



# Malt Beverage Distributors Association of Pennsylvania

Vol. 80 • Issue 3 • August 2016

## Inside this Issue

Presidents Message.....	2
Talking Points .....	2-3
MBDA Survey Results .....	3
Summary of Act 39 .....	3-5
Act 39 Failed Liquor License Auction .....	5
Act 39 License Renewal Surcharge .....	6
PA OTP Floor Tax Inventory Dates .....	6
Supreme Court Sheetz Case Dismissal.....	6
Home Delivery .....	6-7
Credit Cards .....	7
Intermunicipal Hearing Talking Points .....	7
DOL Overtime Rule .....	8
Dues .....	8
What's Next .....	8
MBDA Talking Points .....	9
Reporting Supermarket Violations .....	9
PLCB+ .....	9
MBDA Discounted Programs and Services.....	10-11
FAQ's .....	12-13
ABL Affiliation .....	14
Legal Defense Fund Contributors .....	14
Associate Members Thank you.....	14
Buyers Guide.....	14
DISPAC .....	14-15
DISPAC Contributors.....	16
Director Vacancies.....	16
Category Merchant.....	16
MBDA Staff .....	6
MBDA Accomplishments.....	16-17
MBDA Elections.....	17-18
MBDA Membership.....	17
Annual Convention Save the Date .....	8
2016 Annual Convention .....	19
Message to Distributors.....	20

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

As stakeholders in Pennsylvania’s alcohol distribution industry, now more than ever, we need beer distributors to unite and support your trade association. These are critical times as we strive to increase the value of your interests as small business people in a highly regulated market. The significance of a strong trade association is vitally important as legislators are hit from all directions by other segments of the industry along with outside interests. Our achievement in securing 12-pack sales shows how successful we can be when distributors work together and give their support to MBDA.

In July, members received our postage-paid survey in which we asked you to provide feedback on what should be MBDA’s priorities going forward. Your answers will enable us to develop and coordinate legislative strategies to ensure success in this changing climate. It is important that you return your survey to our Executive Office at your earliest possible convenience. It is through the feedback from our members that guide our activities as an association.

As we begin our new fiscal year, July 1, 2016 to June 30, 2017, MBDA needs you as a member to help us effectively convey our message to our state lawmakers. There is strength in numbers, and the more members we have, the louder our voice is on Capitol Hill.

This is also a good time to revisit services that you use in your day-to-day business—whether it be credit card processing, business insurance or commercial electricity. Please see the enclosed member benefits flier for a listing of programs to save you money.

Also enclosed is your current membership invoice for distributors who have not as yet paid their dues. Please return it with your payment as soon as possible.

We look forward to your support and you can be assured of our continued efforts on your behalf.

Please rate each item on your level of interest for your beer distributor.

	LEAST	Level of Interest								MOST
	1	2	3	4	5	6	7	8	9	10
<b>Ability to sell up to 4 bottles of wine:</b> Allow distributors to have equality with restaurant liquor and hotel licensees as a result of Act 39.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Converting D license to an R:</b> Allow distributors a one-way, one-time conversion to allow them to conduct business like a restaurant liquor licensee.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Package reform:</b> Allow distributors to sell beer down to a single including the ability to sell growlers.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Ability to sell wine and spirits:</b> Allow distributors to become a one-stop shop for beer, wine and liquor purchases.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Multiple licenses:</b> Allow distributors to own more than one distributor license and/or allow distributors to own a distributor license and a restaurant liquor license.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: _____										
Distributor Name _____ County _____										



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

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

President's Message

Dear MBDA Members:

As your new President, I am writing to issue a “call to arms” to all Pa. beer distributors.

In June, the Pa. legislature passed and the Governor signed Act 39 to give R licensees (including licensed grocery and convenience stores) the ability to sell up to 4 bottles of wine for off-premise consumption. Amazingly, beer distributors were not given the right to sell wine in this legislation. Several forces worked to deny us this right. To rectify this unfair law, we must all now actively engage our legislators.

**It is critical that you get engaged immediately.** Our goal is to pass legislation this fall to provide us parity with other alcohol retailers. We need to be able to offer wine to our customers in order to compete. This is also an important change to provide one-stop beer and wine shopping convenience to our customers. We cannot wait until the new session begins in January for this change. We need it to happen this fall.

Fortunately, there is a Liquor Code bill (HB 1196) which has already received extensive consideration by the legislature and can be quickly amended and approved to provide us the parity that we seek. That is our target when the legislature returns to session in late September.

The MBDA Executive Board is now communicating with legislative leaders to accomplish our goal. **We also need your help!** It is critical that all beer distributors reach out to their State Senators and Representatives immediately to inform them of our need and ask them for their help and support.

Attached you will find a document providing an overview of the issue, our 2 legislative “asks,” and talking points to help you in meeting with your legislators. We must stay on message in these meetings. With only 9 session days left in the current session, our request must be concise and practical. Precision is the key to our success on this. MBDA will push for other important improvement to the law when we go on the offensive in the new legislative session.

**Please let us know the outcome of your meetings so we can assess our progress.** Please contact Stephanie in the MBDA office, or our lobbyist, Bob Archibald, at 717-599-8009 with a post-meeting report.

Frank Pistella  
MBDA PRESIDENT



LEGISLATIVE UPDATE

Talking Points for Meetings

Our “asks”

The ability to sell wine is critical for the future of distributors. We need to be able to compete with licensed grocery and convenience stores. It is also an important change to provide convenience to our customers. When purchasing beer, they should also have the convenience of choosing wine products at our stores to save them a trip to another location. At the very least, we need parity with the R licensees (4 bottles of wine). We are asking the legislators for their support in providing this privilege to us and our customers.

• We would also like their support in providing us the ability to “break the bulk” of a case and sell two identical six packs as a twelve pack sale. Presently, we are limited to sales where the 12-pack is prepared by the manufacturer. **This is another consumer convenience request.** Many brewers (particularly craft brewers) do not make manufactured 12-packs. Our customers are asking us for the ability to buy two identical six-packs as a twelve pack sale.

If Asked:

- If asked why we were not included in HB 1690, a good answer is: *“We understand that certain forces in the manufacturer community worked against us so that they would not lose shelf/ floor space for beer in our establishments. It is not fair to protect the interests of manufacturers over small state- based business by denying distributors the opportunity to sell wine. Distributors are now at a distinct competitive disadvantage in the alcohol market.”*
- They may tell you that we were excluded because we told them we did not want anything. **This is simply not true.** Our consistent message during our advocacy on the various and onerous privatization bills was this: “We cannot support a bill making grocery stores the predominant retailers of alcohol (which every bill did). However, if a law is passed to benefit grocery stores, we at least need to be given the ability to sell the same products in attempt to compete.”

