

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 757 Session of 2015

INTRODUCED BY HACKETT, JAMES, SAYLOR, KAUFFMAN, D. COSTA, SCHREIBER, V. BROWN, DAVIS, BARRAR, WATSON, GROVE, M. K. KELLER, CARROLL, DeLUCA, GABLER, A. HARRIS, SIMMONS AND KINSEY, MARCH 9, 2015

REFERRED TO COMMITTEE ON LIQUOR CONTROL, MARCH 9, 2015

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," in  
 17 licenses and regulations, liquor, alcohol and malt and brewed  
 18 beverages, further providing for unlawful acts relative to  
 19 liquor, alcohol and liquor licensees.

20 The General Assembly of the Commonwealth of Pennsylvania

21 hereby enacts as follows:

22 Section 1. Section 491 introductory paragraph and (2) of the  
 23 act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code,  
 24 reenacted and amended June 29, 1987 (P.L.32, No.14) and amended  
 25 July 5, 2012 (P.L.1007, No.116), are amended and the section is

1 amended by adding a subsection to read:

2 Section 491. Unlawful Acts Relative to Liquor, Alcohol and  
3 Liquor Licensees.--(a) It shall be unlawful--

4 \* \* \*

5 (2) (i) Possession or Transportation of Liquor or Alcohol.

6 For any person, except a manufacturer or the board or the holder  
7 of a sacramental wine license or of an importer's license, to  
8 possess or transport any liquor or alcohol within this  
9 Commonwealth which was not lawfully acquired prior to January  
10 first, one thousand nine hundred and thirty-four, or has not  
11 been purchased from a Pennsylvania Liquor Store or a licensed  
12 limited winery in Pennsylvania, except in accordance with  
13 section 488 or the board's regulations. In addition, it shall be  
14 lawful for anyone to possess miniatures totaling less than one  
15 gallon purchased in another state or a foreign country. The  
16 burden shall be upon the person possessing or transporting such  
17 liquor or alcohol to prove that it was so acquired.

18 Notwithstanding this section or any other provision of the law,  
19 wine may be produced by any person without a license if the wine  
20 is not produced for sale and total production does not exceed  
21 two hundred gallons per calendar year. Wine produced in  
22 accordance with this clause may be used at organized affairs,  
23 exhibitions, competitions, contests, tastings or judgings if it  
24 is not sold or offered for sale.

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

1 or 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)] (A) any member of the  
4 armed forces on active duty, or [(ii)] (B) any retired member of  
5 the armed forces, or [(iii)] (C) any totally disabled veteran,  
6 or [(iv)] (D) the spouse of any person included in the foregoing  
7 classes of persons to import into Pennsylvania, transport or  
8 have in his possession an amount of liquor not exceeding one  
9 gallon per month in volume upon which the State tax has not been  
10 paid, so long as such liquor has been lawfully purchased from a  
11 package store established and maintained under the authority of  
12 the United States and is in containers identified in accordance  
13 with regulations issued by the Department of Defense. Such  
14 liquor shall not be possessed, offered for sale or sold on any  
15 licensed premises. The term "package store" as used in this  
16 clause shall mean those retail operations located on any of the  
17 United States military installations, including an installation  
18 of the Army, Navy, Air Force, Marine Corps or Coast Guard.

19 (iii) None of the provisions herein contained shall prohibit  
20 nor shall it be unlawful for any consul general, consul or other  
21 diplomatic officer of a foreign government to import into  
22 Pennsylvania, transport or have in his possession liquor upon  
23 which a State tax has not been paid, if it can be shown to the  
24 satisfaction of the board that such person acquired the liquor  
25 in a foreign country and was allowed to bring it into the United  
26 States. Such liquor shall not be possessed, offered for sale or  
27 sold on any licensed premises.

28 (iv) Any person violating the provisions of this clause for  
29 a 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] shall be returned  
14 to the person if the person pays all State taxes on the liquor  
15 to the Department of Revenue. The vehicle, boat, vessel, animal  
16 or aircraft used in the illegal transportation of such packages  
17 shall not be subject to forfeiture: Provided, however, That if  
18 it is a second or subsequent offense or if it is established  
19 that the illegal possession or transportation was in connection  
20 with a commercial transaction, then the other provisions of this  
21 act providing for prosecution as a misdemeanor and for the  
22 forfeiture of the vehicle, boat, vessel, animal or aircraft  
23 shall apply.

24 \* \* \*

25 (b) (1) Nothing in this section shall be construed to  
26 prohibit any resident of this Commonwealth not licensed under  
27 this act to purchase liquor outside of this Commonwealth so  
28 long as the resident pays all State taxes on the liquor to  
29 the Department of Revenue and the liquor is not shipped into  
30 this Commonwealth.

1       (2) Nothing in this section shall be construed to prohibit  
2 any resident of this Commonwealth not licensed under this act  
3 from being reimbursed for the price of liquor purchased in  
4 another state from another resident of this Commonwealth as  
5 provided in clause (1) so long as the amount reimbursed is no  
6 more than the purchase price of the liquor and the liquor is not  
7 shipped into this Commonwealth.

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