

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 228 Session of 2015

INTRODUCED BY DiGIROLAMO, PASHINSKI, BROWNLEE, HARKINS, KORTZ, FRANKEL, GODSHALL, DAVIS, READSHAW, SCHLOSSBERG, MURT, DEASY, COHEN, SCHREIBER, SCHWEYER, DeLUCA, CARROLL, GIBBONS AND SABATINA, JANUARY 27, 2015

REFERRED TO COMMITTEE ON LIQUOR CONTROL, JANUARY 27, 2015

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," in  
 17 Pennsylvania Liquor Control Board, further providing for  
 18 general powers of board; in Pennsylvania Liquor Stores,  
 19 further providing for board to establish State liquor stores,  
 20 for when sales may be made at Pennsylvania Liquor Stores, and  
 21 for sales by Pennsylvania Liquor Stores; in licenses and  
 22 regulations and liquor and alcohol and malt and brewed  
 23 beverages, further providing for renewal of licenses and  
 24 temporary provisions for licensees in armed service, for  
 25 revocation and suspension of licenses and fines and for  
 26 shipment of wine into Commonwealth; providing for direct  
 27 shipment of wine; further providing for unlawful acts  
 28 relative to liquor, malt and brewed beverages and licensees;  
 29 and, in disposition of moneys collected under provisions of  
 30 act, further providing for moneys paid into the State Stores  
 31 Fund for use of the Commonwealth.

1 The General Assembly of the Commonwealth of Pennsylvania  
2 hereby enacts as follows:

3 Section 1. Section 207(a) and (b) of the act of April 12,  
4 1951 (P.L.90, No.21), known as the Liquor Code, reenacted and  
5 amended June 29, 1987 (P.L.32, No.14) and amended December 8,  
6 2004 (P.L.1810, No.239), are amended and the section is amended  
7 by adding subsections to read:

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

10 (a) To buy, import or have in its possession for sale and  
11 sell liquor, alcohol, corkscrews, wine and liquor accessories,  
12 trade publications, gift cards, gift certificates, wine- or  
13 liquor-scented candles and wine glasses in the manner set forth  
14 in this act: Provided, however, That all purchases shall be made  
15 subject to the approval of the State Treasurer, or his  
16 designated deputy. The board shall buy liquor and alcohol at the  
17 lowest price and in the greatest variety reasonably obtainable.  
18 Such sales and purchases may be to or from persons or entities  
19 located both in and outside this Commonwealth.

20 (b) To control the manufacture, possession, sale,  
21 consumption, importation, use, storage, transportation and  
22 delivery of liquor, alcohol and malt or brewed beverages in  
23 accordance with the provisions of this act, and to fix the  
24 wholesale and retail prices at which liquors and alcohol shall  
25 be sold at Pennsylvania Liquor Stores. Prices shall be  
26 [proportional with prices paid by the board to its suppliers and  
27 shall reflect any advantage obtained through volume purchases by  
28 the board. The board may establish a preferential price  
29 structure for wines produced within this Commonwealth for the  
30 promotion of such wines, as long as the price structure is

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

1 \* \* \*

2 (l) Notwithstanding any other provision of law to the  
3 contrary, to enter into agreements with governmental units of  
4 this Commonwealth and other states, for the purchase or sale of  
5 goods and services with, from or to the governmental units. This  
6 authority includes, but is not limited to, the purchase or sale  
7 of alcohol.

8 (m) To be licensed as a lottery sales agent, as set forth in  
9 section 305 of the act of August 26, 1971 (P.L.351, No.91),  
10 known as the "State Lottery Law," and to take any actions  
11 authorized by such designation, except that no bond, insurance  
12 or indemnification may be required from the board.

13 (n) To establish and implement a customer relations  
14 management program for the purpose of offering incentives, such  
15 as coupons or discounts on certain products, to unlicensed  
16 customers of the board.