- If asked why we so strongly opposed every privatization plan, a good answer is this: *“Every proposal introduced was aimed at making grocery and big box stores the predominate retailer of alcoholic beverages at expense of small business. While the proposals did provide expanded privileges for distributors, they were not nearly sufficient to allow us to compete against these large, predatory retailers. Ultimately, I was fighting for the survival of my business and the rest of the beer distributors. I hope you can respect that.* However, the world has changed since the passage of Act 39, and we really need your help in providing us with wine and like 6-packs sales to help us better compete.”

Important

Please do not request any other legislative changes except these two “ask” items. We believe these “ask” are concise and practical. We are trying to accomplish these initiatives during an abbreviated fall session (9 session days). If, during these meetings, we deviate from that message and request all kinds of different changes, the likelihood is that they will walk away from us.

**We all need to deliver the same consistent message so that all contacted legislators can go to their leaders with the same consistent request to help us.**

MBDA SURVEY RESULTS  
Member feedback is critical

MBDA sent members a survey asking for input to determine the priorities and focus of the association moving forward. We would like to thank all those that took the time to thoughtfully fill out and return the survey. It is this type of feedback that is critical to the decision making of the association.

To be transparent, we wanted to publish the results of the survey. You will recall we asked that you rank five action-items based on what you felt was most important for MBDA to pursue. Ranked in order from most important to least important the results were:

1. Ability to sell wine and spirits
2. Ability to sell up to four bottles of wine
3. Package Reform
4. Multiple Licenses
5. Converting D license to an R

As you can see by the Legislative Update above, MBDA saw what was important to our members and has formulated a plan to give you the ability to sell wine. We appreciate the feedback you have provided and rest assured that MBDA listens to its members and we are hard at work advancing these initiatives.



SUMMARY OF ACT 39

1. R-Licenses and H-Licenses have the ability to sell wine for take-out:  
The holder of a Restaurant or Hotel license may apply for a Wine Expanded Permit “wine-to-go” permit for \$2,000.00 and may sell up to 3,000 milliliters (equivalent of four bottles) of wine to go in a single transaction. Any licensee obtaining this permit must also obtain and utilize a transaction scan device on any wine purchaser who appears to be under the age of 35. Wine-to-go may only be sold until 11pm. As with beer sales, if there is an approved operation of another business connected to the licensed premises, the wine may only be sold in the licensed premises. The price of wine to go may not be lower than the price paid to the PLCB for purchase. The annual renewal fee for a “wine-to-go” permit will be equal to two percent (2%) of the cost of the wine purchased from the Board that has been sold for off-premises consumption over the previous year. No private labels may be sold for off premises consumption. The licensee will pay sales tax on wine purchased from the PLCB and when a licensee sells wine-to-go, sales tax will be assessed on those bottles. A licensee may apply for a refund of the sales tax.

2. Special Liquor Orders:

Any licensee permitted to sell liquor and wine shall be able to make special liquor orders through the PLCB at a 10% mark-up. However, by January 1, 2017 the PLCB must allow for special liquor orders to be shipped directly to licensees, and no mark-up can be applied to such orders. The PLCB has the ability to deny a special liquor order if it carries a substantially similar item or believes it should offer the product as one of its listings.

3. PLCB Flexible Pricing:

The PLCB may discount the price of any discontinued items and may price limited and/or best-selling items differently than other items subject to the following: (i) the best-selling items shall be defined as the 150 most popular wines and the 150 most popular spirits as of January 1 and July 1 of each year. Any such price modifications must remain the same across the state and the PLCB must publish the prices of all products on a quarterly basis on their website.

Continued on next page





#### 4. Revival and auction of R-Licenses.

This section prevents restaurant liquor licenses from being permanently extinguished if revoked or non-renewed through PLCB action or inaction by the licensee. All liquor licenses that have become “dead” since December 31, 1999 will be revived and sold at auction by the PLCB. Licenses that are revoked or non-renewed, going forward, will also become available for auction. No more than 50 licenses can be auctioned off per county per year. The PLCB will list all available licenses to be auctioned by March 1 of each year and the auction will take place no later than June 1 of that year. Any license sold at auction must sell for a minimum of \$25,000.00.

The PLCB will accept applications to bid between March 1 and May 15 of each year (though the PLCB may accept late applications at its discretion). Applications to participate in an auction may be rejected if the PLCB determines the applicant is “not of good repute.” The winning bid gives the winning bidder the right to apply for the R-license. The application process will be the same as with any other R-License and all funds paid to the state for the R-license will be held in escrow until the license is approved. These licenses can be transferred as with any other license and are subject to the same rules and regulations as any other R-License.

#### 5. Conversion of Eating Place Licenses.

The holder of an E-License can convert their license into an R-License for the payment of \$30,000.00. This is not applicable to E-Licenses in Philadelphia.

#### 6. Renewal Fees.

License renewal fees have increased by \$700.00.

#### 7. Sales of Liquid Fuels.

The PLCB may now license a location that sells liquid fuels so long as no sales of liquid fuel can be made from the licensed premises. The PLCB may approve an interior connection between a licensed premises and a business that sells liquid fuels.

#### 8. Malt and Brewed Beverages Industry Promotion Board.

The amendment to the Liquor Code created a malt and brewed beverages promotion board which shall make recommendations for the award of grants (totaling \$1,000,000.00) to manufacturers to increase the production, marketing, and research of PA manufactured malt and brewed beverages. A similar Wine Promotion Board is also created.

#### 9. Management Companies.

Management Companies may now hold or have a pecuniary interest in a Liquor License.

#### 10. Safekeeping.

All fees for the safekeeping of a license have been doubled and the renewal fees are due every two years.

#### 11. Mug Clubs.

Mug Clubs are now permissible at retail licenses and breweries. The members of the Mug Club are entitled to discounted Malt or Brewed beverages. In order to have a mug club, (i) members have to pay an annual fee and renewal fee, (ii) the licensee must maintain a list of all active members, (iii) the members must have a designated mug, glass, or similar container for use when drinking discounted beer, and (iv) no discounts for mug clubs can be given after midnight.

#### 12. Definition of Alcoholic Cider.

The ABV definition of Alcoholic Cider has increased from 5.5% to 8.5%.

#### 13. Mandatory RAMP Training.

All servers and/or sellers of alcohol must now be RAMP certified within 6 months of hire.

