

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 190 Session of 2013

INTRODUCED BY PAYNE, DUNBAR, O'BRIEN, D. COSTA, MILLARD, KORTZ, READSHAW, MOUL, MUNDY, ROZZI, GIBBONS, MURT, DELUCA AND MOLCHANY, JANUARY 22, 2013

REFERRED TO COMMITTEE ON LIQUOR CONTROL, JANUARY 22, 2013

AN ACT

1 Amending the act of April 12, 1951 (P.L.90, No.21), entitled, as
 2 reenacted, "An act relating to alcoholic liquors, alcohol and
 3 malt and brewed beverages; amending, revising, consolidating
 4 and changing the laws relating thereto; regulating and
 5 restricting the manufacture, purchase, sale, possession,
 6 consumption, importation, transportation, furnishing, holding
 7 in bond, holding in storage, traffic in and use of alcoholic
 8 liquors, alcohol and malt and brewed beverages and the
 9 persons engaged or employed therein; defining the powers and
 10 duties of the Pennsylvania Liquor Control Board; providing
 11 for the establishment and operation of State liquor stores,
 12 for the payment of certain license fees to the respective
 13 municipalities and townships, for the abatement of certain
 14 nuisances and, in certain cases, for search and seizure
 15 without warrant; prescribing penalties and forfeitures;
 16 providing for local option, and repealing existing laws,"
 17 further providing for general powers of the Pennsylvania
 18 Liquor Control Board, for when sales may be made at
 19 Pennsylvania Liquor Stores, for revocation and suspension of
 20 licenses and fines and for unlawful acts relative to liquor,
 21 malt and brewed beverages and licensees.

22 The General Assembly of the Commonwealth of Pennsylvania

23 hereby enacts as follows:

24 Section 1. Section 207 of the act of April 12, 1951 (P.L.90,
 25 No.21), known as the Liquor Code, reenacted and amended June 29,
 26 1987 (P.L.32, No.14), is amended by adding a subsection to read:

27 Section 207. General Powers of Board.--Under this act, the

1 board shall have the power and its duty shall be:

2 * * *

3 (1) To establish and implement a customer relations
4 marketing program for the purpose of offering incentives, such
5 as coupons or discounts on certain products, to customers of the
6 board.

7 Section 2. Section 304(b) of the act, amended December 8,
8 2004 (P.L.1810, No.239), is amended to read:

9 Section 304. When Sales May Be Made at Pennsylvania Liquor
10 Stores.--* * *

11 (b) Certain Pennsylvania Liquor Stores operated by the board
12 shall be open for Sunday retail sales between the hours of noon
13 and [five] nine o'clock postmeridian, except that no Sunday
14 sales shall occur on Easter Sunday or Christmas day. The board
15 shall open [up to twenty-five per centum of the total number of
16 Pennsylvania Liquor Stores] at its discretion as many
17 Pennsylvania Liquor Stores as it deems necessary for Sunday
18 sales as provided for in this subsection. The board shall submit
19 yearly reports to the Appropriations and the Law and Justice
20 Committees of the Senate and the Appropriations and the Liquor
21 Control Committees of the House of Representatives summarizing
22 the total dollar value of sales under this section.

23 Section 3. Section 471(b) of the act, amended July 6, 2005
24 (P.L.135, No.39), is amended to read:

25 Section 471. Revocation and Suspension of Licenses; Fines.--
26 * * *

27 (b) Hearing on such citations shall be held in the same
28 manner as provided herein for hearings on applications for
29 license. Upon such hearing, if satisfied that any such violation
30 has occurred or for other sufficient cause, the administrative

