

## **EXECUTIVE SUMMARY**

### **PROPOSED STATUTORY AMENDMENTS OF THE PENNSYLVANIA LIQUOR CONTROL BOARD**

#### **1) Allow Implementation of Consumer Relations Marketing (“CRM”):**

- The Liquor Code currently prevents the PLCB from recognizing and rewarding regular customers through the use of what is commonly referred to as a Consumer Relations Marketing (“CRM”) program (e.g., supermarket or retailer loyalty programs).
- Such a CRM program which would allow the PLCB to offer exclusive product coupons, award points to returning customers which could be redeemed for discounts on products, and alert customers to upcoming sales and promotions.
- New Hampshire, a control state, has a successful CRM program (including coupons), which has been well-received by consumers.

#### **2) Direct Shipping/Direct Delivery:**

- The Board is not opposed to the idea of direct wine shipment for personal consumption by retailers and manufacturers to Pennsylvania residents, provided that certain controls remain in place:
  - Minors – there must be a mechanism in place to guard against the sale and delivery to persons under the age of 21.
  - Safeguarding Commonwealth Revenue –
    - All sales should be subject to the 6% sales tax and the 18% tax.
    - Sales should only be for personal consumption, not for resale.
- The PLCB believes that it should be given the corresponding authority to deliver or ship directly to residents and/or licensees of other states, allowing the agency to exercise its market leverage in other markets, representing a significant revenue opportunity for the Commonwealth.
  - More than a dozen states have been identified which may permit the PLCB to sell and deliver, including California, provided that it complies with all state and federal requirements.
- The PLCB is currently evaluating the concept of direct delivery to the homes and businesses of Pennsylvania customers.

3) **Remove the Sunday Sales Restriction and Extend Sunday Sales Hours:**

- Currently, only 25% of stores, including kiosks, may be open on Sundays. To avoid having to close down “brick and mortar” stores, kiosks are not operated on Sundays; however, to achieve any meaningful success, kiosks must be permitted to remain open on Sunday, the second busiest retail day of the week.
- The PLCB suggests removing the current 25% restriction, allowing the Board the complete discretion to make necessary business calls on whether to operate any given store or kiosk on Sunday.
- The Board has also suggested allowing stores to operate until 9:00 p.m. on Sundays, instead of the current 5:00 p.m. closing time.
- Extending Sunday hours will further enhance revenue and offer greater customer convenience.

4) **Allow the PLCB to be a Pennsylvania Lottery Retailer:**

- The Department of Revenue (“Revenue”) agrees that the concept of allowing automated, self-service lottery machines at the PLCB’s wine and spirits stores would increase the Commonwealth’s revenue from lottery ticket sales, while adding to the convenience of consumers.
- Revenue has indicated that if the PLCB were permitted to sell lottery tickets through counter sales and lottery vending machines in its stores, and to retain the 5% retail commission (plus bonuses) as other lottery sales agents are permitted to retain, it could see an increase in revenue of approximately \$8 million dollars per year (or approximately \$2 million dollars per year for sales through vending machines only).

5) **Increase Fines for Liquor Violations:**

- The current fine structure has not been changed since 1987.
- The amount of fines collected fall short of covering the costs of enforcement.
  - In 2010, while less than \$2 million dollars was collected through enforcement efforts, the PLCB appropriated more than \$25 million to BLCE and paid nearly \$2 million dollars for the budget of the Office of Administrative Law Judge; the funds collected covered less than 6.9% of the overall costs of enforcement.
- Among other “control” state jurisdictions, Pennsylvania’s structure of fines falls into the lower range of fines for violations.

- If all fines imposed in 2010 had been doubled by the OALJ, the Commonwealth would have realized an approximate increase in revenue of nearly \$2 million dollars.

