

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 793 Session of 2013

INTRODUCED BY SONNEY, COHEN, EVERETT, FABRIZIO, FREEMAN,
 GINGRICH, HARKINS, KAUFFMAN, LUCAS, MILLARD AND GIBBONS,
 FEBRUARY 25, 2013

REFERRED TO COMMITTEE ON LIQUOR CONTROL, FEBRUARY 25, 2013

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 and for 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 5, 2012 (P.L.1007, No.116), 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.
18 Notwithstanding this section or any other provision of the law,
19 wine may be produced by any person without a license if the wine
20 is not produced for sale and total production does not exceed
21 two hundred gallons per calendar year. Wine produced in
22 accordance with this clause may be used at organized affairs,
23 exhibitions, competitions, contests, tastings or judgings if it
24 is not sold or offered for sale.

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

1 United States territory and was allowed to bring it into the
2 United States. Neither shall the provisions contained herein
3 prohibit nor make it unlawful for (i) any member of the armed
4 forces on active duty, or (ii) any retired member of the armed
5 forces, or (iii) any totally disabled veteran, or (iv) the
6 spouse of any person included in the foregoing classes of
7 persons to import into Pennsylvania, transport or have in his
8 possession an amount of liquor not exceeding one gallon per
9 month in volume upon which the State tax has not been paid, so
10 long as such liquor has been lawfully purchased from a package
11 store established and maintained under the authority of the
12 United States and is in containers identified in accordance with
13 regulations issued by the Department of Defense. Such liquor
14 shall not be possessed, offered for sale or sold on any licensed
15 premises. The term "package store" as used in this clause shall
16 mean those retail operations located on any of the United States
17 military installations, including an installation of the Army,
18 Navy, Air Force, Marine Corps or Coast Guard.

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

28 Notwithstanding this section or any other provision of the
29 law, wine may be imported into and transported within this
30 Commonwealth by out-of-State wineries which hold a permit as

1 provided in section 505.2(a)(4).

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

26 * * *

27 (8) Importation and Sales of Alcohol. For any person, to
28 import alcohol into this Commonwealth, or to sell alcohol to any
29 person, except in accordance with section 488 and the
30 regulations of the board. Notwithstanding this section or any

1 other provision of law, wine may be imported into and
2 transported within this Commonwealth by out-of-State wineries
3 which hold a permit as provided in section 505.2(a)(4).

4 * * *

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

17 * * *

18 Section 2. Section 505.2(a)(4) of the act, amended December
19 22, 2011 (P.L.530, No.113), is amended to read:

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

23 * * *

24 (4) (i) At the discretion of the board, obtain a special
25 permit to participate in alcoholic cider, wine and food
26 expositions off the licensed premises. A special permit shall be
27 issued upon proper application and payment of a fee of thirty
28 dollars (\$30) per day for each day of permitted use, not to
29 exceed thirty (30) consecutive days. The total number of days
30 for all the special permits may not exceed one hundred (100)

1 days in any calendar year. A special permit shall entitle the
2 holder to engage in the sale by the glass, by the bottle or in
3 case lots of alcoholic cider or wine produced by the permittee
4 under the authority of a limited winery license. Holders of
5 special permits may provide tasting samples of wines in
6 individual portions not to exceed one fluid ounce. Samples at
7 alcoholic cider, wine and food expositions may be sold or
8 offered free of charge. Except as provided herein, limited
9 wineries utilizing special permits shall be governed by all
10 applicable provisions of this act as well as by all applicable
11 regulations or conditions adopted by the board.

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

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

1 total number of days for all special permits shall not exceed
2 forty (40) days in any calendar year. A special permit shall
3 entitle the holder to engage in the sale by the glass, by the
4 bottle or in case lots of alcoholic cider or wine produced by
5 the permittee. Holders of special permits may provide tasting
6 samples of wine in individual portions not to exceed one fluid
7 ounce. Samples of alcoholic cider, wine and food at expositions
8 may be sold or offered free of charge. Except as provided
9 herein, any out-of-State winery utilizing special permits issued
10 by this subsection shall be governed by all applicable
11 provisions of this act as well as by all applicable regulations
12 or conditions adopted by the board. No application for a special
13 permit may be approved by the board for a producer in another
14 state unless the other state's law allows for the issuance of
15 special permits to Pennsylvania producers to participate in
16 alcoholic cider, wine and food expositions in that state. For
17 the purpose of this clause, alcoholic cider, wine and food
18 expositions are defined as affairs held indoors or outdoors with
19 the intent of educating those in attendance of the availability,
20 nature and quality of alcoholic ciders and wines in conjunction
21 with suitable food displays, including arts and crafts, musical
22 activities, cultural exhibits, agricultural exhibits and farmers
23 markets.

24 * * *

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