

Rec. May 11

87

ENROLLED BILL

(EXTRAORDINARY SESSION, 1933)

House Bill No. 87

(By Mr. Belknap -)

Passed MAY 9, 1933

In Effect from Passage

Originated in the *House* Takes effect *from* Passage
Richard H. Howell Clerk of the House of Delegates.

CORRECTLY ENROLLED

James L. Brannith Chairman House Committee.
Anna D. Moore Chairman Senate Committee.

ENROLLED BILL

(H. B. No. 87)

[Passed May 9, 1933; in effect from passage.]

AN ACT to amend and reenact sections ninety-two, ninety-nine,
 one hundred and one hundred one, article twelve, chapter
 eleven of the code of West Virginia, one thousand nine hun-
 dred thirty-one, as said chapter eleven was amended by house
 bill number eight, extraordinary session of the legislature,
 one thousand nine hundred thirty-three, entitled "An act to
 amend and reenact section one, article twelve, chapter eleven
 of the code of West Virginia, one thousand nine hundred
 thirty-one, and to amend article twelve, chapter eleven of
 said code by enacting and adding thereto thirteen additional
 sections to be numbered ninety-one, ninety-two, ninety-three,
 ninety-three-(a), ninety-four, ninety-five, ninety-six, ninety-
 seven, ninety-eight, ninety-nine, one hundred, one hundred
 one and one hundred two, to provide for the raising of addi-

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James L. Smith
H. H. Hays

Chairman House Committee.

Chairman Senate Committee.

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tional public revenue by a license tax on the business of selling nonintoxicating beer, to define nonintoxicating beer, to classify sellers thereof, and to provide for the collection of such tax, and to repeal chapter twenty-four, acts of the legislature, regular session, one thousand nine hundred thirty-three, being house bill number three hundred fifty-nine of that session, and all other acts and parts of acts, general and special, in conflict with this act or the purpose thereof," and to repeal all acts and parts of acts in conflict therewith.

Be it enacted by the Legislature of West Virginia:

That sections ninety-two, ninety-nine, one hundred and one hundred one, article twelve, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended by house bill number eight, extraordinary session of the legislature, one thousand nine hundred thirty-three, entitled "An act to amend and reenact section one, article twelve, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, and to amend article twelve, chapter eleven of said code by enacting and adding thereto thirteen additional sections to be numbered ninety-one, ninety-two, ninety-three, ninety-three-(a), ninety-four, ninety-five, ninety-six, ninety-seven, ninety-eight, ninety-

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James L. Smith

Chairman House Committee.

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Chairman Senate Committee.

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nine, one hundred, one hundred one and one hundred two, to provide for the raising of additional public revenue by a license tax on the business of selling nonintoxicating beer, to define nonintoxicating beer, to classify sellers thereof, and to provide for the collection of such tax, and to repeal chapter twenty-four, acts of the legislature, regular session, one thousand nine hundred thirty-three, being house bill number three hundred fifty-nine of that session, and all other acts and parts of acts, general and special, in conflict with this act or the purpose thereof," be amended and reenacted to read as follows:

Section 92. The words "package dealer," as used in this
2 act, shall mean and include any person, firm, association, part-
3 nership or corporation selling, delivering or otherwise dis-
4 tributing within the state of West Virginia nonintoxicating
5 beer for consumption at a place other than his, its, or their
6 established and licensed place of business in original packages
7 containing not less than six bottles of not more than twelve
8 fluid ounces each, and in total quantities at each sale of not
9 more than forty-eight bottles of twelve fluid ounces each or in
10 one-half barrels or less. The word "dispenser," as used in this
11 act, shall mean and include any person, firm, association, part-

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Henry D. Byrnes

Chairman House Committee.

Chairman Senate Committee.