6) **Increase Licensing Fees:**

- For FY 2009-10, approximately \$15.9 million dollars was collected by Licensing for fees associated with licensing transactions. Of that amount, approximately 28% (or \$4.5 million dollars) was returned to municipalities (via the Liquor License Fund) in which the licensees are located.
- The existing fee structure has not been changed since 1991, 20 years ago.
- The current fee schedule only partially funds the administrative costs associated with processing licensing applications, and does not provide sufficient revenue to cover the PLCB's costs in funding the operational budget of BLCE.
- Many of licensing fees are far less than those assessed in other states.
- In order to realize 100% of the increased revenue associated with increasing licensing fees (as certain fees are returned to municipalities via the Liquor License Fund), it is recommended that an administrative fee be assessed for all license renewal and validation applications.
  - If, for example, a \$700 administrative fee were assessed on all renewal and validation license applications, this would result in approximately \$14 million dollars in additional revenue per year.
  - To cushion the impact of such licensing fee increases, the increases could be phased in over a number of years. After full implementation, subsequent increases could be tied to the Consumer Price Index.

7) **Authorize the Board to Charge Bailment Fees:**

- The PLCB is working towards changing its inventory management to a "bailment" system, so that its warehoused product would be owned by the supplier until it is sent to stores. Bailment is utilized by all 18 "control" states, except Pennsylvania and Wyoming.
  - Under bailment, vendors/suppliers of liquor, including both wine and spirits, would retain title to merchandise through the importation and, subsequently, the storage of the merchandise in a warehouse operated by a PLCB contractor. Title will only pass to the PLCB when merchandise is actually sent to a Pennsylvania wine and spirits store.

- A pilot bailment program will be initiated in January 2012. It is expected that the majority of vendors will be moved into bailment through the 2<sup>nd</sup> quarter of 2012; any remaining targeted vendors will be moved into bailment early in the 3<sup>rd</sup> quarter of 2012.
- Many bailment states assess a “bailment fee,” where manufacturers are charged a reasonable fee in order to store inventory at a warehouse which is operated by a warehouse operator under contract with the state.
- If such fees were assessed in Pennsylvania, the funds could be utilized to off-set any costs associated with maintenance of these warehouses.
- A fee of \$1.00 per case per month (in-line with fees assessed in other bailment states) would generate approximately \$12 million dollars per year.

**8) Allow the PLCB to acquire goods and services without the restrictions of the Commonwealth’s Procurement Code:**

- With the exception of wine and spirits and alcohol-related accessories, the PLCB is required to acquire all goods and services under the dictates of the Commonwealth Procurement Code.
- Example of lengthy delays and/or unfavorable results: the DC Consolidation RFP.
- To ensure that procurement decisions would be made with an adequate level of control in the absence of the Procurement Code, the PLCB proposes to develop and promulgate regulations, through the Independent Regulatory Review Commission, to establish consistent and judicious procurement policies designed to maximize the Commonwealth’s savings.

**9) Changes to Staffing and Human Resource Management:**

- Restrictions imposed by the Civil Service Act and the Administrative Code impair the PLCB’s ability to effectively manage its workforce.
- Allowing the PLCB to make employment decisions outside of Civil Service, and giving the PLCB the authority to classify or reclassify its own positions and set the compensation of all employees will give the agency the autonomy and independence needed to place the right people in the right positions at the right rates of pay.
  - The PLCB currently pays the Civil Service Commission approximately \$1 million dollars per year to administer examinations for store employees.
- Appropriate employment, classification, and salary policies would be put in place to provide necessary controls and structure to the Board’s decisions.

10) **Allow market-based pricing:**

- Under the Liquor Code, the PLCB must apply its markup (currently 30%) equally on all products (i.e., it must adhere to “proportional” pricing on all products).
- Flexibility would allow the PLCB to increase revenue and profitability on certain products, while being able to offer better deals to consumers on other products.
- The PLCB is not seeking “variable pricing;” for example, the PLCB intends to charge the same price for a bottle of Grey Goose Vodka regardless of whether it is sold in Pittsburgh, Harrisburg, or Philadelphia, thereby eliminating any potential regional bias.
- While it is difficult to quantify the actual fiscal impact of the initiative, granting the PLCB the discretion to make such pricing decisions could easily lead to an increase of between \$25 million dollars to \$75 million dollars per year, depending on market conditions and timing of implementation. An analysis is in process of market surveys designed to evaluate the competitiveness of the prices currently quoted by vendors to the PLCB.