SPONSOR: Sen. Cruce & Rep. Bush
Sens. Hoffner, Walsh; Reps. Berry, Carson, Griffith, Harris, Heffernan, Snyder-Hall, Yearick

DELAWARE STATE SENATE
153rd GENERAL ASSEMBLY

SENATE BILL NO. 243

AN ACT TO AMEND TITLE 4 OF THE DELAWARE CODE RELATING TO ALCOHOL.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Three-fifths of all members elected to each house thereof concurring therein):

Section 1. Amend § 101, Title 4 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 101. Definitions.

As used in this title, in addition to their usual meaning:

(9) "Cabaret" means an establishment where patrons are entertained by performers who dance, sing, play ~~instruments~~ instruments, or perform other legal acts for entertainment, ~~but not to include a dinner theater, and~~ where such entertainment may be performed during or after service or dinner, and where a minor, as defined in § 708 of this title, is to be denied admission to or permission to remain on premises after ~~9:00 p.m.~~ 11:00 p.m. (official eastern time) unless accompanied by a parent or by a legal guardian. "Cabaret" includes a dinner theater.

(14) "Concert hall" ~~shall mean~~ means an indoor facility used to host live entertainment that is owned, leased, under easement, and/or operated by any person and that has capacity for at least ~~600~~ 500 patrons for any single event. In order for a facility to be licensed as a concert hall, the facility ~~shall~~ must, host a minimum of ~~250~~ 200 live music events in any biennial licensing period. A facility meeting this definition may license the entire building, including patio, with the concert hall license.

~~(17) "Disorderly house" means house, or reputed house, of prostitution, ill-fame or assignation.~~

(22) "Gathering of persons" or "gathering" means a banquet, picnic, bazaar, ~~fair~~ fair, or similar private gathering or similar public gathering ~~where food or drink are sold, served or dispensed by~~ that is all of the following:

a. Organized and hosted by an Internal Revenue Service-recognized § 501(c)(3) nonprofit ~~organizations~~ organization or a similar organization serving the public good, such as churches, colleges and universities, volunteer fire companies, political ~~parties~~ parties, or other similar nonprofit groups having a common civic, social, ~~educational~~ educational, or religious ~~purpose,~~ purpose.

b. Where food or drink are sold, served, or dispensed or where entrance tickets are sold or entrance fees are required by ~~those~~ the nonprofit ~~organizations.~~ organization.

~~(25) "Importer"~~ (25)a. "Importer", "distributor", or "wholesaler" means ~~the person~~ a person, whether the person is a resident of this State or not, transporting alcoholic liquors, or ordering, ~~authorizing~~ authorizing, or arranging the transportation or shipment of alcoholic ~~liquors~~ liquors, into this ~~State, whether the person is a resident or citizen of this State or not, said~~ State, the person being permitted to sell ~~said~~ the alcoholic liquors only to those persons licensed to resell alcoholic ~~liquors; provided, however, that nothing~~ liquors.

b. Nothing contained in this definition ~~shall~~ may be construed as prohibiting an importer from selling ~~such~~ the alcoholic liquors to ~~either~~ an active owner of that ~~business~~ importer for that ~~person's~~ owner's use and not for resale or to a full-time, bona fide employee of that ~~business~~ importer for that ~~person's~~ employee's use and not for ~~resale; and provided further, that nothing~~ resale.

c. Nothing contained in this definition ~~shall~~ may be construed as prohibiting an importer from selling beer in ~~"half-barrel" or "quarter-barrel"~~ "half-barrel", "quarter barrel", or "sixtel" containers to the holders of a ~~personal license.~~ license to resell alcoholic liquors.

d. The Commissioner may enact ~~such~~ rules regulating the sale of alcoholic liquor to active owners and employees of licensed importers as ~~it~~ the Commissioner deems necessary.

(36) "Package store" or "store" means an establishment whose principal business is the sale of alcoholic liquors for consumption off the establishment's premises. "Package store" or "store" does not include a grocery store, convenience store, drug store, hotel, restaurant, club, delicatessen, tobacco retailer, or cigar store.

(40) "Restaurant" means any establishment ~~which~~ that is regularly used and kept open principally for the purpose of serving complete meals to persons for ~~consideration~~ consideration, with at least 60% of the establishment's gross receipts resulting from the sale of food, ~~and~~ which has seating ~~at tables~~ for 12 or more persons at tables and suitable kitchen facilities connected ~~therewith~~ to the establishment for cooking an assortment of foods for complete meals under the charge of a chef or cook.

~~(41) "Retailer" means the person permitted to sell alcoholic liquors in a store in the State, not for consumption on the premises.~~

(43) "Special event venue" means an establishment that holds public or private gatherings of more than 250 persons, including festival, convention, rally, art festival, music event, or other similar open-air event, where food or drink are sold, served, or dispensed and which requires an entrance ticket or fee to attend.

(46) “Supplier” means an out-of-state manufacturer licensed by the federal government, or an entity licensed by the federal government as an importer, that acts as an agent of a manufacturer by facilitating sales between the manufacturer and a Delaware licensed importer.

Section 2. Amend § 304, Title 4 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 304. Duties and powers of the Commissioner.

(a) The Commissioner, in accordance with the Delaware Administrative Procedures Act, ~~shall:~~ has the duty and power to do all of the following:

(1)a. Adopt and promulgate rules and regulations not inconsistent with this title or of any other law of ~~the~~ this State, and all such rules and regulations ~~shall~~ have the force and effect of ~~law; provided, however, that no such~~ law.

b. A rule or regulation ~~shall~~ may not extend, ~~modify~~ modify, or conflict with any law of this State or the reasonable implications ~~thereof; and provided further, however, that such~~ of a law.

c. The rules and regulations, as established by the Commissioner, ~~shall~~ must focus primarily on public safety and the best interests of the consumer and ~~shall~~ may not unduly restrict competition within the alcoholic beverage ~~industry;~~ industry.

(2) Establish by rules and regulations an effective control of the business of manufacture, sale, dispensation, ~~distribution~~ distribution, and importation of alcoholic liquors within and into ~~the~~ this State, including the time, ~~place~~ place, and manner in which alcoholic liquors ~~shall be~~ are sold and dispensed, not inconsistent with this title or with any other law of this State. However, ~~such~~ the rules and ~~regulations, as~~ regulations established by the ~~Commissioner, shall~~ Commissioner may not control or ~~regulate:~~ regulate any of the following:

a. Recreational equipment located on the business premises of any business selling alcoholic ~~beverages;~~ beverages.

b. Credit transactions between licensed wholesalers and licensed ~~retailers,~~ package stores, to the extent permitted by federal ~~law;~~ law.

(3)a. Control the manufacture, possession, ~~sale~~ sale, and delivery of alcoholic liquors in accordance with this title; and control the purchase, possession, ~~transportation~~ transportation, and sale of alcoholic liquors by those licensed to manufacture or to ~~sell; provided, however, that the~~ sell.

b. The Commissioner’s power to control the sale of alcoholic liquors ~~shall~~ may not be exercised in such a manner as to prevent any holder of a ~~retail~~ package store license for the sale of alcoholic liquors not for

consumption on the premises where sold from giving a retail purchaser of a case or more of ~~spirits and/or wine~~ spirits, wine, or both a discount not to exceed 10% of the total dollar ~~sale;~~ sale.

(4) Grant, ~~refuse~~ refuse, or cancel licenses required by this title for the manufacture or sale of alcoholic liquor, or other licenses required by this title in regard thereto, and ~~to~~ transfer any license ~~granted;~~ granted.

(5)a. On petition signed by at least 10 individuals who are residents of the neighborhood, hear complaints ~~in regard to~~ regarding the appointments of, or the conduct of business in, any establishment where alcoholic liquor is licensed to be sold. ~~Ten~~

b. The Commissioner's office shall give 10 days' notice of ~~such hearings,~~ a hearing by sending the notice, together with a recital of the complaint, ~~shall be sent~~ by ~~registered~~ first-class mail ~~by the Commissioner's office~~ to the address of the holder of the license for the ~~establishment and like notice shall be delivered at the establishment by affixing the notice addressed to the holder of the license to the outside of an entrance door to the~~ establishment. ~~The hearings shall~~

c. A hearing must be conducted by the Commissioner and ~~shall~~ must be public. ~~The~~ For the purpose of a hearing, the Commissioner ~~shall for the purpose of such hearings have~~ has the power to issue subpoenas, compel the attendance of witnesses, administer oaths, take ~~testimony~~ testimony, and compel the production of pertinent books, payrolls, accounts, papers, ~~records~~ records, and documents. ~~In case any~~

d. Whenever a person summoned to testify or to produce any such written or printed evidence ~~shall refuse,~~ refuses, without reasonable cause, to be ~~examined or to~~ examined, answer a legal and pertinent ~~question~~ question, or ~~to~~ produce any such written or printed evidence, the Commissioner conducting the hearing may certify the fact of any ~~such~~ refusal to the Superior Court of the county in which ~~such~~ the hearing is held and the court may proceed against the person ~~so refusing as~~ for a contempt and punish ~~such~~ the person in the same manner as persons are punished for contempt of ~~court;~~ court.

