



# Malt Beverage Distributors Association of Pennsylvania

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## MBDA MEMBERSHIP — “Strength, Service, Value”

Members of the General Assembly passed a budget and have adjourned for summer recess. We're pleased to report that no legislation was enacted that is detrimental to Pennsylvania's beer distributors.

Supermarkets and convenience stores want to see the 30-person seating requirement and dedicated cash register requirement lifted for them to sell 12-packs to go. MBDA faced major battles to defeat those proposals. We stopped supermarkets and convenience stores from being permitted to ring up multiple twelve packs, which would lead to their ultimate goal of selling cased beer in their aisles. Throughout this legislative process, MBDA ensured that our members received the most thorough, up-to-the minute, information by way of our weekly e-newsletters and alerts.

Our activity in halting the enactment of these proposals reinforces the significance and influence of a strong trade association and the importance of its role in guiding its membership. MBDA spends countless hours evaluating legislation, communicating the pros and cons of legislation to our members, testifying at public hearings, issuing news releases, visiting Senators and House Members in Harrisburg, and organizing our membership base to call on their legislators both at their Capitol and district offices.

MBDA extends our deepest appreciation to each of you for taking the time to make your opinions known to our State Senators and House Members. You effectively conveyed your Association's message that we are a private industry that makes major contributions to our Commonwealth and local communities, and that these proposals were not developed for consumer convenience, but to benefit big corporations at the expense of small, local businesses. Our industry has 1,200 specialty beer retailers who employ more than 10,000 Pennsylvanians. We provide consumers with great prices, excellent choice, and unparalleled service 7 days per week, confirming that beer distributors are the best value for the purchase of malt and brewed beverages.

Over the summer, please continue to develop personal relationships with your Senator and House Member by visiting or calling them at their district offices. Your grassroots effort is extremely important, as we prepare for when the legislature returns to session in late September.

Following the November elections, we anticipate another strong push for the expansion of beer in supermarkets and convenience stores. Please join MBDA today. This is a crucial time for all Pennsylvania distributors to come on board and support your organization. There is strength in numbers, and the more members we have, the louder our voice is on Capitol Hill.

We hope that you return the enclosed membership invoice with your dues check at your earliest opportunity. You also have the option to pay on-line in full or in monthly installments.

And, please remember to take advantage of our discounted membership programs—business insurance, credit/debit card processing, commercial electricity—the savings for which will pay for your dues many times over!

Please read on—

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## What Package Reform Means for Beer Distributors

First MBDA went to court to win the right for distributors to sell twelve packs. Then, at our urging, the General Assembly agreed to give consumers the long-sought-after right to buy any package from us—from singles on up. Act 166 transformed beer distributors into the ultimate beer retailers in Pennsylvania!

Yes, our business model has changed. Package reform has enabled us to do an even better job of accommodating our customers. We always provided great selection. Now we're able to offer that selection in all package sizes! Now we're able to quench our customers' thirst for draft beer at our growler and crowler stations! Now we're able to satisfy their cravings for slushies! And, we're proud to say that we do it all so responsibly.

We're excited to have improved our business model, and strive to enhance our stores even more with high-quality shelving, coolers, signage and lighting. However, we guarantee that one thing will not change. We'll continue to roll out the welcome mat by offering the highest personalized service, greatest selection, and best value to our customers.

## Legislation Opposed by MBDA

House Bill 1897 (Staats, R-Bucks) would have allowed supermarkets, convenience stores, and other restaurant liquor licensees to sell unlimited 12-packs. MBDA contacted our

state lawmakers to stress our strong opposition. Our members outreach to their representatives was the key to our success in stopping it. Thank you! The legislation may resurface. We are prepared.

House Bill 1741 (Marshall, R-Beaver) would have allowed club licensees to sell up to 192 ounces of malt beverages to go. The bill may resurface, and we remind our members to please voice your concerns to your local state representative.



## Legal Update



Distributors—The following are examples of the kind of information that our legal counsel readily makes available to our members. Please join MBDA, so that you too can be informed as things are happening!