17 Section 2. Section 301 of the act is amended to read:

18 Section 301. Board to Establish State Liquor Stores.--(a)  
19 The board shall establish, operate and maintain at such places  
20 throughout the Commonwealth as it shall deem essential and  
21 advisable, stores to be known as "Pennsylvania Liquor Stores,"  
22 for the sale of liquor and alcohol in accordance with the  
23 provisions of and the regulations made under this act; except  
24 that no store not so already located shall be located within  
25 three hundred feet of any elementary or secondary school, nor  
26 within a dry municipality without there first having been a  
27 referendum approving such location. When the board shall have  
28 determined upon the location of a liquor store in any  
29 municipality, it shall give notice of such location by public  
30 advertisement in two newspapers of general circulation. In

1 cities of the first class, the location shall also be posted for  
2 a period of at least fifteen days following its determination by  
3 the board as required in section 403(g) of this act. The notice  
4 shall be posted in a conspicuous place on the outside of the  
5 premises in which the proposed store is to operate or, in the  
6 event that a new structure is to be built in a similarly visible  
7 location. If, within five days after the appearance of such  
8 advertisement, or of the last day upon which the notice was  
9 posted, fifteen or more taxpayers residing within a quarter of a  
10 mile of such location, or the City Solicitor of the city of the  
11 first class, shall file a protest with the court of common pleas  
12 of the county averring that the location is objectionable  
13 because of its proximity to a church, a school, or to private  
14 residences, the court shall forthwith hold a hearing affording  
15 an opportunity to the protestants and to the board to present  
16 evidence. The court shall render its decision immediately upon  
17 the conclusion of the testimony and from the decision there  
18 shall be no appeal. If the court shall determine that the  
19 proposed location is undesirable for the reasons set forth in  
20 the protest, the board shall abandon it and find another  
21 location. Notwithstanding any other provision of law to the  
22 contrary, the board may operate and maintain stores located in  
23 commercial locations. The board may make decisions to relocate  
24 and lease stores in more convenient and consumer-heavy areas,  
25 after consumer trends and market trends are analyzed by the  
26 board. The board may work with private persons or entities,  
27 consistent with the requirements of this section and under such  
28 conditions and regulations as the board may enforce, to operate  
29 and maintain stores in areas where the board concludes a store  
30 is needed to meet consumer demand. The board may establish,

1 operate and maintain such establishments for storing and testing  
2 liquors as it shall deem expedient to carry out its powers and  
3 duties under this act.

4 (b) The board may lease the necessary premises for such  
5 stores or establishments, but all such leases shall be made  
6 through the Department of General Services as agent of the  
7 board. Notwithstanding any other provision of law to the  
8 contrary, the Department of General Services shall have no more  
9 than ninety days from the date the board officially approves a  
10 lease recommendation to send the final lease packet to the  
11 appropriate agencies for further processing. The Department of  
12 General Services shall be required to submit quarterly reports  
13 to the chairman and minority chairman of the Law and Justice  
14 Committee of the Senate and the chairman and minority chairman  
15 of the Liquor Control Committee of the House of Representatives  
16 indicating the number of lease recommendations approved by the  
17 board during the preceding quarter and whether the corresponding  
18 final lease packets were sent to the appropriate agencies within  
19 the ninety-day deadline. If the Department of General Services  
20 fails to regularly submit these quarterly reports or fails to  
21 regularly meet the ninety-day deadline imposed by this  
22 subsection, then the General Assembly may consider legislation  
23 that would allow the board to lease premises for its stores  
24 without the involvement of the Department of General Services.  
25 The board, through the Department of General Services, shall  
26 have authority to purchase such equipment and appointments as  
27 may be required in the operation of such stores or  
28 establishments.

29 Section 3. Section 304 of the act, amended December 8, 2004  
30 (P.L.1810, No.239), is amended to read:

1 Section 304. When Sales May Be Made at Pennsylvania Liquor  
2 Stores.--(a) Except as provided for in subsection (b), every  
3 Pennsylvania Liquor Store shall be open for business week days,  
4 except holidays as that term is defined in section 102. The  
5 board may, with the approval of the Governor, temporarily close  
6 any store in any municipality.

