribution~~
28 ~~of malt or brewed beverages in conformity with this section and~~
29 ~~this act.~~

30 ~~Section 5. Section 446 of the act, amended June 30, 1992~~

1 ~~(P.L.327, No.66), May 31, 1996 (P.L.312, No.49) and January 6,~~
2 ~~2006 (P.L.1, No.1), is amended to read:~~

3 ~~Section 446. Breweries. Holders of a brewery license may:~~

4 ~~(1) Sell malt or brewed beverages produced and owned by the~~
5 ~~brewery on the licensed premises under such conditions and~~
6 ~~regulations as the board may enforce, to individuals for~~
7 ~~consumption on the premises [and]. Additionally, a small~~
8 ~~manufacturer may sell malt or brewed beverages produced and~~
9 ~~owned by the brewery on the licensed premises under such~~
10 ~~conditions and regulations as the board may enforce to hotel,~~
11 ~~restaurant, club and public service liquor licensees.~~

12 ~~(2) Operate a restaurant or brewery pub on the licensed~~
13 ~~premises under such conditions and regulations as the board may~~
14 ~~enforce: Provided, however, That sales on Sunday may be made~~
15 ~~irrespective of the volume of food sales if the licensed~~
16 ~~premises are at a public venue location. The holder of a brewery~~
17 ~~license may sell at its brewery pub premises Pennsylvania wines~~
18 ~~it has purchased from either the holder of a Pennsylvania~~
19 ~~limited winery license or from the board: Provided, however,~~
20 ~~That said wines must be consumed at the licensed brewery pub~~
21 ~~premises.~~

22 ~~(3) Use brewery storage and distribution facilities for the~~
23 ~~purpose of receiving, storing and distributing malt or brewed~~
24 ~~beverages manufactured outside this Commonwealth if the~~
25 ~~beverages are distributed in this Commonwealth only through~~
26 ~~specific importing distributors who shall have first been given~~
27 ~~distributing rights for such products in designated geographical~~
28 ~~areas through the distribution system required for [out of~~
29 ~~State] manufacturers under section 431(b) as well as all other~~
30 ~~pertinent sections of this act. The manufacturer of the~~

1 ~~beverages must comply with section 444.~~

2 ~~(4) Apply for and hold a hotel liquor license, a restaurant~~
3 ~~liquor license or a malt and brewed beverages retail license to~~
4 ~~sell for consumption at the restaurant or brewery pub on the~~
5 ~~licensed brewery premises, liquor, wine and malt or brewed~~
6 ~~beverages regardless of the place of manufacture, under the same~~
7 ~~conditions and regulations as any other hotel liquor license,~~
8 ~~restaurant liquor license or malt and brewed beverages retail~~
9 ~~license, but must brew at least two hundred fifty barrels per~~
10 ~~year. Each holder of a brewery license who receives a hotel~~
11 ~~liquor license, a restaurant liquor license or a malt or brewed~~
12 ~~beverages retail license to operate a brew pub shall not sell~~
13 ~~directly to any person licensed by this act, except if any malt~~
14 ~~or brewed beverage is to be distributed in this Commonwealth it~~
15 ~~shall be only through specific importing distributors who shall~~
16 ~~have first been given distributing rights for such products in~~
17 ~~designated geographical areas through the distribution system~~
18 ~~required for [out of State] manufacturers under section 431(b)~~
19 ~~as well as all other pertinent sections of this act.~~

20 ~~Section 6. The provisions of this act are severable. If any~~
21 ~~provision of this act or its application to any person or~~
22 ~~circumstance is held invalid, the invalidity shall not affect~~
23 ~~other provisions or applications of this act which can be given~~
24 ~~effect without the invalid provision or application.~~

25 ~~Section 7. This act shall take effect December 31, 2007.~~

26 SECTION 1. THE DEFINITIONS OF "CASE," "DISTRIBUTOR" AND ←
27 "IMPORTING DISTRIBUTOR" IN SECTION 102 OF THE ACT OF APRIL 12,
28 1951 (P.L.90, NO.21), KNOWN AS THE LIQUOR CODE, REENACTED AND
29 AMENDED JUNE 29, 1987 (P.L.32, NO.14) AND AMENDED MAY 31, 1996
30 (P.L.312, NO.49) AND JULY 7, 2006 (P.L.584, NO.84), ARE AMENDED

1 AND THE SECTION 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 "CASE" SHALL MEAN A PACKAGE PREPARED BY THE MANUFACTURER FOR
7 SALE OR DISTRIBUTION OF TWELVE OR MORE ORIGINAL CONTAINERS
8 TOTALING TWO HUNDRED SIXTY-FOUR OR MORE FLUID OUNCES OF MALT OR
9 BREWED BEVERAGES EXCEPTING THOSE PACKAGES CONTAINING TWENTY-FOUR
10 OR MORE ORIGINAL CONTAINERS EACH HOLDING SEVEN FLUID OUNCES OR
11 MORE. BEGINNING ON SEPTEMBER 1, 2008, "CASE" SHALL MEAN A
12 PACKAGE PREPARED BY THE MANUFACTURER FOR SALE OR DISTRIBUTION IN
13 ANY CONFIGURATION OF ORIGINAL CONTAINERS TOTALING SIXTY-SIX OR
14 MORE FLUID OUNCES OF MALT OR BREWED BEVERAGES.

15 * * *

16 "DISTRIBUTOR" SHALL MEAN ANY PERSON LICENSED BY THE BOARD TO
17 ENGAGE IN THE PURCHASE ONLY FROM [PENNSYLVANIA] SMALL
18 MANUFACTURERS AND FROM IMPORTING DISTRIBUTORS AND THE RESALE OF
19 MALT OR BREWED BEVERAGES, EXCEPT TO IMPORTING DISTRIBUTORS AND
20 DISTRIBUTORS, IN THE ORIGINAL SEALED CONTAINERS AS PREPARED FOR
21 THE MARKET BY THE MANUFACTURER AT THE PLACE OF MANUFACTURE, BUT
22 NOT FOR CONSUMPTION ON THE PREMISES WHERE SOLD, AND IN
23 QUANTITIES OF NOT LESS THAN A CASE OR ORIGINAL CONTAINERS
24 CONTAINING ONE HUNDRED TWENTY-EIGHT OUNCES OR MORE, OR HOLIDAY
25 PACKAGES APPROVED BY THE BOARD, WHICH MAY BE SOLD SEPARATELY.

26 * * *

27 "HOLIDAY PACKAGE" SHALL MEAN A PACKAGE CONSISTING OF AN
28 ORIGINAL CONTAINER OF A MALT OR BREWED BEVERAGE CONTAINING AT
29 LEAST FORTY FLUID OUNCES AND A NON-MALT OR BREWED BEVERAGE ITEM
30 AS PACKAGED BY THE MANUFACTURER.

1 * * *

2 "IMPORTING DISTRIBUTOR" SHALL MEAN ANY PERSON LICENSED BY THE
3 BOARD TO ENGAGE IN THE PURCHASE FROM MANUFACTURERS AND OTHER
4 PERSONS LOCATED OUTSIDE THIS COMMONWEALTH AND FROM PERSONS
5 LICENSED AS MANUFACTURERS OF MALT OR BREWED BEVERAGES AND
6 IMPORTING DISTRIBUTORS UNDER THIS ACT, AND THE RESALE OF MALT OR
7 BREWED BEVERAGES IN THE ORIGINAL SEALED CONTAINERS AS PREPARED
8 FOR THE MARKET BY THE MANUFACTURER AT THE PLACE OF MANUFACTURE,
9 BUT NOT FOR CONSUMPTION ON THE PREMISES WHERE SOLD, AND IN
10 QUANTITIES OF NOT LESS THAN A CASE OR ORIGINAL CONTAINERS
11 CONTAINING ONE HUNDRED TWENTY-EIGHT OUNCES OR MORE, OR HOLIDAY
12 PACKAGES APPROVED BY THE BOARD, WHICH MAY BE SOLD SEPARATELY.

13 * * *

14 "OUT-OF-STATE SMALL MANUFACTURER," BEGINNING ON JULY 1, 2008,
15 SHALL MEAN A SMALL MANUFACTURER LOCATED OUTSIDE THIS
16 COMMONWEALTH WITH A MAXIMUM PRODUCTION OF THREE HUNDRED THOUSAND
17 BARRELS OF MALT OR BREWED BEVERAGES PER YEAR. IN DETERMINING THE
18 ANNUAL PRODUCTION, THE OUT-OF-STATE SMALL MANUFACTURER SHALL
19 INCLUDE A PORTION OF THE PRODUCTION OF ANY OTHER MANUFACTURER
20 WHO HOLDS, DIRECTLY OR INDIRECTLY, AN OWNERSHIP INTEREST IN IT
21 OR WITH WHOM IT HAS A DISTRIBUTION AGREEMENT IN THIS
22 COMMONWEALTH. IF ANOTHER MANUFACTURER HOLDS, DIRECTLY OR
23 INDIRECTLY, AN OWNERSHIP INTEREST IN AN OUT-OF-STATE SMALL
24 MANUFACTURER, THE PERCENTAGE OF THAT INTEREST SHALL BE APPLIED
25 TO THE MANUFACTURER'S TOTAL PRODUCTION OF MALT OR BREWED
26 BEVERAGE PRODUCTS TO DETERMINE THE AMOUNT THAT SHALL BE INCLUDED
27 IN DETERMINING THE MAXIMUM PRODUCTION FOR THE OUT-OF-STATE SMALL
28 MANUFACTURER. IF THE OUT-OF-STATE SMALL MANUFACTURER HAS A
29 DISTRIBUTION AGREEMENT WITH A LARGER MANUFACTURER FOR
30 DISTRIBUTION IN THIS COMMONWEALTH, THE DISTRIBUTING

1 MANUFACTURER'S TOTAL DISTRIBUTION IN THIS COMMONWEALTH SHALL BE
2 ADDED TO THE OUT-OF-STATE SMALL MANUFACTURER'S PRODUCTION TO
3 DETERMINE WHETHER THE THREE HUNDRED THOUSAND BARREL MARK HAS
4 BEEN REACHED.

5 * * *

6 "SMALL MANUFACTURER," BEGINNING ON JULY 1, 2008, SHALL MEAN A
7 MANUFACTURER OF MALT OR BREWED BEVERAGES THAT PRODUCES NO MORE
8 THAN THREE HUNDRED THOUSAND BARRELS OF MALT OR BREWED BEVERAGES
9 PER YEAR. ONLY MALT OR BREWED BEVERAGES FOR WHICH THE
10 MANUFACTURER IS RESPONSIBLE FOR PAYING THE MALT BEVERAGE TAX
11 SHALL BE CONSIDERED IN CALCULATING THE TOTAL NUMBER OF BARRELS
12 PRODUCED PER YEAR FOR A MANUFACTURER.

13 * * *

14 SECTION 2. THE ACT IS AMENDED BY ADDING A SECTION TO READ:

15 SECTION 218. MANUFACTURER'S PACKAGING EQUIPMENT GRANT
16 FUND.--(A) THERE IS CREATED A SPECIAL FUND WITHIN THE BOARD TO
17 BE KNOWN AS THE MANUFACTURER'S PACKAGING EQUIPMENT GRANT FUND.
18 THE BOARD SHALL ADMINISTER THE FUND, WHICH SHALL BE USED TO
19 PROVIDE GRANTS TO MALT OR BREWED BEVERAGE MANUFACTURERS LOCATED
20 WITHIN THIS COMMONWEALTH FOR THE PURPOSE OF PURCHASING OR
21 UPGRADING MALT OR BREWED BEVERAGE PACKAGING EQUIPMENT.

22 (B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW OR THIS ACT
23 TO THE CONTRARY, THE SUM OF FIVE MILLION DOLLARS (\$5,000,000) IS
24 HEREBY APPROPRIATED TO THE FUND SOLELY FOR THE PURPOSE OF
25 FUNDING GRANTS TO MANUFACTURERS UNDER SECTION 448.

26 SECTION 3. SECTION 407(A) OF THE ACT, AMENDED JULY 7, 2006
27 (P.L.584, NO.84), IS AMENDED TO READ:

28 SECTION 407. SALE OF MALT OR BREWED BEVERAGES BY LIQUOR
29 LICENSEES.--(A) EVERY LIQUOR LICENSE ISSUED TO A HOTEL,
30 RESTAURANT, CLUB, OR A RAILROAD, PULLMAN OR STEAMSHIP COMPANY

1 UNDER THIS SUBDIVISION (A) FOR THE SALE OF LIQUOR SHALL
2 AUTHORIZE THE LICENSEE TO SELL MALT OR BREWED BEVERAGES AT THE
3 SAME PLACES BUT SUBJECT TO THE SAME RESTRICTIONS AND PENALTIES
4 AS APPLY TO SALES OF LIQUOR, EXCEPT THAT LICENSEES OTHER THAN
5 CLUBS MAY SELL MALT OR BREWED BEVERAGES FOR CONSUMPTION OFF THE
6 PREMISES WHERE SOLD IN QUANTITIES OF NOT MORE THAN [ONE HUNDRED
7 NINETY-TWO] TWO HUNDRED SIXTEEN FLUID OUNCES IN A SINGLE SALE TO
8 ONE PERSON. NO LICENSEE UNDER THIS SECTION SHALL BE PERMITTED TO
9 SELL A PACKAGE PREPARED BY THE MANUFACTURER FOR SALE OR
10 DISTRIBUTION IN ANY CONFIGURATION OF ORIGINAL CONTAINERS
11 TOTALING BETWEEN ONE HUNDRED FORTY-FIVE FLUID OUNCES AND TWO
12 HUNDRED SIXTEEN FLUID OUNCES OF MALT OR BREWED BEVERAGES PRIOR
13 TO SEPTEMBER 1, 2008. NO LICENSEE UNDER THIS SUBDIVISION (A)
14 SHALL AT THE SAME TIME BE THE HOLDER OF ANY OTHER CLASS OF
15 LICENSE, EXCEPT A RETAIL DISPENSER'S LICENSE AUTHORIZING THE
16 SALE OF MALT OR BREWED BEVERAGES ONLY.

