

# Pennsylvania Market Profile

## After Decades of Talk, Pennsylvania Finally Changes Its Liquor Laws

By Mike Berger

In a year of momentous change, the Pennsylvania Food Merchants Association (PFMA) saw results from decades of legislative efforts to change how alcohol is sold in the state, particularly to the benefit of c-store and grocery retailers.



In early June, Sheetz announced it was ready to move its Pennsylvania c-stores into the 21st century by giving customers the convenience of buying beer and wine there.

The modernized bill, PA-HB 1690, changed the way liquor is sold in Pennsylvania. The bill improves convenience for customers and is good for the state by potentially generating \$150 million in new revenue.

"This bill is the most significant change to Pennsylvania in 80 years. We continue to show our support and gratitude to Gov. Wolf, the Senate and House leaders for advancing the issue and driving the change in beer reform in Pennsylvania," said Ryan Sheetz, VP of brand strategy. "We are thrilled to be able to give our Pennsylvania customers the common right they deserve."

Currently, Sheetz sells beer in more than 200 stores across the five other states in the company's footprint, including the successful sale of beer at four other locations in Pennsylvania.

"We are excited to finally be able to give our customers what they have long been asking us to do—provide them with the convenience of a one-stop shop," said Sheetz. "This law was archaic and nonsensical. The goal for our entire operation is to give our customers what they want, how they want it, when they want it, 24/7. Providing convenience to our customers is at the forefront of everything we do, and we are committed to this cause until the law is changed for the benefit of our Pennsylvania customers."

Soon after, the PFMA praised the Pennsylvania legislature for passing historic legislation allowing some retailers to sell limited quantities of wine. That legislation, Act 39, modernizes the state liquor code to allow restaurant and hotel licensees to purchase an expanded permit to sell up to four bottles of wine for off-premise consumption.

On Aug. 19, within two weeks of a new state law taking effect, the Pennsylvania Liquor Control Board (PLCB) and Giant Eagle implemented a pilot program for wine-to-go sales, and a Pittsburgh Giant Eagle store began selling it (see story below).

Still, there is work to be done. The PFMA will be working on ways to lessen the costs for independents and small retailers to purchase a license.

### The Philadelphia beverage tax

The PFMA is watching the effects of the Philadelphia City

Council approving a 1.5-cents-per-ounce tax on sugar-sweetened beverages by a 13-4 vote, making the city the first major U.S. city to enact such a tax. The city plans to start collecting the tax on Jan. 1, 2017.

According to the PFMA and the National Association of Convenience Stores (NACS), the tax is not on retailers but distributors. Retailers are required to purchase from distributors specifically licensed to sell sugar-sweetened beverages, which includes any sweetened beverage, including those with sweeteners typically found in diet beverages.

The tax rate is 1.5 cents per ounce for bottled beverages; the rate for syrup is 1.5 cents per ounce for the resulting beverage.

Beverages containing milk are excluded, but only if they contain 50 percent or more of milk-based ingredients.

Beverages containing 50 percent or more of fruits or vegetables also are excluded.

A statement issued by the American Beverage Association (ABA) on the passage of the bill read: "The tax passed is a regressive tax that unfairly singles out beverages—including low- and no-calorie choices. But most importantly, it is against the law. So we will side with the majority of the people of Philadelphia who oppose this tax and take legal action to stop it. The fact remains that these taxes are discriminatory and highly unpopular—not only with Philadelphians, but with all Americans. Similar tax proposals have been rejected 43 times across the country in the past eight years, including twice in Philadelphia."

According to the ABA, Philadelphia Mayor Jim Kenney justified the tax as a means to fund children's education.

Other tax impacts the PFMA is watching are the recently passed cigarette tax hike to \$2.60 and \$4.60 in Philadelphia, which makes Pennsylvania higher in tobacco taxes than its bordering states of Ohio, Maryland and West Virginia. There also are higher taxes on other than tobacco products, including e-cigarettes and roll-your-own tobacco products.

Other issues of note for the PFMA are upcoming hearings on milk pricing and making changes to the SNAP benefits distribution schedule. Instead of distribution in the first 10 days of the month, the PFMA would like to extend the distribution period to 25 days during the month.

### PFMA, PDA merge

Another big change for the PFMA was the merger with the Pennsylvania Distributors Association (PDA). The combined association, which advocates the views of convenience stores, independent grocery stores, supermarkets, wholesaler/distributors and affiliated companies, will operate as the PFMA.

To ensure their representation, many PDA board members accepted appointments and election to the PFMA board of directors during the annual meeting on May 11. The board of directors expanded from 37 to 43 members. In addition,

PFMA will form a Distributor Council to tackle wholesaler distributor issues.

David McCorkle, PFMA president and CEO, continues to lead the association, while PDA President Gerald Kupris provides his expertise as counsel to the PFMA board of directors.

"PFMA and PDA members have worked together on many issues through the years," McCorkle said. "We are pleased to have PDA join us to make Pennsylvania's food industry voice stronger."

"The new organization will maintain and expand upon our reach and effectiveness, augment our ability to be a resource of industry knowledge and allow us to act as an industry advocate on our positions before the public, lawmakers and our customers," said Kupris.

