THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 991   Session of 2017

INTRODUCED BY A. HARRIS, IRVIN, GREINER, ORTITAY, REED, MILLARD, JAMES AND ELLIS, MARCH 28, 2017

AS REPORTED FROM COMMITTEE ON LIQUOR CONTROL, HOUSE OF REPRESENTATIVES, AS AMENDED, APRIL 3, 2017

AN ACT

Amending the act of April 12, 1951 (P.L.90, No.21), entitled, as recomenced, "An act relating to alcoholic liquors, alcohol and malt and brewed beverages; amending, revising, consolidating and changing the laws relating thereto; regulating and restricting the manufacture, purchase, sale, possession, consumption, importation, transportation, furnishing, holding in bond, holding in storage, traffic in and use of alcoholic liquors, alcohol and malt and brewed beverages and the persons engaged or employed therein; defining the powers and duties of the Pennsylvania Liquor Control Board; providing for the establishment and operation of State liquor stores, for the payment of certain license fees to the respective municipalities and townships, for the abatement of certain nuisances and, in certain cases, for search and seizure without warrant; prescribing penalties and forfeitures; providing for local option, and repealing existing laws," in preliminary provisions, further providing for definitions; in Pennsylvania Liquor Control Board, further providing for general powers of board and for specific subjects on which board may adopt regulations; in Pennsylvania Liquor Stores, further providing for sales by Pennsylvania Liquor Stores; and providing for Pennsylvania retail franchise stores.

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

Section 1. Section 102 of the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code, is amended by adding definitions to read:
Section 102. Definitions.—The following words or phrases, unless the context clearly indicates otherwise, shall have the meanings ascribed to them in this section:

* * *

"Product identification number" shall mean the stock keeping unit (SKU) or a successor method of identifying specific products.

* * *

"Retail outlet" shall mean an establishment at which consumer products are sold, supplied or offered for sale directly to consumers which has an area under one roof of greater than five thousand square feet.

"Retailer" shall mean a person who sells, supplies or offers consumer products for sale directly to consumers.

* * *

"Spirits" shall mean any beverage which contains alcohol obtained by distillation, mixed with water or other substance in solution, and includes brandy, rum, whiskey, gin or other spirituous liquors and such liquors when rectified, blended or otherwise mixed with alcohol or other substances.

* * *

Section 2. Section 207(b) of the act, amended June 8, 2016 (P.L.273, No.39), is amended and the section is amended by adding a subsection to read:

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

* * *

(b) The following shall apply:

(1) To control the manufacture, possession, sale, consumption, importation, use, storage, transportation and
delivery of liquor, alcohol and malt or brewed beverages in accordance with the provisions of this act, [and] to fix the wholesale [and] prices at which liquors and alcohol shall be sold to licensees under this act and to fix the retail prices at which liquors and alcohol shall be sold at Pennsylvania Liquor Stores.

[(2) Except as provided in paragraphs (3) and (4), prices shall be proportional with prices paid by the board to its suppliers and may include a handling fee. This proportional pricing provision shall not apply to special liquor orders authorized under section 305(a).]

(3) The board may price its best-selling items and limited purchase items in a manner that maximizes the return on the sale of those items.

(4) The board may discount the price of discontinued items.]

(2.1) The following shall apply to wholesale prices set by the board:

(i) Any liquor or alcohol sold to a permit holder under section 415 or to a franchisee under Article XI shall be sold at the price from which the liquor or alcohol was acquired by the board.

(I) ANY LIQUOR OR ALCOHOL SOLD TO A PERMIT HOLDER UNDER SECTION 415 OR TO A RETAILER UNDER ARTICLE XI MAY INCLUDE A MARKUP OF NOT GREATER THAN 15%. NO OTHER HANDLING FEES OR CHARGES MAY BE ASSESSED.

(ii) Liquor sold to a franchisee RETAILER under Article XI shall not include the tax under Article II of the act of March 4, 1971 (P.L.6, No.2), known as the "Tax Reform Code of 1971," or the emergency State tax imposed under the act of June 9, 1936 (1st Sp.Sess., P.L.13, No.4), entitled "An act imposing an
emergency State tax on liquor, as herein defined, sold by the Pennsylvania Liquor Control Board; providing for the collection and payment of such tax; and imposing duties upon the Department of Revenue and the Pennsylvania Liquor Control Board."

