# Privatization in Pennsylvania: How Reforming the Pennsylvania Liquor Code Would Benefit the Commonwealth and its Citizens

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**ABSTRACT**

Privatization, in the context of alcohol sales, refers to the act of a state government relinquishing its monopoly over sales of alcohol and issuing alcohol sales licenses to private businesses. Despite evidence showing that privatization generally increases the convenience of purchasing alcohol and could possibly lead to lower prices of alcohol, Pennsylvania is part of a shrinking minority of states that has held strong to its monopoly system and rejected numerous political efforts to adopt a private license system. As a result, the Commonwealth of Pennsylvania undergoes constant criticism for maintaining a monopoly system that is not only outdated but is also no longer needed to serve the purposes for which the monopoly system was originally created.

This Comment discusses the evolution of Pennsylvania's liquor law and compares the defining features of monopoly systems and private license systems. This Comment will also analyze the risks and benefits of privatizing alcohol sales in Pennsylvania. Ultimately, this Comment recommends that Pennsylvania abandon its current monopoly system and adopt a privatized license system. By adopting a license system, the Commonwealth would experience social and economic benefits. Moreover, privatization would bring Pennsylvania's liquor code into the modern age, leaving behind a system that was put in place for antiquated reasons.

**Table of Contents**



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## I. INTRODUCTION

"[A]nti-consumer,"[1] "archaic,"[2] "broken,"[3] and "bizarre" are all words that people have used to describe Pennsylvania's current system governing the sale of alcohol,[4] where the government is the exclusive seller of alcohol throughout the Commonwealth.[5] Pennsylvania's dedication to an antiquated system of alcohol sales has invited much criticism from politicians and citizens alike. Pennsylvania Chamber of Business and Industry President Gene Barr urged that "[i]t's time for Pennsylvania's antiquated monopoly on liquor sales to end," arguing that "selling alcohol is not a core function of state government."[6] Even the

1. Op-Ed., *GOP Should End PA Liquor Monopoly*, STANDARDSPEAKER.COM *Nov. 5, 2010), http://m.standardspeaker.com/opinion/gop-should-end-pa-liquor-monopoly-1.1060040.

2. Nick Voutsinos, Op-Ed., *Privatization of Pennsylvania's Liquor: The Better Alternative to a Broken System*, PITT NEWS (Jan. 20, 2014, 8:31 PM), http://www.pittnews.com/opinion/article_839c141a-823b-11e3-bfae-001a4bcf6878.html.

3. *Id.*

4. Op-Ed., *Pennsylvania's Booze Monopoly*, WASH. TIMES (July 4, 2013), http://www.washingtontimes.com/news/2013/jul/4/pennsylvanias-booze-monopoly/.

5. *See infra* Part II.B.

6. *See* Press Release, Pa. Chamber of Bus. & Indus., Business Groups Call on Lawmakers to End Pennsylvania's Liquor Monopoly (Mar. 13, 2013) (available at https://www.pachamber.org/newsroom/press_releases/pdf/88.pdf).

former Chairman of the Pennsylvania Liquor Control Board, Jonathan Newman, denounced Pennsylvania's current system for selling alcohol as being an "anti-consumer system," and "socialist-type system" that is "insulting to Pennsylvanians."[7]

In addition to the public disapproval expressed by President Barr[8] and Chairman Newman,[9] a majority of Pennsylvania voters have recently expressed support for privatizing Pennsylvania's alcohol sales system.[10] From 2010 through 2013, annual surveys have revealed that over 50 percent, and often as high as over 60 percent, of Pennsylvanians support privatization.[11]

In response to Pennsylvania voters' demand for privatization, the Commonwealth's Governors have been far from silent.[12] Former Governor Richard "Dick" Thornburgh,[13] described privatization as "a self-evident proposition that the state shouldn't be in the [alcohol sales] business."[14] Similarly, former Governor Thomas "Tom" Ridge,[15] also

7. *See* William Bender, *Inconvenience Stores: Since '33, LCB has made the Purchase of Alcohol Tough, Pricy*, PHILLY.COM (July 27, 2011), http://articles.philly.com/2011-07-27/news/29820953_1_johnstown-flood-tax-lcb-turzai.

8. *Supra* note 6 and accompanying text.

9. *Supra* note 7 and accompanying text.

10. *Infra* note 11 and accompanying text.

11. *See* PETER BROWN, QUINNIPIAC UNIV. POLLING INST., PENNSYLVANIA VOTERS HOPEFUL FOR NEW GOVERNOR, QUINNIPIAC UNIVERSITY POLL FINDS; SELLING LIQUOR STORES IS TOP CHOICE TO BALANCE BUDGET 5 (2010) (surveying 1584 Pennsylvania voters and finding that 66% of Pennsylvania voters thought that the Commonwealth should sell liquor licenses to private businesses in order to help balance the Commonwealth's budget); TIM MALLOY, QUINNIPIAC UNIV. POLLING INST., PENNSYLVANIA GOV BATTING .500 WITH VOTERS, QUINNIPIAC UNIVERSITY POLL FINDS; PRIVATIZE STATE STORES, NOT PARKS, VOTERS SAY 7 (2011) (surveying 1370 registered voters and finding that 62% supported privatizing the Commonwealth's liquor stores); Angela Couloumbis, *Inquirer Poll Finds Wide Backing for Privatizing Liquor Sales*, PHILLY.COM (Nov. 1, 2012), http://articles.philly.com/2012-11-01/news/34858753_1_private-sector-support-privatization-beer-and-wine (finding, in a survey of 600 likely Pennsylvania voters, that 55% supported privatization, while only 28% opposed privatization); HEART & MIND STRATEGIES, PRIVATIZATION STUDY RESULTS 7 (2013) (surveying 1151 Pennsylvanians and finding that 66% support privatization).

12. *Infra* notes 13–18 and accompanying text.

13. Governor Thornburgh was Governor of Pennsylvania from 1979 to 1987. *Governor Richard Lewis Thornburgh*, PA HIST. & MUSEUM COMMISSION, http://www.portal.state.pa.us/portal/server.pt/community/1951-present/4285/richard_lewis_thornburgh/471868 (last visited Feb. 14, 2014).