#### 14. Expositions and Farmer's Market.

Pennsylvania Breweries must now obtain a permit to participate in beer tasting events, which are limited to 100 per year. The cost of such a permit is \$30.00 and also allows them to sell beer at expositions. Distilleries can also get a permit for the same. Breweries and Distilleries can both get a permit to sell their products at farmer's markets. There is no limit to the number of farmer's markets that can be attended each year.

#### 15. Casino Licenses.

The bill creates a Casino Liquor License which is available for casinos to sell beer, wine, and liquor 24/7. No beverages can be sold for off-premises consumption and free beer and wine may only be given at invitation-only events. The cost for the Casino license is a \$1,000,000 application fee, a \$1,000,000 renewal fee for the first four years, and a \$250,000 renewal fee for every year thereafter.

#### 16. Off-Premises Catering Permits.

The March 1st deadline for filing is extended to licensees who are in good standing and pay an extra fee. The number of catered events has increased from 50 to 52 while the amount of notice prior to an event has decreased from 30 days to 14 days. Off-premises catered events may be extended until 2am on New Years.

#### 17. Modernization.

The PLCB has been given the authority to establish a consumer relations program which will allow for discounts or coupons based on

consumer preferences. The PLCB may now sell lottery tickets, may operate an unlimited number of stores on Sunday with extended operating hours, is banned from selling any private label products, and may deliver products.

#### 18. Privatization.

The bill provides for a commissioned study on all aspects of reform to the retail and wholesale liquor system in the Commonwealth. Twelve appointed individuals will sit on the commission that will produce the study.

#### 19. Cross sale of PA manufactured alcoholic beverages.

Holders of Manufacturer's Licenses are now able to sell all beers, wines, and liquors manufactured in Pennsylvania for on-premises consumption.

#### 20. Direct Shipment of Wine.

The Bill creates a “Direct Wine Shipper’s” License that shall allow for the direct shipment of wine to individuals in the Commonwealth and includes Limited Wineries. Up to thirty-six cases, of up to nine liters per case, may be shipped to anyone in PA over the age of 21 in a given calendar year.

#### 21. Miscellaneous Alterations

- Allow Bed and Breakfasts to provide a bottle of wine manufactured in Pennsylvania to their overnight, paying guests,
- Make the “Clean Indoor Air Act,” applicable to Hotel Liquor Licenses,
- Allow a limited distillery to have 5 satellite locations instead of 2,
- Addresses the sale of powdered alcohol,
- Creates an airport liquor license which can sell alcohol from 5am to 2 am,
- Created referendums for the allowance of ski-resorts in a dry county to apply for a liquor license,
- Allow manufacturers to provide free alcohol training to licensees,
- Allow a state college or university to have wine auctions, and
- Allow minors to frequent a ski-resort with a liquor license.

## Act 39 – Failed Liquor License Auction

Act 39 - the law just signed by Governor Wolf that makes major changes in the alcohol market - is, despite its passage, still a topic of conversation in the General Assembly. Our goal is to make the membership aware of its component parts, and below

is a discussion of the newly introduced concept of the state auctioning off previously failed restaurant licenses.

### Auction

The licenses eligible for auction sale by the state fall into the following categories:

- Restaurant license that since January 1, 2000:
  - o Not renewed under section 470 (Renewal of Licenses);
  - o Revoked under Section 471 (Revocation or Suspension of Licenses); or
  - o Failed to meet the on-going requirements under Section 474.1 (Voluntary Surrender).

This is the apparent timetable:

- March 1, 2017 - Board posts list of licenses available in June 1 auction. Limit is 50 per county, if available.
- March 1 to May 15 - Board receives bids of at least \$25,000 per license.
- June 1 - Board accepts bids based upon the highest price offered meeting all requirements.
- March 1, 2018 - Process repeats itself based upon licenses that were not sold by bid and those that were defaulted during the interim.

After the award, the winning bidder has two weeks to pay the bid amount. If payment is not received, the second highest bidder may submit a check for the license. The winner has six months to affect a transfer. The process is similar to a Sheriff's sale of real property in that the license is “clean”, “it may no longer be subject to any unpaid fines, unserved suspensions, liens or judgments accrued by the previous license holder.”

### Safekeeping

For those who have surrendered a license under Section 474.1, there is a reduction in the “free” period from three to two years. Afterwards, for an extension there is an initial doubling of the fees necessary to be paid for this privilege. First through 4th class counties will see fees increase from \$5,000 to 10,000. Fifth through 8th class will see them go from \$2,500 to \$5,000. However, there is additional new language: “For each subsequent year in safekeeping, the fees set forth in this paragraph shall be doubled over the amount charged for the previous year's fee.” Does this mean a \$10,000 fee becomes \$20,000, then \$40,000, etc.?

Those familiar with the liquor license market believe that these new provisions will bring forth a host of applications for both a transfer of the license itself and, in addition, applications for a municipal transfer. The reason is that the defaults have primarily occurred in weaker restaurant markets, but the demand for new licenses will obviously be in areas that are rapidly growing.





ACT 39 Adds Surcharge to Annual License Renewal/Validation Fees

Buried within Act 39 there is language that would add an additional \$700 to the annual validation or renewal of all licenses. Section 470 states:

Renewal of Licenses; Temporary Provisions for Licensees in Armed Service.--(a) All applications for validation or renewal of licenses under the provisions of this article shall be filed with tax clearance from the Department of Revenue and the Department of Labor and Industry and requisite license and filing fees, and shall include an application surcharge of seven hundred dollars (\$700.00), at least sixty days before the expiration date of same:

Based upon our interpretation of this language, this would impose an additional \$700 application surcharge to the requisite license and filing fees paid by distributors and other licensees each year.

Supreme Court dismisses Sheetz case

The state Supreme Court dismissed our case seeking to overturn a license for carryout beer sales by a Sheetz location in Cumberland County because the convenience store and cafe were on the same property as gas pumps.

The court tossed the case after a little-noticed provision of Act 39 - the law approved in June that allows supermarkets to sell wine to go - clarified the liquor code based on previous court rulings. The ruling also spared the parties a discussion determining the definition of the words "location" or "place," the crux of the case. The lawsuit would become moot once Act 39 takes effect on Aug. 8.

With respect to newly-approved licenses to businesses which sell gasoline, as well as those currently pending before the PLCB, we do not anticipate filing additional appeals or legal challenges under the liquid fuel prohibitions at this time. We will continue to look out for our members and do everything within our control to ensure businesses which sell gasoline comply with the liquor code, as amended, and operate in accordance with the law.



