

2013 -- H 5151

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

RELATING TO ALCOHOLIC BEVERAGES -- RETAIL, MANUFACTURING AND
WHOLESALE LICENSES

Introduced By: Representatives Gallison, Azzinaro, Edwards, Serpa, and Marshall

Date Introduced: January 24, 2013

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 3 of the General Laws entitled "ALCOHOLIC BEVERAGES" is
2 hereby amended by adding thereto the following chapter:

3 CHAPTER 7.1

4 LENDING OR BORROWING MONEY OR RECEIPT OF CREDIT BY LICENSEES

5 **3-7.1-1. Lending or borrowing by licensees prohibited.** -- It shall be unlawful for any
6 manufacturer or wholesaler to lend or borrow money, directly or indirectly, to or from any other
7 licensee under chapter 3-6 or chapter 3-7.

8 **3-7.1-2. Restrictions on the extension or receipt of credit by licensees.** -- (a) It shall be
9 unlawful for any licensee under chapter 3-6 or chapter 3-7 to receive or extend credit, directly or
10 indirectly, for alcoholic beverages sold or delivered to any licensee under chapter 3-6 or chapter
11 3-7 engaged in the sale of alcoholic beverages except in the usual course of business and for a
12 period of not more than sixty (60) days. Nothing in this subsection shall require any manufacturer
13 or wholesaler to extend credit to any licensee. The credit period shall be calculated from the date
14 of delivery of the alcoholic beverages to the purchaser to the date when the purchaser discharges
15 in full the indebtedness for which the credit was extended.

16 (b) If any licensee does not discharge in full any such indebtedness within such sixty (60)
17 day period, the indebtedness shall be overdue and such licensee shall be delinquent within the
18 meaning of subsection (a).

1 (c) Within three (3) days after a licensee becomes delinquent, the licensee who extended
2 the credit shall mail a letter of notice by certified mail to the director of the department of
3 business regulation and a copy thereof to the delinquent licensee. The letter of notice shall be on
4 forms provided by the director of the department of business regulation. The notice shall contain
5 the name of the delinquent licensee, the date of delivery of the alcoholic beverages and the
6 amount of the indebtedness remaining undischarged. Within five (5) days after receipt of such a
7 letter of notice, the director of the department of business regulation shall post the name and
8 address only of the delinquent licensee in a delinquent list containing the names and addresses of
9 all delinquent licensees. Such posting shall constitute notice to all licensees of the delinquency of
10 such licensee.

11 (d) If a licensee is seriously damaged in his business by riot, insurrection, civil
12 disturbance, fire, explosion or by an act of God, so-called, the licensee may file an application
13 with the director of the department of business regulation requesting that the provisions of
14 subsections (a) and (b) be suspended as to him/her for a reasonable period. The director of the
15 department of business regulation shall set down the application for hearing within twenty-one
16 (21) days and shall notify all licensees engaged in selling to said applicant of the hearing and give
17 all interested parties the right to be heard. Pending such hearing, the director of the department of
18 business regulation may, after an investigation and determination that the facts as stated by the
19 licensee in his/her application would constitute reasonable grounds for relief, order that such
20 licensee shall not be posted as delinquent. If the director of the department of business regulation
21 finds it is in the public interest to do so, the director of business regulation may suspend the
22 application of said subsections with respect to the applicant for such period as the director of
23 business regulation may consider to be reasonable and in the public interest. Such action shall not
24 deprive creditors of all legal rights available to them for the collection of the indebtedness and
25 shall be contingent on such terms and conditions as the director of the department of business
26 regulation shall determine.

27 (e) No licensee under chapters 3-6 and 3-7 shall sell or deliver, directly or indirectly,
28 alcoholic beverages to a licensee whose name is posted on the delinquent list, except for payment
29 in cash on or before delivery, and no licensee who is posted on the delinquent list shall purchase
30 or accept delivery of any alcoholic beverages except for payment in cash on or before delivery.

31 (f) Whenever the license of any licensee whose name appears on the delinquent list is
32 transferred, the name of the transferee shall appear in the place and stead of the transferor, as of
33 the date of license transfer, in the same manner as if no transfer had occurred, but the provisions
34 of this sentence shall not apply to transfers of licenses by assignees, court-appointed receivers or

1 trustees under a voluntary assignment for the benefit of creditors, provided that prior approval of
2 such assignment is obtained from the director of the department of business regulation after
3 notice to all creditors has been given and reasonable time allowed for objections by such
4 creditors.

5 (g) Upon full discharge of the indebtedness for which a licensee was posted, the licensee
6 who filed the letter of notice of delinquency shall, within twenty-four (24) hours thereafter, notify
7 the director of the department of business regulation, by mailing a letter by certified mail
8 addressed to the director of the department of business regulation of the discharge of the
9 indebtedness. The director of the department of business regulation shall immediately strike the
10 name of the delinquent licensee from the list. The director of the department of business
11 regulation shall by regulations prescribe how licensees, other than the two (2) concerned, shall be
12 notified of the filing of the name of a licensee on the delinquency list and of the removal of the
13 name of a delinquent from such list.

14 (h) If, after a hearing, the director of the department of business regulation finds that any
15 licensee has violated these subsections or participated in such violation, the director of the
16 department of business regulation shall suspend the license of the licensee until full discharge of
17 the indebtedness.

18 (i) Notwithstanding and in lieu of any other penalty in any other provision of these
19 subsections, any person who violates any provision of these subsections shall be punished by a
20 fine of not more than five thousand (\$5,000) dollars.

21 (j) The posting list shall be available for inspection by any licensee or his duly authorized
22 agent only.

23 (k) The provisions of these subsections shall not apply to credit extended prior to July 1,
24 2013.

25 SECTION 3. This act shall take effect upon passage and apply to credit extended on or
26 after July 1, 2013.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO ALCOHOLIC BEVERAGES -- RETAIL, MANUFACTURING AND
WHOLESALE LICENSES

1 This act would make unlawful for any manufacturer, wholesaler or retailer of alcoholic
2 beverages to lend or borrow money, directly or indirectly, to or from one another and place
3 restrictions upon the extensions of credit to the usual course of business and for a period of not
4 more than sixty (60) days. Violators of these provisions would be subject to regulation by the
5 department of business regulation and penalties assessed after hearing of a fine of not more than
6 five thousand (\$5,000) dollars or suspension of license or both.

7 This act would take effect upon passage and apply to credit extended on or after July 1,
8 2013.

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