

Malt Beverage Distributors Association of Pennsylvania

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MBDA MEMBERSHIP — “Strength, Service, Value”

Act 166 (HB 1196), which took effect on January 17, 2017, allows us to sell all beer packages, from singles on up, including growlers. MBDA was the driving force behind this long-sought and monumental beer distribution change. This law transforms distributors into the ultimate beer retailers in PA and improves consumer selection and convenience by permitting customers to choose the beer packages that they want from our vast selection of brews.

While MBDA saw this bill across the finish line, this success would not have been possible without the steadfast support and advocacy of our members. You consistently, and without hesitation, heeded our continued calls-to-action to contact your elected officials to advocate for the future of your small business. This victory is yours and is well deserved. Thank for you all that you did and continue to do. We appreciate your continued support.

As we go to press, MBDA is pleased to report that no legislation was enacted that is detrimental to beer distributors. Food merchants advocated for increases to the quantities of beer that they can sell, a request strongly opposed by MBDA. Rep. Mike Reese's (R-Westmoreland) HB 438 would have created an expanded spirits permit to allow restaurant liquor licensees, including grocery and convenience stores holding R licenses, the ability to sell spirits for off-premises consumption in addition to the wine and beer that they already carry. His bill excluded beer distributors.

As stakeholders in Pennsylvania's alcohol distribution industry, now more than ever, we need beer distributors to unite and support MBDA. These are critical times as we strive to increase the value of your interests as small business people in a highly regulated market. The significance of a strong trade association is vitally important as legislators are hit from all directions by other segments of the industry along with outside interests. Our achievement in securing total package reform shows how successful we can be when distributors work together and give their support to MBDA. Remember—it is your opinions, as Association members, that guide our activities as an association.

Dues are Due — Please Join

As we begin our new fiscal year, July 1, 2017 to June 30, 2018, MBDA needs you as a member to help us be even more effective in conveying our message to our state lawmakers. There is strength in numbers, and the more members we have, the louder our voice is on Capitol Hill.

MBDA membership gives you a decided advantage in running your small business. Our collective efforts help reduce your operating costs; provides you with invaluable legal, legislative and other services; and gives you expert guidance on the many issues affecting your business.

We urge you to please return the enclosed MBDA membership invoice with your dues payment as soon as possible. We guarantee that the cost of your dues will be more than offset by the savings you realize by participating in our member benefit programs. See pages 10 & 11 of this newsletter for more detailed information.



Frank Pistella, President Stephanie Eckert, Executive Secretary John Burch, Executive Director
230 South Broad Street, Suite 903, Philadelphia, PA 19102 P: 215-732-6258 F: 215-732-6023 E: mbdassn@aol.com

www.mbdapa.org



LEGISLATIVE UPDATE

- Rep. Craig Staats (R-Bucks) circulated a memo to his fellow House Members to allow R licensees to sell multiple six packs. While his intent was to help his area taverns and restaurants, this change would primarily benefit grocery and convenience stores holding R licenses. It would give them unlimited quantities of beer to sell to go along with wine. Staats’ proposal was not put into written bill form. MBDA strongly opposes multiple beer packages for food merchants.

The Senate did not act on the following bills that passed the House. It was reported that Governor Wolf also opposed the legislation.

- Mike Turzai’s (R-Allegheny) HB 975 would create a wine wholesale system. Additionally, it would enable a retail grocery store with 5,000 square feet to sell wine without having to meet current requirements for an R license.
- Turzai’s HB 1075 would create a wine and spirits wholesale system run by licensed importers.
- We appreciate Adam Harris (R-Juniata) considering beer distributors when he introduced HB 991. The legislation would allow retailers with more than 5,000 square feet to sell wine and spirits with permit fees ranging from \$100,000 to \$500,000 and an annual renewal tax of 5% of gross sales. The high fees and tax plus the minimum footage requirement make it unlikely that most distributors would qualify.

Continued on Page 4

ACT 166— Growlers

Many members have asked about Pennsylvania’s statutory and regulatory requirements for growler sales at beer distributors since the passage of Act 166. Generally speaking, the PLCB and PA Department of Agriculture are the state agencies which have jurisdiction over growler sales. While there are only a few official rulings and/or regulations from these agencies on the issue of growler sales, here are some we believe will be important for our members:



- The Department of Agriculture (“DOA”) will require distributors to register with them (and Pay an application fee) in order to fill and sell growlers. For distributors who are

already registered with the DOA, you should be able to treat this as a change in operations application.

- Distributors will be required to install a 3 compartment sink and a separate hand washing sink near the growler area (although it may be possible to seek a variance to utilize the 3 compartment sink as the hand washing sink). The location of the sinks must be approved by the DOA.
- If you are filling growlers for your customers, you are required at a minimum, to rinse the growler with hot water before filling. This can be done with a pressurized bottle washer or in the 3 compartment sink.
- If you choose to allow customers to fill their own growlers, you do not have to clean the growler prior to filling, but the sink must be available for customers to rinse with hot water. There are additional labeling and monitoring requirements for self-service growler stations, which can be provided to members upon request.
- All tap systems must be cleaned in accordance with PLCB Regulations (40 Pa Code §§5.50-5.54).
- Licensees no longer have to label tap handles, faucets, or spigots with the trade name or brand of the malt or brewed beverages being dispensed, as long as the brand label is in full sight of the customer.
- There is nothing in the Liquor Code or the Board’s Regulations which prohibit a distributor from filling a growler which bears a label for a particular brand of beer with a different type or brand of beer.
- There is no requirement to affix any sort of label to a growler once it is filled, but a distributor is responsible for maintaining accurate records that reflect what type of beer is being sold in a transaction in order to comply with 47 P.S. § 4-493(12). Growlers must be individually labeled if they are displayed and offered for sale as “pre-filled”.
- Employees serving and filling growlers must be RAMP certified, and they must refuse to fill growlers for patrons who are underage or visibly intoxicated.
- The Surgeon General’s Warning regarding alcohol consumption set forth in 27 U.S. Code § 215 (a) should be posted on all growlers: “Government Warning: (1) According to the Surgeon General, women should not drink alcoholic beverages during pregnancy because of the risk of birth defects. (2) Consumption of alcoholic beverages impairs your ability to drive a car or operate machinery, and may cause health problems.” Best practices dictate that a growler should not be filled unless the Surgeon general’s warning is in a conspicuous and prominent location on the container, or a label containing the warning (e.g., a sticker) can be affixed to the container by the distributor.



If you intend to sell growlers at your distributor, you should contact the DOA as soon as possible to initiate the application and inspection process. Be advised that not all facilities are under the DOA's jurisdiction. Six counties (Allegheny, Bucks, Chester, Erie, Montgomery and Philadelphia) have county health departments that handle inspections and licensing in their jurisdictions. Additionally, some local municipalities also do their own inspection and licensing. If your business is located in a county or local health department jurisdiction, you should contact your local health department for assistance with licensing and requirements.

ACT 166 – Crowlers

In a recent advisory opinion dated February 27, 2017, the PLCB Office of Chief Counsel advised a distributor from Export, PA it was permissible for him to sell crowlers at his beer distributor. The PLCB stated that, while Act 166 did not specifically use the term crowlers, since distributors no longer need to sell in a manufacturer's original package configuration, it would be permissible to sell crowlers to non-licensees under state law.

We had previously interpreted Act 166 to permit crowler sales by distributors, but it is always reassuring to have a formal advisory opinion from the PLCB on the issue.



Additional Provisions of Act 166

Transshipping

The rule is “the holder of a distributor license may not sell or deliver malt or brewed beverages to a licensee whose licensed premises is located within the designated geographical area granted to an importing distributor other than the importing distributor that sold the malt or brewed beverages to the distributor”.

In crafting Act 166, the members of the General Assembly responded to other constituencies and agreed to insert the transshipping language. MBDA only requested package reform for our members, and we did not ask for any changes to the delivery provisions of the Liquor Code.

There have been bills sent for consideration by the House that would loosen these restrictions and reduce the penalty for buying transshipped beer from another ID's territory from a suspension to a fine. Currently, none of these bills have been passed into law.

Reporting of Distributor Beer Sales

Act 166 requires that “any person selling malt or brewed beverages at wholesale, and any person selling at retail malt or brewed beverages that were not sold at wholesale”, must report to the Pennsylvania Liquor Control Board the volume of such packaged and draft malt or brewed beverages sold. The PLCB sent an email to all breweries, alternating breweries, importing distributors and distributors notifying them of this new reporting obligation, and recently published guidance on this issue.

