

No. 215

AN ACT

HB 2018

Amending the act of April 12, 1951 (P.L.90), entitled "An act relating to alcoholic liquors, alcohol and malt and brewed beverages; amending, revising, consolidating and changing the laws relating thereto; regulating and restricting the manufacture, purchase, sale, possession, consumption, importation, transportation, furnishing, holding in bond, holding in storage, traffic in and use of alcoholic liquors, alcohol and malt and brewed beverages and the persons engaged or employed therein; defining the powers and duties of the Pennsylvania Liquor Control Board; providing for the establishment and operation of State liquor stores, for the payment of certain license fees to the respective municipalities and townships, for the abatement of certain nuisances and, in certain cases, for search and seizure without warrant; prescribing penalties and forfeitures; providing for local option, and repealing existing laws," removing requirements for affixing official seals to liquor and alcohol packages.

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

Section 1. The definition of "Official Seal" in section 102, act of April 12, 1951 (P.L.90), known as the "Liquor Code" is amended to read: .

Section 102. Definitions.—The following words or phrases, unless the context clearly indicates otherwise, shall have the meanings ascribed to them in this section:

\* \* \*

**["Official Seal" shall mean and include any insignia approved by the board that is required to be affixed to a package, as herein defined.]**

\* \* \*

Section 2. Clause (f) of section 208 and subsection (d) of section 305 of the act, amended February 17, 1956 (P.L.1078), are amended to read:

Section 208. Specific Subjects on Which Board May Adopt Regulations.—Subject to the provisions of this act and without limiting the general power conferred by the preceding section, the board may make regulations regarding:

\* \* \*

(f) The [sealing and] labeling of liquor and alcohol sold under this act and of liquor and alcohol lawfully acquired by any person prior to January first, one thousand nine hundred thirty-four. [This section shall not be construed to authorize the board to require that packages containing wine have affixed thereto the official seal of the board.]

\* \* \*

Section 305. Sales by Pennsylvania Liquor Stores.—\* \* \*

(d) No liquor or alcohol [, except wine, shall be sold to any purchaser except in a package bearing the official seal of the board required by this act and no] package shall be opened on the premises of a Pennsylvania Liquor Store. No manager or other employe of the board employed in a Pennsylvania Liquor Store shall allow any liquor or alcohol to be consumed on the store premises, nor shall any person consume any liquor or alcohol on such premises.

\* \* \*

Section 3. Clauses (2), (4) and (15) of section 491 of the act, clause (2) amended August 12, 1971 (P.L.318), and clauses (4) and (15), added or amended November 19, 1959 (P.L.1532), are amended to read:

Section 491. Unlawful Acts Relative to Liquor, Alcohol and Liquor Licensees.—

It shall be Unlawful—

\* \* \*

(2) Possession or Transportation of Liquor or Alcohol. For any person, except a manufacturer or the board or the holder of a sacramental wine license or of an importer's license, to possess or transport any liquor or alcohol within this Commonwealth which was not lawfully acquired prior to January first, one thousand nine hundred and thirty-four, or has not been purchased from a Pennsylvania Liquor Store or a licensed limited winery in Pennsylvania, or in accordance with the board's regulations. The burden shall be upon the person possessing or transporting such liquor or alcohol to prove that it was so acquired. But nothing herein contained shall prohibit the manufacture or possession of wine by any person in his home for consumption of himself, his family and guests and not for sale, not exceeding, during any one calendar year, two hundred gallons, any other law to the contrary notwithstanding. Such wine shall not be manufactured, possessed, offered for sale or sold on any licensed premises.

None of the provisions herein contained shall prohibit nor shall it be unlawful for any person to import into Pennsylvania, transport or have in his possession, an amount of liquor not exceeding one gallon in volume upon which a State tax has not been paid, **[and the package in which the liquor is contained does not bear the official seal of the board,]** if it can be shown to the satisfaction of the board that such person purchased the liquor in a foreign country and was allowed to bring it into the United States. Such liquor shall not be possessed, offered for sale or sold on any licensed premises.

Any person violating the provisions of this clause for a first offense involving the possession or transportation in Pennsylvania of any liquor in a package (bottle or other receptacle) **[which does not bear the official seal of the board,]** or wine not purchased from a Pennsylvania Liquor Store or from a licensed limited winery in Pennsylvania, with respect to which satisfactory proof is produced that the required Federal tax has been paid and which was purchased, procured or acquired legally outside of Pennsylvania shall upon conviction thereof in a summary proceeding be sentenced to pay a fine of twenty-five dollars (\$25) for each such package, plus costs of prosecution, or undergo imprisonment for a term not exceeding ninety (90) days. Each full quart or major fraction thereof shall be considered a separate package (bottle or other receptacle) for the purposes of this clause. Such packages of liquor shall be forfeited to the Commonwealth in the manner prescribed in Article VI of this act but the vehicle, boat, vessel, animal or aircraft used in the illegal transportation of such packages shall not be subject to forfeiture: Provided, however, That if it is a second or subsequent offense or

if it is established that the illegal possession or transportation was in connection with a commercial transaction, then the other provisions of this act providing for prosecution as a misdemeanor and for the forfeiture of the vehicle, boat, vessel, animal or aircraft shall apply.

\* \* \*

(4) [Liquor Packages Without Official Seal.] *Possession and Use of Decanters.* For any person [, except a manufacturer or the board or the holder of an importer's license, to have or keep any liquor, except wine, within the Commonwealth unless the package (except the decanter or other receptacle containing liquor for immediate consumption) in which the liquor is contained while containing that liquor bears the official seal of the board as originally affixed in accordance with the provisions of this act or the regulations of the board. The] *to use decanters of alcoholic beverages except that the* use of decanters or other similar receptacles by licensees shall be permitted [only] in the case of wines and then only in accordance with the regulations of the board, but nothing herein contained shall prohibit the manufacture and possession of wine as provided in *clause* (2) of this section.

\* \* \*

[(15) For any person to have, keep, use, utter, barter, buy, sell, traffic in, manufacture or make any official seal of the board or facsimile or reproduction thereof, unless authorized so to do by the provisions of this act or by the regulations or the express consent of the board.]

Section 4. This act shall take effect immediately. .

APPROVED—The 11th day of October, A. D. 1972.

MILTON J. SHAPP

The foregoing is a true and correct copy of Act of the General Assembly No. 215.



*Secretary of the Commonwealth.*