

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 15 Session of 2015

INTRODUCED BY BREWSTER, YUDICHAK, TEPLITZ, FONTANA, HUGHES, FARNESE, TARTAGLIONE, BLAKE, COSTA, LEACH, SCHWANK, WILLIAMS, SMITH, WOZNIAK, HAYWOOD, KITCHEN, DINNIMAN, WILEY AND BOSCOLA, FEBRUARY 25, 2015

REFERRED TO LAW AND JUSTICE, FEBRUARY 25, 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 preliminary provisions, further providing for definitions; in
 18 Pennsylvania Liquor Control Board, further providing for
 19 general powers of board; in Pennsylvania Liquor Stores,
 20 further providing for board to establish State liquor stores,
 21 for when sales may be made at Pennsylvania Liquor Stores, and
 22 for sales by Pennsylvania Liquor Stores; and, in licenses and
 23 regulations and liquor and alcohol and malt and brewed
 24 beverages, further providing for authority to issue liquor
 25 licenses to hotels, restaurants and clubs, for sale of malt
 26 or brewed beverages by liquor licensees, for malt and brewed
 27 beverages manufacturers', distributors' and importing
 28 distributors' licenses, for distributors' and importing
 29 distributors' restrictions on sales, storage, etc., for
 30 retail dispensers' restrictions on purchases and sales and
 31 for shipment of wine into Commonwealth, providing for direct
 32 shipment of wine and for unlawful acts relative to liquor,

1 malt and brewed beverages and licensees and for premises to
2 be vacated by patrons.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. The definitions of "distributor," "holiday,"
6 "importing distributor" and "retail dispenser" in section 102 of
7 the act of April 12, 1951 (P.L.90, No.21), known as the Liquor
8 Code, reenacted and amended June 29, 1987 (P.L.32, No.14) and
9 amended or added May 31, 1996 (P.L.312, No.49) and December 8,
10 2004 (P.L.1810, No.239), are amended to read:

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

14 * * *

15 "Distributor" shall mean any person licensed by the board to
16 engage in the purchase only from Pennsylvania manufacturers and
17 from importing distributors and the resale of malt or brewed
18 beverages, except to importing distributors and distributors, in
19 the original sealed containers as prepared for the market by the
20 manufacturer at the place of manufacture, but not for
21 consumption on the premises where sold, and in quantities of not
22 less than a case or original containers containing one hundred
23 twenty-eight ounces or more, or as provided in section 431(g),
24 which may be sold separately.

25 * * *

26 "Holiday" shall mean the first day of January, commonly known
27 as New Year's Day; [the third Monday of January, known as Dr.
28 Martin Luther King, Jr., Day; the third Monday in February,
29 known as Presidents' Day; the last Monday in May, known as
30 Memorial Day;] the fourth day of July, known as Independence
31 Day; [the first Monday of September, known as Labor Day;] the

1 fourth Thursday in November, known as Thanksgiving Day; and the
2 twenty-fifth day of December, known as Christmas Day.

3 * * *

4 "Importing distributor" shall mean any person licensed by the
5 board to engage in the purchase from manufacturers and other
6 persons located outside this Commonwealth and from persons
7 licensed as manufacturers of malt or brewed beverages and
8 importing distributors under this act, and the resale of malt or
9 brewed beverages in the original sealed containers as prepared
10 for the market by the manufacturer at the place of manufacture,
11 but not for consumption on the premises where sold, and in
12 quantities of not less than a case or original containers
13 containing one hundred twenty-eight ounces or more, or as
14 provided in section 431(g), which may be sold separately.

15 * * *

16 "Retail dispenser" shall mean any person licensed to engage
17 in the retail sale of malt or brewed beverages for consumption
18 on the premises of such licensee, with the privilege of selling
19 malt or brewed beverages in quantities not in excess of [one
20 hundred ninety-two fluid ounces in a single sale to one person]
21 three hundred eighty-four ounces in not more than twenty-four
22 original containers in a single sale to one person as provided
23 in section 407, provided the licensee may not sell a package as
24 prepared for sale or distribution by the manufacturer containing
25 more than twelve containers, to be carried from the premises by
26 the purchaser thereof.