However, not all of the license holders who received the email are obligated to report their beer sales. The new reporting requirement only applies to licensees who sell at wholesale and manufacturers who sell directly to the consumer. **Thus, a retail beer distributor is not required to report sales to the general public, but they are required to report sales they make to other licensees.** If you fall into this category, you should review the PLCB's email regarding the specific requirements for filing these reports.

To review frequently asked questions and answers regarding malt or brewed beverage reporting, go to www.lcb.pa.gov, click on Act 166 of 2016 (along left hand column) and then click on Malt or Brewed Beverages Reporting FAQs (along right hand column).

Sale of Wine & Spirits

Act 39 of 2016 gave an unfair advantage to restaurant liquor “R” and hotel licensees by giving them wine to sell in addition to beer for take-out consumption. These sellers include supermarkets and convenience stores holding “R” licenses. If future legislation is enacted to create additional wine & spirits outlets, these outlets should be restricted to beer distributors. Here are four good reasons:

- 1) Our specialty retailer business model, primarily limited to adult patrons who enter intending to buy alcoholic beverage, is a far better fit to sell wine and spirits than any other general retailer.
- 2) Distributors selling wine and spirits will respond to the local market as they do best now with beer, and offer consumers far better selection and service than any general retailer.
- 3) There are 1,200 beer distributors located in all 67 PA counties. A total of 1,200 “all-beverage outlets” hits the legislative goal of “one stop shops” and is consistent with the parameters established in the Public Financial Management (PFM) Report, an expensive state study that warned about having excessive outlets.
- 4) Any new model that includes R licenses creates over 10,000 potential outlets, far too many for an efficient system that will provide selection and service. Again, the PFM Report warned about having too many outlets to market these beverages.

HB 1033

The Senate Law and Justice Committee “gutted” HB 1033 and substituted new language to allow certain real estate transactions involving those holding liquor licenses. The committee is chaired by Senator Chuck McIlhinney (R-Bucks).

The phrase “gut” means to remove the language of an existing bill and substitute different language. The new language:

- allows the holder of a hotel, restaurant, eating place or club licensee to be a landlord to a manufacturing licensee;
- allows an employee of a licensee to own a limited winery provided that person is not an officer or does not have any interest in the licensed entity.

The deleted language, the original version of HB 1033 (Ellis, R-Butler), allowed a distributor to buy wine and spirits without any discount from the State Stores and to retail them.

Under the Constitution, HB 1033 as amended in committee can be voted upon by the Senate after three legislative days and sent to the House for its consideration. As of this writing, the bill was sent back to the Law and Justice Committee which puts Chairman McIlhinney squarely in charge of its fate.

These changes in the law were requested by existing businesses found to be out of compliance with the language of existing provisions of the Liquor Code.

“Stop and Go” Legislation Passes House

Legislation aimed at cracking down on “stop and go” convenience stores that have a history of circumventing state liquor requirements, serving underage customers and providing a haven for noise and litter on local sidewalks passed the House 191-6. Proposed by Representative Jordan Harris (D-Philadelphia), House Bill 1547 would increase penalties for any citations and establishments could face the possibility of losing their liquor licenses.

If the bill would become law, areas designated as “saturated nuisance markets”, or areas with a large amount of these establishments, would be subject to annual inspections without prior notice. If found in violation of any of the state’s liquor code, punishment begins with a small fine. The fine increases with a second violation and constitutes a minimum 7-day halt of business, and a third violation would result in a maximum \$10,000 fine and the business would have its license revoked.

The bill will head over to the senate and be referred to the Law and Justice Committee where its future is unclear.

MBDA Member Legislative Talking Points

When talking with your legislators, please make your story personal. Tell them how many years you have been in business, how you’ve invested your savings, earnings and retirement in a business that provides a very efficient system of distributing 80-85% of the beer sold for off-premises consumption. We are a huge source of revenue for the Commonwealth and our local communities.

Advise them of how many Pennsylvanians you employ—good-paying jobs with benefits that would not be recouped by grocery, convenience and big box stores should you be forced to close your doors. Talk with them about your involvement in community events and your excellent record in not selling to minors.



MBDA Business Insurance Program Pays Money Back to Members

MBDA extends its congratulations to our members who earned a dividend on their business insurance placed through the Association’s insurance program. This year’s dividend represents 13% of each member’s premium line, except for umbrella. \$138,115 in dividends were issued, with the average check totalling \$1,054. Penn National agents delivered the dividend checks to MBDA members in May. We are proud that our program has paid an insurance dividend in eight out of the last ten years.

In today’s economy every business owner is looking for ways to cut costs. Your association thought about this years ago and initiated this and other money-saving programs to help MBDA members. Because we utilize our group buying power we are able to give you advantages not available to most individual beer distributors. Your dividend is tangible proof of such advantages and the value of your MBDA membership.

We hope distributors will remember this benefit as just one more reason why they should renew their MBDA membership come July 1st.

This is also a good time to revisit other services that you use in your day-to-day business—such as credit card processing and commercial electricity. MBDA can save you money on both items.



Giant Food Stores v. Lancaster Township

By Order dated February 2, 2017, The Common Pleas Court in Lancaster County dismissed the appeal of Giant Foods after the Lancaster Township supervisors voted to prohibit it from transferring another liquor license into the municipality. Judge Leonard G. Brown, III, said the issue is whether the “rights inherent in a liquor license include the right to transfer that license into another municipality” and that “the court finds that it does not.” We expect the Commonwealth Court to opine on this issue in the near future.

Turkey Hill Licenses Rejected

Hanover Township: The Hanover Township Board of Supervisors rejected the transfer of a liquor license into a Turkey Hill convenience store. The vote was 3-1 with Chairman John Diacogiannis dissenting. Vice Chairman Mark Tanczos recused himself from the vote.

The Northampton County legislative body rejected the motion on three grounds: first, a lack of supervision over potential sales. Second, awarding a liquor license to the convenience store would be detrimental to the health and welfare of the township's residents and finally, the density of existing businesses already holding liquor licenses compared to the township's population.

The Turkey Hill is located at 6020 Sterner's Way, which is at the intersection of Route 512. The store includes a gas station.

In voting "no," Supervisor Stephen Salvensen said he was not thrilled at the prospect of part-time help monitoring the purchase and consumption of alcohol at the gas station through the entire hours of potential alcohol sales. He added it was not in the best interests of the residents of Hanover Township to approve the transfer.

Supervisor John Nagle concurred with most of Salvensen's points and added that "it comes down to common sense" as to whether or not the township wanted to encourage alcohol sales at a "destination" business where people are purchasing gasoline for the purpose of operating a motor vehicle.

He said the rationale behind doing such "defies logic" and was "just ridiculous."

"It is literally like throwing gasoline on the fire," Nagle said. In conclusion, he said approving the transfer "would be against the health and welfare of our citizens."

Supervisor Michael Prendeville also agreed with Salvensen and Nagle's comments and noted the density of retail establishments serving alcohol in the township was already sufficient. Further, he said the potential for harm that could materialize by approving the transfer far outweighed any benefits the township could derive from approving it.

Diacogiannis said that he "absolutely understood" his colleagues concerns, but said he looked at it "from a 40,000-foot level." From the lofty view, he noted the Pennsylvania Legislature and Gov. Wolf have already approved the concept and was updating "antiquated" liquor laws in the commonwealth. As such, he said "this decision doesn't really belong" at the municipal level and that idea supervisors were even voting on it was, in itself, part of the "antiquated law" that was in the process of being reformed or was reformed.

As such, Diacogiannis cast the lone approving vote.

During a hearing on April 25, attorney Mark Kozar, representing the Turkey Hill parent company, said a series of significant changes last year to the state's liquor laws allowed Turkey Hill to make the request.

Gov. Wolf signed a liquor reform bill in June 2016.

At the hearing, Tanczos recused himself and then testified

against the license transfer. In his testimony, Tanczos noted he has been a resident of the township since 1986, and is the second generation owner of a beer distributor, started by his father in 1960.

In articulating his argument against the transfer, Tanczos said the liquor code by statute grants one license per 3,000 residents. Given the township's population of just under 11,000 people, that means the township should have about three licenses. However Tanczos noted the township already has eight licenses.

Palmyra Township: At a hearing on February 7th, the Palmyra Township Board of Supervisors flatly turned down a request to transfer a liquor license to a convenience store directly across from Wallenpaupack Area High School.

Kroger Co., which operates the Turkey Hill chain, is seeking to introduce beer and wine sales in at least some of their markets in Pennsylvania, under the recently enacted changes to the Pennsylvania Liquor Control Board (PLCB) regulations.

