

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 392

Session of
1981

INTRODUCED BY FREIND, BROWN, COCHRAN, COSLETT, MADIGAN, ALDEN,
KUKOVICH, E. Z. TAYLOR, CALTAGIRONE, PERZEL, SWEET, COWELL,
TRELLO, COHEN, LAUGHLIN, RAPPAPORT, PETERSON, NOYE, JACKSON,
MACKOWSKI, FISCHER, MICOZZIE, ARTY, SPITZ, DAVIES, HOFFEL,
McINTYRE, O'DONNELL AND McVERRY, FEBRUARY 3, 1981

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
APRIL 27, 1981

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,"
17 requiring the affixing of official seals to liquor and
18 alcohol packages and providing penalties.

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

21 Section 1. Section 102, act of April 12, 1951 (P.L.90,
22 No.21), known as the "Liquor Code," is amended by adding a
23 definition to read:

24 Section 102. Definitions.--The following words or phrases,

1 unless the context clearly indicates otherwise, shall have the
2 meanings ascribed to them in this section:

3 * * *

4 "Official Seal" shall mean and include any insignia approved
5 by the board that is required to be affixed to a package, as
6 herein defined.

7 * * *

8 Section 2. Subsection (f) of section 208 and subsection (d)
9 of section 305 of the act, amended October 11, 1972 (P.L.906,
10 No.215), are amended to read:

11 Section 208. Specific Subjects on Which Board May Adopt
12 Regulations.--Subject to the provisions of this act and without
13 limiting the general power conferred by the preceding section,
14 the board may make regulations regarding:

15 * * *

16 (f) The sealing and labeling of liquor and alcohol sold
17 under this act and of liquor and alcohol lawfully acquired by
18 any person prior to January first, one thousand nine hundred
19 thirty-four. This section shall not be construed to authorize
20 the board to require that packages containing wine have affixed
21 thereto the official seal of the board nor shall it be construed
22 to authorize the board to allow the affixing of the official
23 seal of the board on liquor and alcohol packages after such
24 liquor or alcohol has entered the Commonwealth, except in the
25 case of Pennsylvania manufacturers AND EXCEPT IN THOSE CASES <—
26 WHERE THE BOARD DEEMS IT NECESSARY FOR THE PROPER ENFORCEMENT OF
27 THE PROVISIONS OF THIS ACT RELATING TO SEALING.

28 * * *

29 Section 305. Sales by Pennsylvania Liquor Stores.--* * *

30 (d) No liquor or alcohol, except wine, shall be sold to any

1 purchaser except in a package bearing the official seal of the
2 board required by this act and no package shall be opened on the
3 premises of a Pennsylvania Liquor Store. No manager or other
4 employe of the board employed in a Pennsylvania Liquor Store
5 shall allow any liquor or alcohol to be consumed on the store
6 premises, nor shall any person consume any liquor or alcohol on
7 such premises.

8 Section 4 3. Clauses (2) and (4) of section 491 of the act, <—
9 clause (2) amended October 2, 1974 (P.L.665, No.220) and October
10 10, 1974 (P.L.692, No.231) and clause (4) amended October 11,
11 1972 (P.L.906, No.215) are amended, and the section is amended
12 by adding a clause to read:

13 Section 491. Unlawful Acts Relative to Liquor, Alcohol and
14 Liquor Licensees.--

15 It shall be unlawful--

16 * * *

17 (2) Possession or Transportation of Liquor or Alcohol. For
18 any person, except a manufacturer or the board or the holder of
19 a sacramental wine license or of an importer's license, to
20 possess or transport any liquor or alcohol within this
21 Commonwealth which was not lawfully acquired prior to January
22 first, one thousand nine hundred and thirty-four, or has not
23 been purchased from a Pennsylvania Liquor Store or a licensed
24 limited winery in Pennsylvania, except miniatures totalling less
25 than one gallon purchased by a collector of the same in another
26 state or foreign country, or in accordance with the board's
27 regulations. The burden shall be upon the person possessing or
28 transporting such liquor or alcohol to prove that it was so
29 acquired. But nothing herein contained shall prohibit the
30 manufacture or possession of wine by any person in his home for

1 consumption of himself, his family and guests and not for sale,
2 not exceeding, during any one calendar year, two hundred
3 gallons, any other law to the contrary notwithstanding. Such
4 wine shall not be manufactured, possessed, offered for sale or
5 sold on any licensed premises.