27 * * *

28 Section 2. Section 207(a) and (b) of the act, amended
29 November 30, 2004 (P.L.727, No.221) and December 8, 2004
30 (P.L.1810, No.239), are amended and the section is amended by

1 adding subsections to read:

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

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

14 (b) To control the manufacture, possession, sale,
15 consumption, importation, use, storage, transportation and
16 delivery of liquor, alcohol and malt or brewed beverages in
17 accordance with the provisions of this act, and to fix the
18 wholesale and retail prices at which liquors and alcohol shall
19 be sold at Pennsylvania Liquor Stores. Prices shall be
20 [proportional with prices paid by the board to its suppliers and
21 shall reflect any advantage obtained through volume purchases by
22 the board. The board may establish a preferential price
23 structure for wines produced within this Commonwealth for the
24 promotion of such wines, as long as the price structure is
25 uniform within each class of wine purchased by the board.] as
26 set forth by the board so long as the price of a particular item
27 is uniform throughout this Commonwealth. The board shall require
28 each Pennsylvania manufacturer and each nonresident manufacturer
29 of liquors, other than wine, selling such liquors to the board,
30 which are not manufactured in this Commonwealth, to make

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

25 * * *

26 (1) Notwithstanding any other provision of law to the
27 contrary, to enter into agreements with governmental units of
28 this Commonwealth and other states, for the purchase or sale of
29 goods and services with, from or to the governmental units. This
30 authority includes, but is not limited to, the purchase or sale

1 of alcohol.

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

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

11 Section 3. Section 301 of the act is amended to read:

12 Section 301. Board to Establish State Liquor Stores.--(a)
13 The board shall establish, operate and maintain at such places
14 throughout the Commonwealth as it shall deem essential and
15 advisable, stores to be known as "Pennsylvania Liquor Stores,"
16 for the sale of liquor and alcohol in accordance with the
17 provisions of and the regulations made under this act; except
18 that no store not so already located shall be located within
19 three hundred feet of any elementary or secondary school, nor
20 within a dry municipality without there first having been a
21 referendum approving such location. When the board shall have
22 determined upon the location of a liquor store in any
23 municipality, it shall give notice of such location by public
24 advertisement in two newspapers of general circulation. In
25 cities of the first class, the location shall also be posted for
26 a period of at least fifteen days following its determination by
27 the board as required in section 403(g) of this act. The notice
28 shall be posted in a conspicuous place on the outside of the
29 premises in which the proposed store is to operate or, in the
30 event that a new structure is to be built in a similarly visible

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

28 (b) The board may lease the necessary premises for such
29 stores or establishments, but all such leases shall be made
30 through the Department of General Services as agent of the

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

23 Section 4. Section 304 of the act, amended December 8, 2004
24 (P.L.1810, No.239), is amended to read:

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

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

14 Section 5. Section 305(a) and (b) of the act, amended May 8,
15 2003 (P.L.1, No.1) and July 6, 2005 (P.L.135, No.39), are
16 amended and the section is amended by adding a subsection to
17 read:

18 Section 305. Sales by Pennsylvania Liquor Stores.--(a) The
19 board shall in its discretion determine where and what classes,
20 varieties and brands of liquor and alcohol it shall make
21 available to the public and where such liquor and alcohol will
22 be sold. Every Pennsylvania Liquor Store shall be authorized to
23 sell combination packages. If a person desires to purchase a
24 class, variety or brand of liquor or alcohol not currently
25 available from the board, he or she may place a special order
26 for such item so long as the order is for two or more bottles.
27 The board may require a reasonable deposit from the purchaser as
28 a condition for accepting the order. The customer shall be
29 notified immediately upon the arrival of the goods.