Despite attempts to reassure the supervisors that Turkey Hill Minit Market is a responsible company, the supervisors were convinced that the location was not suitable, solely because of the proximity of the Wallenpaupack schools.

Wallenpaupack Area School District also took a stand against the license transfer, noting that a significant amount of the Turkey Hill's business comes from Wallenpaupack's students and staff.

Palmyra Township Supervisor Eric Ehrhardt stated that he had a liquor license for over 30 years (while he owned Ehrhardt's Resort), before he sold it. "I dealt with the issues for a long time, and one issue I can't get past here, especially being next to the school... Kids walk by the school constantly... What I see happening is somebody's older brother- they're at a football game... they will go across the road and get two six packs of beer legally, and they're going to walk it off the property and they are going to give it to their underage friends or brothers- and I don't see how you're going to stop that."

Although the supervisors had 45 days to issue a ruling, they decided immediately and unanimously to deny the application.

Mount Joy Borough: On May 1st, Mount Joy Borough Council rejected Turkey Hill Mini Market's request to allow beer sales at its store at 703 E. Main St., Mount Joy. The vote was split, 6 to 3. Two Councilors expressed concerns about the store's ability to enforce rules, especially when minors are present, and the possibility that a restaurant alcohol license may present unfair competition with the established family-owned beer distributor in the borough. Another Councilor questioned the benefit of having another alcohol license in the borough. We thank long-time MBDA member Karen Hurley for speaking at the hearing. Turkey Hill is appealing the decision to the Lancaster County Court of Common Pleas.

Intermunicipal Hearing Talking Points

MBDA put together the following talking points in order to arm members with pertinent information should they want to challenge intermunicipal license transfers:

- **Quota argument:**

If the receiving municipality is scheduling a public hearing that means the municipality is at or over the statutory quota (1 liquor license per 3,000 inhabitants of the municipality). The general assembly set this quota for a reason and there should be a compelling reason to saturate the municipality with additional liquor licenses. Find out what the quota is for your municipality and how many licenses have already been issued. There are probably already too many liquor licenses in the municipality.

If there are liquor licenses available within the municipality (either in safekeeping, or otherwise), the applicant should have to purchase one of those licenses instead of transferring a new license into the municipality which is already over quota. What efforts has the applicant made to acquire a liquor license from within the municipality? Approving new licenses in the municipality will lower the value of existing licenses. By increasing competition above the quota, there is potential to put these existing alcohol retailers out of business.

The municipality has the discretion to approve or deny these requests (use a letter to your supervisors or a memorandum which explains the current law on these transfers)

- **Subsequent Purchaser Issue:**

The municipality loses control of the liquor license once it is approved within its borders. A license transferred into a municipality through this process must remain in the municipality for at least five (5) years. If the applicant decides it no longer wants the license, or it is no longer profitable for the applicant to sell alcohol, the applicant will be able to sell the liquor license to anyone for use within the municipality. The person they sell the license to does not have to come back to the municipality for another hearing. Potential for the license to be used for a nightclub, nuisance bar, etc.

- **Restrictive Institutions/Residents:**

It would be beneficial to know what is around the applicant's proposed business location. If there are churches, schools, charitable organizations, playgrounds, other businesses with liquor licenses, or other restrictive institutions nearby, you could approach them about opposing the application both at the municipal and possibly the PLCB level.

You will also want to get as many residents as possible to appear and voice their opposition to the proposed transfer.

Residents within a 500 foot radius have automatic standing under the liquor code. There is some debate as to whether non-residents can oppose these transfers, so it is important to make sure residents appear and testify.

- **Prior citation history:**

If the applicant owns other liquor licenses, one could research their citation history on the PLCB website to see if they have ever been cited by the state police for violations of the liquor code.

- **Conditional Approvals by the municipality:**

Some municipalities will try to put conditions on their approvals in the inter-municipal liquor license context but, for all practical purposes, these conditions are unenforceable. These restrictions are not binding on the PLCB and there is no enforcement agency for these restrictions. The municipality can only enforce these conditions through the courts, which is a costly process. These conditions are quickly forgotten unless they are made part of final approval by the PLCB. In the future, if they are not part of the law, the only party that will recall their existence is the applicant, who can pick and choose which restrictions, if any, they want to follow.

- **Reasons to deny an inter-municipal liquor license transfer to a grocery store:**

1. Access by minors at all hours - this is a 24/7 operation, but alcohol sales must cease at 2AM - who will be in charge of monitoring the licensed area when it is not open for business? How will the alcohol be secured (not under lock and key!).
2. Approval of liquor licenses to grocery stores would make alcohol more accessible and convenient, which is contrary to the core principals of the liquor code, which are to restrain the sale of alcohol.
3. Alcohol would now be accessible at a location where customers go out of necessity, not because they choose to. Everybody needs to purchase food.
4. The potential for people struggling from addiction to relapse when exposed to alcohol at a location they must go to for food.

Also, it might help to educate the Township about the things grocery stores will be able to do under existing PLCB law (if they are approved for the license):

- (a) sell all alcoholic beverages - beer, wine and spirits - in any sized containers for consumption inside or outside the building on any ordained 'licensed premises', including pitchers, wine by the bottle and mixed drinks;
- (b) Customers could potentially shop and drink at the same time;
- (c) with 50% food sales, provide on-premises food and alcoholic



- beverage consumption with adjacent-table seating of minors who are not then accompanied by an adult;
- (d) sell novelty drinks (Jell-O shots, alcohol infused gummy bears, etc.) for immediate consumption;
 - (e) sell a full bottle of spirits and hold it for the patron's later return;
 - (f) promote a daily special and discount a specific drink;
 - (g) conduct "happy hours" with product discounts of up to 4 hours per day, not to exceed 14 hours per week;
 - (h) sell beer from either a single container or up to a 12 pack for off-premises consumption (including 24oz cans and 40oz bottles);
 - (i) sell up to four (4) bottles of wine, draft beer, along with other open containers of beer up to 192 ounces, and allow it to be removed from the licensed premises;
 - (j) forego table service by restaurant personnel and the inherent supervision that goes with it;
 - (k) allow free tastings and samplings on premises with little to no oversight;
 - (l) install a bar or beer tub; and
 - (m) give away one (1) free alcoholic beverage in a standard sized container.

• Reasons to deny an inter-municipal liquor license transfer to a gas retailer*:

1. Police attention at these establishments.
2. The transient nature of the business model promotes drinking and driving.
3. Access by minors at all hours - this is a 24/7 operation.
4. High theft businesses. Cigarettes are behind the counter but alcohol will be out in the open for potential shoplifting.
5. Approval of liquor licenses to gas stations would make alcohol more accessible and convenient, which is contrary to the core principals of the liquor code, which are to restrain the sale of alcohol.
6. Alcohol would now be accessible at a location where customers go out of necessity, not because they choose to. Everybody needs to purchase gasoline.
7. The potential for people struggling from addiction to relapse when exposed to alcohol at a location they must go to for gasoline.
8. Gas stations can sell cold singles in coolers right next to the cash register.

*Use examples (a)-(m) above as these apply to gas stations as well.

License Auction

Giant Food Stores and Weis Markets dominated the third statewide auction of so-called "zombie" licenses held by the Pennsylvania Liquor Control Board.

All together, 45 licenses were bid on from \$25,101 for a license in Coal Township, Northumberland County, to \$347,127 for a license in Abington Township, Montgomery County.

The LCB has been auctioning off the licenses following the passage last year of Act 39, a sweeping liquor reform law. The agency is auctioning off nearly 1,200 expired licenses.

Money from the auctions goes to the LCB, which annually transfers money to the state's general fund.

In the latest auction, Sunbury-based Weis Markets won the most bids with 11 licenses including one for Lower Paxton Township priced at \$185,419, one designated for Lancaster City for \$335,419 and one in West Lebanon Township in Lebanon County for \$150,419.

Giant won bids for six licenses including one for Berwick, Columbia County, two for Allentown, Lehigh County and one for Nanticoke, Luzern County. Giant paid the highest bid in the auction at \$347,127 for the Abington Township license.

Last year, Giant paid \$556,000 for a license designated for Cumberland County.

Convenience stores such as the Altoona-based Sheetz Inc. have been big winners in previous auctions. This time around, Sheetz won two bids - one license for Williamsport, Lycoming County priced at \$95,500 and one for Cumberland Valley Township in Bedford County for \$85,100.

York-based Rutter's, operating as CHR Corp., won bids for two licenses in York County for West Manchester Township and York City. Both the licenses were priced at \$280,100.

Five licenses - one each in Beaver, Clearfield, Forest, Fulton, and Potter counties - received no bids.

