Primer
House Appropriations Committee (D)
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Liquor Control Board

The Pennsylvania Liquor Control Board regulates the manufacture, possession, sale, consumption, importation, use, storage, transportation and delivery of liquor, alcohol and malt or brewed beverages in the commonwealth.

Revenue from the sale of wine and spirits is deposited into the State Stores Fund. After accounting for operating costs and disbursements, remaining sales profits are annually transferred to the General Fund. This transfer, which was $100 million in 2015/16, helps to cover General Fund expenditures. These transferred funds are not earmarked.

Purpose and Scope

In conformance with the Pennsylvania Liquor Code (Act 21 of 1951; as reenacted by Act 14 of 1987), the Pennsylvania Liquor Control Board (PLCB) regulates the manufacture, possession, sale, consumption, importation, use, storage, transportation and delivery of liquor, alcohol and malt or brewed beverages in the commonwealth. Pennsylvania is one of 17 states that control at least some portion of liquor sales.

As outlined in the Liquor Code, the board is composed of three members, each of whom is appointed by the governor and confirmed by a two-thirds vote of the Senate. Appointees serve staggered four-year terms ending on the third Tuesday in May.

Board Members:

Currently, Tim Holden (Chairman), Michael Negra and Michael Newsome serve on the board.

Because the PLCB is one of the largest purchasers of wine and spirits in the United States, it is able to pass volume-purchase discounts to its customers.

The PLCB operates more than 600 retail outlets in Pennsylvania, one e-commerce website, and warehouse distribution centers in Philadelphia, Pittsburgh and Scranton that supply the stores.

The board also licenses more than 20,000 restaurants, hotels and clubs that serve alcoholic beverages.

Although the PLCB has regulatory authority over all types of alcoholic beverages, its wholesale and retail sales operations do not include malt or brewed beverages (i.e. beer). Wholesale and retail beer distributors are licensed by the PLCB, but those businesses are privately owned.

There are about 1,200 malt beverage distributors throughout the commonwealth. Licensed restaurants, hotels and eating places are permitted to sell six-packs of beer-to-go (less than 192 fluid ounces). Restaurants and hotels may also sell up to four bottles of wine-to-go (3 liters).

The PLCB also runs an alcohol education program designed to promote moderation among consumers and prevent the purchase and consumption of alcohol by minors. The PLCB moved to a two-year cycle for alcohol education grants in 2013. For its most recent 2013-2015 window, it has committed $2.1 million to alcohol education.

Revenues and Expenditures

Sales and Profits

The sale of wine and spirits completely funds the PLCB's operation, including the purchase of all inventory and related business support. No taxpayer dollars are used to fund the administration or operation of the board.

Revenue from the sale of wine and spirits is deposited into the State Stores Fund, which covers operating costs of the PLCB, inventory purchasing, state police enforcement, and provides revenue to the Department of Health for drug and alcohol programs.

In 2015/16, the PLCB generated a record $2.43 billion in sales, which was an increase of $94.8 million, or 5.7 percent, over the previous year. See Chart 1 below.

Prices, Taxes and Fees

The Liquor Code authorizes the board to establish wholesale and retail prices for the alcohol it sells. Part of the retail shelf price it sets includes a "logistics, transportation and merchandise factor" that is akin to a handling fee and ranges from $0.55 to $2.22 per bottle depending on the volume of the bottle and type (wine versus spirits). The shelf prices also include the board's discretionary mark-up.

The 18 percent state liquor tax, also known as the Johnstown Flood Emergency Tax, is applied to all wine and spirit sales through the PLCB wine and spirit stores. This tax is applied to the actual price paid by the consumer, including mark-up, the "logistics, transportation and merchandise factor," and federal tax.

The 18 percent liquor tax does not apply to wine sold directly from in-state limited wineries to consumers. For purchases in PLCB Wine and Spirits stores, this tax is included in the listed shelf price.

On top of that, a 6 percent state sales and use tax is applied at the register at the time of sale. A local sales tax is also applied in Philadelphia (2 percent) and Allegheny County (1 percent) as a local revenue source.

Restaurants, clubs and other licensed establishments pay the liquor and sales and use taxes when purchasing wine and spirits from PLCB. No additional state tax is applied when the consumer buys an alcoholic beverage by the glass. Note: A local individual drink tax is applied in Philadelphia (6 percent) and Allegheny County (7 percent) as a local revenue source.

All liquor and sales tax collections are deposited into the State Stores Fund and transferred to the General Fund with a 100 percent accuracy rate and no delinquencies.