30 In computing the retail price of such special orders for

1 liquor or alcohol, the board shall not include the cost of
2 freight or shipping before applying [the] a mark-up, which shall
3 not exceed ten per centum of the cost of the product, and taxes
4 but shall add the freight or shipping charges to the price after
5 the mark-up and taxes have been applied.

6 Unless the customer pays for and accepts delivery of any such
7 special order within ten days after notice of arrival, the store
8 may place it in stock for general sale and the customer's
9 deposit shall be forfeited.

10 (b) Every Pennsylvania Liquor Store shall sell liquors at
11 wholesale to hotels, restaurants, clubs, and railroad, pullman
12 and steamship companies licensed under this act; and, under the
13 regulations of the board, to pharmacists duly licensed and
14 registered under the laws of the Commonwealth, and to
15 manufacturing pharmacists, and to reputable hospitals approved
16 by the board, or chemists. Sales to licensees shall be made at a
17 price that includes a discount of [ten] sixteen per centum from
18 the retail price. The board may sell to registered pharmacists
19 only such liquors as conform to the Pharmacopoeia of the United
20 States, the National Formulary, or the American Homeopathic
21 Pharmacopoeia. The board may sell at special prices under the
22 regulations of the board, to United States Armed Forces
23 facilities which are located on United States Armed Forces
24 installations and are conducted pursuant to the authority and
25 regulations of the United States Armed Forces. All other sales
26 by such stores shall be at retail[.], except that incentives,
27 such as coupons or discounts on certain products, may be offered
28 to unlicensed customers of the board as provided for under
29 sections 207(n) and 493(24)(iii). A person entitled to purchase
30 liquor at wholesale prices may purchase the liquor at any

1 Pennsylvania Liquor Store upon tendering cash, check or credit
2 card for the full amount of the purchase. For this purpose, the
3 board shall issue a discount card to each licensee identifying
4 such licensee as a person authorized to purchase liquor at
5 wholesale prices. Such discount card shall be retained by the
6 licensee. The board may contract through the Commonwealth
7 bidding process for delivery to wholesale licensees at the
8 expense of the licensee receiving the delivery.

9 * * *

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

15 (i) The Secretary of Revenue shall permit the board to
16 operate and maintain Pennsylvania lottery instant ticket vending
17 machines, player-activated terminals and technologies or systems
18 subsequently approved by the Department of Revenue for the self-
19 service sale of lottery tickets and games in Pennsylvania Liquor
20 Stores. The board and the Secretary of Revenue shall mutually
21 agree upon the number and location of the stores authorized to
22 conduct self-service sales of lottery tickets and games.

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

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

29 Section 6. Section 401(a) of the act, amended December 22,
30 2011 (P.L.530, No.113), is amended to read:

1 Section 401. Authority to Issue Liquor Licenses to Hotels,
2 Restaurants and Clubs.--(a) Subject to the provisions of this
3 act and regulations promulgated under this act, the board shall
4 have authority to issue a retail liquor license for any premises
5 kept or operated by a hotel, restaurant or club and specified in
6 the license entitling the hotel, restaurant or club to purchase
7 liquor from a Pennsylvania Liquor Store and to keep on the
8 premises such liquor and, subject to the provisions of this act
9 and the regulations made thereunder, to sell the same and also
10 malt or brewed beverages to guests, patrons or members for
11 consumption on the hotel, restaurant or club premises. Such
12 licensees, other than clubs, shall be permitted to sell malt or
13 brewed beverages for consumption off the premises where sold in
14 quantities of not more than [one hundred ninety-two fluid ounces
15 in a single sale to one person as provided for in section 407.]
16 three hundred eighty-four ounces in not more than twenty-four
17 original containers in a single sale to one person as provided
18 for in section 407, provided the licensee may not sell a package
19 as prepared for sale or distribution by the manufacturer
20 containing more than twelve containers. Such licenses shall be
21 known as hotel liquor licenses, restaurant liquor licenses and
22 club liquor licenses, respectively. No person who holds any
23 public office that involves the duty to enforce any of the penal
24 laws of the United States, this Commonwealth or of any political
25 subdivision of this Commonwealth may have any interest in a
26 hotel or restaurant liquor license. This prohibition applies to
27 anyone with arrest authority, including, but not limited to,
28 United States attorneys, State attorneys general, district
29 attorneys, sheriffs and police officers. This prohibition shall
30 also apply to magisterial district judges, judges or any other