Reporting Supermarket Violations

We've received reports from MBDA members regarding supermarkets conducting illegal beer promotions, reconfiguring their licensed areas and storing alcohol and/or adding service areas outside their Board approved licensed premises, removing the 4' permanent partition separating licensed and unlicensed premises, or not having the required seating for thirty (can include counter seating) as required for R or E licensees.

Suspected violations of the Liquor Code or Regulations should be directed to the Pennsylvania State Police Bureau of Liquor Control Enforcement (BLCE) for investigation. **All complaints submitted to the BLCE are confidential and complaints may be submitted anonymously.**

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Lease Agreements — “Opt-Out Clauses”

Anybody who has ever negotiated a lease knows it is difficult to get a landlord to agree to an “opt-out” or early termination clause on behalf of a tenant. While some large companies like Starbucks use these clauses routinely, they also have a good deal of bargaining power over their landlords. For smaller, family-owned businesses, landlords typically frown upon giving a tenant the ability to get out of a lease prior to the scheduled expiration date. However, the times are changing.

As we have seen over the past couple years, the beer industry can be turbulent. More and more frequently we are battling proposals from other businesses trying to break into the malt and brewed beverage industry. Many distributors (and other licensees) signing new leases or renewing existing leases have used these tumultuous times as a reason to negotiate opt-out clauses in their leases, and with increasing success.

The most common form of opt-out clause for a lease agreement is one that allows the tenant to move out early for an agreed-upon fee. In some instances, landlords will even agree to these clauses without a fee or penalty after a certain period of time. In either case, it is better for a tenant to have options, especially if signing a long-term lease. Here is a sample opt-clause that has been approved for other distributors:

“If Pennsylvania law is amended to, or Pennsylvania appellate courts issue rulings which, permit the statewide sale of malt and/or brewed alcoholic beverages directly to the public in and by grocery or convenience stores, big box stores, or other outlets in quantities greater than a 12 pack per transaction (the current niche market of beer distributors) or grants rights to sell other alcoholic products such as wine and spirits to other entities such as grocery or convenience stores, big box stores, or other outlets and does not grant the same privileges to beer distributors on economic terms and conditions which allow beer distributors to compete in such marketplace (in Tenant’s reasonable discretion), then Lessee shall have the right, at any time after the twelfth (12th) month of the Term, to provide Lessor with written notice of its intention to terminate the Lease on a date not less than ninety (90) days from the date of the notice given in accordance with this paragraph. Upon such early termination date, neither party shall have any further liability to the other, except as otherwise set forth herein.”

Ask your landlord for this or a similar clause in your next lease negotiation. Hopefully, our members will never need to exercise these clauses, but it is good business practice to plan for the future.

Permissible Pricing Practices For Distributors

With all of the new packages coming to distributors, and the ability to sell in smaller quantities, now is a good time for a primer on permissible pricing practices in a beer distributor. Generally speaking, distributors



may charge whatever they wish for beer, and price reductions and incentives may be applied selectively, subject to the unlawful inducement limitations in the Liquor Code. For example, a distributor may charge one price for customers paying with cash and another price for customers paying with credit cards. A distributor can provide discounts to military veterans and can match the price of a competitor.

The primary restriction on pricing for a distributor is Section 493(24)(i) of the Liquor Code. This section prohibits giving anything of value (other than advertising novelties) to induce the purchase of alcoholic beverages. Thus, it is not permissible for a distributor to offer a discount on the price of a case of beer or to give away a free case of beer if such discount is predicated on the purchase of a set number of cases. For example, a distributor may not offer a discount of one dollar (\$1.00) per case on the purchase of ten (10) cases, two dollars (\$2.00) per case on the purchase of twenty (20) cases, or three dollars (\$3.00) per case on the purchase of thirty (30) cases, etc. Similarly, a distributor may not offer a free case of beer with every ten (10) cases purchased, or two (2) free cases with every twenty (20) cases purchased, etc.

Under these scenarios, the distributor would be offering something of value in the form of a discount or free case of beer on subsequent beer purchases to induce the initial purchase. However, it is permissible for a distributor to offer a quantity of beer at a set price which results in a lower cost per unit than the price of smaller quantities of beer so long as the pricing reflects an economy of scale and is the regular pricing set by the distributor for such quantities.

For example, a distributor could offer one (1) case of Bud Light beer for twenty dollars (\$20.00), two (2) cases of Bud Light beer for thirty-five dollars (\$35.00), or three (3) cases of Bud Light beer for fifty dollars (\$50.00), as long as those are the regular prices for those particular quantities. These same rules apply not only to case sales, but also to sales of single bottles and six (6) packs.

So, as long as a distributor sets regular pricing for its products, even though such regular pricing results in lower per unit costs for those products, this practice would be legal and would not constitute an illegal inducement.



Mail-in Rebates Prohibited at Grocery Stores

The PLCB, Office of Chief Counsel opined in May that mail-in rebates for beer that have been approved for use at distributor licensees are not eligible for use at grocery stores which hold restaurant liquor licenses.

The PLCB relied on Section 493(24)(i) of the Liquor Code, which prohibits (with limited exceptions) a licensee from offering or giving to consumers any prize, premium, gift or other inducement to purchase liquor or malt or brewed beverages. An exception to this general prohibition allows for the use of manufacturers coupons for the purchase of beer, but only if the beer is purchased from a distributor or importing distributor.

Thus, the PLCB opined mail-in rebates may not be used at retail licensee locations such as grocery stores.

Outside Advertisements

If your distributor is located near a church, school or public playground, there are special restrictions that may apply to your advertising of malt or brewed beverages. Print advertisements of alcoholic beverages are only permissible if they are over three hundred (300) feet from a church, school or public playground. Any written advertisements of alcoholic beverages within three hundred (300) feet of a church, school, or public playground are prohibited by section 498(e)(3) of the Liquor Code. For example, a billboard or banner advertising alcoholic beverages located two hundred (200) feet away from a church would be prohibited. This prohibition does not preclude any point-of-sale advertisement or other print advertisement regarding alcoholic beverages if such advertisements are inside the distributor. This prohibition also does not apply to advertisements on mobile (transient) vehicles. If you believe your business may be located within three hundred (300) feet of one of these institutions, you should consult with private counsel to determine what advertisements are permissible.

Keith Rutt Sends His Thanks

MBDA vice president Keith Rutt (Wheatland Distributors, Lancaster) continues to make great progress as he rebounds from serious injuries he sustained almost one year ago in a motorcycle accident. He's back participating in Association directors' meetings and attended our April convention. Keith thanks you for all your good wishes.

MBDA Continues our Affiliation with ABL

The food merchants' movement contending that Pennsylvania's laws are antiquated is exactly what is being said in every other state where alcohol sales are not dominated by large and predatory corporate retail chains.

Just as it is important for Pennsylvania's beer distributors to band together and join MBDA, we continue our membership with the leading national trade association that represents alcohol retailers—the American Beverage Licensees (ABL).

In working with the ABL we combine our resources with theirs and do not have to reinvent the wheel to find tactics and practices that have been successful in other parts of the country and learn from those to strengthen our efforts here in Pennsylvania.

All MBDA members are automatically enrolled as members of the ABL, and each will receive their quarterly membership magazine "The ABL Insider", featuring news and views about the industry, and their monthly legislative update, offering the latest on legislation and policy issues.

As a way to stay current of Pennsylvania and nationwide alcohol issues, you can sign up for the ABL weekly email update at www.ablusa.org.

Membership in ABL is another benefit of MBDA membership.

An Important Win for Small Businesses — Swipe Fee Protections Remain Intact

On June 8th, the US House of Representatives passed the Financial CHOICE Act which keeps pro-competitive debit card swipe fee policies in place and aids retailers and consumers in the battle against excessive swipe fees. The bill received widespread attention as the initial draft included language that would have repealed the debit swipe fee protections, also known as the Durbin Amendment, passed in 2010 as part of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

The American Beverage Licensees (ABL) led the charge to keep debit swipe fee protections in place. MBDA, together with other industry groups, responded to the ABL's call to action by contacting our federal lawmakers and expressing our concerns on how financially harmful repeal of protections would be to small businesses and consumers nationwide.

We thank the ABL for their guidance in ensuring that small business owners won't face skyrocketing fees every time a customer uses his/her debit card during a transaction.

The Following Discounted Programs and Services

Association membership numbers translate into **group buying power**. MBDA offers the following benefits and services to our dues-paying members to **make and save you money**. **Your savings will pay for your MBDA membership dues many times over**. Members who are interested in enrolling in a program should contact Stephanie Eckert at our Executive Office by email mbdassn@aol.com or phone 215-732-6258.