### Beer Slushies

Many distributors are now selling alcohol slushies, and this practice is legal under the Liquor Code if done correctly. If you choose to sell alcohol slushies at your store, it is important that you do not mix any substance, including ice or different types of malt or brewed beverage, with the malt or brewed beverage being frozen and sold. Additionally, these beverages must be sealed and may only sold for off-premises consumption. PLCB Regulations impose a cleaning requirement on licensees using a malt or brewed beverage dispensing system. The cleaning method used must clean the entire system with a chemical cleaning solution or other cleaning method approved by the PLCB. According to the PLCB: "faucets, dispensing lines, valves, joints, couplers, hose fittings, washers, o-rings, empty beer detectors, and draft foam control units shall be cleaned once every seven days. If you have an operating ultrasonic, electromagnetic or other system that retards the growth of yeast and bacteria in the dispensing lines, you should follow the cleaning frequently and cleaning method guidelines of the system's manufacturer." You are required to keep cleaning records, consisting of the date cleaned, the name of the person by whom the equipment was cleaned, and the method utilized, on file. As long as distributors are following the rules laid out by the PLCB (i.e., not mixing anything with the product, keeping records, using a refillable container, etc.) then these sales are permitted under the Liquor Code. In addition to the rules laid out by the PLCB, you must contact the Department of Agriculture or your local health department prior to commencing sales of these products as you will be required to obtain a health/food permit. There may also be Federal labeling requirements which apply. You are strongly encouraged to seek experienced private counsel to ensure you are complying with these requirements.

### Home Deliveries

We have been asked several times recently what a beer distributor is required to do in order to deliver to people's homes. Pursuant to section 431(b) of the Liquor Code, a distributor license authorizes the holder thereof to sell or deliver malt or brewed beverages which have been purchased from licensed manufacturers or importing distributors to



non-licensees anywhere within Pennsylvania. Thus, the license currently held by your distributorship already allows for home delivery of malt or brewed beverages, and there is no need to obtain an additional permit.

Pursuant to section 492(9) of the Liquor Code, distributors are only permitted to deliver or transport malt or brewed beverages in "vehicles bearing the name and address and license number of such licensee painted or affixed on each side of such vehicle in letters no smaller than two inches in height." Please note that it is unlawful for distributors to deliver or transport any malt or brewed beverages in a vehicle in which any other commodity is being transported without first obtaining board approval.

With regard to form of payment, it is permissible for distributors that are selling malt or brewed beverages to a non-licensed individual or entity to accept cash, checks, money orders, credit cards, gift certificates or debit cards as payment, so long as the payment is received on the licensed premises prior to delivery of the alcohol.

A distributor may only make sales of malt or brewed beverages on its licensed premises. A "sale" is defined as "any transfer of liquor, alcohol or malt or brewed beverages for a consideration." Therefore, while a distributorship is permitted to transport and deliver malt or brewed beverages to a residence, the sale must have been completed (i.e. payment received) at the distributor's licensed premises prior to such delivery. It would not be permissible for the non-licensed customer to pay the delivery person for the malt or brewed beverages at the time of delivery, in any payment form whatsoever.

Please keep in mind that, regardless of the location of the delivery of alcohol, the Liquor Code makes it unlawful to sell, furnish, or give any alcoholic beverages to any person who is visibly intoxicated or a minor. Section 493(1) also makes it unlawful to permit any alcoholic beverages to be sold, furnished, or given to any person who is visibly intoxicated or a minor. Your distributorship must comply with these restrictions when engaging in home delivery of malt and brewed beverages.

### **Tickets for New Lottery Games are Permitted to be Sold in a Distributor**

We have previously updated our members about recent changes to Pennsylvania laws which legalized certain keno and virtual sports betting games in Pennsylvania. These new "monitor games" allow customers to fill out "bet slips" and play the games through an online terminal and watch the statewide outcomes of such games on monitors installed by the Pennsylvania Lottery in your store. The PLCB, Office of Chief Counsel has recently opined that it is legal for distributors to sell tickets for these new "monitor games." You should contact the PA Lottery if you are interested in having monitor games in your establishment.

### **Permissible Pricing Practices in a Distributor**

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.

### **Distributors Accepting Cash from Licensees**

This is a reminder that it is still illegal for distributors to accept cash as payment for malt or brewed beverages from a licensee of the Board. Section 493(2) of the Liquor Code prohibits importing distributors or distributors who are delivering beer to other licensees from accepting cash as payment. If a licensee of the Board wants to pay with cash,

*Continued on Page 19*

## Senate and House Session Dates

This is an election year, and our Senators and House Members session days are limited. The Pennsylvania House will be in Harrisburg on September 12, 13, 24, 25, 26; October 1, 2, 9, 10, 15, 16, 17; and November 13. The Pennsylvania Senate will be in session on September 24, 25, 26; October 1, 2, 3, 15, 16, 17; and November 14. When not in session, Senators and House Members can be reached at their district offices.



## Election Results

With the loss in the 2018 Democratic primary by Paul Costa (D-Allegheny), Minority Chairman of the House Committee on Liquor Control, it is now certain that three of the four chairs of the committees charged with regulating beer, wine and spirits will be new next year.