17 * * *

18 SECTION 4. SECTION 431 OF THE ACT, AMENDED DECEMBER 20, 1996
19 (P.L.1513, NO.196), DECEMBER 21, 1998 (P.L.1202, NO.155) AND
20 DECEMBER 8, 2004 (P.L.1810, NO.239), IS AMENDED TO READ:

21 SECTION 431. MALT AND BREWED BEVERAGES MANUFACTURERS',
22 DISTRIBUTORS' AND IMPORTING DISTRIBUTORS' LICENSES.--(A) THE
23 BOARD SHALL ISSUE TO ANY PERSON A RESIDENT OF THIS COMMONWEALTH
24 OF GOOD REPUTE WHO APPLIES THEREFOR, AND PAYS THE LICENSE FEE
25 HEREINAFTER PRESCRIBED, A MANUFACTURER'S LICENSE TO PRODUCE AND
26 MANUFACTURE MALT OR BREWED BEVERAGES, AND TO TRANSPORT, SELL AND
27 DELIVER MALT OR BREWED BEVERAGES FROM THE PLACE OF MANUFACTURE
28 ONLY IN ORIGINAL CONTAINERS, IN QUANTITIES OF NOT LESS THAN A
29 CASE OR ORIGINAL CONTAINERS CONTAINING ONE HUNDRED TWENTY-EIGHT
30 OUNCES OR MORE, OR HOLIDAY PACKAGES APPROVED BY THE BOARD, WHICH

1 MAY BE SOLD SEPARATELY ANYWHERE WITHIN THE COMMONWEALTH. THE
2 APPLICATION FOR SUCH LICENSE SHALL BE IN SUCH FORM AND CONTAIN
3 SUCH INFORMATION AS THE BOARD SHALL REQUIRE. ALL SUCH LICENSES
4 SHALL BE GRANTED FOR A LICENSE PERIOD TO BE DETERMINED BY THE
5 BOARD. EVERY MANUFACTURER SHALL KEEP AT HIS OR ITS PRINCIPAL
6 PLACE OF BUSINESS, WITHIN THE COMMONWEALTH DAILY PERMANENT
7 RECORDS WHICH SHALL SHOW, (1) THE QUANTITIES OF RAW MATERIALS
8 RECEIVED AND USED IN THE MANUFACTURE OF MALT OR BREWED BEVERAGES
9 AND THE QUANTITIES OF MALT OR BREWED BEVERAGES MANUFACTURED AND
10 STORED, (2) THE SALES OF MALT OR BREWED BEVERAGES, (3) THE
11 QUANTITIES OF MALT OR BREWED BEVERAGES STORED FOR HIRE OR
12 TRANSPORTED FOR HIRE BY OR FOR THE LICENSEE, AND (4) THE NAMES
13 AND ADDRESSES OF THE PURCHASERS OR OTHER RECIPIENTS THEREOF.
14 EVERY PLACE LICENSED AS A MANUFACTURER SHALL BE SUBJECT TO
15 INSPECTION BY MEMBERS OF THE BOARD OR BY PERSONS DULY AUTHORIZED
16 AND DESIGNATED BY THE BOARD, AT ANY AND ALL TIMES OF THE DAY OR
17 NIGHT, AS THEY MAY DEEM NECESSARY, FOR THE DETECTION OF
18 VIOLATIONS OF THIS ACT OR OF THE RULES AND REGULATIONS OF THE
19 BOARD, OR FOR THE PURPOSE OF ASCERTAINING THE CORRECTNESS OF THE
20 RECORDS REQUIRED TO BE KEPT BY LICENSEES. THE BOOKS AND RECORDS
21 OF SUCH LICENSEES SHALL AT ALL TIMES BE OPEN TO INSPECTION BY
22 MEMBERS OF THE BOARD OR BY PERSONS DULY AUTHORIZED AND
23 DESIGNATED BY THE BOARD. MEMBERS OF THE BOARD AND ITS DULY
24 AUTHORIZED AGENTS SHALL HAVE THE RIGHT, WITHOUT HINDRANCE, TO
25 ENTER ANY PLACE WHICH IS SUBJECT TO INSPECTION HEREUNDER OR ANY
26 PLACE WHERE SUCH RECORDS ARE KEPT FOR THE PURPOSE OF MAKING SUCH
27 INSPECTIONS AND MAKING TRANSCRIPTS THEREOF. WHENEVER ANY CHECKS
28 ISSUED IN PAYMENT OF FILING AND/OR LICENSE FEES SHALL BE
29 RETURNED TO THE BOARD AS DISHONORED, THE BOARD SHALL CHARGE A
30 FEE OF FIVE DOLLARS (\$5.00) PER HUNDRED DOLLARS OR FRACTIONAL

1 PART THEREOF, PLUS ALL PROTEST FEES, TO THE MAKER OF SUCH CHECK
2 SUBMITTED TO THE BOARD. FAILURE TO MAKE FULL PAYMENT OR PAY THE
3 FACE AMOUNT OF THE CHECK IN FULL AND ALL CHARGES THEREON AS
4 HEREIN REQUIRED WITHIN TEN DAYS AFTER DEMAND HAS BEEN MADE BY
5 THE BOARD UPON THE MAKER OF THE CHECK OR UPON NOTIFICATION TO
6 THE BOARD BY THE DEPARTMENT OF REVENUE OR THE DEPARTMENT OF
7 LABOR AND INDUSTRY OF ITS OBJECTION, THE LICENSE OF SUCH PERSON
8 SHALL IMMEDIATELY BECOME INVALID AND SHALL REMAIN INVALID UNTIL
9 PAYMENT AND ALL CHARGES ARE RECEIVED BY THE BOARD.

10 (A.1) ANY [OUT OF STATE] MANUFACTURER WHOSE PRODUCTS ARE
11 SOLD AND DELIVERED WITHIN THIS COMMONWEALTH SHALL BE AUTHORIZED:
12 TO RENT, LEASE OR OTHERWISE ACQUIRE SPACE FROM AN IMPORTING
13 DISTRIBUTOR OR BAILEE FOR HIRE AUTHORIZED BY THIS ACT AT NO MORE
14 THAN TWO LOCATIONS PER MANUFACTURER FOR USE OF A SEGREGATED
15 PORTION OF A WAREHOUSE OR OTHER STORAGE FACILITY OWNED OR
16 OPERATED BY THE IMPORTING DISTRIBUTOR OR BAILEE FOR HIRE AT
17 WHICH THE [OUT OF STATE] MANUFACTURER MAY STORE, REPACKAGE AND
18 SELL MALT OR BREWED BEVERAGES TO ANY IMPORTING DISTRIBUTOR TO
19 WHOM THE [OUT OF STATE] MANUFACTURER HAS GRANTED DISTRIBUTION
20 RIGHTS PURSUANT TO SUBSECTION (B) OR TO ANY PURCHASER OUTSIDE
21 THIS COMMONWEALTH FOR DELIVERY OUTSIDE THIS COMMONWEALTH; OR TO
22 SHIP TO ITS STORAGE FACILITY OUTSIDE THIS COMMONWEALTH. SUCH
23 MANUFACTURER MAY COMPENSATE THE IMPORTING DISTRIBUTOR OR BAILEE
24 FOR HIRE FOR ANY RELATED STORAGE, REPACKAGING OR DELIVERY
25 SERVICES. THE [OUT OF STATE] MANUFACTURER MUST FILE WITH THE
26 LIQUOR CONTROL BOARD THE RATE OF COMPENSATION TO BE PAID. A
27 SEPARATE WRITTEN APPLICATION MUST BE FILED TO ACQUIRE STORAGE
28 LICENSES, AND THE BOARD MAY ESTABLISH THE INFORMATION THAT MUST
29 BE PROVIDED ON THE APPLICATION. THE INITIAL FILING MUST BE MADE
30 PRIOR TO ANY PAYMENTS BEING MADE, AND ANY SUBSEQUENT CHANGES IN

1 THE RATE OF COMPENSATION MUST BE FILED WITHIN THIRTY DAYS OF ANY
2 SUCH CHANGE. NOTHING IN THIS ACT AUTHORIZING STORAGE FACILITIES
3 FOR [OUT OF STATE] MANUFACTURERS IS INTENDED TO MAKE ANY CHANGE
4 IN THE MANNER MALT OR BREWED BEVERAGES ARE DISTRIBUTED THROUGH
5 THE THREE-TIER SYSTEM.

6 (A.2) THE BOARD SHALL ISSUE TO A [HOLDER OF A MANUFACTURER'S
7 LICENSE] SMALL MANUFACTURER NO MORE THAN TWO STORAGE LICENSES
8 PER SMALL MANUFACTURER TO COVER STORAGE FACILITIES SEPARATE FROM
9 THE LOCATION OF THE MANUFACTURING FACILITY. A SMALL MANUFACTURER
10 MAY USE ITS STORAGE FACILITIES TO RECEIVE, STORE, REPACKAGE,
11 SELL AND DISTRIBUTE MALT OR BREWED BEVERAGES IN THE SAME MANNER
12 AS IT CAN AT ITS PLACE OF MANUFACTURE OR IT MAY RENT, LEASE OR
13 OTHERWISE ACQUIRE SPACE FROM AN IMPORTING DISTRIBUTOR OR BAILEE
14 FOR HIRE AUTHORIZED BY THIS ACT IN THE SAME MANNER AS [AN OUT OF
15 STATE] A MANUFACTURER AS SET FORTH IN SUBSECTION (A.1). A
16 SEPARATE WRITTEN APPLICATION MUST BE FILED TO ACQUIRE STORAGE
17 LICENSES, AND THE BOARD IS EMPOWERED TO ESTABLISH WHAT
18 INFORMATION MUST BE PROVIDED ON THAT APPLICATION. NOTHING IN
19 THIS ACT AUTHORIZING OFF-SITE STORAGE FACILITIES FOR
20 MANUFACTURERS IS INTENDED TO MAKE ANY CHANGE IN THE MANNER MALT
21 OR BREWED BEVERAGES ARE DISTRIBUTED THROUGH THE THREE-TIER
22 SYSTEM.

23 (A.3) AN APPLICANT FOR AN OUT-OF-STATE SMALL MANUFACTURER
24 LICENSE SHALL FILE A WRITTEN APPLICATION WITH THE BOARD IN SUCH
25 FORM AND CONTAINING SUCH INFORMATION AS THE BOARD SHALL FROM
26 TIME TO TIME PRESCRIBE. THE APPLICATION AND LICENSE FEES AND THE
27 RESTRICTIONS ON WHO MAY APPLY FOR THE LICENSE SHALL BE THE SAME
28 AS THE FEES AND RESTRICTIONS IMPOSED ON IN-STATE SMALL
29 MANUFACTURER APPLICANTS. IN ADDITION, THE OUT-OF-STATE SMALL
30 MANUFACTURER MUST OBTAIN A SALES TAX LICENSE FROM THE DEPARTMENT

1 OF REVENUE PRIOR TO SUBMITTING THE APPLICATION TO THE BOARD. THE
2 INFORMATION CONTAINED IN THE APPLICATION SHALL BE PROVIDED BY
3 THE BOARD TO THE DEPARTMENT OF REVENUE UPON REQUEST. IN ORDER TO
4 CONTINUE TO BE ELIGIBLE TO HOLD AN OUT-OF-STATE SMALL
5 MANUFACTURER LICENSE, THE OUT-OF-STATE SMALL MANUFACTURER MAY
6 NOT PRODUCE IN EXCESS OF THREE HUNDRED THOUSAND BARRELS OF MALT
7 OR BREWED BEVERAGES PER YEAR, AS THAT CALCULATION IS DEFINED IN
8 SECTION 102. NO OUT-OF-STATE SMALL MANUFACTURER LICENSEE OR ITS
9 OFFICERS, DIRECTORS, SHAREHOLDERS OR MEMBERS SHALL HOLD ANY
10 INTEREST IN ANY OTHER LICENSE ISSUED BY THE BOARD; NOR SHALL ANY
11 OUT-OF-STATE SMALL MANUFACTURER LICENSEE OR ITS OFFICERS,
12 DIRECTORS, SHAREHOLDERS OR MEMBERS, EITHER DIRECTLY OR
13 INDIRECTLY, LEND MONEYS, CREDIT OR EQUIVALENT THEREOF, TO ANY
14 OTHER LICENSEE; NOR SHALL ANY OUT-OF-STATE SMALL MANUFACTURER
15 LICENSEE OR ITS OFFICERS, DIRECTORS, SHAREHOLDERS OR MEMBERS
16 GUARANTEE THE PAYMENT OF ANY BOND, MORTGAGE, NOTE OR OTHER
17 OBLIGATION OF ANY OTHER LICENSEE; NOR SHALL ANY OUT-OF-STATE
18 SMALL MANUFACTURER LICENSEE OR ITS OFFICERS, DIRECTORS,
19 SHAREHOLDERS OR MEMBERS BE THE OWNER, PROPRIETOR OR LESSOR OF
20 ANY PLACE FOR WHICH ANY OTHER LICENSE HAS BEEN ISSUED BY THE
21 BOARD. OUT-OF-STATE SMALL MANUFACTURER LICENSEES ARE DEEMED TO
22 HAVE SUBMITTED TO THE JURISDICTION OF THE BOARD, ANY OTHER
23 COMMONWEALTH AGENCY AND THE COURTS OF THE COMMONWEALTH FOR
24 PURPOSES OF ENFORCEMENT OF THIS SECTION AND ANY RELATED LAWS,
25 RULES OR REGULATIONS. OUT-OF-STATE SMALL MANUFACTURER LICENSEES
26 ARE SUBJECT TO CITATION BY THE ENFORCEMENT BUREAU UNDER SECTION
27 471 AND NONRENEWAL BY THE BOARD UNDER SECTION 470. THE
28 DEPARTMENT OF REVENUE MAY PROMULGATE REGULATIONS REQUIRING THE
29 FILING OF PERIODIC REPORTS BY OUT-OF-STATE SMALL MANUFACTURERS
30 TO ENSURE COMPLIANCE WITH THE PROVISIONS OF THIS SECTION. A

1 HOLDER OF AN OUT-OF-STATE SMALL MANUFACTURER LICENSE MAY DELIVER
2 MALT OR BREWED BEVERAGES IT HAS MANUFACTURED TO ANY HOLDER OF
3 ANY RETAIL LICENSE ISSUED BY THE BOARD. IN DOING SO, THE OUT-OF-
4 STATE SMALL MANUFACTURER MUST USE ITS OWN VEHICLES AND MAY NOT,
5 IN THIS COMMONWEALTH, USE THE SERVICES OF A TRANSPORTER-FOR-HIRE
6 OR OTHER COMMERCIAL CARRIER. IF THE OUT-OF-STATE SMALL
7 MANUFACTURER CHOOSES TO SELF-DISTRIBUTE IN THIS COMMONWEALTH, IT
8 IS NOT PERMITTED TO UTILIZE STORAGE SERVICES OTHER THAN THOSE
9 AVAILABLE UNDER SECTION 431(A.1).