Credit/Debit Card Processing Program: Rates have been drastically slashed and Association members are assured of receiving the lowest possible fee schedule of only \$0.05 cents plus 5 basis points to process credit and debit card transactions through our Interchange Plus Program with PNC Merchant Services. The program offers:

- Low pricing to lease or purchase the latest equipment or reprogram existing equipment free of charge.
- No fees for set up, statements, reporting, account maintenance, batch, ACH, etc.
- Supplies free of charge.
- Dedicated Account Manager for MBDA merchants. Customer help desk 24 hours a day/7 days a week.
- Continue to do business with your existing bank. Monies are deposited into your business checking account within 2 calendar days; 1 day for PNC bank customers.
- Fee collection is monthly, not daily.
- Increase your customer base with our Gift Card Program.
- Distributors who process through another processor can send us their statement and we'd be happy to do a rate comparison.

Business Insurance Program: Our comprehensive package is sponsored through *Penn National Insurance*, and is available through all Penn National agents. We encourage you to “Tap Into The Savings” with MBDA’s unique business insurance program designed specifically to meet the needs of beer distributors:

- Competitive pricing on automobile, casualty, property, umbrella and worker’s compensation coverages.
- Low cost liquor liability. 10% credit on liquor liability if you use an electronic scan device.
- 10% credit on auto, business owners & worker’s compensation.
- Dividend opportunity based on our group’s loss ratio. MBDA members received a 13% return on their investment for 2017. This program has paid a dividend back to policy holders in eight of the last ten years.

Electronic ID Scanning Program: *Ray Swerdlow* offers a choice of the following equipment to protect your license and help prevent citations for underage sales:

ID-e2001—reads magnetic strip: MBDA member price \$375 (retails @ \$429—save \$54).

ID-e2004-S—reads magnetic strip, 1-D & 2-D Bar Codes: MBDA member price \$900 (retails @ \$1,100—save \$200).

ID-e2004-P—reads magnetic strip and 2D Bar Code: MBDA member price \$950 (retails @ \$1,150—save \$200).

ATM Program: Our ATM Program, sponsored in partnership with *CORD Financial Services*, gives you the benefits of having an ATM in your store at minimal cost to you:

- Machines are brand new and ADA compliant.
- You’ll earn money on every transaction paid monthly to your account by EFT or check.
- All cash withdrawn is deposited into your account within 48 hours.

Energy Program: MBDA is proud to partner with Kinetic Energy Associates, our energy consulting firm, to save members money on the generation portion of their commercial electricity:

- Use the power of group purchasing by combining your energy usage with other MBDA members to attain the lowest possible kWh rate.
- Savings are guaranteed for the length of the contract.
- Each member will continue to receive their own bill, be responsible for their own payment of the bill, and each member’s local utility company will continue to maintain and service the wires that carry electricity to their businesses.



are Available Exclusively to MBDA Members

Promotional Items Program: Our advertising specialist, *Networker Promotions*, offers you an excellent and inexpensive way to promote your business, and invoicing takes place only after delivery:

- Advertising and novelty items are imprinted with name, address and wording of your choice.
- Very low pricing on all items, even on minimum quantity orders.
- Free catalog with 1000's of advertising specialties from which to choose.

Automatic Enrollment in American Beverage

Licenses: ABL is the leading national trade association for beer, wine and spirits retailers. You'll receive their quarterly membership magazine "The ABL Insider".

Legal Services offer specialized advice on industry-related questions.

Government Affairs Lobbying gives MBDA a strong advocate in Harrisburg.

Our Public Relations Campaign by way of website features, social media channels and other marketing activities is directed to consumers and state lawmakers.

Any Questions? Need Advice? Our *Executive Office* is only a phone call away. MBDA's experienced staff is always ready, willing and able to help our members on any industry issue or problem.

Board of Directors. MBDA's officers, district vice presidents and directors are not paid employees of the Association, but give generously of their time throughout the year to attend board, industry, and legislative meetings and receptions. Members should feel free to call on them with questions and suggestions. Visit www.mbdapa.org/documents/officers_directory.pdf for contact information.

MBDA Committees: Association directors further volunteer their time and talent to serve on committees to help make the best possible decisions on behalf of our members. MBDA members who are interested in serving on one of the following committees should contact the Association's Executive Office—Legislation, Finance, Membership, Convention, Fundraising, Public Relations, Legal.

Newsletters, Releases & Emails are regularly sent to members to keep you up-to-date on administrative, government, legal, legislative and regulatory issues. Please contact the Executive Office with your email address to make sure you receive this important and timely information and continue to visit www.mbdapa.org for the latest up-to-the-minute industry developments.

Convention Registration Discounts are offered to participate in the Sunday business & hospitality sessions.

Responsible Alcohol Management Program (RAMP) participation is offered at a discounted rate to distributor member employees. Call MBDA to obtain the discount code and then visit www.mbdapa.org to register for MBDA's online RAMP training as approved by the PLCB.

Attend Board of Director and Membership Meetings. We urge each member to become involved and active.

MBDA Welcomes Suggestions From Our Members. Let us hear from you as to what changes should be made to benefit and improve the beer business.



Q Frequently Asked Questions

The following are answers to questions that MBDA members regularly present to our Executive Office. You can also download the “Digest of Malt Beverage Laws” from our web site, mbdapa.org:

Q When Can Distributors and Importing Distributors Sell Beer:

To Non-Licensees (Consumers)—Monday through Saturday 8 am to 11 pm. D’s and ID’s who purchase a Sunday Sales Permit from the PLCB may sell beer on Sunday from 9 am to 9 pm.

To Special Occasion Permit Holders—From 2 am Monday until 12 midnight of the following Saturday. D’s and ID’s who purchase a Sunday Sales Permit may sell beer on Sunday from 9 am to 9 pm.

To Other Licensees and Permit Holders—From 2 am Monday until 12 midnight of the following Saturday. D’s and ID’s may not sell beer to other licensees or permit holders on Sunday.

Q When Can Distributors and Importing Distributors Deliver Beer:

To Non-Licensees—Monday through Saturday 8 am to 11 pm. D’s and ID’s may deliver beer on Sunday between the hours of 9 am and 12 noon by “prior arrangement”. Prior arrangement means that the sale price of the beer must be more than \$250 and have been ordered, invoiced and paid for in full at the seller’s licensed premises before the Sunday of delivery. No Sunday Sales Permit is needed to deliver beer to non-licensees by prior arrangement on Sunday.

To Special Occasion Permit Holders—From 2 am Monday until 12 midnight of the following Saturday, and on Sunday between the hours of 9 am and 12 noon by “prior arrangement” as explained above.

To Other Licensees:—From 2 am Monday until 12 midnight of the following Saturday. D’s and ID’s may not deliver beer to other licensees on Sunday.

Q Can D’s and ID’s Advertise Price: Yes, but there are some restrictions as set forth in Section 498 of the Liquor Code. Ads may not contain any statement that is false, deceptive or misleading; any statement disparaging of a competitor’s product; any statement referring to monetary comparison between brands; and prices advertised on the licensed premises must be those in effect at the time of the ad or display.

There are other restrictions that apply to ads for alcoholic beverages in general at Section 498, and further explained in PLCB Advisory Notice #15. By Advisory Opinions #234 of 2007 and #009 of 2006, the Office of the Chief Counsel has found acceptable distributor ads stating the distributor would “match” the prices listed in any other distributor’s print ad within a certain geographic area.

Q Minimum Age Requirement to be an Employee of a D or ID: In general, the minimum age requirement is 18 years, and there is no exception for family members or temporary employees. PLCB Regulation 5.14 does recognize that a 17 year old who is a high school graduate or who is declared to have attained his academic potential by the chief administrator of the school district within which the minor resides is deemed to be an 18 year old for the purposes of employment. However, when employing such individuals, D’s and ID’s must keep on the licensed premises a certified copy of the diploma or certificate of graduation, or a letter on the official stationery of the school district and over the signature of the chief administrator of that district declaring that he/she has attained his/her academic potential.

Q Collecting Identifying Information: Distributors and importing distributors are no longer required to collect and file the name, address or other identifying information of the private individual purchasing four or more cases or other large volume of malt or brewed beverages. This provision also applies to kegs, as “quantity of cases or volume” of malt and brewed beverages is all inclusive. Licensees may wish to continue to collect such identifying information for purposes of section 495 of the Liquor Code, including the establishment of a defense to a citation for selling alcohol to a minor. (47 P.S. §4-495).

