

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1154 Session of 2021

INTRODUCED BY MASSER, ROTHMAN, T. DAVIS, POLINCHOCK, MILLARD, KEEFER, COOK, SCHWEYER AND ROWE, APRIL 12, 2021

AS REPORTED FROM COMMITTEE ON LIQUOR CONTROL, HOUSE OF REPRESENTATIVES, AS AMENDED, MAY 4, 2021

AN ACT

1 Amending the act of April 12, 1951 (P.L.90, No.21), entitled "An
2 act relating to alcoholic liquors, alcohol and malt and
3 brewed beverages; amending, revising, consolidating and
4 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,"-in <--
17 preliminary provisions, further providing for definitions,-
18 and, in licenses and regulations and liquor, alcohol and malt
19 and brewed beverages, further providing for sales by liquor
20 licensees and restrictions and repealing provisions related
21 to prepared beverages and mixed drinks for off-premises
22 consumption during disaster emergency.

23 The General Assembly of the Commonwealth of Pennsylvania
24 hereby enacts as follows:

25 Section 1. The definition of "sealed container" in section <--
26 102 of the act of April 12, 1951 (P.L.90, No.21), known as the
27 Liquor Code, added May 21, 2020 (P.L.149, No.21), is amended to

1 read:

2 ~~Section 102. Definitions. The following words or phrases,~~
3 ~~unless the context clearly indicates otherwise, shall have the~~
4 ~~meanings ascribed to them in this section:~~

5 * * *

6 ~~"Sealed container" shall mean a packaged container with a~~
7 ~~secure lid or cap designed to prevent consumption without~~
8 ~~removal of the lid or cap. [A lid with sipping holes or opening~~
9 ~~for straws must be covered or affixed with an additional seal~~
10 ~~before sale.]~~

11 * * *

12 ~~Section 2. Section 406 of the act is amended by adding a~~
13 ~~subsection to read:~~

14 SECTION 1. SECTION 406 OF THE ACT OF APRIL 12, 1951 (P.L.90, <--
15 NO.21), KNOWN AS THE LIQUOR CODE, IS AMENDED BY ADDING A
16 SUBSECTION TO READ:

17 Section 406. Sales by Liquor Licensees; Restrictions.--* * *

18 (j) Notwithstanding any provision of this act, a person
19 holding and possessing a valid restaurant or hotel liquor
20 license may sell prepared beverages and mixed drinks for off-
21 premises consumption where meals prepared for pick-up or
22 curbside pick-up are also available. The following shall apply:

23 (1) Except as provided in this paragraph and paragraph (3),
24 nothing in this section shall affect the ability of a licensee
25 to operate within the scope of the licensee's current license as
26 authorized by this act, provided, however, that no sales of
27 prepared beverages and mixed drinks for off-premises consumption
28 may take place after eleven o'clock postmeridian of any day
29 until the licensee's permitted hours of operation under this
30 section of the next day, including Sundays if the licensee has a

1 permit authorized under subsection (a)(3) and section 432(f).

2 (2) The following licensees are prohibited from selling
3 prepared beverages and mixed drinks for off-premises consumption
4 under this section:

5 (i) A licensee whose underlying license is subject to a
6 pending objection by the director of the Bureau of Licensing or
7 the board under section 470(a.1), until the matter is decided.

8 (ii) A licensee whose underlying license has been suspended
9 under section 1799.6-E of the act of April 9, 1929 (P.L.343,
10 No.176), known as "The Fiscal Code."

11 (III) A LICENSEE THAT HAS AN INTERIOR CONNECTION TO A <--
12 GROCERY STORE, CONVENIENCE STORE OR DEPARTMENT STORE.

13 (3) For purposes of selling prepared beverages and mixed
14 drinks for off-premises consumption, a licensed premises shall
15 not be subject to section 493(14).

