



POLICY POINTS

from the COMMONWEALTH FOUNDATION

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Liquor Privatization (House Bill 11) Summary and Recommendations

The Pennsylvania Liquor Control Board serves as the monopolistic seller of wine and spirits in the commonwealth. Rep. Mike Turzai introduced House Bill 11 to sell off the PLCB's retail stores, wholesale and distribution operations, current inventory of wine and spirits, and redefine the PLCB as the licensor and regulator of private retailers and distributors.

Retail Licenses

- HB 11 spells out a process to auction off 1,250 retail licenses to the highest bidders. This would roughly double the number of wine and liquor stores in Pennsylvania. HB 11 would offer:
 - 750 “Class A” licenses for stores with 15,000 or more square feet of retail space (no space requirement for Philadelphia stores). One of these licenses would be awarded for each “retail zone” in Pennsylvania.
 - 500 “Class B” licenses for smaller stores. These would be awarded with a set number in each county.
 - The number of licenses any one company or individual may hold are limited to 40 total retail licenses, five Class B licenses, and 10 percent of licenses within any county (or one license within a county with less than 10 total licenses).
 - At 1,250 outlets, Pennsylvania would remain among the states with the fewest liquor stores in the nation based on population, with more than 10,000 residents for every liquor store. For Pennsylvania to be at the national retail average based on population, the commonwealth would have more than 2,800 spirits licenses, and 6,600 wine licenses.
- Licensed stores must sell alcohol in a “controlled area.”
 - Stores may sell “related merchandise” in the controlled area, but no more than 30 percent of the store's total sales can be from merchandise.
 - No one under 18 may work in the “controlled area,” and no one under 21 may sell liquor.
 - Liquor may be sold Monday-Saturday from 8 a.m. to 11 p.m. and Sunday from noon to 9 p.m. for an additional fee.
- Retail licenses would be awarded within one year of the bill passing, and licenses would be renewed for a fee every two years.

Wholesale Licenses

- The Department of General Services would negotiate wholesale licenses — for distribution of wine and liquor to retail stores, as well as to restaurants, hotels, bars and taverns — and evaluate applicants for the distribution of current products sold in Pennsylvania.
- Wholesale applicants would pay a \$10,000 application fee plus a one-time brand license fee that's determined by which brands the applicant is applying to distribute.
 - Each brand fee is 50 percent of the total cost of goods sold of the product by the PLCB in the past 12 months.
 - Wholesalers may distribute multiple wine and spirits brands, and can bring new products into the state by paying the brand fee for each new product.
 - No wholesaler can control more than 50 percent of the liquor distributed in the state.

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- Wholesale licenses would be awarded within six months of the bill passing, and licenses in good standing would be renewed every two years.

State Store Inventory

- All current state store inventory including liquor products and equipment would be sold off by the Department of General Services.
 - The value of liquor inventory, excluding equipment and other assets, was \$304 million as of June 2010.

Tax Changes

- The current 18 percent Johnstown Flood Tax and state store “markup” (an implicit tax on consumers) would be eliminated, as would the per-bottle “handling fee.”
- Current taxes would be replaced with a “Gallonage Tax.”
 - For most wines: \$8.25 to \$8.75 per gallon, based on alcohol content.
 - For sparkling wines: \$9 per gallon.
 - For liquor: \$11 to \$12 per gallon, based on alcohol content.
 - Rates would be adjusted for inflation after five years.
 - These rates were set to generate revenue equivalent to current wine and spirits taxes and fees.

Assistance for Current PLCB Employees

- Current PLCB employees would benefit from tax credits for employers who hire PLCB employees, tuition assistance, and preferences for other state jobs.

Recommendations for Improvements:

- **Remove or increase arbitrary caps on the number of liquor stores.** Limiting licenses prevents a truly competitive market from emerging. More licenses generate more competition, better selection and lower prices for consumers. Increasing the number of retail stores means more jobs for Pennsylvanians and more revenue, as the state would recapture the tens of millions of dollars it loses each year to border bleed. At the least, the number of licenses should be set to the national average.
 - Limits on the number of licenses each retailer can hold may be too restrictive, particularly in rural counties. This could limit the choice of consumers.
- **Eliminate unnecessary barriers to entry.** The prohibition of retail stores selling fuel would prevent retailers with gas stations—including many of the “big box” stores—from obtaining licenses. Furthermore, The mandate to construct separate self-contained areas solely for wine and liquor sale could create logistical problems and additional costs for stores seeking licenses, while denying consumers real convenience.
- **Protections against competition should be removed.** Provisions preventing competitors within one-quarter mile of a licensed store, and limiting Class A licenses to one per zone should be eliminated to prevent a state monopoly from being replaced with several local monopolies.
- **Taxes do not need to replace current levels.** Rather than replacing the current tax revenue through a gallonage tax, lawmakers should consider lowering the taxes paid by consumers. The Johnstown Flood Tax was created as a temporary tax in 1936; Pennsylvania taxpayers have more than paid for the costs of the flood. Alcohol taxes should be set according to the rates needed to regulate and oversee the industry, not at levels to subsidize other government spending desires.
- **All cities should be permitted to apply for space exemption.** Class A retail stores in Philadelphia are exempt from minimum square feet requirement of retail space. This provision accounts for the higher costs and limited space in cities, but other areas of the state besides Philadelphia face these constraints.
- **Exemption for current wholesalers.** Pennsylvania has several small wine boutiques selling brands the PLCB does not carry that should be exempt from a brand licensing fee on their current brands.

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The Commonwealth Foundation (www.CommonwealthFoundation.org) is Pennsylvania's free market think tank.