Q Licensees have ten days to make good on a bad check: If a Malt Beverage Compliance Officer receives notification that a licensee issued a worthless check, the officer shall give the licensee written notice that the licensee has ten days from the date the notice was mailed to honor that check. Should the licensee fail to honor the check within ten days from the date the notice was mailed, the matter shall be turned over to the Enforcement Bureau for citation.

Q Lettering size on vehicles: The minimum sized lettering bearing the name and address and license number of a licensee painted or affixed on each side of a vehicle used to transport or deliver malt or brewed beverages has been reduced from four inches to two inches in height.



Q Period to keep records on licensed premises: The records from the most recent six-month period must be maintained on the licensed premises. Records from the remainder of the two-year period may be kept off the licensed premises as long as the records are returned to the licensed premises within twenty-four hours of a request by the Board or Enforcement Bureau. A licensee may remove the records for the most recent six-month period from the licensed premises only for a lawful business purpose provided that they are returned to the premises when the business is completed.

Q Sale Below Cost: PA licensees can sell alcoholic beverages below cost. There are restrictions on giving it away free, but there are no restrictions on minimum pricing, as long as they comply with discount pricing rules.

Q Can D's & ID's be selective in pricing, reductions & incentives: It is the PLCB's position that distributors and importing distributors may charge whatever they wish for beer, for the most part, and price reductions and incentives may be applied selectively.

Q Coupons: Distributors are not permitted to offer or give anything of value to induce the purchase of malt or brewed beverages. Generally, only manufacturer rebates/coupons redeemed by mail are permissible.

Q In what package configurations are distributors permitted to sell: Act 166 allows a distributor to sell malt or brewed beverages in any package configuration to a non-licensee for off-premises consumption. These sales do not have to be in the manufacturer's original configuration and can be sold in refillable growlers that can be resealed. The Act did not change the packaging rules for distributors' sales to licensees.

Q In what package configurations are restaurant liquor licensees permitted to sell: They can sell up to 192 ounces in a single transaction. The latest opinions from the PLCB have stated that continuous sales are still not legal and the customer must remove the initial purchase from the licensed area before returning to make a subsequent purchase.

Q Is a D licensee permitted to sell product anywhere in Pennsylvania: Act 166 precludes a distributor from selling or delivering malt or brewed beverage to any licensee whose licensed premises is located within the designated geographic area granted to an

importing distributor other than the importing distributor that sold the beer to the distributor. If the licensee purchasing the beer from the distributor holds multiple licenses or operates at more than one location, then the beer may not be consumed or sold at licensed premises located within the designated geographical area granted to an importing distributor other than the importing distributor that sold the beer to the distributor. A licensee accepting delivery and/or transferring malt or brewed beverages in violation of this provision shall be subject to a suspension of at least thirty days.

Q Sale of non-alcoholic beverages to minors: The PA Liquor Code does not address this issue, but Section 6310-7 of the PA Crimes Code prohibits anyone from intentionally and knowingly selling or furnishing non-alcoholic beverages to any person under twenty-one (21) years of age. Section 6310.7 defines a non-alcoholic beverage as any beverage intended to be marketed or sold as non-alcoholic beer, wine or liquor, having some alcohol content but which does not contain more than 0.5% alcohol by volume.

Q Tastings vs. Samplings: A sampling promotion is intended to introduce consumers to a manufacturer's product. Samplings must adhere to the following criteria: (1) samples may be provided by the manufacturer's representatives and distributor or importing distributor licensees to licensed and unlicensed customers. (2) samples must be in unopened containers of the smallest commercially available size (i.e., 12 oz. can or bottle); (3) the providing of such samples cannot be conditioned upon any purchase requirement; (4) samples are limited to one (1) container per patron in any offering; and (5) samples may not be opened or consumed on a distributor premises.

Tasting or tasting events are defined in the Board's Regulations as presentations of alcoholic products to the public for the purpose of market research, disseminating product information and education to the public as to quantity and availability. Tastings may be conducted by licensed brokers, distributors, importing distributors, and manufacturers or their agents upon unlicensed or unlicensed premises. Any products used must be properly procured and registered, and taxes on the products must be paid. There can be no purchase requirement associated with such tasting. Finally, no more than one (1) standard-sized alcoholic beverage of each product shall be provided to each tasting participant. A standard-size serving of beer is twelve (12) fluid ounces. Therefore, offering unlimited number of drinks to attendees would not be permissible.

Continued on Page 19

Defense Against Sales to Minors

Licensees are reminded that they have three proven “good faith” defenses against the sale of beer to persons under 21 years of age: (1) Have a suspected minor sign the PLCB declaration of age affidavit. (2) Take a photocopy or photograph of one of the following forms of identification—valid driver’s license with photo, ID card with photo issued by the Department of Transportation, military ID or valid passport. (3) Use an electronic scanning device. Keep all records on your licensed premises.



MBDA Offers Employee Online Ramp Training

To have your employees RAMP (Responsible Alcohol Management Program) trained, MBDA members should call our Executive Office to obtain your discount code and then visit www.mbdapa.org.

For only \$10.00 per person, your entire staff can complete their certification ANYTIME, ANYWHERE! Users have 30 days to complete the two-hour online test, so there is no need to finish in one sitting. Employees print their certification upon completion of the test, and the results are immediately sent to the PLCB. If an employee fails the test, the first re-take is automatic and free of charge.

It makes good business sense to have your employees well trained not to sell to minors. And, under Act 39, it is mandatory that all alcohol service personnel must complete seller/server training within 6 months of being hire. Let’s maintain our excellent record in preventing underage sales.

MBDA Buyer’s Guide Now Available Online

MBDA is honored by the support given to us by many of our suppliers who have joined as associate members. We have established an On-Line Buyer’s Guide of Associate Members who provide a variety of products and services that help our members’ businesses run more efficiently and economically. Their membership support of MBDA warrants our support and we urge you to consider them when addressing your business needs.

Thank You 2017 Associate Members

MBDA thanks the following firms for investing in the future of the beer distributing industry by becoming associate members:

Anheuser-Busch
#781-224-1133.

Appalachian Brewing Co. #717-221-1080.

Burns Industrial Equipment (Forklift Trucks)

#412-856-9253. **Cervion Systems** (POS System) #877-476-

7246. **Flightware Solutions** (POS System) #816-774-3500.

M. Fried Store Fixtures 717-766-0720. **Gerbron Wholesale** (Tobacco, Candy, Paper Products) #610-347-0440.

Infosolve, Inc. (mPower Beverage Software) #877-396-0141. **Harold Levinson Associates** (Tobacco, Beverages, Snacks) #631-962-2400.

Lion Brewery #570-823-8801. **Longley Insurance Agency** (Insurance) #610-524-1940. **Mark Anthony Brands** #312-715-9210.

Micro Matic USA (Beverage Dispensing Equipment) #866-327-4159. **Modern Store Equipment** (Coolers, Shelving) #609-241-7471.

Networker Promotions (Promotional & Novelty Items) #800-485-4461. **North American Breweries** #412-780-5367.

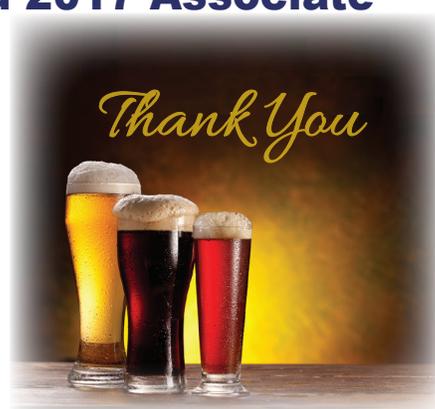
Penn National Insurance (MBDA Endorsed Insurance Company) #717-234-4941. **PNC Merchant Services** (MBDA Endorsed Processor) #717-597-4786.

Resnick Distributors (Tobacco, Candy, Snacks) #800-828-3865. **RITE** (POS System) #320-230-2282.

Schubert Equipment Sales (Shelving & Refrigeration) 724-903-0880. **Shipyards Brewing Co.** 207-761-0808. **Straub Brewery** #814-834-2875. **Yards Brewing Co.** #215-634-2600.

D.G. Yuengling & Son #570-622-0153.

Suppliers who are interested in applying for associate membership should go on-line to www.mbdapa.org or call our Executive Office.



MBDA Convention Recap

April 21-24 marked MBDA's 81st annual convention and trade show. Members, their families and friends made their way from across PA to the Kalahari Resort. The convention was billed as a "Party in the Poconos" and it certainly did not disappoint.

