

REGULATION 138 RULES OF PRACTICE*(Effective July 1, 1959; as amended November 22, 1961)*

Section 138.01. Definitions.—As used in these rules, the following terms will have the indicated meaning:

- A. "Applicant" shall mean one who requests the issuance of a license or permit from the Pennsylvania Liquor Control Board.
- B. "Board" shall mean the Pennsylvania Liquor Control Board of this Commonwealth.
- C. "Examiner" shall mean an individual learned in the law appointed by the Governor pursuant to the provisions of the Act of April 12, 1951, P. L. 90, Section 402, as amended.
- D. "Licensee" shall mean any person holding a current license or permit issued by the board.
- E. "Person" shall mean an individual, a partnership, an association or a corporate entity.
- F. "Protestant" shall mean a person objecting on grounds of private or public interest to the prayer of an application.

Section 138.02. Appearances, Attorneys.—

- A. All parties except individuals appearing in their own behalf shall be represented by attorneys-at-law in good standing.
- B. All attorneys appearing before the board shall conform to the standards of ethical conduct required of practitioners before the Supreme Court of Pennsylvania and failure so to conform will constitute ground for refusal of permission to appear before the board.

Section 138.03. Continuances.—

- A. All requests for continuances of any cause, except as provided in subsection G hereof, shall be in writing and addressed to the Pennsylvania Liquor Control Board, Northwest Office Building, Harrisburg, Attention: Legal Bureau.
- B. No cause shall be continued more than once because of the absence of counsel performing the duties of state or national office.
- C. The party moving for continuance of the cause shall, if required by the board, submit an affidavit containing the facts alleged as the reason for the motion. Such affidavit shall specifically, and with particularity, set forth the names and addresses of all parties concerned, the caption and number and term of any cause which may be the basis of such motion, and such other information that the board may from time to time request.
- D. When application is made for continuance of a cause prior to the date set for hearing thereon because of the absence of a witness, an affidavit must be presented setting forth the fact or facts which it is believed the witness will prove, the efforts made to procure the attendance of such witness, the affiant's belief in such facts and his reasons for such belief, and that a continuance will enable the party to procure the presence or testimony of the witness. Such application shall specifically identify such witness by name and last known address.

- E. When application is made for continuance of a cause because of the illness of an applicant, licensee, witness or counsel, such application shall be accompanied by a medical certificate attesting to such illness and inability to testify.
- F. Except as hereinafter provided, no continuance of any board hearing will be approved unless a written request for such continuance is received by the board in Harrisburg at least 48 hours prior to the time fixed for hearing.

Request for continuance received by the board within the 48 hour period will not be granted unless satisfactory arrangement in writing is made with the board for the payment of all expenses resulting from such continuance. However, the board may waive payment of such expenses in case of extenuating circumstances in any matter of continuance.

- G. The right of an Examiner to grant a motion for continuance of any hearing shall be confined to motions made at the time and place set for hearing, and which shall have been verbally approved by the Legal Bureau of the board. Said motion shall be based upon the alleged inability of a material party, witness or counsel to appear for reasons of illness or other cause, which inability shall have come to the attention of the moving party within the 24-hour period immediately preceding the time set for hearing. Such motion shall include: (1) the name and address of the unavailable material party, witness or counsel; (2) a brief statement of the service or testimony to be offered by said party, witness or counsel; (3) the reason for such inability to be present; (4) in the case of illness, a medical certificate (if possible) attesting to such illness and inability to appear; and (5) the willingness of the moving party to bear the expense of increased witness fees and mileage occasioned by the request. All other motions for continuance shall be referred to the board for determination.

Section 138.04. Subpoenas.—In all proceedings the board will, upon request of any party of record, issue subpoenas to compel the presence of witnesses at hearings. Such subpoenas will be available at each District Office of the board.

Subpoenas duces tecum may be issued by the board upon written petition to it, received by it in Harrisburg no less than five (5) days prior to the date fixed for hearing. Each petition shall clearly set forth the books, papers and records desired, the necessity therefor, and the party against whom the subpoena should issue. Such subpoena duces tecum form, if provided by the board, shall be completed by the applicant therefor and shall demand only such books, papers and records as set forth in the petition therefor.

The board shall not be responsible for witness fees and/or mileage for any witness unless such witness shall have been subpoenaed by and for the board.

Section 138.05. Bills of Particulars.—No Bill of Particulars shall be granted or furnished by the board in any matter, hearing or controversy pending before it.

Section 138.06. Hearings.—

- A. Preliminary Statements—At any initial hearing all persons entering an appearance shall state for the record (before any testimony shall be received) their names, addresses, and for whom they appear.
- B. The Examiner may require or allow a factual statement of the position of any party in the case.

- C. All citations and all board orders in a case shall constitute a part of the record without formal offer.
- D. The customary rules of evidence shall be enforced but shall be liberally construed and applied.
- E. Not more than one counsel shall ask a question of any one witness, either in chief or on cross-examination, or in any way interfere in the same, except to suggest questions to a colleague.
- F. If, at the time and place scheduled for hearing, all parties to the record are not in attendance either in person or by counsel, the matter shall be heard ex parte.
- G. In hearings upon applications for the issuance of licenses the order in which testimony shall be taken shall be as follows: (1) Board witnesses; (2) Protestants; (3) Applicants.

Section 138.07. Waivers, Admissions and Authorizations.—

- A. A licensee whose license shall have been cited to show cause why it should not be suspended or revoked may waive the hearing fixed thereon. Such waiver shall constitute an admission of the charges contained in the citation and an authorization to the board to enter without hearing such final order or decree as it shall deem appropriate.
- B. All waivers by corporate licensees or unincorporated association licensees shall be accompanied by a resolution under the seal of the corporation or association authorizing the submission of such waiver.
- C. Such waivers shall be in a form prescribed by the board. Forms therefor shall be available at all District Offices of the board.

Section 138.08. Further Hearing, Rehearing, Recision or Modification of Orders.—

- A. Any petition for further hearing, for reopening, or for rehearing, recision, reconsideration or modification of a board order, shall be in writing setting forth in numbered paragraphs the findings or orders of the board that may be involved, the points relied upon by the petitioner, with appropriate record references and specific requests for the findings or orders desired.
- B. If the petition be for further hearing or for reopening the proceeding to take further evidence, the nature and purpose of the evidence to be adduced must be briefly stated.

Section 138.09. (As amended November 22, 1961) Testimony.—Upon completion of any hearing, any party of record may request a transcript of the testimony therein and shall be furnished such transcript upon payment at the rate of fifty cents (\$.50) per page.

Partial transcripts or transcripts of uncompleted hearings will be furnished only for cause shown, upon petition to the board. The furnishing of such transcript shall be discretionary with the board.

Section 138.10. Waiver of Rules.—The board shall have the right in its sole discretion to waive any of the rules herein contained.

Section 138.11. Severability.—The sections of this regulation shall be deemed severable. Should any such section be deemed by judicial opinion or legislative enactment to be invalid, unconstitutional or in any manner contrary to the laws of the Commonwealth, such opinion or enactment shall invalidate only the particular section of the regulation and all other sections shall remain in full force and effect.

REGULATION 139 IDENTIFICATION CARDS

(*Effective October 21, 1961; as amended July 31, 1963 and April 17, 1970*)

Section 139.01 (*As amended April 17, 1970*) Statutory Provisions. The Liquor Code in Section 495, as amended by Act No. 456, approved August 21, 1961, provides, *inter alia*:

"The Board shall issue, to any person who shall have attained the age of twenty-one years an identification card bearing said person's date of birth, physical description, photograph, signature and such other information as the Board by regulation may determine attesting to the age of the applicant, upon application therefor by said person filed no earlier than fifteen days prior to attaining the age of twenty-one. Such cards shall be numbered and a permanent record thereof maintained by the Board. The Board may in its discretion impose a charge for such cards in an amount to be determined by it and it may upon proof of loss of such identification card by and upon application of anyone to whom such card may have been issued issue a duplicate thereof and impose a charge therefor in an amount as it may by regulation prescribe. The Board shall have the power to make such regulations as it shall from time to time deem proper regarding the size, style and additional content of the identification card, the form and content of any application therefor, the type, style and quantity of proof required to verify the applicant's age, the procedure for receiving and processing such application, the distribution of said card, the charge to be imposed for any card more than one that it shall issue to the same applicant and all other matters the Board shall deem necessary or advisable for the purpose of carrying into effect the provisions of this section."

Section 139.02 (*As amended April 17, 1970*) Application for Identification Card. Every applicant for an identification card shall file a written application therefor in duplicate at a state store or at the central office of the Board at Harrisburg on a form provided by the Board. The applicant shall submit with the application documentary proof that he is twenty-one years of age or over or that he will become twenty-one years of age within fifteen days from the date of application and such proof shall consist of three or more of the following documents: (1) Armed Forces Identification Card; (2) Passport or Foreign Government visa; (3) Selective Service Registration Certificate; (4) Armed Forces Discharge or Separation Papers; (5) Motor Vehicle Operator's License with birth date imprinted; (6) Voter's Registration Card; (7) Life Insurance Policy with photostatic copy of application therefor; (8) Birth Certificate; (9) Baptismal Certificate; (10) School or Church Age Record. There shall also be submitted with the application two (2) one inch by one inch recent photographs of the applicant, full face without hat. The application shall be signed by the applicant if the designated employee of the Board is satisfied with the proof of age submitted.

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The documents submitted as proof of age shall be returned to the applicant. The signed application and photographs shall be transmitted to the Bureau of Licensing, Central Office of the Board at Harrisburg, Pennsylvania, where the date of birth of the applicant will be verified, if possible, and the application fully processed.

Section 139.03 (As amended April 17, 1970) Identification Card. The identification card shall be wallet size, contain the name and signature of the applicant, the facsimile signature of the Chairman of the Board and the facsimile seal of the Board. Such card shall bear a serial number registered in the central office of the Board at Harrisburg, the applicant's height, weight, color of hair, color of eyes and any other identification data deemed advisable by the Board. The photograph of the applicant shall be mounted on the identification card which shall be laminated in plastic. The identification card shall then be delivered to the applicant at the place where the application was filed and the applicant shall sign a receipt therefor or, in appropriate cases, upon the applicant's request accompanied by a \$1.00 fee, the identification card shall be sent to the applicant in the Continental United States by U. S. certified mail with delivery restricted to the applicant and requiring the return receipt to be signed personally by the applicant.

Section 139.04. Charge for Identification Card: Replacement.—The original identification card will be issued without charge, but in the event such card is lost or destroyed, the owner thereof, upon filing another application in the same form as required under Section 139.02 hereof and upon making affidavit as to the loss or destruction of the original identification card, may secure a duplicate card from the board at Harrisburg, Pennsylvania, upon payment of a charge of two dollars (\$2.00).

Section 139.05. Records to be Maintained.—The board shall maintain at its Central Office in Harrisburg, a permanent record of all identification cards issued by it, together with original application therefor and one of the applicant's photographs transmitted to the board.

Every Pennsylvania Liquor Store at which an application for an identification card is made and processed as herein required, shall retain and keep on file therein the duplicate application.

REGULATION 140 DEPOSIT AND TRANSMISSION OF PENNSYLVANIA LIQUOR STORE RECEIPTS

(Effective October 21, 1960)

Section 140.01. Statutory Provision.—The Liquor Code in Section 802 provides, inter alia :

“All moneys, except fees to be paid into the Liquor License Fund as provided by the preceding section, collected, received or recovered under the provisions of this act for . . . sales of liquor and alcohol at the Pennsylvania Liquor Stores, shall be paid into the State Treasury through the Department of Revenue into a special fund to be known as ‘The State Stores Fund’.”

The foregoing quoted provision of the Liquor Code does not establish any procedure for the temporary custody and transmission of the moneys collected or received for sales at the Pennsylvania Liquor Stores and therefore the Pennsylvania Liquor Control Board (hereinafter called, “Board”) has adopted this regulation, establishing such procedure, as follows:

Section 140.02. Selection of Banks.—The Board, when and as deemed advisable, will select banks located in municipalities in this Commonwealth, wherein will be deposited temporarily for account of the Commonwealth and transmittal to the State Treasury, the daily receipts of cash (currency only) at Pennsylvania Liquor Stores (hereinafter called “State Stores”). The banks, so selected, shall be only those designated depositories for State moneys by the Board of Finance and Revenue, and shall be conveniently located to the respective State Stores.

Section 140.03. Notice of Banks Selected.—Prior to any transaction with any of the banks selected as aforementioned, the Board will inform the Department of the Auditor General and the State Treasury Department of the name and address of each bank and the nature of the funds to be deposited therein.

Section 140.04. Forms.—The Board will furnish each of the State Stores a supply of uniform deposit slips and uniform transmittal checks. The deposit slips shall have imprinted thereon, inter alia, the name and location of the particular bank wherein the deposit is made; the name Pennsylvania Liquor Control Board for account of the Commonwealth of Pennsylvania (the depositor), and the State Store number and location. The deposit slip shall have thereon a space for entering the items of cash deposited, the total deposit and for certification of the deposit by the bank.

The transmittal checks shall have imprinted thereon the name and location of the particular bank wherein the deposit is made; the State Store number and location; Commonwealth of Pennsylvania (the payee); Commonwealth of Pennsylvania (the drawer), and thereunder the facsimile signature of the State Treasurer. In addition, the said check shall have imprinted thereon a notation as follows:

“This check shall be void unless used solely to transmit funds in the bank named hereon to Pennsylvania State Treasury for account of State Stores Fund, and bears the facsimile signature of the State Treasurer.”

Section 140.05. Duties of State Store Manager.—If and when final arrangements have been made for a State Store to begin operation under the procedure herein set forth, the manager of such Store shall, with respect to each day’s business therein:

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(a) Prepare the herein required deposit slip for the amount of cash (currency) to be deposited in the selected and approved bank for transmittal to the Central Office of the Board at Harrisburg, Pennsylvania; make the deposit and have the bank teller certify on the deposit slip that the deposit has been received by the bank.

(b) Prepare the herein required transmittal check by entering thereon the date and exact amount of the deposit.

(c) Attach the transmittal check and copy of the deposit slip, showing the same amount for which the check is drawn, to the daily report of sales at State Stores and mail the same to the Central Office of the Board at Harrisburg.

Section 140.06. Interpretation of Regulation.—The purpose of this regulation is to establish a new procedure now under consideration by the Board, for the protection and transmittal of moneys (currency) collected or received at Stores established, operated and maintained by the Pennsylvania Liquor Control Board, and known as "Pennsylvania Liquor Stores."

Under the provisions of this regulation, it shall be the duty and responsibility of the managers of the respective State Stores to make deposits of Store receipts and transmit the exact amount of such deposits by check in the manner herein set forth.

Section 140.07. Effective Date.—This regulation shall become effective on October 21, 1960, but the established procedure presently in effect for the deposit and transmittal of State Store receipts may continue until the new procedure herein set forth is fully established and operative.

**REGULATION 141 SALE OF ALCOHOLIC
BEVERAGES ON SUNDAY IN CITIES OF THE
FIRST AND SECOND CLASS**

(Effective June 2, 1961; as amended April 1, 1962)

Section 141.01. Statutory Provisions.—The Liquor Code in Section 406 as amended by Act No. 781, approved January 7, 1960 (P. L. 2106) and Act No. 18, approved February 21, 1961, authorizes the sale of liquor and malt or brewed beverages on Sundays between the hours of one o'clock post meridian and ten o'clock post meridian by hotel liquor licensees and restaurant liquor licensees located in hotels in cities of the first and second class, and provides, *inter alia*:

“The provisions of this section shall be applicable only to those hotels whose sales of food and nonalcoholic beverages are equal to fifty-five per centum or more of the combined gross sales of both food and alcoholic beverages.”