1 law judge shall immediately suspend or revoke the license, or
2 impose a fine of not less than [fifty dollars (\$50)] one hundred
3 dollars (\$100) nor more than [one thousand dollars (\$1,000)] two
4 thousand dollars (\$2,000), or both, notifying the licensee by
5 registered letter addressed to his licensed premises. If the
6 licensee has been cited and found to have violated section
7 493(1) insofar as it relates to sales to minors or sales to a
8 visibly intoxicated person, section 493(10) insofar as it
9 relates to lewd, immoral or improper entertainment or section
10 493(14), (16) or (21), or has been found to be a public nuisance
11 pursuant to section 611, or if the owner or operator of the
12 licensed premises or any authorized agent of the owner or
13 operator has been convicted of any violation of the act of April
14 14, 1972 (P.L.233, No.64), known as "The Controlled Substance,
15 Drug, Device and Cosmetic Act," or of 18 Pa.C.S. § 5902
16 (relating to prostitution and related offenses) or 6301
17 (relating to corruption of minors), at or relating to the
18 licensed premises, the administrative law judge shall
19 immediately suspend or revoke the license, or impose a fine of
20 not less than [one thousand dollars (\$1,000)] five thousand
21 dollars (\$5,000) nor more than [five thousand dollars (\$5,000)]
22 ten thousand dollars (\$10,000), or both. However, if a licensee
23 has been cited and found to have violated section 493(1) as it
24 relates to sales to minors or sales to a visibly intoxicated
25 person but at the time of the sale the licensee was in
26 compliance with the requirements set forth in section 471.1 and
27 the licensee had not sold to minors or visibly intoxicated
28 persons in the previous four years, then the administrative law
29 judge shall immediately suspend or revoke the license, or impose
30 a fine of not less than [fifty dollars (\$50)] one hundred

1 dollars (\$100) nor more than [one thousand dollars (\$1,000)] two
2 thousand dollars (\$2,000), or both. The administrative law judge
3 shall notify the licensee by registered mail, addressed to the
4 licensed premises, of such suspension, revocation or fine. In
5 the event the fine is not paid within twenty days of the
6 adjudication, the administrative law judge shall suspend or
7 revoke the license, notifying the licensee by registered mail
8 addressed to the licensed premises. Suspensions and revocations
9 shall not go into effect until thirty days have elapsed from the
10 date of the adjudication during which time the licensee may take
11 an appeal as provided for in this act, except that revocations
12 mandated in section 481(c) shall go into effect immediately. Any
13 licensee whose license is revoked shall be ineligible to have a
14 license under this act until the expiration of three years from
15 the date such license was revoked. In the event a license is
16 revoked, no license shall be granted for the premises or
17 transferred to the premises in which the said license was
18 conducted for a period of at least one year after the date of
19 the revocation of the license conducted in the said premises,
20 except in cases where the licensee or a member of his immediate
21 family is not the owner of the premises, in which case the board
22 may, in its discretion, issue or transfer a license within the
23 said year. In the event the bureau or the person who was fined
24 or whose license was suspended or revoked shall feel aggrieved
25 by the adjudication of the administrative law judge, there shall
26 be a right to appeal to the board. The appeal shall be based
27 solely on the record before the administrative law judge. The
28 board shall only reverse the decision of the administrative law
29 judge if the administrative law judge committed an error of law,
30 abused its discretion or if its decision is not based on

1 substantial evidence. In the event the bureau or the person who
2 was fined or whose license was suspended or revoked shall feel
3 aggrieved by the decision of the board, there shall be a right
4 to appeal to the court of common pleas in the same manner as
5 herein provided for appeals from refusals to grant licenses.
6 Each of the appeals shall act as a supersedeas unless, upon
7 sufficient cause shown, the reviewing authority shall determine
8 otherwise; however, if the licensee has been cited and found to
9 have violated section 493(1) insofar as it relates to sales to
10 minors or sales to a visibly intoxicated person, section 493(10)
11 insofar as it relates to lewd, immoral or improper entertainment
12 or section 493(14), (16) or (21), or has been found to be a
13 public nuisance pursuant to section 611, or if the owner or
14 operator of the licensed premises or any authorized agent of the
15 owner or operator has been convicted of any violation of "The
16 Controlled Substance, Drug, Device and Cosmetic Act," or of 18
17 Pa.C.S. § 5902 or 6301, at or relating to the licensed premises,
18 or if the license has been revoked under section 481(c), its
19 appeal shall not act as a supersedeas unless the reviewing
20 authority determines otherwise upon sufficient cause shown. In
21 any hearing on an application for a supersedeas under this
22 section, the reviewing authority may consider, in addition to
23 other relevant evidence, documentary evidence, including records
24 of the bureau, showing the prior history of citations, fines,
25 suspensions or revocations against the licensee; and the
26 reviewing authority may also consider, in addition to other
27 relevant evidence, evidence of any recurrence of the unlawful
28 activity occurring between the date of the citation which is the
29 subject of the appeal and the date of the hearing. If the
30 reviewing authority is the board, no hearing shall be held on