14. Bender, *supra* note 7.

15. Governor Ridge was Governor of Pennsylvania from 1995 to 2001. *Governor Thomas Joseph Ridge*, PA. HIST. & MUSEUM COMMISSION, http://www.portal.state.pa.us/portal/server.pt/community/1951-present/4285/tom_ridge/471870 (last visited Feb. 14, 2014).

attempted to privatize alcohol sales in Pennsylvania.[16] Despite the efforts of both Governor Thornburgh and Governor Ridge, the Commonwealth retained its monopoly system.[17] Most recently, Pennsylvania Governor Thomas "Tom" Corbett has been unable to deliver the privatized system that his administration had hoped to adopt,[18] despite the potential benefits to be gained from privatization.[19]

This Comment recommends that Pennsylvania should abandon its current alcohol monopoly system in favor of a privatized license system.[20] Part II will explain the historical reasons behind the adoption of the Commonwealth's first monopoly system[21] and describe Pennsylvania's current monopoly system.[22] Part II will also compare monopoly systems and privatized license systems and the divergent ways that each system impacts critical economic and social factors within a state.[23]

Part III will describe two potential privatization plans available to the Commonwealth.[24] Part IV will begin with an analysis of the costs and benefits of privatization, concluding that privatization under either plan described in Part III would be beneficial for the Commonwealth and its citizens.[25] Part IV will also provide additional support for the pro-privatization argument by revealing that the historical reasons for adopting a monopoly system are no longer applicable to today's Commonwealth.[26] Part V concludes by recommending that the Commonwealth adopt a privatization plan in light of the benefits of a license system.[27]

16. *See* Sue Gleiter, *Liquor Privatization Issue Down to the Wire as Lt. Gov. Jim Cawley to Testify*, PENN LIVE (June 3, 2013, 1:56 PM), http://www.pennlive.com/midstate/index.ssf/2013/06/liquor_privatization_pennsylva_4.html.

17. *See id*.

18. *See* Jeff Frantz, *Could 2014 be the Year Pennsylvania's Liquor Privatization Movement Reaches Full Proof?*, PENN LIVE (Jan. 8, 2014, 10:35 AM), http://www.pennlive.com/midstate/index.ssf/2014/01/pennsylvania_alcohol_sales_pri.html.

19. *See infra* Part IV.A.

20. *See infra* Part IV.

21. *See infra* Part II.A.

22. *See infra* Part II.B.

23. *See infra* Part II.C.

24. *See infra* Part III.

25. *See infra* Part IV.A.

26. *See infra* Part IV.B.

27. *See infra* Part V.

## II. BACKGROUND

### A. *The History of Liquor Laws in Pennsylvania*

To understand why Pennsylvania should privatize alcohol sales today, it is first necessary to examine the reasons Pennsylvania initially chose to monopolize alcohol sales.[28] Pennsylvania's early laws regulating the sale of alcohol established a private licensing system.[29] Under Pennsylvania's early licensing system, the Commonwealth sold permits that allowed private retail establishments, such as grocery stores, to sell liquor, beer, and wine.[30] Pennsylvania operated under this licensing system until the enactment of National Prohibition[31] in 1920,[32] when a constitutional amendment prohibited the "manufacture, sale, or transportation of intoxicating liquors" in the United States.[33]

Although Prohibition was only in effect for 13 years,[34] the consequences of the policy ultimately shaped the future of Pennsylvania's liquor laws.[35] One of the most significant effects of Prohibition was the rise of bootleggers, who illegally obtained and sold alcohol during the Prohibition era.[36] The bootlegging business was so profitable that bootleggers were "absolutely unscrupulous and [acted] without regard for any of the rules of decency," employing "gunmen and thugs to execute their will, and brib[ing] officials right and left."[37] Disgusted by the bootleggers' disregard for the law,[38] Congress proposed

28. *See infra* Part II.A.
29. *See* Act 405, 1858 Pa. Laws 365.
30. *See* Act 405, 1858 Pa. Laws 365 §§ 2, 13.
31. National Prohibition is also commonly known as "Prohibition," and the terms will be used interchangeably throughout this Comment.
32. *See* Mihir A. Munshi, Comment, *Share the Wine – Liquor Control in Pennsylvania: A Time for Reform*, 58 U. PITT. L. REV. 507, 514–15 (1997).
33. U.S. CONST. amend. XVIII, *repealed by* U.S. CONST. amend. XXI.
34. *See* Everett S. Brown, *The Ratification of the Twenty-first Amendment*, 29 AM. POL. SCI. REV. 1005, 1006 (1935).
35. *See* Harold Edward Fassberg, The Development of Liquor Control in Pennsylvania 17 (June 10, 1940) (unpublished M.A. thesis, University of Pittsburgh) (on file with the University of Pittsburgh Hillman Library).
36. *See The National Prohibition Law: Hearings Before the Subcomm. of the Comm. on the Judiciary*, 69th Cong. 1454 (1926) (defining bootlegging as the business of selling alcoholic beverages to those who want to unlawfully buy them, and describing the bootlegging business as "the real enemy of the Government and society").
37. *The National Prohibition Law: Hearings Before the Subcomm. of the Comm. on the Judiciary*, 69th Cong. 1464–65 (1926) (statement of L.C. Andrews, Assistant Secretary in charge of Customs, Coast Guard and Prohibition).
38. *See* Fassberg, *supra* note 35, at 15.

a Constitutional amendment to legalize liquor,[39] and just one year later, Pennsylvania ratified the amendment.[40]

The bootleggers' lawlessness also concerned John D. Rockefeller Jr., who described bootleggers as "a vast army of lawbreakers [that] ha[d] been recruited and financed on a colossal scale."[41] Consequently, Rockefeller formed a committee which produced a report that ultimately recommended that all states adopt monopoly systems after the repeal of Prohibition.[42] This recommendation carried immense weight in the eyes of the American public because Rockefeller was a well–regarded social, religious, and philanthropic figure.[43] Heeding Rockefeller's advice, Pennsylvania's then-Governor, Gifford Pinchot,[44] sought to enact a monopoly system that would allow the Commonwealth to strictly control the sale of alcohol.[45]

Governor Pinchot's push towards a monopoly system in Pennsylvania was also greatly impacted by the memory of problematic saloons that existed throughout the country prior to Prohibition.[46] Pennsylvania in particular was home to some of the wildest saloons, resulting from comparatively liberal laws regarding alcohol sales and distribution prior to Prohibition.[47] The worst saloons promoted drunkenness, as well as prostitution, gambling, and political corruption.[48] Political bosses, for example, operated out of saloons and paid regular saloon patrons to stuff ballot boxes located inside the saloons.[49] Fearing the return of corruption and debauchery following the repeal of Prohibition, Governor Pinchot was determined to prevent the saloons' comeback by adopting a monopolized system of alcohol sales and distribution.[50]

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39. U.S. CONST. amend. XXI.