Adam Harris (R-Juniata), Majority Chairman of the House Committee on Liquor Control, announced he will not seek re-election. Chuck McIlhinney, Majority Chairman of the Senate Law & Justice Committee (R-Bucks) also is not going to run for another term.

We thank them for their outstanding service, for understanding the value of the private enterprise beer distributor, and for their support in permitting us to sell all packages.

Jim Brewster (D-Allegheny) remains as Minority Chairman of Senate Law & Justice. We look forward to our continued association.

## PA House and Senate Retirements

2019 will see an historic number of new members entering the Pennsylvania Legislature. To date, there have been over 25 members of the General Assembly who either have announced they are not seeking re-election or are seeking a different office. It's a good idea for distributors to get to know their area's candidates.

## Legislative Talking Points

Distributors—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.

## Bureau of Liquor Control Enforcement Alert

We have noticed what appears to be an increase in citations and BLCE inspections over the past few months at all licensed businesses. The sample size is not large enough to identify with certainty the target of these investigations; however, we have seen a few violations on a recurring basis at beer distributors that we wanted to alert our members about, including: (i) failure to have non-smoking notices posted as required by the Clean Indoor Air Act (the CIAA requires no smoking signs or the international no smoking symbol to be prominently posted and properly maintained at all entrances), (ii) not maintaining an accurate perpetual inventory and failure to maintain other business records, and (iii) accepting cash from retail licensees. It is recommended that all distributors take the time to make sure they have their records in order and the proper policies in place; and be extra vigilant about complying with applicable laws.

## MBDA Awarded Beer Grant

MBDA was one of 13 entities awarded grants by the Pennsylvania Liquor Control Board. Act 39 of 2016 created the Pennsylvania Malt and Brewed Beverages Industry Promotion Board and authorized the PLCB to approve grant money for the development and marketing of the Pennsylvania beer industry.

MBDA will conduct three regional marketing work-shops across Pennsylvania for beer distributors. The workshops will allow industry experts to provide distributors with the information and the tools necessary to take advantage of recent changes in Pennsylvania law to remain an integral part of our Commonwealth's beer industry.

Our goal is to schedule our first workshop at our May 2019 Annual Convention at the Kalahari Resort in Mt. Pocono. More detailed information is forthcoming.

## Be on the Alert for Intermunicipal Transfer Hearings

With the increase in grocery and convenience stores moving licenses across municipal borders, we are receiving more and more inquiries from members on how to challenge these applications.

While we have educated members in past updates on how to fight these applications, it is extremely important that you fight them in a timely manner. Some members have told us they missed public hearings on inter-municipal transfers because they were



waiting for the PLCB orange placard to go up. However, if you wait for the orange placard to be posted, it will be too late.

The public hearing takes place before the PLCB placard is posted at the premises. You will have to watch for the notice of public hearing and attend the public hearing in opposition to the request. Each receiving municipality must provide public notice before holding a public hearing on an inter-municipal transfer request.

"Public notice" means notice published once each week for two successive weeks in a newspaper of general circulation in the municipality. Such notice shall state the time and the place of the hearing and the particular matter to be considered at the hearing. The first publication shall not be more than 30 days, and the second publication shall not be less than seven days, from the date of the hearing. If you are not sure whether a public hearing has been scheduled, you should contact the manager of the receiving municipality for more information.

## Intermunicipal Hearing Talking Points

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

Also, our Executive Director contacted several local and state-wide associations, such as the Local Government Academy, PA State Association of Boroughs, and PA State Association of Township Supervisors, to advise that we have intermunicipal transfer information available, and can work with them to determine how best to get the information to their members if they are interested.

- Quota argument: If the municipality is over the statutory quota (1 license per 3,000 inhabitants), it should determine what efforts the applicant has made to acquire a license from within the municipality. Approving new licenses in the municipality will lower the value of existing licenses and hurt existing bars, restaurants, beer distributors and other alcohol retailers. The General Assembly set this quota for a reason and there should be a compelling reason to saturate the municipality with additional liquor licenses.

- Subsequent Purchaser Issue: The municipality loses control of the liquor license once it is approved within its borders. If the applicant decides it no longer wants to use the license, the applicant will be able to sell the 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.

- Restrictive Institutions/Residents: If there are churches, schools, hospitals, charitable organizations, playgrounds, other businesses with liquor licenses, or other restrictive institutions nearby, the presence of these organizations may be a reason to deny the application. These organizations should be made aware of the application and encouraged to appear at the public hearing to provide comments. The same can be said about residents of the municipality and, specifically, residents within 500-foot since they have automatic standing under the Liquor Code.