1 individuals who can impose a criminal sentence. This prohibition
2 does not apply to members of the General Assembly, township
3 supervisors, city councilpersons, mayors without arrest
4 authority and any other public official who does not have the
5 ability to arrest or the ability to impose a criminal sentence.
6 This section does not apply if the proposed premises are located
7 outside the jurisdiction of the individual in question.

8 * * *

9 Section 7. Section 407(a) of the act, amended June 28, 2011
10 (P.L.55, No.11), is amended to read:

11 Section 407. Sale of Malt or Brewed Beverages by Liquor
12 Licensees.--(a) Every liquor license issued to a hotel,
13 restaurant, club, or a railroad, pullman or steamship company
14 under this subdivision (A) for the sale of liquor shall
15 authorize the licensee to sell malt or brewed beverages at the
16 same places but subject to the same restrictions and penalties
17 as apply to sales of liquor, except that licensees other than
18 clubs may sell malt or brewed beverages for consumption off the
19 premises where sold in quantities of not more than [one hundred
20 ninety-two fluid ounces in a single sale to one person.] three
21 hundred eighty-four ounces in not more than twenty-four original
22 containers in a single sale to one person, provided the licensee
23 may not sell a package as prepared for sale or distribution by
24 the manufacturer containing more than twelve containers. The
25 sales may be made in either open or closed containers, Provided,
26 however, That a municipality may adopt an ordinance restricting
27 open containers in public places. No licensee under this
28 subdivision (A) shall at the same time be the holder of any
29 other class of license, except a retail dispenser's license
30 authorizing the sale of malt or brewed beverages only.

1 * * *

2 Section 8. Section 431(b) of the act, amended December 8,
3 2004 (P.L.1810, No.239), is amended and the section is amended
4 by adding a subsection to read:

5 Section 431. Malt and Brewed Beverages Manufacturers',
6 Distributors' and Importing Distributors' Licenses.--* * *

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

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

29 Except as hereinafter provided, such license shall authorize
30 the holder thereof to sell or deliver malt or brewed beverages

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

1 receipts and shipments and make all records and the licensed
2 areas available for inspection by the board and for the
3 Pennsylvania State Police, Bureau of Liquor Control Enforcement,
4 during normal business hours.

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

25 When a Pennsylvania manufacturer of malt or brewed beverages
26 licensed under this article names or constitutes a distributor
27 or importing distributor as the primary or original supplier of
28 his product, he shall also designate the specific geographical
29 area for which the said distributor or importing distributor is
30 given distributing rights, and such distributor or importing

1 distributor shall not sell or deliver the products of such
2 manufacturer to any person issued a license under the provisions
3 of this act whose licensed premises are not located within the
4 geographical area for which distributing rights have been given
5 to the distributor and importing distributor by the said
6 manufacturer: Provided, That the importing distributor holding
7 such distributing rights for such product shall not sell or
8 deliver the same to another importing distributor without first
9 having entered into a written agreement with the said secondary
10 importing distributor setting forth the terms and conditions
11 under which such products are to be resold within the territory
12 granted to the primary importing distributor by the
13 manufacturer. Nothing herein contained shall be construed to
14 prevent any manufacturer from authorizing the importing
15 distributor holding the distributing rights for a designated
16 geographical area from selling the products of such manufacturer
17 to another importing distributor also holding distributing
18 rights from the same manufacturer for another geographical area,
19 providing such authority be contained in writing and a copy
20 thereof be given to each of the importing distributors so
21 affected.

