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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2267 Session of  
2012

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INTRODUCED BY GABLER, CAUSER, ELLIS, EVERETT, GEORGE, GRELL,  
HARHART, HESS, HORNAMAN, METZGAR, MILLER, MURT, READSHAW,  
ROAE, SAINATO, SONNEY AND VULAKOVICH, MARCH 19, 2012

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REFERRED TO COMMITTEE ON LIQUOR CONTROL, MARCH 19, 2012

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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 relative to liquor,  
18 alcohol and liquor licensees.

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

21 Section 1. Section 491(2) of the act of April 12, 1951  
22 (P.L.90, No.21), known as the Liquor Code, reenacted and amended  
23 June 29, 1987 (P.L.32, No.14) and amended July 7, 2006 (P.L.584,  
24 No.84), is amended to read:

25 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. The term "package store" as used in this clause shall  
15 mean those retail operations located on any of the United States  
16 military installations, including an installation of the Army,  
17 Navy, Air Force, Marine Corps or Coast Guard.

18 None of the provisions herein contained shall prohibit nor  
19 shall it be unlawful for any consul general, consul or other  
20 diplomatic officer of a foreign government to import into  
21 Pennsylvania, transport or have in his possession liquor upon  
22 which a State tax has not been paid, if it can be shown to the  
23 satisfaction of the board that such person acquired the liquor  
24 in a foreign country and was allowed to bring it into the United  
25 States. Such liquor shall not be possessed, offered for sale or  
26 sold on any licensed premises.

27 Any person violating the provisions of this clause for a  
28 first offense involving the possession or transportation in  
29 Pennsylvania of any liquor in a package (bottle or other  
30 receptacle) or wine not purchased from a Pennsylvania Liquor

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

21 \* \* \*

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