Section 406, *supra*, does not fix any definite period of time to be used in determining the fifty-five per centum of sales and does not set forth any procedure by the board for authorizing such sales of alcoholic beverages on Sunday. The said section does specifically grant the power to the board to make such rules and regulations as it deems necessary to insure compliance with and enforcement of its provisions. Therefore, the board adopts this regulation as follows:

Section 141.02. Application for “Sunday Sales Permit.”—Any hotel liquor licensee or restaurant liquor licensee whose licensed premises are in a hotel of any city of the first or second class where in such city the sale of alcoholic beverages on Sunday has been approved by referendum and who wishes to make such sales of alcoholic beverages shall file an application in such form as may be prescribed by the board for a “Sunday Sales Permit.” Such application shall contain or have attached thereto the following information and statements:

- (a) The name and address of the applicant.
- (b) The address of the licensed premises.
- (c) The number assigned to the hotel or restaurant liquor license held by the applicant.
- (d) A certification by a certified public accountant that for a period of not less than ninety (90) consecutive days during the twelve months immediately preceding the date of the application, sales of food and nonalcoholic beverages by the applicant at the licensed premises were equal to or exceeded fifty-five per centum of the combined gross sale of both food and alcoholic beverages. The form of such certification shall be such as the board may from time to time determine.
- (e) The application must be verified by affidavit of the applicant.

Section 141.03. Issuance of Permit.—Upon being satisfied of the truth of the statements in the application and certification, the board shall grant and issue a “Sunday Sales Permit.” Such permit shall be in the size and form prescribed by the board and shall be posted in a conspicuous place adjacent to the license.

Section 141.04. Provisional Permits.—All “Sunday Sales Permits” shall be deemed personal and not subject to transfer. However, the board shall issue a “Provisional Sunday Sales Permit” to any person to whom a hotel liquor license or a restaurant liquor license in a hotel may be transferred by a person who, at the time of such transfer, is the holder of a “Sunday Sales Permit.” Such “Provisional Sunday Sales Permit” shall be valid for a period of 120 days from the date of approval of the said transfer. After ninety (90) days from the date of approval of said transfer, the transferee shall have the right to file an application for a “Sunday Sales Permit” in the manner and method described in Section 141.02 hereof.

Section 141.05. (As amended April 1, 1962) Duration of Permit.—All such “Sunday Sales Permits” as may be issued by the board shall be valid only for the license year during which issued.

Section 141.06. (As added April 1, 1962)—Renewals of “Sunday Sales Permits” shall be accomplished in the same manner as set forth in Section 141.02 hereof except that the certification required by subsection (d) thereof shall be for the preceding license year or portion thereof during which a “Sunday Sales Permit” was held by the applicant for renewal.

REGULATION 142 REPORTING OF DIS. HONORED INSTRUMENTS

(Effective June 22, 1961; as amended July 17, 1963)

Section 142.01. *(As amended July 17, 1963)*—Any person licensed by the Pennsylvania Liquor Control Board under the provisions of Article IV of the Liquor Code who shall receive in payment for malt or brewed beverages sold by him any check, draft or similar order, for the payment of money which is subsequently dishonored by the bank, banking institution, trust company or other depository upon which drawn, for any reason whatsoever, shall within twenty (20) days of receipt of notice of such dishonor notify the Pennsylvania Liquor Control Board thereof by letter sent by United States mail and addressed: Bureau of Enforcement, Pennsylvania Liquor Control Board, Harrisburg, Pennsylvania, ATTENTION: Chief of Enforcement Examining. Such separate letter or notice for each dishonored instrument shall be submitted and shall contain information listed in the following manner:

- a. Date of instrument
- b. Institution upon which drawn
- c. Maker of instrument, trade name and address of licensed business
- d. Amount of instrument
- e. Payee of instrument (to whom payable)
- f. Date received by reporting licensee in payment for malt or brewed beverages
- g. Date of notice of non-payment or dishonor
- h. List of endorsements, if any
- i. Reason for return and other remarks

Such notice shall specifically identify the reporting licensee together with the address of his licensed premises.

Section 142.02. *(As added July 17, 1963)*—Any person licensed by the Pennsylvania Liquor Control Board under the provisions of Article IV of the Liquor Code who shall receive in payment for malt or brewed beverages sold by him any check, draft or similar order for the payment of money which is subsequently dishonored by the bank, banking institution, trust company or other depository upon which drawn, for any reason whatsoever, shall, within five (5) days of receipt of notice of such dishonor, notify by certified mail the person who presented the said worthless check, draft or similar order.

Section 142.03. *(As added July 17, 1963)*—Any person licensed by the Pennsylvania Liquor Control Board under the provisions of Article IV of the Liquor Code who shall receive in payment for malt or brewed beverages sold by him any check, draft, or similar order for the payment of money shall give instructions in writing to the banking institution or other depositories in which he shall deposit any such instruments that such banking institution or other depositories shall give notice to him forthwith when any such instrument has been dishonored by the banking institution or depository upon which it was drawn.

A copy of each notice required in Sections 142.01, 142.02 and 142.03 shall be maintained on the licensed premises.

**REGULATION 143 PROHIBITION AGAINST
SOLICITATION FOR THE PURCHASE OF
ALCOHOLIC BEVERAGES**

(Effective December 19, 1961; as amended January 10, 1962)

Section 143.01. *(As amended January 10, 1962.)—No licensee nor servant, agent or employe thereof shall at any time permit any person on the licensed premises to solicit or entice any other person for the purpose of the purchase for them or for any other person of any food, beverages, merchandise, service, or any other item or thing stored, possessed, served, sold, exposed for sale or dispensed on the licensed premises or any premises contiguous or adjacent thereto or operated in connection therewith.*

REGULATION 144

(Rescinded November 23, 1965)

**REGULATION 145 FINGERPRINTING OF CERTAIN
PERSONS CONNECTED WITH APPLICANTS FOR
LICENSE**

(Effective October 11, 1965)

Section 145.01.—All new applicants for a license, all new applicants for a transfer of an existing license from another licensee, all officers and directors of a corporation which desires to obtain a license, all persons who desire to become officers or directors of licensed corporations and all persons who desire to be managers of licensed establishments are required to furnish their fingerprints to the Board. Persons who acquire shares of stock in a licensed corporation will also be required to furnish their fingerprints when requested by the Board.

Section 145.02.—Fingerprints required by this regulation will be taken by or in the presence of Board enforcement officers.

Section 145.03.—Failure to comply with the provisions of this regulation shall be sufficient cause for refusal to grant, transfer or renew a license or for the issuance of a citation to show cause why a license should not be suspended or revoked.

REGULATION 146 NOTICE OF SUSPENSION*(Effective October 11, 1965)*

Section 146.01. Posting.—Whenever the Board shall suspend the license of any licensee, the Board will, on the date the suspension becomes effective, cause to be posted in a conspicuous place on the outside of the licensed premises or in a window plainly visible from the outside of the licensed premises, a notice of such suspension, in such form, of such size, and containing such provisions as the Board may require. Said notice shall remain posted during the entire period of suspension.

Section 146.02. Other Closing Notices.—During the suspension period, no licensee, or his servants, agents or employes, shall cause to be advertised in any manner, or place in, on, or about the premises, any notice of any kind, stating or indicating that the licensed establishment has been closed for any reason other than the suspension of the license.

Section 146.03. Removal of Notice.—No licensee, or his servants, agents or employes, shall cover, remove, alter, deface, or in any way disturb said notice, or permit the same to be done, until after the suspension period has expired. The suspension notice may not be removed until the license has been returned to the licensee or until the licensee has received notice from the Board that the suspension period has terminated.

Section 146.04. Penalty.—Any violation of this regulation shall be sufficient cause for the issuance of a citation to show cause why such license should not be suspended or revoked.

REGULATION 147 LIMITED WINERIES*(Effective March 11, 1969; Amended July 25, 1969)*

Section 147.01 Statutory Provision. Act 272 of 1968 amended the Liquor Code by making provision for a new type of winery license to be known as a "Limited Winery," and adding Section 505.2 to the Liquor Code which provides:

Section 505.2. Limited Wineries. Holders of a Limited Winery License may:

- (1) Produce table wines only from grapes grown in Pennsylvania in an amount not to exceed fifty thousand (50,000) gallons per year.
- (2) Sell wine produced by the limited winery on the licensed premises, under such conditions and regulations as the Board may enforce, to the Liquor Control Board, to individuals and to hotel, restaurant, club and public service liquor licensees.

Therefore, the Board adopts this regulation.

Section 147.02 Definition of Table Wine. "Table Wine" shall mean still wines containing not over fourteen per-cent (14%) of alcohol by volume, such definition to include wines commonly designated as sparkling wines.

Section 147.03 Sale. A limited winery licensee may sell table wines produced on his licensed premises in accordance with the provisions of the Liquor Code and Regulations of the Board, where applicable, subject to the following additional conditions:

- A. Table wine produced pursuant to a limited winery license may be shipped by common carrier, transporter-for-hire, or in commercial vehicles properly registered with the Board as provided in Regulation 106.
- B. There shall be no sales for on-premises consumption.
- C. All wine sold shall be in sealed containers, each container containing not less than six (6) ounces nor more than one (1) gallon.
- D. Sales may be made only between nine o'clock antemeridian and nine o'clock postmeridian daily, except on Sunday or on any day on which a general, municipal, special, or primary election is being held in the election district in which the limited winery is located.
- E. There shall be no sales of table wines on credit, provided, however, a limited winery may accept checks drawn by the purchaser on his account.

Section 147.04 Records to be Maintained. Section 512 of the Liquor Code provides in part:

"Every person holding a license issued under the provisions of this article (Article V) shall keep on the licensed premises daily permanent records which shall show, (a) the quantities of any alcohol or liquor

manufactured, produced, distilled, developed, denatured, redistilled, recovered, reused, stored in bond, stored as bailee for hire, received or used in the process of manufacture by him, and of all other material used in manufacturing or developing any alcohol or liquor; (b) the sales or other disposition of any alcohol, liquor or malt or brewed beverages if covered by said license; (c) the quantities thereof, if any, stored in bond, stored for hire, or transported for hire by or for the licensee; and (d) the names and addresses of the purchasers or other recipients thereof . . . ”

The records designated in item (a) above shall include complete details concerning the source of all grapes used in the production of table wines.

In addition to the above prescribed records and, except as hereinafter provided, a sales invoice shall be prepared at the licensed premises for each sale. Such sales invoice shall be imprinted or affixed with the name and address of the limited winery. Sales invoices shall show the name and address of the recipient of the merchandise, date of sale, number of units, size and type of package, brand name, selling price of the table wine, and the net cost to the customer. The Pennsylvania sales tax where applicable shall be shown as a separate entry. The sale of other commodities shall not be included on any sales invoice covering the sale of table wines. One copy of each sales invoice shall be given to the recipient of the merchandise. Provided, however, the name and address of private individuals will not be required on sales invoices covering quantities of four (4) wine gallons or less; and in lieu of preparing sales invoices for such sales, these transactions may be entered individually on a counter sheet maintained in columnar form showing all the information required on sales invoices other than name and address of the purchaser. This counter sheet shall be totaled daily and the totals entered into the sales register noted in item (b) above.

Section 147.05 Monthly Reports. Every licensed limited winery shall file with the Board, each month, reports on Forms PLCB-42 and PLCB-43, with attached schedules on Forms PLCB-43-A and 43-B, covering all operations of their licensed business during the preceding month. Such reports shall be signed and sworn to by the licensee or his duly authorized agent, and shall be filed with the Board on or before the 15th day of the month immediately succeeding the month for which the reports are prepared. A copy of each report shall be retained on the licensed premises for a period of at least two years.

Section 147.06 Registration of Agents. It shall be unlawful for any limited winery licensee to employ individuals to solicit orders for wine produced by it or to promote the sale of such wines unless and until each such individual has been registered by the licensee with the Board in accordance with this regulation. Every application for registration shall be made upon forms provided by the Board and shall set forth the name and address of the limited winery licensee together with the name and home address of the agent and any additional information required

The form shall be filed by both the limited winery licensee and the agent employed. Two photographs of the agent, exactly 1½" by 1½" in size, taken within thirty days, shall also be submitted therewith. Every application shall be accompanied by a remittance of \$20.00 for each agent to be registered and an approved surety bond (form to be furnished by the Board) in the penal sum of \$500.00. Said bond shall be conditioned for the faithful observance by the limited winery licensee, and the agent, of all of the laws of the Commonwealth and regulations of the Board relating to liquor, alcohol and malt or brewed beverages. No retail licensee or his agents, servants or employes may be registered as an agent under the terms hereof. The Board reserves the right to refuse to register any agent.

Section 147.07 Identification Cards. Upon approval of the Board of a licensee's application for registration of an agent, there shall be issued to such authorized agent an identification card containing the name and address of the licensee and the name and address and physical description of the agent. There shall also be affixed to the identification card, a photograph of the agent, and no identification card shall be valid until signed by both the licensee and the agent, and countersigned by a representative of the Pennsylvania Liquor Control Board.

Section 147.08 Privileges of Registered Agents. Agents properly registered by a limited winery licensee and holding identification cards, as herein provided, may advertise and promote the sale of merchandise of those brands sold by the limited winery licensee by whom said agents are registered.

REGULATION 148 CREDIT CARDS*(Effective February 26, 1970)*

Section 148.01. Statutory Provision. Section 493 (2) of the Liquor Code as amended by Act No. 11 approved February 16, 1970 permits a hotel, restaurant or public service licensee to extend credit to customers holding credit cards issued in accordance with regulations of the Board or credit cards issued by banking institutions subject to State or Federal regulation. In accordance with this provision of the law this regulation is promulgated as to credit cards other than those issued by banking institutions subject to State or Federal regulation.

Section 148.02. Credit Cards Issued By Licensees. A hotel, restaurant or public service licensee may issue credit cards to customers and extend credit thereon to customers provided that the person to whom the credit card has been issued has filed a written application therefor which application shall be retained in the records of the licensee.

Section 148.03. Credit Cards Not Issued By Licensees. A hotel, restaurant or public service licensee may extend credit to customers holding credit cards issued by companies, other than licensees, which issue credit cards and guarantee payment of credit given thereon, provided that the licensee has prior thereto entered into a written agreement to honor their credit cards and a copy of said written agreement shall be retained in the records of the licensee.

**REGULATION 149 ADVERTISING OF DISTILLED SPIRITS
IN NEWSPAPERS, MAGAZINES, OR SIMILAR PUBLICATIONS**

(Effective April 24, 1970)

Section 149.01. Application. No person engaged in business as a producer, manufacturer, bottler, importer, wholesaler, or retailer of distilled spirits, directly or indirectly, or through an affiliate, shall publish or disseminate or cause to be published or disseminated in any newspaper, magazine, or similar publication any advertisement of distilled spirits, unless such advertisement is in conformity with these regulations: Provided, That these provisions shall not apply to the publisher of any newspaper, magazine, or similar publication, unless such publisher is engaged in business as a producer, manufacturer, bottler, importer, wholesaler, or retailer of distilled spirits, directly or indirectly, or through an affiliate.

Section 149.02. Definitions. As used in these regulations, terms shall have the meaning ascribed below.

(a) **Advertisement.** The term "Advertisement" includes any advertisement of distilled spirits through the medium of newspapers, magazines, or similar publications, except that such term shall not include:

(1) Any label affixed to any container of distilled spirits or any individual covering, carton, or other wrapper of such container.

(2) Any editorial or other reading matter in any periodical or publication or newspaper for the preparation or publication of which no money or other valuable consideration is paid or promised, directly or indirectly, by any person subject to these regulations.

(b) **Distilled spirits.** "Distilled spirits" means ethyl alcohol, ethanol, or spirits of wine, including all dilutions and mixtures thereof, from whatever source or by whatever process produced, for beverage use, and shall include, but not be limited to neutral spirits, whisky, brandy, rum, gin, vodka, cordials, and liqueurs.

(c) **Person.** "Person" means any individual, partnership, joint-stock company, business trust, association, corporation, or other form of business enterprise, including a receiver, trustee, or liquidating agent.

Section 149.03. Mandatory Statements. (a) **Responsible advertiser.** The advertisement shall state the name and address of the producer, manufacturer, bottler, importer or wholesaler responsible for its publication. Street name and number may be omitted in the address.

(b) **Class, type, and distinctive designation.** The advertisement shall contain a conspicuous statement of the class and type, or other designation of the product, corresponding with the complete designation which appears on the brand label of the product.

(c) **Alcoholic content.** The alcoholic content shall be stated in the manner and form in which it appears on the labels of distilled spirits advertised.