40. JOHNNY H. KILLIAN ET AL., CONG. RESEARCH SERV., 108–17, THE CONSTITUTION OF THE UNITED STATES OF AMERICA: ANALYSIS AND INTERPRETATION 38 n.13 (2004).

41. John D. Rockefeller Jr., *Text of Rockefeller's Letter to Dr. Butler*, N.Y. TIMES, June 7, 1932, at 12.

42. *See generally* RAYMOND B. FOSDICK & ALBERT L. SCOTT, TOWARD LIQUOR CONTROL (1933) (presenting the findings of Rockefeller's committee).

43. *See Rockefeller Move is a Dramatic One: His Wide Interest in Welfare Projects Adds to Weight of His Decision*, N.Y. TIMES, June 7, 1932, at 12.

44. Governor Pinchot was Governor of Pennsylvania from 1923 to 1927 and 1931 to 1935. U.S. NE. FOREST EXPERIMENT STATION, PINCHOT: THE MAN, THE HOUSE, THE LEGACY 4 (1976).

45. *See* Fassberg, *supra* note 35, at 18.

46. *Id.* at 12, 18.

47. *See* RICHARD A. MCGOWAN, PRIVATIZE THIS? 91(2011).

48. *See* MARK EDWARD LENDER & JAMES KIRBY MARTIN, DRINKING IN AMERICA: A HISTORY 103–04 (revised & expanded ed. 1987).

49. *See id.*

50. *See id.*

The Great Depression also played a role in Governor Pinchot's decision to adopt a monopoly system in Pennsylvania.[51] In the midst of the Great Depression, proponents of the amendment repealing Prohibition promised that the legal sale of alcohol across the nation would stimulate state economies.[52] Recognizing that the repeal of Prohibition could potentially increase state revenue, Governor Pinchot was further motivated to enact a monopoly system. He went so far as to call a special session of the Pennsylvania General Assembly in order to explore the monopoly system's potential for generating state revenue.[53]

Ultimately, Governor Pinchot succeeded in his efforts to bring a monopoly system to Pennsylvania.[54] Shortly after the repeal of Prohibition, the Pennsylvania General Assembly enacted a series of liquor control bills.[55] The resulting monopoly system, enacted by the 1933 Pennsylvania Liquor Control Act,[56] resembles the system still in place today.[57]

### *B. Current Pennsylvania Liquor Laws*

The Pennsylvania Liquor Code enables the Commonwealth to strictly control the sale and distribution of alcohol.[58] The Commonwealth exercises this control through the Liquor Control Board.[59] The Liquor Control Board ("the Board") consists of three members appointed by the Governor and approved by the state Senate.[60] The Board has the exclusive authority to buy alcohol from manufacturers.[61] It then sets a price for and sells that alcohol at Pennsylvania Liquor Stores, which are established in locations selected by the Board.[62] The Board alone operates and maintains these establishments for direct consumer alcohol purchases.[63] Retail establishments such as hotels, restaurants, and clubs must be licensed by the Board and are also eligible to purchase alcohol from the Board.[64]

51. *See* Fassberg, *supra* note 35, at 45.
52. *See* Harry G. Levine & Craig Reinarman, *From Prohibition to Regulation: Lessons from Alcohol Policy for Drug Policy*, 69 THE MILBANK Q. 461, 464 (1991).
53. *See* Fassberg, *supra* note 35, at 45.
54. *See id.* at 48.
55. *See* MCGOWAN, *supra* note 47, at 91.
56. Pennsylvania Liquor Control Act, 1933–1934 Pa. Laws 4.
57. *See infra* Part II.B.
58. *See generally* 47 PA. STAT. ANN. (West 1997).
59. *See* 47 PA. STAT. ANN. § 2-201 (West Supp. 2013).
60. *See id.*
61. *See id.* at § 2-207.
62. *See* 47 PA. STAT. ANN. § 3-301 (West 1997).
63. *See id.*
64. *See* 47 PA. STAT. ANN. § 4-401 (West Supp. 2013).

More broadly, the Board has the authority "to control the manufacture, possession, sale, consumption, importation, use, storage, transportation and delivery" of alcohol.[65]

Essentially, the Pennsylvania government, through the Liquor Control Board, controls virtually every aspect of distributing alcohol—from purchasing the wholesale alcohol from manufacturers to selling it to consumers in stores that are owned and operated by the government.[66] Due to the government's control over alcohol sales, Pennsylvania's alcohol sales system is defined as a monopoly system.[67]

### *C. Monopoly Systems Versus License Systems*

In states with monopoly systems, the state government takes ownership of the alcohol at the wholesale level, retail level, or both wholesale and retail levels.[68] In contrast, in states with license systems, the state government licenses private businesses to buy and sell alcohol.[69] Because the Commonwealth takes ownership of alcohol at both the wholesale and retail levels, Pennsylvania is one of only 18 states that operate under a monopoly system, while the remaining 32 states operate under license systems.[70]

A state's decision to adopt a monopoly system or a license system affects various aspects of the alcohol business and society as a whole.[71] Economically, the type of system impacts state revenue, the price of alcohol paid by the state's consumers, and the volume of alcohol sales within the state.[72] Socially, the choice of system affects the state's crime rate, which in turn, impacts society in general.[73]

65. *See id.* at § 2-207.
66. *Supra* notes 58–65 and accompanying text.
67. *See infra* Part II.C. Monopoly systems are sometimes called "control systems". *See* THE ALCOHOL RESEARCH GRP., ALCOHOL CONTROL SYSTEMS AND THE POTENTIAL EFFECTS OF PRIVATIZATION 1 (3d ed. 2011).
68. *See* THE ALCOHOL RESEARCH GRP., *supra* note 67, at 2.
69. *Id.* at 1–2.
70. Alcohol & Tobacco Tax & Trade Bureau, *Alcohol Beverage Control Boards*, TTB.GOV, http://www.ttb.gov/wine/state-ABC.shtml (last updated Oct. 30, 2013).
71. *See generally* PUB. FIN. MGMT., INC., LIQUOR PRIVATIZATION ANALYSIS (final report 2011).
72. *See infra* Part II.C.1–3.
73. *See infra* Part II.C.4.

