

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 AND O'DONNELL, FEBRUARY 3, 1981

REFERRED TO COMMITTEE ON LIQUOR CONTROL, FEBRUARY 3, 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.

26 \* \* \*

27 Section 305. Sales by Pennsylvania Liquor Stores.--\* \* \*

28 (d) No liquor or alcohol, except wine, shall be sold to any  
29 purchaser except in a package bearing the official seal of the  
30 board required by this act and no package shall be opened on the

1 premises of a Pennsylvania Liquor Store. No manager or other  
2 employe of the board employed in a Pennsylvania Liquor Store  
3 shall allow any liquor or alcohol to be consumed on the store  
4 premises, nor shall any person consume any liquor or alcohol on  
5 such premises.

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

11 Section 491. Unlawful Acts Relative to Liquor, Alcohol and  
12 Liquor Licensees.--

13 It shall be unlawful--

14 \* \* \*

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

1 gallons, any other law to the contrary notwithstanding. Such  
2 wine shall not be manufactured, possessed, offered for sale or  
3 sold on any licensed premises.

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

26 None of the provisions herein contained shall prohibit nor  
27 shall it be unlawful for any consul general, consul or other  
28 diplomatic officer of a foreign government to import into  
29 Pennsylvania, transport or have in his possession liquor upon  
30 which a State tax has not been paid, if it can be shown to the

1 satisfaction of the board that such person acquired the liquor  
2 in a foreign country and was allowed to bring it into the United  
3 States. Such liquor shall not be possessed, offered for sale or  
4 sold on any licensed premises.

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

30 \* \* \*

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

18       \* \* \*

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

25       Section 5. This act shall take effect in 90 days.