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Turzai Introduces Legislation to Privatize Sale of Wine and Spirits

Says legislation will bring better selection, lower prices and convenience to PA residents

HARRISBURG – House Republican Whip Mike Turzai (R-Allegheny) today unveiled legislation to privatize the wholesale and retail operations of the Pennsylvania Liquor Control Board (PLCB). This plan transitions Pennsylvania from a "control state," with the Commonwealth controlling both the wholesale and retail operations of the sale of wine and spirits, to a "franchise and license state," where the Commonwealth licenses persons to operate the wholesale and retail wine and spirits businesses.

"Government should not be in the business of selling alcohol," Turzai said. "Pennsylvania has an antiquated system that results in higher prices and less selection for consumers. It is time to update the way wine and spirits are sold in this state. My legislation privatizes the wholesale and retail operations to bring greater competition which will lead to lower prices and better selection."

Pennsylvania is currently the largest purchaser of wine and spirits in the United States and is the second largest worldwide, falling behind the Liquor Control Board of Ontario. The PLCB owns and operates 621 state stores throughout the Commonwealth and is responsible for the purchase and distribution of all wine and spirits within the state.

The sale and distribution of beer will not be affected by this legislation.

Turzai's legislation privatizes wholesale operations by auctioning off 100 wholesale distribution licenses to the highest responsible bidder. On the retail side, the proposal would auction off 750 retail store licenses and would also auction off the inventories of the current state stores. The PLCB would be required to divest itself from the retail sale of wine and spirits over a two-year period. A biennial license renewal fee and a transfer of license fee, similar to other license application and transfer fees currently in place, will be assessed by the PLCB.

It is estimated that the sale of the wholesale and retail licenses will bring in $2 billion for.

Safeguards have been put into the legislation to ensure that a state monopoly isn't replaced with a private one. On the wholesale side, no person or business may own more than 10 percent of the wholesale distribution licenses statewide. On the retail side, no person or business can own more than 10 percent of state stores statewide.

This legislation would also revise the current tax structure for wine and spirits. Currently, consumers pay a variety of taxes on the purchase of wine and spirits. Consumers pay a 30 percent markup assessed by the PLCB from the wholesale price, an 18 percent "Emergency Tax" (commonly known as the Johnstown Flood Tax) and a 6 percent sales tax on all wine and spirits. This collection of taxes makes the wine and spirits purchased in Pennsylvania one of the most tax-laden items in the nation.

Under Turzai's legislation, the state would move to a gallonage tax, which is currently assessed on wine in 35 states and on spirits in 26 states. The gallonage tax rate would range between $2 and $6 per gallon for wine and spirits. Most wine would be assessed at the $2 per gallon rate and most spirits would be assessed at the $5 per gallon rate. Currently, restaurants, taverns and clubs pay the 6 percent sales tax when they purchase wine and spirits from the PLCB. The 6 percent sales tax will be assessed at the point of sale at those establishments.

This proposal ensures that privatizing the PLCB will not lead to a drop in annual revenues for the Commonwealth. The state will receive annual revenues from the new "gallonage tax" and the shift in the sales tax to the final point of sale on wine and spirits. The state will see new revenues from taxes that new businesses would be required to pay and will recoup revenues that are currently being lost due to Pennsylvania consumers leaving the state to purchase their wine and spirits, commonly referred to as "border bleed."

The PLCB will retain its enforcement, licensing, inspections and alcohol education authority. Additionally, the PLCB will be required to develop a training program, similar to the current Responsible Alcohol Management Program (R.A.M.P.), for all wine and spirits retail store operators and their employees. All licensed retail stores will be maintained in a separate, self-contained area dedicated solely to the sale of wine and spirits and all store employees must be 21 years of age. The stores will be required to use age identification scanners to prevent the sale of alcohol to minors. Also, as an additional safety measure, state and local police will have concurrent jurisdiction to enforce state liquor laws.

This legislation ensures a number of opportunities for PLCB employees affected by this shift in policy. PLCB employees who wish to continue being employed by the Commonwealth will be given preference in applying for other state jobs which might be vacant by receiving three extra points on their civil service test score. For PLCB employees who choose to enter the private sector, tax credits would be available to private industry for up to three years after the employee leaves the PLCB. For employees who choose to attend college or technical school, tuition assistance would be provided to help them gain new marketable skills.