7 (b) Certain Pennsylvania Liquor Stores operated by the board  
8 [shall] may be open for Sunday retail sales between the hours of  
9 [noon] nine o'clock antemeridian and [five] nine o'clock  
10 postmeridian, except that no Sunday sales shall occur on Easter  
11 Sunday or Christmas day. The board shall open [up to twenty-five  
12 per centum of the total number of Pennsylvania Liquor Stores at  
13 its discretion], at its discretion, as many Pennsylvania Liquor  
14 Stores as it deems necessary for Sunday sales as provided for in  
15 this subsection. The board shall submit yearly reports to the  
16 Appropriations and the Law and Justice Committees of the Senate  
17 and the Appropriations and the Liquor Control Committees of the  
18 House of Representatives summarizing the total dollar value of  
19 sales under this section.

20 Section 4. Section 305(b) of the act, amended July 6, 2005  
21 (P.L.135, No.39), is amended and the section is amended by  
22 adding a subsection to read:

23 Section 305. Sales by Pennsylvania Liquor Stores.--\* \* \*

24 (b) Every Pennsylvania Liquor Store shall sell liquors at  
25 wholesale to hotels, restaurants, clubs, and railroad, pullman  
26 and steamship companies licensed under this act; and, under the  
27 regulations of the board, to pharmacists duly licensed and  
28 registered under the laws of the Commonwealth, and to  
29 manufacturing pharmacists, and to reputable hospitals approved  
30 by the board, or chemists. Sales to licensees shall be made at a

1 price that includes a discount of ten per centum from the retail  
2 price. The board may sell to registered pharmacists only such  
3 liquors as conform to the Pharmacopoeia of the United States,  
4 the National Formulary, or the American Homeopathic  
5 Pharmacopoeia. The board may sell at special prices under the  
6 regulations of the board, to United States Armed Forces  
7 facilities which are located on United States Armed Forces  
8 installations and are conducted pursuant to the authority and  
9 regulations of the United States Armed Forces. All other sales  
10 by such stores shall be at retail[.], except that incentives,  
11 such as coupons or discounts on certain products, may be offered  
12 to unlicensed customers of the board as provided for under  
13 sections 207(n) and 493(24)(iii). A person entitled to purchase  
14 liquor at wholesale prices may purchase the liquor at any  
15 Pennsylvania Liquor Store upon tendering cash, check or credit  
16 card for the full amount of the purchase. For this purpose, the  
17 board shall issue a discount card to each licensee identifying  
18 such licensee as a person authorized to purchase liquor at  
19 wholesale prices. Such discount card shall be retained by the  
20 licensee. The board may contract through the Commonwealth  
21 bidding process for delivery to wholesale licensees at the  
22 expense of the licensee receiving the delivery.

23 \* \* \*

24 (j) If the board becomes a licensed lottery sales agent, as  
25 set forth in section 305 of the act of August 26, 1971 (P.L.351,  
26 No.91), known as the "State Lottery Law," then the following  
27 shall apply, notwithstanding the provisions of the "State  
28 Lottery Law":

29 (i) The Secretary of Revenue shall permit the board to  
30 operate and maintain Pennsylvania lottery instant ticket vending



1 machines, player-activated terminals and technologies or systems  
2 subsequently approved by the Department of Revenue for the self-  
3 service sale of lottery tickets and games in Pennsylvania Liquor  
4 Stores. The board and the Secretary of Revenue shall mutually  
5 agree upon the number and location of the stores authorized to  
6 conduct self-service sales of lottery tickets and games.

7 (ii) The board shall not be required to post any type of  
8 bond prior to conducting self-service sales of lottery tickets  
9 and games.

10 (iii) Any commissions, compensation or any type of incentive  
11 award based upon the sale of lottery tickets and games shall be  
12 deposited by the board into the State Stores Fund.

