

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 350 Session of
2003

INTRODUCED BY NICKOL, BAKER, BARRAR, CAPPELLI, CORNELL,
FAIRCHILD, FICHTER, FLICK, FRANKEL, HENNESSEY, HORSEY, JAMES,
LEDERER, LEH, MACKERETH, MAITLAND, MELIO, R. MILLER, NAILOR,
PRESTON, READSHAW, ROSS, RUBLEY, SCRIMENTI, SOLOBAY,
T. STEVENSON, TIGUE, VANCE, VITALI, WATSON, WILT AND HARPER,
FEBRUARY 24, 2003

REFERRED TO COMMITTEE ON LIQUOR CONTROL, FEBRUARY 24, 2003

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) and amended
24 February 21, 2002 (P.L.103, No.10) and December 9, 2002 (P.L.

1 , No.212), are amended to read:

2 Section 491. Unlawful Acts Relative to Liquor, Alcohol and
3 Liquor Licensees.--

4 It shall be unlawful--

5 * * *

6 (2) Possession or Transportation of Liquor or Alcohol. For
7 any person, except a manufacturer or the board or the holder of
8 a sacramental wine license or of an importer's license, to
9 possess or transport any liquor or alcohol within this
10 Commonwealth which was not lawfully acquired prior to January
11 first, one thousand nine hundred and thirty-four, or has not
12 been purchased from a Pennsylvania Liquor Store or a licensed
13 limited winery in Pennsylvania, except in accordance with
14 section 488 or the board's regulations. In addition, it shall be
15 lawful for anyone to possess miniatures totaling less than one
16 gallon purchased in another state or a foreign country. The
17 burden shall be upon the person possessing or transporting such
18 liquor or alcohol to prove that it was so acquired. But nothing
19 herein contained shall prohibit the manufacture or possession of
20 wine by any person in his home for consumption of himself, his
21 family and guests and not for sale, not exceeding, during any
22 one calendar year, two hundred gallons, any other law to the
23 contrary notwithstanding. Such wine shall not be manufactured,
24 possessed, offered for sale or sold on any licensed premises.

25 None of the provisions herein contained shall prohibit nor
26 shall it be unlawful for any person to import into Pennsylvania,
27 transport or have in his possession, an amount of liquor not
28 exceeding one gallon in volume upon which a State tax has not
29 been paid, if it can be shown to the satisfaction of the board
30 that such person purchased the liquor in a foreign country or

1 United States territory and was allowed to bring it into the
2 United States. Neither shall the provisions contained herein
3 prohibit nor make it unlawful for (i) any member of the armed
4 forces on active duty, or (ii) any retired member of the armed
5 forces, or (iii) any totally disabled veteran, or (iv) the
6 spouse of any person included in the foregoing classes of
7 persons to import into Pennsylvania, transport or have in his
8 possession an amount of liquor not exceeding one gallon per
9 month in volume upon which the State tax has not been paid, so
10 long as such liquor has been lawfully purchased from a package
11 store established and maintained under the authority of the
12 United States and is in containers identified in accordance with
13 regulations issued by the Department of Defense. Such liquor
14 shall not be possessed, offered for sale or sold on any licensed
15 premises.

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

30 Any person violating the provisions of this clause for a

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

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

1 prohibit any person from purchasing any wine in an amount not to
2 exceed one hundred twenty-eight ounces outside of this
3 Commonwealth for such person's exclusive personal consumption
4 and not for resale.

5 * * *

6 (8) Importation and Sales of Alcohol. For any person, to
7 import alcohol into this Commonwealth, or to sell alcohol to any
8 person, except in accordance with section 488 and the
9 regulations of the board. This act shall not be construed to
10 prohibit any person from importing wine in an amount not to
11 exceed one hundred twenty-eight ounces into this Commonwealth
12 for such person's exclusive personal consumption and not for
13 resale.

14 * * *

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

28 * * *

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