### 1. State Revenues

On average, states with monopoly systems generate significantly greater alcohol–related revenues than states with license systems.[74] This difference in revenues is largely attributed to the different sources of revenues between monopoly states and license states.[75] Both monopoly states and license states primarily generate revenue through alcohol sales taxes and alcohol beverage licenses, but monopoly states generate additional revenues through mark-ups[76] on the sale of alcohol products.[77]

Not only do mark-ups serve as an additional source of revenue for monopoly states, mark-ups give monopoly states the ability to easily increase their total alcohol-related revenues by increasing the amounts of the mark-ups. When people are willing to pay more for alcohol, due to inflation or product quality improvements, monopoly states can increase mark-ups to capture the potential gain from the increased willingness to pay.[78] In license states, any potential gain from increased willingness to pay will be realized by private, licensed wholesalers and retailers, not by the state government.[79]

License states cannot increase their alcohol-related revenues as easily as monopoly states. License state governments obtain almost all of their alcohol-related revenues from alcohol taxes,[80] and all license states use a gallonage tax, which is based solely on volume.[81] Therefore, assuming that the volume of alcohol consumption remains relatively constant, a license state can only significantly increase its alcohol-related revenue if the state's legislature raises the gallonage tax, a politically unfavorable decision.[82]

Although license states lack the ability to generate ever increasing alcohol-related revenue from mark-ups, the total difference in alcohol-related net income between monopoly states and license states is reduced by two features of license systems. First, in license systems, individuals absorb the costs of running privately-owned stores, whereas monopoly state governments must spend a significant amount of the revenue from

74. *See* ROLAND ZULLO ET AL., THE FISCAL AND SOCIAL EFFECTS OF STATE ALCOHOL CONTROL SYSTEMS 45 (2013).
75. *See id.*
76. In the context of this Comment, "mark-up" refers to the difference between the prices that The Board pays for alcohol and the prices at which The Board sells alcohol.
77. *See* ZULLO ET AL., *supra* note 74, at 9–10.
78. *See* THE ALCOHOL RESEARCH GRP., *supra* note 67, at 5.
79. *See id* at 5–6.
80. *See* ZULLO ET AL., *supra* note 74, at 13.
81. *See* PUB. FIN. MGMT., INC., *supra* note 71, at 8.
82. *See* THE ALCOHOL RESEARCH GRP., *supra* note 67, at 5–6, 11.

alcohol sales on the expenses associated with operating state-owned alcohol stores.[83] Second, license states generate more revenue from licensing fees than monopoly states because license states impose fees on private wholesalers and retailers.[84] Monopoly states do not impose such fees, as imposing a governmental fee on a store owned by the government would be counterproductive.[85]

Despite the additional revenues from fees imposed on private wholesalers and retailers in license states, revenues from alcohol sales in monopoly states are at least 80 percent higher compared to those in license states.[86] But in order to receive the higher revenues, monopoly states also must charge higher prices to consumers.

2. Price Paid by Consumers

License systems generally result in lower prices for alcohol, compared to prices under monopoly systems.[87] The price difference can likely be explained by competition.[88] Compared to states with monopoly systems, license states tend to have substantially more alcohol retail stores in relation to the states' populations, which increases competition and provides incentive for store owners to keep their stores' prices as low as possible.[89] Under a monopoly system, the state government is the sole owner and thus, without competition, has very little incentive to keep prices down.[90] Therefore, lower retail store density, combined with this lack of competition, likely drives up the prices that consumers pay for alcohol in monopoly system states.[91]

Further, implicit taxes[92] in monopoly system states offer another potential explanation for the higher alcohol prices under monopoly

83. *See* PUB. FIN. MGMT., INC., *supra* note 71, at 79.
84. *See id.* at 78.
85. *See id.*
86. Monopoly states that take ownership of alcohol only at the wholesale level generate approximately 82.4% higher alcohol-related per capita revenues than license states. *See* ZULLO ET AL., *supra* note 74, at ii. Monopoly states that take ownership of alcohol at both wholesale and retail levels generate approximately 90% higher revenues than license states. *See id.*
87. *See* Michael Siegel et al., *Differences in Liquor Prices Between Control State-operated and License-state Retail Outlets in the United States*, 108 ADDICTION 339, 343 (2012).
88. *See id.* at 345.
89. *See id.*
90. *See id.*
91. *See id.*
92. Implicit taxes are "indirect cost[s] that result[] from a government policy." *Implicit Tax*, INVESTORWORDS, http://www.investorwords.com/15440/implicit_tax.html (last visited July 29, 2014). The implicit taxes that this Comment refers to are indirect

systems.[93] The implicit taxes in states with monopoly systems are generally higher than the explicit taxes in license states.[94] One possible source of high implicit taxes is the need to compensate for inefficient operations, such as paying higher salaries to employees in state-owned stores, who often earn more than their private sector counterparts.[95] As a result of the decreased competition and the increased implicit taxes, liquor prices in monopoly states are approximately 6.9 percent higher than prices in license states.[96] Partially due to lower prices, as well as other factors, consumers in license states also tend to buy more alcohol than those in monopoly states.

### 3. Sales and Consumption of Alcohol

On average, the volume of alcohol sales is greater in states with license systems than states with monopoly systems.[97] Consumer convenience plays a significant role in the difference in sales volumes.[98] In general, monopoly states have fewer alcohol retail stores per capita, making alcohol less accessible than it is in license states.[99]

The different locations of alcohol stores in monopoly states versus license states demonstrate how consumer convenience causes an increased volume of alcohol sales in license states. In monopoly states, retail stores owned by the state government often only sell alcohol and alcohol-related accessories.[100] In contrast, in license states, alcohol is commonly sold at private businesses where consumers can also purchase groceries and other domestic products.[101] It is not difficult to imagine a scenario where a person shopping for groceries might impulsively decide to buy alcohol upon passing an alcohol display in the store. Conversely, it is equally possible to imagine a person in a monopoly state who, while shopping for groceries, considers purchasing alcohol, but forgoes the purchase due to the inconvenience of needing to travel to an entirely different store.

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costs that result from a state government's policy of distributing alcohol by a monopoly system.

93. *See* Siegel et al., *supra* note 87, at 345.

94. Bruce L. Benson et al., *Implicit Taxes Collected by State Liquor Monopolies*, 115 PUB. CHOICE 313, 324 (2003).

95. *See id.* at 315.

96. *See* Siegel et al., *supra* note 87, at 343.

97. *See* ZULLO ET AL., *supra* note 74, at 35.

98. *See id.* at 34–35.

99. *See id.* at 34.

100. *See id.* at 34–35.

