

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 867 Session of
2001

INTRODUCED BY FLICK, WILT, McILHINNEY, GEIST, BISHOP,
CALTAGIRONE, L. I. COHEN, COLAFELLA, CRUZ, CURRY, FEESE,
HORSEY, JAMES, MELIO, METCALFE, MICOZZIE, RUBLEY, SAYLOR,
STABACK, STEELMAN, T. STEVENSON, THOMAS, TRELLO, TULLI,
C. WILLIAMS AND YOUNGBLOOD, MARCH 8, 2001

REFERRED TO COMMITTEE ON LIQUOR CONTROL, MARCH 8, 2001

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,"
17 further providing for possession, transportation and
18 importation of liquor or alcohol.

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

21 Section 1. Sections 491(2), (3), (4), (8) and (11) and
22 492(10) of the act of April 12, 1951 (P.L.90, No.21), known as
23 the Liquor Code, reenacted and amended June 29, 1987 (P.L.32,
24 No.14), are amended to read:

1 Section 491. Unlawful Acts Relative to Liquor, Alcohol and
2 Liquor Licensees.--

3 It shall be unlawful--

4 * * *

5 (2) Possession or Transportation of Liquor or Alcohol. For
6 any person, except a manufacturer or the board or the holder of
7 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 [miniatures totalling
13 less than one gallon purchased by a collector of the same in
14 another state or foreign country, or] in accordance with the
15 board's regulations. The burden shall be upon the person
16 possessing or transporting such liquor or alcohol to prove that
17 it was so acquired. But nothing herein contained shall prohibit
18 the manufacture or possession of wine by any person in his home
19 for consumption of himself, his family and guests and not for
20 sale, not exceeding, during any one calendar year, two hundred
21 gallons, any other law to the contrary notwithstanding. Such
22 wine shall not be manufactured, possessed, offered for sale or
23 sold on any licensed premises.

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

1 United States. Neither shall the provisions contained herein
2 prohibit nor make it unlawful for (i) any member of the armed
3 forces on active duty, or (ii) any retired member of the armed
4 forces, or (iii) any totally disabled veteran, or (iv) the
5 spouse of any person included in the foregoing classes of
6 persons to import into Pennsylvania, transport or have in his
7 possession an amount of liquor not exceeding one gallon per
8 month in volume upon which the State tax has not been paid, so
9 long as such liquor has been lawfully purchased from a package
10 store established and maintained under the authority of the
11 United States and is in containers identified in accordance with
12 regulations issued by the Department of Defense. Such liquor
13 shall not be possessed, offered for sale or sold on any licensed
14 premises.

15 None of the provisions herein contained shall prohibit nor
16 shall it be unlawful for any consul general, consul or other
17 diplomatic officer of a foreign government to import into
18 Pennsylvania, transport or have in his possession liquor upon
19 which a State tax has not been paid, if it can be shown to the
20 satisfaction of the board that such person acquired the liquor
21 in a foreign country and was allowed to bring it into the United
22 States. Such liquor shall not be possessed, offered for sale or
23 sold on any licensed premises]. Nothing in this act shall be
24 construed to prohibit any person from possessing or transporting
25 within this Commonwealth any liquor or alcohol not purchased in
26 this Commonwealth for the exclusive purpose of consumption
27 within such person's private home.

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

22 (3) Purchase of Liquor or Alcohol. For any person within
23 this Commonwealth, by himself or by an employe or agent, to
24 attempt to purchase, or directly or indirectly, or upon any
25 pretense or device whatsoever, to purchase any liquor or alcohol
26 from any person or source other than a Pennsylvania Liquor
27 Store, except in accordance with the provisions of this act or
28 the regulations of the board. This act shall not be construed to
29 prohibit any person from purchasing any liquor or alcohol
30 outside of this Commonwealth for the exclusive purpose of

1 consumption within such person's private home.

2 [(4) Possession and Use of Decanters. For any person to use
3 decanters of alcoholic beverages except that the use of
4 decanters or other similar receptacles by licensees shall be
5 permitted in the case of wines and then only in accordance with
6 the regulations of the board, but nothing herein contained shall
7 prohibit the manufacture and possession of wine as provided in
8 clause (2) of this section.]

9 * * *

10 (8) Importation and Sales of Alcohol. For any person, to
11 import alcohol into this Commonwealth, or to sell alcohol to any
12 person, except in accordance with the regulations of the board.
13 This act shall not be construed to prohibit any person from
14 importing alcohol into this Commonwealth for the exclusive
15 purpose of consumption within such person's private home.

16 * * *

17 (11) Importation of Liquor. For any person, other than the
18 board or the holder of a sacramental wine license or of an
19 importer's license, to import any liquor whatsoever into this
20 Commonwealth, but this section shall not be construed to
21 prohibit railroad and pullman companies from selling liquors
22 purchased outside the Commonwealth in their dining, club and
23 buffet cars which are covered by public service liquor licenses
24 and which are operated in this Commonwealth. This act shall also
25 not be construed to prohibit any person from importing liquor
26 into this Commonwealth for the exclusive purpose of consumption
27 within such person's private home.

28 * * *

29 Section 492. Unlawful Acts Relative to Malt or Brewed
30 Beverages and Licensees.--

1 * * *

2 (10) Importing or Transporting Malt or Brewed Beverages
3 Without Tax Stamps. For any person, to transport within or
4 import any malt or brewed beverages into this Commonwealth,
5 except in accordance with the rules and regulations of the
6 board, or for any person to transport malt or brewed beverages
7 into or within this Commonwealth, unless there shall be affixed
8 to the original containers in which such malt or brewed
9 beverages are transported, stamps or crowns evidencing the
10 payment of the malt liquor tax to the Commonwealth: Provided,
11 however, That this clause shall not be construed to prohibit
12 transportation of malt or brewed beverages through this
13 Commonwealth and not for delivery therein, if such transporting
14 is done in accordance with the rules and regulations of the
15 board. This act shall also not be construed to prohibit any
16 person from purchasing malt or brewed beverages outside this
17 Commonwealth, or from possessing or transporting these beverages
18 within this Commonwealth for the exclusive purpose of
19 consumption within such person's private home.

20 * * *

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