

2020 -- S 2761

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2020

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A N A C T

RELATING TO ALCOHOLIC BEVERAGES -- LENDING OR BORROWING MONEY OR
RECEIPT OF CREDIT BY LICENSEES

Introduced By: Senator Sandra Cano

Date Introduced: March 04, 2020

Referred To: Senate Special Legislation and Veterans Affairs

(by request)

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 3 of the General Laws entitled "ALCOHOLIC BEVERAGES" is hereby
2 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. Prohibition of lending or borrowing money.**

6 It shall be unlawful for any licensee under this title to lend or borrow money, directly or
7 indirectly, to or from any other licensee under this title.

8 **3-7.1-2. Prohibition of receipt of credit.**

9 (a) It shall be unlawful for any licensee under this title to receive or extend credit, directly
10 or indirectly, for alcoholic beverages sold or delivered to any licensee engaged in the sale of
11 alcoholic beverages except in the usual course of business and for a period of not more than sixty
12 (60) days.

13 (b) The credit period shall be calculated from the date of the delivery of the alcoholic
14 beverages to the purchaser to the date when the purchaser discharges in full the indebtedness for
15 which the credit was extended. If any licensee does not discharge in full any such indebtedness
16 within the sixty (60) day period, the indebtedness shall be overdue and such licensee shall be
17 delinquent within the meaning of this section.

18 (c) Within three (3) days after a licensee becomes delinquent, the licensee who extended

1 the credit shall mail a letter of notice by certified mail to the director of the department of business
2 regulation and a copy thereof to the delinquent licensee. The letter of notice shall be in forms
3 provided by the department of business regulation. The notice shall contain the name of the
4 delinquent licensee, the date of delivery of the alcoholic beverages and the amount of the
5 indebtedness remaining undischarged.

6 (d) Within five (5) days after receipt of such a letter of notice, the department of business
7 regulation shall post the name and address only of the delinquent licensee on a delinquent list
8 containing the names and addresses of all delinquent licensees. Such posting shall constitute notice
9 to all licensees of the delinquency of such licensee.

10 (e) The posting list shall be available for inspection by any licensee or its duly authorized
11 agent only.

12 (f) Nothing in this chapter shall require any manufacturer, winegrower or wholesaler to
13 extend credit to any licensee.

14 **3-7.1-3. Prohibition of acquisition of business interest in licensee.**

15 It shall be unlawful for any manufacturer, wholesaler or importer of alcoholic beverages,
16 or any winegrower not holding a license under § 3-6-1.1, to acquire, retain or own, directly or
17 indirectly, any interest in the business of any licensee under this title, or for any winegrower
18 licensed under § 3-6-1.1 to acquire, retain or own, directly or indirectly, any interest in the business
19 of any other licensee under this title, or for any manufacturer of alcoholic beverages or any
20 winegrower to acquire, retain or own, directly or indirectly, any interest in the business of any
21 licensee under this title.

22 **3-7.1-4. Nonpayment of licensee due to unforeseen circumstances -- Hearing.**

23 (a) If a licensee is seriously damaged in its business by riot, insurrection, civil disturbance,
24 fire, explosion or by an act of God, so-called, the licensee may file an application with the
25 department of business regulation requesting that the provisions of § 3-7.1-2 be suspended as to it
26 for a reasonable period. The department of business regulation shall set down the application for
27 hearing within twenty-one (21) days and shall notify all licensees engaged in selling to said
28 applicant of the hearing and give all interested parties the right to be heard.

29 (b) Pending such hearing, the department of business regulation may, after an investigation
30 and determination that the facts as stated by the licensee in its application would constitute
31 reasonable grounds for relief, order that such licensee shall not be posted as delinquent. After
32 hearing, if the department of business regulation finds it is in the public interest to do so, it may
33 suspend the application of § 3-7.1-2 with respect to the applicant for such period as the director
34 may consider to be reasonable and in the public interest. Such action shall not deprive creditors of

1 all legal rights available to them for the collection of the indebtedness and shall be contingent on
2 such terms and conditions as the department of business regulation shall determine.

3 **3-7.1-5. Sales to delinquent licensee.**

4 No licensee under this chapter shall sell or deliver, directly or indirectly, alcoholic
5 beverages to a licensee whose name is posted on the delinquent list, except for payment in cash on
6 or before delivery, and no licensee who is posted on the delinquent list shall purchase or accept
7 delivery of any alcoholic beverages except for payment in cash on or before delivery.

8 **3-7.1-6. Transfer of license of delinquent licensee.**

9 Whenever the license of any licensee whose name appears on the delinquent list is
10 transferred, the name of the transferee shall appear in the place and stead of the transferor, as of the
11 date of license transfer, in the same manner as if no transfer had occurred; provided that, the
12 provisions shall not apply to transfers of licenses by assignees, court-appointed receivers or trustees
13 under a voluntary assignment for the benefit of creditors; and, provided further, that prior approval
14 of such assignment is obtained from the department of business regulation after notice to all
15 creditors has been given and reasonable time allowed for objections by such creditors.

16 **3-7.1-7. Discharge of indebtedness.**

17 (a) Upon full discharge of the indebtedness for which a licensee was posted, the licensee
18 who filed the letter of notice of delinquency shall, within twenty-four (24) hours thereafter, notify
19 the director of the department of business regulation, by mailing a letter by certified mail addressed
20 to the director of the discharge of the indebtedness. The director shall immediately strike the name
21 of the delinquent licensee from the list.

22 (b) The director shall by regulations prescribe how licensees, other than the two (2)
23 licensees initially involved in the process pursuant to § 3-7.1-2(c), shall be notified of the filing of
24 the name of a licensee on the delinquency list and of the removal of the name of a delinquent from
25 such list. If, after a hearing, the director finds that any licensee has violated this section or
26 participated in such violation, the department of business regulation shall suspend the license of
27 the licensee until full discharge of the indebtedness.

28 (c) Notwithstanding, and in lieu of any other penalty in any other provision of this title,
29 any person who violates any provision of this chapter shall be punished by a fine of not more than
30 five thousand dollars (\$5,000).

31 **3-7.1-8. Applicability.**

32 The provisions of this chapter shall not apply to credit extended prior to September 1, 2020.

1 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO ALCOHOLIC BEVERAGES -- LENDING OR BORROWING MONEY OR
RECEIPT OF CREDIT BY LICENSEES

1 This act would prohibit the lending or borrowing of money or receipt of credit by
2 delinquent licensees among manufacturers, wholesalers and retailers of alcoholic beverages as
3 regulated by the department of business regulation (DBR).

4 This act would take effect upon passage.

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