10 (B) THE BOARD SHALL ISSUE TO ANY REPUTABLE PERSON WHO
11 APPLIES THEREFOR, AND PAYS THE LICENSE FEE HEREINAFTER
12 PRESCRIBED, A DISTRIBUTOR'S OR IMPORTING DISTRIBUTOR'S LICENSE
13 FOR THE PLACE WHICH SUCH PERSON DESIRES TO MAINTAIN FOR THE SALE
14 OF MALT OR BREWED BEVERAGES, NOT FOR CONSUMPTION ON THE PREMISES
15 WHERE SOLD, AND IN QUANTITIES OF NOT LESS THAN A CASE OR
16 ORIGINAL CONTAINERS CONTAINING ONE HUNDRED TWENTY-EIGHT OUNCES
17 OR MORE, OR HOLIDAY PACKAGES APPROVED BY THE BOARD, WHICH MAY BE
18 SOLD SEPARATELY AS PREPARED FOR THE MARKET BY THE MANUFACTURER
19 AT THE PLACE OF MANUFACTURE. THE BOARD SHALL HAVE THE DISCRETION
20 TO REFUSE A LICENSE TO ANY PERSON OR TO ANY CORPORATION,
21 PARTNERSHIP OR ASSOCIATION IF SUCH PERSON, OR ANY OFFICER OR
22 DIRECTOR OF SUCH CORPORATION, OR ANY MEMBER OR PARTNER OF SUCH
23 PARTNERSHIP OR ASSOCIATION SHALL HAVE BEEN CONVICTED OR FOUND
24 GUILTY OF A FELONY WITHIN A PERIOD OF FIVE YEARS IMMEDIATELY
25 PRECEDING THE DATE OF APPLICATION FOR THE SAID LICENSE: AND
26 PROVIDED FURTHER, THAT, IN THE CASE OF ANY NEW LICENSE OR THE
27 TRANSFER OF ANY LICENSE TO A NEW LOCATION, THE BOARD MAY, IN ITS
28 DISCRETION, GRANT OR REFUSE SUCH NEW LICENSE OR TRANSFER IF SUCH
29 PLACE PROPOSED TO BE LICENSED IS WITHIN THREE HUNDRED FEET OF
30 ANY CHURCH, HOSPITAL, CHARITABLE INSTITUTION, SCHOOL OR PUBLIC

1 PLAYGROUND, OR IF SUCH NEW LICENSE OR TRANSFER IS APPLIED FOR A
2 PLACE WHICH IS WITHIN TWO HUNDRED FEET OF ANY OTHER PREMISES
3 WHICH IS LICENSED BY THE BOARD: AND PROVIDED FURTHER, THAT THE
4 BOARD SHALL REFUSE ANY APPLICATION FOR A NEW LICENSE OR THE
5 TRANSFER OF ANY LICENSE TO A NEW LOCATION IF, IN THE BOARD'S
6 OPINION, SUCH NEW LICENSE OR TRANSFER WOULD BE DETRIMENTAL TO
7 THE WELFARE, HEALTH, PEACE AND MORALS OF THE INHABITANTS OF THE
8 NEIGHBORHOOD WITHIN A RADIUS OF FIVE HUNDRED FEET OF THE PLACE
9 PROPOSED TO BE LICENSED. THE BOARD SHALL REFUSE ANY APPLICATION
10 FOR A NEW LICENSE OR THE TRANSFER OF ANY LICENSE TO A LOCATION
11 WHERE THE SALE OF LIQUID FUELS OR OIL IS CONDUCTED. THE BOARD
12 MAY ENTER INTO AN AGREEMENT WITH THE APPLICANT CONCERNING
13 ADDITIONAL RESTRICTIONS ON THE LICENSE IN QUESTION. IF THE BOARD
14 AND THE APPLICANT ENTER INTO SUCH AN AGREEMENT, SUCH AGREEMENT
15 SHALL BE BINDING ON THE APPLICANT. FAILURE BY THE APPLICANT TO
16 ADHERE TO THE AGREEMENT WILL BE SUFFICIENT CAUSE TO FORM THE
17 BASIS FOR A CITATION UNDER SECTION 471 AND FOR THE NONRENEWAL OF
18 THE LICENSE UNDER SECTION 470. IF THE BOARD ENTERS INTO AN
19 AGREEMENT WITH AN APPLICANT CONCERNING ADDITIONAL RESTRICTIONS,
20 THOSE RESTRICTIONS SHALL BE BINDING ON SUBSEQUENT HOLDERS OF THE
21 LICENSE UNTIL THE LICENSE IS TRANSFERRED TO A NEW LOCATION OR
22 UNTIL THE BOARD ENTERS INTO A SUBSEQUENT AGREEMENT REMOVING
23 THOSE RESTRICTIONS. IF THE APPLICATION IN QUESTION INVOLVES A
24 LOCATION PREVIOUSLY LICENSED BY THE BOARD, THEN ANY RESTRICTIONS
25 IMPOSED BY THE BOARD ON THE PREVIOUS LICENSE AT THAT LOCATION
26 SHALL BE BINDING ON THE APPLICANT UNLESS THE BOARD ENTERS INTO A
27 NEW AGREEMENT RESCINDING THOSE RESTRICTIONS. THE BOARD SHALL
28 REQUIRE NOTICE TO BE POSTED ON THE PROPERTY OR PREMISES UPON
29 WHICH THE LICENSEE OR PROPOSED LICENSEE WILL ENGAGE IN SALES OF
30 MALT OR BREWED BEVERAGES. THIS NOTICE SHALL BE SIMILAR TO THE

1 NOTICE REQUIRED OF HOTEL, RESTAURANT AND CLUB LIQUOR LICENSEES.
2 EXCEPT AS HEREINAFTER PROVIDED, SUCH LICENSE SHALL AUTHORIZE
3 THE HOLDER THEREOF TO SELL OR DELIVER MALT OR BREWED BEVERAGES
4 IN QUANTITIES ABOVE SPECIFIED ANYWHERE WITHIN THE COMMONWEALTH
5 OF PENNSYLVANIA, WHICH, IN THE CASE OF DISTRIBUTORS, HAVE BEEN
6 PURCHASED ONLY FROM PERSONS LICENSED UNDER THIS ACT AS SMALL
7 MANUFACTURERS OR IMPORTING DISTRIBUTORS, AND IN THE CASE OF
8 IMPORTING DISTRIBUTORS, HAVE BEEN PURCHASED FROM MANUFACTURERS
9 OR PERSONS OUTSIDE THIS COMMONWEALTH ENGAGED IN THE LEGAL SALE
10 OF MALT OR BREWED BEVERAGES OR FROM MANUFACTURERS OR IMPORTING
11 DISTRIBUTORS LICENSED UNDER THIS ARTICLE. IN THE CASE OF AN
12 IMPORTING DISTRIBUTOR, THE HOLDER OF SUCH A LICENSE SHALL BE
13 AUTHORIZED TO STORE AND REPACKAGE MALT OR BREWED BEVERAGES OWNED
14 BY A MANUFACTURER AT A SEGREGATED PORTION OF A WAREHOUSE OR
15 OTHER STORAGE FACILITY AUTHORIZED BY SECTION 441(D) AND OPERATED
16 BY THE IMPORTING DISTRIBUTOR WITHIN ITS APPOINTED TERRITORY AND
17 DELIVER SUCH BEVERAGES TO ANOTHER IMPORTING DISTRIBUTOR WHO HAS
18 BEEN GRANTED DISTRIBUTION RIGHTS BY THE MANUFACTURER AS PROVIDED
19 HEREIN. THE IMPORTING DISTRIBUTOR SHALL BE PERMITTED TO RECEIVE
20 A FEE FROM THE MANUFACTURER FOR ANY RELATED STORAGE, REPACKAGING
21 OR DELIVERY SERVICES. IN THE CASE OF A BAILEE FOR HIRE HIRED BY
22 A MANUFACTURER, THE HOLDER OF SUCH A PERMIT SHALL BE AUTHORIZED:
23 TO RECEIVE, STORE AND REPACKAGE MALT OR BREWED BEVERAGES
24 PRODUCED BY THAT MANUFACTURER FOR SALE BY THAT MANUFACTURER TO
25 IMPORTING DISTRIBUTORS TO WHOM THAT MANUFACTURER HAS GIVEN
26 DISTRIBUTION RIGHTS PURSUANT TO THIS SUBSECTION OR TO PURCHASERS
27 OUTSIDE THIS COMMONWEALTH FOR DELIVERY OUTSIDE THIS
28 COMMONWEALTH; OR TO SHIP TO THAT MANUFACTURER'S STORAGE
29 FACILITIES OUTSIDE THIS COMMONWEALTH. THE BAILEE FOR HIRE SHALL
30 BE PERMITTED TO RECEIVE A FEE FROM THE MANUFACTURER FOR ANY

1 RELATED STORAGE, REPACKAGING OR DELIVERY SERVICES. THE BAILEE
2 FOR HIRE SHALL, AS REQUIRED IN ARTICLE V OF THIS ACT, KEEP
3 COMPLETE AND ACCURATE RECORDS OF ALL TRANSACTIONS, INVENTORY,
4 RECEIPTS AND SHIPMENTS AND MAKE ALL RECORDS AND THE LICENSED
5 AREAS AVAILABLE FOR INSPECTION BY THE BOARD AND FOR THE
6 PENNSYLVANIA STATE POLICE, BUREAU OF LIQUOR CONTROL ENFORCEMENT,
7 DURING NORMAL BUSINESS HOURS.

8 EACH [OUT OF STATE] MANUFACTURER OF MALT OR BREWED BEVERAGES,
9 EXCLUDING SMALL MANUFACTURERS, WHOSE PRODUCTS ARE SOLD AND
10 DELIVERED IN THIS COMMONWEALTH SHALL GIVE DISTRIBUTING RIGHTS
11 FOR SUCH PRODUCTS IN DESIGNATED GEOGRAPHICAL AREAS TO SPECIFIC
12 IMPORTING DISTRIBUTORS, AND SUCH IMPORTING DISTRIBUTOR SHALL NOT
13 SELL OR DELIVER MALT OR BREWED BEVERAGES MANUFACTURED BY THE
14 [OUT OF STATE] MANUFACTURER TO ANY PERSON ISSUED A LICENSE UNDER
15 THE PROVISIONS OF THIS ACT WHOSE LICENSED PREMISES ARE NOT
16 LOCATED WITHIN THE GEOGRAPHICAL AREA FOR WHICH HE HAS BEEN GIVEN
17 DISTRIBUTING RIGHTS BY SUCH MANUFACTURER. SHOULD A LICENSEE
18 ACCEPT THE DELIVERY OF SUCH MALT OR BREWED BEVERAGES IN
19 VIOLATION OF THIS SECTION, SAID LICENSEE SHALL BE SUBJECT TO A
20 SUSPENSION OF HIS LICENSE FOR AT LEAST THIRTY DAYS: PROVIDED,
21 THAT THE IMPORTING DISTRIBUTOR HOLDING SUCH DISTRIBUTING RIGHTS
22 FOR SUCH PRODUCT SHALL NOT SELL OR DELIVER THE SAME TO ANOTHER
23 IMPORTING DISTRIBUTOR WITHOUT FIRST HAVING ENTERED INTO A
24 WRITTEN AGREEMENT WITH THE SAID SECONDARY IMPORTING DISTRIBUTOR
25 SETTING FORTH THE TERMS AND CONDITIONS UNDER WHICH SUCH PRODUCTS
26 ARE TO BE RESOLD WITHIN THE TERRITORY GRANTED TO THE PRIMARY
27 IMPORTING DISTRIBUTOR BY THE MANUFACTURER.