The argument is often made that privatizing alcohol sales would have a negative social impact. Economics professor Dr. Antony Davies and student John Pulito at Duquesne University recently completed a study titled "Government-Run Liquor Stores: The Social Impact of Privatization." The study showed that privatization does not lead to increased DUI fatalities. In fact, the study indicates that license states actually have a lower DUI fatality rate than control states. The study also found "no statistically significant difference" in underage drinking or underage binge drinking between license and control states.

This proposal would get the Commonwealth out of the business of selling wine and spirits and would allow the PLCB to focus on enforcement, licensing, inspections and alcohol education.

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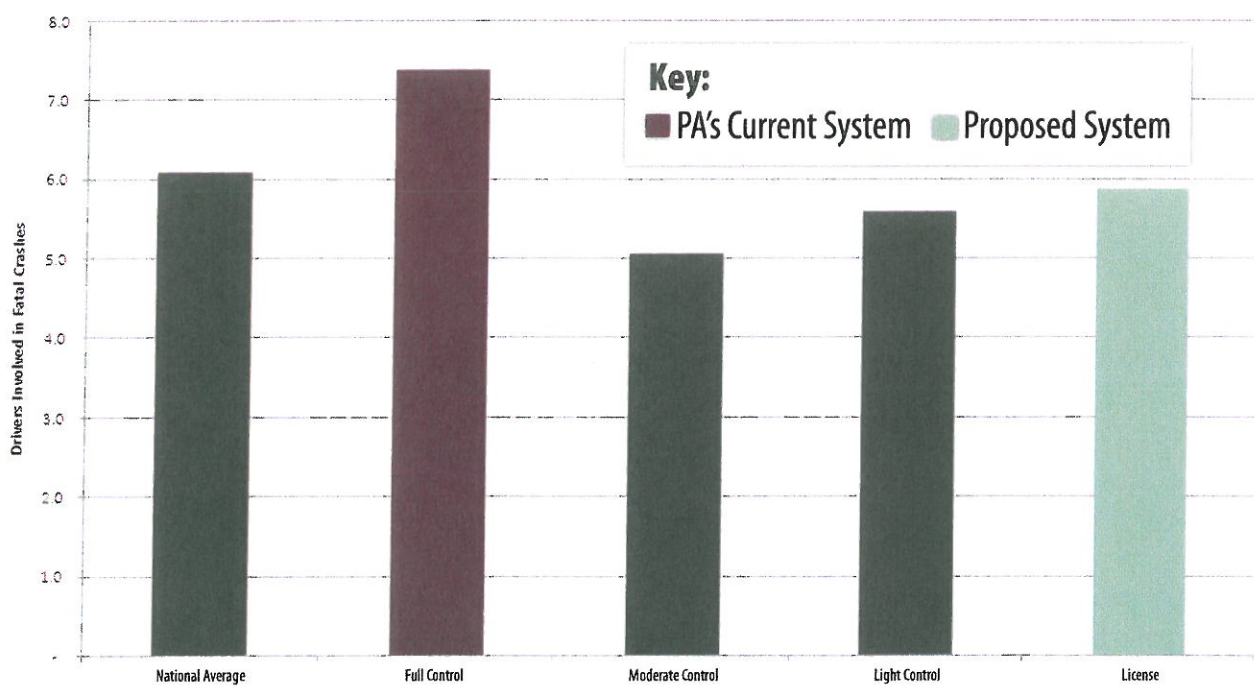
INCREASED SAFEGUARDS

- PLCB will retain enforcement, licensing, inspections and alcohol education functions.
- All wine and spirits retail store operators and their employees will be required to attend R.A.M.P. (Responsible Alcohol Management Program) training.
- All licensed retail stores will be required to use identification scanners with age verification software.
- Concurrent jurisdiction of police.
- All retail operations will be maintained in a separate, self-contained area.
- Store employees must be at least 21 years old.

Average Number of Drivers (per 100,000 population) Involved in Fatal Crashes with BAC 0.01 or Higher, 1991-2006



**Source: Government-Run Liquor Stores, The Social Impact of Privatization, The Commonwealth Foundation

BENEFITS OF PRIVATIZATION

- Better Selection
- Increased Competition = Better Prices
- Customer Convenience
- Enhanced Alcohol Safety Programs/Initiatives

Should the government be in the business of selling alcohol?

Summary of Rep. Mike Turzai's House Bill 2350
Privatizing Retail and Wholesale Wine and Spirits Sales in Pennsylvania

We have introduced legislation to privatize the wine and spirits wholesale and retail operations of the Pennsylvania Liquor Control Board (PLCB). (Please note that this proposal would not affect the way beer is sold in the Commonwealth.)