(5) All prices of a particular product identification number for sale at Pennsylvania Liquor Stores shall be uniform throughout the Commonwealth. The board may establish a preferential price structure for wines produced within this Commonwealth for the promotion of such wines, as long as the price structure is uniform within each class of wine purchased by the board.

(6) On a [quarterly] monthly basis the board shall publish a listing of [the wholesale and] Pennsylvania Liquor Store retail prices on its publicly accessible Internet website.

(6.1) The board shall maintain a master list of the price liquors or alcohol was acquired by the board. This list shall be made available to any licensee upon request.

(7) No later than April 1st of each year the board shall submit an annual written report to the Law and Justice Committee of the Senate and the Liquor Control Committee of the House of Representatives. The report shall contain information related to the method and rationale for pricing products.

(8) No later than June 1st of each year, the board shall appear before the Law and Justice Committee of the Senate and the Liquor Control Committee of the House of Representatives to provide testimony in relation to its annual written report under paragraph (7).

(9) The board shall require each Pennsylvania manufacturer and each nonresident manufacturer of liquors, other than wine, selling such liquors to the board, which are not manufactured in 20170HB0991PN1234
this Commonwealth, to make application for and be granted a
permit by the board before such liquors not manufactured in this
Commonwealth shall be purchased from such manufacturer. Each
such manufacturer shall pay for such permit a fee which, in the
case of a manufacturer of this Commonwealth, shall be equal to
that required to be paid, if any, by a manufacturer or
wholesaler of the state, territory or country of origin of the
liquors, for selling liquors manufactured in Pennsylvania, and
in the case of a nonresident manufacturer, shall be equal to
that required to be paid, if any, in such state, territory or
country by Pennsylvania manufacturers doing business in such
state, territory or country. In the event that any such
manufacturer shall, in the opinion of the board, sell or attempt
to sell liquors to the board through another person for the
purpose of evading this provision relating to permits, the board
shall require such person, before purchasing liquors from him or
it, to take out a permit and pay the same fee as hereinbefore
required to be paid by such manufacturer. All permit fees so
collected shall be paid into the State Stores Fund. The board
shall not purchase any alcohol or liquor fermented, distilled,
rectified, compounded or bottled in any state, territory or
country, the laws of which result in prohibiting the importation
therein of alcohol or liquor, fermented, distilled, rectified,
compounded or bottled in Pennsylvania. The board may not sell
private label products. A Pennsylvania Liquor Store may continue
to sell private label products within its inventory after the
effective date of this section until the private label products
within its current inventory are depleted.
[(10) The proportional pricing under paragraph (2) shall not
apply to special liquor orders authorized under section 305(a).]
(11) As used in this subsection, the following words and phrases shall have the meanings given to them in this paragraph:

"Best-selling items" shall mean the one hundred fifty (150) most sold product identification numbers of wine and the one hundred fifty (150) most sold product identification numbers of liquor as measured by the total number of units sold on a six-month basis calculated every January 1 and July 1.

"Discontinued items" shall mean those product identification numbers that the board has voted to delist at a public meeting.

"Limited purchase items" shall mean those product identification numbers that the board purchases on either a one-time or nonrecurring basis due to the product's limited availability or finite allocation.

"Product identification number" shall mean the stock keeping unit (SKU) or a successor method of identifying specific products.

* * *

(o) To provide for and regulate the licensing of franchise RETAIL stores under Article XI.

Section 3. Section 208 of the act is amended by adding a clause to read:

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

* * *

(k) The licensing, location and operation of franchise RETAIL stores under Article XI.

Section 4. Section 305(a) and (b) of the act, amended June 8, 2016 (P.L.273, No. 39) and November 15, 2016 (P.L.1286, 20170HB0991PN1234 - 6 -
No.166), are amended to read:

Section 305. Sales by Pennsylvania Liquor Stores.--(a) The board shall in its discretion determine where and what classes, varieties and brands of liquor and alcohol it shall make available to the public and where such liquor and alcohol will be sold. Every Pennsylvania Liquor Store shall be authorized to sell combination packages. If a person desires to purchase a class, variety or brand of liquor or alcohol not currently available from the board, he or she may place a special order for such item. A supplier of a special order may not refuse an order from a customer placing an order for one bottle of the item and may assess a surcharge on the order if the supplier otherwise requires a minimum quantity purchase. The board may require a reasonable deposit from the purchaser as a condition for accepting the order. The customer shall be notified immediately upon the arrival of the goods.