13 Section 5. Section 470(a) of the act, amended December 22,  
14 2011 (P.L.530, No.113), is amended to read:

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

1 application nunc pro tunc within the time prescribed herein the  
2 board, in its discretion, may, after hearing, accept a renewal  
3 application filed within two years after the expiration date of  
4 the license with the required fees upon the payment of an  
5 additional filing fee of two hundred fifty dollars (\$250.00) for  
6 late filing. In addition, the renewal application must indicate  
7 the total dollar amount of alcoholic beverages sold by the  
8 licensee during the twelve-month period immediately preceding  
9 the filing of the renewal application. Where any such renewal  
10 application is filed less than sixty days before the expiration  
11 date, or subsequent to the expiration date, no license shall  
12 issue upon the filing of the renewal application until the  
13 matter is finally determined by the board and if an appeal is  
14 taken from the board's action the courts shall not order the  
15 issuance of the renewal license until final determination of the  
16 matter by the courts. The board may enter into an agreement with  
17 the applicant concerning additional restrictions on the license  
18 in question. If the board and the applicant enter into such an  
19 agreement, such agreement shall be binding on the applicant.  
20 Failure by the applicant to adhere to the agreement will be  
21 sufficient cause to form the basis for a citation under section  
22 471 and for the nonrenewal of the license under this section. A  
23 renewal application will not be considered filed unless  
24 accompanied by the requisite filing and license fees and any  
25 additional filing fee required by this section. Unless the board  
26 shall have given ten days' previous notice to the applicant of  
27 objections to the renewal of his license, based upon violation  
28 by the licensee or his servants, agents or employes of any of  
29 the laws of the Commonwealth or regulations of the board  
30 relating to the manufacture, transportation, use, storage,

1 importation, possession or sale of liquors, alcohol or malt or  
2 brewed beverages, or the conduct of a licensed establishment, or  
3 unless the applicant has by his own act become a person of ill  
4 repute, or unless the premises do not meet the requirements of  
5 this act or the regulations of the board, the license of a  
6 licensee shall be renewed. Notwithstanding any other provision  
7 of this act, a noise violation shall not be the sole basis for  
8 objection by the board to the renewal of a license unless the  
9 licensee has received six prior adjudicated noise citations  
10 within a twenty-four-month period.

11 \* \* \*

12 Section 6. Section 471(b) of the act, amended July 6, 2005  
13 (P.L.135, No.39), is amended to read:

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

15 \* \* \*

16 (b) Hearing on such citations shall be held in the same  
17 manner as provided herein for hearings on applications for  
18 license. Upon such hearing, if satisfied that any such violation  
19 has occurred or for other sufficient cause, the administrative  
20 law judge shall immediately suspend or revoke the license, or  
21 impose a fine of not less than [fifty dollars (\$50)] one hundred  
22 dollars (\$100) nor more than [one thousand dollars (\$1,000),]  
23 the greater of two thousand dollars (\$2,000) or ten per centum  
24 of the average gross monthly sales of alcoholic beverages sold  
25 by the licensee during the twelve-month period immediately  
26 preceding the filing of the licensee's renewal application, or  
27 both, notifying the licensee by registered letter addressed to  
28 his licensed premises.

29 (b.1) If the licensee has been cited and found to have  
30 violated section 493(1) insofar as it relates to sales to minors

1 or sales to a visibly intoxicated person, section 493(10)  
2 insofar as it relates to lewd, immoral or improper entertainment  
3 or section 493(14), (16) or (21), or has been found to be a  
4 public nuisance pursuant to section 611, or if the owner or  
5 operator of the licensed premises or any authorized agent of the  
6 owner or operator has been convicted of any violation of the act  
7 of April 14, 1972 (P.L.233, No.64), known as "The Controlled  
8 Substance, Drug, Device and Cosmetic Act," or of 18 Pa.C.S. §  
9 5902 (relating to prostitution and related offenses) or 6301  
10 (relating to corruption of minors), at or relating to the  
11 licensed premises, the administrative law judge shall  
12 immediately suspend or revoke the license, or impose a fine [of  
13 not less than one thousand dollars (\$1,000)] two thousand  
14 dollars (\$2,000) nor more than [five thousand dollars (\$5,000)]  
15 the greater of ten thousand dollars (\$10,000) or ten per centum  
16 of the average gross monthly sales of alcoholic beverages sold  
17 by the licensee during the twelve-month period immediately  
18 preceding the filing of the licensee's renewal application, or  
19 both. However, if a licensee has been cited and found to have  
20 violated section 493(1) as it relates to sales to minors or  
21 sales to a visibly intoxicated person but at the time of the  
22 sale the licensee was in compliance with the requirements set  
23 forth in section 471.1 and the licensee had not sold to minors  
24 or visibly intoxicated persons in the previous four years, then  
25 the administrative law judge shall immediately suspend or revoke  
26 the license, or impose a fine of not less than [fifty dollars  
27 (\$50)] one hundred dollars (\$100) nor more than [one thousand  
28 dollars (\$1,000)] the greater of two thousand dollars (\$2,000)  
29 or ten per centum of the average gross monthly sales of  
30 alcoholic beverages sold by the licensee during the twelve-month

1 period immediately preceding the filing of the licensee's  
2 renewal application, or both.