- Prior experience/police incidents: The municipality should determine if the applicant has prior experience owning and operating a licensed business and ask questions about alcohol service personnel (e.g., age, training, turnover rate, etc.). If the applicant or its principals own (or have owned) other licenses, the municipality should determine if they have ever been cited for violations of the Liquor Code. A representative of the police department should be asked to attend the public hearing and provide testimony/evidence as to police incidents occurring at the proposed licensed premises. If the business already has frequent police incidents, traffic or parking issues, the addition of a liquor license may exacerbate these issues. The municipality should be aware of whether there are colleges in the vicinity and if minors frequent the business.

- Conditional Approvals: Some municipalities put conditions in their resolutions but these conditions are basically unenforceable. The 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. A representative of the municipality should contact the PLCB to make sure they are aware of the conditions and ask the PLCB to incorporate the conditions or restrictions into a conditional licensing agreement with the applicant.

- Grocery Stores/Convenience Stores/Gas Stations: Below are some issues to consider when evaluating a request submitted by a grocery store, convenience store or gas station:

1. Many of these stores are open 24/7, 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 when the licensed area is closed but there are customers in the store?

These stores typically do not place the alcohol under lock and key and have the same minimal security/monitoring of alcohol products as they do non-alcohol products.

2. Minors have access to these stores at all hours. Often, minors tend to “hang out” or eat at popular grocery stores, convenience stores and gas stations.

3. Approval of liquor licenses to these businesses will 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.

4. Alcohol would be accessible at a location where customers go out of necessity, not because they choose to. Everybody needs to purchase gas, food and other house-hold products sold at these locations.

5. The potential for people struggling from addiction to relapse when exposed to alcohol at a location they must go to for gas, food and other household products.

6. Potential for the addition of a license to exacerbate existing health and safety issues in the area, including potential increase in traffic or speeding and danger to pedestrians/walking traffic. Many of these businesses are located at or near high traffic intersections.

7. Enforcement of store “policies” and control of alcoholic beverages are left to employees of the business. There is usually a high turnover rate for employees at these businesses.

8. The municipality should elicit testimony from a representative of the police department to determine the propensity for crime at the premises. These are usually high theft businesses. Cigarettes are behind the counter but alcohol will be out in the open for potential beer runs and shoplifting.

9. The transient nature of the gas station/convenience store business model promotes drinking and driving.

10. Will cold beer be sold? Gas stations can sell cold beer in coolers next to the cash register.

- Permissible conduct under the Liquor Code.

It may help for municipalities to understand some of the things grocery stores, convenience stores and gas stations will be able to do under existing PLCB laws (if they are approved for a license). The following activity has been observed at these businesses in PA:

(a) sell all alcoholic beverages – beer, wine and spirits – in any sized containers for consumption inside or outside the building on any “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, alcohol slushies, etc.) for immediate consumption by customers;

(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 each day of the week;

(g) conduct “happy hours” with product discounts of up to 4 hours per day, not to exceed 14 hours per week;

(h) implement “mug clubs” for customers to enjoy non-regulated discounts on any alcohol products for on or off premises consumption;

(i) sell beer from either a single container or up to a 12 pack for off-premises consumption (including 24oz cans and 40oz bottles);

(j) 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;

(k) forego table service by restaurant personnel and the supervision that goes with it;

(l) allow free tastings and samplings on premises with little to no oversight;

(m) install a bar or beer tub; and

(n) give away one (1) free alcoholic beverage in a standard sized container.

## 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.

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](http://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.

## License Auction

The Pennsylvania Liquor Control Board is accepting sealed bids for its sixth auction of expired restaurant licenses. Bids for 25 licenses in 25 counties are due by noon on Thursday, August 2, 2018. Bids will be opened August 6th, and auction winners will be determined shortly thereafter.

The auction includes one license in each of the following counties: Armstrong, Bradford, Bucks, Cameron, Carbon, Clinton, Crawford, Dauphin, Elk, Greene, Huntingdon, Lebanon, McKean, Mercer, Montgomery, Northampton, Northumberland, Philadelphia, Pike, Potter, Schuylkill, Susquehanna, Washington, Wayne, and Westmoreland.

The minimum bid for each license is \$25,000, and each bid must be accompanied by a bid surety of \$5,000 or 5 percent of the total bid amount – whichever is higher – to avoid frivolous and underfunded bids.