(d) **Percentage of neutral spirits and name of commodity.** In the case of distilled spirits (other than cordials, liqueurs, and specialties) produced by blending or rectification, if neutral spirits have been used in

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the production thereof, there shall be stated in the advertisement the percentage of neutral spirits so used and the name of the commodity from which such neutral spirits have been distilled in substantially the manner and form in which these statements appear on the labels of the distilled spirits advertised. In the case of neutral spirits or of gin produced by a process of continuous distillation, there shall be stated in the advertisement the name of the commodity from which such neutral spirits or gin has been distilled substantially in the manner and form in which this statement appears on the labels of the distilled spirits advertised.

(e) "Line" or "Brand" advertisements. Where an advertisement does not mention a specific product but merely refers to a class of distilled spirits (such as "whisky") and the advertiser markets more than one brand of distilled spirits of that class, or where the advertisement refers to several classes of distilled spirits (such as "whisky", "brandy", "rum", "gin", "liqueur", etc.) marketed under a single brand, the only mandatory information prescribed by Section 149.03 hereof applicable to such advertisement would be the name and address of the responsible advertiser.

(f) Retail establishments. Advertisements by retail establishments which merely refer to the availability of distilled spirits in such establishments but which otherwise make no reference to a specific brand of distilled spirits shall be subject only to the "Prohibited Statements" provisions of Section 149.05 of the regulations.

(g) Advertising of price and size. Advertisements of distilled spirits by vendors, which show liquor store prices, shall use the phrase "Retail Price" in quoting the current Pennsylvania Liquor Store retail price. Where reference to licensee discount is made the advertisement shall display the following conspicuous statement: "Discount to Licensees", and such phrase should appear on the line below "Retail Price."

No wholesale prices shall be shown in liquor advertisements except that direct mail advertisements to licensees, of Special Liquor Order Merchandise, may show the total wholesale case price as released by the Board.

A quart shall be advertised as "Quart," a 4/5 quart as "Fifth" or "4/5 Quart" and a pint as "Pint," etc., and all characters shall be of the same size.

Section 149.04. Lettering. (a) Conspicuousness of mandatory statements. Statements required by these regulations to be stated in any written, printed, or graphic advertisement shall appear in lettering or type of a size, kind and color sufficient to render them both conspicuous and readily legible.

In particular:

(1) Required information shall be stated against a contrasting background and in type or lettering which is at least the equivalent of eight-point type.

(2) Required information shall be so stated as to appear to be a part of the advertisement and shall not be separated in any manner

from the remainder of the advertisement.

(3) Where an advertisement relates to more than one product, the required information shall appear in such manner as to clearly indicate the particular products to which it is applicable.

(4) Required information shall not be buried or concealed in unnecessary descriptive matter or decorative designs.

Section 149.05. Prohibited Statements. (a) **Restrictions.** An advertisement shall not contain:

(1) Any statement that is false or misleading in any material particular.

(2) Any statement that is disparaging of a competitor's products.

(3) Any statement, design, device, or representation which is obscene or indecent.

(4) Any statement, design, device, or representation of or relating to analyses, standards, or tests, irrespective of falsity, which is likely to mislead the consumer.

(5) Any statement, design, device, or representation of or relating to any guaranty, irrespective of falsity, which is likely to mislead the consumer.

(6) Any statement that the product is produced, blended, made, bottled, packed, or sold under, or in accordance with, any authorization, law, or regulation of any municipality, county, or State, Federal or foreign government unless such statement is required or specifically authorized by the laws or regulations of such government; and if a municipal, county, State or Federal permit number is stated, such permit number shall not be accompanied by any additional statement relating thereto.

(7) The advertisement shall not contain any statement concerning a brand or lot of distilled spirits that is inconsistent with any statement on the labeling thereof.

(8) The advertisement shall not contain any statement, design, or device representing that the use of any distilled spirits has curative or therapeutic effects, if such statement is untrue in any particular, or tends to create a misleading impression.

(9) The advertisement shall not represent that the distilled spirits were manufactured in, or imported from, a place or country other than that of their actual origin, or were produced or processed by one who was not in fact the actual producer or processor.

(10) No advertisement shall contain any statement, design, device, or pictorial representation of or relating to, or capable of being construed as relating to the armed forces of the United States, or of the American flag, or any State flag, or of any emblem, seal, insignia, or decoration associated with any such flag or the armed forces of the United States; nor shall any advertisement contain any statement, device, design or pictorial representation of or concerning any flag, seal, coat of arms, crest, other insignia or Pennsylvania Keystone,

likely to falsely lead the consumer to believe that the product has been endorsed, made, or used by, or produced for, or under the supervision of, or in accordance with the specifications of the government, organization, family, or individual with whom such flag, seal, coat of arms, crest, insignia or Pennsylvania Keystone is associated.

(11) The words "bond," "bonded," "bottled in bond," "aged in bond," or phrases containing these or synonymous terms, unless such words or phrases appear upon the labels of the distilled spirits advertised, and are stated in the advertisement in the manner and form in which they appear upon the label.

(12) An advertisement for distilled spirits shall not contain any statement, design, or device directly or by implication concerning age or maturity of any brand or lot of distilled spirits unless a statement or age appears on the labels of the advertised product. When any such statement, design, or device concerning age or maturity is contained in any advertisement, it shall include (in direct conjunction therewith and with substantially equal conspicuousness) all parts of the statement concerning age and percentages, if any, which appear on the label. However, an advertisement for any whisky or brandy, which does not bear a statement of age on the label, or an advertisement for rum which is four years or more old, may contain general inconspicuous age, maturity or other similar representations, e.g., "Aged in Wood," "Mellowed in fine oak casks."

(13) Any statement, picture, or illustration referring to religious holidays, such as Easter, Holy Week or to "Santa Claus" (including names synonymous with "Santa Claus"): Provided, That nothing herein shall operate to prohibit references to the Christmas Holiday season if such references do not include statements, pictures, or illustrations on strictly religious themes; and provided further, that nothing in this paragraph shall prohibit the use of labels and advertisements for certain products which for many generations have referred to monasteries and religious orders.

(14) Any statement, picture, or illustration implying that the consumption of distilled spirits enhances athletic prowess, or any statement, picture, or illustration referring to any known athlete, if such statement, picture, or illustration implies, or if the reader may reasonably infer, that the use of distilled spirits contributed to such known athlete's athletic achievements.

(15) Any picture or illustration of a person which is immodest, undignified or in bad taste.

(16) Any picture or illustration depicting the use of distilled spirits in a group or festive scene which is undignified, immodest or in bad taste.

(17) Any offer of a prize or award to a consumer upon the completion of any contest in which there is a requirement to purchase the advertised product; Provided, that no distilled spirits advertisement shall promote a game of chance or a lottery.

Section 149.06. Cooperative Advertising. There shall be no cooperative advertising as between a producer, manufacturer, bottler, importer or wholesaler and a retailer of distilled spirits.

Section 149.07. General Prohibition. All types of advertising not specifically permitted are prohibited.

The advertising of anything which is unlawful is prohibited.

The Board shall have power to investigate and to order the immediate discontinuance of any acts in violation of the provisions of this regulation which may be revealed by such investigation.

Nothing herein contained shall exclude any other enforcement power granted the Board either by the provisions of the Liquor Code or any regulations adopted pursuant thereto.

Section 149.08. Severability. The sections of this regulation shall be deemed severable. Should any section be deemed by judicial opinion or legislative enactment to be invalid, unconstitutional or in any manner contrary to the laws of this Commonwealth, such opinion or enactment shall invalidate only that particular section of the regulation and all other sections shall remain in full force and effect.

It should be noted that the above regulation does not include all prohibitions set forth in the Liquor Code. Some of these prohibitions are:

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

It shall be unlawful -

(18) **Displaying Price of Liquor or Malt or Brewed Beverages.** For any restaurant, hotel or club liquor licensee, or any importing distributor, distributor or retail dispenser, or the servants, agents or employes of such licensees to display on the outside of any licensed premises or to display any place within the licensed premises where it can be seen from the outside, any advertisement whatsoever referring, directly or indirectly, to the price at which the licensee will sell liquor or malt or brewed beverages.

(19) **Licensee's Outside Advertisements.** For any retail liquor licensee or any retail dispenser, distributor or importing distributor, to display in any manner whatsoever on the outside of his licensed premises, or on any lot of ground on which the licensed premises are situate, or on any building of which the licensed premises are a part, a sign of any kind, printed, painted or electric, advertising any brand of liquor or malt or brewed beverage, and it shall be likewise unlawful for any manufacturer, distributor or importing distributor, to permit the display of any sign which advertises either his products or himself on any lot of ground on which such licensed premises are situate, or on any building of which such licensed premises are a part.

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(24) Things of Value Offered as Inducement. For any licensee under the provisions of this article, or the Board or any manufacturer, or any employe or agent of a manufacturer, licensee, or of the Board, . . . to offer or give or solicit or receive anything of value as a premium or present to induce the purchase of liquor or malt or brewed beverage, or for any other purpose whatsoever in connection with the sale of such liquor or malt or brewed beverage, or for any licensee, manufacturer or other person to offer or give to trade or consumer buyers any prize, premium, gift or other similar inducement, except advertising novelties of nominal value which the Board shall define.
(Non-pertinent matter deleted)

REGULATION 150 ADVERTISING OF WINE IN NEWS-PAPERS, MAGAZINES, OR SIMILAR PUBLICATIONS

(Effective April 24, 1970)

Section 150.01 Application. No person engaged in business as a producer, bottler, importer, wholesaler, or retailer of wine, directly or indirectly, or through an affiliate, shall publish or disseminate or cause to be published or disseminated in any newspaper, magazine, or similar publication, any advertisement of wine unless such advertisement is in conformity with these regulations: Provided, That these provisions shall not apply to the publisher of any newspaper, magazine or similar publication unless such publisher is engaged in business as a producer, bottler, importer, wholesaler, or retailer of wine, directly or indirectly, or through an affiliate.

Section 150.02. Definitions. As used in these regulations, terms shall have the meaning ascribed below.

(a) **Advertisement.** The term "advertisement" includes any advertisement of wine through the medium of newspapers, magazines, or similar publications, except that such term shall not include:

(1) Any label affixed to any container of wine, or any individual covering, carton, or other wrapper of such container.

(2) Any editorial or other reading matter in any periodical or publication or newspaper for the preparation or publication of which no money or other valuable consideration is paid or promised, directly or indirectly, by any person subject to these regulations.

(b) **Wine.** The term "wine" means any fermented alcoholic beverage produced from grapes, fruit or other agricultural products, which contains 7 per cent or more alcohol by volume, and includes, but is not limited to, still wines, champagne and other sparkling wines, carbonated wines, imitation wines, vermouth, cider, perry, sake, or any other product offered for sale or sold as wine.

(c) **Person.** "Person" means any individual, partnership, joint-stock company, business trust, association, corporation, or other form of business enterprise, including a receiver, trustee, or liquidating agent.

Section 150.03. Mandatory Statements. (a) **Responsible advertiser.** The advertisement shall state the name and address of the producer, bottler, importer or wholesaler responsible for its publication. Street name and number may be omitted in the address.

(b) **Class, type and distinctive designation.** The advertisement shall contain a conspicuous statement of the class and type, or other designation of the product, corresponding with the complete designation which appears on the brand label of the product.

(c) **Retail establishments.** Advertisements by retail establishments which merely refer to the availability of wine in such establishments

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but which otherwise make no reference to a specific brand of wine shall be subject only to the "Prohibited Statements" provisions of Section 150.05 of the regulations.

(d) Advertising of price and size. Advertisements of wine by vendors, which show liquor store prices, shall use the phrase "Retail Price" in quoting the current Pennsylvania Liquor Store retail price. Where reference to licensee discount is made the advertisement shall display the following conspicuous statement: "Discount to Licensees," and such phrase should appear on the line below "Retail Price."

No wholesale prices shall be shown in wine advertisements except that direct mail advertisements to licensees, of Special Liquor Order Merchandise, may show the total wholesale case price as released by the Board.

A quart shall be advertised as "Quart," a 4/5 quart as "Fifth" or "4/5 Quart" and a pint as "Pint," etc., and all characters shall be of the same size.

Section 150.04. Lettering. (a) Conspicuousness of mandatory statements. Statements required by these regulations to be stated in any written, printed, or graphic advertisement shall appear in lettering or type of a size, kind and color sufficient to render them both conspicuous and readily legible.

In particular:

(1) Required information shall be stated against a contrasting background and in a type of lettering which is at least the equivalent of eight-point type.

(2) Required information shall be so stated as to appear to be a part of the advertisement and shall not be separated in any manner from the remainder of the advertisement.

(3) Where an advertisement relates to more than one product, the required information shall appear in such manner as to clearly indicate the particular products to which it is applicable.

(4) Required information shall not be buried or concealed in unnecessary descriptive matter or decorative designs.

Section 150.05. Prohibited Statements. (a) Restrictions. An advertisement shall not contain:

(1) Any statement that is false or misleading in any material particular.

(2) Any statement that is disparaging of a competitor's products.

(3) Any statement, design, device, or representation which is obscene or indecent.

(4) Any statement, design, device, or representation of or relating to analyses, standards, or tests, irrespective of falsity, which is likely to mislead the consumer.

(5) Any statement, design, device, or representation of or relating to any guaranty, irrespective of falsity, which is likely to mislead the consumer.

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(6) Any statement that the product is produced, blended, made, bottled, packed, or sold under, or in accordance with, any authorization, law or regulations of any municipality, county, or State, Federal or foreign government unless such statement is required or specifically authorized by the laws or regulations of such government; and if a municipal, county, State, or Federal permit number is stated, such permit number shall not be accompanied by any additional statement relating thereto.

(7) The advertisement shall not contain any statement concerning a brand or lot of wine that is inconsistent with any statement on the labeling thereof.

(8) The advertisement shall not contain any statement, design, or device representing that the use of any wine has curative or therapeutic effects, if such statement is untrue in any particular, or tends to create a misleading impression.

(9) The advertisement shall not represent that the wine was manufactured in, or imported from, a place or country other than that of the actual origin, or was produced or processed by one who was not in fact the actual producer or processor.

(10) No advertisement shall contain any statement, design, device, or pictorial representation of or relating to, or capable of being construed as relating to, the armed forces of the United States, or of the American flag, any State flag, or of any emblem, seal, insignia, or decoration associated with any such flag or the armed forces of the United States; nor shall any advertisement contain any statement, device, design, or pictorial representation of or concerning any flag, seal, coat of arms, crest, other insignia or Pennsylvania Keystone, likely to falsely lead the consumer to believe that the product has been endorsed, made, or used by, or produced for, or under the supervision of, or in accordance with the specifications of the government, organization, family, or individual with whom such flag, seal, coat of arms, crest, insignia or Pennsylvania Keystone is associated.

(11) Any statement of bonded winecellar and bonded winery numbers unless stated in direct conjunction with the name and address of the person operating such winery or storeroom. Statement of bonded winecellar and bonded winery numbers may be made in the following form: "Bonded Winecellar No. ____," "Bonded Winery No. ____," "B.W.C. No. ____," "B.W. No. ____".

No additional reference thereto shall be made, nor shall any use be made of such statement that may convey the impression that the wine has been made or matured under U. S. Government or any State Government supervision or in accordance with U. S. Government or any State Government specifications or standards.

(12) Any statement, design, device, or representation which relates to alcoholic content or which tends to create the impression that a wine is "unfortified" or has been "fortified," or has intoxicating qualities, or contains distilled spirits (except for a reference to distilled spirits in a statement of composition where such statement is

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required by these regulations to appear as a part of the designation of the product).

(13) No statement of age or representation relative to age (including words or devices in any brandname or mark) shall be made, except that:

(a) In the case of vintage wine, the year of vintage may be stated if it appears on the label.

(b) Truthful references of a general and informative nature relating to methods of production involving storage or aging, such as "This wine has been mellowed in oak casks," "Stored in small barrels" or "Matured at regulated temperatures in our cellars" may be made.

