

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2230 Session of 1978

INTRODUCED BY MRS. WISE, MRS. HARPER, MESSRS. IRVIS, MANDERINO, REED, FLAHERTY, DAVIES, GLEESON, J. L. WRIGHT JR., MEBUS, BROWN, HOEFFEL, KUKOVICH, COLE, RHODES, ITKIN, HASKELL, MILANOVICH, COHEN, O'DONNELL, SWEET, ZEARFOSS, LEVIN, MRS. HONAMAN, MRS. TAYLOR, MESSRS. PICCOLA, SCIRICA, COWELL, MRS. GEORGE, MRS. GILLETTE, MRS. KERNICK, MESSRS. POTT, RICHARDSON AND WHITE, APRIL 3, 1978

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES, JUNE 22, 1978

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 AND providing for
19 equal rights between men and women by changing provisions
20 relating to employment of females.

<—

21 The General Assembly of the Commonwealth of Pennsylvania
22 hereby enacts as follows:

23 SECTION 1. SECTION 102, ACT OF APRIL 12, 1951 (P.L.90,
24 NO.21), KNOWN AS THE "LIQUOR CODE," IS AMENDED BY ADDING A

<—

1 DEFINITION TO READ:

2 SECTION 102. DEFINITIONS.--THE FOLLOWING WORDS OR PHRASES,
3 UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE, SHALL HAVE THE
4 MEANINGS ASCRIBED TO THEM IN THIS SECTION:

5 * * *

6 "OFFICIAL SEAL" SHALL MEAN AND INCLUDE ANY INSIGNIA APPROVED
7 BY THE BOARD THAT IS REQUIRED TO BE AFFIXED TO A PACKAGE, AS
8 HEREIN DEFINED.

9 * * *

10 SECTION 2. SUBSECTION (F) OF SECTION 208 AND SUBSECTION (D)
11 OF SECTION 305, OF THE ACT AMENDED OCTOBER 11, 1972 (P.L.906,
12 NO.215), ARE AMENDED TO READ:

13 SECTION 208. SPECIFIC SUBJECTS ON WHICH BOARD MAY ADOPT
14 REGULATIONS.--SUBJECT TO THE PROVISIONS OF THIS ACT AND WITHOUT
15 LIMITING THE GENERAL POWER CONFERRED BY THE PRECEDING SECTION,
16 THE BOARD MAY MAKE REGULATIONS REGARDING:

17 * * *

18 (F) THE SEALING AND LABELING OF LIQUOR AND ALCOHOL SOLD
19 UNDER THIS ACT AND OF LIQUOR AND ALCOHOL LAWFULLY ACQUIRED BY
20 ANY PERSON PRIOR TO JANUARY FIRST, ONE THOUSAND NINE HUNDRED
21 THIRTY-FOUR. THIS SECTION SHALL NOT BE CONSTRUED TO AUTHORIZE
22 THE BOARD TO REQUIRE THAT PACKAGES CONTAINING WINE HAVE AFFIXED
23 THERE TO THE OFFICIAL SEAL OF THE BOARD.

24 * * *

25 SECTION 305. SALES BY PENNSYLVANIA LIQUOR STORES.--* * *

26 (D) NO LIQUOR OR ALCOHOL, EXCEPT WINE, SHALL BE SOLD TO ANY
27 PURCHASER EXCEPT IN A PACKAGE BEARING THE OFFICIAL SEAL OF THE
28 BOARD REQUIRED BY THIS ACT AND NO PACKAGE SHALL BE OPENED ON THE
29 PREMISES OF A PENNSYLVANIA LIQUOR STORE. NO MANAGER OR OTHER
30 EMPLOYEE OF THE BOARD EMPLOYED IN A PENNSYLVANIA LIQUOR STORE

1 SHALL ALLOW ANY LIQUOR OR ALCOHOL TO BE CONSUMED ON THE STORE
2 PREMISES, NOR SHALL ANY PERSON CONSUME ANY LIQUOR OR ALCOHOL ON
3 SUCH PREMISES.