Correction on Pennsylvania OTP Floor Tax Inventory Dates

The National Association of Tobacco Outlets (NATO) news bulletin reported that Act 85, the new Pennsylvania law the Governor signed into law on July 13, 2016, raises the cigarette tax by \$1.00 per pack, imposes a \$.55 per ounce excise tax on other tobacco products (excluding cigars), and assesses a 40% excise tax on the price that retailers pay for e-cigarettes and e-liquids includes a floor stocks tax on both wholesalers and retailers that have cigarettes, tobacco products (excluding cigars), e-cigarettes and e-liquids in stock as of August 1, 2016.

Since the new cigarette tax goes into effect on August 1, 2016, wholesalers and retailers need to conduct a physical inventory of cigarettes in stock as of August 1, 2016 and then report and pay the cigarette floor stocks tax within 90 days of this August 1st effective date. Since the OTP and electronic cigarette/vapor taxes go into effect on October 1, 2016, wholesalers and retailers need to conduct a physical inventory of tobacco products and e-cigarette/e-liquid products in stock as of October 1, 2016 and then report and pay the OTP and e-cigarette/e-liquid floor stock tax within 90 days of this October 1st effective date.

Home Delivery - Beer Distributors

We have been asked a few 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 in quantities not less than a case or original containers containing one hundred twenty-eight ounces or more anywhere within the Commonwealth of Pennsylvania, which, . . . have been purchased only from persons licensed under this act as manufacturers or importing distributors." Thus, the license currently held by your distributorship already allows for the 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.

Credit Cards

Under Act 39, which goes into effect on August 8, 2016, Distributors and Importing Distributors may now accept credit cards for payment of malt or brewed beverages from licensees of the Board, but they are not required to do so. Here is a summary of acceptable forms of payment with this change:

Distributors and importing distributors CAN accept the following as payment for malt or brewed beverages if the buyer is licensed by the PLCB:

- 1. A check or certified check if the payor of the check is the licensed entity purchasing the malt or brewed beverages and the payee of the check is the distributor or importing distributor selling the malt or brewed beverages.
- 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.

Distributors and importing distributors CANNOT accept the following as payment for malt or brewed beverages if the buyer is licensed by the PLCB:

- 1. Cash on delivery.
- 2. A check or certified check if the payor is someone other than the licensed entity purchasing the malt or brewed beverages or if the payee is someone other than the distributor or importing distributor selling the malt or brewed beverages
- 3. On Credit.

Intermunicipal Hearing Talking Points

In the August 12 MBDA update we informed you that Lancaster Township denied Giant Food Stores inter-municipal transfer of a restaurant liquor license. At MBDA's directors' meeting, one director asked if MBDA could make available talking points for members who plan on attending an inter-municipal liquor license hearing. MBDA counsel, Charlie Caputo, put together the talking points in order to arm members with the pertinent information when attending a hearing. The talking points and accompanying memorandum were emailed to members, however, they will be made available upon request.

The talking points and memorandum will go into detail as to why a municipality can deny a transfer, below is a list of reasons why the transfer can be denied:

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

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





# Department of Labor — Overtime Rule Guidance for Beverage Retailers

## Background

In 2014, President Obama directed the Department of Labor (DOL) to update the regulations defining which white collar workers are protected by the Fair Labor Standards Act's (FLSA) minimum wage and overtime standards, and to look for ways to modernize and simplify the regulations while ensuring that the FLSA's intended overtime protections are fully implemented. The DOL subsequently published a Notice of Proposed Rulemaking (NPRM) and accepted more than 290,000 public comments.

## The Rule

On May 18, 2016, the White House announced the publication of the Final Rule. According to the Administration, the rule will extend overtime eligibility to more than 4 million additional workers within the first year of implementation. The Final Rule updates the salary and compensation levels needed for Executive, Administrative and Professional workers to be exempt. Specifically, it:

1. Increases the minimum salary level for “white collar” employees to qualify as exempt from overtime pay requirements from \$23,660 to \$47,476 a year, or from \$455 to \$913 a week. The rule will not affect hourly or other non-exempt workers who are already eligible for overtime pay;

2. Automatically updates the salary and compensation threshold every three years. The first update would be Jan. 1, 2020. The DOL projects a salary threshold of \$51,000 by Jan. 1, 2020; and
3. Allows employers to apply nondiscretionary bonuses and incentive payments (including commissions) to up to 10 percent of the new salary level.

## Effective Date

The effective date of the Final Rule is December 1, 2016. The initial increases to the standard salary level (from \$455 to \$913 per week) will be effective on that date. Future automatic updates to those thresholds will occur every three years, beginning on January 1, 2020.

## Compliance

Beverage licensees may be faced with tough choices in light of this change. There are various ways for employers to comply with the new rule. These include but are not limited to:

1. Paying overtime to those employees who were previously exempt but now qualify for overtime;
2. Raising employees' salaries to the new threshold for exemption (\$47,467/year or \$913/week);
3. Requiring that affected employees not work more than 40 hours per week;
4. Hiring part-time employees to offset full-time employees limited to 40 hours of work per week; and
5. Converting salaried employees to hourly employees to more easily track their hours for administrative and legal purposes.

## What's Next?

Congressional opponents argue that the rule will harm small employers and nonprofit groups, and will reduce employment. Republicans have introduced the Protecting Workplace Advancement and Opportunity Act (H.R. 4773; S. 2707) that would block the rule. It is also possible that legal action could be taken against the DOL to address the process in which the rule was issued. Advocacy groups on the right and the left have aired – and will likely continue to voice – their objections to the new rule. For more information on the rule visit: <https://www.dol.gov/whd/overtime/final2016/>

# MBDA Member Talking Points

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

Advise them of how many Pennsylvanians you employ—good-paying jobs 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.

## Board Launches PLCB+

The Pennsylvania Liquor Control Board is modernizing their licensing operations and moving toward a paperless licensing process. PLCB+ is their new online platform through which licensing and permitting business can be conducted securely, quickly and simply over the Internet. The system is anticipated to reduce processing time and provide enhance customer service by giving licensees 24/7 access. Through PLCB+, licensees can renew and validate an existing license, apply for a new license, apply to transfer a license, update license account information and pay application and license fees. PLCB+ provides an easy online process for submitting applications to extend the size of a licensed establishment, change of officer applications. Licensees must first register for PLCB+ using the account access code provided by the PLCB. Licensees who have not provided email addresses to the PLCB or did not receive a PLCB+ access code are encourage to call 844-707-5475.



# 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.

## Dues Are Due Please Join

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

We thank those distributors who have joined the Association, and urge those who have not to please return the enclosed MBDA membership invoice with your dues payment as soon as possible. We guarantee that the cost of your dues will be more than offset by the savings you realize by participating in our member benefit programs. See pages 10 & 11 of this newsletter for more detailed information.