(c) The statement of any bottling date shall not be deemed to be a representation relative to age, if such statement appears without undue emphasis in the following form: "Bottled in ____" (inserting the year in which the wine was bottled).

(d) No date, except as provided in paragraphs (a), (b), and (c) of this section with respect to statement of vintage year and bottling date, shall be stated unless, in addition thereto, and in direct conjunction therewith, in the same size and kind of printing there shall be stated an explanation of the significance of such date: Provided, That if any date refers to the date of establishment of any business, such date shall be stated without undue emphasis and in direct conjunction with the name of the person to whom it refers.

(14) Any statement, picture, or illustration referring to religious holidays, such as Easter, Holy Week, or to "Santa Claus" (including names synonymous with "Santa Claus"): Provided, That nothing herein shall operate to prohibit references to the Christmas holiday season if such references do not include statements, pictures, or illustrations on strictly religious themes; and provided further, That nothing in this paragraph shall prohibit the use of statements, pictures, or illustrations alluding to the traditional use of wine, or the historical development of the wine growing industry in connection with the establishment of early religious communities or districts which may be associated with religious origins or development.

(15) Any statement, picture, or illustration implying that the consumption of wine enhances athletic prowess, or any statement, picture, or illustration referring to any known athlete, if such statement, picture or illustration implies, or if the reader may reasonably infer, that the use of wine contributed to such athlete's athletic achievements.

(16) Any picture or illustration of a person which is immodest, undignified or in bad taste.

(17) Any picture or illustration depicting the use of wine in a group or festive scene which is undignified, immodest or in bad taste.

(18) Any offer of a prize or award to a consumer upon the completion of any contest in which there is a requirement to purchase the advertised product: Provided, that no wine advertisement shall promote a game of chance or a lottery.

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Section 150.06. Cooperative Advertising. There shall be no cooperative advertising as between producer, bottler, importer, or wholesaler and a retailer of wine.

Section 150.07. General Prohibition. All types of advertising not specifically permitted are prohibited.

The advertising of anything which is unlawful is prohibited.

The Board shall have power to investigate and to order the immediate discontinuance of any acts in violation of the provisions of this regulation which may be revealed by such investigation.

Nothing herein contained shall exclude any other enforcement power granted the Board either by the provisions of the Liquor Code or any regulations adopted pursuant thereto.

Section 150.08. Severability. The section of this regulation shall be deemed severable. Should any section be deemed by judicial opinion or legislative enactment to be invalid, unconstitutional or in any manner contrary to the laws of this Commonwealth, such opinion or enactment shall invalidate only that particular section of the regulation and all other sections shall remain in full force and effect.

It should be noted that the above regulation does not include all prohibitions set forth in the Liquor Code. Some of these prohibitions are:

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

It shall be unlawful

(18) **Displaying Price of Liquor or Malt or Brewed Beverages.** For any restaurant, hotel or club liquor licensee, or any importing distributor, distributor or retail dispenser, or the servants, agents or employes of such licensees, to display on the outside of any licensed premises or to display any place within the licensed premises where it can be seen from the outside, any advertisement whatsoever referring, directly or indirectly, to the price at which the licensee will sell liquor or malt or brewed beverages.

(19) **Licensee's Outside Advertisements.** For any retail liquor licensee or any retail dispenser, distributor or importing distributor, to display in any manner whatsoever on the outside of his licensed premises, or on any lot of ground on which the licensed premises are situate, or on any building of which the licensed premises are a part, a sign of any kind, printed, painted or electric, advertising any brand of liquor or malt or brewed beverage, and it shall be likewise unlawful for any manufacturer, distributor and importing distributor, to permit the display of any sign which advertises either his products or himself on any lot of ground on which such licensed premises are situate, or on any building of which such licensed premises are a part.

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(24) Things of Value Offered as Inducement. For any licensee under the provisions of this article, or the Board or any manufacturer, or any employe or agent of a manufacturer, licensee, or of the Board, . . . to offer or give or solicit or receive anything of value as a premium or present to induce the purchase of liquor or malt or brewed beverage, or for any other purpose whatsoever in connection with the sale of such liquor or malt or brewed beverage, or for any licensee, manufacturer or other person to offer or give to trade or consumer buyers any prize, premium, gift or other similar inducement, except advertising novelties of nominal value which the Board shall define.
(Non-pertinent matter deleted).

4. SPIRITUOUS AND VINOUS LIQUOR TAX LAW

(Act 6 of December 5, 1933, P. L. 38 (1933-34); amended by Act
17 of December 22, 1933, P. L. 91 (1933-34); amended by Act
434 of June 27, 1947, P. L. 1020)

AN ACT

Imposing State taxes, payable by those herein defined as manufacturers and importers, on the privilege of manufacturing, selling, or using in this Commonwealth alcohol usable for beverage purposes and certain spirituous and vinous liquors; providing for the collection of the taxes, and the manner of making payment thereof; conferring powers and imposing duties on certain State officers and departments, and upon manufacturers, importers and upon those using or engaging in the sale of such alcohol and such spirituous and vinous liquors; authorizing refunds or exemptions in certain cases, and making an appropriation therefor; and providing penalties.

Section 1. Short Title.—Be it enacted, &c., That this act shall be known, and may be cited, as the “Spirituous and Vinous Liquor Tax Law.”

**Spirituos
and Vinous
Liquor Tax
Law**

Section 2. Definitions.—The following words, terms, and phrases, when used in this act, shall have the meanings ascribed to them in this section, except in those instances where the context clearly indicates a different meaning.

Definitions

“Association.” A partnership, limited partnership, or any other form of unincorporated enterprise owned by two or more persons.

Association

“Container.” Any receptacle, vessel, or cask, barrel, drum, keg, can or bottle, or other form of package used for the transferring or shipment of distilled spirits, rectified spirits, or wines.

Container

“Corporation.” A corporation or joint stock association organized under the laws of this Commonwealth, the United States, or any other state, territory, or foreign country or dependency.

Corporation

“Department.” The Department of Revenue of this Commonwealth.

Department

“Distilled Spirits.” Any alcohol, other than denatured alcohol unfit for beverage purposes, and any liquid usable for beverage purposes which contain more than one-half of one per cent. of alcohol by volume, obtained by distillation or any process of evaporation, mixed with water and other substances in solution, including brandy, rum, whiskey, gin, and any other alcoholic beverage, obtained as aforesaid, by whatever name such beverage may be called. All wines containing more than twenty-four (24) per cent. absolute alcohol by volume shall be classed as “distilled spirits” for the purpose of this act.

**Distilled
Spirits**

Gallon	"Gallon." A liquid measure containing two hundred thirty-one (231) cubic inches.
Importer	<p>"Importer." Any person who or which—</p> <ol style="list-style-type: none"> 1. Imports or causes to be imported from any other state or territory of the United States, or from any foreign country, distilled spirits, rectified spirits, or wines for his own use in the Commonwealth of Pennsylvania, or for sale and delivery in and after reaching the Commonwealth, other than in the original package, receptacle, or container. 2. Imports or causes to be imported from any other state or territory of the United States, or from any foreign country, distilled spirits, rectified spirits, or wines for his own use in the Commonwealth of Pennsylvania, or for sale or delivery therein, after the same have come to rest or storage therein, whether or not in the original package, receptacle, or container. 3. Purchases or receives distilled spirits, rectified spirits, or wines in the original package, receptacle, or container in the Commonwealth of Pennsylvania for his own use, or for sale and delivery therein, from any person who has imported the same from a foreign country. 4. Purchases or receives distilled spirits, rectified spirits, or wines in the original package, receptacle, or container in the Commonwealth of Pennsylvania for his own use therein, or for sale and delivery therein, from any person who has imported the same from any other state or territory of the United States, in case such distilled spirits, rectified spirits, or wines have not, prior to such purchase or receipt, come to rest or storage in the Commonwealth of Pennsylvania. 5. Receives and, in any manner, uses or distributes distilled spirits, rectified spirits, or wines in the Commonwealth of Pennsylvania where the tax provided in this act has not been previously paid.
In bond	"In bond." Distilled spirits, rectified spirits, and wines shall be construed to be "in bond" when they are lodged or stored in any place or warehouse, designated or defined from time to time by or pursuant to any act of Congress as a bonded winery, distillery, warehouse, general bonded warehouse or special bonded warehouse, under bond of the owner thereof conditioned upon the payment of taxes due thereon to the United States.
Manufacturer	"Manufacturer." Any person, association, or corporation engaged in the producing, manufacturing, distilling, rectifying or compounding of distilled spirits, rectified spirits, or wines in this Commonwealth.
Person	"Person." Every natural person, association, or corporation. Whenever used in a clause prescribing or imposing a fine or imprisonment, or both, the term "person," as applied to "association," shall mean the partners or members thereof and, as applied to "corporation," shall mean the officers thereof.

"Proof Gallon." A gallon of liquid which contains one-half ($\frac{1}{2}$) of its volume of alcohol of a specific gravity of seven thousand nine hundred thirty-nine ten thousandths (.7939) at sixty degrees (60°) fahrenheit.

Proof Gallon

"Rectified Spirits." Any beverage containing more than one-half of one per cent. of alcohol by volume, obtained by rectification, redistillation, refining, or purifying of distilled spirits or wines by any process other than by original and continuous distillation from mash, wort or wash through continuous closed vessels and pipes until the manufacture thereof is completed, or by mixing distilled spirits, wines, or other liquor with any materials, or with any other distilled spirits, wines, or other liquor, thereby producing any spurious, imitation, blended or compound alcoholic liquor.

**Rectified
Spirits**

"Secretary." The Secretary of Revenue of this Commonwealth, or his duly authorized deputy or representative.

Secretary

"Spirituos and Vinous Liquors." Distilled spirits, rectified spirits, and wines, as defined in this section.

**Spirituos
and Vinous
Liquors**

"Wines." Any beverage containing more than one-half of one per cent. and not more than twenty-four (24) per cent. absolute alcohol by volume, obtained by the fermentation of the natural sugar contents of fruits or other agricultural products containing sugar, including all natural wines and fortified wines within the above limits, but not including any beverage known as beer, lager beer, ale, porter, or similar fermented malt liquor obtained by alcoholic fermentation of an infusion or decoction of barley, malt, and hops in water.

Wines

The singular shall include the plural, and the masculine shall include the feminine and neuter.

Section 3. (*As amended by Act 17 of December 22, 1933, P. L. 91 (1933-34)) Imposition of Tax.*—(a) Except as otherwise in this act provided, every manufacturer shall be subject to pay to the Commonwealth of Pennsylvania the taxes imposed in this section for the privilege of producing, manufacturing, distilling, rectifying or compounding distilled spirits, rectified spirits, or wines in this Commonwealth when such distilled spirits, rectified spirits, or wines are withdrawn from bond or, if not required by act of Congress to be stored or placed in bond, when prepared for market or for use in the manufacture or production of any beverage intended for sale.

**Imposition
of tax on
manufacturer**

Such taxes shall be measured by the amount of such distilled spirits, rectified spirits, and wines so produced, manufactured, distilled, rectified or compounded by the manufacturer on or after the effective date of this act, and shall be computed thereon at the following rates:

Rate of tax

On distilled spirits, one dollar (\$1) per proof gallon, or wine gallon when below proof, and a proportionate tax at a like rate on all fractional parts of such proof or wine gallon.

**On distilled
spirits**

On rectified spirits, thirty cents (\$.30) per proof gallon, or wine gallon when below proof, and a proportionate tax at a like rate on all fractional parts of such proof or wine

**On rectified
spirits**

gallon, in addition to the tax imposed herein on the privilege of manufacturing or producing, using or selling within this Commonwealth the distilled spirits or wines from which said rectified spirits are produced, manufactured or compounded.

On wines On wines, one-half cent (\$.005) per unit of proof per wine gallon, and a proportionate tax at a like rate on all fractional parts of such wine gallon.

Provided, however, That the rate of tax on the privilege of manufacturing, producing or distilling in this Commonwealth distilled spirits or wines until January first, one thousand nine hundred thirty-four, shall be two dollars on each proof gallon, or wine gallon when below proof, and a proportionate tax at a like rate on all fractional parts of such proof or wine gallon, and that until January first, one thousand nine hundred thirty-four, the tax of thirty cents (\$.30) per proof gallon, or wine gallon when below proof, shall not be imposed for the privilege of rectifying spirits.

(b) Except as otherwise in this act provided, every importer shall be subject to pay to the Commonwealth of Pennsylvania the taxes imposed in this section for the privilege of selling or using in this Commonwealth distilled spirits, rectified spirits, or wines brought into this Commonwealth. Such taxes shall be measured by the amount of such distilled spirits, rectified spirits, and wines so sold or used by the importer in this Commonwealth on or after the effective date of this act, except as hereinafter provided, and shall be computed thereon at the following rates:

On distilled spirits, one dollar (\$1) per proof gallon, or wine gallon when below proof, and a proportionate tax at a like rate on all fractional parts of such proof or wine gallon.

On rectified spirits, one dollar and thirty cents (\$1.30) per proof gallon, or wine gallon when below proof, and a proportionate tax at a like rate on all fractional parts of such proof or wine gallon.

On wines On wines, one-half cent (\$.005) per unit of proof per wine gallon, and a proportionate tax at a like rate on all fractional parts of such wine gallon.

Provided, however, That until the first day of January, one thousand nine hundred thirty-four, the rate of tax for the privilege of selling or using in this Commonwealth distilled spirits, rectified spirits, or wines brought into this Commonwealth, shall be two dollars on each proof gallon, or wine gallon when below proof, and a proportionate tax at a like rate on all fractional parts of such proof or wine gallon, unless a tax shall have been paid upon the privilege of producing, manufacturing, distilling, rectifying or compounding such distilled spirits, rectified spirits, or wines under clause (a) of this section, or unless a floor tax shall have been paid upon such distilled spirits, rectified spirits, or wines under the provisions of act number one, approved the twenty-second day of November, one thousand nine hundred and thirty-three, entitled "An act imposing a State floor tax on alcohol usable for beverage purposes and certain alcoholic liquors in the Commonwealth between the date this act becomes effective and

**Imposition
of tax on
Importer**

**Rate of tax
on distilled
spirits**

**On rectified
spirits**

On wines

the date the Twenty-first Amendment to the Constitution of the United States is ratified; describing the method and manner of collection of such tax; conferring powers and imposing duties on certain State officers and departments, and certain individuals, firms and corporations; and imposing penalties."

Also provided, that the tax imposed by this section shall not be payable on the privilege of manufacturing or bringing into this Commonwealth any distilled spirits and wines sold to, or used by, any manufacturer or importer in this Commonwealth for the manufacture of rectified spirits whenever the manufacture of such rectified spirits is exempt from tax under the following provisions of this act.

Section 4. Monthly Reports and Payments of Tax by Manufacturer; Penalty.—For the purpose of ascertaining the amount of taxes payable under this act by manufacturers, it shall be the duty of each manufacturer, on or before the fifteenth day of each month, to transmit to the department, upon a form prepared and furnished by the department, a report, under oath or affirmation, of the distilled spirits, rectified spirits, and wines withdrawn from bond, or, if not required by act of Congress to be stored or placed in bond, prepared for market or for use in the manufacture or production of any beverage intended for sale by him within this Commonwealth, during the preceding month. Such reports shall show the number of proof gallons or wine gallons of alcoholic beverages withdrawn from bond, or, if not required by act of Congress to be stored or placed in bond, prepared for market or for use in the manufacture or production of any beverage intended for sale, during the period for which it is made, and such further information as the department shall prescribe.

Every manufacturer, at the time of making each report required by this section, shall compute and pay to the department the tax due by him to the Commonwealth under the provisions of this act. The amount of all taxes imposed under the provisions of this act for every month shall be due and payable on the fifteenth day of the next succeeding month, and shall bear interest at the rate of one (1) per cent. per month, or fractional part of the month, from the day they were due and payable until paid.

If any manufacturer shall neglect or refuse to make any report or payment as herein required, an additional ten per centum of the amount of taxes shall be added by the department, and collected as hereinafter provided, and, in addition thereto, the Pennsylvania Liquor Control Board, at the request of the department, may suspend any permit issued by it to such manufacturer.