(6) Determine and publish standards for the manner in which ~~the~~ a dining room ~~or dining rooms~~ of a hotel, ~~restaurant~~ restaurant, or club ~~shall~~ must be equipped in order to be allowed to exercise the privilege of the sale of alcoholic liquors ~~therein;~~ in the dining room; and examine the plans or premises proposed for use as a dining room and authorize their use in connection with a license to sell alcoholic liquors, but ~~such~~ the Commissioner's authorization ~~shall~~ does not prevent ~~the requirement by~~ the Commissioner ~~of~~ from requiring future alterations in accordance with published ~~standards;~~ standards.

(7)a. Compel the attendance of witnesses and the production of contracts, papers, books, ~~accounts~~ accounts, and other documents.

b. Subpoenas issued ~~shall~~ must be signed by the ~~Commissioner and~~ Commissioner. Subpoenas may be served by any sheriff, deputy sheriff, ~~constable~~ constable, or any agent of the Division and return thereof made to the Commissioner.

c. The Commissioner may enforce compliance with a subpoena issued ~~pursuant to~~ under this subsection by filing a motion to compel in the Superior ~~Court, which shall have~~ Court that has jurisdiction over the matter. The court may award costs and attorney fees if ~~it~~ the court determines that noncompliance with a Commissioner subpoena was unjustified, intentional, or in bad faith.

(8) ~~Act, for~~ For purposes of this ~~Title,~~ title, act as the competent authority in connection with other matters pertinent ~~thereto;~~ thereto.

(9) ~~Make an annual report submitted to the Governor and members of the General Assembly~~ Annually publish license information on the Commissioner's publicly available website setting forth all matters of interest and all statistics concerning liquor regulation and control in ~~the~~ this State, ~~including:~~ including all of the following:

a. The number of licenses of each variety issued within ~~the State;~~ this State.

b. The name and address of each person licensed to manufacture or to sell alcohol, spirits, ~~wine~~ wine, and ~~beer;~~ beer.

c. The amount of alcohol, spirits, ~~wine~~ wine, and beer sold within ~~the State;~~ this State.

d. The number of licenses of each kind granted and the number cancelled during the ~~year; and~~ year.

e. ~~Such other~~ Other data ~~as may make~~ that makes a complete report to the people of this ~~State;~~ State.

(10) Negotiate and, with the approval of the Governor, enter into reciprocal agreements with the duly authorized officials of other states of the United States relative to the manufacture, importation, ~~sale~~ sale, and transportation of alcoholic liquors in the several ~~states;~~ states.

~~(11) Provide such special seals, labels and wrappers as deemed necessary for protection of the public against imitations, adulterations and frauds, and prescribe the proper use of the seals, labels and wrappers; and~~

~~(12)~~ (11) Provide ~~such~~ warning signs as ~~may be~~ required by § 903(16) of this ~~title and~~ title, distribute ~~such the~~ warning signs to license ~~holders~~ holders, and promulgate regulations with respect to the posting of ~~said~~ the warning signs. A nominal fee may be charged by the Commissioner to cover printing, ~~handling~~ handling, and distribution costs.

(b) The Commissioner's decision ~~shall be final and~~ is conclusive unless, within 30 days after the Commissioner's office mails notice ~~thereof has been mailed by the Commissioner's office,~~ of the decision, a party to ~~such~~ the hearing files an appeal in the office of the Commissioner. Upon receipt of the appeal, the Commissioner shall cause the Chairperson of the Appeals Commission to be advised of the pending ~~appeal and the~~ appeal. The Chairperson shall cause the Appeals

Commission to be ~~convened~~ convened, with at least 20 ~~days~~ days' notice to all parties. The appeal ~~shall~~ must be heard by the Appeals Commission, who ~~shall,~~ shall review, in accordance with the Administrative Procedures Act, ~~Title 29 of the Delaware Code, review~~ Chapter 101 of Title 29, the matter on the record and affirm, ~~reverse~~ reverse, or modify the ~~decision of the Commissioner.~~ Commissioner's decision.

Section 3. Amend § 310, Title 4 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 310. Deposit of receipts with ~~Division of Revenue.~~ the Office of the State Treasurer.

All moneys received by the Commissioner ~~shall~~ must be paid to ~~the Division of Revenue of the Department of Finance. A monthly report of all receipts of the Commissioner shall be made to the State Treasurer.~~ state bank accounts custodied with the Office of the State Treasurer. The Commissioner shall maintain a record of all receipts and make records available to the Department of Finance, Division of Accounting, upon request.

Section 4. Amend § 313, Title 4 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 313. ~~Annual audit.~~ Audit.

The operation of the office of the Commissioner ~~shall annually~~ must be examined and audited by the ~~State~~ Auditor of ~~Accounts.~~ Accounts, as often as the Auditor of Accounts considers necessary.

Section 5. Amend § 501, Title 4 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 501. Supplier and representative licenses; importer; delivery and storage at in-state warehouse.

(a)(1) Before ~~any~~ a person sells ~~any~~ alcoholic liquor intended for importation into this State, ~~such~~ the person shall ~~procure~~ do all of the following:

a. Obtain from the Commissioner a supplier's license in the form ~~to be~~ prescribed by the ~~Commissioner and shall pay therefor~~ Commissioner.

b. Pay a biennial license fee in the amount of $100 to be permitted to sell not more than 200 cases of alcoholic liquors for importation into ~~the~~ this State during the calendar year or a biennial fee in the amount of $1,000 to be permitted to sell more than 200 cases of alcoholic liquors for importation into this State during the calendar year.

(2) This subsection ~~shall~~ does not apply to any of the following:

a. A person licensed under subsection (b) of this ~~section or to any~~ section.

b. A person who ~~either~~ is licensed by the Commissioner and has a place of business in this State for the manufacture or sale of alcoholic ~~liquors or~~ liquors.

c. A person who is an officer, director, or employee of a ~~person,~~ person who is licensed by the ~~Commissioner, having~~ Commissioner and has a place of business in this State for the manufacture or sale of alcoholic liquors.

(b)(1) Before ~~any~~ a person ~~shall~~ may do any business in this State in any manner whatsoever as a sales representative of a person who sells any alcoholic liquors intended for importation into this State, ~~such~~ the person shall ~~first obtain~~ do all of the following:

a. Obtain from the Commissioner a sales representative license in the form to be prescribed by the ~~Commissioner and shall pay~~ Commissioner.

b. Pay a $50 biennial ~~fee therefor in the amount of $50.~~ license fee.

(2) Unless employed in any way by a person required to be licensed under subsection (a) of this ~~section above,~~ section, this subsection ~~shall~~ does not apply to any ~~person, who either is licensed~~ of the following:

a. A person who is licensed by the Commissioner and ~~shall not apply to any person, who either is licensed by the Commissioner and~~ has a place of business in this State for the manufacture or sale of alcoholic ~~liquors or is~~ liquors.

b. A person who is an officer, ~~director~~ director, or employee of a ~~person,~~ person who is licensed by the ~~Commissioner, having~~ Commissioner and has a place of business in this State for the manufacture or sale of alcoholic liquors.

(c)(1) This section ~~shall~~ does not apply to a daily importation into ~~the~~ this State of a quantity of alcoholic liquor ~~which~~ that does not exceed ~~that~~ the amount ~~which~~ of alcoholic liquor the United ~~states~~ States government permits to be imported into the United States without payment of any duty thereon, provided such alcoholic liquor is imported ~~by~~ as follows:

a. By a person permitted by the laws of this State to purchase and consume alcoholic ~~liquor and that such alcoholic liquor is imported solely~~ liquor.

b. Solely for consumption by the person importing it or the person's family or guests.

(2) If such importation is by motor vehicle, the alcoholic liquor ~~shall~~ must be transported in an area of the motor vehicle not immediately accessible to the driver or to any ~~passenger therein.~~ passenger in the motor vehicle.

(d) Persons licensed by the Commissioner as suppliers ~~pursuant to~~ under this section ~~shall be~~ are authorized only to sell, ~~ship~~ ship, or deliver alcoholic liquors to licensed Delaware importers or manufacturers, and persons licensed by the

Commissioner as sales representatives ~~pursuant to~~ under this section ~~shall be~~ are authorized only to solicit orders, on behalf of licensed Delaware importers or manufacturers, from persons licensed by the Commissioner to sell alcoholic liquors.