In computing the retail price of such special orders for liquor or alcohol, the board shall not include the cost of freight or shipping before applying a mark-up that is equal to ten per centum of the cost of the product and taxes but shall add the freight or shipping charges to the price after the mark-up and taxes have been applied. In addition to the ten per centum mark-up, the board shall impose handling fees on special orders which come to rest at a store, in the same manner that it imposes them on the other alcohol that it sells.

A licensed importer or a licensed vendor may place special orders on behalf of customers and may deliver the orders to customers. The orders do not need to come to rest at a store, but delivery may not occur until payment for the order has been forwarded to the board and the board has authorized the delivery.
of the order. A handling fee may not be assessed by the board on an order delivered directly to a customer. Liability for special orders that do not come to rest at a store, shall, until the order is delivered to the customer, remain with the licensed importer or licensed vendor that placed the order on behalf of the customer. The board shall, by [January 1,] December 31, 2017, implement a procedure for processing special orders which do not come to rest at a store. The board may continue to accept special orders at its stores even after the procedure is implemented.

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

* * *

(b) Every Pennsylvania Liquor Store shall sell liquors at wholesale to hotels, restaurants, clubs, and railroad, franchise retail stores, pullman and steamship companies licensed under this act; and, under the regulations of the board, to pharmacists duly licensed and registered under the laws of the Commonwealth, and to manufacturing pharmacists, and to reputable hospitals approved by the board, or chemists. Sales to licensees other than franchisees retailers licensed under Article XI or wine expanded permit holders licensed under section 415 shall be made at a price that includes a discount of ten per centum from the retail price; except that special order sales to licensees authorized in subsection (a) shall not be subject to the ten per centum discount. The board may sell to registered pharmacists only such liquors as conform to the Pharmacopoeia of the United States, the National Formulary, or the American Homeopathic
Pharmacopoeia. The board may sell at special prices under the regulations of the board, to United States Armed Forces facilities which are located on United States Armed Forces installations and are conducted pursuant to the authority and regulations of the United States Armed Forces. All other sales by such stores shall be at retail, except that incentives, such as coupons or discounts on certain products, may be offered to unlicensed customers of the board as provided under sections 207(m) and 493(24)(ii)(B). A person entitled to purchase liquor at wholesale prices may purchase the liquor at any Pennsylvania Liquor Store upon tendering cash, check or credit card for the full amount of the purchase. For this purpose, the board shall issue a discount card to each licensee identifying such licensee as a person authorized to purchase liquor at wholesale prices. Such discount card shall be retained by the licensee. The board may contract through the Commonwealth bidding process for delivery to wholesale licensees at the expense of the licensee receiving the delivery.

* * *

Section 5. The act is amended by adding an article to read:

ARTICLE XI

PENNSYLVANIA RETAIL FRANCHISE STORES

Section 1101. Authority to issue licenses to retailers.

(a) General rule.—Subject to the provisions of this act and regulations promulgated under this act, the board shall have the authority to issue a license to a retailer operating a retail outlet. The licensees will be known as franchise RETAIL stores and a holder of a license shall be known as a franchisee RETAILER.

(b) Issuance.—Licenses may be issued at a ratio of one per
every 6,000 residents within a county, with a minimum of 15
licenses granted to a county.

Section 1102. Qualifications.

The proposed premises shall:

1. provide adequate linear shelving to display the
   amount of product required in section 1103(d);

2. have the ability to provide storage space for
   additional liquor inventory;

3. operate and maintain an updated computer system; and

4. operate and maintain an updated system for recording
   daily sales and tax collection.

Section 1103. Operation.

(a) Purchase and storage.--Franchisees RETAILERS licensed under this section shall be permitted to purchase liquor from
the board, licensed wineries under section 505 and licensed
distilleries under section 505.4. All liquor shall be kept on
the premises or in a noncontiguous storage area approved by the
board. Subject to the provisions of this act and the regulations
made thereunder, franchisees RETAILERS may sell liquor for
consumption off the premises.

