

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1431 Session of
1995

INTRODUCED BY L. I. COHEN, FLICK, DENT, KAISER, RUBLEY, BUNT,
STURLA, BARD, MAITLAND, MANDERINO, BELARDI, ROONEY, TRELLO,
MELIO, CAPPABIANCA, ROEBUCK, FARGO, YOUNGBLOOD, REBER, WOGAN,
VAN HORNE, JOSEPHS, STABACK, E. Z. TAYLOR, SCRIMENTI, ITKIN,
WALKO, CLARK, PISTELLA, MERRY AND CORNELL, APRIL 25, 1995

AS REPORTED FROM COMMITTEE ON LIQUOR CONTROL, HOUSE OF
REPRESENTATIVES, AS AMENDED, JUNE 6, 1995

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 allowing distributors of malt or brewed beverages to sell on
18 credit.

19 The General Assembly of the Commonwealth of Pennsylvania
20 hereby enacts as follows:

21 ~~Section 1. The act of April 12, 1951 (P.L.90, No.21), known~~ <—
22 ~~as the Liquor Code, reenacted and amended June 29, 1987 (P.L.32,~~
23 ~~No.14), is amended by adding a section to read:~~
24 ~~§ 441.1. Sales by distributors on credit.~~

~~Notwithstanding section 493(2), it shall be lawful for a distributor of malt or brewed beverages to sell on credit through the use of a credit card or similar device.~~

~~Section 2. This act shall take effect in 60 days.~~

SECTION 1. SECTION 493(2) OF THE ACT OF APRIL 12, 1951 (P.L.90, NO.21), KNOWN AS THE LIQUOR CODE, REENACTED AND AMENDED JUNE 29, 1987 (P.L.32, NO.14), IS AMENDED TO READ:

SECTION 493. UNLAWFUL ACTS RELATIVE TO LIQUOR, MALT AND BREWED BEVERAGES AND LICENSEES.--THE TERM "LICENSEE," WHEN USED IN THIS SECTION, SHALL MEAN THOSE PERSONS LICENSED UNDER THE PROVISIONS OF ARTICLE IV, UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE.

IT SHALL BE UNLAWFUL--

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(2) PURCHASE OR SALE OF LIQUOR OR MALT OR BREWED BEVERAGES ON CREDIT. FOR ANY LICENSEE, HIS AGENT, SERVANT OR EMPLOYE, TO SELL OR OFFER TO SELL OR PURCHASE OR RECEIVE ANY LIQUOR OR MALT OR BREWED BEVERAGES EXCEPT FOR CASH, EXCEPTING CREDIT EXTENDED BY A HOTEL OR CLUB TO A BONA FIDE GUEST OR MEMBER, OR BY RAILROAD OR PULLMAN COMPANIES IN DINING, CLUB OR BUFFET CARS TO PASSENGERS, FOR CONSUMPTION WHILE ENROUTE, HOLDING AUTHORIZED CREDIT CARDS ISSUED BY RAILROAD OR RAILROAD CREDIT BUREAUS OR BY HOTEL, RESTAURANT AND PUBLIC SERVICE LICENSEES, IMPORTING DISTRIBUTORS OR DISTRIBUTORS TO CUSTOMERS NOT POSSESSING A LICENSE UNDER THIS ARTICLE AND HOLDING CREDIT CARDS ISSUED IN ACCORDANCE WITH REGULATIONS OF THE BOARD OR CREDIT CARDS ISSUED BY BANKING INSTITUTIONS SUBJECT TO STATE OR FEDERAL REGULATION: PROVIDED FURTHER, THAT NOTHING HEREIN CONTAINED SHALL BE CONSTRUED TO PROHIBIT THE USE OF CHECKS OR DRAFTS DRAWN ON A BANK, BANKING INSTITUTION, TRUST COMPANY OR SIMILAR DEPOSITORY,

1 ORGANIZED AND EXISTING UNDER THE LAWS OF THE UNITED STATES OF
2 AMERICA OR THE LAWS OF ANY STATE, TERRITORY OR POSSESSION
3 THEREOF, IN PAYMENT FOR ANY LIQUOR OR MALT OR BREWED BEVERAGES
4 IF THE PURCHASER IS THE PAYOR OF THE CHECK OR DRAFT AND THE
5 LICENSEE IS THE PAYEE. NO RIGHT OF ACTION SHALL EXIST TO COLLECT
6 ANY CLAIM FOR CREDIT EXTENDED CONTRARY TO THE PROVISIONS OF THIS
7 CLAUSE. NOTHING HEREIN CONTAINED SHALL PROHIBIT A LICENSEE FROM
8 CREDITING TO A PURCHASER THE ACTUAL PRICE CHARGED FOR ORIGINAL
9 CONTAINERS RETURNED BY THE ORIGINAL PURCHASER AS A CREDIT ON ANY
10 SALE, OR FROM REFUNDING TO ANY PURCHASER THE AMOUNT PAID BY SUCH
11 PURCHASER FOR SUCH CONTAINERS OR AS A DEPOSIT ON CONTAINERS WHEN
12 TITLE IS RETAINED BY THE VENDOR, IF SUCH ORIGINAL CONTAINERS
13 HAVE BEEN RETURNED TO THE LICENSEE. NOTHING HEREIN CONTAINED
14 SHALL PROHIBIT A MANUFACTURER FROM EXTENDING USUAL AND CUSTOMARY
15 CREDIT FOR LIQUOR OR MALT OR BREWED BEVERAGES SOLD TO CUSTOMERS
16 OR PURCHASERS WHO LIVE OR MAINTAIN PLACES OF BUSINESS OUTSIDE OF
17 THE COMMONWEALTH OF PENNSYLVANIA, WHEN THE LIQUOR OR MALT OR
18 BREWED BEVERAGES SO SOLD ARE ACTUALLY TRANSPORTED AND DELIVERED
19 TO POINTS OUTSIDE OF THE COMMONWEALTH: PROVIDED, HOWEVER, THAT
20 AS TO ALL TRANSACTIONS AFFECTING MALT OR BREWED BEVERAGES TO BE
21 RESOLD OR CONSUMED WITHIN THIS COMMONWEALTH, EVERY LICENSEE
22 SHALL PAY AND SHALL REQUIRE CASH DEPOSITS ON ALL RETURNABLE
23 ORIGINAL CONTAINERS AND ALL SUCH CASH DEPOSITS SHALL BE REFUNDED
24 UPON RETURN OF THE ORIGINAL CONTAINERS.

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26 SECTION 2. THIS ACT SHALL TAKE EFFECT IN 60 DAYS.