101. *See id.*

Another factor that leads to fewer sales in states with monopoly systems is "border bleed".[102] "Border bleed" is a phenomenon that occurs when consumers leave their home state in order to purchase alcohol from neighboring states.[103] Consumers will, in fact, travel significant distances to cross state lines when they believe that the neighboring state provides a better value.[104] For example, some residents of Pennsylvania travel to neighboring states with license systems, such as Delaware, Maryland, and New Jersey, to purchase alcohol.[105] Overall, due to a lack of consumer convenience or to individual consumer decisions to purchase alcohol in a neighboring license state,[106] populations in monopoly systems typically exhibit lower rates of alcohol consumption.[107] Adopting a license system, in contrast, tends to lead to a substantial increase in alcohol consumption.[108] Although economic differences are clearly distinguishable between monopoly system states and license system states, the privatization decision also engenders differing social implications.

4. Social Factors

While recent Pennsylvania anti-privatization propaganda insists that alcohol privatization will dramatically increase crime,[109] evidence suggests that crime rates for most types of crime are unaffected by privatization. A recent study has shown that state ownership of alcohol retail stores did not significantly affect crime rates for 18 types of

102. *See* PUB. FIN. MGMT., INC., *supra* note 71, at 9.
103. *See id.*
104. *See id.* at 112.
105. *See id.* at 9.
106. *See id.*
107. *See* Minghao Her et al., *Privatizing Alcohol Sales and Alcohol Consumption: Evidence and Implications*, 94 ADDICTION 1125, 1127 (1999).
108. *See id.* at 1130.
109. The most egregious example is a recent commercial aired throughout Pennsylvania claiming that "[privatization] in North Carolina is killing one child every week." *Tell Your State Senator & State Representative: Say "NO" to Liquor Privatization* (United Food and Commercial Workers Local 1776 Apr. 2014), *available at* http://video-embed.pennlive.com/services/player/bcpid1950981438001?bctid=3509054708001&bckey=AQ~~,AAAAQBxUw0E~,DELAM66vw4z-hl01IhycwsWq-6Y4XfEN. For this alarming statistic, the commercial cites to an article that in no way claims that privatization is responsible for killing one child every week. *See* Keri Brown, *NC Loses One Child Per Week in Underage Drinking-Related Accidents*, 88.5WFDD (Apr. 8, 2014, 6:00 AM), http://wfdd.org/post/nc-loses-one-child-week-underage-drinking-related-accidents. In fact, the article makes no mention of privatization whatsoever and suggests that education, not the institution of a monopoly system, is the solution to minimizing underage drinking-related accidents. *See id.*

crimes.[110] In fact, states with government-owned alcohol retail stores have reduced crime rates associated with only four types of crimes.[111] Overall, the study found that selling hour restrictions and dram shop laws, which allow servers of alcohol to be held liable for the actions of intoxicated customers, affect crime rates more significantly than the type of ownership of alcohol retail stores.[112]

Furthermore, a study by the Commonwealth Foundation for Public Policy Alternatives[113] specifically found that adopting a license system does not result in increased drunk driving arrests or alcohol-related driving deaths.[114] The study focuses on three states that recently partially privatized alcohol retail sales.[115] In all three states, after partial privatization, alcohol-related driving fatalities decreased in total and in proportion to total driving fatalities.[116] While the study reported that DUI arrests fluctuated in each state, the study found that the shifts to privatization could not be directly linked to the fluctuations.[117] Overall, the study concluded that privatization is not a threat to public safety.[118] In light of the effects that monopoly systems and license systems have on state revenues, alcohol prices, sales and consumption of alcohol, and other social factors, the Commonwealth has taken a major step toward privatization through the creation of detailed privatization plans.[119]

110. The 18 crime types unaffected by state ownership were: murder, robbery, rape, theft (non-vehicle), burglary, vehicle theft, arson, drunkenness, liquor laws, DWI, runaways, curfew, vagrancy, sex offenses, embezzlement, prostitution, disorderly conduct, and manslaughter. *See* ZULLO ET AL., *supra* note 74, at 56–57.

111. The four crime types affected by state ownership were: aggravated assaults, fraud, domestic abuse, and vandalism. *See id.* at 58.

112. *See id.* at 58–59.

113. The Commonwealth Foundation for Public Policy Alternatives is a leading Pennsylvania public policy group that "crafts free-market policies, convinces Pennsylvanians of their benefits, and counters attacks on liberty." *What is CF?*, COMMONWEALTH FOUND., http://www.commonwealthfoundation.org/about/ (last visited July 29, 2014).

114. *See* REBECCA REES, THE COMMONWEALTH FOUND. FOR PUB. POLICY ALTS., PRIVATIZATION OF LIQUOR STORES: NO THREAT TO PUBLIC SAFETY 8 (1997).

115. The three states studied are Iowa, West Virginia, and Ohio. *Id.* at 2. West Virginia began allowing private retail sales of wine and liquor. *Id.* Iowa began allowing private retail and wholesale wine distribution and private retail sales of liquor. *Id.* Ohio began allowing private sales of liquor through contract agencies. *Id.*

116. *See id.* at 9.

117. *See id.*

118. *See id.*

119. *See infra* Part III.

## III. PROPOSED PRIVATIZATION PLANS FOR PENNSYLVANIA

In 2011, the Pennsylvania Governor's Budget Office retained Public Financial Management, Inc. ("PFM") to propose an alcohol privatization plan.[120] To guide PFM's research, the Pennsylvania Governor's Budget Office instructed PFM that the proposed privatization plan should achieve five key goals:

- Allow the free market to promote greater convenience and price competition for Pennsylvania consumers.
- Assure strict enforcement of reasonable regulations to protect the public and consumers.
- Achieve up-front value of the franchise transfer to help achieve other priority goals.
- Assure that the fiscal impact to the State is neutral going forward.
- Consider the careers and economic well-being of state employees impacted by the change.[121]

Using the Governor's five goals, PFM recommended two alternative privatization plans: 1) full privatization with limits, and 2) limited wholesale and open retailing licensing.[122]

### A. *PFM Plan 1: Full Privatization with Limits Approach*

PFM's first recommended plan calls for "[f]ull privatization of both wholesale and retail operations, with certain limits particularly around number or types of licenses."[123] Under the full privatization with limits approach, the Commonwealth would sell, through an auction-based process, a predetermined number of licenses permitting private entities to sell alcohol.[124] Wholesale licenses would be separate from retail licenses, and the maximum number of wholesale licenses would be significantly lower than the maximum number of retail licenses.[125] The Commonwealth would need to find the optimal number of each type of license because allocating too few licenses could cause insufficient market competition, while allocating too many licenses would saturate the market, thus lowering the value of the licenses.[126] But, if the Commonwealth is willing to relinquish control over the number of retail