(b) Sale hours for off-premises consumption.--Franchise RETAIL stores may sell liquor for off-premise consumption
between the hours of 9 a.m. and 11 p.m. on any day except
Sunday, to a person that is not licensed under this act.

(c) Sunday sales.--In addition to the hours authorized under
this section, upon purchasing a permit from the board at an
annual fee of $5,000, a franchise RETAIL store may sell liquor
on Sunday between the hours of 9 a.m. and 9 p.m.

(d) Product identification numbers.--Franchise RETAIL stores shall be required to maintain a minimum amount of product
identification numbers in inventory at all times as follows:

(1) In counties of the first class, second class, third class and fourth class, 200 product identification numbers of wine and 200 product identification numbers of spirits.

(2) In counties of the fifth, sixth class, seventh class and eighth class, 100 product identification numbers of wine and 100 product identification numbers of spirits.

(e) Sale price.--Franchise RETAIL stores shall not sell a liquor product at a price less than the liquor products' underlying cost.

(f) Other licenses.--Notwithstanding any other provision of law, nothing in this act shall prohibit a franchisee RETAILER from holding:

(1) a distributor license under section 431;

(2) a restaurant liquor license or a retail dispenser license; or

(3) an importing distributor license under section 431.

Section 1104. Conditions of operation.

(a) General rule.--Franchise RETAIL stores are subject to the following conditions, obligations and requirements:

(1) Collect the tax required under Article II of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, and the emergency State tax imposed under the act of June 9, 1936 (1st Sp.Sess., P.L.13, No.4), entitled "An act imposing an emergency State tax on liquor, as herein defined, sold by the Pennsylvania Liquor Control Board; providing for the collection and payment of such tax; and imposing duties upon the Department of Revenue and the Pennsylvania Liquor Control Board," and remit those taxes to the Department of Revenue. The emergency State tax shall be included in the
retail price of liquor offered for sale. The tax shall not be assessed at the point of sale to consumers.

(2) Under section 493, shall not sell or distribute liquor to an individual under 21 years of age or to an individual who is visibly intoxicated.

(3) The retail outlet and facilities involved in retail operations, including a change to the facilities during the term of license, are subject to inspection and investigation by the board and enforcement bureau as well as approval of the board and enforcement bureau.

(4) Adequate security must be maintained to protect the franchisee's RETAILER'S inventory from unauthorized sale or diversion and prevent unauthorized distribution.

(5) Notify the board within 15 days of a change in persons holding an interest in the license.

(6) Notify the board within 15 days of becoming aware of an arrest, criminal indictment or conviction by the following:

(i) if the franchisee RETAILER is an individual, the franchisee RETAILER;

(ii) if the franchisee RETAILER is a partnership, a partner;

(iii) if the franchisee RETAILER is an association, a member of the association;

(iv) if the franchisee RETAILER is a corporation, an officer, director or shareholder of the corporation; and

(v) an affiliate of the franchisee RETAILER.

(7) Notify the board within 15 days of becoming aware of a violation of this article by an individual listed under paragraph (5).
(8) The premises shall be configured in a manner and with adequate safeguards to ensure that all liquor products are secure and that liquor products may not be accessed during prohibited hours of sale.

(9) An individual younger than 18 years of age may not be employed to work at a register from which the sale of liquor takes place nor be employed to handle any liquor products contained within the franchise RETAIL store.

(10) The presence of at least one register designated by signage where the sale of liquor products will occur which shall be staffed by an individual at least 18 years of age.

(11) Comply with the responsible alcohol management program training under section 471.1;

(12) All managers and employees who will engage in the sale of liquor must attend responsible alcohol management training within one month of commencing employment.

(13) A transaction scan device shall be utilized to verify the age of an individual who appears to be under 35 years of age before making a sale of liquor.

(b) Violations.--A violation of a condition under this article, a violation of this act or the board's regulations for governing activity occurring under the authority of the license granted to a franchise RETAIL store may be the basis for any of the following:

(1) a fine, suspension or license revocation;

(2) nonrenewal of a license;

(3) revocation of operating authority; or

(4) a penalty authorized under section 471.