28 WHEN A [PENNSYLVANIA] SMALL MANUFACTURER OF MALT OR BREWED
29 BEVERAGES LICENSED UNDER THIS ARTICLE NAMES OR CONSTITUTES A
30 DISTRIBUTOR OR IMPORTING DISTRIBUTOR AS THE PRIMARY OR ORIGINAL

1 SUPPLIER OF HIS PRODUCT, HE SHALL ALSO DESIGNATE THE SPECIFIC
2 GEOGRAPHICAL AREA FOR WHICH THE SAID DISTRIBUTOR OR IMPORTING
3 DISTRIBUTOR IS GIVEN DISTRIBUTING RIGHTS, AND SUCH DISTRIBUTOR
4 OR IMPORTING DISTRIBUTOR SHALL NOT SELL OR DELIVER THE PRODUCTS
5 OF SUCH MANUFACTURER TO ANY PERSON ISSUED A LICENSE UNDER THE
6 PROVISIONS OF THIS ACT WHOSE LICENSED PREMISES ARE NOT LOCATED
7 WITHIN THE GEOGRAPHICAL AREA FOR WHICH DISTRIBUTING RIGHTS HAVE
8 BEEN GIVEN TO THE DISTRIBUTOR AND IMPORTING DISTRIBUTOR BY THE
9 SAID MANUFACTURER: PROVIDED, THAT THE IMPORTING DISTRIBUTOR
10 HOLDING SUCH DISTRIBUTING RIGHTS FOR SUCH PRODUCT SHALL NOT SELL
11 OR DELIVER THE SAME TO ANOTHER IMPORTING DISTRIBUTOR WITHOUT
12 FIRST HAVING ENTERED INTO A WRITTEN AGREEMENT WITH THE SAID
13 SECONDARY IMPORTING DISTRIBUTOR SETTING FORTH THE TERMS AND
14 CONDITIONS UNDER WHICH SUCH PRODUCTS ARE TO BE RESOLD WITHIN THE
15 TERRITORY GRANTED TO THE PRIMARY IMPORTING DISTRIBUTOR BY THE
16 MANUFACTURER. NOTHING HEREIN CONTAINED SHALL BE CONSTRUED TO
17 PREVENT ANY MANUFACTURER FROM AUTHORIZING THE IMPORTING
18 DISTRIBUTOR HOLDING THE DISTRIBUTING RIGHTS FOR A DESIGNATED
19 GEOGRAPHICAL AREA FROM SELLING THE PRODUCTS OF SUCH MANUFACTURER
20 TO ANOTHER IMPORTING DISTRIBUTOR ALSO HOLDING DISTRIBUTING
21 RIGHTS FROM THE SAME MANUFACTURER FOR ANOTHER GEOGRAPHICAL AREA,
22 PROVIDING SUCH AUTHORITY BE CONTAINED IN WRITING AND A COPY
23 THEREOF BE GIVEN TO EACH OF THE IMPORTING DISTRIBUTORS SO
24 AFFECTED.

25 (B.1) (1) ANY PERSON IN THIS COMMONWEALTH OR ELSEWHERE WHO
26 SHALL PURCHASE OR IN ANY MANNER WHATSOEVER ACQUIRE OR OTHERWISE
27 SUCCEED TO THE BUSINESS OF A MANUFACTURER, ASSETS OR RIGHTS TO
28 IMPORT, MARKET, SHIP INTO THIS COMMONWEALTH OR DISTRIBUTE A
29 BRAND OF BEER, OR TO USE AND EXPLOIT ANY TRADEMARK INCORPORATED
30 AS PART OF A BRAND OF BEER PRODUCED BY SUCH A MANUFACTURER SHALL

1 BE OBLIGATED TO ALL TERMS OF THE MANUFACTURER'S FRANCHISE
2 AGREEMENTS IN EFFECT ON THE EFFECTIVE DATE OF THE PURCHASE,
3 ACQUISITION OR SUCCESSION, OR, IF EARLIER, AT THE TIME THE
4 AGREEMENT CONTEMPLATING THE PURCHASE, ACQUISITION OR SUCCESSION
5 IS ACTUALLY MADE.

6 (2) "PURCHASE" OR "ACQUISITION," FOR PURPOSES OF THIS
7 SECTION, INCLUDES, BUT IS NOT LIMITED TO, A PURCHASE,
8 ACQUISITION, LEASE, LICENSE OR ASSIGNMENT OF ALL OR A
9 CONTROLLING INTEREST IN THE CAPITAL STOCK OR OPERATING ASSETS,
10 INCLUDING BRAND TRADEMARKS RIGHTS; MERGER; ANY CORPORATE
11 REORGANIZATION OR CONSOLIDATION; AND ALSO, WITHOUT LIMITATION,
12 ANY LICENSE, CROSS-LICENSE, JOINT VENTURE OR OTHER AGREEMENT OR
13 ARRANGEMENT, DIRECTLY OR INDIRECTLY, TRANSFERRING, SUBSTITUTING
14 OR MATERIALLY CHANGING THE PERSON OR PERSONS AUTHORIZED BY THE
15 ONE OWNING OR CONTROLLING A BRAND OR ANY TRADEMARK AS PART OF A
16 BRAND, TO PRODUCE, IMPORT, SHIP, MARKET OR DISTRIBUTE THE BRAND
17 OF BEER INTO OR WITHIN THIS COMMONWEALTH.

18 (3) "MANUFACTURER," AS USED IN THIS SUBSECTION, SHALL MEAN
19 ANY PERSON, INCLUDING ANY AGENT OF SUCH PERSON, WHO (I) IS
20 LICENSED AS A MANUFACTURER OF MALT OR BREWED BEVERAGES LOCATED
21 WITHIN THE COMMONWEALTH OF PENNSYLVANIA, (II) HOLDS A
22 DISTRIBUTOR OR IMPORTING DISTRIBUTOR LICENSE, OR (III)
23 MANUFACTURES ANY MALT BEVERAGE, HAS TITLE TO ANY MALT BEVERAGE
24 PRODUCTS OR HAS THE CONTRACTUAL RIGHT TO DISTRIBUTE ANY MALT
25 BEVERAGE PRODUCT, WHETHER LICENSED IN THIS COMMONWEALTH OR NOT,
26 WHO ENTERS INTO AN "AGREEMENT" WITH ANY IMPORTING DISTRIBUTOR
27 LICENSED TO DO BUSINESS IN THIS COMMONWEALTH.

28 (B.2) ANY MANUFACTURER OF MALT OR BREWED BEVERAGES, NOT
29 INCLUDING A SMALL MANUFACTURER, THAT IS ENGAGED IN COMMERCIAL
30 BREWING OF SOME OR ALL OF ITS PRODUCTS IN A BREWERY BUILDING

1 THAT IS MORE THAN ONE HUNDRED FORTY-FIVE YEARS OLD MAY ENGAGE IN
2 DIRECT SALES TO LICENSEES WHOSE PRINCIPAL PLACE OF BUSINESS IS
3 WITHIN THE SAME COUNTY AS THE BREWERY AND TO NON-LICENSEES, ALL
4 SUBJECT TO THE RESTRICTIONS STATED HEREIN, WITHOUT THE
5 REQUIREMENT OF USING THE DISTRIBUTION SYSTEM.

6 (C) THE AFORESAID LICENSES SHALL BE ISSUED ONLY TO REPUTABLE
7 INDIVIDUALS, PARTNERSHIPS AND ASSOCIATIONS WHO ARE, OR WHOSE
8 MEMBERS ARE, CITIZENS OF THE UNITED STATES AND HAVE FOR TWO
9 YEARS PRIOR TO THE DATE OF THEIR APPLICATIONS BEEN RESIDENTS OF
10 THE COMMONWEALTH OF PENNSYLVANIA OR TO REPUTABLE CORPORATIONS
11 ORGANIZED OR DULY REGISTERED UNDER THE LAWS OF THE COMMONWEALTH
12 OF PENNSYLVANIA. SUCH LICENSES SHALL BE ISSUED TO CORPORATIONS
13 DULY ORGANIZED OR REGISTERED UNDER THE LAWS OF THE COMMONWEALTH
14 OF PENNSYLVANIA ONLY WHEN IT APPEARS THAT ALL OF THE OFFICERS
15 AND DIRECTORS OF THE CORPORATION ARE CITIZENS OF THE UNITED
16 STATES AND [HAVE BEEN] ARE RESIDENTS OF THE COMMONWEALTH OF
17 PENNSYLVANIA [FOR A PERIOD OF AT LEAST TWO YEARS PRIOR TO THE
18 DATE OF APPLICATION], AND THAT AT LEAST FIFTY-ONE PER CENTUM OF
19 THE CAPITAL STOCK OF SUCH CORPORATION IS ACTUALLY OWNED BY
20 INDIVIDUALS WHO ARE CITIZENS OF THE UNITED STATES AND [HAVE
21 BEEN] ARE RESIDENTS OF THE COMMONWEALTH OF PENNSYLVANIA [FOR A
22 PERIOD OF AT LEAST TWO YEARS PRIOR TO THE DATE OF APPLICATION]:
23 PROVIDED, THAT THE PROVISIONS OF THIS SUBSECTION WITH RESPECT TO
24 RESIDENCE REQUIREMENTS SHALL NOT APPLY TO INDIVIDUALS, PARTNERS,
25 OFFICERS, DIRECTORS AND OWNERS OF CAPITAL STOCK, OF CORPORATIONS
26 LICENSED OR APPLYING FOR LICENSES AS MANUFACTURERS OF MALT OR
27 BREWED BEVERAGES, NOR SHALL THE PROVISIONS OF THIS SUBSECTION
28 WITH RESPECT TO STOCKHOLDER REQUIREMENTS APPLY TO CORPORATIONS
29 LICENSED OR APPLYING FOR LICENSES AS MANUFACTURERS OF MALT OR
30 BREWED BEVERAGES.

1 (D) (1) ALL DISTRIBUTING RIGHTS AS HEREINABOVE REQUIRED
2 SHALL BE IN WRITING, SHALL BE EQUITABLE IN THEIR PROVISIONS AND
3 SHALL BE SUBSTANTIALLY SIMILAR AS TO TERMS AND CONDITIONS WITH
4 ALL OTHER DISTRIBUTING RIGHTS AGREEMENTS BETWEEN THE
5 MANUFACTURER GIVING SUCH AGREEMENT AND ITS OTHER IMPORTING
6 DISTRIBUTORS AND DISTRIBUTORS SHALL NOT BE MODIFIED, CANCELLED,
7 TERMINATED OR RESCINDED BY THE MANUFACTURER WITHOUT GOOD CAUSE,
8 AND SHALL CONTAIN A PROVISION IN SUBSTANCE OR EFFECT AS FOLLOWS:
9 "THE MANUFACTURER RECOGNIZES THAT THE IMPORTING DISTRIBUTOR AND
10 DISTRIBUTOR ARE FREE TO MANAGE THEIR BUSINESS IN THE MANNER THE
11 IMPORTING DISTRIBUTOR AND DISTRIBUTOR DEEM BEST AND THAT THIS
12 PREROGATIVE VESTS IN THE IMPORTING DISTRIBUTOR AND DISTRIBUTOR
13 THE EXCLUSIVE RIGHT TO ESTABLISH A SELLING PRICE, TO SELECT THE
14 BRANDS OF MALT OR BREWED BEVERAGES THEY WISH TO HANDLE AND TO
15 DETERMINE THE EFFORTS AND RESOURCES WHICH THE IMPORTING
16 DISTRIBUTOR AND DISTRIBUTOR WILL EXERT TO DEVELOP AND PROMOTE
17 THE SAME OF THE MANUFACTURER'S PRODUCTS HANDLED BY THE IMPORTING
18 DISTRIBUTOR AND DISTRIBUTOR. HOWEVER, THE MANUFACTURER EXPECTS
19 THAT THE IMPORTING DISTRIBUTOR AND DISTRIBUTOR WILL PRICE
20 COMPETITIVELY THE PRODUCTS HANDLED BY THEM, DEVOTE REASONABLE
21 EFFORT AND RESOURCES TO THE SALE OF SUCH PRODUCTS AND MAINTAIN A
22 REASONABLE SALES LEVEL." "GOOD CAUSE" SHALL MEAN THE FAILURE BY
23 ANY PARTY TO AN AGREEMENT, WITHOUT REASONABLE EXCUSE OR
24 JUSTIFICATION, TO COMPLY SUBSTANTIALLY WITH AN ESSENTIAL,
25 REASONABLE AND COMMERCIALY ACCEPTABLE REQUIREMENT IMPOSED BY
26 THE OTHER PARTY UNDER THE TERMS OF AN AGREEMENT.

27 (2) AFTER JANUARY 1, 1980, NO MANUFACTURER SHALL ENTER INTO
28 ANY AGREEMENT WITH MORE THAN ONE DISTRIBUTOR OR IMPORTING
29 DISTRIBUTOR FOR THE PURPOSE OF ESTABLISHING MORE THAN ONE
30 AGREEMENT FOR DESIGNATED BRAND OR BRANDS OF MALT OR BREWED

1 BEVERAGES IN ANY ONE TERRITORY. EACH FRANCHISE TERRITORY WHICH
2 IS GRANTED BY A MANUFACTURER SHALL BE GEOGRAPHICALLY CONTIGUOUS.
3 ALL IMPORTING DISTRIBUTORS SHALL MAINTAIN SUFFICIENT RECORDS TO
4 EVIDENCE COMPLIANCE OF THIS SECTION. WITH REGARD TO ANY
5 TERRITORIAL DISTRIBUTION AUTHORITY GRANTED TO AN IMPORTING
6 DISTRIBUTOR BY A MANUFACTURER OF MALT OR BREWED BEVERAGES AFTER
7 JANUARY 1, 1996, THE RECORDS SHALL ESTABLISH THAT EACH AND EVERY
8 CASE OF A BRAND OF MALT OR BREWED BEVERAGES FOR WHICH THE
9 IMPORTING DISTRIBUTOR IS ASSIGNED WAS SOLD, RESOLD, STORED,
10 DELIVERED OR TRANSPORTED BY THE IMPORTING DISTRIBUTOR, EITHER
11 FROM A POINT OR TO A POINT WITH THE ASSIGNED GEOGRAPHICALLY
12 CONTIGUOUS TERRITORY, TO ANY PERSON OR PERSONS, WHETHER SUCH
13 PERSON OR PERSONS ARE LICENSED BY THIS ACT OR NOT LICENSED BY
14 THIS ACT.