(e) The Commissioner may promulgate ~~such~~ rules and regulations ~~as it~~ the Commissioner deems necessary for the enforcement or furtherance of the objectives of this ~~section and it may~~ section. The Commissioner may provide by such rules or regulations that the applicant for a supplier's license may pay a fee for each calendar year or pay the increased fee during any calendar year without the filing of an additional application.

~~(f) No~~ (f)(1) A person may not import ~~into this State any~~ alcoholic liquor into this State, unless ~~it~~ the alcoholic liquor is delivered directly to a licensed warehouse ~~or warehouses~~ in ~~Delaware~~ this State owned, ~~leased~~ leased, or operated by a licensed Delaware importer and is unloaded and physically stored in ~~said warehouse or warehouses.~~ the warehouse

(2) An importer licensed as a supplier by the Commissioner must deliver alcoholic liquors directly to a licensed warehouse in this State owned, leased, or operated by a licensed Delaware importer and unload and physically store the alcoholic liquors in the warehouse.

Section 6. Amend § 508, Title 4 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 508. Filing of price schedules required.

(a) All manufacturers and distilleries offering ~~for sale in the State~~ alcoholic liquors ~~other than beer or wine,~~ for sale in this State shall annually file ~~by January 15 of each year or within 30 days of the first time they become licensed in the State to sell such alcoholic liquors,~~ a verified schedule, in writing, ~~in the number of copies and~~ on the form required by the ~~Commissioner, which~~ Commissioner. A verified schedule ~~shall~~ must contain all of the following information as to each item ~~they~~ the manufacturers and distilleries are offering for sale at that time, in ~~the~~ this State, by brand or trade name:

(1) The capacity of each package ~~thereof so~~ of an item offered for ~~sale;~~ sale.

(2) The nature of the contents ~~thereof;~~ of an item.

(3) The age and proof ~~thereof~~ of an item where stated on the container ~~label;~~ label.

(4) The number of bottles ~~thereof~~ of an item contained in a case of ~~such items;~~ the item.

(5) The individual bottle and case price to the Delaware wholesaler or importer, ~~which prices in each such instance shall be individual~~ for each item and not in combination with any other ~~item; and~~ item.

(6) The discount given for quantity or time of payment, if any.

~~Any such~~ (b) A verified schedule need not contain ~~any such~~ information as to any brand ~~which~~ that is owned exclusively by a ~~retailer~~ package store and sold at retail in ~~Delaware~~ this State exclusively by ~~such a retailer.~~ the package store.

~~(b) Such~~ (c) A schedule of prices or price of an individual item need not be filed at any time other than provided for in subsection (a) of this section and need not be updated any time a manufacturer or distillery changes such prices between ~~such~~ required filing times.

Section 7. Amend § 512A, Title 4 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 512A. Farm wineries.

(b) A farm winery licensee ~~shall also be authorized to~~ may store and sell wine, mead, and cider on the premises by the bottle or by the glass for consumption on or off the premises where sold. A farm winery licensee ~~shall be permitted to~~ may purchase and store product from a Delaware licensed importer or ~~retailer~~ package store, licensed under § 516 of this title, and sell ~~said~~ the product to its retail customers for consumption on the premises where ~~sold~~ sold, so long as the product is manufactured by an entity that holds a Delaware license ~~pursuant to~~ under § 512A, § 512B, ~~§ 512C~~ §512C, or § 512E of this title or the manufacturer, as determined by the Commissioner, would qualify for a license under ~~said~~ 1 or more of these sections if ~~it~~ the manufacturer were physically located in ~~the~~ this State.

(j) A farm winery licensee ~~shall be prohibited from owning or operating~~ may not own, operate, or ~~being~~ be affiliated with any importer or ~~retailer of alcoholic liquor either~~ package store, within or without this State. ~~Notwithstanding the foregoing, it shall be permissible for~~ But a farm winery ~~to~~ may apply to the Commissioner for a license, under § 512(g)(1) of this title, for use of a portion of the farm winery premises as a ~~caterer,~~ caterer or ~~to~~ apply to the Commissioner for a license, under this title generally, for use of a portion of the farm winery premises as a restaurant.

Section 8. Amend § 512C, Title 4 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 512C. Microbreweries; license; alternating premises.

(c) Notwithstanding any provision of this title to the contrary, a microbrewery license allows the licensee to do all of the following:

(5) To purchase and store product from a Delaware licensed importer or ~~retailer~~ package store licensed under § 516 of this title, and sell the product to its retail customers for consumption on the premises where ~~sold~~ sold, so long as the product is manufactured by an entity that holds a Delaware license under § 512A, § 512B, § 512C, or § 512E of this title or the manufacturer, as determined by the Commissioner, would qualify for a license under 1 or more of these sections if the manufacturer were physically located in ~~the~~ this State.

Section 9. Amend § 512E, Title 4 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 512E. Craft distillery.

(c) Notwithstanding any provision of this title to the contrary, a craft distillery license ~~shall allow the licensee:~~ allows the licensee to do all of the following:

(1) ~~To manufacture~~ Manufacture, on the licensed ~~premises~~ premises, and sell not more than 750,000 proof gallons of distilled spirits in ~~any~~ a calendar ~~year;~~ year.

(2) ~~To manufacture~~ Manufacture spirits, on the licensed premises, for persons other than the licensee who are licensed under this title or for persons outside this ~~State;~~ State.

(3) ~~To sell, deliver~~ Sell, deliver, and ship such spirits in labeled barrels, ~~bottles~~ bottles, or other closed containers to persons licensed under ~~the provisions of~~ this title to import spirits; and ~~to~~ sell and ship spirits to persons outside of ~~the~~ this State in accordance with this ~~title;~~ title.

(4) ~~To store~~ Store and sell spirits on the premises by the bottle or by the glass for consumption on or off the premises where sold; and to purchase alcoholic beverages from licensed Delaware importers or ~~retailers~~ package stores to add to product manufactured by the craft distillery to sell to patrons for ~~on premises~~ on-premises consumption only. The amount of spirits sold for off-premises consumption ~~shall~~ must be limited to a maximum of 1 case ~~(i.e., not more than 12 750 ml~~ (12 750-milliliter bottles) per day to each retail customer for consumption off the ~~premises;~~ premises.

(5) ~~To purchase~~ Purchase and store product from a Delaware licensed importer or ~~retailer~~ package store licensed under § 516 of this title, and sell ~~said~~ the product to its retail customers for consumption on the premises where ~~sold~~ sold, so long as the product is manufactured by an entity that holds a Delaware license ~~pursuant to~~ under § 512A, § 512B, ~~§ 512C~~ § 512C, or § 512E of this title or the manufacturer, as determined by the Commissioner, would qualify for a license under ~~said~~ 1 or more of these sections if ~~it~~ the manufacturer were physically located in ~~the State; and~~ this State.

(6) ~~To sell,~~ Sell, on the licensed premises, food items, souvenirs, spirit-related ~~supplies~~ supplies, and educational material as approved by the Commissioner.

(m) The provisions of § 506 of this title to the contrary notwithstanding, the holder of a craft distillery license ~~shall be permitted to~~ may have an interest in, be affiliated with, or own another supplier or manufacturer, whether located inside or outside ~~the State, provided that the total domestic sales of all affiliated suppliers or manufacturers shall not exceed 750,000 proof gallons in any calendar year.~~ this State.

Section 10. Amend Subchapter II, Chapter 5, Title 4 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 512H. Special event license.

(a)(1) Subject to the provisions, restrictions, and prohibitions of this title, the Commissioner may grant a special event license to a qualified applicant, upon the applicant paying the application process fee set forth in § 554 of this title and submitting all documentation required by the Commissioner. Subject to rules and regulations established by the Commissioner, a special event license permits a licensee to sell and serve alcoholic liquors on the licensed premises at each special event the licensee hosts on the licensed premises for consumption on the licensed premises.

(2) A qualified applicant may not be granted more than 1 special event license.

(b)(1) The licensee may have an office outside this State, but the licensed premises where the special event will take place and where alcoholic liquors will be sold, served, dispensed, or consumed must be located in this State.

(2) In addition to the requirements of paragraph (b)(1) of this section, the licensed premises must meet all of the following requirements:

a. The licensed premises must be owned or leased by the licensee.

b. The licensed premises must not be more than 3 acres in size.

c. The licensed premises must be sufficiently designated, enclosed, secured, and maintained.

d. The licensed premises must contain fencing or a wall not less than 30 inches high that, at a minimum, encloses the area where alcoholic beverages will be sold, served, dispensed, and consumed.

e. The licensed premises must be maintained in compliance with all applicable zoning, health, and fire safety requirements.