Section 1105. Applications.

(a) General rule.--An applicant for a franchise RETAIL store...
shall file a written application with the board in the form and
containing the information as the board shall prescribe from
time to time, which must be accompanied by a filing fee, license
fee as prescribed under section 1108 and other fees provided for
in this act. An application must contain:

(1) pictures of the retail outlet, including the
interior and exterior;

(2) a description of the proposed part or parts of the
retail outlet in which liquor will be displayed for purchase;

(3) a description of alterations proposed to be made to
the retail outlet or additional construction plans to be
undertaken after the approval by the board of the application
for a license;

(4) a description of the location at which liquor sales
will take place and how many registers will be solely
dedicated to the sale of liquor; and

(5) proposed storage locations for liquor inventory.

(b) Citizenship and residency.--If the applicant is a
natural person, the applicant's application must show that the
applicant is a citizen of the United States and has been a
resident of this Commonwealth for at least two years immediately
preceding the application.

(c) Corporate applicant.--If the applicant is a corporation,
the application must show that:

(1) the corporation was created under the laws of
Pennsylvania or holds a certificate of authority to transact
business in this Commonwealth;

(2) all officers, directors and stockholders are
citizens of the United States; and

(3) the manager of the hotel, restaurant or club is a
citizen of the United States.

(d) Verified signature required.--Each application shall be signed and verified by oath or affirmation by one of the following:

(1) the owner, if a natural person;

(2) if an association, by a member or partner of the association;

(3) if a corporation, by an executive officer of the corporation or a person specifically authorized by the corporation to sign the application, to which shall be attached written evidence of the person's authority.

(e) Posting notice of application.--Every applicant for a license shall post, for a period of at least 30 days beginning with the day on which the application is filed with the board, in a conspicuous place on the outside of the premises or at the proposed new location for which the license is applied, a notice of the application. The notice shall be in a form, be of the size, and contain any provisions as the board may require by regulation. Proof of the posting of the notice shall be filed with the board.

(f) False statements.--If any false statement is intentionally made in any part of the application, the affiant shall be deemed guilty of a misdemeanor and, upon conviction, shall be subject to the penalties provided by this act.

(g) Municipality notified.--Upon receipt of an application for a new franchise RETAIL store, the board shall immediately notify, in writing, the municipality in which the premises proposed to be licensed are located.
(1) if the applicant and officers, directors and principals, if any, are of good repute, responsible and suitable candidates for operating a franchise RETAIL store; <---

(2) whether the applicant possesses adequate legitimate and verifiable financial resources to:

(i) operate a franchise RETAIL store; <---

(ii) purchase and maintain the required amount of inventory under section 1103(d);

(iii) meet and maintain all financial obligations to continually operate a franchise RETAIL store; <---

(3) whether the applicant proposes an acceptable retail outlet and location for the sale of liquor; and

(4) whether the planned operation of the applicant complies with this article and all applicable sections of the act.

(b) Location.--The board shall conduct an investigation to determine the feasibility of the location and type of retail outlet that applicant is currently operating. The board shall take into account:

(1) proximity of the proposed location to an existing Pennsylvania State Liquor Store or proposed or existing franchise RETAIL store; <---

(2) whether the proposed location would impact the public health, welfare, peace and morals;

(3) whether the existence of a franchise RETAIL store in the proposed location could create law enforcement issues;

(4) whether the interior and exterior premises of the retail outlet are clean, orderly and are in full compliance with all State and local zoning and building code ordinances;

(5) that the proposed location within the community is
suitable to the local governing body.

(c) License prohibition.--Licenses shall not be granted if the proposed location is:

(1) within 300 feet of a preschool, elementary or secondary school, a church, hospital, charitable institution or public playground without approval of the board or municipality;

(2) in a municipality that voted to preclude the establishment of a Pennsylvania Liquor Store;

(3) within the same shopping center as a Pennsylvania Liquor Store or franchise RETAIL store;

(4) within 1,200 yards of a Pennsylvania Liquor Store or franchise RETAIL store in an urbanized area, or within two miles of a Pennsylvania Liquor Store or franchise RETAIL store in a rural area. For the purposes of this paragraph, the term "rural area" shall mean an area outside urbanized areas as defined by the United States Bureau of Census. Distances shall be measured from the main entrance of a Pennsylvania Liquor Store or franchise RETAIL store, to the proposed location by the most reasonable direct route of travel;

(5) in an area that would adversely impact the public health, peace, welfare or morals; or

(6) in an area that could create law enforcement issues.