6 None of the provisions herein contained shall prohibit nor
7 shall it be unlawful for any person to import into Pennsylvania,
8 transport or have in his possession, an amount of liquor not
9 exceeding one gallon in volume upon which a State tax has not
10 been paid, and the package in which the liquor is contained does
11 not bear the official seal of the board, if it can be shown to
12 the satisfaction of the board that such person purchased the
13 liquor in a foreign country or United States territory and was
14 allowed to bring it into the United States. Neither shall the
15 provisions contained herein prohibit nor make it unlawful for
16 (i) any member of the armed forces on active duty, or (ii) any
17 retired member of the armed forces, or (iii) any totally
18 disabled veteran, or (iv) the spouse of any person included in
19 the foregoing classes of persons to import into Pennsylvania,
20 transport or have in his possession an amount of liquor not
21 exceeding one gallon per month in volume upon which the State
22 tax has not been paid, so long as such liquor has been lawfully
23 purchased from a package store established and maintained under
24 the authority of the United States and is in containers
25 identified in accordance with regulations issued by the
26 Department of Defense. Such liquor shall not be possessed,
27 offered for sale or sold on any licensed premises.

28 None of the provisions herein contained shall prohibit nor
29 shall it be unlawful for any consul general, consul or other
30 diplomatic officer of a foreign government to import into

1 Pennsylvania, transport or have in his possession liquor upon
2 which a State tax has not been paid, if it can be shown to the
3 satisfaction of the board that such person acquired the liquor
4 in a foreign country and was allowed to bring it into the United
5 States. Such liquor shall not be possessed, offered for sale or
6 sold on any licensed premises.

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

1 shall apply.

2 * * *

3 (4) [Possession and Use of Decanters] Liquor Packages
4 Without Official Seal. For any person, [to use decanters of
5 alcoholic beverages except that the] except a manufacturer, to
6 have or keep any liquor, except wine, within the Commonwealth
7 unless the package ~~except~~ (EXCEPT the decanter or other <—
8 receptacle containing liquor for immediate consumption) in which
9 the liquor is contained while containing that liquor bears the
10 official seal of the board as originally affixed in accordance
11 with the provisions of this act or the regulations of the board.
12 Except in the case of Pennsylvania manufacturers, such seal
13 shall be affixed to the package containing the liquor prior to
14 the liquor entering the Commonwealth. The use of decanters or
15 other similar receptacles by licensees shall be permitted only
16 in the case of wines and then only in accordance with the
17 regulations of the board, but nothing herein contained shall
18 prohibit the manufacture and possession of wine as provided in
19 clause (2) of this section.

20 * * *

21 (15) Unlawful Activities Relative to Official Seal. For any
22 person to have, keep, use, utter, barter, buy, sell, traffic in,
23 manufacture or make any official seal of the board or facsimile
24 or reproduction thereof, unless authorized so to do by the
25 provisions of this act or by the regulations or the express
26 consent of the board.

27 Section 5 4. This act shall take effect in 90 days AND SHALL <—
28 BE APPLICABLE TO ALL LIQUOR PACKAGES SOLD IN THE COMMONWEALTH ON
29 AND AFTER SUCH EFFECTIVE DATE. THE PROVISIONS OF THIS AMENDATORY
30 ACT INSOFAR AS THEY WOULD REQUIRE THE SEALING OF LIQUOR

1 CONTAINERS SOLD PRIOR TO THE EFFECTIVE DATE OF THIS AMENDATORY
2 ACT SHALL NOT BE APPLICABLE UNTIL SUCH TIME AS PRESCRIBED BY THE
3 LIQUOR CONTROL BOARD BY REGULATION.