## The Following Discounted Programs and Services are Available Exclusively to MBDA Members

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](mailto:mbdassn@aol.com) or phone 215-732-6258.

**Credit/Debit Card Processing Program:** Rates have been drastically slashed and Association members are assured of receiving the lowest possible fee schedule of \$0.05 cents plus 5 basis points to process credit and signature debit card transactions through our Interchange Plus Program with PNC Merchant Services. Distributors who process through another processor can send us their statement and we'd be happy to do a rate comparison.

- Your debit transaction cost based on Visa's regulated interchange = only \$0.04 cents per transaction based on a \$27.00 average ticket. Debit transaction cost based on Visa's unregulated interchange = \$0.45 cents per transaction based on a \$27.00 average ticket. 65% of our MBDA merchants' transactions are debit cards, so this represents a huge savings.
- A member's cost to process the Visa Rewards I credit card is \$1.20 based on an average \$62.00 ticket. 23.6% of our MBDA merchants' transactions are rewards cards.
- For a consumer bank issued Visa credit card, a member's cost to process an average \$41.00 transaction is \$0.79 cents. 8% of our MBDA merchants' transactions are consumer bank issued credit cards.
- 3.4% of our merchant members' transactions are Business/Corporate/Purchase type cards. A member's cost to process a \$71.00 average Visa Business Card transaction is \$1.65.
- Low pricing to lease or purchase the latest equipment. Reprogram existing equipment free of charge.
- No fees for set up, statements, reporting, account maintenance, batch, ACH, etc.
- Receive supplies free of charge.
- Dedicated Account Manager for MBDA merchants. Customer help desk 24 hours a day/7 days a week. Client Line access 24/7.
- 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.

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

- Competitive pricing on automobile, casualty, property, umbrella and worker's compensation coverages.
- Low cost liquor liability. 10% credit on liquor liability if you use an electronic scan device.
- 10% credit on auto, business owners & worker's compensation.
- Dividend opportunity based on our group's loss ratio. MBDA members have earned a dividend in nine of the last eleven 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.
- 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.

**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".

**Legal Services** offer specialized advice on industry-related questions.

**Government Affairs Lobbying** gives MBDA a strong advocate in Harrisburg.

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

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

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

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

**Newsletters, Releases & Emails** are regularly sent to members to keep you up-to-date on administrative, government, legal, legislative and regulatory issues. Please contact the Executive Office with your email address to make sure you receive this important and timely information and continue to visit [www.mbdapa.org](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 at MBDA's annual convention or 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.



## Q Frequently Asked Questions

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

### Q When Can Distributors and Importing Distributors Sell Beer:

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

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

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

### Q When Can Distributors and Importing Distributors Deliver Beer:

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

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

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

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

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

### Q Minimum Age Requirement to be an Employee of a D or ID:

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

### Q Collecting Identifying Information:

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

### Q Licensees have ten days to make good on a bad check:

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

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

### Q Period to keep records on licensed premises:

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

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

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

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

Q **Match Competitor Prices:** Distributors and importing distributors may charge whatever they wish for malt and brewed beverages, and price reductions and incentives may be applied selectively.

Q **In what package configurations are distributors permitted to sell:** Under the PLCB’s interpretation of Section 4-441 of the Liquor Code, distributors are given the option to sell either (1) a case or (2) an original container (e.g., 8-pack, 12-pack, 15-pack, etc.) of at least 128 ounces. In either event, the permitted package is tied to a minimum number of ounces (264 for a case, 128 for other packages).

Q **Is a D licensee permitted to sell product anywhere in Pennsylvania:** Is a D licensee permitted to sell product anywhere in Pennsylvania: A D, who is not a primary or secondary wholesaler, is not bound by contract and can delivery anywhere within the Commonwealth.

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

### Q Tastings vs. Samplings:

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

Tasting or tasting events are defined in the Board’s Regulations as presentations of alcoholic products to the public for the purpose of market research, disseminating product information and education to the public as to quantity and availability. Tastings may be conducted by licensed brokers, distributors, importing distributors, and manufacturers or their agents upon unlicensed or unlicensed premises. Any products used must be properly procured and registered, and taxes on the products must be paid. There can be no purchase requirement associated with such tasting. Finally, no more than one (1) standard-sized alcoholic beverage of each product shall be provide 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.





# 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 national trade association that represents individual alcohol retailers—the American Beverage Licensees (ABL).

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

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

As a way to stay current of Pennsylvania and nationwide alcohol issues, you can sign up for the ABL weekly email update and more at [www.ablusa.org](http://www.ablusa.org).

Membership in ABL is another benefit of MBDA membership.



# Thank You Legal Defense Fund Contributors

As we go to press, we thank the following for their generous 2016 contributions to the MBDA Legal Defense Fund:

Adams Hotel, Don & Mary Anderson, B & K Bev., B & O Bevs., Banksville Beer, Barkley Beer, Beaver County Bev., Beer & Pop Discount Warehouse, Beer-A-Rama, Beer Belly's Bev., Beer Express Harrisburg, Beer Express Pittsburgh, Beer Mart Morrisville, Beermill, Beer Minimum, Beer-N-More of Bloomsburg, The Beer Shak of Minersville, The Beer Store, Beer Super, Berks Beer, Beverage Express, Beverage Warehouse, Blairsville Bev., Bottle House, Bound Bevs., J. Breski Bev., Brewers Outlet Chadds Ford, Brewskee's of Shiloh, Brew-Thru, Bud's Suds, Joe Burns Bevs., Cape Horn, Carnegie Beer Outlet, Case & Keg, Clarks Summit, Clymer Bev., Coach's Beer & Soda, Cove Bev., Coventry Beer Station, Wayne Crouse, Denver Beer, Duffey's Beer & Pop Warehouse, E & E Discount Beer Warehouse, Edinboro Bev., Ephrata Bev., Essex Beer, Exton Bev., Flannery Case Bevs., Flynn Bev., Franklin Take-Out Bev., Genna Beer, Golden Brew, Goshen Bev., Grandview Beer, Green Valley Beer, Hamlin Dists., Harmony Bev., Historic Catty Bev., Home Service Bev., In & Out Bev., Iron Run Bev., Jeannette Dist., Kasunick Dist., Kutztown Bottling, Latrobe Center Dist., Linchen 4315, Link Bevs., Lionville Bev., Dean Y. Little, McBroom Dist., McTighe's Drive-Thru, Mechanicsburg Bev., Mercersville Bev., Mid-State Bev., Glenn Miller's Beer & Soda Warehouse, Mineo's Brewer's Outlet, Montour Bevs., Moon Beer & Pop, Morgantown Bev., Mt. Bethel Bev. Myrna's Brew'ry Outlet, New England Tavern, North Pocono Bev., Northern Beer Traders, P & B Bevs., K.E. Pletcher, Pop 'N Brew Super Store, Prescott Tavern, Quality Bev., C.R. Rader, Richboro Beer, Rockland Beer, Root Beer, Rte. 19 Beer & Cigar, Sacco Beer, Salute Beer, Sam's Pop Shop, Self-Serve Bev., Shelocta Beer, Sherry Dists., Shippensburg Bev., Silver Spring Bev., Jerry Simcoe Bev., Southampton Bev., Strickler's, Stubler Drive-Thru, Susquehanna Bev., Tanczos Bevs. Bethlehem, Tanczos Bevs. Northampton, Thorndale Beverage Tionesta Bev., Titusville Bev., Towamencin Bev., Viking Bev., Washington Dist., Waywood Bev., West Lake Beer, West Lawn Bev., Wheatland Dists., Wilkinsburg Bev., Windsor Dist., York Street Bev., Zimmerman's Wholesale.