Section 5. (As amended by Act 434 of June 27, 1947, P. L. 1020) Determination and Redetermination of Taxes, Penalty, and Interest Due by Manufacturers.—

(a) If the department is not satisfied with the report and payment of taxes made by any manufacturer under the pro-

Exception

Monthly reports

Payment of tax

Penalty

Determination of taxes

visions of this act, it is hereby authorized and empowered to make a determination of the taxes due by such manufacturer, based upon the facts contained in the report, or upon any information within its possession or that shall come into its possession.

(b) Promptly after the date of any such determination, the department shall send, by registered mail, a copy thereof to such manufacturer. Within ninety (90) days after the date upon which the copy of any such determination was mailed, such manufacturer may file with the department a petition for redetermination of such tax. Every petition for redetermination shall state specifically the reasons which the petitioner believes entitle him to such redetermination, and shall be supported by affidavit that it is not made for the purpose of delay, and that the facts therein set forth are true. It shall be the duty of the department, within six (6) months after the date of any determination, to dispose of any petition for redetermination. Notice of the action taken upon any petition for redetermination shall be given to the petitioner promptly after the date of redetermination by the department.

Petition for redetermination

(c) Within sixty (60) days after the date of mailing of notice by the department of the action taken on any petition for redetermination filed with it, the manufacturer, against whom such determination was made, may, by petition, request the Board of Finance and Revenue to review such action. Every petition for review filed hereunder shall state specifically the reasons upon which the petitioner relies, or shall incorporate, by reference, the petition for redetermination in which such reasons shall have been stated. The petition shall be supported by affidavit that it is not made for the purpose of delay, and that the facts therein set forth are true. If the petitioner be a corporation, joint-stock association or limited partnership, the affidavit must be made by one of the principal officers thereof. A petition for review may be amended by the petitioner at any time prior to the hearing thereon as hereinafter provided. The Board of Finance and Revenue shall act finally in disposition of such petitions filed with it within six (6) months after they have been received, and in the event of the failure of said board to dispose of any such petition within six (6) months, the action taken by the department upon the petition for redetermination shall be deemed sustained. The Board of Finance and Revenue may sustain the action taken on the petition for redetermination, or it may redetermine the taxes due upon such basis as it shall deem according to law and equity. Notice of the action of the Board of Finance and Revenue shall be given, by mail or otherwise, to the department and to the petitioner.

Petition for review

(d) The Commonwealth of Pennsylvania or any person aggrieved by the decision of the Board of Finance and Revenue, or by the board's failure to act upon his petition for review within six (6) months, may, within sixty (60) days appeal to the court of common pleas of Dauphin County from the decision of the Board of Finance and Revenue, or from the decision of the department, as the case may be, in

Appeal

the manner now or hereafter provided by law for appeals in the case of tax settlement.

(e) If any manufacturer shall neglect or refuse to make any report and payment of taxes required by this act, the department shall estimate the tax due by such manufacturer, and determine the amount due by him for taxes, penalties, and interest thereon, as prescribed herein, from which determination there shall be no right of review or appeal.

Estimated tax

Section 6. Labels to Be Affixed to Containers by Manufacturers.—Every manufacturer shall affix, to each container in which distilled spirits, rectified spirits, or wines are placed for sale, a label, setting forth the name of the manufacturer, the place where, and, until January first, one thousand nine hundred and thirty-four, the date upon which the contents of such containers were produced, manufactured, distilled, rectified or compounded, and, unless such spirits or wines are tax exempt, the words "Pennsylvania Spirituous and Vinous Liquor Tax Paid." Such label shall be affixed in such manner that its removal shall require the continued application of steam or water.

Labels

Section 7. Spirituous and Vinous Liquor Tax Stamps; Penalties.—The payment of taxes herein provided to be paid by importers under the provisions of this act shall be evidenced by the affixing of "spirituous and vinous liquor tax stamps" to the containers in which all such beverages are intended for sale or use. Such stamps shall be affixed by importers to each individual container in which such beverages are intended for sale or use before such beverages are sold or used within this Commonwealth, unless a label has already been affixed to such container evidencing the payment of the floor tax imposed by Act No. 1, approved November 22, 1933.

Tax Stamps

Any importer who shall fail to affix to the containers of such beverages the stamp as required by this act shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine of not less than two hundred dollars (\$200) or more than one thousand dollars (\$1,000) and costs of prosecution, or to undergo imprisonment for a term of not less than six (6) months or more than three (3) years, or both, in the discretion of the court.

Penalty

Any importer who shall be convicted of a misdemeanor under this section shall, in addition to the punishment heretofore described, be adjudged to pay to the Commonwealth the taxes due, together with interest at the rate of one (1) per cent. per month, or fraction of a month, from the date when said taxes were due and payable. Such adjudication shall be certified to the prothonotary, and shall be indexed as and have the effect of a judgment for the amount of such tax and interest.

Additional penalty

Section 8. Sale of Stamps and Reports by Importers.—The department shall prescribe, prepare, and furnish such stamps as it deems necessary for the payment of the taxes to be paid by importers under the provisions of this act. The de-

Sale of stamps

**Appointment
of agents**

partment shall make provisions for the sale of such stamps in such places and at such times as it may deem necessary.

**Agent's
commission**

The department may appoint persons, within or without the Commonwealth, as agents for the sale of stamps to be used in paying the taxes herein imposed; and whenever the department shall sell, consign, or deliver to any such agent any such stamps for sale or use, the agent shall be entitled to receive as compensation for his services and expenses as such agent, and to retain out of the moneys to be paid by him for such stamps, a commission of one-half of one per cent. of the face value thereof. The department is hereby authorized and required to allow such commission or compensation in the settlements of the accounts of such agent upon payment by him into the State Treasury, through the department, of any moneys which may be or become due to the Commonwealth by reason of the sale, delivery, or consignment to such agent of such stamps.

**Monthly
reports**

For the purpose of verifying the stamp requirements of this act, it shall be the duty of every importer, on or before the tenth day of each month, to transmit to the department, on forms prepared and supplied by the department, a report, under oath or affirmation, of all spirituous and vinous liquors imported and sold or used by the importer in this Commonwealth, and such other information as the department shall prescribe.

**Manner of
Affixing
Stamps**

Section 9. Manner of Affixing Stamps.—Stamps shall be affixed in such manner that their removal shall require continued application of steam or water.

**Purchase and
use of stamps
by foreign
vendors**

Section 10. Purchase and Use of Stamps by Foreign Vendors.—Producers or other vendors of distilled spirits, rectified spirits, and wines from without this Commonwealth may purchase stamps from the department and affix them, in the manner prescribed by the department, to original containers in which such beverages are to be sold in this Commonwealth, in which case the recipient of such beverages within this Commonwealth shall not be required to purchase and affix stamps thereon or pay the taxes herein imposed upon the privilege of selling or using such beverages within this Commonwealth.

**Counter-
feiting**

Section 11. Counterfeiting of Stamps; Penalty.—Any person who falsely or fraudulently makes, forges, or alters or counterfeits any stamp prescribed by the department under the provisions of this act, or causes or procures to be falsely or fraudulently made, forged, altered or counterfeited any such stamp, or knowingly and wilfully utters, publishes, passes or tenders as true any such false, altered, forged or counterfeited stamp, or uses more than once any stamp provided for and required by this act, for the purpose of evading the tax hereby imposed and assessed, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to undergo imprisonment for a term of not less than two (2) years or more than five (5) years.

Penalty

Section 12. Examination of Records, Equipment and Stock.—The department, or any agent appointed by it, is hereby authorized, at any time, to examine the books, papers, invoices, other records and manufacturing equipment pertaining to, and stock of, distilled spirits, rectified spirits, and wines in and upon any premises where the same are placed, stored or sold, either by manufacturers or importers or any other person, to verify the accuracy of any report required to be made by this act or payment of, or liability for, the taxes imposed by this act. Any person in possession of such beverages is hereby directed and required to give the Secretary of Revenue, or his duly authorized representative, the means, facilities and opportunity for such examinations.

Examination by Department agents

The department is hereby authorized to furnish any information obtained by it in the exercise of its duties under the provisions of this act, concerning distilled spirits, rectified spirits, and wines manufactured in or imported into this Commonwealth, to the proper authorities of this or of any other state, territory, or the United States, and to obtain similar information from the proper authorities of any other state, territory, or the United States.

Furnishing information to other authorities

Section 13. Acceptance of Beverages Not Bearing the Labels or Stamps Required by This Act.—It shall be unlawful for any retail dealer, consumer, or any person, other than an importer, to accept delivery of distilled spirits, rectified spirits, or wines in containers upon which the labels required to be affixed by manufacturers, or the stamps required to be affixed by importers, under the provisions of this act or of Act number one, approved November twenty-two, one thousand nine hundred thirty-three, do not appear, and, upon conviction thereof in a summary proceeding before a magistrate, alderman, or justice of the peace, he shall be fined twenty-five dollars (\$25), and, in default of payment thereof, shall undergo imprisonment for not more than ten (10) days.

Acceptance of Untaxed Beverage

Penalty

Section 14. Uncollectible Checks.—Whenever any check, issued in payment of tax, penalty, or interest imposed by this act, shall be returned to the department as uncollectible, the department shall charge a fee of five dollars (\$5) per one hundred dollars (\$100), or fractional part thereof, plus all protest fees, to the person presenting such check to the department.

Uncollectible checks

Section 15. Retention of Records by Manufacturers and Importers.—Each manufacturer and importer shall maintain and keep, for such period as may be required by the department, such record or records of distilled spirits, rectified spirits, and wines produced, manufactured, distilled, rectified or compounded in or imported into this Commonwealth by him, together with invoices, bills of lading, and other pertinent papers, as may be required by the department.

Retention of records

Any person violating any of the provisions of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine of one thousand dollars

Penalty

(\$1,000), and costs of prosecution, or to undergo imprisonment for not more than one year, or both, in the discretion of the court.

Violations

Section 16. Violations.—(a) Any person who shall fail, neglect, or refuse to make the report and pay the taxes, penalties, and interest imposed by this act, or who shall refuse to permit the department, or any agent appointed by it in writing, to examine his books, records, invoices, other papers and manufacturing equipment pertaining to, and stock of, distilled spirits, rectified spirits, and wines within this Commonwealth, or who shall make any incomplete, false or fraudulent report, or who shall attempt to do anything whatsoever to avoid a full disclosure of the amount of distilled spirits, rectified spirits, and wines by which the taxes under this act are measured, or to avoid the payment of the whole or any part of the taxes, penalties, and interest due, shall be guilty of a misdemeanor, and shall, upon conviction thereof, be sentenced to pay a fine not exceeding one thousand dollars (\$1,000), and costs of prosecution, and to undergo imprisonment for not less than six (6) months or more than three (3) years. Such fine shall be in addition to any penalty imposed by any other section or subsection of this act.

False report

(b) Any person who shall falsely label any container in which distilled spirits, rectified spirits, or wines are placed for sale, or use a false or fictitious name or give a false or fictitious address in any application or form required under the provisions of this act or otherwise commit a fraud in any application, record or report, shall be guilty of a misdemeanor, and shall, upon conviction thereof, be sentenced to pay a fine of not less than five hundred dollars (\$500) or more than one thousand dollars (\$1,000), and costs of prosecution, or undergo imprisonment for not less than six (6) months or more than three (3) years, or both, in the discretion of the court. Such fine shall be in addition to any penalty imposed by any other section or subsection of this act.

**P.L.C.B.
license**

(c) Upon the conviction of any person of any of the misdemeanors described in this section, the Pennsylvania Liquor Control Board, at the request of the department, may revoke any permit issued by it to such person.

Enforcement

Section 17. Enforcement.—The department is hereby charged with the enforcement of the provisions of this act, and is hereby authorized and empowered to prescribe, adopt, promulgate, and enforce rules and regulations relating to any matter or thing pertaining to the administration and enforcement of the provisions of this act, and the collection of taxes, penalties, and interest imposed by this act.

**Disposition
of monies**

Section 18. Disposition of Tax, Fees, Fines and Interest.—All taxes, fines, penalties and interest, received, collected or accruing under the provisions of this act, shall be paid into the General Fund of the State Treasury by and through the department.

Section 19. (*As amended by Act 17 of December 22, 1933, P. L. 91 (1933-34)*) **Exemption from Tax.**—No taxes shall be imposed or collected under the provisions of this act upon the privilege of producing, selling, or using such distilled spirits, rectified spirits, and wines as are sold to, or sold or used, by the Commonwealth, or are sold to the United States, or any governmental agency thereof, or for the use of any university or college of learning, any laboratory for use exclusively in scientific research, or any hospital, sanatorium, or eleemosynary dispensary.

**Exemption
from tax**

Section 20. Other Exemptions.—No tax shall be imposed under the provisions of this act upon the privilege of manufacturing or selling any wine for, to, or by the holder of a sacramental wine permit; or upon the privilege of manufacturing or selling any distilled spirits, rectified spirits, or wines for or to pharmacists, duly licensed and registered under the laws of this Commonwealth, or manufacturing pharmacists or chemists or other persons for use in the manufacture or compounding of preparations unfit for beverage purposes; or upon the privilege of manufacturing, importing, storing or using alcohol in the manufacture or production of denatured alcohol in accordance with the laws of the Congress of the United States and regulations issued pursuant thereto.

**Other
exemptions**

Section 21. Refunds and Exemptions; Appropriation.—(a) Upon application to the Board of Finance and Revenue, the board shall refund to any manufacturer who has paid the tax imposed by this act on the privilege of producing, manufacturing, distilling, rectifying or compounding distilled spirits, rectified spirits, or wines shipped to dealers outside of this state the difference between the tax paid and the tax which would have been payable, at the lowest rate of tax, upon the same privilege imposed by any other state or insular possession of the United States which is in substantial competition with this State in the production, manufacture, distilling, rectifying or compounding of distilled spirits, rectified spirits, or wines of the kind, for the privilege of producing or manufacturing which, the applicant paid the tax; and if any such state or insular possession imposes no tax upon such privilege when the product is shipped out of the state or possession, then the board shall refund to the applicant the entire tax paid.

**Refunds and
exemptions**

(b) Any producer, manufacturer, distiller, rectifier or compounder of distilled spirits, rectified spirits, or wines may, at any time, file with the board a petition, setting forth the same facts which would be necessary to sustain a claim for refund under clause (a) hereof, and requesting the board to certify its findings to the department. If the board shall find that any state is in competition, as alleged in the petition, it shall immediately certify its finding to the department, together with such facts as are pertinent, and thereafter the department shall permit exemptions, equal in amount to the refunds which would be payable under the preceding clause,

Reciprocal tax

Petition

until such time as new information indicates that a change has occurred in the facts presented to the Board of Finance and Revenue. As new facts are from time to time certified to the department by the Board of Finance and Revenue, the department shall modify or cancel the exemptions theretofore allowed.

Appropriation

(c) As much of the revenue accruing from this act as is necessary is hereby appropriated to the Board of Finance and Revenue for the payment of the refunds authorized by clause (a) hereof.

Mandamus proceeding

(d) Upon the refusal of the board to grant refunds, or certify findings and facts to the department, any person aggrieved thereby may institute mandamus proceedings in the court of common pleas of Dauphin County.

Constitutionality

Section 22. Constitutional Construction.—The provisions of this act are severable, and if any of its provisions shall be held to be unconstitutional, the decision of the court shall not affect or impair any of the remaining provisions of this act. It is hereby declared to be the legislative intent that this act would have been adopted had such unconstitutional provisions not been included herein.

Effective date and period

Section 23. (As amended by Act 17 of December 22, 1933, P. L. 91 (1933-34)) Effective Date and Effective Period.—This act shall become effective the day after the day the Twenty-first Amendment to the Constitution of the United States is ratified by conventions in at least three-fourths of the several states.

This act shall cease to be effective upon the effective date of any act of Congress providing for participation by the states, or by those states which do not tax distilled spirits, in the proceeds of the tax imposed and collected by the United States upon distilled spirits.