22 * * *

23 (g) (1) In addition to being able to sell in case
24 quantities as provided under subsection (b), a distributor or
25 importing distributor may break the bulk of a case and sell
26 units of any case in quantities of not less than forty-two
27 ounces, provided the distributor or importing distributor sells
28 a package as prepared for sale by the manufacturer.

29 (2) Before a distributor or importing distributor breaks the
30 bulk of a case for the purpose of selling units, the distributor

1 or importing distributor shall inspect the case for damage and
2 appropriate production date. When the distributor or importing
3 distributor breaks the bulk of a case for the purpose of selling
4 units of the case, the distributor or importing distributor
5 bears the risk of loss and is responsible for the destruction of
6 any malt and brewed beverages that violate the manufacturer's
7 specifications relating to sales by a certain date or within a
8 number of days of the production date.

9 (3) The term "unit" as used in this subsection means an
10 undamaged bottle or can from a case.

11 Section 9. Section 441(a) and (b) of the act, amended June
12 18, 1998 (P.L.664, No.86) and December 9, 2002 (P.L.1653,
13 No.212), are amended to read:

14 Section 441. Distributors' and Importing Distributors'
15 Restrictions on Sales, Storage, Etc.--(a) No distributor or
16 importing distributor shall purchase, receive or resell any malt
17 or brewed beverages except:

18 (1) in the original containers as prepared for the market by
19 the manufacturer at the place of manufacture;

20 (2) in the case of identical containers repackaged in the
21 manner described by subsection (f); or

22 (3) as provided in section 431(b) and (g).

23 (b) [No] Except as provided for in section 431(g), no
24 distributor or importing distributor shall sell any malt or
25 brewed beverages in quantities of less than a case or original
26 containers containing one hundred twenty-eight ounces or more
27 which may be sold separately: Provided, That no malt or brewed
28 beverages sold or delivered shall be consumed upon the premises
29 of the distributor or importing distributor, or in any place
30 provided for such purpose by such distributor or importing

1 distributor. Notwithstanding any other provision of this section
2 or act, malt or brewed beverages which are part of a tasting
3 conducted pursuant to the board's regulations may be consumed on
4 licensed premises.

5 * * *

6 Section 10. Section 442(a)(1) of the act, amended June 28,
7 2011 (P.L.55, No.11), is amended to read:

8 Section 442. Retail Dispensers' Restrictions on Purchases
9 and Sales.--(a) (1) No retail dispenser shall purchase or
10 receive any malt or brewed beverages except in original
11 containers as prepared for the market by the manufacturer at the
12 place of manufacture. The retail dispenser may thereafter break
13 the bulk upon the licensed premises and sell or dispense the
14 same for consumption on or off the premises so licensed. No
15 retail dispenser may sell malt or brewed beverages for
16 consumption off the premises in quantities in excess of [one
17 hundred ninety-two fluid ounces.] three hundred eighty-four
18 ounces in not more than twenty-four original containers in a
19 single sale to one person as provided in section 407, provided
20 the licensee may not sell a package as prepared for sale or
21 distribution by the manufacturer containing more than twelve
22 containers. Sales may be made in open or closed containers,
23 Provided, however, That a municipality may adopt an ordinance
24 restricting open containers in public places. No club licensee
25 may sell any malt or brewed beverages for consumption off the
26 premises where sold or to persons not members of the club.

27 * * *

28 Section 11. Section 488 of the act, added February 21, 2002
29 (P.L.103, No.10), is amended to read:

30 Section 488. Shipment of Wine [into Commonwealth.--(a) The

1 shipment of wine from out-of-State to residents of this
2 Commonwealth is prohibited, except as otherwise provided for in
3 this section.] to Pennsylvania Liquor Stores.--

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

14 [(c) Each month, the board shall publish on the Internet a
15 list of all classes, varieties and brands of wine available for
16 sale in the Pennsylvania Liquor Stores. A person holding a
17 direct shipper license may ship only those classes, varieties
18 and brands of wine not included on the list at the time an
19 Internet order is placed.]