# MBDA Buyer's Guide Now Available Online

MBDA is honored by the support given by our associate member suppliers, and we have established an On-Line Buyer's Guide of Associate Members who provide a variety of products and services that help our members' businesses run more efficiently and economically.

Their membership support of MBDA warrants our support and we urge you to consider them when addressing your business needs.



# Thank You 2016 Associate Members

MBDA thanks the following firms for investing in the future of the beer distributing industry by becoming associate members: **Anheuser-Busch** #781-224-1133. **Atlantic Systems** (POS System) #732-280-6616. **Burns Industrial Equipment** (Forklift Trucks) #412-856-9253. **Cervion Systems** (POS System) #845-727-1200. **Cider Brothers** (Hard Apple Cider) #209-334-2568. **Dotmark Promotions** (Beverage Insulators & Drinkware) #214-770-7159. **Flightware Solutions** (POS System) #816-774-3500. **Gerbron Wholesale** (Tobacco, Candy, Paper Products) #610-347-0440. **Infosolve, Inc.** (mPower Beverage Software) #972-234-5884. **Lancaster Brewing** #717-391-6258. **Harold Levinson Associates** (Tobacco, Beverages, Snacks) #631-962-2400. **Longley Insurance Agency** (Insurance) #484-883-2703. **Mark Anthony Brands Inc.** #312-1715-9210. **Micro Matic USA** (Beverage Dispensing Equipment) #610-625-4464. **Modern Store Equipment** (Coolers, Shelving) #609-298-2100. **Networker Promotions** (Promotional & Novelty Items) #800-485-4461. **North American Breweries** #412-780-5367. **Penn National Insurance** (MBDA Endorsed Insurance Company) #717-234-4941. **Petrosoft LLC** (POS System) #412-306-0269. **PNC Merchant Services** (MBDA Endorsed Processor) #717-597-4786. **Rochester Store Fixture** (Beverage Dispensing Equipment) #585-546-6706. **Straub Brewery** #814-834-2875. **Super Value Beverage Stores** (Snacks, Beverages, Tobacco) #215-423-6916. **Yards Brewing Co.** #215-634-2600. **D.G. Yuengling & Son** #570-622-0153. Suppliers who are interested in applying for associate membership should go on-line to [www.mbdapa.org](http://www.mbdapa.org) or call our Executive Office.

# Thank you 2016 Convention Participants

MBDA, its distributors and suppliers enjoyed a great Convention at the Crowne Plaza Hotel in King of Prussia. Hundreds of distributors gathered in the hospitality room, where our exhibit space was sold out. Our thanks go out to the following firms whose participation made our 80th Annual Trade Show a huge success: Anheuser-Busch, Atlantic Systems, Boston Beer Co., BottleCapps, Cervion Systems, DISPAC, Dotmark Promotions, Excellence in Beverages, Flightware Solutions, Heineken USA, Infosolve, Lancaster Brewing, Harold Levinson Associates, Longley Insurance Agency, Mark Anthony Brands, Micro Matic, MillerCoors, Modern Store Equipment, North American Breweries, Pabst Brewing Co., Penn Brewery, Penn National Insurance, Petrosoft, PNC Merchant Services, Rochester Store Fixture, Tri-Vet Design & Fabrication, Troegs Brewery, United States Beverage, Victory Brewing, Yards Brewing, Yuengling Brewery.

We look forward to seeing you at our 81st Annual Convention, April 21-24, 2017, at the Kalahari Resort in Mt. Pocono.

# Please Contribute to DISPAC

This message is brought to you by your DISPAC Chairman, Larry Hatter:

We are in a fierce fight to protect our businesses from predatory grocery, convenience and big box stores who have taken dead aim at capturing our market share. Obviously, this is bad for our businesses, our families, our employees and our customers who will be subject to higher prices and less selection if the existence of beer distributors is exterminated. It is critical that we replenish our DISPAC funds so that we can continue to provide meaningful contributions to those legislators who respect and support our small family owned businesses. If we are to protect our interests and the long-term viability of our businesses against the expansion of beer sales in grocery, convenience and big-box stores, we must be engaged in the legislative process. That being said, 2016 is an election year for all state House members and half of the Senate.

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

*Continued on next page*



Your generous contributions to DISPAC have enabled us to impact many legislators. But we all know that we need to do better. Sheetz, Weis, Giant, Costco, and Walmart have deep pockets, and they are committed to absorbing our market niche. But we can stop them, and that's why we need you to please step up today!

A \$250, \$500 or \$1,000 (or a smaller amount if that is more affordable) contribution to DISPAC by every distributor who wishes to stay in business will enable us to expand our sphere of influence on Capitol Hill, and preserve and enhance the future of our businesses.

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

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

Thank you and I look forward to our continued association for many years to come.

## Thank you DISPAC Contributors

As we go to press, we thank the following distributors for their generous 2016 DISPAC contributions: Mark Boyce, Tom Derr, Ryan Federbusch, Larry Hatter, Doug Jack, Bradley & Tammy Keuscher, Francis & Mary Jo Krafty, John McElroy, Rodney Miller, Peter & Christina Petousis, Keith Rutt, David & Sharon Shipula, Rebecca Stubler, Leonard Treat, Tim Zottlemeyer.

