Summary of House Bill 11

Majority Leader Mike Turzai's Privatization Plan

Privatizing Retail and Wholesale Wine and Spirits Sales in Pennsylvania

We are planning to introduce legislation to privatize the wine and spirits wholesale and retail operations of the Pennsylvania Liquor Control Board (PLCB).

State should not be in the business of selling alcohol: Conflict of interest

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

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

Fiscal Benefits

We have to be bold and innovative in how we tackle the issues before us. This plan will not deplete but will actually enhance revenues moving forward. The proposal would result in upfront revenue through the auctioning of retail licenses and the sale of wholesale licenses. Furthermore, the new plan will at least maintain if not increase current annual revenues into the General Fund from the sale of wine and spirits.

The notion that the state's General Fund gets this massive annual infusion of money from the LCB itself is a myth. Currently, the LCB transfers only on average $90 million annually to the General Fund from its operation. Moreover, this $90 million is inflated, as the LCB's financial records show that they generate substantially less in profit from the sale of wine and spirits than they transfer to the General Fund.

For example, in FY 2009-10, they transferred $105 million in "profit" to the General Fund, but only made $49.5 million from the sale of wine and spirits. The rest was pulled out of their operational accounts (which ultimately led to a negative ending "net asset" of -$8.2 million for that fiscal year). Since FY 2006-07, the LCB has transferred $155.3 million more than they actually made from the sale of wine and spirits.

In addition to this transfer, taxes on the sale of wine and spirits bring in about an annual $376 million directly to the General Fund. (These tax revenues will come in whether operated by the state or by private owners). In FY 2009-10, these taxes amounted to about $466 million.

Under our new tax and fee structure, we ensure that the Commonwealth continues to receive the funding it has in the past while offsetting the administrative costs of a newly streamlined PLCB operation (licensing, enforcement and alcohol education).

Customer Satisfaction

By ensuring diversity in ownership of these new retail licenses and eliminating the current state bureaucracy, this proposal will 1) promote better selection, 2) lead to more reasonable prices and 3) increase consumer convenience. Competition - inherent in a market-driven industry - will take hold.

Auction of Licenses

The Department of General Services (DGS), with the full cooperation of the PLCB, will enable the divesture of PLCB wholesale and retail operations. The legislation provides for the following:

- Auction off 1,250 retail licenses (currently 621 state retail stores) to the highest responsible bidder with a reserve price based upon the fair market value. Licenses will be divided into Class-A licenses and Class-B licenses:
    - 750 Class-A licenses (which includes retail outlets with 15,000 or more square feet of retail space and at least 600 linear feet of shelf space – will most typically be held by grocery stores and "big box" retail outlets) placed in "retail zones" by the Department of General Services (DGS) and the PLCB.
    - 500 Class-B licenses (which includes retail outlets with less than 15,000 square feet of space – will most typically be held by independent operators) allocated by DGS and the PLCB based on population densities and market need.

- Substantial penalties have been built into the legislation to prevent "bid rigging."

- Wholesale licenses will be transferred to Pennsylvania residents or Pennsylvania business entities based on a contractual relationship between manufacturers/importers and a wholesaler to be the exclusive wholesaler for their products within the state.

- Anti-monopoly provisions for both wholesale and retail licenses.
    - No one entity could own more than:
        - 40 Class-A retail licenses or 5 Class-B licenses (which would count against the total allowances for Class-A licenses).
        - 10 percent of retail licenses in any one county.
        - One retail license in counties with less than 10 retail licenses.
    - No one wholesaler controls more than 50 percent of the wholesale market.

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

Tax Reform

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

- Eliminate the current 30 percent PLCB "mark-up" and the 18 percent "Johnstown Flood Tax."

- Replace current taxes with a "gallonage tax" to ensure revenue neutrality. Gallonage taxes are imposed in 26 other states for spirits and 35 other states for wine. The tax rates would range from $8.25 to $12 per gallon based on type of liquor and alcohol content. This tax would be indexed to an inflation rate after the first five (5) years.

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

- In a private licensure system, we will create new business opportunities that will enhance either the corporate net income tax or the personal income tax.

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

Employee Opportunities

Provide employment support for displaced PLCB employees through:

- Tax credits for employers who hire displaced employees.
- Tuition assistance for employees' to further their education or re-train for a new career
- A preferential leg up in applying for other civil service positions in the Commonwealth.

The Proper Role of Government: Law Enforcement

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

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

Our proposal strengthens enforcement by:

- Increasing law enforcement by providing for concurrent jurisdiction for state and local police to enforce liquor laws (as we do with tobacco).

- Retaining enforcement, licensing, inspections and alcohol education functions of the PLCB.

- Increasing safety by requiring wine and spirits retail store management and employees to attend R.A.M.P. (Responsible Alcohol Management Program) training.

- Mandating the use of I.D. scanners with age verification software.

- Requiring retail operations to be maintained in a separate area dedicated solely to the sale of wine and spirits.

- Requiring retail store employees that sell alcohol to be at least 21 years old.

- Establishing heavy fines (up to $10,000) for licensees who violate the provisions of the Liquor Code and authorizes the PLCB to suspend or revoke licenses for "nuisance" operators.

- Performing "Age Compliance Checks" on wine and spirits retail licensees (currently, there are no checks being performed at LCB State Stores).

Conclusion

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

It is a proposal whose time has come.