The highest responsive bidder for each license will win the right to submit an application for the license to the PLCB within six months of auction award. If bid payment is not received within two weeks of auction award, the second-highest bidder will have the opportunity to apply for the license. Bids will be held in escrow by the PLCB, pending approval of the license application. Additional information can be obtained on their website, [www.lcb.pa.gov/](http://www.lcb.pa.gov/)

Supermarkets and convenience stores dominated the previous five auctions. Lists of winning bids from each are available on the license auction page of the PLCB website.

## 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 nation-wide alcohol issues, you can sign up for the ABL weekly email update at [www.ablusa.org](http://www.ablusa.org).

Membership in ABL is another benefit of MBDA membership.

# Frequently Asked Questions

The following are answers to questions that MBDA members regularly present to our Executive Office. Additional questions are posted on-line at [www.mbdapa.org](http://www.mbdapa.org), and you can also download the "Digest of Malt Beverage Laws" from our web site.

## **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.

## **Q Minimum Age Requirements 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 re-quest 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 and incentives:**

It is the PLCB's position that distributors and importing distributors may charge whatever they wish for beer, and for the most part, 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 distributor 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:**

**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 Tasting 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

*Continued on Page 19*

# 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:** 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:

- Enhanced coverage on auto, businessowners, property and general liability.
  - Comprehensive liquor liability with additional credit, if you use an electronic scan device.
  - Preferred pricing on property, umbrella and GL.
  - Equipment breakdown coverage automatically included.
  - Dividend opportunity based on our group's loss ratio. MBDA members received a 9% return on their investment for 2018.
- This program has paid a dividend back to policy holders in seven of the last nine 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).

ID-e-Seek 300—Wireless Option & New Digital Photo Feature: MBDA member price \$1,400 (retails @ \$1,600—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. Members are benefiting from our latest round of shopping by paying less than 6 cents per kWh for the generation portion of their electricity service.
- 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 Licensees:**

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

**Our Attorney's 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](http://www.mbdapa.org) 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](http://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](http://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.

## 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](http://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 retake is automatic and free of charge.

Under Act 39, it is mandatory that all alcohol service personnel must complete seller/server training within 6 months of being hired, unless the person had successfully completed the training prior to being hired.

It makes good business sense to have your employees well trained not to sell to minors. Let's maintain our excellent record in preventing underage sales.

## MBDA Buyer's Guide Available Online

MBDA is honored by the support given to us by many of our brewers and allied trade suppliers who have joined as associate members. Distributors—Please visit our Buyer's Guide of Associate Members by going on line to [www.mbdapa.org](http://www.mbdapa.org), and view their 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 2018 Associate Members

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

**Anheuser-Busch**  
#317-753-9811.

**Atlantic Systems**  
(POS System)  
#732-688-8108.

**Burns Industrial Equipment** (Forklift Trucks) #412- 856-9253. **Comcash** (POS System) #949-313-5300. **Flightware Solutions** (POS System) #816-774-3500. **Gerbron Wholesale** (Tobacco, Candy, Paper Products) #610-347-0440. **Harold Levinson Associates** (Tobacco, Beverages, Snacks) #631-962-2400. **Joshen Paper & Packaging** (Bottled Water, Cups, Foam Coolers) #800-334-8430. **The Lion Brewery** #570-823-8801. **Longley Insurance Agency** (Insurance) #610-524-1940. **Mark Anthony Brands** #312-715-9210. **Micro Matic USA** (Beverage Dispensing Equipment) #610-625-4464. **MillerCoors**, #949-929-0104. **mPower Beverage Software** (POS System) #877-396- 0141. **Networker Promotions** (Promotional & Novelty Items) #800-485-4461. **North American Breweries** #412-780-5367. **Penn Brewery** #412-237-9400. **Penn National Insurance** (MBDA Endorsed Insurance Company) #800-388-4764. **Pittsburgh Brewing Co.,** #724-831-1203. **PNC Merchant Services** (MBDA Endorsed Credit Card Processor) #717-597-4786. **Pomodo** (POS Systems) #814-288-5034. **RITE** (POS System) #320-230-2282. **Schubert Equipment Sales** (Shelving & Refrigeration) #724-903-0880. **Straub Brewery** #814-834-2875. **Yards Brewing Co.** #215-634-2600. **D.G. Yuengling & Son** #570-622-0153.



## **Interested in Applying for Associate Memberships**

Brewers and Allied Trade Suppliers who want to show support for the Pennsylvania distributors with whom they do business can apply for associate membership by going on-line to [www.mbdapa.org](http://www.mbdapa.org) or calling our Executive Office at 215-732-6258.