## MBDA'S Professional Staff

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

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

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

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

## Director Vacancies

Director vacancies exist in Districts #1 (Philadelphia), District #4 (Allegheny, Beaver, Fayette, Greene, Washington & Westmoreland), District #7 (Armstrong, Butler, Cameron, Clarion, Clearfield, Elk, Forest, Indiana & Jefferson), District #9 (Berks, Carbon, Lehigh, Northampton & Schuylkill), District #10 (Delaware & Montgomery), and District #12 (Bradford, Clinton, Lycoming, Potter, Sullivan & Tioga).

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

## Category Merchant

We previously advised MBDA members that on April 5, 2016, the PLCB's Office of Chief Counsel issued an advisory opinion on the issue of a distributor offering consulting services and displaying stock for a grocery store. In short, the PLCB opined that such activity would not be permissible in Pennsylvania and that such conduct might also violate a TTB ruling issued earlier this year. Less than a month after that decision, grocers were dealt another significant blow on the category merchant front when Kroger announced that it had dropped its controversial plan to charge alcohol suppliers for how it organized beer, wine and liquor on store shelves. The change came just a few months after the TTB questioned the legality of Kroger's plan and after alcohol producers, including several craft brewers, expressed concerns over a possible pay-to-play system that favored large brands. It has been reported that Kroger already relies heavily on large alcohol producers to be "category captains", providing advice and influence on how much shelf space and visibility to give various brands of beer, wine and liquor. A representative of the Brewers Association, who represents craft brewers, praised Kroger's decision to eliminate the fees it previously planned to charge and hopes brewers will be able to earn space based on factors such as sales.

## 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 12-pack sales for beer distributors, the most significant package reform in 75 years.
- Without MBDA's concerted opposition, there would be thousands of non-specialty retailers selling cases of beer from the aisles today.
- Secured passage of the Quota Law to ensure the value of your license.
- Substantially reduced the amount of on-premises records you are required to maintain.
- Stopped efforts to make distributors pay thousands in mercantile taxes on their yearly gross receipts.
- Secured Sunday sales with extended hours to help distributors better compete with other licensees.
- Helped defeat efforts to increase the state excise tax on beer.
- Had legislation enacted to allow on-premise beer tastings.
- Secured passage of legislation allowing beer distributors to accept credit cards.
- Obtained a far greater inventory of items that distributors are permitted to sell, in addition to malt beverage products.
- Added member benefit programs and services that help distributors save thousands a year in operational and other costs.

## MBDA Membership – An Investment in Your Future

**A membership invoice is enclosed for distributors who have not joined MBDA. We urge you to please return it with your dues payment at your earliest possible convenience. We thank our members who have already joined the Association, and sincerely appreciate your vote of confidence.**

Joining MBDA is a smart business decision. Whether it's our success in enabling distributors to sell 12, 15 & 18-packs in addition to cases and kegs, keeping a close eye on proposals and how it could affect your business, defeating legislation that would seriously hurt your ability to make a living, or obtaining the right for distributors to sell additional items, your Association is on the front lines of promoting and protecting the interests of Pennsylvania beer distributors.

While our most important functions are in the legislative and legal arenas, our member benefit programs will help you make and save thousands of dollars a year in insurance costs, credit/debit card processing fees, ATM transaction revenue, and electric utility rates. MBDA members learn quickly that the cost of their membership is more than offset by the savings they realize from participating in

these programs. **So before you say you can't afford to join, ask yourself, "Can I afford not to join?"**

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

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

We accept payment by check or credit card. To pay by check, simply return the enclosed invoice with your dues payment. For credit card payment, please go to [www.mbdapa.org](http://www.mbdapa.org).

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

## MBDA holds elections for 2016-17 term

At our July 25, 2016 board meeting, MBDA directors unanimously elected a full slate of officers to serve MBDA and its members for the current fiscal year. They are:

**President, Frank Pistella**  
*Pistella Beer Distributor, Pittsburgh*

**First Vice President, Matt Viens**  
*Keller's Beer, Selinsgrove*

**Second Vice President, Keith Rutt**  
*Wheatland Distributors, Lancaster*

**Third Vice President, Chris Miller**  
*Wilkinsburg Beverage Company, Pittsburgh*

**Secretary, LeAnn Supeck**  
*Wheatland Distributors, Lancaster*

**Treasurer, Ed Klunk**  
*Thorndale Beverage, Thorndale*





Prior to his election as president, Frank Pistella was the Association's first vice president and has been a director since 2008. He worked closely with Rivertowne Brewing in advocating for the right for beer distributors to sell 12-packs, a victory that was achieved on March 6, 2015.

Matt Viens and Keith Rutt bring experience to their officer positions, with Matt having previously served as second vice president and Keith as third vice president. Both have been distributor owners and MBDA directors for many years. In addition, Matt is chairman of MBDA's member benefits committee, and is committed to ensuring that members receive the best possible rates for credit card processing, business insurance and commercial electricity. Keith sits on our legal committee and has been active in his local township hearings, in which two recent supermarket license applications were rejected by the supervisors.

While Chris Miller is new to his role as an MBDA officer, he has been an association director for eight years. He is a third generation distributor owner. His grandfather, Gene Ammon, started Wilkesburg Beverage in 1960 and served as an MBDA director for many years. Chris has been an MBDA member for 31 years. He has also served as chairman for the Association's 2015 and 2012 Pittsburgh conventions.

LeAnn Supeck has been the Association's secretary since 2011 and Ed Klunk was first elected treasurer in 2015. Words can not express our deep appreciation for the daunting tasks that they perform on behalf of our Association. In addition, LeAnn served as chairwoman of our 2014 Lancaster Convention and has testified on our behalf at Harrisburg liquor committee hearings.

We thank our past president Tom Mehaffie of Breski Beverage, Harrisburg, for his years of dedicated service and wish him every success in his bid for election to the 106th State House District located in Dauphin County. In the meantime, Tom continues to serve as an MBDA district director.

You can be assured that MBDA can always count on the leadership and experience of our two past presidents, Mark Tanczos of Tanczos Beverage, Bethlehem, and Dave Shipula of Beer Super, Wilkes-Barre, who continue to play an active role in the Association.

MBDA members should always feel free to contact our officers, directors and staff for advice or questions on any industry issue. We welcome your input. If you have any questions, contact information for MBDA Officers and Directors is available at [MBDAPA.org](http://MBDAPA.org).

## MBDA Annual Convention a resounding success!

### Thanks to all who attended

On April 23, beer distributors from all across Pennsylvania converged on King of Prussia to attend the MBDA annual convention. The assembled masses stayed at the beautiful and conveniently located Crowne Plaza, which is located next to the King of Prussia mall and within a short driving distance to many historical and entertaining locations in Philadelphia.