15 (3) EXCEPT FOR DISCONTINUANCE OF A BRAND OR A VALID
16 TERMINATION FOR GOOD CAUSE, THE PURCHASER OF THE ASSETS OF THE
17 MANUFACTURER AS DEFINED IN THIS ACT SHALL BECOME OBLIGATED TO
18 ALL THE TERRITORIAL AND BRAND DESIGNATIONS OF THE AGREEMENT IN
19 EFFECT ON THE DATE OF PURCHASE. PURCHASE OF ASSETS AS DEFINED
20 FOR THE PURPOSES OF THIS ACT SHALL INCLUDE, BUT NOT BE LIMITED
21 TO, THE SALE OF STOCK, SALE OF ASSETS, MERGER, LEASE, TRANSFER
22 OR CONSOLIDATION.

23 (4) THE COURT OF COMMON PLEAS OF THE COUNTY WHEREIN THE
24 LICENSED PREMISES OF THE IMPORTING DISTRIBUTOR OR DISTRIBUTOR
25 ARE LOCATED IS HEREBY VESTED WITH JURISDICTION AND POWER TO
26 ENJOIN THE MODIFICATION, RESCISSION, CANCELLATION OR TERMINATION
27 OF A FRANCHISE OR AGREEMENT BETWEEN A MANUFACTURER AND AN
28 IMPORTING DISTRIBUTOR OR DISTRIBUTOR AT THE INSTANCE OF SUCH
29 IMPORTING DISTRIBUTOR OR DISTRIBUTOR WHO IS OR MIGHT BE
30 ADVERSELY AFFECTED BY SUCH MODIFICATION, RESCISSION,

1 CANCELLATION OR TERMINATION, AND IN GRANTING AN INJUNCTION THE
2 COURT SHALL PROVIDE THAT NO MANUFACTURER SHALL SUPPLY THE
3 CUSTOMERS OR TERRITORY OF THE IMPORTING DISTRIBUTOR OR
4 DISTRIBUTOR BY SERVICING THE TERRITORY OR CUSTOMERS THROUGH
5 OTHER IMPORTING DISTRIBUTORS OR DISTRIBUTORS OR ANY OTHER MEANS
6 WHILE THE INJUNCTION IS IN EFFECT: PROVIDED, HOWEVER, THAT ANY
7 INJUNCTION ISSUED UNDER THIS SUBSECTION SHALL REQUIRE THE
8 POSTING OF SUFFICIENT BOND AGAINST DAMAGES ARISING FROM AN
9 INJUNCTION IMPROVIDENTLY GRANTED AND A SHOWING THAT THE DANGER
10 OF IRREVOCABLE LOSS OR DAMAGE IS IMMEDIATE AND THAT DURING THE
11 PENDENCY OF SUCH INJUNCTION THE IMPORTING DISTRIBUTOR OR
12 DISTRIBUTOR SHALL CONTINUE TO SERVICE THE ACCOUNTS OF THE
13 MANUFACTURER IN GOOD FAITH.

14 (5) THE PROVISIONS OF THIS SUBSECTION SHALL NOT APPLY TO
15 [PENNSYLVANIA] SMALL MANUFACTURERS [WHOSE PRINCIPAL PLACE OF
16 BUSINESS IS LOCATED IN PENNSYLVANIA] UNLESS THEY NAME OR
17 CONSTITUTE A DISTRIBUTOR OR IMPORTING DISTRIBUTOR AS A PRIMARY
18 OR ORIGINAL SUPPLIER OF THEIR PRODUCTS SUBSEQUENT TO THE
19 EFFECTIVE DATE OF THIS ACT, OR UNLESS SUCH [PENNSYLVANIA] SMALL
20 MANUFACTURERS HAVE NAMED OR CONSTITUTED A DISTRIBUTOR OR
21 IMPORTING DISTRIBUTOR AS A PRIMARY OR ORIGINAL SUPPLIER OF THEIR
22 PRODUCTS PRIOR TO THE EFFECTIVE DATE OF THIS ACT, AND WHICH
23 STATUS IS CONTINUING WHEN THIS ACT BECOMES EFFECTIVE.

24 (E) IN ADDITION TO THE FEES UNDER SECTION 614-A OF THE ACT
25 OF APRIL 9, 1929 (P.L.177, NO.175), KNOWN AS "THE ADMINISTRATIVE
26 CODE OF 1929," THE BOARD SHALL ASSESS A FEE SURCHARGE OF NINETY-
27 FIVE DOLLARS (\$95.00) FOR A DISTRIBUTOR'S LICENSE AND A FEE
28 SURCHARGE OF FOUR HUNDRED SEVENTY DOLLARS (\$470.00) FOR AN
29 IMPORTING DISTRIBUTOR'S LICENSE AND A FEE SURCHARGE OF SEVENTY-
30 FIVE DOLLARS (\$75.00) FOR BRAND REGISTRATION. MONEY COLLECTED

1 UNDER THIS SUBSECTION SHALL BE PLACED IN A RESTRICTED ACCOUNT IN
2 THE STATE STORES FUND. THE BOARD MAY USE THE MONEY IN THIS
3 ACCOUNT TO IMPLEMENT SECTION 216. IN THE EVENT THE PROVISIONS OF
4 SECTION 447(A)(2) AND/OR (C) ARE HELD INVALID, THEN THIS
5 SUBSECTION SHALL BE VOID AND SHALL NOT APPLY.

6 (F) (1) ANY MALT OR BREWED BEVERAGE PRODUCED OUTSIDE THIS
7 COMMONWEALTH THAT IS REPACKAGED BY A BAILEE FOR HIRE OR
8 IMPORTING DISTRIBUTOR ON BEHALF OF AN OUT OF STATE MANUFACTURER
9 MUST BE RETURNED TO THE OUT OF STATE MANUFACTURER AND COME TO
10 REST OUT OF STATE BEFORE IT MAY REENTER THIS COMMONWEALTH. SUCH
11 REPACKAGED MALT OR BREWED BEVERAGES MUST BE DISTRIBUTED THROUGH
12 THE THREE-TIER SYSTEM. ANY MALT OR BREWED BEVERAGE THAT IS
13 REPACKAGED BY A BAILEE FOR HIRE OR IMPORTING DISTRIBUTOR ON
14 BEHALF OF AN IN STATE MANUFACTURER MUST BE RETURNED TO THE IN
15 STATE MANUFACTURER AND COME TO REST AT THE IN STATE
16 MANUFACTURER'S LICENSED FACILITY.

17 (2) FOR PURPOSES OF THIS SECTION, "REPACKAGE" SHALL MEAN ANY
18 CHANGE OR ALTERATION TO THE CONTAINERS OR CONTAINER
19 CONFIGURATION OF A CASE.

20 SECTION 5. SECTION 431.1(D) OF THE ACT, ADDED FEBRUARY 21,
21 2002 (P.L.103, NO.10), IS AMENDED TO READ:

22 SECTION 431.1. MALT AND BREWED BEVERAGES ALTERNATING
23 BREWERS' LICENSES.--* * *

24 (D) MALT AND BREWED BEVERAGES MANUFACTURED UNDER THE
25 AUTHORITY OF AN ALTERNATING BREWER'S LICENSE MUST BE DISTRIBUTED
26 IN THIS COMMONWEALTH ONLY THROUGH SPECIFIC IMPORTING
27 DISTRIBUTORS WHO SHALL FIRST HAVE BEEN GIVEN DISTRIBUTOR RIGHTS
28 FOR SUCH PRODUCTS IN DESIGNATED GEOGRAPHICAL AREAS THROUGH THE
29 DISTRIBUTION SYSTEM REQUIRED FOR [OUT-OF-STATE] MANUFACTURERS
30 UNDER SECTION 431(B) AS WELL AS ALL OTHER PERTINENT SECTIONS OF

1 THIS ACT. THE ALTERNATING BREWER MUST COMPLY WITH SECTION 444.

2 * * *

3 SECTION 6. SECTION 440 OF THE ACT, AMENDED JULY 17, 2003
4 (P.L.63, NO.15), IS AMENDED TO READ:

5 SECTION 440. SALES BY MANUFACTURERS OF MALT OR BREWED
6 BEVERAGES; MINIMUM QUANTITIES.--[NO] EXCEPT AS OTHERWISE
7 PROVIDED IN THIS SECTION, NO MANUFACTURER SHALL SELL ANY MALT OR
8 BREWED BEVERAGES FOR CONSUMPTION ON THE PREMISES WHERE SOLD, NOR
9 SELL OR DELIVER ANY SUCH MALT OR BREWED BEVERAGES IN OTHER THAN
10 ORIGINAL CONTAINERS APPROVED AS TO CAPACITY BY THE BOARD, NOR IN
11 QUANTITIES OF LESS THAN A CASE OR ORIGINAL CONTAINERS CONTAINING
12 SIXTY-FOUR OUNCES OR MORE WHICH MAY BE SOLD SEPARATELY; NOR
13 SHALL ANY MANUFACTURER MAINTAIN OR OPERATE WITHIN THE
14 COMMONWEALTH ANY PLACE OR PLACES OTHER THAN THE PLACE OR PLACES
15 COVERED BY HIS OR ITS LICENSE WHERE MALT OR BREWED BEVERAGES ARE
16 SOLD OR WHERE ORDERS ARE TAKEN. NOTWITHSTANDING ANY OTHER
17 PROVISION OF LAW TO THE CONTRARY, UPON APPLICATION TO AND
18 APPROVAL BY THE BOARD, A MANUFACTURER MAY SELL HOLIDAY PACKAGES
19 BETWEEN NOVEMBER 1 OF EACH YEAR AND JANUARY 31 OF THE
20 IMMEDIATELY SUCCEEDING YEAR.

21 SECTION 7. SECTION 441(B) AND (G) OF THE ACT, AMENDED OR
22 ADDED DECEMBER 20, 1996 (P.L.1513, NO.196) AND DECEMBER 9, 2002
23 (P.L.1653, NO.212), ARE AMENDED AND THE SECTION IS AMENDED BY
24 ADDING SUBSECTIONS TO READ:

25 SECTION 441. DISTRIBUTORS' AND IMPORTING DISTRIBUTORS'
26 RESTRICTIONS ON SALES, STORAGE, ETC.--* * *

27 (B) [NO] EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (B.1) OR
28 (B.2), NO DISTRIBUTOR OR IMPORTING DISTRIBUTOR SHALL SELL ANY
29 MALT OR BREWED BEVERAGES IN QUANTITIES OF LESS THAN A CASE OR
30 ORIGINAL CONTAINERS CONTAINING ONE HUNDRED TWENTY-EIGHT OUNCES

1 OR MORE WHICH MAY BE SOLD SEPARATELY: PROVIDED, THAT NO MALT OR
2 BREWED BEVERAGES SOLD OR DELIVERED SHALL BE CONSUMED UPON THE
3 PREMISES OF THE DISTRIBUTOR OR IMPORTING DISTRIBUTOR, OR IN ANY
4 PLACE PROVIDED FOR SUCH PURPOSE BY SUCH DISTRIBUTOR OR IMPORTING
5 DISTRIBUTOR. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION
6 OR ACT, MALT OR BREWED BEVERAGES WHICH ARE PART OF A TASTING
7 CONDUCTED PURSUANT TO THE BOARD'S REGULATIONS MAY BE CONSUMED ON
8 LICENSED PREMISES.

9 (B.1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE
10 CONTRARY, A DISTRIBUTOR OR IMPORTING DISTRIBUTOR MAY SELL ANY
11 HOLIDAY PACKAGE THAT HAS BEEN APPROVED BY THE BOARD BETWEEN
12 NOVEMBER 1 OF EACH YEAR AND JANUARY 31 OF THE IMMEDIATELY
13 SUCCEEDING YEAR.

14 (B.2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE
15 CONTRARY, BEGINNING ON THE EFFECTIVE DATE OF THIS SUBSECTION, A
16 DISTRIBUTOR OR IMPORTING DISTRIBUTOR MAY SELL:

17 (I) A PACKAGE PREPARED BY THE MANUFACTURER FOR SALE OR
18 DISTRIBUTION OF SIX ORIGINAL CONTAINERS TOTALING NOT LESS THAN
19 SIXTY-SIX FLUID OUNCES NOR MORE THAN SEVENTY-TWO FLUID OUNCES OF
20 MALT OR BREWED BEVERAGES.

21 (II) A PACKAGE PREPARED BY THE MANUFACTURER FOR SALE OR
22 DISTRIBUTION OF FOUR ORIGINAL CONTAINERS TOTALING ONE HUNDRED
23 OUNCES OR MORE OF MALT OR BREWED BEVERAGES.

24 THERE SHALL BE NO LIMIT ON THE AMOUNT OF FLUID OUNCES THAT MAY
25 BE SOLD IN A SINGLE SALE TO ONE PERSON UNDER THIS SECTION. THIS
26 SECTION SHALL EXPIRE SEPTEMBER 1, 2008.

27 * * *

28 (G) ALL MALT OR BREWED BEVERAGES PURCHASED BY AN IMPORTING
29 DISTRIBUTOR FROM A [PENNSYLVANIA] MANUFACTURER OF MALT OR BREWED
30 BEVERAGES [OR FROM ANY PERSON LOCATED OUTSIDE THIS COMMONWEALTH]

1 FOR RESALE SHALL BE INVOICED TO THE IMPORTING DISTRIBUTOR, SHALL
2 COME PHYSICALLY INTO THE POSSESSION OF SUCH IMPORTING
3 DISTRIBUTOR AND SHALL BE UNLOADED INTO AND DISTRIBUTED FROM THE
4 LICENSED PREMISES OF SUCH IMPORTING DISTRIBUTOR. THE BOARD MAY
5 ACT TO FURTHER DEFINE AND CONTROL THE STORAGE AND DISTRIBUTION
6 OF MALT OR BREWED BEVERAGES IN CONFORMITY WITH THIS SECTION AND
7 THIS ACT.