In addition to tax collections, PLCB collects licensing fees from restaurants, hotels and clubs, which are deposited into the Liquor License Fund and transferred back to the respective municipalities. Collections totaled about $4.6 million in 2015/16.

Expenditures and Transfers

The budget of the PLCB is set by executive authorization, which is an authorization approved by the governor to spend money from funds that were previously appropriated through blanket action of the General Assembly (i.e. statute). As mentioned previously, state police's Bureau of Liquor Control Enforcement receives funding through an annual

Chart 1: PA Liquor Control Board Revenues

	FY 2013/14	FY 2014/15	FY 2015/16
Sales of Wine & Spirits	$2,240,563,426	$2,335,370,137	$2,430,209,706
License Fees Returned to Local Municipalities	$4,521,545	$4,466,215	$4,594,402
Fees, Fines, and Interest	$17,285,130	$22,881,373	$19,137,031
18% State Liquor Tax	$320,911,580	$334,413,695	$348,055,772
State and Local Sales Tax	$133,150,160	$138,686,538	$144,269,344
Profits Transferred to General Fund	$80,000,000	$80,000,000	$100,000,000
Total Taxes and Profits Transferred	**$534,061,740**	**$553,100,233**	**$592,325,116**

appropriation to cover the cost of liquor control enforcement activities, which must be approved by the General Assembly as part of the General Appropriations Act ($26 million for 2015/16). In addition, as required in the Liquor Code, the Department of Health receives a transfer of 2 percent of the profits to support drug and alcohol programs (nearly $3.3 million in 2015/16 through an executive authorization).

Operating expenses of the PLCB also include funding for grants to colleges and universities, non-profit organizations, municipalities and organizations (i.e. law enforcement agencies) to develop strategies to reduce dangerous and underage drinking.

After accounting for operating costs and disbursements, the remaining profits are transferred to the General Fund. These funds are not earmarked for any specific purpose.

The governor must make a formal request of the board to transfer a specific amount of profits to the General Fund. This amount does not necessarily equate to the net income of the PLCB as more or less revenue could be transferred depending on the cash flow needs of the PLCB or the General Fund. The board members must vote on the transfer to the General Fund before it can be executed. All of these transfers come out of the State Stores Fund.

Local and Community Benefits

Spending and investment by the PLCB contributes to local economies within the commonwealth. Wine and spirits retail locations are leased from private landlords, which results in about $43 million of income to the private sector. The PLCB outsources warehousing leases and services for the three distribution centers (Philadelphia, Pittsburgh and Scranton), contributing $42.9 million to the state's economy. (Source: Auditor General's Audit Report for fiscal years ending June 30, 2014.)

The PLCB also employs more than 5,000 individuals across the state.

The PLCB's policy of zero tolerance for sales to minors and intoxicated individuals is another benefit to Pennsylvania, and this policy resulted in 963,587 age-compliance checks during 2015/16.

Modernization becomes a Reality

In June 2016, years of legislative negotiations culminated with the compromise and passage of HB 1690 (PN 2653) which was then signed into law (Act 39 of 2016) by Gov. Tom Wolf. Act 39 makes the most extensive changes to the PLCB and the way alcohol is sold in Pennsylvania in more than 50 years. The new law is designed to enhance consumer convenience and increase PLCB's earnings potential.

Flexible Pricing

Flexible Pricing, projected to bring in $50 million in 2016/17, is critical to increasing the profitability of the PLCB by providing it with better leverage for negotiating with suppliers. The board is now able to respond to market trends by pricing its top 150 wine and top 150 spirits in a manner that would maximize profit instead of simply abiding by the current, mandatory 30-percent mark-up. Prices on these products must remain uniform across the state and discontinued items may be discounted.

One of the most frequent complaints about the retail stores was the statutorily placed Sunday and holiday hour restrictions. Consumers want increased availability and now Act 39 allows the PLCB to set the hours and days, not restricted by archaic statute. By fall 2016, the PLCB envisions about 300 stores (roughly half) to be open Sundays from 11 a.m. to 7 p.m. Under the old system, 188 stores were open on Sundays from noon to 5 p.m. This change is expected to increase profits by an estimated $12 million.

Lottery Tickets

Customers may now buy scratch-off tickets from self-service lottery machines at retail stores. The PLCB plans to place machines in over 300 stores by fall 2016, which is projected to generate $3 million in new revenue for 2016/17.

Customer Relations Management

Act 39 also authorizes the board to establish and implement customer loyalty programs that include coupons and discounted products to unlicensed customers. Licensed customers will benefit from the newly established delivery service, which no longer requires liquor to physically pass through a state-owned store before a licensee can receive it. Improved customer relations is expected to improve the PLCB bottom line by $8.5 million.