16 (4) A licensee selling prepared beverages and mixed drinks
17 for off-premises consumption shall utilize a transaction scan
18 device to verify the age of an individual who appears to be
19 under thirty-five (35) years of age before making a sale of
20 prepared beverages and mixed drinks for off-premises
21 consumption. A licensee may not sell or share consumers'
22 personal data from the use of a transaction scan device,
23 provided that the licensee may share the data with the
24 enforcement bureau of the board as evidence that the licensee is
25 in compliance with this paragraph.

26 ~~(5) As used in this subsection, the term "transaction scan~~ <--
27 ~~device" shall mean a device capable of deciphering, in an~~
28 ~~electronically readable format, the information encoded on the~~
29 ~~magnetic strip, chip or bar code of an identification card under~~
30 ~~section 495(a).~~

1 (5) A LICENSEE SELLING PREPARED BEVERAGES OR MIXED DRINKS
 2 FOR OFF-PREMISES CONSUMPTION SHALL PROMINENTLY POST A WARNING
 3 SIGN IN A MANNER THAT PUTS CONSUMERS ON NOTICE OF THE
 4 RESTRICTIONS ON ALCOHOLIC BEVERAGES UNDER 75 PA.C.S. § 3809
 5 (RELATING TO RESTRICTION ON ALCOHOLIC BEVERAGES), AND THAT THE
 6 PREPARED BEVERAGES AND MIXED DRINKS PACKAGED FOR SALE BY THE
 7 LICENSEE ARE OPEN CONTAINERS AND MAY ONLY BE TRANSPORTED BY THE
 8 DRIVER OF A MOTOR VEHICLE IN THE VEHICLE'S TRUNK OR IN SOME
 9 OTHER AREA OF THE VEHICLE THAT IS NOT OCCUPIED BY THE DRIVER OR
 10 PASSENGERS.

11 (6) A PREPARED BEVERAGE OR MIXED DRINK FOR OFF PREMISE
 12 CONSUMPTION MUST BE AFFIXED WITH A LABEL IDENTIFYING THAT THE
 13 PRODUCT CONTAINS ALCOHOL.

14 (7) AS USED IN THIS SUBSECTION, THE FOLLOWING WORDS AND
 15 PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS PARAGRAPH
 16 UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

17 "CONVENIENCE STORE." A RETAIL BUSINESS THAT SELLS A RANGE OF
 18 EVERYDAY ITEMS, INCLUDING COFFEE, GROCERIES, SNACK FOODS,
 19 CONFECTIONERY, SOFT DRINKS, TOBACCO PRODUCTS, OVER-THE-COUNTER
 20 DRUGS, TOILETRIES, GASOLINE AND MAGAZINES.

21 "DEPARTMENT STORE." A RETAIL ESTABLISHMENT OFFERING A WIDE
 22 RANGE OF CONSUMER GOODS IN DIFFERENT AREAS OF THE STORE, WHICH
 23 MAY INCLUDE FOOD ITEMS.

24 "GROCERY STORE." A RETAIL BUSINESS THAT PRIMARILY SELLS A
 25 WIDE VARIETY OF FRESH AND PACKAGED FOODS, BEVERAGES AND OTHER
 26 ITEMS TO BE CONSUMED OR USED OFF OF THE STORE PREMISES.

27 "TRANSACTION SCAN DEVICE." A DEVICE CAPABLE OF DECIPHERING,
 28 IN AN ELECTRONICALLY READABLE FORMAT, THE INFORMATION ENCODED ON
 29 THE MAGNETIC STRIP, CHIP OR BAR CODE OF AN IDENTIFICATION CARD
 30 UNDER SECTION 495(A).

1 Section 2. Section 417 of the act is repealed:

2 [Section 417. Prepared Beverages and Mixed Drinks for Off-
3 Premises Consumption During Disaster Emergency.--(a) The
4 following shall apply:

5 (1) Notwithstanding any provision of this act, a person
6 holding and possessing a valid restaurant or hotel liquor
7 license that lost more than twenty-five per centum (25%) of the
8 person's average monthly total sales, including alcohol sales,
9 as a result of restrictions imposed during the COVID-19 disaster
10 emergency, may sell prepared beverages and mixed drinks for off-
11 premises consumption where meals prepared for pickup or curbside
12 pickup are also available.