<u>Fiscal Benefits</u>

Pennsylvania is facing a looming fiscal crisis. We have to be bold and innovative in how we tackle the issues before us. This plan will not deplete but will actually enhance revenues moving forward. The proposal is cautiously estimated to bring in approximately $2 billion for the sale of the wholesale and retail licenses alone. Furthermore, the new plan will at least maintain if not increase current annual revenues into the General Fund from the sale of wine and spirits.

The notion that the state's General Fund gets this massive annual infusion of money from the LCB itself is a <u>myth</u>. Currently, the LCB transfers <u>only</u> on average $90 million annually to the General Fund from its operation. In addition to this transfer, taxes on the sale of wine and spirits bring in about an annual $375 million directly to the General Fund. (These tax revenues will come in whether operated by the state or by private owners). Total, that amounts to about $466 million annually.

Under our new tax and fee structure, annual revenues should amount to about $500 million - ensuring that the Commonwealth continues to receive the funding it has in the past while offsetting the administrative costs of a newly streamlined PLCB operation (licensing, enforcement and alcohol education).

<u>Customer Satisfaction</u>

This proposal will 1) promote better selection, 2) lead to more reasonable prices and 3) increase consumer convenience. Competition will take effect.

<u>State should not be in the business of selling alcohol: Conflict of interest</u>

One question we should ask ourselves is: should Pennsylvania really be in the business of selling alcohol? Should the entity promoting sales of wine and spirits be the same entity that polices those sales? Doesn't that constitute a conflict of interest?

Only two states currently own and operate <u>all</u> wholesale and retail sales of wine and spirits: Pennsylvania and Utah. There are currently only 18 states that have some level of involvement in wholesale operations, 32 do not. Only 14 states have some level of involvement in retail operations of wine and spirits, 36 do not. (Even those states with some involvement have private sector components).

Auction of Licenses

- Auction off 750 retail (currently 621 state retail stores) and 100 wholesale licenses to the highest responsible bidder with a reserve price based upon the fair market value.

- Establish a biennial license renewal fee and a transfer of license fee comparable to fees charged for renewal and transfer of other licenses issued by the PLCB.

Tax Reform

We will institute a fairer approach to taxation, one that is more consistent with what is done in many other states:

- Eliminate the current 30 percent PLCB markup and the 18 percent Johnstown Flood Tax.

- Replace current taxes with a "gallonage tax" as is done in 26 other states for spirits and 35 other states for wine. The tax rates would range from $3.50 to $7.00 based on alcohol content. Most wines would be assessed at $3.50/gallon and most spirits will be assessed at $6.50/gallon.

- Currently, restaurants, taverns and clubs pay the 6 percent sales tax when they purchase wine and spirits from the PLCB. This will be eliminated. The proposal will instead assess the 6 percent sales tax at the final point of sale for all alcoholic beverages served at those establishments.

- The $1.50 per bottle stealth "handling" tax imposed by PLCB would be abolished.

- Keep in mind that a private system will create 850 new businesses that will pay either the corporate net income tax or the personal income tax.

- The plan will see recoupment of revenue from Pennsylvania consumers who currently leave the state to purchase their wine and spirits. This approach will significantly mitigate what is commonly referred to as "border bleed."

Employee Opportunities

- Provide employment support for PLCB employees through 1) tax credits for employers who hire PLCB employees, 2) tuition assistance for employees' further education and 3) a preferential leg up in applying for other civil service positions in the Commonwealth.

The Proper Role of Government: Law Enforcement

Our proposal actually strengthens law enforcement supervision of sales and enhances alcohol safety and awareness programs for buyers and sellers.

Currently, Pennsylvania's liquor laws are enforced by a compliment of civilian officers located within a bureau of the Pennsylvania State Police (PLCE). In total, there are approximately 150 officers assigned to the PLCE headquarters in Harrisburg or one of nine district offices. They are supervised by a handful of State Police officers and responsible to conduct investigations of nearly 18,000 licensed establishments.

Our proposal strengthens enforcement by:

- Increasing law enforcement by providing for concurrent jurisdiction for state and local police to enforce liquor laws (as we do with tobacco).
- Retaining enforcement, licensing, inspections and alcohol education functions of the PLCB.
- Increasing safety by requiring retail employees to attend R.A.M.P. (Responsible Alcohol Management Program) training.
- Mandating the use of I.D. scanners with age verification software.
- Requiring retail operations to be maintained in a separate, self-contained area dedicated solely to the sale of wine and spirits.
- Requiring retail store employees be at least 21 years old.
- Establishing heavy fines (up to $5,000) for licensees who violate the provisions of the Liquor Code and authorizes the PLCB to suspend or revoke licenses for "nuisance" operators.