(3) If a licensee fails to comply with paragraph (b)(2) of this section, the licensee's special event license is suspended, under § 561 of this title, until the licensee complies with paragraph (b)(2) of this section.

(c) At least 30 days before the date of a special event, a licensee must report the special event to the Commissioner for the Commissioner's review and approval. For each special event, all of the following conditions apply:

(1) Sufficient restrooms or enclosed portable toilets must be provided within the licensed premises during the special event.

(2)a. Sufficient food must be available to consumers for consumption on the licensed premises during all hours that the licensee is selling and serving alcoholic liquors. Items like bags of chips and pretzels are insufficient.

b. The food may be prepared on the licensed premises, provided by a food truck or a caterer, or consist of prepackaged items, such as sandwiches, burgers, and hot dogs of sufficient quantity in relation to the alcoholic liquors being sold and served.

(3) Tents, mobile units, and other temporary fixtures located on the licensed premises must be approved by the appropriate political subdivision and reported to the Commissioner at least 20 days before the special event.

(4) The appropriate political subdivision responsible for regulating the licensed premises must have provided written approval for the special event.

(d) A licensee must purchase all alcoholic liquors sold and served at a special event from importers licensed under § 501 of this title. Notwithstanding any provision of this title to the contrary, an importer may buy back any unopened and resalable bottles of alcoholic liquors at the end of a special event. An importer shall keep all records, as required by the Commissioner, necessary to document the purchase of products under this subsection.

(e)(1) Notwithstanding any provisions of this title to the contrary, whenever the Commissioner finds that a licensee fails to meet any of the requirements of this section or that the licensee misrepresented information in its application, the Commissioner may do 1 or more of the following:

a. Suspend the licensee's special event license.

b. Deny any future applications for a special event license for a period of up to 2 years after the Commissioner finds that a failure or misrepresentation has occurred.

c. Impose a fine of up to $10,000 per violation.

(2) Before any new special event license may be issued, all penalties imposed by the Commissioner under this subsection must be resolved.

(f) Licensees are subject to the restrictions on the hours of sale of alcoholic liquors set forth in § 709(c) of this title, to the prohibitions of overservice, and the prohibition of sales to minors set forth in § 708 of this title.

(g) A licensee is permitted to enter into a concessionaire agreement, but a concessionaire agreement may not permit the sharing of proceeds from alcohol sales.

Section 11. Amend § 514, Title 4 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 514. Gathering licenses; consumption on premises.

(a) If alcoholic liquors are to be sold during a gathering of persons, the manager or person in charge of ~~such~~ the ~~gathering,~~ gathering of persons, or the owner, ~~tenant~~ tenant, or person in charge of the premises in which the gathering of persons is being held, must obtain 1 of the types of gathering licenses provided for in this section. ~~Either of said~~ Both types of gathering licenses ~~shall~~ permit consumption of ~~alcohol~~ alcoholic liquors on the premises where sold and ~~shall~~ permit sale of ~~alcohol~~ alcoholic liquors for consumption off the premises where sold by way of a raffle or auction, live or silent, so long as the amount of ~~alcohol~~ alcoholic liquors sold for consumption off of the premises where sold does not exceed 10 gallons (or 38 liters) in a single day.

(b) ~~There shall be~~ The 2 types of gathering licenses ~~which~~ that may be granted ~~hereunder:~~ under this section are as follows:

(1) Gathering License — Group. — The manager or person in charge of a gathering of persons at which alcoholic liquors are to be sold shall apply for a group type gathering ~~license, which license,~~ license that, if granted, ~~shall be~~ is valid only for the ~~time, and~~ time and at the ~~location,~~ location specified in the ~~application therefor.~~ license application. A group gathering license ~~shall~~ is not ~~be~~ required if the ~~said~~ gathering of persons is being held on premises ~~which~~ that are validly licensed under a biennial premises gathering license issued ~~pursuant to~~ under paragraph (2) of this subsection.

(2) Gathering License — Biennial Premises. — The owner, ~~tenant~~ tenant, or person in charge of the premises, other than a residence, on which gatherings of persons are held, may apply for a biennial premises type gathering ~~license, which license shall be~~ license that is valid for the entire 2 years for gatherings of persons at the location specified in the ~~application therefor.~~ license application.

(c) A holder of a gathering license may purchase alcoholic liquors for sale at a gathering of persons from either ~~retailers~~ package stores, or importers and ~~such retailers~~ the package stores, and importers ~~shall be permitted to~~ may make deliveries to persons holding a gathering ~~licenses.~~ license. A holder of a gathering license granted ~~pursuant to~~ under this section ~~shall be~~ is exempt from paying the application process fee as provided in ~~subsection (x) of § 554~~ § 554(x) of this title.

(d) For purposes of this section only, the price paid for alcoholic liquors to be sold at a gathering of persons licensed under this section ~~shall~~ must be a price agreed upon between the ~~said~~ licensee and the ~~retailer~~ package store, in-state manufacturer, or importer from whom ~~said~~ the alcoholic liquors are purchased. ~~It is permissible for a retailer~~ A package store, in-state manufacturer, or importer ~~to~~ may donate some or all of the alcoholic liquor to the gathering licensee so long as a license has been granted for the gathering of persons by the Commissioner prior to the donation.

(e) Any person holding a biennial premises gathering license granted ~~hereunder~~ under this section must report each gathering of persons to be held ~~in~~ on its ~~facilities~~ premises to the ~~Commissioner, which~~ Commissioner. The report may be made in person, in writing, or by ~~telephone and the~~ telephone. The report must be received by the Commissioner not later than ~~12:00~~ noon ~~of~~ on the day ~~on which~~ the gathering of persons is to be ~~held, unless it~~ held. But if the gathering of persons is to be held on a day ~~on which~~ the ~~Commissioner shall be~~ Commissioner's office is closed, ~~in which case it~~ the gathering of persons must be ~~so~~ reported on the last day on which the Commissioner is open immediately preceding ~~such gathering.~~ the gathering of persons.

(f) ~~Any~~ A person holding a gathering license of either type granted ~~hereunder~~ under this section who has purchased alcoholic liquors for sale at a gathering of persons may return any unopened bottles ~~so purchased~~ to the licensee from whom they were purchased and shall receive ~~therefor~~ the amount paid for each ~~said~~ bottle, so long as ~~such return is made~~ the bottles are returned within 30 days of the date of the gathering of persons for which ~~they~~ the bottles were purchased. A biennial premises type gathering licensee ~~shall~~ is not ~~be~~ required to return bottles it has purchased for sale during ~~such gathering,~~ the gathering of persons, but may store ~~them~~ the bottles in a suitable storage facility for sale at a future gathering of persons to be held ~~within its facilities.~~ on the licensee's premises.

(g) All holders of gathering licenses ~~hereunder shall be~~ under this section are subject to the restrictions on the hours of sale of alcoholic liquors set forth in § 709(c) of this title and to the prohibitions of sales to minors set forth in § 708 of this title.

(h) It ~~shall~~ is not ~~be~~ necessary to obtain a license to dispense alcoholic liquors at a gathering of persons if no alcoholic liquors are to be sold at that gathering of persons. Importers may sell and deliver beer directly to persons for dispensing at a gathering of persons and not for resale.

(i) An applicant for a biennial premises type gathering license, as defined in § 554 of this title, must give notice of the application as required by § 524 of this title, but an applicant who has previously been granted a license under this section and has no violations is not required to give notice.

Section 12. Amend § 515A, Title 4 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 515A. Licenses for bottle clubs.

(c) The Commissioner may ~~only~~ grant a bottle club license only to the following:

(1) A person doing business in an establishment meeting the standards of a restaurant. The license permits the establishment to operate as a bottle club on every day of the week and on holidays, except between the hours of 2:00 a.m. and 9:00 a.m. during which time alcoholic liquors may not be consumed on the premises of the establishment.

(2) A person renting premises to customers for holding weddings or other social gatherings where there is adequate food, as determined by the Commissioner, provided by the customer or a caterer. The license permits the establishment to operate as a bottle club on every day of the week and on holidays, except between the hours of 2:00 a.m. and 9:00 a.m. during which time alcoholic liquors may not be consumed on the premises of the establishment. If a bottle club licensed under this paragraph (c)(2) has a function that utilizes ~~an~~ a licensed off-site caterer, all alcohol must be provided by the licensed off-site caterer.