120. *See* PUB. FIN. MGMT., INC., *supra* note 71, at 5.
121. *Id.* at 7.
122. *See id.* at 65.
123. *Id.*
124. *See id.* at 60.
125. *See* PUB. FIN. MGMT., INC., *supra* note 71, at 9–10.
126. *See id.* at 60.

licenses issued, then the need for an optimal number of retail licenses could be eliminated by adopting PFM's second recommended plan.[127]

### B. PFM Plan 2: Limited Wholesale Licensing and Open Retail Licensing Approach

PFM's second recommended plan calls for the "[a]uction [of] limited wholesale licenses, [and] open market-based retail licenses."[128] Under the limited wholesale and open retail licensing approach, wholesale licenses would be sold at auction, just as wholesale licenses are handled under the previous approach.[129] Unlike the first approach, however, retail licenses would not be sold through an auction process.[130] Rather than auctioning a predetermined number of retail licenses, the Commonwealth would sell retail licenses to all qualified applicants.[131] Consequently, the supply and demand forces of the market, instead of the Commonwealth, would determine the optimal number of retail licenses.[132] Choosing between the two PFM plans depends on whether the Commonwealth wants to retain control over the number of retail licenses or relinquish control to allow the market to set the optimal price for licenses. Ultimately, both of the plans would benefit the Commonwealth and its citizens more than the current monopoly system.[133]

## IV. WHY PENNSYLVANIA SHOULD PRIVATIZE

### A. Predicted Effects of Privatization in Pennsylvania

An analysis of the economic and social effects of privatization leads to the logical recommendation that the Commonwealth should adopt a license system.[134] By implementing a license system, consumers will enjoy greater alcohol availability[135] and could pay the same or even slightly less for alcohol.[136] The increased availability will draw consumers who currently patronize out-of-state alcohol stores back to Pennsylvania stores, allowing the Commonwealth to recapture the

127. *See infra* Part III.B.
128. PUB. FIN. MGMT., INC., *supra* note 71, at 65.
129. *See id.* at 60.
130. *See id.*
131. *See id.*
132. *See id.*
133. *Infra* Part IV.A.
134. *Infra* Part IV.A.
135. *Infra* Part IV.A.1.
136. *Infra* Part IV.A.3.

significant retail tax revenue that is currently being lost to border states.[137] Furthermore, privatization will eliminate most of the Commonwealth's costly burden of operating retail alcohol stores.[138] In addition, the Commonwealth will also be able to achieve fiscal neutrality[139] and uphold the current levels of social well–being.[140] Because the Commonwealth can potentially increase citizens' satisfaction regarding alcohol purchases while also sustaining its current economic and social well–being, the Commonwealth should adopt a license system.

1. More Satisfaction for Citizens and More Sales for the Commonwealth

Evidence suggests that the effects of a license system, such as increased volume of alcohol sales and alcohol consumption, will be particularly strong if such a system is implemented in Pennsylvania.[141] Specifically, greater consumer convenience due to increased alcohol availability and a reduction in border bleed would lead to greater in–state alcohol sales.[142] Compared to national averages, the current amount of alcohol consumption in many areas of Pennsylvania is lower than expected given population density and household income levels.[143] This discrepancy indicates that consumer convenience is a significant driver of alcohol sales.[144] In fact, when Pennsylvania greatly improved convenience by permitting government owned alcohol retail stores to sell alcohol during limited hours on Sundays,[145] overall alcohol sales increased.[146]

The increased sales of alcohol that resulted from these Sunday sales also highlights the severity of the border bleed problem[147] in Pennsylvania.[148] While border bleed is a problem for monopoly states in general, a study commissioned by the Pennsylvania Liquor Control Board specifically found that, in eight counties on the eastern

137. *Infra* Part IV.A.1.
138. *Infra* Part IV.A.2.
139. *Infra* Part IV.A.2.
140. *Infra* Part IV.A.4.
141. *See* PUB. FIN. MGMT., INC., *supra* note 71, at 103–24.
142. *See id.*
143. *See id.* at 108.
144. *See id.*
145. *See Pennsylvania Gets Taste of Sunday Liquor Sales*, L.A. TIMES (Feb. 10, 2003), http://articles.latimes.com/2003/feb/10/nation/na-booze10.
146. *See* PUB. FIN. MGMT., INC., *supra* note 71, at 108.
147. *Supra* notes 102–04 and accompanying text.
148. *See* PUB. FIN. MGMT., INC., *supra* note 71, at 103.

Pennsylvania border,[149] Pennsylvania residents who purchase alcohol outside of the Commonwealth account for $180 million in lost alcohol sales.[150] Pennsylvania's border bleed problem is likely exacerbated by the Commonwealth's geographical population distribution, as 31 percent of Pennsylvania's citizens reside in the Southeastern region,[151] bordered by three states with license systems.[152] Hence, Pennsylvania is in particular need of a solution to the border bleed problem.[153] A license system is an ideal answer to this issue. The Commonwealth should also adopt a license system because the benefits of such a system can be gained at minimal cost by achieving fiscal neutrality.

2. Achieving Fiscal Neutrality with Privatization

Arguing that the Commonwealth should adopt a license system implies that the benefits of privatization outweigh the costs. This conclusion hinges on the presumption that adopting a license system will not severely disrupt the Commonwealth's established budget scheme. Disruption of the budget scheme is a significant threat given that states with monopoly systems typically generate greater alcohol–related revenues than states with license systems.[154] In order to avoid disturbing the Commonwealth's budget, Pennsylvania should carefully adopt a privatization plan that ensures fiscal neutrality.[155]

The Commonwealth should implement either of PFM's proposed license system plans because both are carefully crafted to achieve fiscal

149. The eight counties are Berks, Bucks, Chester, Delaware, Lehigh, Montgomery, Northampton, and Philadelphia. *CF Study: Booze Border Bleed Loses Billion in Taxes, Sales*, COMMONWEALTH FOUND. (Sep. 1, 2011), http://www.commonwealthfoundation.org/research/detail/cf-study-booze-border-bleed-loses-billions-in-taxes-sales.

150. PUB. FIN. MGMT., INC., *supra* note 71, at 103.

151. Economy League of Greater Philadelphia, *Southeastern Pennsylvania and the Commonwealth Budget* 3 (Jan. 2011) (Working Paper) (available at http://economyleague.org/node/1505?f=publications/reports).