3 (b.2) The administrative law judge shall notify the licensee  
4 by registered mail, addressed to the licensed premises, of such  
5 suspension, revocation or fine. In the event the fine is not  
6 paid within twenty days of the adjudication, the administrative  
7 law judge shall suspend or revoke the license, notifying the  
8 licensee by registered mail addressed to the licensed premises.  
9 Suspensions and revocations shall not go into effect until  
10 thirty days have elapsed from the date of the adjudication  
11 during which time the licensee may take an appeal as provided  
12 for in this act, except that revocations mandated in section  
13 481(c) shall go into effect immediately. Any licensee whose  
14 license is revoked shall be ineligible to have a license under  
15 this act until the expiration of three years from the date such  
16 license was revoked. In the event a license is revoked, no  
17 license shall be granted for the premises or transferred to the  
18 premises in which the said license was conducted for a period of  
19 at least one year after the date of the revocation of the  
20 license conducted in the said premises, except in cases where  
21 the licensee or a member of his immediate family is not the  
22 owner of the premises, in which case the board may, in its  
23 discretion, issue or transfer a license within the said year. In  
24 the event the bureau or the person who was fined or whose  
25 license was suspended or revoked shall feel aggrieved by the  
26 adjudication of the administrative law judge, there shall be a  
27 right to appeal to the board. The appeal shall be based solely  
28 on the record before the administrative law judge. The board  
29 shall only reverse the decision of the administrative law judge  
30 if the administrative law judge committed an error of law,

1 abused its discretion or if its decision is not based on  
2 substantial evidence. In the event the bureau or the person who  
3 was fined or whose license was suspended or revoked shall feel  
4 aggrieved by the decision of the board, there shall be a right  
5 to appeal to the court of common pleas in the same manner as  
6 herein provided for appeals from refusals to grant licenses.  
7 Each of the appeals shall act as a supersedeas unless, upon  
8 sufficient cause shown, the reviewing authority shall determine  
9 otherwise; however, if the licensee has been cited and found to  
10 have violated section 493(1) insofar as it relates to sales to  
11 minors or sales to a visibly intoxicated person, section 493(10)  
12 insofar as it relates to lewd, immoral or improper entertainment  
13 or section 493(14), (16) or (21), or has been found to be a  
14 public nuisance pursuant to section 611, or if the owner or  
15 operator of the licensed premises or any authorized agent of the  
16 owner or operator has been convicted of any violation of "The  
17 Controlled Substance, Drug, Device and Cosmetic Act," or of 18  
18 Pa.C.S. § 5902 or 6301, at or relating to the licensed premises,  
19 or if the license has been revoked under section 481(c), its  
20 appeal shall not act as a supersedeas unless the reviewing  
21 authority determines otherwise upon sufficient cause shown. In  
22 any hearing on an application for a supersedeas under this  
23 section, the reviewing authority may consider, in addition to  
24 other relevant evidence, documentary evidence, including records  
25 of the bureau, showing the prior history of citations, fines,  
26 suspensions or revocations against the licensee; and the  
27 reviewing authority may also consider, in addition to other  
28 relevant evidence, evidence of any recurrence of the unlawful  
29 activity occurring between the date of the citation which is the  
30 subject of the appeal and the date of the hearing. If the

1 reviewing authority is the board, no hearing shall be held on  
2 the application for a supersedeas; however, a decision shall be  
3 made based on the application, answer and documentary evidence  
4 under this subsection. If the application for a supersedeas is  
5 for a license that has been revoked under section 481(c), the  
6 reviewing authority shall grant the supersedeas only if it finds  
7 that the licensee will likely prevail on the merits. No penalty  
8 provided by this section shall be imposed for any violations  
9 provided for in this act unless the bureau notifies the licensee  
10 of its nature within thirty days of the completion of the  
11 investigation.