1 the application for a supersedeas; however, a decision shall be
2 made based on the application, answer and documentary evidence
3 under this subsection. If the application for a supersedeas is
4 for a license that has been revoked under section 481(c), the
5 reviewing authority shall grant the supersedeas only if it finds
6 that the licensee will likely prevail on the merits. No penalty
7 provided by this section shall be imposed for any violations
8 provided for in this act unless the bureau notifies the licensee
9 of its nature within thirty days of the completion of the
10 investigation.

11 * * *

12 Section 4. Section 493(24) of the act, amended November 29,
13 2006 (P.L.1421, No.155), is amended to read:

14 Section 493. Unlawful Acts Relative to Liquor, Malt and
15 Brewed Beverages and Licensees.--The term "licensee," when used
16 in this section, shall mean those persons licensed under the
17 provisions of Article IV, unless the context clearly indicates
18 otherwise.

19 It shall be unlawful--

20 * * *

21 (24) (i) Things of Value Offered as Inducement. Except as
22 provided in subclause (ii), for any licensee under the
23 provisions of this article, or the board or any manufacturer, or
24 any employe or agent of a manufacturer, licensee or of the
25 board, to offer to give anything of value or to solicit or
26 receive anything of value as a premium for the return of caps,
27 stoppers, corks, stamps or labels taken from any bottle, case,
28 barrel or package containing liquor or malt or brewed beverage,
29 or to offer or give or solicit or receive anything of value as a
30 premium or present to induce directly the purchase of liquor or

1 malt or brewed beverage, or for any licensee, manufacturer or
2 other person to offer or give to trade or consumer buyers any
3 prize, premium, gift or other inducement to purchase liquor or
4 malt or brewed beverages, except advertising novelties of
5 nominal value which the board shall define. This section shall
6 not prevent any manufacturer or any agent of a manufacturer from
7 offering and honoring coupons which offer monetary rebates on
8 purchases of wines and spirits through State Liquor Stores or
9 purchases of malt or brewed beverages through distributors and
10 importing distributors in accordance with conditions or
11 regulations established by the board. The board may redeem
12 coupons offered by a manufacturer or an agent of a manufacturer
13 at the time of purchase. Coupons offered by a manufacturer or an
14 agent of a manufacturer shall not be redeemed without proof of
15 purchase. This section shall not apply to the return of any
16 monies specifically deposited for the return of the original
17 container to the owners thereof.

18 (ii) Notwithstanding subclause (i) or any other provision of
19 law, a holder of a restaurant license that is also approved to
20 hold a slot machine license or a conditional slot machine
21 license under 4 Pa.C.S. Part II (relating to gaming) may give
22 liquor and malt or brewed beverages free of charge to any person
23 actively engaged in playing a slot machine.

24 (iii) Notwithstanding subclause (i) or any other provision
25 of law, the board may establish and implement a customer
26 relations marketing program for the purpose of offering
27 incentives, such as coupons or discounts on certain products
28 that may be conditioned upon the purchase of liquor, to
29 customers of the board.

30 * * *

1 Section 5. This act shall take effect in 60 days.