152. The three states are Delaware, Maryland, and New Jersey. *Supra* note 105 and accompanying text.

153. *See* PUB. FIN. MGMT., INC., *supra* note 71, at 111 (concluding that Pennsylvania could regain more alcohol sales from border states, compared to Iowa, because Iowa's two most populated areas are both more than an hour's drive from the nearest border state).

154. *Supra* notes 74–86 and accompanying text.

155. In the context of switching from a monopoly system to a license system, achieving fiscal neutrality means that after subtracting the Commonwealth's alcohol regulation related expenses from the Commonwealth's alcohol regulation related revenue, the net fiscal impact under the new license system would be approximately equal to the net fiscal impact under the Commonwealth's current monopoly system. *See* PUB. FIN. MGMT., INC., *supra* note 71, at 7.

neutrality.[156] Switching from a monopoly system to a license system would necessarily deprive the Commonwealth of $544 million[157] gained annually from mark–ups on the sale of alcohol products.[158] Adoption of any license system would, however, also eliminate the cost of operating state-owned stores,[159] saving the Commonwealth approximately $458 million per year.[160] In order to compensate for the resulting $86 million deficit,[161] the Commonwealth would need to adopt a plan that generates more than $86 million in revenues per year from licensing fees imposed on wholesalers and retailers,[162] which could be accomplished by issuing an approriate number of licenses under either of PFM's proposed privatization plans. Researchers counsel that, under the full privatization with limits plan, the Commonwealth should auction approximately 1500 retail licenses in order to enhance each license's value and maximize up–front revenue.[163] By the same reasoning, evidence suggests that the Commonwealth should auction between 10 and 30 wholesale licenses if the Commonwealth were to choose either plan.[164] Thus, if Pennsylvania abides by researchers' suggestions, sufficient auction revenues and license fees for the newly established wholesale and retail operations could compensate for the $86 million deficit.[165] Therefore, the adoption of either privatization plan could achieve fiscal neutrality for the Commonwealth. The added benefits of privatization for consumers could ultimately result in a net gain for the Commonwealth and its citizens.

### 3. Paying the Same or Less for Alcohol

The Commonwealth should also adopt a license system because, just as the Commonwealth could reap the benefits of privatization

156. *See id.* at 77.
157. *See id.* at 8.
158. *Supra* note 76 and accompanying text.
159. *Supra* notes 62–64 and accompanying text.
160. *See* PUB. FIN. MGMT., INC., *supra* note 71, at 8. The Commonwealth would still have operating expenses that include regulatory, licensing, and administrative functions, but the elimination of government-owned retail and wholesale stores would dramatically reduce the total expenses. *See id.* at 79.
161. The $86 million deficit refers to the mathematical difference between the Commonwealth's gain of $458 million in reduced costs, *supra* note 160 and accompanying text, and the Commonwealth's loss of $544 million in mark-up revenue, *supra* note 157 and accompanying text.
162. *Supra* notes 124, 130–31 and accompanying text.
163. *See* PUB. FIN. MGMT., INC., *supra* note 71, at 9–10.
164. *See id.* at 10.
165. *See id.* at 77.

without disrupting the budget,[166] privatization also does not require disrupting the price of alcohol.[167] Although some consumers may initially be disappointed by the lack of a significant price decrease,[168] it is a compromise that is necessary for the Commonwealth to achieve fiscal neutrality.[169] Substantially similar alcohol prices,[170] coupled with the enhanced availability of alcohol,[171] would nevertheless provide consumers with a net gain.

The idea that increased competition and more efficient operations, characteristics typically associated with privately owned stores, result in lower alcohol prices for consumers in license states[172] is intuitively appealing. In reality, however, if the Commonwealth wishes to achieve fiscal neutrality, then prices would likely not decrease substantially because of licensing fees.[173] According to principles of tax incidence analysis, suppliers pass the burden of a tax onto the consumers when a change in price will not significantly affect the quantity of the product consumed.[174] Therefore, given that a change in price is unlikely to significantly affect the amount of alcohol that consumers purchase,[175] it follows that suppliers would pass the burden of a tax onto the consumers in the form of higher prices.

In a license system, the licensing fees imposed on alcohol suppliers, which are not present under the Commonwealth's monopoly system,[176] would be treated by suppliers in the same way as taxes.[177] In other words, the licensing fees would be passed from suppliers to consumers in the form of increased prices for alcohol.[178] After accounting for the

166. *Supra* Part IV.A.2.
167. *Infra* notes 168–81 and accompanying text.
168. *See* Amy Martinez, *The Day Liquor Went Private and Prices Stumped the Public*, SEATTLE TIMES (June 1, 2012, 7:55 AM), http://seattletimes.com/html/localnews/2018331473_liquor02.html.
169. *Supra* Part IV.A.2.
170. *Infra* notes 180–81 and accompanying text.
171. *Supra* notes 98–108 and accompanying text.
172. *Supra* notes 91, 95 and accompanying text.
173. *See* PUB. FIN. MGMT., INC., *supra* note 71, at 9.
174. *See* 8 INTERNATIONAL ENCYCLOPEDIA OF THE SOCIAL SCIENCES 277 (William A. Darity, Jr. ed., 2d ed. 2008).
175. The demand for alcohol is likely inelastic because despite changes in price of alcohol, consumers cannot readily substitute alcohol with another product when the price of alcohol increases. *See* James Fogarty, *The Demand for Beer, Wine and Spirits: Insights from a Meta Analysis Approach* 12 (Am. Ass'n of Wine Economists, Working Paper No. 31, 2008), *available at* http://www.wine-economics.org/workingpapers/AAWE_WP31.pdf.
176. *Supra* notes 61–65 and accompanying text.
177. *See* PUB. FIN. MGMT., INC., *supra* note 71, at 99.
178. *See id.*

price–decreasing effect of competition,[179] under the limited wholesale and open retail licensing plan, the price of alcohol would likely stay the same or be slightly lower than the current monopoly system price.[180] Similarly, under the full privatization with limits plan, the price of alcohol would likely stay the same or increase slightly.[181] Therefore, because the Commonwealth could remain fiscally neutral,[182] the Commonwealth should adopt a privatization plan.

