

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2367 Session of
2002

INTRODUCED BY NICKOL, CAPPELLI, L. I. COHEN, COLAFELLA,
FAIRCHILD, FLICK, FRANKEL, HENNESSEY, MACKERETH, MAITLAND,
MELIO, NAILOR, PALLONE, PISTELLA, READSHAW, ROSS, RUBLEY,
SCRIMENTI, E. Z. TAYLOR AND WILT, FEBRUARY 12, 2002

REFERRED TO COMMITTEE ON LIQUOR CONTROL, FEBRUARY 12, 2002

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 possession or transportation of liquor
18 or alcohol.

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

21 Section 1. Sections 491(2), (3), (8) and (11) of the act of
22 April 12, 1951 (P.L.90, No.21), known as the Liquor Code,
23 reenacted and amended June 29, 1987 (P.L.32, No.14), are amended
24 to read:

25 Section 491. Unlawful Acts Relative to Liquor, Alcohol and

1 Liquor Licensees.--

2 It shall be unlawful--

3 * * *

4 (2) Possession or Transportation of Liquor or Alcohol. For
5 any person, except a manufacturer or the board or the holder of
6 a sacramental wine license or of an importer's license, to
7 possess or transport any liquor or alcohol within this
8 Commonwealth which was not lawfully acquired prior to January
9 first, one thousand nine hundred and thirty-four, or has not
10 been purchased from a Pennsylvania Liquor Store or a licensed
11 limited winery in Pennsylvania, except miniatures totalling less
12 than one gallon purchased by a collector of the same in another
13 state or foreign country, or in accordance with the board's
14 regulations. The burden shall be upon the person possessing or
15 transporting such liquor or alcohol to prove that it was so
16 acquired. But nothing herein contained shall prohibit the
17 manufacture or possession of wine by any person in his home for
18 consumption of himself, his family and guests and not for sale,
19 not exceeding, during any one calendar year, two hundred
20 gallons, any other law to the contrary notwithstanding. Such
21 wine shall not be manufactured, possessed, offered for sale or
22 sold on any licensed premises.

23 None of the provisions herein contained shall prohibit nor
24 shall it be unlawful for any person to import into Pennsylvania,
25 transport or have in his possession, an amount of liquor not
26 exceeding one gallon in volume upon which a State tax has not
27 been paid, if it can be shown to the satisfaction of the board
28 that such person purchased the liquor in a foreign country or
29 United States territory and was allowed to bring it into the
30 United States. Neither shall the provisions contained herein

1 prohibit nor make it unlawful for (i) any member of the armed
2 forces on active duty, or (ii) any retired member of the armed
3 forces, or (iii) any totally disabled veteran, or (iv) the
4 spouse of any person included in the foregoing classes of
5 persons to import into Pennsylvania, transport or have in his
6 possession an amount of liquor not exceeding one gallon per
7 month in volume upon which the State tax has not been paid, so
8 long as such liquor has been lawfully purchased from a package
9 store established and maintained under the authority of the
10 United States and is in containers identified in accordance with
11 regulations issued by the Department of Defense. Such liquor
12 shall not be possessed, offered for sale or sold on any licensed
13 premises.

14 None of the provisions herein contained shall prohibit nor
15 shall it be unlawful for any consul general, consul or other
16 diplomatic officer of a foreign government to import into
17 Pennsylvania, transport or have in his possession liquor upon
18 which a State tax has not been paid, if it can be shown to the
19 satisfaction of the board that such person acquired the liquor
20 in a foreign country and was allowed to bring it into the United
21 States. Such liquor shall not be possessed, offered for sale or
22 sold on any licensed premises. Nothing in this act shall be
23 construed to prohibit any person from possessing or transporting
24 within this Commonwealth any wine in an amount not to exceed one
25 hundred twenty-eight ounces not purchased in this Commonwealth
26 for such person's exclusive personal consumption and not for
27 resale.

28 Any person violating the provisions of this clause for a
29 first offense involving the possession or transportation in
30 Pennsylvania of any liquor in a package (bottle or other

1 receptacle) or wine not purchased from a Pennsylvania Liquor
2 Store or from a licensed limited winery in Pennsylvania, with
3 respect to which satisfactory proof is produced that the
4 required Federal tax has been paid and which was purchased,
5 procured or acquired legally outside of Pennsylvania shall upon
6 conviction thereof in a summary proceeding be sentenced to pay a
7 fine of twenty-five dollars (\$25) for each such package, plus
8 costs of prosecution, or undergo imprisonment for a term not
9 exceeding ninety (90) days. Each full quart or major fraction
10 thereof shall be considered a separate package (bottle or other
11 receptacle) for the purposes of this clause. Such packages of
12 liquor shall be forfeited to the Commonwealth in the manner
13 prescribed in Article VI of this act but the vehicle, boat,
14 vessel, animal or aircraft used in the illegal transportation of
15 such packages shall not be subject to forfeiture: Provided,
16 however, That if it is a second or subsequent offense or if it
17 is established that the illegal possession or transportation was
18 in connection with a commercial transaction, then the other
19 provisions of this act providing for prosecution as a
20 misdemeanor and for the forfeiture of the vehicle, boat, vessel,
21 animal or aircraft shall apply.

22 (3) Purchase of Liquor or Alcohol. For any person within
23 this Commonwealth, by himself or by an employe or agent, to
24 attempt to purchase, or directly or indirectly, or upon any
25 pretense or device whatsoever, to purchase any liquor or alcohol
26 from any person or source other than a Pennsylvania Liquor
27 Store, except in accordance with the provisions of this act or
28 the regulations of the board. This act shall not be construed to
29 prohibit any person from purchasing any wine in an amount not to
30 exceed one hundred twenty-eight ounces outside of this

1 Commonwealth for such person's exclusive personal consumption
2 and not for resale.

3 * * *

4 (8) Importation and Sales of Alcohol. For any person, to
5 import alcohol into this Commonwealth, or to sell alcohol to any
6 person, except in accordance with the regulations of the board.
7 This act shall not be construed to prohibit any person from
8 importing wine in an amount not to exceed one hundred twenty-
9 eight ounces into this Commonwealth for such person's exclusive
10 personal consumption and not for resale.

11 * * *

12 (11) Importation of Liquor. For any person, other than the
13 board or the holder of a sacramental wine license or of an
14 importer's license, to import any liquor whatsoever into this
15 Commonwealth, but this section shall not be construed to
16 prohibit railroad and pullman companies from selling liquors
17 purchased outside the Commonwealth in their dining, club and
18 buffet cars which are covered by public service liquor licenses
19 and which are operated in this Commonwealth. This act shall also
20 not be construed to prohibit any person from importing wine in
21 an amount not to exceed one hundred twenty-eight ounces into
22 this Commonwealth for such person's exclusive personal
23 consumption and not for resale.

24 * * *

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