8 SECTION 8. SECTION 442(A) OF THE ACT, AMENDED NOVEMBER 29,
9 2006 (P.L.1421, NO.155), IS AMENDED TO READ:

10 SECTION 442. RETAIL DISPENSERS' RESTRICTIONS ON PURCHASES
11 AND SALES.--(A) (1) NO RETAIL DISPENSER SHALL PURCHASE OR
12 RECEIVE ANY MALT OR BREWED BEVERAGES EXCEPT IN ORIGINAL
13 CONTAINERS AS PREPARED FOR THE MARKET BY THE MANUFACTURER AT THE
14 PLACE OF MANUFACTURE. THE RETAIL DISPENSER MAY THEREAFTER BREAK
15 THE BULK UPON THE LICENSED PREMISES AND SELL OR DISPENSE THE
16 SAME FOR CONSUMPTION ON OR OFF THE PREMISES SO LICENSED:
17 PROVIDED, HOWEVER, THAT NO RETAIL DISPENSER MAY SELL MALT OR
18 BREWED BEVERAGES FOR CONSUMPTION OFF THE PREMISES IN QUANTITIES
19 IN EXCESS OF [ONE HUNDRED NINETY-TWO] TWO HUNDRED SIXTEEN FLUID
20 OUNCES: PROVIDED, FURTHER, THAT NO LICENSEE UNDER THIS SECTION
21 SHALL BE PERMITTED TO SELL A PACKAGE PREPARED BY THE
22 MANUFACTURER FOR SALE OR DISTRIBUTION IN ANY CONFIGURATION OF
23 ORIGINAL CONTAINERS TOTALING BETWEEN ONE HUNDRED FORTY-FIVE
24 FLUID OUNCES AND TWO HUNDRED SIXTEEN FLUID OUNCES OF MALT OR
25 BREWED BEVERAGES PRIOR TO SEPTEMBER 1, 2008: PROVIDED, FURTHER,
26 THAT NO CLUB LICENSEE MAY SELL ANY MALT OR BREWED BEVERAGES FOR
27 CONSUMPTION OFF THE PREMISES WHERE SOLD OR TO PERSONS NOT
28 MEMBERS OF THE CLUB.

29 (2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW OR ANY
30 EXISTING PERMIT AUTHORIZING THE SALE OF MALT OR BREWED BEVERAGES

1 FOR CONSUMPTION OFF THE PREMISES, A RETAIL DISPENSER LICENSEE
2 LOCATED IN A CITY OF THE FIRST CLASS WHO IS OTHERWISE PERMITTED
3 TO SELL MALT OR BREWED BEVERAGES FOR CONSUMPTION OFF THE
4 PREMISES MAY NOT DO SO AFTER OCTOBER 31, 2007, UNLESS IT
5 ACQUIRES A PERMIT FROM THE BOARD.

6 (3) THE APPLICATION FOR A PERMIT TO SELL MALT OR BREWED
7 BEVERAGES FOR CONSUMPTION OFF THE PREMISES SHALL BE ON FORMS
8 DESIGNATED BY THE BOARD AND CONTAIN SUCH INFORMATION AS THE
9 BOARD MAY REQUIRE. THE APPLICATION AND RENEWAL FEE SHALL BE AS
10 PRESCRIBED IN SECTION 614-A(28) OF THE ACT OF APRIL 9, 1929
11 (P.L.177, NO.175), KNOWN AS "THE ADMINISTRATIVE CODE OF 1929."
12 HOWEVER, NO APPLICANT WHO CURRENTLY HAS A PERMIT SHALL BE
13 REQUIRED TO PAY ANY ADDITIONAL FEES UNDER SECTION 614-A(28) OF
14 "THE ADMINISTRATIVE CODE OF 1929" IN ORDER TO CONTINUE SELLING
15 MALT OR BREWED BEVERAGES FOR CONSUMPTION OFF THE PREMISES AT ITS
16 CURRENTLY LICENSED LOCATION FOR THE LICENSING TERM BEGINNING
17 NOVEMBER 1, 2007, AND ENDING OCTOBER 31, 2008.

18 (4) THE APPLICATION FOR A PERMIT TO SELL MALT OR BREWED
19 BEVERAGES FOR CONSUMPTION OFF THE PREMISES MUST BE ACCOMPANIED
20 BY A COPY OF THE APPROVAL OF SUCH REQUEST BY THE HEARING BOARD
21 AUTHORIZED BY THIS SECTION.

22 (5) A CITY OF THE FIRST CLASS SHALL CREATE A HEARING BOARD
23 WITHIN ITS DEPARTMENT OF LICENSES AND INSPECTIONS TO HEAR
24 REQUESTS FROM LICENSEES WHO ARE SEEKING A PERMIT FROM THE
25 HEARING BOARD AUTHORIZING THE LICENSEE TO SELL MALT OR BREWED
26 BEVERAGES FOR CONSUMPTION OFF THE PREMISES. EACH HEARING BOARD
27 SHALL CONSIST OF THREE PERSONS APPOINTED BY THE MAYOR OF THE
28 CITY OF THE FIRST CLASS, WHO ARE SUBJECT TO APPROVAL BY THE CITY
29 COUNCIL OF THE CITY OF THE FIRST CLASS. EACH PERSON SO APPOINTED
30 SHALL SERVE AT THE PLEASURE OF THE APPOINTING AUTHORITY. THE

1 HEARING BOARD MAY, IN ITS DISCRETION, HOLD HEARINGS TO ADDUCE
2 TESTIMONY REGARDING A REQUEST. THE HEARING BOARD MUST RENDER A
3 DECISION WITHIN NINETY DAYS OF RECEIPT OF A REQUEST FOR APPROVAL
4 OF A PERMIT TO SELL MALT OR BREWED BEVERAGES FOR CONSUMPTION OFF
5 THE PREMISES. THE HEARING BOARD MUST APPROVE THE REQUEST UNLESS
6 IT FINDS THAT DOING SO WOULD ADVERSELY AFFECT THE WELFARE,
7 HEALTH, PEACE AND MORALS OF THE CITY OR ITS RESIDENTS. A
8 DECISION BY THE HEARING BOARD TO DENY A REQUEST MAY BE APPEALED
9 TO THE COURT OF COMMON PLEAS IN THE COUNTY IN WHICH THE CITY IS
10 LOCATED. THE FAILURE TO RENDER A DECISION BY THE HEARING BOARD
11 WITHIN THE REQUIRED TIME PERIOD SHALL BE DEEMED APPROVAL OF THE
12 PERMIT.

13 (6) UPON BEING SATISFIED THAT THE APPLICANT HAS FULFILLED
14 ALL THE REQUIREMENTS OF THIS ACT AND THE BOARD'S REGULATIONS,
15 THE BOARD SHALL APPROVE THE APPLICATION. SUCH PERMITS SHALL
16 EXPIRE UPON THE TRANSFER OF THE LICENSE TO A NEW ENTITY OR TO A
17 NEW LOCATION, OR BOTH; OTHERWISE, SUCH PERMITS SHALL EXPIRE AT
18 THE SAME TIME AS THE EXPIRATION OF THE UNDERLYING LICENSE.

19 * * *

20 SECTION 8.1. SECTION 443 OF THE ACT, AMENDED MAY 31, 1996
21 (P.L.312, NO.49) AND JUNE 18, 1998 (P.L.664, NO.86), IS AMENDED
22 TO READ:

23 SECTION 443. INTERLOCKING BUSINESS PROHIBITED.--(A) NO
24 MANUFACTURER OF MALT OR BREWED BEVERAGES AND NO OFFICER OR
25 DIRECTOR OF ANY SUCH MANUFACTURER SHALL AT THE SAME TIME BE A
26 DISTRIBUTOR, IMPORTING DISTRIBUTOR OR RETAIL DISPENSER, OR AN
27 OFFICER, DIRECTOR OR STOCKHOLDER OR CREDITOR OF ANY DISTRIBUTOR,
28 IMPORTING DISTRIBUTOR OR RETAIL DISPENSER, NOR, EXCEPT AS
29 HEREINAFTER PROVIDED, BE THE OWNER, PROPRIETOR OR LESSOR OF ANY
30 PLACE FOR WHICH A LICENSE HAS BEEN ISSUED FOR ANY IMPORTING

1 DISTRIBUTOR, DISTRIBUTOR OR RETAIL DISPENSER, OR FOR WHICH A
2 HOTEL, RESTAURANT OR CLUB LIQUOR LICENSE HAS BEEN ISSUED:
3 PROVIDED, HOWEVER, THAT [A HOLDER OF A MANUFACTURER'S LICENSE
4 UNDER SECTION 431(A) WHO IS ELIGIBLE TO OPERATE A BREWERY PUB
5 UNDER SECTION 446(2) OR] A LIMITED WINERY AS PROVIDED FOR UNDER
6 SECTION 505.2 MAY ALSO HOLD AND OPERATE UNDER A HOTEL LIQUOR
7 LICENSE, A RESTAURANT LIQUOR LICENSE OR A MALT AND BREWED
8 BEVERAGES RETAIL LICENSE ON THE [MANUFACTURER'S OR] LIMITED
9 WINERY'S LICENSED PREMISES. THE HOTEL LIQUOR LICENSE OR
10 RESTAURANT LIQUOR LICENSE OR THE MALT AND BREWED BEVERAGES
11 RETAIL LICENSE SHALL BE ACQUIRED BY THE [MANUFACTURER OR]
12 LIMITED WINERY SUBJECT TO SECTION 461 AND SHALL SATISFY ALL
13 REQUIREMENTS FOR EACH RESPECTIVE LICENSE.

14 (B) NO DISTRIBUTOR OR IMPORTING DISTRIBUTOR AND NO OFFICER
15 OR DIRECTOR OF ANY DISTRIBUTOR OR IMPORTING DISTRIBUTOR SHALL AT
16 THE SAME TIME BE A MANUFACTURER, A RETAIL DISPENSER OR A LIQUOR
17 LICENSEE, OR BE AN OFFICER, DIRECTOR, STOCKHOLDER OR CREDITOR OF
18 A MANUFACTURER, A RETAIL DISPENSER OR A LIQUOR LICENSEE, OR,
19 DIRECTLY OR INDIRECTLY, OWN ANY STOCK OF, OR HAVE ANY FINANCIAL
20 INTEREST IN, OR BE THE OWNER, PROPRIETOR OR LESSOR OF, ANY PLACE
21 COVERED BY ANY OTHER MALT OR BREWED BEVERAGE OR LIQUOR LICENSE.

22 (C) NO LICENSEE LICENSED UNDER THIS SUBDIVISION (B) OF
23 ARTICLE IV AND NO OFFICER OR DIRECTOR OF SUCH LICENSEE SHALL,
24 DIRECTLY OR INDIRECTLY, OWN ANY STOCK OF, OR HAVE ANY FINANCIAL
25 INTEREST IN, ANY OTHER CLASS OF BUSINESS LICENSED UNDER THIS
26 SUBDIVISION: PROVIDED, HOWEVER, THAT [A HOLDER OF A
27 MANUFACTURER'S LICENSE UNDER SECTION 431(A) WHO IS ELIGIBLE TO
28 OPERATE A BREWERY PUB UNDER SECTION 446(2) OR] A LIMITED WINERY
29 AS PROVIDED FOR UNDER SECTION 505.2 MAY ALSO HOLD AND OPERATE
30 UNDER A HOTEL LIQUOR LICENSE, A RESTAURANT LIQUOR LICENSE OR A

1 MALT AND BREWED BEVERAGES RETAIL LICENSE ON THE [MANUFACTURER'S
2 OR] LIMITED WINERY'S LICENSED PREMISES. THE HOTEL LIQUOR LICENSE
3 OR RESTAURANT LIQUOR LICENSE OR THE MALT AND BREWED BEVERAGES
4 RETAIL LICENSE SHALL BE ACQUIRED BY THE [MANUFACTURER OR]
5 LIMITED WINERY SUBJECT TO SECTION 461 AND SHALL SATISFY ALL
6 REQUIREMENTS FOR EACH RESPECTIVE LICENSE.

7 (D) EXCEPTING AS HEREINAFTER PROVIDED, NO MALT OR BREWED
8 BEVERAGE MANUFACTURER, IMPORTING DISTRIBUTOR OR DISTRIBUTOR
9 SHALL IN ANY WISE BE INTERESTED, EITHER DIRECTLY OR INDIRECTLY,
10 IN THE OWNERSHIP OR LEASEHOLD OF ANY PROPERTY OR IN ANY MORTGAGE
11 AGAINST THE SAME, FOR WHICH A LIQUOR OR RETAIL DISPENSER'S
12 LICENSE IS GRANTED; NOR SHALL ANY SUCH MANUFACTURER, IMPORTING
13 DISTRIBUTOR OR DISTRIBUTOR, EITHER DIRECTLY OR INDIRECTLY, LEND
14 ANY MONEYS, CREDIT OR EQUIVALENT THEREOF TO, OR GUARANTEE THE
15 PAYMENT OF ANY BOND, MORTGAGE, NOTE OR OTHER OBLIGATION OF, ANY
16 LIQUOR LICENSEE OR RETAIL DISPENSER, IN EQUIPPING, FITTING OUT,
17 OR MAINTAINING AND CONDUCTING, EITHER IN WHOLE OR IN PART, AN
18 ESTABLISHMENT OR BUSINESS OPERATED UNDER A LIQUOR OR RETAIL
19 DISPENSER'S LICENSE, EXCEPTING ONLY THE USUAL AND CUSTOMARY
20 CREDITS ALLOWED FOR RETURNING ORIGINAL CONTAINERS IN WHICH MALT
21 OR BREWED BEVERAGES WERE PACKAGED FOR MARKET BY THE MANUFACTURER
22 AT THE PLACE OF MANUFACTURE: PROVIDED, HOWEVER, THAT [A HOLDER
23 OF A MANUFACTURER'S LICENSE UNDER SECTION 431(A) WHO IS ELIGIBLE
24 TO OPERATE A BREWERY PUB UNDER SECTION 446(2) OR] A LIMITED
25 WINERY AS PROVIDED FOR UNDER SECTION 505.2 MAY ALSO HOLD AND
26 OPERATE UNDER A HOTEL LIQUOR LICENSE, A RESTAURANT LIQUOR
27 LICENSE OR A MALT AND BREWED BEVERAGES RETAIL LICENSE ON THE
28 [MANUFACTURER'S OR] LIMITED WINERY'S LICENSED PREMISES. THE
29 HOTEL LIQUOR LICENSE OR RESTAURANT LIQUOR LICENSE OR THE MALT
30 AND BREWED BEVERAGES RETAIL LICENSE SHALL BE ACQUIRED BY THE

1 [MANUFACTURER OR] LIMITED WINERY SUBJECT TO SECTION 461 AND
2 SHALL SATISFY ALL REQUIREMENTS FOR EACH RESPECTIVE LICENSE.