Section 1107. Hearings.

(a) General rule.--The board may hold hearings on applications for franchise RETAIL store licenses and license renewals, as it deems necessary, at a time the board shall fix for the purpose of hearing testimony for and against applications for new franchise RETAIL store licenses and license renewals.
renewals. The board shall hold a hearing on a new application or
the transfer of a franchise RETAIL store license under the
limitations of section 1110(c), upon the request of any person
with standing to testify under subsection (b) if the request is
filed with the board within the first 15 days of posting of the
notice of application under section 1105(g).

(b) Resident testimony.--Where a hearing is held in the case
of a new application, the board shall permit residents residing
within a radius of 500 feet of the premises to testify at the
hearing. The board and a hearing examiner of the board shall
give appropriate evidentiary weight to any testimony of a
resident given at the hearing.

Section 1108. Initial license fees.

(a) General rule.--License fees shall be graduated according
to the total square footage of the retail outlet as follows:

(1) One hundred thousand dollars for a retail outlet

with square footage greater than 5,000 square feet but less
than 10,000 square feet.

(2) Two hundred thousand dollars for a retail outlet

with square footage greater than 10,000 square feet but less
than 25,000 square feet.

(3) Three hundred thousand dollars for a retail outlet

with square footage greater than 25,000 square feet but less
than 50,000 square feet.

(4) Four hundred thousand dollars for a retail outlet

with square footage greater than 50,000 square feet but less
than 75,000 square feet.

(5) Five hundred thousand dollars for a retail outlet

with square footage greater than 75,000 square feet.

(b) Extension of premises.--A franchisee RETAILER that seeks

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to extend the premises of a retail outlet beyond the initial square footage noted on the application and approved by the board for a license under this section shall pay a fee of $100 per each square foot requested for approval of an extension of premises. The fee shall be due at the time of application for the extension of premises.

(c) Collection of fees.--All license fees authorized under this section shall be collected by the board and shall be transferred from the State Stores Fund to the General Fund on a quarterly basis.

Section 1109. Renewal of license.

(a) Annual renewal.--A franchise RETAIL store shall be renewed on an annual basis.

(b) Fee.--A renewal fee equal to 5% of the total gross receipts shall be due at the time the renewal application is filed. For purposes of this subsection, gross receipts shall be determined as the total of all sales of liquor made to consumers for off-premise consumption in the previous 12 months inclusive of taxes. Renewal fees shall be collected by the board and shall be transferred from the State Stores Fund to the General Fund on a quarterly basis.

(c) Renewal considerations.--In reviewing applications for renewal, the board shall consider:

(1) the licensee's inventory of liquor;

(2) whether the franchise RETAILER can establish continued financial viability of the franchise RETAIL store under section 1106(a)(2);

(3) any changes in the interior selling location of the premises or proposed renovations;

(4) any complaints lodged; and
Section 1110. Terms of licensure.

(a) General rule.--A franchise RETAIL store license is in effect unless the board:

(1) revokes, suspends or fails to renew the license; or

(2) revokes the operating authority of the licensee under the license requirements of this article.

(b) Suspension or revocation.--The board may suspend or revoke a franchise RETAIL store license issued under this section if the board finds that the franchisee RETAILER or any of the franchisee's RETAILER'S affiliates, executive officers, directors or general or limited partners or persons holding a controlling interest in the licensee:

(1) is in violation of any provision of this act;

(2) has furnished the board with false or misleading information;

(3) is unable to establish continued financial viability of the franchise RETAIL store under section 1106(a)(2); or

(4) is no longer reputable or suitable for licensure.

(c) Transfer prohibited generally.--Franchise RETAIL licenses shall not be transferred, except that nothing in this subsection shall preclude a transfer of ownership to another eligible person as franchisee RETAILER of the franchise RETAIL store nor shall it preclude relocation of the franchise RETAIL store to another location subject to the restrictions of this act and board regulations.

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