Activities began on Saturday morning as forty golfers participated in our tournament at the Pocono Manor. They had a great time on a course that was as challenging as it was beautiful. More than 100 distributors then congregated for a cocktail reception, scrumptious banquet, and fabulous entertainment as they mingled with numerous members of the PA General Assembly. MBDA president Frank Pistella was presented with the C. John Muller Award for Distinguished Service. Following the banquet, transportation was provided to the nearby Mt. Airy Casino.

Early Sunday morning, distributors and suppliers gathered for our informative business sessions. They heard from John Bodnovich, Executive Director of the American Beverage Licensees; PA State Senator Mario Scavello; Tom Kehoe, President and Brewmaster of Yards Brewing Company; Jim Koch, President of the Boston Beer Company; and Bill Brock, President and CEO of Straub Brewery. MBDA counsel updated distributors on legal issues facing our industry and our lobbyists provided them with a legislative update. We thank MBDA 1st Vice President Matt Viens for securing Jim Koch as a speaker and his valuable assistance in helping to put together an excellent speakers' program.

Hundreds of distributors gathered in the ballroom to experience the trade show portion of the convention—a sold-out event! Brewers and suppliers showcased their products and services in forty-four hospitality booths. Distributors taste-tested the newest products, saw demonstrations of products that would improve their business operations, and sampled from creative food stations strategically placed throughout the ballroom. MBDA's 81st annual convention drew to a close Sunday evening as members and suppliers gathered at the Desaki Japanese Restaurant in nearby Swiftwater.

We thank all who attended our 81st annual convention. Special thanks is extended to MBDA convention chairman John McElroy, and convention coordinator Stephanie Eckert, for a job well done.

Thank You 2017 Convention Participants

Our thanks go out to the following firms whose booth participation made our 81st Annual Trade Show a huge success: Ace Beverage Co., Anheuser-Busch, Anzalone Special Beer, Atlantic Systems, Boston Beer Co., Bush Refrigeration, DISPAC, Dotmark Promotions, Encompass Technologies, Excellence in Beverages, Flightware Solutions, Gershel Brothers Store Fixtures, Infosolve, Lancaster Brewing, Harold Levinson Associates, The Lion Brewery, Longley Insurance Agency, Mark Anthony Brands, Micro Matic, MillerCoors, Modern Store Equipment, New Belgium Brewing Co., North American Breweries, Penn National Insurance, PNC Merchant Services, Rusty Rail Brewing Co., Shipyard Brewing Co., Stockertown Beverage, Straub Brewery, Susquehanna Brewing Co., Troegs Brewery, United States Beverage, Victory Brewing, Yards Brewing, Yuengling Brewery.

Thank You Convention Sponsors

Our best wishes are extended to the following wholesalers for their generosity in serving as convention sponsors—Ace Beverage in Eynon; Banko Beverage in Allentown; Northeast Eagle in Pittston; Resort Beverage in Tannersville; and L.T. Verrastro in Old Forge.

Chairman John McElroy introduced this new concept to the convention, and your responses made it a tremendous success. Thanks!

MBDA 2018 Convention

We look forward to seeing you at our 82nd Annual Convention tentatively scheduled for April 27-30, 2018, at Seven Springs Resort in Champion, PA.



Please Contribute to DISPAC

MBDA created the Distributors Political Action Committee (DISPAC) to serve as our channel for supporting those legislators who serve as our advocates and to promote our cause to those who are not. Your contributions enable Association officers, directors, staff and members to attend legislative fundraisers and participate in breakfasts and receptions to discuss with our Senators and House Members issues that are of critical importance to our industry.

We were successful in achieving the sale of all beer packages for distributors. But, grocery and convenience stores have taken dead aim at capturing our market share and eroding the successes of our new business model. These groups have made it clear that their goal is to have their venues sell two cases. In this year's legislative battles, an amendment to allow this was overwhelmingly defeated. Most committee members—Republicans and Democrats—supported beer distributors by voting “no”.

It is critical that we replenish our DISPAC funds so that we can continue to provide meaningful contributions to those legislators who respect and support our small family owned businesses. A \$250, \$500 or \$1,000 (or a smaller amount if that is more affordable) contribution to DISPAC by every distributor who wishes to stay in business will enable us to expand our sphere of influence on Capitol Hill, and preserve and enhance the future of our businesses.

Please help MBDA with your DISPAC investment. Make your personal or partnership (no corporate) check payable to DISPAC and mail to 230 S. Broad St, Suite 903, Philadelphia, PA 19102.

In the meantime, if you have a legislative event in your area that you believe warrants a DISPAC contribution, please don't hesitate to contact the MBDA Executive Office.

Thank You DISPAC Contributors

As we go to press, we thank the following distributors for their generous 2017 DISPAC contributions: Margaret Alston, Joe Bound, Mark Boyce, Martin & Kathleen Cirelli, Tony & Patricia Colangelo, Bob DeBone, Ryan & Gretchen Federbusch, Patrick Flannery, Craig Gilham, John & Cheryl Grunden, Maureen & Donald Hicks, Bradley & Tammy Keuscher, Jaydip & Anita Patel, Keith Rutt, Tim Zettlemyer.

Items Distributors Can Sell In Addition to Beer

At the request of our members, MBDA worked with the PLCB to acquire additional items for sale by distributors to benefit their businesses and better serve the needs of their customers: Those items are listed in PLCB Advisory Notice No. 9 (5th Revision) released by the PLCB on April 25, 2012. The notice can be accessed through the PLCB web site at www.lcb.state.pa.us/. Go to “legal” in the upper right hand corner, click on “advisory notices”, and then click on “advisory notice 9”.

To sell items not listed in the advisory notice, distributors must make a written request to the PLCB, Northwest Office Building, Harrisburg, PA 17120, Attn: Office of the Chief Counsel.

What Additional Items Do You Want to Sell?

MBDA will make suggestions to the PLCB on additional items we would like to have added to Advisory Notice #9 and approved for sale by all distributors across PA. We are soliciting suggestions from our members as to the items you would like to see added to the list of items we can all sell every day.

We have a very limited time frame to get these suggestions in, so please reply today.

Again, if you want to review what items we are currently approved to sell, please go to the PLCB web site www.lcb.state.pa.us/.



MBDA's Professional Staff

The following Association employees strive to meet the needs of our member distributors and exceed their expectations.

Executive Office: MBDA's Executive Office is your primary source for information. Executive Secretary Stephanie Eckert corresponds with distributors on a daily basis, and is only a phone call away to answer member questions on any industry issue or concern. Executive Director John Burch assists us in getting our message out to consumers, the legislature and the media.

Lobbyists: MBDA is well represented in Harrisburg by Bob Archibald and Chip Brightbill of the government relations firm—Stevens & Lee.

Counsel: Charlie Caputo, Esq. of Caputo & Caputo, P.C. serves as MBDA counsel. Charlie is responsible for analyzing legislation, appraising and managing litigation, and reviewing association contracts.

MBDA Directors Elected

At their April 23rd meeting, MBDA policy board representatives elected the following district vice presidents and directors to serve for the current term, July 1, 2017 to June 30, 2018. Please remember that they are not paid employees of MBDA, but give generously of their time to attend director meetings and relay industry information back to their area members. They are available to answer your questions and concerns. Their contact information can be found on-line at mbdapa.org.

District #1 — Philadelphia County: Dennis Harrison and Frank Palladinetti.

District #2 — Lackawanna, Luzerne, Monroe, Pike, Susquehanna, Wayne & Wyoming Counties: Tony Colangelo, Rich Mineo, Ron Sherwood, Dave Shipula.

District #3 — Adams, Cumberland, Dauphin, Franklin, Juniata, Lancaster, Lebanon, Perry & York Counties: Roger Ackerman, Larry Hatter, Keith Rutt, LeAnn Supeck, Jim Yapple.

District #4 — Allegheny, Beaver, Fayette, Greene, Washington, Westmoreland Counties: Mike Baker, Michael DeBone, Robert DeBone, Ryan Federbusch, Steve Klein, Chris Miller, Dipesh Patel, Frank Pistella.

District #5 — Bedford, Blair, Cambria, Centre, Fulton, Huntingdon, Mifflin, Somerset Counties: Rich Francke, Kevin Luensmann, Arun Patel.

District #6 — Columbia, Montour, Northumberland, Snyder, Union Counties: Joe DeSantis and Matt Viens.

District #7 — Armstrong, Butler, Cameron, Clarion, Clearfield, Elk, Forest, Indiana, Jefferson Counties: Doug Jack and Ryan Jack.

District #8 — Crawford, Erie, Lawrence, McKean, Mercer, Venango, Warren Counties: Mike Kondak, Scott Saber, Pete Sirianni.