3 (E) EXCEPTING AS HEREINAFTER PROVIDED, NO MANUFACTURER OF
4 MALT OR BREWED BEVERAGES SHALL IN ANY WISE BE INTERESTED, EITHER
5 DIRECTLY OR INDIRECTLY, IN THE OWNERSHIP OR LEASEHOLD OF ANY
6 PROPERTY OR ANY MORTGAGE LIEN AGAINST THE SAME, FOR WHICH A
7 DISTRIBUTOR'S OR IMPORTING DISTRIBUTOR'S LICENSE IS GRANTED; NOR
8 SHALL ANY SUCH MANUFACTURER, EITHER DIRECTLY OR INDIRECTLY, LEND
9 ANY MONEYS, CREDIT, OR THEIR EQUIVALENT TO, OR GUARANTEE THE
10 PAYMENT OF ANY BOND, MORTGAGE, NOTE OR OTHER OBLIGATION OF, ANY
11 DISTRIBUTOR OR IMPORTING DISTRIBUTOR, IN EQUIPPING, FITTING OUT,
12 OR MAINTAINING AND CONDUCTING, EITHER IN WHOLE OR IN PART, AN
13 ESTABLISHMENT OR BUSINESS WHERE MALT OR BREWED BEVERAGES ARE
14 LICENSED FOR SALE BY A DISTRIBUTOR OR IMPORTING DISTRIBUTOR,
15 EXCEPTING ONLY THE USUAL CREDITS ALLOWED FOR THE RETURN OF
16 ORIGINAL CONTAINERS IN WHICH MALT OR BREWED BEVERAGES WERE
17 ORIGINALLY PACKAGED FOR THE MARKET BY THE MANUFACTURER AT THE
18 PLACE OF MANUFACTURE: PROVIDED, HOWEVER, THAT [A HOLDER OF A
19 MANUFACTURER'S LICENSE UNDER SECTION 431(A) WHO IS ELIGIBLE TO
20 OPERATE A BREWERY PUB UNDER SECTION 446(2) OR] A LIMITED WINERY
21 AS PROVIDED FOR UNDER SECTION 505.2 MAY ALSO HOLD AND OPERATE
22 UNDER A HOTEL LIQUOR LICENSE, A RESTAURANT LIQUOR LICENSE OR A
23 MALT AND BREWED BEVERAGES RETAIL LICENSE ON THE [MANUFACTURER'S
24 OR] LIMITED WINERY'S LICENSED PREMISES. THE HOTEL LIQUOR LICENSE
25 OR RESTAURANT LIQUOR LICENSE OR THE MALT AND BREWED BEVERAGES
26 RETAIL LICENSE SHALL BE ACQUIRED BY THE [MANUFACTURER OR]
27 LIMITED WINERY SUBJECT TO SECTION 461 AND SHALL SATISFY ALL
28 REQUIREMENTS FOR EACH RESPECTIVE LICENSE. NOTHING IN THIS
29 SECTION SHALL BE CONSTRUED TO PROHIBIT AN OUT OF STATE
30 MANUFACTURER FROM ENGAGING IN A TRANSACTION OR MAKING PAYMENTS

1 AUTHORIZED BY SECTION 431(A.1).

2 (F) NO DISTRIBUTOR, IMPORTING DISTRIBUTOR OR RETAIL
3 DISPENSER SHALL IN ANYWISE RECEIVE, EITHER DIRECTLY OR
4 INDIRECTLY, ANY CREDIT, LOAN, MONEYS OR THE EQUIVALENT THEREOF
5 FROM ANY OTHER LICENSEE, OR FROM ANY OFFICER, DIRECTOR OR FIRM
6 MEMBER OF ANY OTHER LICENSEE, OR FROM OR THROUGH A SUBSIDIARY OR
7 AFFILIATE OF ANOTHER LICENSEE, OR FROM ANY FIRM, ASSOCIATION OR
8 CORPORATION, EXCEPT BANKING INSTITUTIONS, IN WHICH ANOTHER
9 LICENSEE OR ANY OFFICER, DIRECTOR OR FIRM MEMBER OF ANOTHER
10 LICENSEE HAS A SUBSTANTIAL INTEREST OR EXERCISES A CONTROL OF
11 ITS BUSINESS POLICY, FOR EQUIPPING, FITTING OUT, PAYMENT OF
12 LICENSE FEE, MAINTAINING AND CONDUCTING, EITHER IN WHOLE OR IN
13 PART, AN ESTABLISHMENT OR BUSINESS OPERATED UNDER A
14 DISTRIBUTOR'S, IMPORTING DISTRIBUTOR'S OR RETAIL DISPENSER'S
15 LICENSE, EXCEPTING ONLY THE USUAL AND CUSTOMARY CREDITS ALLOWED
16 FOR THE RETURN OF ORIGINAL CONTAINERS IN WHICH MALT OR BREWED
17 BEVERAGES WERE PACKAGED FOR THE MARKET BY THE MANUFACTURER AT
18 THE PLACE OF MANUFACTURE: PROVIDED, HOWEVER, THAT [A HOLDER OF A
19 MANUFACTURER'S LICENSE UNDER SECTION 431(A) WHO IS ELIGIBLE TO
20 OPERATE A BREWERY PUB UNDER SECTION 446(2) OR] A LIMITED WINERY
21 AS PROVIDED FOR UNDER SECTION 505.2 MAY ALSO HOLD AND OPERATE
22 UNDER A HOTEL LIQUOR LICENSE, A RESTAURANT LIQUOR LICENSE OR A
23 MALT AND BREWED BEVERAGES RETAIL LICENSE ON THE [MANUFACTURER'S
24 OR] LIMITED WINERY'S LICENSED PREMISES. THE HOTEL LIQUOR LICENSE
25 OR RESTAURANT LIQUOR LICENSE OR THE MALT AND BREWED BEVERAGES
26 RETAIL LICENSE SHALL BE ACQUIRED BY THE [MANUFACTURER OR]
27 LIMITED WINERY SUBJECT TO SECTION 461 AND SHALL SATISFY ALL
28 REQUIREMENTS FOR EACH RESPECTIVE LICENSE. NOTHING IN THIS
29 SECTION SHALL BE CONSTRUED TO PROHIBIT AN IMPORTING DISTRIBUTOR
30 FROM RECEIVING PAYMENT FROM AN OUT OF STATE MANUFACTURER FOR

1 ENGAGING IN A TRANSACTION OR PERFORMING SERVICES AUTHORIZED BY
2 SECTION 431(B) OR 444(A.1).

3 (G) THE PURPOSE OF THIS SECTION IS TO REQUIRE A SEPARATION
4 OF THE FINANCIAL AND BUSINESS INTERESTS BETWEEN THE VARIOUS
5 CLASSES OF BUSINESS REGULATED BY SUBDIVISION (B) OF THIS
6 ARTICLE, AND NO PERSON OR CORPORATION SHALL, BY ANY DEVICE
7 WHATSOEVER, DIRECTLY OR INDIRECTLY, EVADE THE PROVISIONS OF THIS
8 SECTION. BUT IN VIEW OF EXISTING ECONOMIC CONDITIONS, NOTHING
9 CONTAINED IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT THE
10 OWNERSHIP OF PROPERTY OR CONFLICTING INTEREST BY A MALT OR
11 BREWED BEVERAGE MANUFACTURER OF ANY PLACE OCCUPIED BY A
12 DISTRIBUTOR, IMPORTING DISTRIBUTOR OR RETAIL DISPENSER AFTER THE
13 MANUFACTURER HAS CONTINUOUSLY OWNED AND HAD A CONFLICTING
14 INTEREST IN SUCH PLACE FOR A PERIOD OF AT LEAST FIVE YEARS PRIOR
15 TO THE EIGHTEENTH DAY OF JULY, ONE THOUSAND NINE HUNDRED THIRTY-
16 FIVE: PROVIDED, HOWEVER, THAT [A HOLDER OF A MANUFACTURER'S
17 LICENSE UNDER SECTION 431(A) WHO IS ELIGIBLE TO OPERATE A
18 BREWERY PUB UNDER SECTION 446(2) OR] A LIMITED WINERY AS
19 PROVIDED FOR UNDER SECTION 505.2 MAY ALSO HOLD AND OPERATE UNDER
20 A HOTEL LIQUOR LICENSE, A RESTAURANT LIQUOR LICENSE OR A MALT
21 AND BREWED BEVERAGES RETAIL LICENSE ON THE [MANUFACTURER'S OR]
22 LIMITED WINERY'S LICENSED PREMISES. THE HOTEL LIQUOR LICENSE OR
23 RESTAURANT LIQUOR LICENSE OR THE MALT AND BREWED BEVERAGES
24 RETAIL LICENSE SHALL BE ACQUIRED BY THE [MANUFACTURER OR]
25 LIMITED WINERY SUBJECT TO SECTION 461 AND SHALL SATISFY ALL
26 REQUIREMENTS FOR EACH RESPECTIVE LICENSE.

27 THE TERM "MANUFACTURER" AS USED IN THIS SECTION SHALL INCLUDE
28 MANUFACTURERS OF MALT OR BREWED BEVERAGES AS DEFINED IN THIS ACT
29 AND ANY PERSON MANUFACTURING ANY MALT OR BREWED BEVERAGES
30 OUTSIDE OF THIS COMMONWEALTH.

1 SECTION 9. SECTION 446 OF THE ACT, AMENDED JUNE 30, 1992
2 (P.L.327, NO.66), MAY 31, 1996 (P.L.312, NO.49) AND JANUARY 6,
3 2006 (P.L.1, NO.1), IS AMENDED TO READ:

4 SECTION 446. BREWERIES.--HOLDERS OF A BREWERY LICENSE MAY:

5 (1) SELL MALT OR BREWED BEVERAGES PRODUCED AND OWNED BY THE
6 BREWERY ON THE LICENSED PREMISES UNDER SUCH CONDITIONS AND
7 REGULATIONS AS THE BOARD MAY ENFORCE, TO INDIVIDUALS FOR
8 CONSUMPTION ON THE PREMISES [AND]. ADDITIONALLY, A SMALL
9 MANUFACTURER MAY SELL MALT OR BREWED BEVERAGES PRODUCED AND
10 OWNED BY THE BREWERY ON THE LICENSED PREMISES UNDER SUCH
11 CONDITIONS AND REGULATIONS AS THE BOARD MAY ENFORCE TO HOTEL,
12 RESTAURANT, CLUB AND PUBLIC SERVICE LIQUOR LICENSEES.

13 (2) OPERATE A RESTAURANT OR BREWERY PUB ON THE LICENSED
14 PREMISES UNDER SUCH CONDITIONS AND REGULATIONS AS THE BOARD MAY
15 ENFORCE: PROVIDED, HOWEVER, THAT SALES ON SUNDAY MAY BE MADE
16 IRRESPECTIVE OF THE VOLUME OF FOOD SALES IF THE LICENSED
17 PREMISES ARE AT A PUBLIC VENUE LOCATION. THE HOLDER OF A BREWERY
18 LICENSE MAY SELL AT ITS BREWERY PUB PREMISES PENNSYLVANIA WINES
19 IT HAS PURCHASED FROM EITHER THE HOLDER OF A PENNSYLVANIA
20 LIMITED WINERY LICENSE OR FROM THE BOARD: PROVIDED, HOWEVER,
21 THAT SAID WINES MUST BE CONSUMED AT THE LICENSED BREWERY PUB
22 PREMISES.

23 (3) USE BREWERY STORAGE AND DISTRIBUTION FACILITIES FOR THE
24 PURPOSE OF RECEIVING, STORING AND DISTRIBUTING MALT OR BREWED
25 BEVERAGES MANUFACTURED OUTSIDE THIS COMMONWEALTH IF THE
26 BEVERAGES ARE DISTRIBUTED IN THIS COMMONWEALTH ONLY THROUGH
27 SPECIFIC IMPORTING DISTRIBUTORS WHO SHALL HAVE FIRST BEEN GIVEN
28 DISTRIBUTING RIGHTS FOR SUCH PRODUCTS IN DESIGNATED GEOGRAPHICAL
29 AREAS THROUGH THE DISTRIBUTION SYSTEM REQUIRED FOR [OUT-OF-
30 STATE] MANUFACTURERS UNDER SECTION 431(B) AS WELL AS ALL OTHER

1 PERTINENT SECTIONS OF THIS ACT. THE MANUFACTURER OF THE
2 BEVERAGES MUST COMPLY WITH SECTION 444.

3 (4) APPLY FOR AND HOLD A HOTEL LIQUOR LICENSE, A RESTAURANT
4 LIQUOR LICENSE OR A MALT AND BREWED BEVERAGES RETAIL LICENSE TO
5 SELL FOR CONSUMPTION AT THE RESTAURANT OR BREWERY PUB ON THE
6 LICENSED BREWERY PREMISES, LIQUOR, WINE AND MALT OR BREWED
7 BEVERAGES REGARDLESS OF THE PLACE OF MANUFACTURE, UNDER THE SAME
8 CONDITIONS AND REGULATIONS AS ANY OTHER HOTEL LIQUOR LICENSE,
9 RESTAURANT LIQUOR LICENSE OR MALT AND BREWED BEVERAGES RETAIL
10 LICENSE, BUT MUST BREW AT LEAST TWO HUNDRED [FIFTY] BARRELS PER
11 YEAR. EACH HOLDER OF A BREWERY LICENSE WHO RECEIVES A HOTEL
12 LIQUOR LICENSE, A RESTAURANT LIQUOR LICENSE OR A MALT OR BREWED
13 BEVERAGES RETAIL LICENSE TO OPERATE A BREW PUB SHALL NOT SELL
14 DIRECTLY TO ANY PERSON LICENSED BY THIS ACT, EXCEPT IF ANY MALT
15 OR BREWED BEVERAGE IS TO BE DISTRIBUTED IN THIS COMMONWEALTH IT
16 SHALL BE ONLY THROUGH SPECIFIC IMPORTING DISTRIBUTORS WHO SHALL
17 HAVE FIRST BEEN GIVEN DISTRIBUTING RIGHTS FOR SUCH PRODUCTS IN
18 DESIGNATED GEOGRAPHICAL AREAS THROUGH THE DISTRIBUTION SYSTEM
19 REQUIRED FOR [OUT-OF-STATE] MANUFACTURERS UNDER SECTION 431(B)
20 AS WELL AS ALL OTHER PERTINENT SECTIONS OF THIS ACT. SECTIONS
21 411 AND 443 OF THE ACT SHALL NOT APPLY TO THE APPLICATION FOR OR
22 HOLDING OF A HOTEL LIQUOR LICENSE, A RESTAURANT LIQUOR LICENSE
23 OR A MALT OR BREWED BEVERAGES RETAIL LICENSE AUTHORIZED UNDER
24 THIS CLAUSE.