4 * * *

5 SECTION 3. CLAUSES (2) AND (4) OF SECTION 491 OF THE ACT,
6 CLAUSE (2) AMENDED OCTOBER 2, 1974 (P.L.665, NO.220) AND OCTOBER
7 10, 1974 (P.L.692, NO.231) AND CLAUSE (4) AMENDED OCTOBER 11,
8 1972 (P.L.906, NO.215) ARE AMENDED, AND THE SECTION IS AMENDED
9 BY ADDING A CLAUSE TO READ:

10 SECTION 491. UNLAWFUL ACTS RELATIVE TO LIQUOR, ALCOHOL AND
11 LIQUOR LICENSEES.--

12 IT SHALL BE UNLAWFUL--

13 * * *

14 (2) POSSESSION OR TRANSPORTATION OF LIQUOR OR ALCOHOL. FOR
15 ANY PERSON, EXCEPT A MANUFACTURER OR THE BOARD OR THE HOLDER OF
16 A SACRAMENTAL WINE LICENSE OR OF AN IMPORTER'S LICENSE, TO
17 POSSESS OR TRANSPORT ANY LIQUOR OR ALCOHOL WITHIN THIS
18 COMMONWEALTH WHICH WAS NOT LAWFULLY ACQUIRED PRIOR TO JANUARY
19 FIRST, ONE THOUSAND NINE HUNDRED AND THIRTY-FOUR, OR HAS NOT
20 BEEN PURCHASED FROM A PENNSYLVANIA LIQUOR STORE OR A LICENSED
21 LIMITED WINERY IN PENNSYLVANIA, EXCEPT MINIATURES TOTTALLING LESS
22 THAN ONE GALLON PURCHASED BY A COLLECTOR OF THE SAME IN ANOTHER
23 STATE OR FOREIGN COUNTRY, OR IN ACCORDANCE WITH THE BOARD'S
24 REGULATIONS. THE BURDEN SHALL BE UPON THE PERSON POSSESSING OR
25 TRANSPORTING SUCH LIQUOR OR ALCOHOL TO PROVE THAT IT WAS SO
26 ACQUIRED. BUT NOTHING HEREIN CONTAINED SHALL PROHIBIT THE
27 MANUFACTURE OR POSSESSION OF WINE BY ANY PERSON IN HIS HOME FOR
28 CONSUMPTION OF HIMSELF, HIS FAMILY AND GUESTS AND NOT FOR SALE,
29 NOT EXCEEDING, DURING ANY ONE CALENDAR YEAR, TWO HUNDRED
30 GALLONS, ANY OTHER LAW TO THE CONTRARY NOTWITHSTANDING. SUCH

1 WINE SHALL NOT BE MANUFACTURED, POSSESSED, OFFERED FOR SALE OR
2 SOLD ON ANY LICENSED PREMISES.

3 NONE OF THE PROVISIONS HEREIN CONTAINED SHALL PROHIBIT NOR
4 SHALL IT BE UNLAWFUL FOR ANY PERSON TO IMPORT INTO PENNSYLVANIA,
5 TRANSPORT OR HAVE IN HIS POSSESSION, AN AMOUNT OF LIQUOR NOT
6 EXCEEDING ONE GALLON IN VOLUME UPON WHICH A STATE TAX HAS NOT
7 BEEN PAID, AND THE PACKAGE IN WHICH THE LIQUOR IS CONTAINED DOES
8 NOT BEAR THE OFFICIAL SEAL OF THE BOARD, IF IT CAN BE SHOWN TO
9 THE SATISFACTION OF THE BOARD THAT SUCH PERSON PURCHASED THE
10 LIQUOR IN A FOREIGN COUNTRY OR UNITED STATES TERRITORY AND WAS
11 ALLOWED TO BRING IT INTO THE UNITED STATES. NEITHER SHALL THE
12 PROVISIONS CONTAINED HEREIN PROHIBIT NOR MAKE IT UNLAWFUL FOR
13 (I) ANY MEMBER OF THE ARMED FORCES ON ACTIVE DUTY, OR (II) ANY
14 RETIRED MEMBER OF THE ARMED FORCES, OR (III) ANY TOTALLY
15 DISABLED VETERAN, OR (IV) THE SPOUSE OF ANY PERSON INCLUDED IN
16 THE FOREGOING CLASSES OF PERSONS TO IMPORT INTO PENNSYLVANIA,
17 TRANSPORT OR HAVE IN HIS POSSESSION AN AMOUNT OF LIQUOR NOT
18 EXCEEDING ONE GALLON PER MONTH IN VOLUME UPON WHICH THE STATE
19 TAX HAS NOT BEEN PAID, SO LONG AS SUCH LIQUOR HAS BEEN LAWFULLY
20 PURCHASED FROM A PACKAGE STORE ESTABLISHED AND MAINTAINED UNDER
21 THE AUTHORITY OF THE UNITED STATES AND IS IN CONTAINERS
22 IDENTIFIED IN ACCORDANCE WITH REGULATIONS ISSUED BY THE
23 DEPARTMENT OF DEFENSE. SUCH LIQUOR SHALL NOT BE POSSESSED,
24 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 CONSUL GENERAL, CONSUL OR OTHER
27 DIPLOMATIC OFFICER OF A FOREIGN GOVERNMENT TO IMPORT INTO
28 PENNSYLVANIA, TRANSPORT OR HAVE IN HIS POSSESSION LIQUOR UPON
29 WHICH A STATE TAX HAS NOT BEEN PAID, IF IT CAN BE SHOWN TO THE
30 SATISFACTION OF THE BOARD THAT SUCH PERSON ACQUIRED THE LIQUOR

