

No. 81

AN ACT

SB 665

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," further regulating the importation of liquor upon which a tax has not been paid and the transportation of wine.

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

Section 1. Clause (2) of section 491, act of April 12, 1951 (P.L.90), known as the "Liquor Code," amended December 10, 1969 (P.L.355), is 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. [duty free] 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.

\* \* \*

Section 2. This act shall take effect immediately.

APPROVED—The 12th day of August, A. D. 1971.

MILTON J. SHAPP

The foregoing is a true and correct copy of Act of the General Assembly No. 81.



*Secretary of the Commonwealth.*