The weekend started with a craft brewery tour and lunch at Sly Fox Brewing Company, located in Pottstown. Sly Fox has crafted more than 100 different varieties since their inaugural brew in December 1995. MBDA members were taken on a tour of the facility, explained Sly Fox's brewing process and supplied plenty of samples to try. The tour was followed by a delicious lunch and more samples!

Members then hopped back on the bus and headed towards Parkesburg, home to Victory Brewing Company's German-built ROLEC brewhouse, with a production capacity of ten 200-barrel brews per day or a total daily capacity of 2,000 barrels (6,200 gallons). Once again, MBDA members were treated to numerous samples and a guided tour of Victory's brewery. Snacks and more samples were provided to our members, and the folks at Victory provided MBDA members a 25% discount off products at their gift shop!

Following the brewery tour, and after a nap for more than a few of the tour participants, MBDA members gathered for a cocktail reception to see old friends and meet new ones. Members were then ushered into the beautiful and spacious ballroom for the convention banquet. An elaborate spread of delicious offerings was provided that would satisfy even the pickiest of appetites!

During the festivities, MBDA President, Tom Mehaffie thanked everyone for attending and reiterated that the association is strong because of its members. Tom then presented the C. John Muller Award for Distinguished Service to longtime member and MBDA third-Vice President, Keith Rutt. The Muller Award is annually presented to a member distributor who has consistently exhibited the highest ideals of service to our industry and fellow members. Congratulations and thank you Keith!

Following the banquet, MBDA members were treated to Casino night, where the ballroom of the Crowne Plaza was transformed into a casino, where members could try their luck at blackjack, craps, roulette and poker. At the end of the night, chips won at the tables could be traded in for raffle tickets to be drawn for an assortment of prizes donated by MBDA suppliers and wholesalers and even the association itself. We would like to recognize and thank the following for donating to the auction: Anheuser-Busch, Crowne Plaza Hotel, Lancaster Brewing Co., MBDA, Muller Inc., Origlio Beverage, Penn National, PNC Merchant Services, United States Beverage and D.G. Yuengling & Son.

Sunday morning marked the beginning of the MBDA general business session. Mark Lindner, Regional Chain Director and Bruce Kaye, Category Development Manager - Northeast, from MillerCoors gave a presentation entitled Maximizing the Distributors Business. Click here for the presentation. The presentation was full of useful information and a robust question and answer period took place

during and after the presentation. In speaking with members following the convention, they said it was the most informative session in years and they would make some changes mentioned in the presentation immediately. Following the MillerCoors presentation, John Bodnovich, Executive Director, American Beverage Licensees (ABL) updated the membership on beer and alcohol issues at the national level. The ABL is a great fit and MBDA is lucky to have a partner that is so supportive of our efforts. Mr. Bodnovich worked closely with our attorneys to file an amicus brief, with the Supreme Court, on our behalf.

MBDA government relations professionals Chip Brightbill and Robert Archibald from Stevens and Lee updated members on the current legislative outlook and the political landscape. Chip urged members in continuing to visit with candidates and legislators on the plight of our industry.

MBDA's legal team provided an update on the Supreme Court case involving Sheetz. Matt Haverstick informed the group that they collected numerous amicus briefs from interested parties and have filed the brief's on behalf of MBDA with the Supreme Court. Charlie Caputo discussed PLCB issues and urged members to keep an eye out for the orange placards and to contact MBDA if you do.

The morning's business session concluded with brief reviews of other MBDA activities, including our ongoing political action committee, campaign to increase the legal defense fund, membership and communications efforts.

Sunday afternoon's always exciting (and sold-out) trade show lived up to expectations as dozens of vendors showcased their wares, services and products to hundreds of attendees. From taste-testing the latest brew products to improving business operations and innovative sales products, member attendees found much to interest and entertain.

MBDA extends its special appreciation to all the vendors who made it such a great event, including: Anheuser-Busch, Atlantic Systems, Boston Beer Co, BottleCapps, Cervion Systems, DISPAC, Dotmark Promotions, Excellence in Beverages, Flightware Solutions, Harold Levinson Associates, Heineken USA, Infosolve, Lancaster Brewing Co., Longley Insurance Co., MicroMatic, Mark Anthony Brands, MillerCoors, Modern Store Equipment, North American Breweries, Pabst Brewing Company, Penn National Insurance, Petrosoft, PNC Merchant Services, Rochester Store Fixture, Tri-Vet Design & Fabrication, Troegs Brewery, United States Beverage, Victory Brewing Company, Weyerbacher Brewing, Yards Brewing Company and D.G. Yuengling & Son.

Our 80th annual convention drew to a close with an evening of fine dining at the Capital Grille in King of Prussia.

Special thanks to MBDA Executive Secretary, Stephanie Eckert, for coordinating the Herculean task of planning and executing these conventions. It seems as if each year is better than the last!



**April 21-24, 2017!**

### MBDA Annual Convention at the Kalahari Resort in the Poconos

MBDA is excited to announce that the venue for the 2017 annual convention is the Kalahari Resort and Conventions in the Poconos! MBDA negotiated a special room rate for \$189/per night including four passes to America's largest indoor water park!

Experience the 100,000 sq. ft. Indoor Waterpark featuring a retractable roof, stand-up surfing or body boarding on the FlowRider, the twists and turns of the Anaconda and Swahili Swirl waterslides, relaxing lazy river and indoor/outdoor family hot tub, tons of activities for the little ones and much, much more!

Kalahari Resort includes something for the whole family. Take advantage of numerous attractions close by, including: golf, horseback riding, skeet shooting, spa, shopping at Crossings Premium Outlets, Pocono Raceway, whitewater rafting and fabulous restaurants!

Come Party in the Poconos with MBDA! Stay tuned for reservation and other information or contact Stephanie in the MBDA offices for more information.





**DISTRIBUTORS—PLEASE BE REMINDED TO:**

REACH OUT TO YOUR SENATORS & HOUSE MEMBERS AND ASK THEM TO SUPPORT BEER DISTRIBUTORS SELLING WINE. YOUR GRASSROOTS EFFORT IS EXTREMELY IMPORTANT AS WE PREPARE FOR WHEN THE LEGISLATURE RETURNS TO SESSION IN SEPTEMBER.

RETURN THE ENCLOSED MBDA MEMBERSHIP INVOICE WITH YOUR DUES PAYMENT.

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

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

SAVE MONEY AND JOIN MBDA'S DISCOUNTED MEMBERSHIP PROGRAMS.

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

VISIT MBDA'S WEBSITE, [WWW.MBDAPA.ORG](http://WWW.MBDAPA.ORG) TO GET THE LATEST INDUSTRY DEVELOPMENTS.