5. MALT BEVERAGE TAX LAW

(Act 104 of May 5, 1933, P. L. 284; amended by Act 222 of July 9, 1935, P. L. 628; amended by Act 119 of April 29, 1937, P. L. 527; amended by Act 184 of July 24, 1941, P. L. 477; amended by Act 101 of May 14, 1947, P. L. 247; amended by Act 345 of June 21, 1947, P. L. 801; amended by Act 430 of May 18, 1949, P. L. 1459; amended by Act 113 of May 29, 1951, P. L. 481; amended by Act 51 of June 2, 1965, P. L. 64)

AN ACT

Imposing a State tax, payable by those herein defined as manufacturers and by others, on malt or brewed beverages used, sold, transported, or delivered within the Commonwealth; prescribing the method and manner of evidencing the payment and collection of such tax; conferring powers and imposing duties on the Department of Revenue, and those using or engaged in the sale, at retail or wholesale, or in the transportation of malt or brewed beverages taxable hereunder; and providing penalties.

Section 1. Be it enacted, &c., That this act shall be known, and may be cited, as the "Malt Beverage Tax Law."

Section 2. (*As amended by Act 51 of June 2, 1965, P. L. 64*) The following words, terms, and phrases, when used in this act, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

"Malt or Brewed Beverages." Alcoholic beverages, which include beer, lager beer, ale, porter, or similar fermented malt liquor, containing one-half of one per centum or more of alcohol, by whatever name such liquors may be called.

"Department." Department of Revenue of this Commonwealth.

"Distributor." A person engaged in the purchase and resale of malt or brewed beverages in the original sealed packages as prepared for market by the manufacturer, including any who or which—

1. Imports or causes to be imported from any other state or territory of the United States, or from any foreign country, malt or brewed beverages for his own use in the Commonwealth of Pennsylvania, or for sale and delivery in and after reaching the Commonwealth.

2. Imports or causes to be imported from any other state or territory of the United States, or from any foreign country, malt or brewed beverages for his own use in the Commonwealth of Pennsylvania, or for sale or delivery therein, after the same have come to rest or storage therein, in the original package, receptacle, or container.

3. Purchases or receives malt or brewed beverages in the original package, receptacle, or container in the Commonwealth of Pennsylvania for his own use, or for sale and delivery therein, from any person who has imported the same from a foreign country.

4. Purchases or receives malt or brewed beverages in the original package, receptacle, or container in the Commonwealth of Pennsylvania for his own use therein, or for sale and delivery therein, from any person who has imported the same from any other state or territory of the United States, in case such malt or brewed beverages have not, prior to such purchase or receipt, come to rest or storage in the Commonwealth of Pennsylvania.

“Manufacturer.” A person engaged in the brewing or manufacturing of malt or brewed beverages for sale, and for the purposes of posting bond and payment of taxes required under the provisions of this act, shall include importing agents for foreign manufacturers.

“Original Container.” Bottle, cask, keg, or other container that has been securely capped, sealed, or corked by the manufacturer, with the name and address of the manufacturer permanently affixed to the bottle, cask, keg, or other container, or to the cap or cork used in sealing the same, or to a label securely affixed to a bottle.

“Person.” An individual or an unincorporated association, including a partnership, a limited partnership, or any other form of unincorporated enterprise owned by two or more individuals, or a corporation. Whenever used in any clause prescribing and imposing a fine or imprisonment, or both, the term “person,” as applied to a partnership, limited partnership, or any other form of unincorporated enterprise, shall mean the partners or members thereof, and, as applied to corporations, the officers thereof.

“Retail Dealer.” A person engaged in the retail sale of malt or brewed beverages either for consumption on the premises or not for consumption on the premises where sold.

“Sale.” Any transfer for a consideration, exchange, barter, gift, offer for sale, and distribution, in any manner or by any means whatsoever.

The singular shall include the plural, and the masculine shall include the feminine and the neuter.

Section 3. (*As amended by Act 119 of April 29, 1937, P. L. 527; Act 184 of July 24, 1941, P. L. 477; Act 101 of May 14, 1947, P. L. 247; Act 430 of May 18, 1949, P. L. 1459; Act 113 of May 29, 1951, P. L. 481 and Act 51 of June 2, 1965, P. L. 64*) (a) Each manufacturer shall be subject to pay to the Commonwealth the taxes imposed by this section upon all malt or brewed beverages manufactured and sold by him in this Commonwealth for use in this Commonwealth or manufactured by him outside this Commonwealth and sold to an importing distributor or any person for importation into, and use in, this Commonwealth. Every person who ships or transports malt or brewed beverages into this Commonwealth for sale, delivery or storage in this Commonwealth shall pay to the Commonwealth the taxes imposed in this section. Such taxes, payable in the manner

prescribed in subsections (a) and (b) of section 4 of this act, shall be at the rate of two third cent ($2\frac{1}{3}\text{¢}$) per half pint of eight (8) fluid ounces or fraction thereof, and in larger quantities at the rate of one cent (1¢) per pint of sixteen (16) fluid ounces or fraction thereof.

The tax rates per original container or standard fraction thereof are as follows:

<i>Standard Fraction</i>	<i>Malt Beverage Tax Rate</i>	<i>Volume</i>
1 barrel	\$2.48	31 gal.
1/2 barrel	1.24	15 1/2 gal.
1/3 barrel	.84	10 1/3 gal.
1/4 barrel	.62	7 3/4 gal.
1/6 barrel	.42	5 1/6 gal.
1/8 barrel	.32	3 7/8 gal.
1 gallon	.08	
1/2 gallon	.04	
1 quart	.02	
1 pint	.01	
1/2 pint	.0066	

(a.1) If the tax shall not be paid when due, there shall be added to the amount of the tax as a penalty a sum equivalent to ten per cent (10%) thereof, and in addition thereto interest on the tax and penalty at the rate of one per cent (1%) per month or fraction of a month from the date the tax became due until paid. Nothing herein contained shall be construed to relieve any person otherwise liable from liability for payment of the tax.

(b) In the event that any state, territory or country shall impose upon malt or brewed beverages, which have been manufactured in Pennsylvania, a higher tax or fee than is imposed upon malt or brewed beverages manufactured within such state, territory or country, every manufacturer whose malt or brewed beverages manufactured within such state, territory or country are sold to an importing distributor or any person for importation into, and use in, this Commonwealth shall, as to such beverages, pay thereon to this Commonwealth, in addition to the tax imposed by this section, a tax equal to such excess tax or fee which is imposed in such state, territory or country on Pennsylvania manufactured malt or brewed beverages. Such additional tax shall be levied, assessed, and collected in the same manner as the other taxes imposed by this act.

(c) Manufacturers whose malt or brewed beverages are sold in this Commonwealth or are sold to importing distributors or any person for importation into and use in this Commonwealth shall be liable to the Commonwealth as taxpayers for the payment of the taxes imposed by this act.

Malt Beverage Tax Law

Section 4. (*As amended by Act 119 of April 29, 1937, P. L. 527; Act 345 of June 21, 1947, P. L. 801; and Act 51 of June 2, 1965, P. L. 64*) (a) Each manufacturer whose malt or brewed beverages are sold in or imported into this Commonwealth shall, on or before the fifteenth day of each month, file with the department, on forms prescribed by it, a verified report showing for the preceding calendar month the quantities of such malt and brewed beverages:

(1) Manufactured by him in this Commonwealth, and constituting his beginning and ending inventory in this Commonwealth for the month;

(2) Sold by him in this Commonwealth for use in this Commonwealth or sold to an importing distributor or any person for importation into, and use in, this Commonwealth, specifically naming the distributors to whom such sales were made and the quantity sold to each;

(3) Sold to purchasers or persons outside this Commonwealth for exportation from, and use outside, this Commonwealth, or sold in other tax exempt transactions, naming the purchasers and the quantity sold to each and specifically indicating those sales or transactions to which the tax imposed by this act is not applicable;

(4) Such additional information as the department may reasonably require to assure the accuracy of the tax computation and payment and the proper administration of this act.

The tax payable on all malt or brewed beverages first sold in this Commonwealth for use in this Commonwealth or first sold to an importing distributor or any person for importation into, and use in, this Commonwealth during such month in the amount disclosed by the report shall accompany the report and be paid by the manufacturer to the department.

(b) Persons licensed as "Public Service Licensees," under the provisions of any law of this Commonwealth relating to the sale of malt or brewed beverages, shall keep such records of the sales of such malt or brewed beverages in this Commonwealth as the Department of Revenue shall prescribe; shall, on or before the fifteenth day of each month, submit monthly reports of such sales and of such other information as the department may require to the Department of Revenue upon a form prescribed therefor by said department, and shall pay the tax due on all such sales at the rate provided by the provisions of this Act at the time such reports are filed.

It is the intent and purpose of this section to require all manufacturers and other persons whose malt or brewed beverages are sold or used in this Commonwealth to pay the tax on all such malt or brewed beverages in the month following that in which such beverages are first sold in this Commonwealth for use in this Commonwealth or first sold to an importing distributor or any person for importation into and use in this Commonwealth, except that as to malt or brewed beverages sold to public service licensees, the

Malt Beverage Tax Law**261**

public service licensees, and not the manufacturer, shall report and pay the tax on all malt or brewed beverages sold by them within the Commonwealth.

(c) (*Repealed by Act 51 of June 2, 1965, P. L. 64*)

(d) If any person shall fail to pay any tax imposed by this act for which he is liable, the department is hereby authorized and empowered to make an assessment of additional tax due by such person, based upon any information within its possession, or that shall come into its possession.

(e) Promptly after the date of such assessment, the department shall send by registered mail a copy thereof to the person against whom it was made. Within ninety (90) days after the date upon which the copy of any such assessment was mailed, such person may file with the department a petition for reassessment of such taxes. Every petition for reassessment shall state specifically the reasons which the petitioner believes entitle him to such reassessment, and it shall be supported by affidavit that it is not made for the purpose of delay, and that the facts set forth therein are true. It shall be the duty of the department, within six (6) months after the date of any assessment, to dispose of any petition for reassessment. Notice of the action taken upon any petition for reassessment shall be given to the petitioner promptly after the date of reassessment by the department.

(f) Within sixty (60) days after the date of mailing of notice by the department of the action taken on any petition for reassessment filed with it, the person against whom such assessment was made, may, by petition, request the Board of Finance and Revenue to review such action. Every petition for review filed hereunder shall state specifically the reason upon which the petitioner relies, or shall incorporate by reference the petition for reassessment in which such reasons shall have been stated. The petition shall be supported by affidavit that it is not made for the purpose of delay, and that the facts therein set forth are true. If the petitioner be a corporation, joint-stock association, or limited partnership the affidavit must be made by one of the principal officers thereof. A petition for review may be amended by the petitioner at any time prior to the hearing thereon, as hereinafter provided. The Board of Finance and Revenue shall act finally in disposition of such petitions filed with it within six (6) months after they have been received, and in the event of the failure of said board to dispose of any such petition within six (6) months, the action taken by the department upon the petition for reassessment shall be deemed sustained. The Board of Finance and Revenue may sustain the action taken on the petition for reassessment, or it may reassess the tax due upon such basis as it shall deem according to law and equity. Notice of the action of the Board of Finance and Revenue shall be given by mail, or otherwise, to the department and to the petitioner.

Malt Beverage Tax Law

(g) The Commonwealth of Pennsylvania or any person aggrieved by the decision of the Board of Finance and Revenue or by the board's failure to act upon his petition for review within six (6) months may, within sixty (60) days, appeal to the Court of Common Pleas of Dauphin County from the decision of the Board of Finance and Revenue or from the decision of the department, as the case may be, in the manner now or hereafter provided by law for appeals in the case of tax settlement.

(h) In all cases of petitions for reassessment, review or appeal the burden of proof shall be upon the petitioner or appellant, as the case may be.

(i) Whenever any assessment of additional tax is not paid within ninety (90) days after the date thereof, if no petition for reassessment has been filed, or within sixty (60) days from the date of reassessment, if no petition for review has been filed, or within sixty (60) days from the date of the decision of the Board of Finance and Revenue upon petition for review, or the expiration of the board's time for acting upon such petition, if no appeal has been made, and in all cases of judicial sales, receiverships, assignments or bankruptcies, the department may call upon the Department of Justice to collect such assessment. In such event, in a proceeding for the collection of such taxes, the person against whom they were assessed shall not be permitted to set up any ground of defense that might have been determined by the department, the Board of Finance and Revenue or by the courts as aforesaid. The department may also certify to the Liquor Control Board, for such action as the board may deem proper, the fact that any person has failed to pay or duly appeal from such assessment of additional tax. The department may also provide, adopt, promulgate, and enforce such rules and regulations, as may be appropriate, to prevent further shipment or transportation of malt or brewed beverages into this Commonwealth by any person against whom such unpaid assessment shall have been made.

Section 4.1. (As added by Act 51 of June 2, 1965, P. L.

64)

(a) No malt or brewed beverages shall be sold in or imported into Pennsylvania until and unless the manufacturer of such malt or brewed beverages has on file with the department and in full force and effect an approved bond, duly executed, payable to the Commonwealth of Pennsylvania, together with a warrant of attorney to confess judgment in a sum equal to the amount of his highest two month average tax liability during the last year prior to the time of giving bond, but in no event less than five thousand dollars (\$5,000.00). All such bonds shall be conditioned upon the payment of the tax imposed by this act, and shall have as surety a duly authorized surety company, or shall have deposited therewith, as collateral security, cash or negotiable obligations of the United States of America or the Commonwealth of Pennsylvania in the same amount as herein provided for the penal sum of such bonds.

(b) In all cases where cash or securities in lieu of other surety have been deposited with the department, the depositor shall be permitted to continue the same deposit from year to year, but in no event shall he be permitted to withdraw his deposit during the time he holds a license, or until six months after the expiration of the license, if any, held by him, or while revocation proceedings are pending against such licensee, or while forfeiture proceedings are pending against the depositor's bond.

(c) All cash or securities received by the department in lieu of other surety shall be turned over by the department to the State Treasurer and held by him. The State Treasurer shall repay or return money or securities deposited with him to the respective depositors only on the order of the department.

(d) After notice from the department that such a bond has been forfeited, the State Treasurer shall immediately pay into the General Fund all cash deposited as collateral with such bond, and when securities have been deposited with such a bond, the State Treasurer shall sell at private sale, at not less than the prevailing market price, any such securities so deposited as collateral with any such forfeited bond. The State Treasurer shall thereafter deposit in the General Fund the net amount realized from the sale of such securities, except that if the amount so realized, after deducting proper costs and expenses, is in excess of the penal amount of the bond, such excess shall be paid over by him to the obligor on such forfeited bond.

(e) Every such bond shall be turned over to the Department of Justice to be collected if and when the depositor shall have been held liable for the unlawful nonpayment of taxes imposed by this act.

Section 5. (*Repealed by Act 51 of June 2, 1965, P. L. 64*)

Section 6. (*Repealed by Act 51 of June 2, 1965, P. L. 64*)

Section 1. (*As amended by Act 51 of June 2, 1965, P. L. 64*) (a) For the purpose of verifying the tax payments required by this act, it shall be the duty of every transporter for hire, bailee for hire, warehouseman, distributor, and retail licensee, on or before the fifteenth day of the succeeding month, to transmit to the department, on forms supplied by the department, a report, under oath or affirmation, of malt or brewed beverages which were imported and came to rest or storage, at his place of business in this Commonwealth during the preceding month, or which were transported from a point outside the Commonwealth to a point within the Commonwealth. Such report shall show the number of barrels, or standard fraction thereof, imported, transported, or stored during the period for which it is made,

Malt Beverage Tax Law

and such further information as the department shall prescribe.

(b) Each manufacturer, transporter for hire, bailee for hire, warehouseman, distributor, and retail licensee shall maintain and keep, for a period of two (2) years, such record or records of malt or brewed beverages manufactured, sold by a manufacturer or distributor, transported from a point outside of the Commonwealth to a point within the Commonwealth, imported, or substantiating the other information required on his report, together with invoices, bills of lading, and other pertinent papers, as may be required by the department.

Section 8. The department, or any agent appointed in writing by it, is hereby authorized to examine the books, papers, invoices, and other records, and the stock of malt or brewed beverages in and upon any premises where the same are placed, stored or sold, and in or on any car, vessel, truck, vehicle, or other means of transportation, to verify the payment of or liability for the tax imposed by this act. Any person in possession of such malt or brewed beverages is hereby directed and required to give the Secretary of Revenue, or his duly authorized representative, the means, facilities, and opportunities for such examination. The department, or any of its duly authorized agents, is hereby authorized to confiscate any malt or brewed beverages stored, sold, or transported in violation of the provisions hereof.