12 nership or corporation, selling, serving, delivering or otherwise
13 dispensing nonintoxicating beer, whether in glass bottles or on
14 draught, in quantities of not more than five bottles of twelve
15 fluid ounces each, or any amount greater than five such bottles,
16 where the same is consumed at his, its or their established and
17 licensed place of business. The words "manufacturer or
18 brewer," as used in this act, shall mean and include any person,
19 firm, association, partnership or corporation manufacturing in
20 this state, nonintoxicating beer for sale at wholesale. The word
21 "distributor," as used in this act, shall mean and include any
22 person, firm, association, partnership, or corporation, other than
23 a manufacturer or brewer, jobbing or distributing nonintoxicat-
24 ing beer to a package dealer or dispenser at wholesale.

Sec. 99. The tax commissioner may revoke the license of any

2 licensee, subject to an appeal of any licensee to a court of com-
3 petent jurisdiction whenever any licensee is aggrieved:

4 (1) When disorderly or immoral practices or other violations
5 of law are permitted or intoxicating liquor is sold unlawfully on
6 the premises;

7 (2) Where the word "saloon" is printed, painted or placed
8 upon the door, window or in any other public place on or about

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James L. Smith
Chairman House Committee
James A. Rogers
Chairman Senate Committee

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9 the premises or when the word "saloon" is used in any advertise-
10 ment by the licensee;

11 (3) When circumstances happen or become known to the
12 properly empowered authorities under this act which, had they
13 happened or been known at the time of the application for the
14 license would have legally justified such authorities in refusing
15 the license;

16 (4) Where any package dealer or dispenser shall sell or dis-
17 pense nonintoxicating beer purchased from any other person
18 other than a licensed distributor under the laws of this state,
19 without having first paid the barrel tax therefor herein imposed.

20 Any person who violates any provisions of this act or who
21 makes a false statement concerning any material fact in sub-
22 mitting an application for a license or for a renewal of a license
23 or in any hearing concerning the revocation thereof, shall be
24 punished for each offense by a fine of not less than twenty-five
25 dollars nor more than five hundred dollars or imprisonment in
26 the county jail for not less than thirty days or more than six
27 months or by both such fine and imprisonment.

28 Any person, other than parent or guardian, firm, association,
29 partnership or corporation holding a license under this act who

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James L. Smith

Chairman House Committee.

Anna D. Hyatt

Chairman Senate Committee.

30 shall sell or give any nonintoxicating beer to any person under
31 the age of sixteen years, knowing, or having reason to believe,
32 that such person is under the age of sixteen years, shall be guilty
33 of a misdemeanor, and upon conviction thereof shall be fined by
34 the court not less than twenty-five nor more than one hundred
35 dollars.

36 Cities and incorporated towns are hereby specifically em-
37 powered to enact ordinances for the enforcement of this act in
38 conformity with the provisions of this act.

Sec. 100. Municipal corporations in this state shall have
2 authority to levy a license tax under the provisions of this act
3 upon any package dealer, dispenser, manufacturer or brewer and
4 distributor of nonintoxicating beer; but the amount of the
5 license tax levied by such municipal corporation shall in no
6 event exceed one-half the amount fixed herein to be levied by
7 the state as an annual license tax upon package dealers and dis-
8 pensers and initial license tax per year upon manufacturers and
9 brewers and distributors.

Sec. 101. All taxes imposed and collected under the provi-
2 sions of this act from nonintoxicating beer shall be paid to the

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James A. Boyer

Chairman Senate Committee.

James L. Smith

Chairman House Committee.

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3 treasurer of the state in the manner now provided by law, and
4 credited to the state fund, general revenue.
5 All acts or parts of acts in conflict with the foregoing act are
6 hereby repealed.

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James D. Smith
Chairman Senate Committee.

Wm. H. Hines
Speaker of the House of Delegates.

Geo. L. Hall
Clerk of the House of Delegates.

P. G. Matthews
President of the Senate.

Amos B. Smith
Clerk of the Senate.

James D. Smith
Chairman House Committee.

The within is... *approved*

this... *15th* ... day of... *May*, 1933.

H. S. Kemp
Governor

Filed in the office of the Secretary of State
of West Virginia MAY 15 1933
Wm. S. O'BRIEN,
Secretary of State