
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 839 Session of
2011

INTRODUCED BY SONNEY, BARRAR, EVERETT, FABRIZIO, GODSHALL AND
PYLE, FEBRUARY 28, 2011

REFERRED TO COMMITTEE ON LIQUOR CONTROL, FEBRUARY 28, 2011

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 unlawful acts relating to wine and for
18 limited wineries.

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

21 Section 1. Section 491(2), (8) and (11) of the act of April
22 12, 1951 (P.L.90, No.21), known as the Liquor Code, reenacted
23 and amended June 29, 1987 (P.L.32, No.14) and amended February
24 21, 2002 (P.L.103, No.10), December 9, 2002 (P.L.1653, No.212)
25 and July 7, 2006 (P.L.584, No.84), are amended to read:

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

1 Liquor Licensees.--

2 It shall be unlawful--

3 * * *

4 (2) Possession or Transportation of Liquor or Alcohol. For
5 any person, except a manufacturer or the board or the holder of
6 a sacramental wine license or of an importer's license, to
7 possess or transport any liquor or alcohol within this
8 Commonwealth which was not lawfully acquired prior to January
9 first, one thousand nine hundred and thirty-four, or has not
10 been purchased from a Pennsylvania Liquor Store or a licensed
11 limited winery in Pennsylvania, except in accordance with
12 section 488 or the board's regulations. In addition, it shall be
13 lawful for anyone to possess miniatures totaling less than one
14 gallon purchased in another state or a foreign country. The
15 burden shall be upon the person possessing or transporting such
16 liquor or alcohol to prove that it was so acquired.
17 Notwithstanding this section or any other provision of the law,
18 wine may be produced by any person without a license if the wine
19 is not produced for sale and total production does not exceed
20 two hundred gallons per calendar year. Wine produced in
21 accordance with this clause may be used at organized affairs,
22 exhibitions, competitions, contests, tastings or judgings if it
23 is not sold or offered for sale.

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.

24 Notwithstanding this section or any other provision of law,
25 wine may be imported into and transported within this
26 Commonwealth by out-of-State wineries which hold a permit as
27 provided in section 505.2(a)(4).

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 * * *

23 (8) Importation and Sales of Alcohol. For any person, to
24 import alcohol into this Commonwealth, or to sell alcohol to any
25 person, except in accordance with section 488 and the
26 regulations of the board. Notwithstanding this section or any
27 other provision of law, wine may be imported into and
28 transported within this Commonwealth by out-of-State wineries
29 which hold a permit as provided in section 505.2(a)(4).

30 * * *

1 (11) Importation of Liquor. For any person, other than the
2 board or the holder of a sacramental wine license, an importer's
3 license or a direct shipper's license, to import any liquor
4 whatsoever into this Commonwealth, but this section shall not be
5 construed to prohibit railroad and pullman companies from
6 purchasing and selling liquors purchased outside the
7 Commonwealth in their dining, club and buffet cars which are
8 covered by public service liquor licenses and which are operated
9 in this Commonwealth. Notwithstanding this section or any other
10 provision of law, wine may be imported into and transported
11 within the Commonwealth by out-of-State wineries which hold a
12 permit as provided in section 505.2(a)(4).

13 * * *

14 Section 2. Section 505.2(a)(4) of the act, amended July 16,
15 2007 (P.L.107, No.34), is amended and the subsection is amended
16 by adding a paragraph to read:

17 Section 505.2. Limited Wineries.--(a) In the interest of
18 promoting tourism and recreational development in Pennsylvania,
19 holders of a limited winery license may:

20 * * *

21 (4) (i) At the discretion of the board, obtain a special
22 permit to participate in alcoholic cider, wine and food
23 expositions off the licensed premises. A special permit shall be
24 issued upon proper application and payment of a fee of thirty
25 dollars (\$30) per day for each day of permitted use, not to
26 exceed five (5) consecutive days. The total number of days for
27 all the special permits may not exceed forty (40) days in any
28 calendar year. A special permit shall entitle the holder to
29 engage in the sale by the glass, by the bottle or in case lots
30 of alcoholic cider or wine produced by the permittee under the

1 authority of a limited winery license. Holders of special
2 permits may provide tasting samples of wines in individual
3 portions not to exceed one fluid ounce. Samples at alcoholic
4 cider, wine and food expositions may be sold or offered free of
5 charge. Except as provided herein, limited wineries utilizing
6 special permits shall be governed by all applicable provisions
7 of this act as well as by all applicable regulations or
8 conditions adopted by the board.

9 For the purposes of this clause, "alcoholic cider, wine and
10 food expositions" are defined as affairs held indoors or
11 outdoors with the intent of [promoting Pennsylvania products by]
12 educating those in attendance of the availability, nature and
13 quality of [Pennsylvania-produced] alcoholic ciders and wines in
14 conjunction with suitable food displays, demonstrations and
15 sales. Alcoholic cider, wine and food expositions may also
16 include activities other than alcoholic cider, wine and food
17 displays, including arts and crafts, musical activities,
18 cultural exhibits, agricultural exhibits and farmers markets.

19 (ii) At the discretion of the board, wineries located
20 outside of Pennsylvania holding a valid winery or wine
21 manufacturing license issued by another state and producing no
22 more than two hundred thousand (200,000) gallons of wine per
23 year may obtain a special permit to participate in alcoholic
24 cider, wine and food expositions within this Commonwealth. A
25 special permit shall be issued upon proper application and
26 payment of a fee of thirty dollars (\$30) per day for each day
27 of permitted use, not to exceed five (5) consecutive days. The
28 total number of days for all special permits shall not exceed
29 forty (40) days in any calendar year. A special permit shall
30 entitle the holder to engage in the sale by the glass, by the

1 bottle or in case lots of alcoholic cider or wine produced by
2 the permittee. Holders of special permits may provide tasting
3 samples of wine in individual portions not to exceed one fluid
4 ounce. Samples of alcoholic cider, wine and food expositions may
5 be sold or offered free of charge. Except as provided herein,
6 any out-of-State winery utilizing special permits issued by this
7 subsection shall be governed by all applicable provisions of
8 this act as well as by all applicable regulations or conditions
9 adopted by the board.

10 For the purpose of this clause, alcoholic cider, wine and
11 food expositions are defined as affairs held indoors or outdoors
12 with the intent of educating those in attendance of the
13 availability, nature and quality of alcoholic ciders and wines
14 in conjunction with suitable food displays, including arts and
15 crafts, musical activities, cultural exhibits, agricultural
16 exhibits and farmers markets.

17 * * *

18 Section 3. This act shall take effect in 60 days.