(3) A person doing business in a licensed establishment where persons pay a fee to participate in a creative arts experience, including painting, pottery-making, candle-making, and other similar activities, and where sufficient food is provided by the establishment's owner or by the customer while alcoholic liquors are being consumed. Prepackaged chips, pretzels, and other similar food items are not sufficient food. The license permits the establishment to operate as a bottle club on every day of the week and on holidays, except between the hours of 11:00 p.m. and 9:00 a.m., during which time alcoholic liquors may not be consumed on the premises of the establishment.

Section 13. Amend § 516, Title 4 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 516. Consumption off the premises of a package store, hotel, restaurant, club, ~~store~~ or taproom.

(a) (1)a. Any person in charge of a ~~hotel, restaurant, club or~~ package store ~~(other than a grocery, delicatessen or cigar store),~~ whether owner, ~~lessee~~ lessee, or manager, and recognized as such by the Commissioner, may apply to the Commissioner for a license to purchase from an importer and to keep and sell and deliver on the premises only spirits, ~~wine~~ wine, or beer by the bottle, half bottle, keg, half keg, quarter keg, or sixtel, but not for consumption on the premises where sold, or in any dependency thereof.

b. All vessels ~~so~~ sold ~~shall~~ must be delivered to the purchaser and ~~shall~~ must be removed from the premises where sold with the seals of ~~such~~ the vessels unbroken, ~~with the exception of those licenses that are~~ unless a license is approved by the Commissioner for a growler filler ~~permit which~~ permit. A growler filler permit allows a licensee to purchase beer by the keg or partial keg and fill containers at time of purchase which will then be capped to leave the licensed premises for consumption off ~~of~~ the premises.

c. For purposes of issuing a new license under this section, all establishments licensed for the sale of alcoholic liquors, but not for consumption on the premises where sold, ~~shall be~~ are considered as being of the same ~~type; provided, however,~~ type. But this ~~shall~~ paragraph (a)(1)c. does not apply to the transfer of ownership or the renewal of an existing license.

(2) ~~Any~~ A person in charge of a ~~store (other than a grocery, delicatessen or cigar store),~~ package store, whether owner, lessee, or manager, and recognized as such by the Commissioner with a valid license for consumption off premises issued ~~pursuant to~~ under this section may sell spirits, ~~wine~~ wine, or beer ~~pursuant to~~ under paragraph (a)(1) of this ~~section~~ section, including sales for curbside service. ~~Any~~ An entity with a valid ~~off premise~~ off-premises license ~~pursuant to §§~~ issued under § 512A through § 512E of this title may sell alcoholic liquor ~~pursuant to its license~~ for curbside ~~service.~~ service under the entity's off-premises license. All sales for curbside service must do all of the following:

a. Comply with Chapter 7 of this ~~title~~ title, including § 706 of this title, which prohibits sales to intoxicated individuals, and § 708 of this title, which prohibits sales to individuals who have not reached the age of 21 years.

b. Be completed and delivered by a person certified as a responsible alcoholic beverage server ~~pursuant to~~ under § 1205 of this title.

(b) Notwithstanding the provisions of subsection (a) of this section, any person, ~~firm~~ firm, or corporation duly licensed by the government of the United States as a ~~ships~~ ship's chandler, may apply to the Commissioner for a license to purchase and to keep, ~~sell~~ sell, and deliver off the premises, spirits, ~~wine~~ wine, or beer. The Commissioner may issue ~~said~~ the license if ~~it~~ the Commissioner is satisfied ~~that: (1)~~ that all of the following conditions are met:

(1) The applicant is a ~~ships~~ ship's chandler operating a customs bonded warehouse under a license issued by the United States ~~government, and (2) sales~~ government.

(2) Sales by ~~ships~~ a ship's chandler are limited to vessels of the United States or of a foreign country engaged in foreign trade ~~pursuant to § 1309 of Title 19 of the United States Code.~~ under 19 U.S.C. § 1309.

(c) ~~No~~ A person in charge of a taproom, restaurant, or club, whether as owner, lessee, ~~manager~~ manager, or otherwise, may not apply for a license to sell alcoholic liquors for consumption off the premises where sold, and the Commissioner ~~shall~~ may not issue such a license for use in a ~~taproom. Provided, however, that any~~ taproom, restaurant, or club, except as follows:

(1) A person issued a license ~~which~~ that authorizes the person to sell alcoholic liquors in a taproom for consumption off the premises prior to July 6, 1983, ~~shall be permitted to~~ may retain ~~said~~ the license, unless revoked by the Commissioner ~~pursuant to~~ under this ~~title; and provided further, that any~~ title.

(2) A person issued a license that authorizes the person to sell alcoholic liquors in a restaurant or club for consumption off the premises before [the effective date of this Act] may retain the licenses, unless revoked by the Commissioner under this title.

(3) A person issued a license ~~which~~ that authorizes the person to sell alcoholic liquors in a taproom for consumption off the premises prior to July 6, 1983, ~~shall be permitted to~~ and person issued a license that authorizes the person to sell alcoholic liquors in a restaurant or club for consumption off-the-premises before [the effective date of this Act] may transfer ~~said~~ the license with the approval of the Commissioner as provided in § 571 of this title.

Section 14. Amend § 524, Title 4 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 524. Notice of application.

(d) The notices referred to in subsections (b) and (c) of this section ~~shall~~ must provide ~~such~~ information as determined by the Commissioner either through duly adopted rules or on a ~~case-by-case~~ case-by-case basis. The following ~~notice will,~~ notice, in addition to the ~~aforesaid Commissioner approved~~ Commissioner-approved notice, ~~satisfy~~ satisfies this notice provision:

"[Name of applicant] has on [Date of application] applied with the Alcoholic Beverage Control Commissioner ("Commissioner") for ~~[Nature of application]~~ [type of license] for a premises located at [Location of the premises, including street and city]. [Applicant may include additional information about the application]. Persons who are against this application should provide written notice of their objections ("protest") to the Commissioner. For the Commissioner to be required to hold a hearing to consider additional input from persons against the application, the Commissioner must receive ~~one~~ 1 or more documents containing ~~a total of~~ at least 10 signatures of residents or property owners located within 1 mile of the premises or in any incorporated areas located within 1 mile of the ~~premises. The protest(s) must be filed with the Alcoholic Beverage Control Commissioner at the 3rd Floor, Carvel State Office Building, 820 North French Street, Wilmington, DE 19801.~~ premises and at least 5 residents or property owners who filed a protest and who reside or own property within 1 mile of the premises where the license is to operate or in any incorporated areas located within 1 mile of the premises where the license is to operate must pre-register to provide testimony at the hearing. The protest(s) must be received by the Commissioner's office on or before [state a date at least 30 days after the application is filed]. The protest(s) can be emailed to the email address provided on the Commissioner's website or delivered or mailed to the Office of the Alcohol Beverage Control Commissioner, Carvel State Office Building, 820 North French Street, Wilmington, DE 19801. Failure to file such a protest may result in the Commissioner considering the application without further notice, input or hearing. If you have questions regarding this matter please contact the Commissioner's ~~Office."~~ Office by emailing the email address provided on the Commissioner's website."

Section 15. Amend § 525, Title 4 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 525. Spirits, ~~wine~~ wine, and beer tasting.

A license to permit spirits, ~~wine~~ wine, and beer tasting may be granted by the Commissioner to any person holding a license ~~under this title as a retailer.~~ as a package store under § 516 of this title. Spirits, ~~wine~~ wine, and beer tasting may take place only in a separate portion of a licensee's premises where alcoholic beverages are not sold. The separate portion of the premises ~~shall~~ must be an area designated for spirits, ~~wine~~ wine, and beer tasting by the Commissioner. ~~No charge~~ There may not be a charge made for the spirits, ~~wine~~ wine, and beer tasting.

Section 16. Amend § 541, Title 4 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 541. Procedural requirements governing Commissioner's action; hearing; appeal.

~~(b) If 10~~ (b)(1) A hearing must be held to consider the application and protest and, specifically, the concerns of the members of the community within which the license is to operate if all of the following conditions are met:

a. Ten or more persons who reside or own property within 1 mile of the premises where the license is to operate or in any incorporated areas located within 1 mile of the premises where the license is to operate file a protest against the issuance of the license with the Commissioner within 30 days from the filing of the ~~application, then a hearing must be held to consider the application and protest and, specifically, the concerns of the members of the community within which the license is to operate.~~ application.

b. Five or more of the persons who filed a protest under paragraph (b)(1)a. of this section and who reside or own property within 1 mile of the premises where the license is to operate or in any incorporated areas located within 1 mile of the premises where the license is to operate pre-register to provide testimony.