12 \* \* \*

13 Section 7. Section 488 of the act, added February 21, 2002  
14 (P.L.103, No.10), is amended to read:

15 Section 488. Shipment of Wine [into Commonwealth.--(a) The  
16 shipment of wine from out-of-State to residents of this  
17 Commonwealth is prohibited, except as otherwise provided for in  
18 this section.] to Pennsylvania Liquor Stores.--

19 (b) Notwithstanding any other provision of this act or law  
20 to the contrary, a person licensed by another state as a  
21 producer, supplier, importer, wholesaler, distributor or  
22 retailer of wine and who obtains a [direct wine shipper] direct-  
23 to-store wine shipper license as provided for in this section  
24 may ship up to nine liters per month of any wine [not included  
25 on the list provided for in subsection (c)] on the [Internet]  
26 order of any resident of this Commonwealth who is at least  
27 twenty-one (21) years of age for such resident's personal use  
28 and not for resale.

29 [(c) Each month, the board shall publish on the Internet a  
30 list of all classes, varieties and brands of wine available for

1 sale in the Pennsylvania Liquor Stores. A person holding a  
2 direct shipper license may ship only those classes, varieties  
3 and brands of wine not included on the list at the time an  
4 Internet order is placed.]

5 (d) [An out-of-State] A direct-to-store wine shipper shall:

6 (1) Not ship more than nine liters per month on the Internet  
7 order of any person in this Commonwealth.

8 (2) Report to the board each year the total amount of wine  
9 shipped [into this Commonwealth] to Pennsylvania Liquor Stores  
10 in the preceding calendar year.

11 (3) Permit the board, the enforcement bureau or the  
12 Secretary of Revenue, or their designated representatives, to  
13 perform an audit of the [out-of-State] direct-to-store wine  
14 shipper's records upon request.

15 (4) Be deemed to have submitted to the jurisdiction of the  
16 board, any other State agency and the courts of this  
17 Commonwealth for purposes of enforcement of this section and any  
18 related laws, rules or regulations.

19 (e) A [direct] direct-to-store wine shipper may ship wine on  
20 the [Internet] order of a resident into this Commonwealth  
21 provided that the wine is shipped to a Pennsylvania Liquor Store  
22 selected by the resident. The wine will be subject to taxes in  
23 the same manner as wine sold directly by the board. The wine  
24 will not be released by the State store until all moneys due,  
25 including all taxes and fees, have been paid by the resident.

26 (f) A person shall sign an affidavit provided by the  
27 Pennsylvania Liquor Store where the wine was delivered to  
28 stating that the wine will only be used for the person's  
29 personal use. Any person who resells wine obtained under this  
30 section commits a misdemeanor of the second degree.



1 (g) The board may promulgate such rules and regulations as  
2 are necessary to implement and enforce the provisions of this  
3 section. The board may charge the resident a fee to cover the  
4 cost associated with processing the [Internet] order.

5 (h) The board shall submit [monthly] annual reports to the  
6 Appropriations Committee and the Law and Justice Committee of  
7 the Senate and to the Appropriations Committee and the Liquor  
8 Control Committee of the House of Representatives summarizing  
9 the number of [direct] direct-to-store wine shipper licenses  
10 issued by the board, the quantity of wine sold and shipped by  
11 direct-to-store wine shipper licensees pursuant to this section  
12 and the total dollar value of sales under this section.

13 (i) The term "wine" as used in this section shall mean  
14 liquor which is fermented from [grapes and other fruits, having  
15 alcoholic content of twenty-four per centum or less. The term  
16 "wine" shall not include malt or brewed beverages nor shall wine  
17 include any products containing alcohol derived from malt,  
18 grain, cereal, molasses or cactus] an agricultural commodity as  
19 that term is defined in section 505.2(c).