Section 9. (*Repealed by Act 51 of June 2, 1965, P. L. 64*)

Section 10. (*As amended by Act 119 of April 29, 1937, P. L. 527; Act 184 of July 24, 1941, P. L. 477; and Act 51 of June 2, 1965, P. L. 64*) (a) In case any malt or brewed beverages upon which the tax has been paid by a manufacturer have been sold or shipped by him to a licensed or regular dealer in such malt or brewed beverages in another state, such manufacturer in this Commonwealth shall be entitled to a refund of the actual amount of tax paid by him, upon condition that the seller in this Commonwealth shall make affidavit that the malt or brewed beverages were so sold and shipped, and that he shall furnish from the purchaser an affidavit, or in cases where the total purchase price is five dollars (\$5.00) or less, a written certificate in lieu of an affidavit from the purchaser, or, upon satisfactory proof that such affidavit or certificate cannot be obtained, other evidence satisfactory to the department that he has received such malt or brewed beverages for sale or consumption outside the Commonwealth, together with the name and address of the purchaser.

(b) In case any malt or brewed beverages upon which the tax has been paid by a manufacturer have been sold to commissaries, ship's stores or voluntary unincorporated organizations of the armed forces personnel operating under regu-

lations promulgated by the Secretary of Defense, such manufacturer shall be entitled to a refund of the actual amount of tax paid by him, upon condition that he shall make affidavit and furnish proof that the malt or brewed beverages were so sold.

(c) In case any malt or brewed beverages upon which the tax has been paid by an out of State manufacturer and subsequently sold by an importing distributor to commissaries, ship's stores or voluntary unincorporated organizations of the armed forces personnel operating under regulations promulgated by the Secretary of Defense, such manufacturer shall be entitled to a refund of the actual amount of tax paid by him upon condition that he shall make affidavit and furnish proof that the malt or brewed beverages were so sold.

(d) In case any malt or brewed beverages, upon which the tax has been paid by a manufacturer shall be rendered unsaleable by reason of damage or destruction, such manufacturer shall be entitled to a refund of the actual amount of tax paid by him, upon condition that he shall make affidavit and furnish proof satisfactory to the department that the malt beverages were so damaged or destroyed.

(e) In case any malt or brewed beverages upon which the tax has been paid by a manufacturer have been sold and delivered to a public service licensee who is obligated to pay the tax thereon, such manufacturer shall be entitled to a refund of the actual amount of tax paid by him, upon condition that he shall make affidavit and furnish proof satisfactory to the department of such facts.

In each of the above cases the department shall, with the approval of the Board of Finance and Revenue, pay or issue to the manufacturer credits of sufficient value to cover the refund. Such credits may be used by the manufacturer for the payment of any taxes due by him to the Commonwealth. The procedure for refund in any case shall be completed by the Department of Revenue and the Board of Finance and Revenue within sixty days after the proper affidavits have been filed with the department.

Section 11. (*As amended by Act 51 of June 2, 1965, P. L. 64*) The department shall promulgate rules and regulations to relieve manufacturers from paying the tax on such goods as are sold and shipped to points outside this Commonwealth, or as are sold in other tax exempt transactions.

Section 12. (*As amended by Act 119 of April 29, 1937, P. L. 527; and Act 51 of June 2, 1965, P. L. 64*) It shall be unlawful for any person to transport into the Commonwealth of Pennsylvania, taxable malt or brewed beverages in containers on which the tax is not paid or provisions for the payment thereof are not made pursuant to the provisions of this act. The transportation of malt or brewed beverages

in violation of this section shall be a misdemeanor, and, upon conviction thereof in a summary proceeding before a magistrate, alderman or justice of the peace, such person shall be fined ten dollars (\$10.00) for each container so transported, and, in default of payment thereof, shall undergo imprisonment for not more than five (5) days for each container so transported. Transportation into Pennsylvania of malt or brewed beverages in containers other than in the manner prescribed by the regulations of the department, shall be *prima facie* evidence of violation of this section.

Section 13. Any person who shall fail, neglect, or refuse to comply with or shall violate any provision of this act, for which violation no specific penalty is provided, or any of the rules and regulations, prescribed, adopted, and promulgated by the department under the provisions of this act, or who shall refuse to permit the department, or any agent appointed by it in writing, to examine his books, papers, invoices, and other records, his stock of malt or brewed beverages in and upon any premises where the same are prepared, stored, and sold, in or on any car, vessel, truck, vehicle, or other means of transportation, and his equipment pertaining to the manufacture, transportation, storage, or sale of malt or brewed beverages taxable under this act, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine of not less than one hundred dollars (\$100.00) or more than five hundred dollars (\$500.00), or to suffer imprisonment of not more than six (6) months, or both, in the discretion of the court.

Section 14. (*Repealed by Act 51 of June 2, 1965, P. L. 64*)

Section 15. The department is hereby charged with the enforcement of the provisions of this act, and is hereby authorized and empowered to prescribe, adopt, promulgate, and enforce rules and regulations relating to any matter or thing pertaining to the administration and enforcement of the provisions of this act and the collection of taxes, penalties, and interest imposed by this act.

The department is hereby authorized and directed to prescribe, adopt, promulgate, and enforce rules and regulations relating to the transportation of malt or brewed beverages through the Commonwealth and from points outside of the Commonwealth to points within the Commonwealth, and to prescribe, adopt, promulgate, and enforce rules and regulations reciprocal to those of, or laws of, any other state or territory affecting the transportation of malt or brewed beverages manufactured in Pennsylvania.

Section 16. All taxes, fines, penalties, and interest received, collected, or accruing under the provisions of this act, shall be paid into the general fund of the State Treasury by and through the department.

Section 17. The provisions of this act are severable, and, if any of its provisions shall be held to be unconstitutional, the decision of the court shall not affect or impair any of the remaining provisions of this act. It is hereby declared to be the legislative intent that this act would have been adopted had such unconstitutional provisions not been included herein.

The following sections of amending Act 51 of June 2, 1965, P. L. 64, provide:

Section 13. Nothing in this act shall be construed or deemed to require the payment of the tax imposed by this act more than once upon any malt or brewed beverage imported into, or sold, delivered or stored in this Commonwealth; and such tax shall not be assessed or collected more than once on any such malt or brewed beverages.

Section 14. The purchase and affixation of malt and brewed beverages tax stamps and crowns shall not be required hereafter in this Commonwealth, and all requirements pertaining to the purchase and affixation of malt and brewed beverages tax stamps and crowns are hereby abolished.

Section 15. Each manufacturer may take credit on his monthly report for the full amount of the tax paid by the affixation, before the effective date of this act, of stamps, crowns or lids to the original container of malt or brewed beverages included in the taxable transactions covered by his report. The department shall allow the manufacturer a credit on his report or a refund in the amount of the tax paid for (1) tax stamps returned unused to the department within sixty days after the effective date of this act, and (2) tax crowns or lids as to which the manufacturer has submitted satisfactory proof to the department, within sixty days after the effective date of this act, that the crowns and lids were in his possession as unused inventory on the effective date of this act. For the purpose of offsetting the temporary reduction in revenue occasioned by the transition from the prepayment of tax stamps, crowns and lids to the reporting method, each manufacturer who files a bond under the provisions of subsection (a) of section 4.1 of this act shall, within six months after the effective date of this act, prepay on account of future tax liability to the department an amount in cash or its equivalent equal to such manufacturer's highest two months' tax liability for tax stamps and crowns or lids during the twelve month period ending July 31, 1965. The manufacturer may apply on account of such prepayment so much of the tax heretofore paid for stamps and crowns or lids for which he is entitled to a refund or credit. The amount so prepaid shall thereafter be credited to the manufacturer's tax liability at the rate of three per cent (3%) per month until depleted, AS PROVIDED BY REGULATION OF THE DEPARTMENT OF REVENUE. The manufacturer shall, after determina-

Malt Beverage Tax Law

tion of the amount of refund or credit due him for his crown and lid inventory on the effective date of this act, thereafter be permitted to use crowns or lids constituting that inventory on his malt and brewed beverages solely as proprietary crowns, or lids, without such use indicating payment of the tax.

Section 16. (a) Clause (10) of section 492, act of April 12, 1951 (P. L. 90), known as the "Liquor Code," is repealed in so far as it requires tax stamps or crowns to be affixed to containers in which malt or brewed beverages are transported.

(b) All other acts and parts of acts are repealed in so far as they are inconsistent herewith.

Section 17. This act shall take effect July 1, 1965.

6. EMERGENCY TAX LAW

(Act 4 of June 9, 1936, P.L. 13; as last amended and re-enacted by Act 112 of May 29, 1951, P.L. 479; as amended by Act 68 of June 6, 1963, P.L. 100 and Act 413 of January 1, 1968, P.L.)

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.

Section 1. Be it enacted, &c., That the following words, terms, and phrases used in this act are, for the purposes hereof, defined, as follows:

“**Liquor.**” Any alcoholic, spirituous, vinous, fermented, or other alcoholic beverage, or combination of liquors and mixed liquor, a part of which is spirituous, vinous, fermented, or otherwise alcoholic, and all drinks or drinkable liquids, preparations or mixtures intended for beverage purposes, which contain more than one-half of one per centum of alcohol by volume, except alcohol, and malt or brewed beverages.

Liquor

“**Department.**” The Department of Revenue of this Commonwealth.

Department

“**Board.**” The Pennsylvania Liquor Control Board of this Commonwealth.

Board

“**Fiscal Month.**” The monthly period established, from time to time, by the Pennsylvania Liquor Control Board for the purpose of conducting its business.

Fiscal Month

Section 2. (*As amended by Act 413 of January 1, 1968, P.L.*) An emergency State tax is hereby imposed and assessed at the rate of eighteen per centum of the net price of all liquors sold by the Board. The tax herein imposed shall be collected by the Board from the purchasers of the liquor from the Board. The amount of such eighteen percentum so collected by the Board, under the provisions of this act, shall be paid into the State Treasury, through the department, in the manner and within the times herein specified, and shall be credited to the General Fund.

Rate of Tax

Section 3. (*As amended by Act 413 of January 1, 1968, P.L.*) It shall be the duty of the Board to transmit to the department on, or before, the fifteenth day of each calendar month, a statement of its receipts from sales of liquor and taxes collected during the preceding fiscal month, and such other information as may be necessary to effectuate the provisions of this act, at which time it

Board to transmit monthly statements to department

Emergency Tax Law***Alternate
method of
computing
tax***

shall be the duty of the Board to pay to the department the tax imposed upon such liquor by the provisions of this act: Provided, That the Board may, in its discretion, add the tax imposed by this act to the wholesale and retail price at which liquors are sold and eliminate any accounting of such tax separate from sale prices, and in such case, the amount of the tax for any calendar month shall be ascertained by dividing the entire gross receipts derived from sales at Pennsylvania liquor stores during such month by six and five-ninths (6 5/9), and the quotient thus obtained shall be deemed the amount of the tax for such month payable over, under this section.

***Act effective
immediately***

Section 4. This act shall become effective immediately upon its final enactment.

NOTE:

Rate of tax was changed by Act 68 of June 6, 1963,
P.L. 100 - effective June 6, 1963.

Rate of tax was again changed by Act 413 of January 1, 1968, P.L. - effective January 1, 1968.

7. EXTRACTS FROM "THE PENAL CODE"

(Act 375 of June 24, 1939, P. L. 872)

Section 302. Conspiracy To Do Unlawful Act.—Any two or more persons who falsely and maliciously conspire and agree to cheat and defraud any person of his moneys, goods, chattels, or other property, or do any other dishonest, malicious, or unlawful act to the prejudice of another, are guilty of conspiracy, a misdemeanor, and on conviction, shall be sentenced to pay a fine not exceeding five hundred dollars (\$500), or to undergo imprisonment, by separate or solitary confinement at labor or by simple imprisonment, not exceeding two (2) years, or both.

* * *

Section 303. (As amended by Act 218 of July 31, 1963, P. L. 421) Bribery of Governmental Officers and Employes; Judges, Jurors, etc.—Whoever shall directly or indirectly, or by means of and through any artful and dishonest device whatever, give or make any promise, contract or agreement, for the payment, delivery, or alienation of any money, goods or other thing, in order to obtain or influence the vote, opinion, verdict, award, judgment, decree, or behavior of any member of the General Assembly, or any officer or employe of this Commonwealth, or of any political subdivision thereof, or any judge, juror, justice, referee or arbitrator, in any bill, action, suit, complaint, indictment, controversy, matter or thing whatsoever, depending or which shall depend before him or them, is guilty of bribery, a misdemeanor, and on conviction thereof, shall be sentenced to pay a fine not exceeding five hundred dollars (\$500), or to undergo imprisonment by separate or solitary confinement at labor not exceeding one (1) year, or both.

The member of assembly, or officer, or employe of the Commonwealth or of any political subdivision thereof, or any judge, juror, justice, referee, or arbitrator, who shall accept or receive, or agree to accept or receive such bribe, is guilty of receiving a bribe, a felony, and on conviction thereof, shall be sentenced to pay a fine not exceeding one thousand dollars (\$1,000), or to undergo imprisonment by separate or solitary confinement at labor not exceeding five (5) years, or both.

* * *

Section 304. Corrupt Solicitation.—Whoever, directly or indirectly, by offer or promise of money, office, appointment, employment, testimonial or other thing of value, or by threats or intimidation, endeavors to influence any member of the General Assembly, State, county, election, municipal or other public officer, in the discharge, performance, or nonperformance of any act, duty or obligation pertaining to such office, is guilty of corrupt solicitation, a misdemeanor, and on conviction thereof, shall be sentenced to pay a fine not exceeding

Penal Code (Extracts)

one thousand dollars (\$1,000), or to undergo imprisonment not exceeding two (2) years, or both.

* * *

Embracery

Section 308. Embracery.—Whoever attempts to corrupt or influence any juror, or any arbitrator appointed according to law, by endeavoring, either in conversation or by written communication, or by persuasion, promise or entreaty, or by any other private means, to bias the mind or judgment of the juror or arbitrator, as to any cause pending in the court to which such juror has been summoned, or in which such arbitrator has been appointed or chosen, except by the strength of evidence or the arguments of himself or his counsel during the trial or hearing of the case, is guilty of embracery, a misdemeanor, and on conviction, shall be sentenced to pay a fine not exceeding five hundred dollars (\$500), or undergo imprisonment not exceeding one (1) year, or both.

* * *

Obstructing Officer

Section 314. (As amended by Act 143 of May 21, 1943, P. L. 306 and Act 131 of July 11, 1963, P. L. 234) Obstructing an Officer in the Execution of Process or in the Performance of His Duties.—Whoever knowingly, wilfully and forcibly obstructs, resists or opposes any officer or other person duly authorized, in serving or attempting to serve or execute any legal process or order, or in making a lawful arrest without warrant, or assaults or beats any officer or person, duly authorized, in serving or executing any such legal process or order or for and because of having served or executed the same; or in making a lawful arrest without warrant; or rescues another in legal custody; or whoever being required by any officer, neglects or refuses to assist him in the execution of his office in any criminal case, or in the preservation of the peace, or in apprehending and securing any person for a breach of the peace, is guilty of a misdemeanor, and on conviction, shall be sentenced to imprisonment not exceeding one (1) year, or to pay a fine not exceeding five hundred dollars (\$500), or both.

* * *

Aggravated assault and battery on police officer

Section 314.1. (As added by Act 131 of July 11, 1963, P. L. 234) Committing an Aggravated Assault and Battery upon a Police Officer.—Whoever commits an aggravated assault and battery upon a police officer making or attempting to make a lawful arrest is guilty of a felony, and on conviction, shall be sentenced to pay a fine not exceeding two thousand dollars (\$2,000) or to undergo imprisonment not exceeding five (5) years, or both.