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

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

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

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

30 (4) Be deemed to have submitted to the jurisdiction of the

1 board, any other State agency and the courts of this
2 Commonwealth for purposes of enforcement of this section and any
3 related laws, rules or regulations.

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

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

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

20 (h) The board shall submit [monthly] annual reports to the
21 Appropriations Committee and the Law and Justice Committee of
22 the Senate and to the Appropriations Committee and the Liquor
23 Control Committee of the House of Representatives summarizing
24 the number of [direct] direct-to-store wine shipper licenses
25 issued by the board, the quantity of wine sold and shipped by
26 direct-to-store wine shipper licensees pursuant to this section
27 and the total dollar value of sales under this section.

28 (i) The term "wine" as used in this section shall mean
29 liquor which is fermented from [grapes and other fruits, having
30 alcoholic content of twenty-four per centum or less. The term

1 "wine" shall not include malt or brewed beverages nor shall wine
2 include any products containing alcohol derived from malt,
3 grain, cereal, molasses or cactus] an agricultural commodity as
4 that term is defined in section 505.2(c).

5 Section 12. The act is amended by adding a section to read:

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

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

15 (1) File an application with the board.

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

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

20 (4) Provide documentation to the board which evidences that
21 the applicant has obtained a sales tax license from the
22 Department of Revenue.

23 (5) Obtain a tax bond, in the amount of one thousand dollars
24 (\$1,000), such that if the licensee does not pay the taxes
25 imposed under this section when due, the surety of the bond
26 shall pay all taxes and any related penalties, and any interest
27 that may be due or become due.

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

30 (c) The licensee shall:

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

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

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

13 (i) Obtains the signature of the recipient of the wine upon
14 delivery.

15 (ii) Verifies by inspecting a valid form of photo
16 identification, as provided for in section 495(a), that the
17 recipient is at least twenty-one (21) years of age.

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

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

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

25 (6) Be deemed to have submitted to the jurisdiction of the
26 board, any other State agency and the courts of this
27 Commonwealth for purposes of enforcement of this section and any
28 related laws, rules or regulations, including the collection and
29 remission of taxes as required under this section.

30 (7) Annually renew its license by paying a renewal fee

1 established by the board and report to the board, at the time of
2 renewal, the total amount of wine shipped to residents of this
3 Commonwealth in the preceding calendar year.

4 (d) Wine delivered under the authority of this section is
5 subject to the sales and use tax imposed by section 202 of the
6 act of March 4, 1971 (P.L.6, No.2), known as the "Tax Reform
7 Code of 1971," the sales and use tax imposed by Article XXXI-B
8 of the act of July 28, 1953 (P.L.723, No.230), known as the
9 "Second Class County Code," the sales and use tax imposed by the
10 act of February 12, 2004 (P.L.73, No.11), known as the
11 "Intergovernmental Cooperation Authority Act for Cities of the
12 Second Class," and the emergency State tax imposed on wines sold
13 by the board under the act of June 9, 1936 (1st Sp. Sess.,
14 P.L.13, No.4), entitled "An act imposing an emergency State tax
15 on liquor, as herein defined, sold by the Pennsylvania Liquor
16 Control Board; providing for the collection and payment of such
17 tax; and imposing duties upon the Department of Revenue and the
18 Pennsylvania Liquor Control Board."

19 (e) A transporter for hire shall:

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

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

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

27 (g) Shipments of wine to persons in this Commonwealth from
28 persons who do not possess a license from the board authorizing
29 such shipments are prohibited. Any person who knowingly makes,
30 participates in, transports, imports or receives such shipment

1 commits a misdemeanor.