13 (2) Except as provided in this paragraph and paragraph (4),
14 nothing in this section shall affect the ability of a licensee
15 to operate within the scope of its current license as authorized
16 by this act, provided, however, that no sales of prepared
17 beverages and mixed drinks for off-premises consumption shall
18 take place after eleven o'clock postmeridian of any day until
19 the licensee's permitted hours of operation under section 406 of
20 the next day, including Sundays if the licensee has a permit
21 authorized under sections 406(a) (3) and 432(f).

22 (3) The following licensees are prohibited from selling
23 prepared beverages and mixed drinks for off-premises consumption
24 under this section:

25 (i) A licensee whose underlying license is subject to a
26 pending objection by the director of the Bureau of Licensing or
27 the board under section 470(a.1), until the matter is decided.

28 (ii) A licensee whose underlying license has been suspended
29 under section 1799.6-E of the act of April 9, 1929 (P.L.343,
30 No.176), known as "The Fiscal Code."

1 (4) For purposes of selling prepared beverages and mixed
2 drinks for off-premises consumption, a licensed premises shall
3 not be subject to section 493(14).

4 (5) Within sixty (60) days of the effective date of this
5 section, a licensee selling prepared beverages and mixed drinks
6 for off-premises consumption shall begin utilizing a transaction
7 scan device to verify the age of an individual who appears to be
8 under thirty-five (35) years of age before making a sale of
9 prepared beverages and mixed drinks for off-premises
10 consumption. A licensee may not sell or share consumers'
11 personal data from the use of a transaction scan device,
12 provided that the licensee may share the data with the
13 enforcement bureau of the board as evidence that the licensee is
14 in compliance with this paragraph.

15 (6) A licensee selling prepared beverages or mixed drinks
16 for off-premises consumption shall prominently post a warning
17 sign in a manner that puts consumers on notice of the
18 restrictions on alcoholic beverages under 75 Pa.C.S. § 3809
19 (relating to restriction on alcoholic beverages), and that the
20 prepared beverages and mixed drinks packaged for sale by the
21 licensee are open containers and may only be transported by the
22 driver of a motor vehicle in the vehicle's trunk or in some
23 other area of the vehicle that is not occupied by the driver or
24 passengers.

25 (b) Notwithstanding any other provision of this section or
26 provision of law to the contrary, a licensee selling prepared
27 beverages and mixed drinks for off-premises consumption may only
28 do so during the COVID-19 disaster emergency and during the
29 mitigation period after the termination of the disaster
30 emergency in which a licensee is operating at less than sixty

1 per centum (60%) capacity.

2 (c) A licensee may sell liquor to another licensee qualified
3 to sell prepared beverages and mixed drinks under this section.
4 The licensee shall notify the board in writing advising it of
5 the name of the licensee and identifying any product sold to
6 that licensee, as well as the description of the liquor,
7 including brand names, sizes and numbers of containers sold to
8 another licensee. The sales may only occur during the COVID-19
9 disaster emergency and during the mitigation period after the
10 termination of the disaster emergency in which a licensee is
11 operating at less than sixty per centum (60%) capacity.

12 (d) As used in this section, the following words and phrases
13 shall have the meanings given to them in this subsection unless
14 the context clearly indicates otherwise:

15 "COVID-19 disaster emergency" shall mean the proclamation of
16 disaster emergency issued by the Governor on March 6, 2020,
17 published at 50 Pa.B. 1644 (March 21, 2020), and any renewal of
18 the state of disaster emergency.

19 "Licensee" shall mean a person holding and possessing a valid
20 restaurant or hotel liquor license authorized to sell prepared
21 beverages or mixed drinks for off-premise consumption under
22 subsection (a) (1).

23 "Transaction scan device" shall mean a device capable of
24 deciphering, in an electronically readable format, the
25 information encoded on the magnetic strip, chip or bar code of
26 an identification card under section 495(a).]

27 Section 4 3. This act shall take effect immediately.

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