(2) The Commissioner may hold a hearing in the absence of a protest.

(3) The Commissioner shall cause notice of the time and location of the hearing to be ~~published in 2 consecutive issues of the same newspapers within which the applicant published notice of the applicant's application for the license.~~ posted on the State Public Meeting Calendar. The Commissioner shall send notice of the time and location of the hearing to the applicant and to each of the persons who signed the protest and provided a legible name and ~~address; provided, however, that it~~ address. It is sufficient for the Commissioner to send notice to the attorney of a person who is represented by legal counsel.

(4) The Commissioner shall conduct the hearing and shall make and keep a record of the hearing. The record must include the evidence, the Commissioner's findings of fact, the Commissioner's ~~decision~~ decision, and a brief statement of the reasons therefor. The Commissioner's decision must show the manner in which the Commissioner construed the law and applied it to the facts, must recite any objections presented by the community, and must show how and the extent to which the Commissioner took community concerns into account and gave them due consideration when making the decision.

(c) The Commissioner's decision must be in writing and ~~shall be final and~~ is conclusive unless, within 30 days from the date of the postmark on the Commissioner's decision, a party to the hearing files a written appeal in the office of the Commissioner. Upon receipt of the appeal, the Commissioner shall cause the Chairperson of the Appeals Commission to be advised of the pending ~~appeal and the~~ appeal. The Chairperson shall cause the Appeals Commission to be convened

with at least 20 days' notice to all parties. The Appeals Commission's review of an appeal from the Commissioner's final decision ~~shall~~ must be on the record and in accordance with the Administrative Procedures Act, subchapter III of Chapter 101 of Title 29. A decision of the Commissioner ~~shall~~ may be reversed only upon a finding of abuse of discretion.

(d) A party who is aggrieved by a final decision of the Appeals Commission may file a written appeal with the Superior Court within 30 days of the date that the Appeals Commission's decision was mailed. The Superior Court's review of an appeal ~~shall~~ must be on the record and in accordance with the Administrative Procedures Act, subchapter V of Chapter 101 of Title 29. The Superior Court's review ~~shall~~ must take into account the experience and specialized competence of the agency and the purpose under which the agency acted. ~~Further, the Superior Court's review, in~~ In the absence of fraud, ~~shall be~~ the Superior Court's review is limited to whether the agency's decision is supported by substantial evidence on the record and is free from legal error.

Section 17. Amend § 546, Title 4 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 546. Limit on number of ~~retail~~ package store licenses.

(a)(1) The General Assembly finds that, in order for the ~~Delaware Alcoholic Beverage Control~~ Commissioner to maintain effective control of the importation, ~~distribution~~ distribution, and sale of alcoholic liquor into and within this State, and in order to prevent geographical price fixing of alcoholic liquor at the retail level, there ~~shall~~ must be a limitation placed on the number of ~~retail~~ package store licenses issued, held, ~~controlled~~ controlled, or acquired directly or indirectly by 1 person.

(2) The General Assembly further finds that a limitation on the number of ~~retail~~ package store licenses held by 1 person is necessary to ensure a stable system for the lawful distribution of alcoholic liquor, serve the public need and ~~convenience~~ convenience, and prevent the public harm associated with a monopoly of the ~~retail~~ package store alcoholic liquor trade by any person or group of persons, whether ~~such~~ the package store licenses are held by a corporation, partnership, association, proprietorship, ~~individual~~ individual, or other entity.

(3) The General Assembly further finds that a reasonable restriction on the number of ~~retail~~ package store licenses held by 1 person will further the State's interest in maintaining a 3-tier system for the importation, ~~distribution~~ distribution, and sale of alcoholic liquor by minimizing or limiting absentee ownership and the domination of ~~retail establishments~~ package stores by suppliers, manufacturers, ~~importers~~ importers, or other economically powerful interests.

(4) Therefore, it is declared to be the public policy of this State that limitations, as ~~hereinafter specified,~~ specified under this section, be placed on the number of ~~retail~~ package store licenses that ~~any~~ a person may at 1 time hold, directly or indirectly, and that the Commissioner shall actively supervise and enforce these limitations.

(b)(1) The Commissioner shall refuse to grant a license for the sale of alcoholic liquor by any restaurant, taproom, hotel, ~~store~~ package store, or other establishment for consumption off the premises where sold if the Commissioner has substantial evidence that would reasonably support a belief that the ~~applicant, or~~ applicant; any of the applicant's directors, ~~officers~~ officers, or ~~shareholders,~~ shareholders; or any of the applicant's partners, corporations, ~~proprietorships~~ proprietorships, or other legal entities engaged in any undertaking, ~~industry~~ industry, or business is singularly, or in combination with the applicant, the holder of 2 or more ~~retail~~ package store licenses, or has any financial, pecuniary, beneficial, management, ~~supervisory~~ supervisory, or other interest whatsoever, direct or indirect, and however small, in 2 or more ~~retail licenses; provided, however, that nothing herein shall require~~ package store licenses.

(2) Nothing in this section requires any person who, prior to April 1, 1992, acquired an interest in more than 2 ~~retail~~ package store licenses to surrender, dispose of, or release ~~their~~ the person's interest in any such ~~license; nor shall anything herein affect such~~ license and nothing in this section affects the person's right to continue to hold, ~~use~~ use, and renew any such license.

(c)(1) For the purposes of this section, a person ~~shall be~~ is deemed to acquire a financial, pecuniary, beneficial, management, ~~supervisory~~ supervisory, or other interest in a ~~retail~~ package store license to purchase and ~~re-sell~~ resell or dispense alcoholic liquor if ~~such~~ the person or person's spouse or child under 21 years of age has ~~either (i) any~~ 1 or more of the following:

a. Any interest whatsoever, direct or indirect, and however small, as a director, officer, shareholder, partner, associate, ~~employee~~ employee, or member in any corporation, partnership, association, ~~proprietorship~~ proprietorship, or other entity engaged in any undertaking, ~~industry~~ industry, or business ~~which~~ that holds a ~~retail~~ package store license ~~pursuant to~~ under this ~~chapter, or (ii) any~~ chapter.

b. Any authority whatsoever to supervise, manage, ~~control~~ control, or direct the operation of the licensee's ~~business, or~~ business; to hire, ~~terminate~~ terminate, or discipline ~~its employees,~~ the licensee's employees; or to issue any orders, ~~policies~~ policies, or directives concerning ~~its business; provided, however, that any~~ the licensee's business.

(2) For the purposes of this section, any person whose relationship with the licensee is, as determined by the Commissioner, merely that of a bona fide lender, lending institution, secured ~~party~~ party, or lienholder, or merely that of a bona fide landlord or lessor of real or personal property, ~~shall not, for the purposes of this section, be~~ is not

deemed to acquire a financial, pecuniary, beneficial, management, ~~supervisory~~ supervisory, or other interest in ~~such~~ the package store license.

(d) The Commissioner may promulgate ~~such~~ rules and regulations with respect to the enforcement and furtherance of the objectives and provisions of this section as ~~it~~ the Commissioner may deem ~~necessary, and all such~~ necessary. All rules and regulations that are not inconsistent with provisions of this title and the ~~Delaware~~ Code ~~shall~~ have the force and effect of law.

Section 18. Amend § 554, Title 4 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 554. License fees [Effective until Aug. 15, 2026].

(kk) Each of the licensees identified in subsections ~~(a)-(h), (t)-(w),~~ (a) through (h), (t) through (w), (y), (z), (bb), (cc), (dd), (ff), (gg), (hh), (ii), (mm), ~~and (qq)~~ (qq), and (rr) of this section, shall pay an additional annual fee of $100. The Commissioner shall deposit ~~said funds~~ the additional annual fees into a special account designated as the "Overservice Investigation Fund." ~~Said fund shall~~ The Overservice Investigation Fund must be utilized by the Division of ~~Alcohol and Tobacco Enforcement~~ to pay overtime to its ~~agents and/or~~ agents, to hire and equip additional ~~agents~~ agents, or both for the purpose of investigating and prosecuting licensees that serve intoxicated individuals.

(uu) For a special event license issued under § 512H of this title, the biennial license fee is as follows:

(1) $1,000 for a license to hold 12 or fewer special events per calendar year.

(2) $ 2,000 for a license to hold more than 12 special events per calendar year.

§ 554. License fees [Effective Aug. 15, 2026; Effective until Aug. 15, 2030].