PFMA now has a membership of more than 800 corporate members, 900 total members and 120 associate members, and 80 percent of the membership is independent owners who operate one or two stores.

### Pennsylvania market share

As of October 2015, Giant Eagle is the leading retailer in the state with 209 stores, according to the 2015 *Griffin Report* market study. Giant Carlisle is next with 147 stores, followed by Weis Markets with 121 stores. This count was established before the bankruptcy of A&P and Pathmark in late 2015. In Pennsylvania, there were 14 A&P stores and 11 Pathmark stores.

Pennsylvania has an interesting variety of store formats. There are 99 Aldi stores, 72 Save-A-Lots and 66 Big Lots; 60 Walmart Supercenters; 49 Target stores offering grocery; 24 Sam's Clubs; 17 BJ's Wholesale Clubs; 10 Whole Foods Markets and Costcos; and nine Trader Joe's. There are 1,891 grocery retailers, and included in that number are 758 independents.

McCorkle said the association is also watching the effects of Amazon adding a major distribution center in Pennsylvania and 5,000 employees. Alex Baloga, PFMA VP of external relations, said he is seeing a big increase in the number of dollar stores around the state.

McCorkle said economic recovery in the state is slow, and additional taxes on beverages and tobacco do not add to the recovery. The current rate is 5.6 percent vs. the national rate as of June at 4.9 percent.



David McCorkle



Alex Baloga

## Pennsylvania Liquor Control Board & Giant Eagle Set Pilot for Chain Wine-to-Go Sales

Within two weeks of a new state law taking effect, the Pennsylvania Liquor Control Board (PLCB) and Giant Eagle implemented a pilot program for wine-to-go sales. A Pittsburgh Giant Eagle store began selling wine to go on Aug. 19.

"Today is a great milestone in bringing additional convenience to Pennsylvanians seeking to pick up a bottle of wine along with ingredients for dinner, and maybe even a six-pack of beer or two," said Giant Eagle Board Chairman Tim Holden. "Less than two weeks after historic liquor reforms took effect across Pennsylvania, Pittsburgh residents enjoy one-stop shopping for wine, beer and groceries at their local Giant Eagle."

Giant Eagle and the PLCB initially met in early August so both organizations could begin to collaboratively plan and develop the processes for a systemwide rollout of wine to go at many Giant Eagle stores in Pennsylvania.

A limited pilot program—intended to test and refine processes for forecasting product needs, planning replenishment orders and delivering wine from a PLCB distribution center directly to the store—was developed for one Giant Eagle location.

Among the wine-expanded permits granted so far by the PLCB were 32 permits for Giant Eagle stores, including one for the Market District store at Settlers Ridge in Robinson Township. On Aug. 15, Giant Eagle submitted its first order through the PLCB's Licensee Online Order Portal (LOOP), an internet-based system that allows licensees to order wine and spirits at any time from home or office.

The PLCB is in discussions with a number of large chain retailers interested in selling wine to go, and it will be encouraging development of similar, limited pilot programs with each retailer intending to sell wine at multiple locations.

"For the last two months, since Act 39 was signed into law, we've been stressing that we want to bring wine to go to consumers as quickly as possible, but that we're determined to do it right," said PLCB Board Member Mike Negra. "Giant Eagle's introduction of wine-to-go sales is the culmination of a lot of hard work by individuals across all of the PLCB's depart-

ments, and the PLCB is ready and eager to achieve similar success with retail chains across Pennsylvania."

The PLCB aims to begin broader-scale shipping of wine to large-volume chains in October.

Restaurant and hotel licensees interested in selling large quantities of wine to go (more than 20 cases per order from the PLCB) are encouraged to contact the PLCB's Office of Wholesale Operations at 844-363-WINE (9463) or wineexpansionsales@pa.gov to discuss the wines and volumes they anticipate buying from the PLCB for wine-to-go resale.

Wine expanded permit holders purchasing smaller amounts of wine may begin selling wine as soon as permits are issued, assuming they are selling wine that's in stock at Fine Wine & Good Spirits stores. Licensees requiring larger quantities of wine or certain products not currently in stock may wait longer to receive those products.

"The PLCB has implemented a remarkable amount of change in the last two weeks, and we're encouraged by the reactions of consumers and retail partners who are excited for the additional access, convenience and customer service these changes deliver," said Board Member Michael Newsome. "Not only do we improve the consumer experience through expanded Sunday sales, Pennsylvania Lottery sales at Fine Wine & Good Spirits stores, direct wine shipping and wine to go at retail, but we also set the stage for sales growth and greater profitability that will benefit all Pennsylvanians."

"As I have always said, my goal is to modernize the sale of liquor, wine and beer in order to bring Pennsylvania's wine and spirits system into the 21st century," said Gov. Tom Wolf. "I applaud PLCB for the efforts to quickly implement Act 39 and Giant Eagle's commitment to bringing greater convenience to the people of Pennsylvania."

The PLCB regulates the distribution of beverage alcohol in Pennsylvania, operates more than 600 wine and spirits stores statewide and licenses more than 20,000 beverage alcohol producers and retailers.