1 IN A FOREIGN COUNTRY AND WAS ALLOWED TO BRING IT INTO THE UNITED
2 STATES. SUCH LIQUOR SHALL NOT BE POSSESSED, OFFERED FOR SALE OR
3 SOLD ON ANY LICENSED PREMISES.

4 ANY PERSON VIOLATING THE PROVISIONS OF THIS CLAUSE FOR A
5 FIRST OFFENSE INVOLVING THE POSSESSION OR TRANSPORTATION IN
6 PENNSYLVANIA OF ANY LIQUOR IN A PACKAGE (BOTTLE OR OTHER
7 RECEPTACLE) WHICH DOES NOT BEAR THE OFFICIAL SEAL OF THE BOARD
8 OR WINE NOT PURCHASED FROM A PENNSYLVANIA LIQUOR STORE OR FROM A
9 LICENSED LIMITED WINERY IN PENNSYLVANIA, WITH RESPECT TO WHICH
10 SATISFACTORY PROOF IS PRODUCED THAT THE REQUIRED FEDERAL TAX HAS
11 BEEN PAID AND WHICH WAS PURCHASED, PROCURED OR ACQUIRED LEGALLY
12 OUTSIDE OF PENNSYLVANIA SHALL UPON CONVICTION THEREOF IN A
13 SUMMARY PROCEEDING BE SENTENCED TO PAY A FINE OF TWENTY-FIVE
14 DOLLARS (\$25) FOR EACH SUCH PACKAGE, PLUS COSTS OF PROSECUTION,
15 OR UNDERGO IMPRISONMENT FOR A TERM NOT EXCEEDING NINETY (90)
16 DAYS. EACH FULL QUART OR MAJOR FRACTION THEREOF SHALL BE
17 CONSIDERED A SEPARATE PACKAGE (BOTTLE OR OTHER RECEPTACLE) FOR
18 THE PURPOSES OF THIS CLAUSE. SUCH PACKAGES OF LIQUOR SHALL BE
19 FORFEITED TO THE COMMONWEALTH IN THE MANNER PRESCRIBED IN
20 ARTICLE VI OF THIS ACT BUT THE VEHICLE, BOAT, VESSEL, ANIMAL OR
21 AIRCRAFT USED IN THE ILLEGAL TRANSPORTATION OF SUCH PACKAGES
22 SHALL NOT BE SUBJECT TO FORFEITURE: PROVIDED, HOWEVER, THAT IF
23 IT IS A SECOND OR SUBSEQUENT OFFENSE OR IF IT IS ESTABLISHED
24 THAT THE ILLEGAL POSSESSION OR TRANSPORTATION WAS IN CONNECTION
25 WITH A COMMERCIAL TRANSACTION, THEN THE OTHER PROVISIONS OF THIS
26 ACT PROVIDING FOR PROSECUTION AS A MISDEMEANOR AND FOR THE
27 FORFEITURE OF THE VEHICLE, BOAT, VESSEL, ANIMAL OR AIRCRAFT
28 SHALL APPLY.