(kk) Each of the licensees identified in subsections ~~(a)-(h), (t)-(w),~~ (a) through (h), (t) through (w), (y), (z), (bb), (cc), (dd), (ff), (gg), (hh), (ii), (mm), ~~and (qq)~~ (qq), and (rr) of this section, shall pay an additional annual fee of $100. The Commissioner shall deposit ~~said funds~~ the additional annual fees into a special account designated as the "Overservice Investigation Fund." ~~Said fund shall~~ The Overservice Investigation Fund must be utilized by the Division ~~of Alcohol and Tobacco Enforcement~~ to pay overtime to its ~~agents and/or~~ agents, to hire and equip additional ~~agents~~ agents, or both for the purpose of investigating and prosecuting licensees that serve intoxicated individuals.

(uu) For a special event license issued under § 512H of this title, the biennial license fee is as follows:

(1) $1,000 for a license to hold 12 or fewer special events per calendar year.

(2) $ 2,000 for a license to hold more than 12 special events per calendar year.

§ 554. License fees [Effective Aug. 15, 2030].

(kk) Each of the licensees identified in subsections ~~(a)-(h), (t)-(w),~~ (a) through (h), (t) through (w), (y), (z), (bb), (cc), (dd), (ff), (gg), (hh), (ii), (mm), ~~and (qq)~~ (qq), and (rr) of this section, shall pay an additional annual fee of $100. The Commissioner shall deposit ~~said funds~~ the additional annual fees into a special account designated as the "Overservice Investigation Fund." ~~Said fund shall~~ The Overservice Investigation Fund must be utilized by the Division ~~of Alcohol and Tobacco Enforcement~~ to pay overtime to its ~~agents and/or~~ agents, to hire and equip additional ~~agents~~ agents, or both for the purpose of investigating and prosecuting licensees that serve intoxicated individuals.

(uu) For a special event license issued under § 512H of this title, the biennial license fee is as follows:

(1) $1,000 for a license to hold 12 or fewer special events per calendar year.

(2) $ 2,000 for a license to hold more than 12 special events per calendar year.

Section 19. Amend § 708, Title 4 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 708. Prohibition of sales to certain persons.

(a) ~~No~~ A person or licensee ~~shall~~ may not sell any alcoholic liquor to ~~any:~~ any of the following:

(1) ~~Individual~~ An individual who has not reached the age of 21 ~~years, except that in~~ years. In any prosecution for an offense under this paragraph (a)(1) it ~~shall be~~ is an affirmative defense that the individual, who has not reached the age of 21 years, presented to the accused identification, with a photograph of ~~such~~ the individual affixed ~~thereon, which~~ on the identification, and the identification sets forth information ~~which~~ that would lead a reasonable person to believe ~~such~~ the individual was 21 years of age or ~~older;~~ older.

(2) ~~Person~~ A person to whom such sale is ~~prohibited;~~ prohibited.

(3) ~~Individual who habitually drinks alcoholic liquor to excess, or to whom the Commissioner and/or Division has, after investigation, decided to prohibit the sale of such liquor because of an appeal to the Commissioner and/or Division by the husband, wife, father, mother, brother, sister, employer or other person depending upon, employing or in charge of such individual, or by the mayor or other competent representative of any city, town, or other incorporated place; the interdiction in such case shall last until removed by the Commissioner and/or Division.~~ [Repealed.]

(b) ~~No~~ A sale made to any person mentioned in this section, other than an individual who has not reached the age of 21 years, ~~shall~~ does not constitute a misdemeanor unless the ~~Commissioner and/or Division~~ Commissioner, the Division, or both has informed the seller, by registered letter, that it is forbidden to sell to such person or unless the fact is otherwise known to the seller.

Section 20. Amend § 712, Title 4 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 712. Label on bottle.

~~No~~ (a) A holder of a license ~~shall~~ may not use or allow the use of any mark or label on a bottle, in which alcoholic liquor is kept for sale, that does not precisely and clearly indicate the nature of the contents of the ~~bottle,~~ bottle or ~~which~~ that might in any way deceive any consumer as to the nature, ~~composition~~ composition, or quality of the contents.

(b) If a licensee prepares infused beverages or batched cocktails, the preparation and labeling of the infused beverages or batched cocktails must comply with the rules established by the Commissioner and each batched or infused cocktail container must be clearly labeled with every ingredient and the date the infused beverage or batched cocktail was made.

Section 21. Amend § 903, Title 4 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 903. Offenses carrying penalty of fine of not more than $100 or imprisonment for 1 month on failure to pay fine.

~~Whoever:~~ (a) In addition to the payment of costs, whoever does any of the following is subject to a fine of not more than $100:

(1) Being the holder of a license, sells beer to which wine, ~~spirits~~ spirits, or alcohol has been added; ~~or~~ sells wine to which spirits or alcohol has been added, other than an addition of spirits or alcohol to render possible transportation or to secure the customary fortifying thereof; or sells any alcoholic liquor to which has been added any adulterating or deleterious substances or ~~liquid; or~~ liquid.

(2) Being the holder of a license, sells any alcoholic liquor in any place, ~~or~~ in any manner, or in any quantity other than as authorized by the ~~license; or~~ license.

(3) Being the holder of a license to sell spirits, ~~wine~~ wine, or beer in a dining room or bedroom, has not furnished, fitted, or equipped ~~such~~ the dining room or bedroom in the manner or to the extent indicated by the ~~Commissioner and/or Division; or~~ the Commissioner, the Division, or both.

(4) Being the holder of a license to sell spirits, ~~wine~~ wine, or beer, as the case may be, does not comply with any requirement or provision of ~~§§ 512-520 or 706~~ § 512 through § 520 or § 706 of this ~~title; or~~ title.

(5) Being the holder of a license, sells any alcoholic liquor ~~which~~ that the holder is authorized by the license to sell, at any time forbidden by § 709 of this ~~title; or~~ title.

~~(6) Being the holder of a license, knowingly sells to any of the persons mentioned in § 708 of this title after notice sent to such person by the Commission in compliance with the provisions of said section, any alcoholic liquor, the sale of which is authorized by the license; or~~

(7) Being the holder of a license to sell alcoholic liquor in a package store, allows any alcoholic liquor sold ~~therein~~ in the package store to be ~~drunk~~ consumed in ~~such~~ the package store or its dependencies, either by the purchaser or by any other ~~person; or~~ person.

(8) Being the holder of a license to sell alcoholic liquor in the dining room of any hotel, restaurant, ~~club~~ club, or steamboat, or in a dining car, does not keep the license constantly posted conspicuously in view of the public in ~~such~~ the dining room or dining ~~car; or~~ car.

(9) Being the holder of a license, keeps or transports any alcoholic liquor in contravention of this ~~title; or~~ title.

(10) Having acquired ~~for the purpose of resale~~ any liquid or solid containing alcoholic ~~liquor,~~ liquor for the purpose of resale, sells it as a medicine or preparation after having been notified by the ~~Commissioner and/or Division~~ the Commissioner, the Division, or both, in accordance with § 725 of this ~~title; or~~ title.

(11) Not being the holder of a license, leads the public or ~~travellers~~ travelers to believe, by means of signs, inscriptions, advertisements, or ~~circulars~~ circulars, that ~~license holder~~ the person is authorized to sell alcoholic ~~liquor; or~~ liquor.

(12) Buys or receives any alcoholic liquor from any person not authorized to sell ~~such~~ that variety of alcoholic liquor or keeps such alcoholic liquor in the person's ~~possession; or~~ possession.

(13) Obtains, even gratuitously, ~~during the time when the sale thereof is forbidden,~~ any alcoholic liquor from any holder of a license for the sale ~~thereof; or~~ of the alcoholic liquor during the time when the sale of the alcoholic liquor is forbidden.

(14) Causes any disturbance in any place or brings ~~thereinto~~ into the place or drinks ~~therein~~ in the place any alcoholic liquor prohibited ~~therein; or~~ in the place.

(15) Buys, for any remuneration whatsoever, any alcoholic liquors for another ~~person; or~~ person.

(16) Being the holder of a license to sell alcoholic liquor, fails to post in a conspicuous place a sign ~~which~~ that clearly reads, "According to the Surgeon General, women should not drink alcoholic beverages during pregnancy because of the risk of birth ~~defects;" or~~ defects.".

(17) Manufactures, distributes, sells, offers for sale, possesses, purchases, or uses a powdered alcoholic ~~beverage,~~ beverage.

~~shall, in addition to the payment of costs, be fined not more than $100, and, on failure~~

(b) If a person fails to pay such fine and costs, ~~shall be imprisoned~~ the person is subject to imprisonment for 30 days.

(c) Justices of the ~~peace shall~~ Peace have original jurisdiction to hear, try, and finally determine alleged violations of this section.

Section 22. Amend § 904, Title 4 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 904. Offenses concerning certain persons [Effective until Aug. 15, 2026].