## **MBDA Convention Recap**

Distributors from across Pennsylvania joined their local, national and regional brewers and allied trade suppliers at Seven Springs Mountain Resort, as MBDA celebrated its 82nd annual convention and trade show, April 27-29, 2018.

Activities began on Friday evening. MBDA held a reception for the House Liquor Control Committee Chairman. We thank Yards Brewing Company for helping to sponsor this event. Distributors were then welcomed to Seven Springs' 17th Annual Brewski Festival where they sampled 100 beers from more than 50 breweries.

On Saturday morning and afternoon, convention attendees had a choice of two activities. Some joined us for a day of challenge and fun at MBDA's First Annual Sporting Clays Shoot while others toured and lunched at Frank Lloyd Wright's Fallingwater.

Distributors, brewers and allied trade suppliers congregated for our Saturday evening cocktail reception, scrumptious banquet, and fabulous entertainment. Our audience laughed at the offbeat humor and deadpan delivery of comedian John Knight. We thank Penn Brewery, Straub Brewery and Yuengling Brewery for their generosity in contributing prize awards to the clay shoot winners.

Sunday morning, distributors, brewers and suppliers gathered for our informative business sessions. The general business session was highlighted by a panel of three speakers: John Bodnovich, Executive Director of the American Beverage Licensees; Warren Scheidt, owner of Cork Liquors in Columbus, Indiana; and Ed Mulvihill, owner of Peco's Liquor Store in Wilmington, Delaware. The theme of the three messages was eerily similar. All spoke about their experiences in the alcohol industry and the trials and triumphs. Bodnovich spoke about the overall alcohol landscape at the national level. The one issue he pointed to that turned heads in the room was the story in Colorado of the beverage association there cutting a deal with the Food Merchants of the state during one legislative session, only to have the deal used as leverage against them during the next session. This was a theme that followed when the next two speakers, both Scheidt and Mulvihill, spoke of similar situations in their states and the need to

always be on the watch for issues in any given legislative session. They told stories that individuals in the room laughed at because they sounded so similar to the issues we face here in Pennsylvania. We thank the three speakers for a tremendous program.

The key take-a-ways from the three-person panel was that no matter what state you are in, or how different the alcohol industry is from state to state, small business owners in this industry face the same challenges. From Total Wine in Delaware to the selling of warm vs. cold beer in Indiana, the challenges that are faced are the same. You need to always have a watch dog that is constantly looking out for your interests in the capitol.

Our distributors' business session followed, during which MBDA counsel updated members on legal issues facing our industry and our lobbyists provided a legislative update.

Sunday afternoon, hundreds of distributors gathered in the exhibit hall to experience the trade show portion of the convention. Brewers and suppliers showcased their products and services in thirty-two hospitality and exhibit booths. Distributors taste-tested the newest products, saw demonstrations of products and services that would improve their business operations, and sampled from creative food stations placed throughout the hall.

Our thanks go out to the following firms whose participation made our trade show a huge success: Alpha Data Communications, Anheuser-Busch, Atlantic Systems, Boston Beer, DISPAC, Dotmark Promotions, Flightware Solutions, Harold Levinson, Joseph Paper & Packaging, Kingview Mead, Lion Brewery, Micro Matic, Mike's Hard Lemonade, MillerCoors, mPower, North American Breweries, Penn National Insurance, Pittsburgh Brewing, PNC Merchant Services, Pomodo, RITE, Schubert Equipment, Sobel's Obscure Brewery, Straub Brewery, Troegs Brewing, United States Beverage, Victory Brewing, Yuengling Brewery

Our best wishes are also extended to Wilson-McGinley Inc. for their generosity in serving as a convention sponsor.

MBDA's 82nd annual convention drew to a close Sunday evening as members and suppliers gathered for a superb dinner at Seven Springs' Helen's Restaurant.

We thank all who attended the convention. Special thanks is extended to MBDA convention chairman Ryan Federbusch, convention coordinator Stephanie Eckert, and their team members, Gretchen Federbusch, Alexis Shipula and Sharon Shipula, for a job well done.

We look forward to seeing you at our 83rd Annual Convention and Trade Show scheduled for May 3, 4, 5, 2019 at the Kalahari Resort in Mount Pocono, PA.

## MBDA 2019 Convention

We look forward to seeing you at our 83rd Annual Convention and Trade Show scheduled for May 3-6, 2019, at the Kalahari Resort in Mt. Pocono, PA. Details and registration forms will be mailed to all distributors and vendors in early February 2019.



