

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1939



ENROLLED

HOUSE BILL No. 253

(By Mr. Speaker, Mr. Thomas)



PASSED March 2, 1939

In Effect from Passage

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House Bill No. 253

(BY MR. SPEAKER, MR. THOMAS)

[Passed March 2, 1939; in effect from passage.]

AN ACT to amend and reenact section thirteen, article two, sections seven and twenty-four, article three, sections two, five and fifteen, article four, and sections three, twelve and sixteen, article six, chapter sixty of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter four, acts of the Legislature, regular session, one thousand nine hundred thirty-five, and as amended by chapter five, acts of the Legislature, regular session, one thousand nine hundred thirty-five, by chapter thirteen, acts of the Legislature, regular session, one thousand nine hundred thirty-seven, and by chapter fourteen, acts of the Legislature, regular session, one thousand nine hundred thirty-seven, relating to the state control of alcoholic liquors.

Be it enacted by the Legislature of West Virginia:

That section thirteen, article two, sections seven and twenty-four, article three, sections two, five and fifteen, article four, and sections three, twelve and sixteen, article six, chapter sixty of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter four, acts of the Legislature, regular session, one thousand nine hundred thirty-five, as amended by chapter five, acts of the Legislature, regular session, one thousand nine hundred thirty-five, and by chapter thirteen, acts of the Legislature, regular session, one thousand nine hundred thirty-seven, and by chapter fourteen, acts of the Legislature, regular session, one thousand nine hundred thirty-seven, relating to the state control of alcoholic liquors, be amended and reenacted to read as follows:

Article 2. Liquor Control Commission.

Section 13. *Bonds of Employees.* The commission shall
2 require every employee who collects fees or handles funds,
3 or who has custody of equipment, supplies, and other prop-
4 erty belonging to the state, to take the oath prescribed by
5 section five, article four of the state constitution; and the
6 commission shall require to be furnished by every employee,
7 or shall itself obtain, a bond, insurance policy, indemnity

8 contract, or other contract, protecting and indemnifying the
9 state against any and all loss or damage that may be occasioned
10 by the failure of the employee faithfully to perform the duties
11 pertaining to his employment, and to account for, pay over
12 and deliver to the proper officer or agent of the commission
13 or state all moneys and other property which may come into
14 his custody or under his control by virtue of his employment.
15 Such bond, insurance policy, indemnity contract, or other
16 contract, shall be in such form, and in such sum, and with
17 such security, as may be prescribed or approved by the com-
18 mission, and may cover any one employee or any number of
19 employees. The premiums for all such bonds, insurance
20 policies, indemnity contracts, or other contracts, shall be paid
21 by the commission.

Article 3. Sales by Commission.

Section 7. Agencies Classified; Compensation and Bond of

2 *Agent.* The commission shall classify state agencies into not
3 more than five groups with respect to volume of business.
4 An agent shall be compensated in a fixed sum, uniform within
5 each group, and in an amount to be fixed by the commission,
6 but not more than three thousand dollars in any one year.

Each agent shall give bond in an amount fixed by the commission conditioned upon the faithful observance of the provisions of this chapter, compliance with the rules and regulations of the commission, and the accounting for and paying over of all moneys coming into his custody by virtue of his agency. An agent shall not, at any time, have on hand a stock of alcoholic liquors greater in value than the amount of his bond.

Sec. 24. *Authority of Employees to Make Arrests; Penalties.* An appointee or employee of the commission shall have the authority of a peace officer, to arrest a person for an act committed on or about the premises of a state warehouse, state store, or agency, and in his presence, which amounts to:

- (1) A violation of a provision of this chapter;
- (2) Disorderly conduct.

The commission shall furnish its appointees and employees with an official badge as evidence of this authority.

A person who resists or commits an assault upon an appointee or employee of the commission while engaged in the performance of his duties hereunder shall be guilty of a misdemeanor and upon conviction thereof shall be punished by

14 a fine of not less than fifty dollars nor more than five hundred
15 dollars, or by confinement in jail not less than thirty days
16 nor more than six months, or in the discretion of the court,
17 by both such fine and imprisonment.

18 Members of the commission are hereby vested, and such
19 officers, agents and employees of the commission as shall be
20 designated by the commission, shall upon being so designated,
21 be vested, with like power and authority to enforce the pro-
22 visions of this chapter and the criminal laws of the state
23 relating thereto as are vested in sheriffs of counties and mem-
24 bers of the department of public safety.

Article 4. Licenses.

Section 2. *Separate Licenses for Manufacture.* The com-
2 mission may grant licenses for the manufacture of alcoholic
3 liquors. Separate licenses shall be issued to the following
4 classes of manufacturing establishments:

- 5 (1) Distilleries, in which only alcoholic liquors other than
6 wine or beer shall be manufactured;
- 7 (2) Wineries, in which only wines shall be manufactured;
- 8 (3) Breweries, in which beer shall be manufactured;
- 9 (4) Bottling plants, in which beer only shall be bottled;

(5) Industrial plants, in which alcohol is distilled, manufactured, or otherwise produced for scientific, chemical, mechanical, or industrial purposes.

Licenses for manufacture shall authorize the manufacture and sale of alcoholic liquors as provided by this chapter.

Sec. 5. Licenses for Purchase at Wholesale for Industrial

or Scientific Uses. The commission may grant licenses to persons

to purchase alcoholic liquors at wholesale from or

through the West Virginia liquor control commission for

industrial, or scientific uses, or for use in institutions as

provided in article six, section five of this chapter, and may,

by special permit for such fee as the commission may fix,

authorize transactions at wholesale for the purchase of alcohol

for scientific, chemical, mechanical or industrial purposes

only; but, no license fee shall be required from institutions,

departments, or agencies of the state government or any

political subdivision thereof.