(m) Nothing in this section ~~shall prevent~~ prevents the employment in a package store ~~by a retailer~~ of ~~anyone~~ a person who has reached the age of 18 years, under ~~such~~ conditions ~~as~~ the Commission may by rule ~~prescribe; provided, however, that no such~~ prescribe, but the minor ~~shall~~ may not sell or serve alcoholic liquors.

§ 904. Offenses concerning certain persons [Effective Aug. 15, 2026; Effective until Aug. 15, 2030].

(m) Nothing in this section ~~shall prevent~~ prevents the employment in a package store ~~by a retailer~~ of ~~anyone~~ a person who has reached the age of 18 years, under ~~such~~ conditions ~~as~~ the Commission may by rule ~~prescribe; provided, however, that no such~~ prescribe, but the minor ~~shall~~ may not sell or serve alcoholic liquors.

§ 904. Offenses concerning certain persons [Effective Aug. 15, 2030].

(m) Nothing in this section ~~shall prevent~~ prevents the employment in a package store ~~by a retailer~~ of ~~anyone~~ a person who has reached the age of 18 years, under ~~such~~ conditions ~~as~~ the Commission may by rule ~~prescribe; provided, however, that no such~~ prescribe, but the minor ~~shall~~ may not sell or serve alcoholic liquors.

Section 23. This Acts take effect on the Act's enactment into law and Section 10 and Section 12 of are to be implemented the earlier of the following:

(1) Six months from the date of the Act's enactment into law.

(2) Notice by the Alcoholic Beverage Control Commissioner published in the Register of Regulations that final regulations to implement Section 10 and Section 12 of this Act have been adopted.

SYNOPSIS

This Act cleans up antiquated portions of The Liquor Control Act, under Title 4, by updating provisions that have been in the Code since the 1930s and making technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.

This Act also creates two new license types: (1) a special event license and (2) a bottle club license for businesses offering creative arts experiences like painting, candle-making, and other arts and engagement activities.

In addition to technical changes, this Act makes all of the following changes to Title 4 of the Code:

Sections 2, 7, 8, 15, 11, and 22 changes "retailer" or "retail" to "package store" in § 512A, § 512C, § 524, and § 904.

Section 1 updates and modernizes definitions in § 101 by lowering the number of customers for concert hall licenses, clarifying that IRS-recognized 503(c)(3) or similar organizations may obtain gathering licenses, clarifying that an "importer" also means a wholesaler or distributor because the terms are used interchangeably throughout Title 4 and the Office of the Alcoholic Beverage Commissioner ("Office") regulations, renaming a "retailer" as a "package store" and

providing a clearer definition, and adding a new definition of "special event" for the special event license created by this Act.

Section 2 requires the Office, under § 304, to provide current licensing data on its public-facing website rather than submitting annual reports to the Governor and the General Assembly. The Office already provides the licensing data on its website in lieu of paper reports that become stale quickly. Section 2 also updates how the Office provides notice of a hearing to consider a license application and the protests to the license application by removing the requirement to post the notice on the entrance door of the proposed licensee's establishment and requiring the Office to mail notice by first class mail instead of registered mail. These changes reflect modern practices.

Section 3 updates antiquated fiscal provisions in § 310 by requiring the Office to deposit receipts with the Office of the State Treasurer instead of the Division of Revenue and by requiring the Office to maintain receipt records and make the records available to the Division of Accounting instead of the Office of the State Treasurer.

Section 4 allows the Auditor of Accounts ("Auditor") to audit the Office, under § 313, as often as the Auditor considers necessary instead of requiring the Auditor to conduct an annual audit of the Office.

Section 5 clarifies, under §501, that importers licensed as suppliers must deliver products directly to a licensed warehouse of a Delaware licensed importer because brokerage import firms licensed by the federal government as importers are also licensed as suppliers by the Office and act as agents of suppliers.

Section 6 cleans up sentence structure in § 508 to clarify manufacturer and distillery reporting requirements.

Section 9 removes the domestic sales cap on production for distilleries licensed under § 512E, because no other state has a similar production cap.

Section 10 creates a new § 512H that allows the Delaware Alcoholic Beverage Control Commissioner ("Commissioner") to grant to a qualified applicant a special event license for festivals, arts, crafts fairs, and other similar open-air events. The special event license permits the service and sale of alcoholic liquors for consumption on the licensed premises at special events hosted on the licensed premises by the landowner or tenant (the landowner could contract with a promotional company. A qualified applicant may hold only 1 special event license. The licensed premises must meet certain requirements, including having controlled ingress and egress. Also, at each special event sufficient food must be available at all times when alcohol is sold. A licensee must submit each special event to the Commissioner for review and approval at least 30 days prior to the special event (caterers have 20 days to provide the same materials but the Office feels the 10 extra days are needed for larger events), and the appropriate political subdivision must have approved the special event. The Commissioner may suspend a special event license, deny future licenses, or impose a fine of up to $10,000 per violation if the special event license holder has made misrepresentations on its application materials or fails to comply with the requirements of § 512H.

Section 11 updates § 514 to allow an in-state manufacturer to donate alcoholic liquors to gathering license holders and require applicants for a biennial premises type gathering license to provide notice of application under § 524, unless the applicant has already been granted a biennial premises type gathering license and has no violations.

Section 12 expands § 515A to allow the Commissioner to grant a bottle club license to a business establishment where customers pay a fee to participate in a creative arts experience, including painting, pottery-making, candle-making, or other similar activities. Some of these types of businesses already tell customers that the customers may bring alcohol, like a bottle of wine, on the premises. The bottle club license allows a licensed business's customers to bring alcohol onto the business's premises for on-premises consumption by the customer if sufficient food is provided while alcohol is being consumed.

Section 13 updates § 516 by replacing "store" with "package store", which eliminates off-premises licenses for restaurants and clubs because these establishments can now sell alcohol to-go. But the few existing licenses will be grandfathered, just like the taproom off-premises license that was eliminated in 1983.

Section 14 gives a property owner or governing body who receives a notice of application under § 524 the option to file protests with the Office by email and updates the Office's mailing address.

Section 16 changes hearing requirements under § 541 so that the Office is not required to hold a hearing to consider a license application and the protests to the application, unless at least 5 persons who filed protests and who reside or own property located within 1 mile of the premises or in any incorporated areas located within 1 mile of the premises

pre-register to testify at the hearing. Community members often will sign a filed protest, but then not show up to testify at the hearing. Yet the Office incurs hundreds of dollars in costs, including hiring a court reporter and publishing the hearing notice in 2 newspapers. This causes delay in approving an application and causes the State to incur costs for a hearing it did not need to hold because the application could have been granted on the paperwork. Requiring at least 5 persons to pre-register to testify should help small businesses open more quickly and still preserve a community's opportunity to address concerns about an application at a hearing. The Office is sensitive to community concerns about license applications and believes that the communities should be able to voice their concerns at a hearing. But the Office also believes that having the option to cancel a hearing, if the persons who file a protest choose not to follow through with the protest, would alleviate unnecessary costs and delays in processing license applications. Section 16 also requires the Office to post the hearing notice on the State Public Meeting Calendar instead of publishing the hearing notice in a newspaper, because hearing notices are already mailed and emailed to individuals who have filed a protest with the Office.

Section 18 adds a new license fee under § 554 for the new special event license. Section 18 also adds holders of a beer garden license to the list of licensees required to pay an additional $100 biennial license fee to be deposited in the Overservice Investigation Fund used to implement, administer, and enforce the Delaware Responsible Alcohol Beverage Server Training Program. All other on-premises license types pay the fee and the omission of the beer garden licenses appears to be a statutory oversight.

Sections 19 and 21 remove an antiquated provision that permits spouses, brothers, sisters, other family members, and employers to appeal to the Commissioner to investigate, decide, and then prohibit the sale of alcohol to certain people.

Section 20 adds requirements for labeling batched cocktails and infused beverages prepared by licensees to § 712, so that customers know the ingredients used in the cocktails and beverages.

Section 23 delays implementation of Section 10 and Section 12 of this Act, so that the Office may prepare to implement the new special event license and the new bottle club license. This Act takes effect on the Act's enactment into law and Section 10 and Section 12 of this Act are to be implemented the earlier of the following:

(1) Six months from the date of the Act's enactment into law.

(2) Notice by the Alcoholic Beverage Control Commissioner published in the Register of Regulations that final regulations to implement Section 10 and Section 12 of this Act have been adopted.

This Act requires a greater than majority vote for passage because § 11 of Article VIII of the Delaware Constitution requires the affirmative vote of three-fifths of the members elected to each house of the General Assembly to impose or levy a tax or license fee.

Author: Senator Cruce