## Please Contribute to DISPAC

MBDA created the Distributors Political Action Committee (DISPAC) to act as our venue 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. They have made it clear that their goal is to have their venues sell cases.

DISPAC funds are low. It is critical that we replenish them so that we can continue to provide support 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 each distributor 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 2018 DISPAC contributions: Michael Baker, Joe Bound, Mark Boyce, Tony Colangelo, Wayne Crouse, Michael & Lindale DeBone, Thomas & Dolores Derr, George Duffey, Ryan & Gretchen Federbusch, John Gerbron, Maureen & Donald Hicks, Brad & Tammy Keuscher, Steve Klein, Sam & Mary Krafty, Chris & Daneen Miller, Scott & Linda Nelson, James Platz, Keith Rutt, Dave & Sharon Shipula, Pete Sirianni, Jessica Wheeland, and Tim Zettlemoyer.

## In Memory of Ernie Cruciani

We note the passing of long-time MBDA director and former president Ernie Cruciani. MBDA and the beer business were an integral part of Ernie's life, and he had a wealth of beer stores to share. He was chairman of several association conventions and the proud recipient of the C. John Muller Award for Distinguished Service presented annually by MBDA to the association member who best demonstrated outstanding dedication and devoted to the beer industry. Ernie was an outstanding MBDA president and devoted director— always quick to offer a compliment or a thank you for a job well done. Most importantly, he was a fine man—well-loved and well-respected. We will miss you dear friend.



## 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 Carson Baker 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 Law Offices, 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](http://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:  
Keith Rutt, LeAnn Supeck, Jim Yaple.

**District #4** — Allegheny, Beaver, Fayette, Greene, Washington, Westmoreland Counties: Mike Baker,  
Michael 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.

**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, Brian Mutschler, Alex Piermani,  
David Piermani.

**District #11** — Bucks & Chester Counties: Dave Dripps, Frank LaRosa, Tim Zettlemoyer.

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

## Director Vacancies

Director vacancies exist in Districts #1 (Philadelphia). District #3 (Adams, Cumberland, Dauphin, Franklin, Juniata, Lancaster, Lebanon, Perry & York). District #4 (Allegheny, Beaver, Fayette, Greene, Washington, Westmoreland). District #6 (Columbia, Montour, Northumberland, Snyder & Union Counties). District #7 (Armstrong, Butler, Cameron, Clarion, Clearfield, Elk, Forest, Indiana & Jefferson). District #11 (Bucks & Chester). 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.

## Congratulations on Another Successful Energy Program

Congratulations on another Successful Energy-Shopping Program for our Members

We're pleased to announce that MBDA through its partnership with our energy consultant, Kinetic Energy Associates, has locked in our members, who signed up for the energy-savings program, at the tremendous price of only 5.987 cents per kWh (not including sales tax) for 31 months.

Special thanks go out to MBDA's Stephanie Eckert and Matt Viens and Kinetic's Judi Cassel and Jenn Deitch for all their hard work in getting this job done. It's hard to imagine a better price for electricity, and it's especially a great value that the price will stay this low for the next 3 years. What a fantastic result for our membership!

MBDA members who did not respond to our appeal, can contact Stephanie of the MBDA executive office, and we will try to get you into the current program or our next program.

## Business Insurance Program Again Pays Dividends

In May 2018, our endorsed provider, Penn National Insurance, issued a 9% dividend check to each MBDA member policy holder. Our program has a history of paying dividends, and we are pleased to report that members have received a dividend check in seven out of the last nine years!

Members who are interested in enrolling in our business insurance program are asked to reach out to Stephanie Eckert by email or phone or go to the Penn National website, [www.pennnationalinsurance.com](http://www.pennnationalinsurance.com), to view a list of their agents.

## MBDA Streamlines Business Operations

We're pleased to announce that RITE (Retail Information Technology Enterprises) has partnered with PNC Merchant Services (PNCMS) to integrate their POS and processing platforms. This combination provides an outstanding single-source solution for MBDA members.

RITE is a leading provider of Point of Sale systems for small and medium sized retailers in the Beverage Industry and PNCMS (a First Data Joint Venture) is the Association's endorsed provider of discounted pricing for credit and debit card processing services. Both firms are MBDA associate members and participate in our annual convention and trade show.



RITE's mission is to give independent merchants the tools to compete and even win against big box retailers in the 21st century. For additional information, please call RITE's Gary Noble at 320-230-2282, ext. 4007 or email him at garyn@rite.us.

MBDA is pleased that RITE and PNCMS have embarked on this partnership to enable us to offer the best possible complete solution for Association members. If you have any questions, please call our executive office at 215-732-6258 and ask for Stephanie Eckert or email her at mbdassn@aol.com.

