

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2050 Session of
2003

INTRODUCED BY FLICK, MCGEEHAN, CRUZ, WILT, DENLINGER, FABRIZIO,
HARPER, HORSEY, KENNEY, KILLION, LEACH, LEH, SCAVELLO,
SCHRODER, SURRA, THOMAS, WANSACZ AND YOUNGBLOOD,
SEPTEMBER 30, 2003

REFERRED TO COMMITTEE ON LIQUOR CONTROL, SEPTEMBER 30, 2003

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. Section 491(2), (3), (4), (8) and (11) of the act
22 of April 12, 1951 (P.L.90, No.21), known as the Liquor Code,
23 reenacted and amended June 29, 1987 (P.L.32, No.14), and amended
24 February 21, 2002 (P.L.103, No.10) and December 9, 2002
25 (P.L.1653, No.212), 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 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. But nothing
18 herein contained shall prohibit the manufacture or possession of
19 wine by any person in his home for consumption of himself, his
20 family and guests and not for sale, not exceeding, during any
21 one calendar year, two hundred gallons, any other law to the
22 contrary notwithstanding. Such wine shall not be manufactured,
23 possessed, offered for sale or 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 section 488 and the
13 regulations of the board. This act shall not be construed to
14 prohibit any person from importing alcohol into this
15 Commonwealth for the exclusive purpose of consumption within
16 such person's private home.

17 * * *

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

30 * * *

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