District #9 — Berks, Carbon, Lehigh, Northampton, Schuylkill Counties: Tom Derr, Skip Link, John McElroy, Mark Tanczos.

District #10 — Delaware & Montgomery Counties: Michael Adelizzi, Ernie Cruciani, Brian Mutschler, Alex Piermani, David Piermani.

District #11 — Bucks & Chester Counties: Anthony D'Addezio, Dave Dripps, Ed Klunk, Frank LaRosa.

District #12 — Bradford, Clinton, Lycoming, Potter, Sullivan, Tioga Counties: Jessica Wheeland.

Director Vacancies

Director vacancies exist in Districts #1 (Philadelphia), District #7 (Armstrong, Butler, Cameron, Clarion, Clearfield, Elk, Forest, Indiana & Jefferson), and District #12 (Bradford, Clinton, Lycoming, Potter, Sullivan & Tioga).

MBDA members who are interested in serving should call the Association's Executive Office. Directors are asked to attend quarterly board of director meetings and our annual convention. They assist MBDA in relaying information back to their area members.

MBDA's Record of Accomplishments

MBDA is your voice in Harrisburg, and provides you with legal guidance, lobbying, trade and public relations services. We are committed to our members and proud of the achievements that have promoted and safeguarded your interests. The following is a list of some of our successes. Please give careful consideration to the positive impact they have made to your business when determining if you should join MBDA as a dues-paying member!

- Secured the sale of all package sizes for beer distributors, the most significant package reform in more than 80 years.
- Without MBDA's concerted opposition, there would be thousands of non-specialty retailers selling cases of beer from the aisles today.
- Secured passage of the Quota Law to ensure the value of your license.
- Substantially reduced the amount of on-premises records you are required to maintain.
- Stopped efforts to make distributors pay thousands in mercantile taxes on their yearly gross receipts.
- Secured Sunday sales with extended hours to help distributors better compete with other licensees.
- Helped defeat efforts to increase the state excise tax on beer.
- Had legislation enacted to allow on-premise beer tastings.
- Secured passage of legislation allowing beer distributors to accept credit cards.
- Obtained a far greater inventory of items that distributors are permitted to sell, in addition to malt beverage products.
- Added member benefit programs and services that help distributors save thousands a year in operational and other costs.

MBDA Membership — An Investment in Your Future

A membership invoice is enclosed for your use. We urge you to please return it with your dues payment at your earliest possible convenience. We thank you and sincerely appreciate your vote of confidence.

Joining MBDA is a smart business decision. Whether it's our success in enabling distributors to sell all smaller packages in addition to cases and kegs, keeping



a close eye on proposals and how it could affect your business, defeating legislation that would seriously hurt your ability to make a living, or obtaining the right for distributors to sell additional items, your Association is on the front lines of promoting and protecting the interests of Pennsylvania beer distributors.

While our most important functions are in the legislative and legal arenas, our member benefit programs will help you make and save thousands of dollars a year in insurance costs, credit/debit card processing fees, ATM transaction revenue, and electric utility rates. MBDA members learn quickly that the cost of their membership is more than offset by the savings they realize from participating in these programs. **So before you say you can't afford to join, ask yourself, "Can I afford not to join?"**

Supermarkets, convenience stores, and big box stores will continue to push to sell beer in their aisles, right next to their other consumer goods, with no limit on the number of licenses they can own, and with no restrictions on the quantity of beer they can sell. They must be stopped time and time again, and your Association is prepared to do just that!

It's crucial that you support the organization that is working to promote and protect your interests as small business people. There is strength in numbers, and the more members we have, the louder our voice is on Capitol Hill.

We accept payment by check or credit card. To pay by check, simply return the enclosed invoice with your dues payment. For credit card payment, please go to www.mbdapa.org.

Please join today to ensure the future of all our businesses. We look forward to your support and our continued association for many years to come. Our best wishes for happy, healthy and prosperous summer season!



2017-18 State Budget

People who work in Harrisburg love to point out that each year's set of budget negotiations is different. Long gone are the days when it was done in April. The due date is July 1.

This year, the General Assembly and the Governor came together on time to agree on the spend. And, as PennLive has reported, "final agreement on the revenue mix to support Pennsylvania's \$32 billion 2017-18 state budget is getting close."

According to PennLive, Senate President Pro Tempore Joe Scarnati, R-Jefferson County, said one of the last open issues between legislative leaders and the Wolf Administration is exactly how much recurring revenue is needed to balance the deal.

Recurring revenue is that which goes beyond the year in which it is enacted. For example, when casino gambling was passed it created a registration fee of \$50 million per location. This was non-recurring revenue. The 54% tax on slot earnings was, and is, recurring.

PennLive quoted Scarnati as saying the Senate is comfortable with providing new, repeating revenues in the range of \$450 million to \$550 million for the new fiscal year, with the balance made up by fund transfers and other one-time moves.

Gov. Tom Wolf, in the recent past, has suggested a need of more in the range of \$700 million to \$800 million, according to many sources.

PennLive said House Majority Leader Dave Reed, R-Indiana County, acknowledged the same kind of gap, but with a slightly different twist. They quoted him as saying, "If it can't be closed any other way, Reed said, all sides should seriously consider the House-passed plan to legalize slot-style video gaming terminals at thousands of bars, restaurants and private clubs across the state."

VGTs are not currently in a gaming expansion plan that has been jointly negotiated by the four legislative caucuses and Wolf's office, PennLive and others have reported.

Reporting Supermarket Violations *Continued from Page 7*

You have the option of calling the BLCE's complaint hotline 1-800-932-0602, filing an electronic complaint at www.lce.state.pa.gov by selecting "Reporting Violations", or reporting the suspected violation to your local BLCE district office with a copy to the PLCB Office of the Chief Counsel, Northwest Office Building, Harrisburg, PA 17124. A list of the BLCE district offices is available on its website.

The complaint should contain as much information about the grocery store as possible, including its name and address, liquor license number and actions taken by the store which

you believe to be in violation. Photos would also be helpful. The BLCE should investigate the complaint and make sure the grocery store is operating in accordance with the law and any additional conditions imposed by the PLCB as part of its licensing process. Depending upon the nature of the complaint, the PLCB may also investigate to determine if the licensed premises are still in compliance with the regulatory requirements. Please advise MBDA of the complaint submitted and the outcome.

Frequently Asked Question *Continued from Page 13*

Q What types of payment are acceptable: Under Act 39, which went into effect August 8, 2016, distributors and importing distributors may now accept credit cards for payment of malt or brewed beverage from licensees of the Board, but they are not required to do so. Here is a summary of acceptable forms of payment that D's and ID's can accept if the buyer is licensed by the PLCB:

- 1) Check or certified check if the payer of the check is the licensed entity purchasing the malt or brewed beverages and the payee of the check is the distributor or ID selling the malt or brewed beverage.

- 2) Cashier's check
- 3) Money order
- 4) Credit card
- 5) Debit card
- 6) Electronic transfer of funds so long as the transfer occurs prior to delivery
- 7) Prepayment in cash so long as it occurs prior to delivery.

Q What are the PA Residency Requirements to purchase a D license: The person must be a PA resident at the time of filing its application.

DISTRIBUTORS—PLEASE BE REMINDED TO:

GET TO KNOW YOUR SENATORS & HOUSE MEMBERS.
YOUR GRASSROOTS EFFORT IS EXTREMELY IMPORTANT
AS WE PREPARE FOR WHEN THE LEGISLATURE RETURNS
TO SESSION IN SEPTEMBER.

RETURN THE ENCLOSED MBDA MEMBERSHIP INVOICE
WITH YOUR DUES PAYMENT.

IT'S THE BEST INVESTMENT YOU CAN MAKE
TO PROMOTE & PROTECT YOUR BUSINESS
AND PRESERVE THE VALUE OF YOUR LICENSE.

MAIL YOUR PERSONAL CHECK TO DISPAC.
YOUR DONATION ENABLES US TO CONTRIBUTE
TO THE CAMPAIGNS OF LEGISLATORS
WHO ARE FAVORABLE TO OUR ISSUES.

SAVE MONEY AND JOIN MBDA'S
DISCOUNTED MEMBERSHIP PROGRAMS.

PLEASE PROVIDE MBDA WITH YOUR EMAIL ADDRESS
SO WE CAN KEEP YOU UP-TO-DATE
ON INDUSTRY NEWS AS IT'S HAPPENING.

VISIT MBDA'S WEBSITE, WWW.MBDAPA.ORG
TO GET THE LATEST INDUSTRY DEVELOPMENTS.