20 Section 8. The act is amended by adding a section to read:

21 Section 489. Direct Shipment of Wine.--(a) Notwithstanding  
22 any other provision of law to the contrary, a person licensed by  
23 the board or another state as a producer of wine, and who  
24 obtains a license as provided for in this section, may ship up  
25 to eighteen liters per month of any wine on the order of any  
26 resident of this Commonwealth who is at least twenty-one years  
27 of age for such resident's personal use and not for resale.

28 (b) Prior to issuing such a license, the board shall require  
29 the person seeking the license to:

30 (1) File an application with the board.

1 (2) Pay a registration fee of one hundred dollars (\$100).

2 (3) Provide to the board a copy of the applicant's current  
3 alcoholic beverage license issued by the board or another state,  
4 if applicable.

5 (4) Provide documentation to the board which evidences that  
6 the applicant has obtained a sales tax license from the  
7 Department of Revenue.

8 (5) Obtain a tax bond, in the amount of one thousand dollars  
9 (\$1,000), such that if the licensee does not pay the taxes  
10 imposed under this section when due, the surety of the bond  
11 shall pay all taxes and any related penalties, and any interest  
12 that may be due or become due.

13 (6) Provide the board with any other information that the  
14 board deems necessary and appropriate.

15 (c) The licensee shall:

16 (1) Require proof of age of the recipient, in a manner or  
17 format approved by the board, before any wine is shipped to a  
18 resident of this Commonwealth.

19 (2) Ensure that all boxes or exterior containers of wine  
20 shipped directly to a resident of this Commonwealth are  
21 conspicuously labeled with the words "CONTAINS ALCOHOL:  
22 SIGNATURE OF PERSON 21 YEARS OF AGE OR OLDER REQUIRED FOR  
23 DELIVERY."

24 (3) Ensure that shipments shall be delivered by an entity  
25 holding a valid transporter-for-hire license issued by the board  
26 and that such transporter-for-hire shall not deliver any wine  
27 unless it does all of the following:

28 (i) Obtains the signature of the recipient of the wine upon  
29 delivery.

30 (ii) Verifies by inspecting a valid form of photo

1 identification, as provided for in section 495(a), that the  
2 recipient is at least twenty-one (21) years of age.

3 (iii) Determines that the recipient is not visibly  
4 intoxicated at the time of delivery.

5 (4) On a quarterly basis, remit to the Department of Revenue  
6 all taxes due on sales to residents of this Commonwealth.

7 (5) Permit the board, the enforcement bureau or the  
8 Secretary of Revenue, or their designated representatives, to  
9 perform an audit of the licensee's records upon request.

10 (6) Be deemed to have submitted to the jurisdiction of the  
11 board, any other State agency and the courts of this  
12 Commonwealth for purposes of enforcement of this section and any  
13 related laws, rules or regulations, including the collection and  
14 remission of taxes as required under this section.

15 (7) Annually renew its license by paying a renewal fee  
16 established by the board and report to the board, at the time of  
17 renewal, the total amount of wine shipped to residents of this  
18 Commonwealth in the preceding calendar year.

19 (d) Wine delivered under the authority of this section is  
20 subject to the sales and use tax imposed by section 202 of the  
21 act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code  
22 of 1971, the sales and use tax imposed by Article XXXI-B of the  
23 act of July 28, 1953 (P.L.723, No.230), known as the Second  
24 Class County Code, the sales and use tax imposed by the act of  
25 February 12, 2004 (P.L.73, No.11), known as the  
26 Intergovernmental Cooperation Authority Act for Cities of the  
27 Second Class, and the emergency State tax imposed on wines sold  
28 by the board under the act of June 9, 1936 (1st Sp. Sess.,  
29 P.L.13, No.4), entitled "An act imposing an emergency State tax  
30 on liquor, as herein defined, sold by the Pennsylvania Liquor

1 Control Board; providing for the collection and payment of such  
2 tax; and imposing duties upon the Department of Revenue and the  
3 Pennsylvania Liquor Control Board."

4 (e) A transporter for hire shall:

5 (1) keep records as required under section 512 pertaining to  
6 the direct shipment of wine; and

7 (2) permit the board and the enforcement bureau, or their  
8 designated representatives, to inspect such records in  
9 accordance with section 513.