## Congratulations June Yaple

MBDA is proud to acknowledge June Yaple of Westy Beer Distributor in Camp Hill who celebrated her 100th birthday on June 20th. She opened her distributorship on October 1, 1948 and still reports to work every day. June is the mother of our treasurer Jim Yaple. Congratulations June on your 100th birthday and 70th year in business.



## Thank You Derr Family

MBDA extends its warmest congratulations to our director Tom Derr of West Lawn Beverage in Berks County for raising \$3,200 for the Cystic Fibrosis Foundation. This is the twenty-second year that the Derr Family has held its golf tournament in support of this worthy cause.

Association members are asked to please advise us of your charitable and civic contributions, so that we can offer each of you our sincerest thank-you.

## New Dues Formula

Distributors will note a nominal increase in MBDA's dues structure, as approved by our board of directors. With rising operational costs, including increased lobbying and public relation expenses, it became necessary to adjust dues to maintain our high level of service that members have come to expect. MBDA membership dues remain among the lowest of any state distributor association.



## 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 their 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**

As we begin our new fiscal year, July 1, 2018 to June 30, 2019, we are enclosing a membership invoice for your use, with the hope that you will return it with your dues payment at your earliest opportunity.

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's 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. See pages 10 & 11 of this newsletter for detailed information on each. 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?"**

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](http://www.mbdapa.org).

MBDA looks forward to your support and our continued association for many years to come. Our best wishes for happy, healthy and prosperous summer season!



## **Voluntary Contributions**

The first half of 2018 has been very trying, and MBDA's expenses to counter the supermarkets and convenience stores' efforts to sell beer by the case have run high. In addition to paying your dues, if you would like to make a special, one-time contribution to the Association to help offset these expenses, please make a check (business or personal) payable to MBDA and mail it to 230 S. Broad St., Suite 903, Philadelphia, PA 19102. Any amount will help.

We thank you.

## **PA Budget Signed, Sealed and Delivered Before June 30th Deadline**

With the adjournment of House of Representatives this past Monday (June 25th) legislative matters in Harrisburg will be put aside till the fall. With the upcoming November election members of both chambers, republicans and democrats, were eager to have a hassle free budget process. This showed with the completion of the budget a week earlier than its deadline with no major tax increases.

Now that both chambers have gone home for the summer, legislators will be spending a lot of time in their districts at different community events. We are asking all our members if you could try to talk to your local legislators during this time. Building a relationship with these individuals is key for our legislative agenda.

Both the House and the Senate are only scheduled for a handful of session days in the fall, leaving little time for controversial bills to be passed. With that said there are still key pieces of legislation out there that could greatly affect distributors. Now more than ever is not the time for us to relax on our the legislative agenda this fall.



## **Legal Update** *Continued from Page 3*

The licensee would have to prepay for the product and the transfer of funds must be made at the distributor's premises prior (i.e., the day of, the hour before, etc.) to the delivery of the malt or brewed beverages. A licensee may not pay cash at a distributor location just prior to the distributor loading the distributor's delivery vehicle, since that would not be prepayment, but payment by cash, which is impermissible.

### **PLCB Confirms 192-Ounce Carry Out Rule**

On October 4, 2017, the PLCB's Office of Chief Counsel again reinforced the long standing 192-ounce carry out rule applicable to restaurants and other retailers selling beer-to-go. A restaurant licensee located in Carrolltown, PA asked the Board for an advisory opinion as to whether a person purchasing 192 ounces of beer would have to remove that beer from the licensed premises before making another purchase. The licensee stated

that numerous customers had told them that the law has changed and that other businesses allow them to carry out more than one '12-pack of beer at a time. The licensee also stated that he had spoken to multiple BLCE officers and were given conflicting advice regarding the purchase of beer for off-premises consumption.

The Board stated that, while there have been many changes to the Liquor Code within the past year, the law pertaining to the sale of beer for off-premises consumption has not changed. Section 407(a) of the Liquor Code still only authorizes retail licensees to sell up to 192 ounces of beer for off-premises consumption in a single sale to one person. The Board went on to state that it has consistently held that the beer purchased in that single sale must be removed from the licensed premises before the purchaser may return to commence another sale from the retailer, and that interpretation remains the same.

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## **Frequently Asked Question** *Continued from Page 9*

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.

### **Q What types of payment are acceptable:**

Under Act 39, which went into effect August 8, 2016, distributors and importing distributors may 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.

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WHO ARE FAVORABLE TO OUR ISSUES.

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