29 * * *

30 (4) [POSSESSION AND USE OF DECANTERS] LIQUOR PACKAGES

1 WITHOUT OFFICIAL SEAL. FOR ANY PERSON [TO USE DECANTERS OF
2 ALCOHOLIC BEVERAGES EXCEPT THAT THE] , EXCEPT A MANUFACTURER OR
3 THE BOARD OR THE HOLDER OF AN IMPORTER'S LICENSE, TO HAVE OR
4 KEEP ANY LIQUOR, EXCEPT WINE, WITHIN THE COMMONWEALTH UNLESS THE
5 PACKAGE (EXCEPT THE DECANTER OR OTHER RECEPTACLE CONTAINING
6 LIQUOR FOR IMMEDIATE CONSUMPTION) IN WHICH THE LIQUOR IS
7 CONTAINED WHILE CONTAINING THAT LIQUOR BEARS THE OFFICIAL SEAL
8 OF THE BOARD AS ORIGINALLY AFFIXED IN ACCORDANCE WITH THE
9 PROVISIONS OF THIS ACT OR THE REGULATIONS OF THE BOARD. THE USE
10 OF DECANTERS OR OTHER SIMILAR RECEPTACLES BY LICENSEES SHALL BE
11 PERMITTED ONLY IN THE CASE OF WINES AND THEN ONLY IN ACCORDANCE
12 WITH THE REGULATIONS OF THE BOARD, BUT NOTHING HEREIN CONTAINED
13 SHALL PROHIBIT THE MANUFACTURE AND POSSESSION OF WINE AS
14 PROVIDED IN CLAUSE (2) OF THIS SECTION.

15 * * *

16 (15) FOR ANY PERSON TO HAVE, KEEP, USE, UTTER, BARTER, BUY,
17 SELL, TRAFFIC IN, MANUFACTURE OR MAKE ANY OFFICIAL SEAL OF THE
18 BOARD OR FACSIMILE OR REPRODUCTION THEREOF, UNLESS AUTHORIZED SO
19 TO DO BY THE PROVISIONS OF THIS ACT OR BY THE REGULATIONS OR THE
20 EXPRESS CONSENT OF THE BOARD.

21 Section ~~4~~ 4. Clause (25) of section 493, ~~act of April 12,~~ <—
22 ~~1951 (P.L.90, No.21), known as the "Liquor Code,"~~ OF THE ACT, <—
23 amended September 25, 1967 (P.L.307, No.135), is amended to
24 read:

25 Section 493. Unlawful Acts Relative to Liquor, Malt and
26 Brewed Beverages and Licensees.--The term "licensee," when used
27 in this section, shall mean those persons licensed under the
28 provisions of Article IV, unless the context clearly indicates
29 otherwise.

30 It shall be unlawful--

1 * * *

2 (25) Employment [of Females] in Licensed Places.--For any
3 licensee or his agent, to employ or permit the employment of any
4 [female] person at his licensed hotel, restaurant or eating
5 place for the purpose of enticing customers, or to encourage
6 them to drink liquor, or make assignations for improper
7 purposes. [: Provided, That nothing in this section shall be
8 construed to prevent the employment of any female waitress who
9 regularly takes orders for food from serving food, liquor or
10 malt or brewed beverages at tables; also, that nothing shall
11 prevent any such licensees from employing any female
12 stenographer, hotel secretary, clerk or other employe for their
13 respective positions: Provided further, That nothing in this
14 section shall be so construed as to prevent the wife of any such
15 licensee or agent or any employed female from mixing or serving
16 liquor or malt or brewed beverages behind the bar of any such
17 licensed place.]

18 Any person violating the provisions of this clause shall be
19 guilty of a misdemeanor and, upon conviction of the same, shall
20 be sentenced to pay a fine of not less than one hundred dollars
21 (\$100), nor more than five hundred dollars (\$500), for each and
22 every [female] person so employed, or undergo an imprisonment of
23 not less than three (3) months, nor more than one (1) year, or
24 either or both, at the discretion of the court having
25 jurisdiction of the case. The board shall have the power to
26 revoke or refuse licenses for violation of this clause.

27 * * *

28 Section ~~2~~ 5. This act shall take effect in 60 days.

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