Expanded Wine Permits

Restaurants and hotel licensees that pay an initial permit fee of $2,000 will be able to sell up to four bottles of wine (3,000 milliliters) for off-premise consumption under the new law. Licensees must purchase wine from the PLCB (sold to them at a 10 percent discount of the retail price), and their annual renewal fee is two percent of the cost of that wine. Licensees may not sell the wine for less than the purchase price. The PLCB has already approved more than 150 expanded wine permits.

The requirement is for restaurants and hotel establishments to have serving areas within a building of not less than 400 square feet that have tables and chairs to accommodate at least 30 persons at one time.

Another feature of the new law allows eating place retail dispenser licensees to convert their license to a restaurant license as long as they meet the above requirements and pay a one-time fee of $30,000. *Licensees in Philadelphia are not eligible for this conversion.*

The licensing changes are expected to bring in $5.8 million in non-recurring revenue during 2016/17. However, PLCB could experience an estimated $700,000 annual revenue loss due to the discounted wine sales detailed above.

Expired and Safekeeping License Changes

The PLCB may now auction expired and revoked restaurant licenses on an annual basis. The Fiscal Code (Act 85 of 2016) allows the PLCB to set dates, times and regulations for auctioning licenses, which means flexibility for the board and the opportunity to do business where higher demand would generate greater revenue. Auctioned licenses are estimated to result in $39.4 million in additional profits in 2016/17. Additionally, Act 89 increases the fees and reduces the amount of time a license holder can keep a license in safekeeping.

Direct Shipment of Wine

Another consumer victory in this bill is the authorization of direct shipment of wine to Pennsylvania customers. Any wine producer can now obtain a direct wine shipper license and ship up to 36 cases per year to Pennsylvania residents for personal use only. The wine shipper must collect and remit the six percent sales tax and a $2.50 per gallon excise tax. Delivery companies are required to verify age at the time of delivery. PLCB has, so far, approved more than 355 wineries across the country to ship directly to Pennsylvania customers.

Casino Liquor Licenses

Act 39 granted Casino licensees the ability to sell or serve liquor, wine and beer 24 hours a day, 7 days a week if they pay a $1 million application fee and a $1 million annual renewal fee. The renewal fee falls to $250,000 after four years. While initially projected to generate $12 million in 2016/17, casino operators have made it clear they believe the fees are too high. Legislators seem eager to revisit this issue and potentially lower both required payments. If that happens, it will likely mean less revenue than the $12 million projection.

Privatization

Republican efforts to privatize the PLCB failed because their plans would cost Pennsylvanians as taxpayers and as consumers. Although supporters of the plans to divest from the retail and wholesale liquor operations predicted an estimated $1 billion in one-time revenue, there remains too many uncertainties surrounding the assumptions built into this estimate.

Improved consumer convenience and increased revenue for the state accomplish two goals that privatizing the system cannot. However, Act 39 requires a commission to study the future privatization of the PLCB's wholesale and retail operations. The study will look at best practices in other states, fiscal impact of privatization, consumer costs, effectiveness of the liquor code, and valuation of our wholesale and retail operations, among other things.

The study is most likely to confirm that privatization can generate some revenue in the short-term through licensing fees. However, profits shrink, if not disappear, when accounting for the transition and enforcement costs, the loss of at least $100 million in annual profit, the loss of profit from new modernization efforts, and ongoing transfers to drug and alcohol treatment programs.

In a privately owned system, we believe wine and spirits consumers would be affected by varying store operating hours, price, selection, store layout, customer service and employee knowledge. And, businesses would pass-on the licensing and renewal fees to consumers in the form of higher prices for wine and liquor.

Still on the Table

Act 39 has significantly changed the operation of the Pennsylvania Liquor Control Board through its extensive enhancements. Despite this, other modernization proposals and concepts could generate even more revenue and create a better system for the sale of alcoholic beverages in the commonwealth.

Relief from Procurement Code

According to the PLCB, excusing it from the state's procurement code would help it make more timely purchases in a fast-paced retail environment. The PLCB says this would give it more flexibility to obtain retail spaces at competitive rates.

Civil Service Requirement Changes

The PLCB believes that changes to civil service hiring requirements would give it more flexibility to employ the most appropriate, experienced personnel.

Warehouse Discounts

The PLCB would like to give discounts to licensees that purchase products directly from its warehouses.

What about Beer?

Act 39 left beer and malt beverages sales largely untouched. Some negotiators believe handling beer issues separately from wine and liquor legislation will produce the best results for each product.

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