25 SECTION 10. THE ACT IS AMENDED BY ADDING SECTIONS TO READ:
26 SECTION 448. MANUFACTURER GRANT PROGRAM.--(A) IT IS THE
27 INTENT OF THE GENERAL ASSEMBLY TO ESTABLISH A GRANT PROGRAM TO
28 PROVIDE FINANCIAL ASSISTANCE TO MALT AND BREWED BEVERAGE
29 MANUFACTURERS LOCATED WITHIN THIS COMMONWEALTH AND LICENSED BY
30 THE BOARD FOR THE PURPOSE OF PURCHASING OR UPGRADING MALT OR

1 BREWED BEVERAGE PACKAGING EQUIPMENT. IT IS THE FURTHER INTENT OF
2 THE GENERAL ASSEMBLY THAT THE GRANTS AUTHORIZED UNDER THIS
3 PROGRAM BE LIMITED TO ONE PER MANUFACTURER. THE BOARD SHALL
4 DEVELOP GUIDELINES TO EFFECTUATE THE LEGISLATIVE INTENT OF THIS
5 SECTION.

6 (B) A MANUFACTURER MAY SUBMIT AN APPLICATION TO THE BOARD
7 REQUESTING A GRANT FOR A PROJECT. THE APPLICATION SHALL BE ON
8 THE FORM REQUIRED BY THE BOARD AND SHALL INCLUDE OR DEMONSTRATE
9 ALL OF THE FOLLOWING:

10 (1) THE NAME AND ADDRESS OF THE APPLICANT.

11 (2) A STATEMENT THAT THE APPLICANT IS ELIGIBLE TO RECEIVE A
12 GRANT, INCLUDING THE AMOUNT OF BARRELS MANUFACTURED PER YEAR.

13 (3) A STATEMENT OF THE AMOUNT OF GRANT SOUGHT.

14 (4) A STATEMENT OF THE PROJECT, INCLUDING A DETAILED
15 STATEMENT OF THE COST OF THE PROJECT.

16 (5) A COMMITMENT FROM THE APPLICANT TO COMPLETE THE PROJECT.

17 (6) ANY OTHER INFORMATION REQUIRED BY THE BOARD.

18 (C) (1) UPON RECEIPT, THE BOARD SHALL REVIEW THE
19 APPLICATION TO DETERMINE IF THE APPLICANT HAS MET ALL OF THE
20 CRITERIA SET FORTH IN SUBSECTION (B). UPON BEING SATISFIED THAT
21 ALL REQUIREMENTS HAVE BEEN MET, THE BOARD MAY APPROVE THE
22 APPLICATION AND AWARD A GRANT.

23 (2) PRIOR TO PROVIDING GRANT FUNDS TO THE APPLICANT, THE
24 BOARD SHALL ENTER INTO A CONTRACT WITH THE APPLICANT. THE
25 CONTRACT SHALL INCLUDE PROVISIONS REQUIRING THE APPLICANT TO USE
26 THE ENTIRE GRANT TO PAY THE COSTS OF THE PROJECT.

27 (3) THE BOARD MAY IMPOSE ANY OTHER TERMS AND CONDITIONS ON
28 THE GRANTS AUTHORIZED BY THIS SECTION AS THE BOARD DETERMINES IS
29 IN THE BEST INTERESTS OF THE COMMONWEALTH.

30 (D) (1) GRANT AWARDS SHALL BE IN THE FOLLOWING AMOUNTS:

1 (I) FOR AN APPLICANT THAT MANUFACTURERS LESS THAN OR EQUAL
2 TO NINE THOUSAND NINE HUNDRED AND NINETY-NINE BARRELS OF MALT OR
3 BREWED BEVERAGES PER YEAR WITHIN THIS COMMONWEALTH, FIFTY
4 THOUSAND DOLLARS (\$50,000).

5 (II) FOR AN APPLICANT THAT MANUFACTURERS AT LEAST TEN
6 THOUSAND BARRELS BUT NOT MORE THAN TWENTY-FOUR THOUSAND NINE
7 HUNDRED AND NINETY-NINE BARRELS OF MALT OR BREWED BEVERAGES PER
8 YEAR WITHIN THIS COMMONWEALTH, ONE HUNDRED THOUSAND DOLLARS
9 (\$100,000).

10 (III) FOR AN APPLICANT THAT MANUFACTURERS AT LEAST TWENTY-
11 FIVE THOUSAND BARRELS BUT NOT MORE THAN NINETY-NINE THOUSAND
12 NINE HUNDRED AND NINETY-NINE BARRELS OF MALT OR BREWED BEVERAGES
13 PER YEAR WITHIN THIS COMMONWEALTH, TWO HUNDRED AND FIFTY
14 THOUSAND DOLLARS (\$250,000).

15 (IV) FOR AN APPLICANT THAT MANUFACTURERS AT LEAST ONE
16 HUNDRED THOUSAND BARRELS BUT NOT MORE THAN FOUR HUNDRED AND
17 NINETY-NINE THOUSAND NINE HUNDRED AND NINETY-NINE BARRELS OF
18 MALT OR BREWED BEVERAGES PER YEAR WITHIN THIS COMMONWEALTH, FIVE
19 HUNDRED THOUSAND DOLLARS (\$500,000).

20 (V) FOR AN APPLICANT THAT MANUFACTURERS AT LEAST FIVE
21 HUNDRED THOUSAND BARRELS OR MORE OF MALT OR BREWED BEVERAGES PER
22 YEAR WITHIN THIS COMMONWEALTH, ONE MILLION DOLLARS (\$1,000,000).

23 (2) THE AGGREGATE AMOUNT OF MANUFACTURER'S GRANTS AWARDED
24 SHALL NOT EXCEED FIVE MILLION DOLLARS (\$5,000,000).

25 (D) FOR PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL
26 HAVE THE MEANINGS SET FORTH IN THIS SUBSECTION:

27 "MANUFACTURER" SHALL MEAN ANY PERSON, ASSOCIATION OR
28 CORPORATION ENGAGED IN THE PRODUCING OR MANUFACTURING OF MALT OR
29 BREWED BEVERAGES IN THIS COMMONWEALTH.

30 "PROJECT" SHALL MEAN THE PURCHASE OF UPGRADING OF MALT OR

1 BREWED BEVERAGE PACKAGING EQUIPMENT.

2 SECTION 449. PRODUCT ROTATION.--MALT BEVERAGE MANUFACTURERS
3 AND IMPORTING DISTRIBUTORS MAY, UPON CONSENT OF THE LICENSEE,
4 ENGAGE IN REGULAR ROTATION OF THEIR OWN MALT BEVERAGES AS
5 NECESSARY TO ENSURE THE FRESHNESS OF SUCH PRODUCT DUE TO THEIR
6 LIMITED SHELF LIFE, INCLUDING MOVING THEIR OWN MALT BEVERAGES
7 FROM STORAGE AREAS TO STORE SHELVES, DISPLAY AREAS AND COOLERS
8 WHEN NECESSARY TO ENSURE FRESHNESS.

9 SECTION 11. SECTION 472.3 OF THE ACT, AMENDED DECEMBER 9,
10 2002 (P.L.1653, NO.212), IS AMENDED TO READ:

11 SECTION 472.3. EXCHANGE OF CERTAIN LICENSES.--(A) THE BOARD
12 MAY ISSUE TO A CLUB AS DEFINED IN THIS ACT, A CLUB LIQUOR
13 LICENSE IN EXCHANGE FOR A CLUB RETAIL DISPENSER LICENSE IN ANY
14 MUNICIPALITY WHICH HAS APPROVED THE GRANTING OF LIQUOR LICENSES.

15 (A.1) THE BOARD MAY ISSUE TO A HOLDER OF AN EATING PLACE
16 RETAIL DISPENSER LICENSE A DISTRIBUTOR LICENSE IN EXCHANGE FOR
17 THE EATING PLACE RETAIL DISPENSER LICENSE IN ANY MUNICIPALITY
18 WHICH HAS APPROVED THE GRANTING OF DISTRIBUTOR LICENSES,
19 PROVIDED THE APPLICANT HAS USED THE RETAIL DISPENSER LICENSE IN
20 A LICENSED PREMISES CONTAINING AT LEAST TWO THOUSAND SQUARE FEET
21 FOR A CONTINUOUS PERIOD OF AT LEAST FIVE YEARS IMMEDIATELY
22 PRECEDING THE EFFECTIVE DATE OF THIS SUBSECTION. AN APPLICANT
23 UNDER THIS SUBSECTION SHALL SURRENDER HIS EATING PLACE RETAIL
24 DISPENSER LICENSE FOR CANCELLATION PRIOR TO THE ISSUANCE OF THE
25 NEW DISTRIBUTOR LICENSE. THE AUTHORITY OF THE BOARD TO EXCHANGE
26 AN EATING PLACE RETAIL DISPENSER LICENSE FOR A DISTRIBUTOR
27 LICENSE UNDER THIS SUBSECTION AND THIS SUBSECTION SHALL EXPIRE
28 DECEMBER 1, 2008.

29 (B) AN APPLICANT UNDER [THIS SECTION] SUBSECTION (A) SHALL
30 SURRENDER HIS CLUB RETAIL DISPENSER LICENSE FOR CANCELLATION

1 PRIOR TO THE ISSUANCE OF THE NEW CLUB LIQUOR LICENSE.

2 (C) THE APPLICANT FOR SUCH EXCHANGE OF LICENSE UNDER
3 SUBSECTION (A) SHALL FILE AN APPLICATION FOR A CLUB LIQUOR
4 LICENSE AND SHALL POST A NOTICE OF SUCH APPLICATION IN THE
5 MANNER PROVIDED IN SECTION 403. [IN DETERMINING WHETHER THE
6 EXCHANGE SHALL BE GRANTED THE BOARD SHALL HAVE THE SAME
7 DISCRETION AS PROVIDED IN SECTION 404 IN THE CASE OF ANY NEW
8 LICENSE.]

9 (C.1) THE APPLICANT FOR SUCH EXCHANGE OF LICENSE UNDER
10 SUBSECTION (A.1) SHALL FILE AN APPLICATION FOR A DISTRIBUTOR
11 LICENSE, WHICH SHALL BE ACCOMPANIED BY AN EXCHANGE FEE OF TEN
12 THOUSAND DOLLARS (\$10,000). THE APPLICATION SHALL BE EXEMPT FROM
13 THE POSTING REQUIREMENTS PROVIDED IN SECTION 403. THIS
14 SUBSECTION SHALL EXPIRE DECEMBER 1, 2008.

15 (D) THE PROVISIONS OF SECTION 461 PERTAINING TO QUOTA SHALL
16 NOT PERTAIN TO THIS SECTION FOR EXCHANGE PURPOSES.

17 (E) IN DETERMINING WHETHER THE EXCHANGE SHALL BE GRANTED THE
18 BOARD SHALL HAVE THE SAME DISCRETION AS PROVIDED IN SECTION 404
19 IN THE CASE OF ANY NEW LICENSE.

20 SECTION 12. SECTION 802 OF THE ACT IS AMENDED BY ADDING A
21 SUBSECTION TO READ:

22 SECTION 802. MONEYS PAID INTO THE STATE STORES FUND FOR USE
23 OF THE COMMONWEALTH.--* * *

24 (H) WITHIN THIRTY (30) DAYS AFTER THE EFFECTIVE DATE OF THIS
25 ACT, THE SUM OF FIVE MILLION DOLLARS (\$5,000,000) SHALL BE
26 TRANSFERRED FROM THE STATE STORES FUND TO THE FUND ESTABLISHED
27 UNDER SECTION 218.

28 SECTION 13. THE PROVISIONS OF THIS ACT ARE SEVERABLE. IF ANY
29 PROVISION OF THIS ACT OR ITS APPLICATION TO ANY PERSON OR
30 CIRCUMSTANCE IS HELD INVALID, THE INVALIDITY SHALL NOT AFFECT

1 OTHER PROVISIONS OR APPLICATIONS OF THIS ACT WHICH CAN BE GIVEN
2 EFFECT WITHOUT THE INVALID PROVISION OR APPLICATION.

3 SECTION 14. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

4 (1) THE AMENDMENT OF SECTION 431(B.2) OF THE ACT SHALL
5 TAKE EFFECT JULY 1, 2008.

6 (2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT
7 IMMEDIATELY.