

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.