The commission may issue, without fee, special permits

authorizing religious organizations to purchase, upon orders

approved by the commission, wine for sacramental purposes.

Sec. 15. Amount of License Fees. A person to whom a

2 license is issued under the provisions of this chapter shall
3 pay, annually, to the commission a license fee as follows, for :

4 (1) Distilleries, five hundred dollars ;

5 (2) Wineries, two hundred fifty dollars ;

6 (3) Breweries, two hundred fifty dollars ;

7 (4) Bottling plants, one hundred dollars ;

8 (5) Wholesale druggists, fifty dollars ;

9 (6) Institutions, ten dollars ;

10 (7) Industrial use, fifty dollars ;

11 (8) Industrial plants producing alcohol, two hundred fifty
12 dollars ;

13 (9) Retail druggists, ten dollars.

Article 6. Miscellaneous Provisions.

Section 3. Act Not Applicable to Certain Uses of Ethyl

2 *Alcohol.* The provisions of this chapter relating to state
3 monopoly shall not apply to ethyl alcohol used :

4 (1) For scientific, chemical, mechanical or industrial pur-
5 poses.

6 (2) By those authorized to procure ethyl alcohol tax-free
7 under the acts of congress and regulations thereunder.

8 (3) In the manufacture of denatured alcohol produced

9 and used as provided by the acts of congress and regulations
10 thereunder.

11 (4) In the manufacture of scientific, chemical, mechanical
12 and industrial preparations or products unfit for beverage
13 purposes.

14 Nothing in this section shall be so construed as to exempt
15 such users of ethyl alcohol from the license and transportation
16 provisions of this chapter.

Sec. 12. *Transportation of Alcoholic Liquors Into or*
2 *Through State; Permits; Penalties.* The commission may
3 adopt regulations governing the transportation of alcoholic
4 liquors, lawfully acquired, within, into or through the state
5 in quantities in excess of one gallon as it may deem necessary
6 to confine such transportation to legitimate purposes and
7 may issue transportation permits in accordance with such
8 regulations, collect a fee therefor, and shall require each
9 person to whom such a permit is issued to furnish a bond in
10 such form and amount and with such surety as the commis-
11 sion shall direct, conditioned that he will exercise the privi-
12 leges granted by such permit in conformity with the provisions

13 of this chapter and the regulations of the commission, or in
14 default thereof forfeit to the state school fund the sum of
15 one hundred dollars for each breach recoverable by motion
16 upon ten days' notice in any court having jurisdiction of the
17 parties.

18 A person who, without authorization under this chapter,
19 transports alcoholic liquors in quantities in excess of one
20 gallon or in any amount for the purpose of sale or in any
21 amount manufactured or acquired contrary to the provisions
22 of this chapter, shall be guilty of a misdemeanor, and upon
23 conviction shall be fined not less than one hundred nor more
24 than five hundred dollars, or confined in jail not to exceed
25 one year, or both such fine and imprisonment for the first
26 offense. Upon conviction of a second or subsequent offense,
27 he shall be guilty of a felony and confined in the penitentiary
28 of this state for a period of not less than one nor more than
29 three years.

Sec. 16. *Places Deemed Common and Public Nuisances;*

2 *Penalties; Abatement.* A place where alcoholic liquor is
3 manufactured, sold, stored, possessed, given away, or fur-
4 nished contrary to law shall be deemed a common and public

5 nuisance. Boats, cars (including railroad and traction pas-
6 senger cars operating in this state), automobiles, wagons,
7 water and aircraft, beasts of burden, or vehicles of any kind
8 shall be deemed places within the meaning of this section
9 and may be proceeded against under the provisions of section
10 seventeen of this article. A person who shall maintain, or
11 shall aid or abet or knowingly be associated with others in
12 maintaining such common and public nuisance shall be guilty
13 of a misdemeanor, and upon conviction thereof shall be
14 punished by a fine of not less than one hundred nor more than
15 five hundred dollars, or by confinement in jail not less than
16 sixty days nor more than six months for each offense, and judg-
17 ment shall be given that such nuisance be abated or closed as a
18 place for the manufacture, sale, storage, possession, giving
19 away, or furnishing contrary to law of alcoholic liquor, as
20 the court may determine.

21 If two or more persons conspire to maintain such common
22 and public nuisance or to distill, manufacture, store, trans-
23 port, sell, give away, or furnish alcoholic liquor in violation
24 of any of the provisions of this chapter, and one or more of
25 such persons do any act to effect the object of the conspiracy,

26 each of the parties to such conspiracy shall be guilty of a
27 misdemeanor and upon conviction thereof shall be punished
28 by a fine of not less than one hundred dollars nor more than
29 five hundred dollars or by confinement in jail for not less
30 than one month or more than six months, or in the discretion
31 of the court, by both such fine and imprisonment.

State of Wisconsin
County of _____
ss. _____
Notary Public
My Comm. Expires _____

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

E. O. Wiseman
Chairman Senate Committee

Reuben Walter
Chairman House Committee

Originated in the *House of Delegates*

Takes effect *from* passage.

Charles H. Smith
Clerk of the Senate

Wm. A. Hall
Clerk of the House of Delegates

Wm. A. Hall
President of the Senate

James Kay Thomas
Speaker House of Delegates

The within *approved* this the *9th*

day of *March*, 1939.

Sam A. L. L.
Governor.



Filed in the office of the Secretary of State
of West Virginia. **MAR 9 1939**
Wm. S. O'BRIEN,
Secretary of State