

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 632 Session of 2017

INTRODUCED BY TAYLOR, DAVIS, STAATS, M. K. KELLER, JAMES, CAUSER, REESE, ORTITAY, A. HARRIS, SIMMONS, MENTZER, JOZWIAK, NEILSON, SANKEY, TOPPER AND SAYLOR, FEBRUARY 24, 2017

REFERRED TO COMMITTEE ON LIQUOR CONTROL, FEBRUARY 24, 2017

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 are amended and the section is amended by adding a subsection to
25 read:

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

1 Liquor Licensees.--(a) It shall be unlawful--

2 * * *

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

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

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

23 (ii) None of the provisions herein contained shall prohibit
24 nor shall it be unlawful for any person to import into
25 Pennsylvania, transport or have in his possession, an amount of
26 liquor not exceeding one gallon in volume upon which a State tax
27 has not been paid, if it can be shown to the satisfaction of the
28 board that such person purchased the liquor in a foreign country
29 or 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)] (A) any member of the
2 armed forces on active duty, or [(ii)] (B) any retired member of
3 the armed forces, or [(iii)] (C) any totally disabled veteran,
4 or [(iv)] (D) the spouse of any person included in the foregoing
5 classes of persons to import into Pennsylvania, transport or
6 have in his possession an amount of liquor not exceeding one
7 gallon per month in volume upon which the State tax has not been
8 paid, so long as such liquor has been lawfully purchased from a
9 package store established and maintained under the authority of
10 the United States and is in containers identified in accordance
11 with regulations issued by the Department of Defense. Such
12 liquor shall not be possessed, offered for sale or sold on any
13 licensed premises. The term "package store" as used in this
14 clause shall mean those retail operations located on any of the
15 United States military installations, including an installation
16 of the Army, Navy, Air Force, Marine Corps or Coast Guard.

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

26 (iv) Any person violating the provisions of this clause for
27 a first offense involving the possession or transportation in
28 Pennsylvania of any liquor in a package (bottle or other
29 receptacle) or wine not purchased from a Pennsylvania Liquor
30 Store or from a licensed limited winery in Pennsylvania, with

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

22 * * *

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

29 (2) Nothing in this section shall be construed to prohibit
30 any resident of this Commonwealth not licensed under this act

1 from being reimbursed for the price of liquor purchased in
2 another state from another resident of this Commonwealth as
3 provided in clause (1) so long as the amount reimbursed is no
4 more than the purchase price of the liquor and the liquor is not
5 shipped into this Commonwealth.

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