2 (h) The board shall submit annual reports to the
3 Appropriations Committee of the Senate and the Law and Justice
4 Committee of the Senate and to the Appropriations Committee of
5 the House of Representatives and the Liquor Control Committee of
6 the House of Representatives summarizing the number of licenses
7 issued by the board under this section, the quantity of wine
8 sold and shipped by licensees pursuant to this section and the
9 total dollar value of sales under this section.

10 (i) The board may promulgate such rules and regulations as
11 are necessary to implement and enforce the provisions of this
12 section.

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

16 Section 13. Section 493(24) of the act, amended November 29,
17 2006 (P.L.1421, No.155), is amended and the section is amended
18 by adding a paragraph to read:

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

24 It shall be unlawful--

25 * * *

26 (24) (i) Things of Value Offered as Inducement. Except as
27 provided in subclause (ii), for any licensee under the
28 provisions of this article, or the board or any manufacturer, or
29 any employe or agent of a manufacturer, licensee or of the
30 board, to offer to give anything of value or to solicit or

1 receive anything of value as a premium for the return of caps,
2 stoppers, corks, stamps or labels taken from any bottle, case,
3 barrel or package containing liquor or malt or brewed beverage,
4 or to offer or give or solicit or receive anything of value as a
5 premium or present to induce directly the purchase of liquor or
6 malt or brewed beverage, or for any licensee, manufacturer or
7 other person to offer or give to trade or consumer buyers any
8 prize, premium, gift or other inducement to purchase liquor or
9 malt or brewed beverages, except advertising novelties of
10 nominal value which the board shall define. This section shall
11 not prevent any manufacturer or any agent of a manufacturer from
12 offering and honoring coupons which offer monetary rebates on
13 purchases of wines and spirits through State Liquor Stores or
14 purchases of malt or brewed beverages through distributors and
15 importing distributors in accordance with conditions or
16 regulations established by the board. The board may redeem
17 coupons offered by a manufacturer or an agent of a manufacturer
18 at the time of purchase. Coupons offered by a manufacturer or an
19 agent of a manufacturer shall not be redeemed without proof of
20 purchase. This section shall not apply to the return of any
21 monies specifically deposited for the return of the original
22 container to the owners thereof.

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

29 (iii) Notwithstanding subclause (i) or any other provision
30 of law, the board may establish and implement a customer

1 relations management program for the purpose of offering
2 incentives, such as coupons or discounts on certain products
3 which may be conditioned upon the purchase of liquor, to
4 unlicensed customers of the board.

5 * * *

6 (35) Sale of wine received by direct-to-store or direct
7 shipment. For any licensee to sell or offer to sell any wine
8 purchased or acquired, directly or indirectly, from a licensee
9 pursuant to the authority of section 488, or from a licensee
10 pursuant to the authority of section 489.

11 Section 14. Section 499(a.1) of the act, amended October 5,
12 1994 (P.L.522, No.77), is amended to read:

13 Section 499. Premises to be Vacated by Patrons.--* * *

14 (a.1) Subsection (a) shall not apply to sales of malt and
15 brewed beverages for consumption off the premises when the
16 following conditions are met:

17 (1) no licensee may sell malt or brewed beverages in excess
18 of [one hundred ninety-two fluid ounces] three hundred eighty-
19 four ounces in not more than twenty-four original containers in
20 a single sale to one person as provided in section 407, provided
21 the licensee may not sell a package as prepared for sale or
22 distribution by the manufacturer containing more than twelve
23 containers, in any one sale for consumption off the premises;

24 (2) sales and service of malt and brewed beverages for
25 consumption off the premises are made prior to the designated
26 time the licensee is required by this act to cease serving
27 liquor, malt or brewed beverages;

28 (3) persons who have purchased malt and brewed beverages for
29 consumption off the premises shall remove the malt and brewed
30 beverages from the premises by the designated time as contained

1 in this act that patrons are required to vacate the premises;

2 (4) no club licensee may sell any malt or brewed beverage
3 for consumption off the premises where sold or to any persons
4 who are not members of the club.

5 * * *

6 Section 15. This act shall take effect in 60 days.