### 4. Effect on Social Well-Being

Lastly, the Commonwealth could also avoid major social costs by adopting a license system while continuing to enforce Pennsylvania dram shop laws to combat alcohol-related crime.[183] Even though states with government-owned alcohol retail stores have reduced crime rates associated with four types of crimes,[184] dram shop laws affect crime rates more significantly than government ownership of retail stores.[185] Moreover, Pennsylvania has powerful, expansive dram shop laws that maximize liability for licensed alcohol sellers.[186]

First, Pennsylvania's dram shop laws cover all situations where a licensed alcohol vendor sells alcohol to a consumer, whether the alcohol is to be consumed on or off the vendor's premises.[187] Second, Pennsylvania's dram shop laws provide both criminal penalties[188] and civil remedies if violated.[189] Lastly, alcohol vendors who violate Pennsylvania dram shop laws are unlikely to escape civil liability because "[a] violation of [Pennsylvania's dram shop laws] is deemed negligence per se," so the plaintiff needs only to prove that the violation was the proximate cause of the plaintiff's injuries.[190] Because Pennsylvania's dram shop laws extend to a wide range of alcohol related

179. *Supra* notes 88–91 and accompanying text.
180. *See* PUB. FIN. MGMT., INC., *supra* note 71, at 9.
181. *See id.*
182. *Supra* Part IV.A.2.
183. *See* 47 PA. STAT. ANN. § 4-493 (West Supp. 2013); 47 PA. STAT. ANN. § 4-497 (West 1997).
184. *Supra* note 111 and accompanying text.
185. *Supra* note 112 and accompanying text.
186. *Infra* notes 187–190 and accompanying text.
187. *See* §§ 4-493, 4-497.
188. *See* § 4-493.
189. *See* § 4-497.
190. Fandozzi v. Kelly Hotel, Inc., 711 A.2d 524, 525–26 (Pa. Super. Ct. 1998) (stating that Appellants needed only to prove that Appellee's employee or agent violated 47 Pa. Stat. Ann. § 4-493 and that the violation was the proximate cause of Appellants' injuries).

transactions[191] and because violations are sufficient to prove per se negligence,[192] the Commonwealth should trust Pennsylvania's dram shop laws to keep crime rates stable after the adoption of a license system.

Overall, by adopting a license system, the citizens of Pennsylvania would gain increased alcohol availability[193] at the same or potentially lower prices.[194] Simultaneously, the Commonwealth would regain sales lost from border bleed,[195] as well as eliminate the state burden of operating alcohol retail stores.[196] Although the Commonwealth would lose revenue from mark-ups, the Commonwealth could nevertheless achieve fiscal neutrality.[197] Moreover, adoption of a license system in the Commonwealth would leave crime rates unaffected.[198] An examination of the costs and benefits of privatization evidences support for the Commonwealth's adoption of a license system. Furthermore, upon an analysis of the historical reasons behind Pennsylvania's monopoly system as compared to the Commonwealth's current needs,[199] it is evident that the Commonwealth no longer needs a monopoly system.

### *B. The Present Irrelevance of Historical Reasons for a Monopoly System*

When Governor Pinchot established Pennsylvania's monopoly system, he was responding to influences that no longer trouble the Commonwealth's citizens.[200] Bootleggers, whose power was fueled by a monopoly over alcohol sales during Prohibition,[201] lost their monopoly power when the repeal of Prohibition allowed others to sell alcohol legally.[202] Today's bars do not pose the same threats to social welfare as did the Prohibition era saloons,[203] which housed illegal gambling and political corruption.[204] In the past decade, Pennsylvania has begun to offer legal outlets for gambling in the form of slot machines[205] and table

191. *Supra* note 187 and accompanying text.
192. *Supra* note 190 and accompanying text.
193. *Supra* Part IV.A.1.
194. *Supra* Part IV.A.3.
195. *Supra* Part IV.A.1.
196. *Supra* Part IV.A.2.
197. *Supra* Part IV.A.2.
198. *Supra* Part IV.A.4.
199. *Infra* Part IV.B.
200. *Infra* notes 201–10 and accompanying text.
201. *Supra* notes 36–37 and accompanying text.
202. U.S. CONST. amend. XXI.
203. *Infra* notes 205–08 and accompanying text.
204. *Supra* notes 47–49 and accompanying text.
205. *See* 4 PA. CONS. STAT. ANN. § 1301 (West 2008).

games,[206] thus moving recreational gambling operations to legitimate venues. Likewise, the illegal ballot box stuffing that took place in saloons[207] is no longer an issue because Pennsylvania law now prohibits the operation of polling places within any building or room where alcohol is served.[208] Furthermore, the Great Depression-influenced idea that a monopoly system maximizes the Commonwealth's revenue[209] is no longer persuasive in the face of more recent studies, which show that adopting a carefully planned license system can be achieved while maintaining fiscal neutrality.[210] Since the time when Governor Pinchot insisted that Pennsylvania needed a monopoly system to control bootleggers, saloons, and the Commonwealth's financial stability, the Commonwealth has experienced profound changes and no longer needs a monopoly system to serve those purposes. It is time to privatize in Pennsylvania.

## V. CONCLUSION

Under a cost-benefit analysis, the advantages of adopting of a license system far outweigh any benefit that could be gained from continuing under Pennsylvania's current monopoly system.[211] The Commonwealth no longer has any reason to deprive the citizens of a license system.[212] By adopting a license system, consumers would gain the benefit of increased access to alcohol[213] at the same, or possibly lower, prices than consumers currently pay.[214] The Commonwealth would also regain sales lost to border bleed,[215] while eliminating the costly burden of operating alcohol retail stores.[216] Furthermore, none of these benefits would come at the cost of fiscal imbalance[217] or increased crime rates.[218] In addition to the benefits of adopting a license system, the fact that the historical reasons for adopting a monopoly system have become moot in today's modern society further indicates that a monopoly system is no longer best for Pennsylvania.[219] For the benefit

206. *See* 4 PA. CONS. STAT. ANN. § 13A11 (West Supp. 2013).
207. *Supra* note 49 and accompanying text.
208. 25 PA. CONS. STAT. ANN. § 2729 (West 2007).
209. *Supra* notes 52–53 and accompanying text.
210. *Supra* Part IV.A.2.
211. *See supra* Part IV.A.
212. *See supra* Part IV.B.
213. *See supra* Part IV.A.1.
214. *See supra* Part IV.A.3.
215. *See supra* Part IV.A.1.
216. *See supra* Part IV.A.2.
217. *See supra* Part IV.A.2.
218. *See supra* Part IV.A.4.
219. *See supra* Part IV.B.

of the Commonwealth and its citizens, the Commonwealth should abandon its alcohol monopoly system in favor of a privatized license system.