10 (f) Any person who resells wine obtained under this section  
11 commits a misdemeanor of the second degree.

12 (g) Shipments of wine to persons in this Commonwealth from  
13 persons who do not possess a license from the board authorizing  
14 such shipments are prohibited. Any person who knowingly makes,  
15 participates in, transports, imports or receives such shipment  
16 commits a misdemeanor.

17 (h) The board shall submit annual reports to the  
18 Appropriations and the Law and Justice Committees of the Senate  
19 and to the Appropriations and the Liquor Control Committees of  
20 the House of Representatives summarizing the number of licenses  
21 issued by the board under this section, the quantity of wine  
22 sold and shipped by licensees pursuant to this section and the  
23 total dollar value of sales under this section.

24 (i) The board may promulgate such rules and regulations as  
25 are necessary to implement and enforce the provisions of this  
26 section.

27 (j) The term "wine" as used in this section shall mean  
28 liquor which is fermented from an agricultural commodity as that  
29 term is defined in section 505.2(c).

30 Section 9. Section 493(24) of the act, amended November 29,

1 2006 (P.L.1421, No.155), is amended and the section is amended  
2 by adding a paragraph to read:

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

8 It shall be unlawful--

9 \* \* \*

10 (24) (i) Things of Value Offered as Inducement. Except as  
11 provided in subclause (ii), for any licensee under the  
12 provisions of this article, or the board or any manufacturer, or  
13 any employe or agent of a manufacturer, licensee or of the  
14 board, to offer to give anything of value or to solicit or  
15 receive anything of value as a premium for the return of caps,  
16 stoppers, corks, stamps or labels taken from any bottle, case,  
17 barrel or package containing liquor or malt or brewed beverage,  
18 or to offer or give or solicit or receive anything of value as a  
19 premium or present to induce directly the purchase of liquor or  
20 malt or brewed beverage, or for any licensee, manufacturer or  
21 other person to offer or give to trade or consumer buyers any  
22 prize, premium, gift or other inducement to purchase liquor or  
23 malt or brewed beverages, except advertising novelties of  
24 nominal value which the board shall define. This section shall  
25 not prevent any manufacturer or any agent of a manufacturer from  
26 offering and honoring coupons which offer monetary rebates on  
27 purchases of wines and spirits through State Liquor Stores or  
28 purchases of malt or brewed beverages through distributors and  
29 importing distributors in accordance with conditions or  
30 regulations established by the board. The board may redeem

1 coupons offered by a manufacturer or an agent of a manufacturer  
2 at the time of purchase. Coupons offered by a manufacturer or an  
3 agent of a manufacturer shall not be redeemed without proof of  
4 purchase. This section shall not apply to the return of any  
5 monies specifically deposited for the return of the original  
6 container to the owners thereof.

7 (ii) Notwithstanding subclause (i) or any other provision of  
8 law, a holder of a restaurant license that is also approved to  
9 hold a slot machine license or a conditional slot machine  
10 license under 4 Pa.C.S. Part II (relating to gaming) may give  
11 liquor and malt or brewed beverages free of charge to any person  
12 actively engaged in playing a slot machine.

13 (iii) Notwithstanding subclause (i) or any other provision  
14 of law, the board may establish and implement a customer  
15 relations management program for the purpose of offering  
16 incentives, such as coupons or discounts on certain products  
17 which may be conditioned upon the purchase of liquor, to  
18 unlicensed customers of the board.

19 \* \* \*

20 (35) Sale of wine received by direct-to-store or direct  
21 shipment. For any licensee to sell or offer to sell any wine  
22 purchased or acquired, directly or indirectly, from a licensee  
23 pursuant to the authority of section 488, or from a licensee  
24 pursuant to the authority of section 489.

25 Section 10. Section 802(c) of the act is amended to read:

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

28 (c) [Two] Two and one-half per centum of annual profits from  
29 the sale of liquor and alcohol shall be annually transferred to  
30 the Department of Health for use by the Office of Drug and

1 Alcohol Programs, or its successor in function, for the  
2 following purposes:

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

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

9 (3) Study of the problem of addiction.

10 \* \* \*

11 Section 11. This act shall take effect in 60 days.