* * *

Extortion

Section 318. Extortion.—Whoever, being a public officer, wilfully and fraudulently receives or takes any reward or fee to execute and do his duty and office, except such as is or shall be allowed by some act of Assembly, or receives or

takes, by color of his office, any fee or reward whatever, not; or more than is, allowed by law, is guilty of extortion, a misdemeanor, and on conviction, shall be sentenced to pay a fine not exceeding five hundred dollars (\$500), or to undergo imprisonment not exceeding one (1) year, or both.

* * *

Section 319. Falsely Impersonating an Officer.—Whoever falsely represents himself to be or falsely assumes to act as a detective or any elective or appointive officer of the Commonwealth, or of any political subdivision thereof, is guilty of a misdemeanor, and upon conviction thereof, shall be sentenced to pay a fine not exceeding five hundred dollars (\$500), or to undergo imprisonment not exceeding one (1) year, or both.

Impersonation
of officer

* * *

Section 320. Falsely Impersonating Persons and Officers Privately Employed.—Whoever, without due authority, pretends or holds himself out to any one as an employee of any person, corporation or association, for the purpose of gaining access to any premises, or as a deputy sheriff, marshal, policeman, constable or peace officer employed by any person, corporation or association, is guilty of a misdemeanor, and upon conviction thereof, shall be sentenced to pay a fine not exceeding five hundred dollars (\$500), or undergo imprisonment not exceeding one (1) year, or both.

Impersonation
of private
employees

* * *

Section 322. Perjury and Subornation Thereof.—Whoever wilfully and corruptly makes false oral or written statements, or testimony upon oath or affirmation, legally administered either before any committee of the Legislature, or in any judicial proceeding, matter or cause which may be pending in any of the courts, or before any judge, magistrate or mayor, or before any arbitrator, prothonotary, clerk, notary public, commissioner or auditor, appointed by any court of this Commonwealth, or in any deposition taken pursuant to the laws of this Commonwealth, or the rules, orders and directions of any court, arbitrator or judge thereof, or preparatory and for the purpose of obtaining any rule or order of court, or of a judge or arbitrator, or whoever in taking any other oath or affirmation required by any act of Assembly of this Commonwealth, or in relation to any statement or duty enjoined by law, is guilty of perjury, a felony, and whoever wilfully and corruptly procures or suborns any other person to make any such false oath or affirmation, is guilty of subornation of perjury, a felony, and on conviction of either offense, shall be sentenced to pay a fine not exceeding three thousand dollars (\$3,000), or undergo imprisonment by separate or solitary confinement at labor not exceeding seven (7) years, or both, and shall, except as otherwise provided by law, be forever disqualified from being a witness in any matter in controversy.

Perjury

Falsification

Section 328. (*As amended by Act 387 of September 26, 1951, P. L. 1535*) **Falsification In Matters Within Jurisdiction Of State Agencies.**—Whoever, in any matter within the jurisdiction of any department, board, commission or agency of the Commonwealth of Pennsylvania, knowingly and wilfully falsifies, conceals or covers up, by any trick, scheme or device, a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document, knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding three hundred dollars (\$300) or undergo imprisonment not exceeding one (1) year, or both.

* * *

Disorderly Conduct

Section 406. Disorderly Conduct.—Whoever wilfully makes or causes to be made any loud, boisterous and unseemly noise or disturbance to the annoyance of the peaceable residents near by, or near to any public highway, road, street, lane, alley, park, square, or common, whereby the public peace is broken or disturbed or the traveling public annoyed, is guilty of the offense of disorderly conduct, and upon conviction thereof in a summary proceeding, shall be sentenced to pay the costs of prosecution and to pay a fine not exceeding ten dollars (\$10), and in default of the payment thereof, shall be imprisoned for a period not exceeding thirty (30) days.

* * *

Carrying Deadly Weapons

Section 416. (*As amended by Act 443 of April 4, 1956, P. L. 1383*) **Carrying Deadly Weapons.**—Whoever carries any firearm, slingshot, handy-billy, dirk-knife, razor or any other deadly weapon, concealed upon his person, or any knife, razor or cutting instrument, the blade of which can be exposed in an automatic way by switch, push-button, spring mechanism, or otherwise, with the intent therewith unlawfully and maliciously to do injury to any other person, is guilty of a misdemeanor, and upon the conviction thereof, shall be sentenced to pay a fine not exceeding five hundred dollars (\$500), or undergo imprisonment not exceeding one (1) year, or both.

The jury trying the case may infer such intent from the fact the defendant carried such weapon.

* * *

Disorderly House

Section 511. Disorderly House.—Whoever keeps and maintains a common, ill-governed and disorderly house or place, to the encouragement of idleness, gaming, drinking, or misbehavior, and to the common nuisance and disturbance of the neighborhood or orderly citizens, is guilty of a misdemeanor, and on conviction, shall be sentenced to pay a fine not exceeding five hundred dollars (\$500), or to undergo imprisonment not exceeding one (1) year, or both.

Section 512. Prostitution and Assignation.—Whoever uses any building, conveyance or place for the purpose of prostitution or assignation, or knowing or having reasonable cause to know that same is to be so used, or permits any building, conveyance or place owned by him or under his control, to be used for the purpose of prostitution or assignation; or whoever commits prostitution or assignation, or aids or abets prostitution or assignation, by any means whatsoever, or whoever directs, takes, or transports, or offers or agrees to direct, take, or transport, any person to any building, or place, with knowledge that the purpose of such directing, taking or transporting is prostitution or assignation, is guilty of a misdemeanor, and upon conviction, shall be sentenced to pay a fine not exceeding five hundred dollars (\$500), or to undergo imprisonment for a period not exceeding one (1) year, or both.

Prostitution;
Assignation

In the case of prostitution, the imprisonment may, at the discretion of the court, be by commitment to a private institution in the Commonwealth adapted to the proper control of women of this class, and approved by the State Department of Health and State Department of Public Welfare. In no case shall the accused be committed to a religious institution other than of her own faith, if any faith is professed. All institutions accepting persons for commitment under the provisions of this section shall, at all times, be open to State inspection so far as the welfare of the persons so committed is concerned.

In the trial of any person charged with the violation of any of the provisions of this section, testimony concerning the reputation of any place, structure, or building, and of the person or persons who reside in or frequent the same, and of the defendant, shall be admissible in evidence in support of the charge.

* * *

Section 528. (As amended by Act 389 of September 23, 1959, P. L. 945.) Obscene Exhibition.—Whoever gives or participates in, or being the owner of any premises, or having control thereof, permits within or on said premises, any dramatic, theatrical, operatic, or vaudeville exhibition, or the exhibition of fixed or moving pictures, of an obscene nature, is guilty of a misdemeanor, and upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand five hundred dollars. (\$1,500), or undergo imprisonment for a period not exceeding two (2) years, or both.

Obscene
Exhibition

An exhibition shall be deemed obscene if, to the average person applying contemporary community standards, its dominant theme taken as a whole appeals to prurient interest.

**Establishing
Gambling
Places**

Section 605. Establishing Gambling Places.—Whoever sets up or establishes, or causes to be set up or established, any game or device of address, or hazard, at which money or other valuable thing may or shall be played for, or staked or betted upon; or procures, permits, suffers and allows persons to collect and assemble for the purpose of playing at, and staking or betting upon such game or device of address, or hazard, for money or other valuable thing; or whoever, being the owner, tenant, lessee or occupant of any premises, leases, hires, or rents the same, or any part thereof, to be used and occupied, or employed for the purpose of playing at, or staking and betting upon such game or device of address, or hazard, for money or other valuable thing, is guilty of a misdemeanor, and on conviction, shall be sentenced to pay a fine not exceeding five hundred dollars (\$500), or undergo imprisonment not exceeding one (1) year, or both.

The owner of such premises who shall have knowledge that any such game or device of address, or hazard, has been set up in or upon the said premises, and shall not forthwith cause complaint to be made against the person who has set up or established the same, shall be deemed to have knowingly leased, hired or rented the said premises for the said purposes.

This section shall not be construed to apply to games of recreation and exercise, such as billiards, bagatelle, ten pins, etc., where no betting is allowed.

* * *

**Pool-Selling;
Book-Making**

Section 607. Pool-Selling and Book-Making.—Whoever engages in pool-selling, or book-making, or occupies any place with books, apparatus or paraphernalia for the purpose of recording or registering bets or wagers, or of selling pools, or records or registers bets or wagers, or sells pools upon the result of any political nomination, appointment or election, or being the owner or lessee or occupant of any premises, knowingly permits the same to be used or occupied for any of such purposes, or keeps, exhibits or employs therein any device or apparatus for the purpose of recording or registering such bets or wagers, or the selling of such pools, or becomes the custodian or depository for gain, hire or reward of any money, property or thing of value staked, wagered or pledged, or to be wagered or pledged, upon any such result, or receives, registers, records, forwards, or purports or pretends to forward, to or for any race-course, any money, thing or consideration of value, bet or wager or money, thing or consideration, offered for the purpose of being bet or wagered upon the speed or endurance of any man or beast, or occupies any place with books, papers, apparatus or paraphernalia, for the purpose of receiving or pretending to receive, or for recording or registering or for forwarding, or pretending or attempting to forward in any manner, any money, thing or consideration of value, bet or wagered, or to be bet or wagered, for any other person, or receives or offers to receive any money, thing or consideration of value,

bet or to be bet at any race-track, or assists or abets in any manner in any of the acts forbidden by this section, is guilty of a misdemeanor, and upon conviction thereof, shall be sentenced to pay a fine of not more than five hundred dollars (\$500), or undergo imprisonment of not more than one (1) year, or both.

* * *

Section 643. (*As amended by Act 347 of August 11, 1941, P. L. 911 and Act 503 of January 14, 1952, P. L. 1864*) **Employment of Minors in Places where Liquors are Sold or Given Away and Elsewhere.**—Whoever, having the care, custody or control of any minor under the age of eighteen (18) years, permits the employment of, or being a proprietor or manager, employes or permits such child to sing, dance, act or exhibit in any place where wines or spirituous or malt liquors are sold or given away, or any place connected therewith by any passageway or entrance, or whoever employs or permits any such minor to deliver liquor or malt and brewed beverages, or being the proprietor or manager of any dance house, theatre or place of entertainment, employs any minor under the age of fifteen (15) years, is guilty of a misdemeanor, and upon conviction thereof, shall be sentenced to pay a fine not exceeding one hundred dollars (\$100), and in default in the payment of such fine, and costs, shall be sentenced to imprisonment not exceeding three (3) months.

Employment
of minors

* * *

Section 675. (*As amended by Act 444 of July 18, 1957, P. L. 1004*) **Misrepresentation of Age by Minor to Secure Liquor.**—Whoever, being under the age of twenty-one (21) years, knowingly and falsely represents himself to be twenty-one (21) years of age to any licensed dealer or other person, for the purpose of procuring or having furnished to him, any intoxicating liquors, is guilty of a misdemeanor, and upon conviction thereof, shall be sentenced to pay a fine of not less than one hundred dollars (\$100) and not exceeding three hundred dollars (\$300), or undergo imprisonment not exceeding six months, or both.

Misrepresen-
tation of age
by minor

* * *

Section 675.1. (*As added by Act 465 of August 14, 1963, P. L. 1098 and amended by Act 337 of November 10, 1965, P. L. 707*) **Prohibiting the Purchase, Consumption, Possession or Transportation of Intoxicating Liquors or Malt or Brewed Beverages by Minors.**—(a) It shall be unlawful for a person less than twenty-one years of age to attempt to purchase, to purchase, consume, possess or to transport any alcohol, liquor or malt or brewed beverages within the Commonwealth.

Penal Code (Extracts)

(b) Any person violating the provisions of this section shall, upon conviction in a summary proceeding, be sentenced to pay a fine of not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100) and costs of prosecution, or undergo imprisonment for a term not exceeding thirty (30) days, or both.

(c) (*As added by Act 337 of November 10, 1965, P. L. 707*) Any fine imposed in a summary proceeding pursuant to the provisions of this section shall be decreed to be paid to the city, borough, town or township in which the offense was committed, for the use of such city, borough, town or township.

* * *

**Misrepresen-
tation that
minor is of age**

Section 676. Representing to Liquor Dealer that Minor Is of Age.—Whoever knowingly, wilfully, and falsely represents to any licensed dealer or other person, any minor to be of full age, for the purpose of inducing any such licensed dealer or other person, to sell or furnish any intoxicating liquors to said minor, is guilty of a misdemeanor, and upon conviction thereof, shall be sentenced to pay a fine not exceeding fifty dollars (\$50), or undergo imprisonment for a period not exceeding sixty (60) days, or both.

* * *

**Inducing
minors to buy
liquor**

Section 677. Minors, Inducement of, To Buy Liquor Prohibited.—Whoever hires, or requests or induces any minor to purchase, or offer to purchase, spirituous, vinous or brewed and malt liquors from a duly licensed dealer for any purpose, is guilty of a misdemeanor, and upon conviction thereof, shall be sentenced to pay a fine not exceeding five hundred dollars (\$500), or to undergo imprisonment not exceeding one (1) year, or both.

* * *

**Assault and
Battery**

Section 708. Assault and Battery.—Whoever commits an assault and battery, or an assault is guilty of a misdemeanor, and upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand dollars (\$1,000), or undergo imprisonment not exceeding two (2) years, or both.

* * *

**Aggravated
Assault and
Battery**

Section 709. Aggravated Assault and Battery.—Whoever unlawfully and maliciously inflicts upon another person, either with or without any weapon or instrument, any grievous bodily harm, or unlawfully cuts, stabs or wounds any other person, is guilty of a misdemeanor, and upon conviction thereof, shall be sentenced to pay a fine not exceeding two thousand dollars (\$2,000), or undergo imprisonment, either at labor by separate or solitary confinement or to simple imprisonment, not exceeding three (3) years, or both.

Penal Code (Extracts)

279

Section 711. Attempts with Intent To Kill.—Whoever attempts to administer any poison or other destructive thing, or attempts to cut or stab or wound, or shoots at any person, or, by drawing a trigger or in any other manner, attempts to discharge any kind of loaded arms at any person, or attempts to drown, suffocate or strangle any person, with intent to commit the crime of murder, although no bodily injury is effected, is guilty of felony, and shall be sentenced to pay a fine not exceeding three thousand dollars (\$3,000), or undergo imprisonment, by separate and solitary confinement at labor, not exceeding seven (7) years, or both.

Attempt to kill

* * *

Section 712. Assault with Intent To Maim.—Whoever unlawfully and maliciously, shoots at any person, or, by drawing a trigger or by any other manner, attempts to discharge any kind of loaded arms at any person, or stabs, cuts or wounds any person, with intent to maim, disfigure or disable such person, is guilty of felony, and on conviction, shall be sentenced to pay a fine not exceeding two thousand dollars (\$2,000), or undergo imprisonment, by separate or solitary confinement at labor, not exceeding five (5) years, or both.

Assault to maim

* * *

Section 716. Pointing Deadly Weapons.—Whoever playfully or wantonly points or discharges a gun, pistol or other firearm at any other person, is guilty of a misdemeanor, and upon conviction thereof, shall be sentenced to pay a fine not exceeding five hundred dollars (\$500), or undergo imprisonment not exceeding one (1) year, or both.

Pointing deadly weapons

* * *

Section 844. False Statements by Accountants.—Whoever, practicing as an accountant, public accountant, auditor, or certified public accountant wilfully issues, or permits the issuance of, any false statement of the financial transactions, standing, or condition of any corporation, partnership, or individual business undertaking, is guilty of a misdemeanor, and upon conviction thereof, shall be sentenced to pay a fine of not more than five hundred dollars (\$500), or undergo imprisonment for a period not exceeding one (1) year, or both.

False statements by accountants

* * *

Section 959. Destruction of Notices Posted by State.—Whoever removes, defaces, covers up, or destroys or causes to be removed, defaced, covered up or destroyed, any placard, sign or poster of any administrative department, board and commission of the State Government, posted under authority of law, shall, upon conviction thereof in a summary proceeding, be sentenced to pay a fine of not more than fifty dollars (\$50), and in default of payment of such fine, and costs, be imprisoned in the county jail one (1) day for each dollar of fine and costs unpaid.

Destruction of notices

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