<u>Licensing approach can do better job at curbing irresponsible drinking</u>

Given the appropriate tools, as suggested above, and a singular focus, a revamped law enforcement PLCB should be able to do a better job at curbing irresponsible drinking then is presently done. The argument is often made that privatizing alcohol sales would have a negative social impact. Economics professor Dr. Antony Davies and student John Pulito at Duquesne University recently did a study titled "Government-Run Liquor Stores: The Social Impact of Privatization." The study showed that privatization does <u>not</u> lead to increased DUI fatalities. In fact, the study indicates that license states actually have a lower DUI fatality rate than control states. The study also found "no statistically significant difference" in underage drinking or underage binge drinking between license and control states.

<u>Conclusion</u>

We have an opportunity to move Pennsylvania into the 21st century by allowing the private sector to sell wine and spirits. This approach will result in better selection, cheaper prices and more convenience for consumers. In addition, this proposal will have the beneficial effect of filling state coffers to help us meet the looming fiscal crisis in front of us. We can do this while actually strengthening law enforcement and doing better at curbing irresponsible drinking. It is a proposal whose time has come.

Reasons for Privatizing:

- Promote better selection
- Provide for competition, leading to more reasonable prices
- Increase customer convenience
- While at the same time strengthening law enforcement supervision of sales and enhance alcohol safety and awareness programs for buyers and sellers
- Why is PA in the alcohol business

Auctioning of Licenses:

- 750 retail and 100 wholesale licenses will be auctioned off to the highest responsible bidder with a reserve price based upon the fair market value.
- A biennial license renewal fee and a transfer of license fee comparable to fees charged for renewal and transfer of other licenses issued by the PLCB.
- ***Estimated to generate $2 billion***
    - Adjusted for inflation based on a 1997 Price Waterhouse study and the 2007 "Divesting the Pennsylvania Liquor Control Board" study by the Reason Foundation's Geoffrey Segal.

New Tax Structure:

- Eliminate the 18% Johnstown Flood tax and the 30% markup by the PLCB
- Change to a gallonage tax

    - Based on Florida model
        - Rate would range between $2 and $6 per gallon for wine and spirits. Most wine would be assessed at $2/gallon rate and most spirits at the $5/gallon rate.
    - Currently assessed on wine in 35 states and on spirits in 26 states
    - Taxing volume, not value – more fair
    - Easier to administer
    - Consistent with other "sin" taxes
- Shift 6% sales tax to the final point of sale
- Corporate taxes on the 850 new businesses
- New tax structure would bring in $500 million annually
- Revenue will be recouped from Pennsylvania consumers who currently leave the state to purchase their wine and spirits, commonly referred to as "border bleed."

Current PLCB Revenues:

- Average transfer to the General Fund: $90 million
- Cost of operating the LCB: $50 million
- Amount annually from fees/penalties: $15 million
- Annual profit: $400 million
    - Plus expenses: $1.4 billion

Increased Safeguards:

- Provides for concurrent jurisdiction for state and local police to enforce liquor laws.
- Mandates the use of I.D. scanners with age verification software.
- Requires retail operations to be maintained in a separate, self-contained area dedicated solely to the sale of wine and spirits.
- Requires retail store employees be at least 21 years old.
- Increases safety by requiring retail employees to attend R.A.M.P. (Responsible Alcohol Management Program) training.
- Retains all enforcement, licensing, inspections and alcohol education functions of the PLCB.

Employment Opportunities:

- Tax credits for employers who hire PLCB employees (for up to three years).
- Tuition assistance for employee's to further their education.
- Employees who choose to apply for other state jobs will receive an additional 3 points on their civil service exam score.

Social Impact:

- A study by Duquesne economics professor Dr. Antony Davies and student John Pulito showed that privatization does not lead to an increase in DUI fatalities.
- The study indicated that license states actually have a lower DUI fatality rate than control states.

Misc. Facts:

- Only 2 states currently own and operate ***all*** wholesale and retail sales of wine and spirits: PA and Utah
- Only 18 states have some level of involvement in wholesale operations, 32 do not. Only 14 states have some level of involvement in retail operations, 36 do not. Even those states with some involvement have private sector components.
- New Jersey has over 2,000 retail stores and New York Metro has over 1,200 retail stores.
- Joe Conti was one of the House sponsors for privatization under Ridge – House Bill 1346 of 1997.