

Rec. Jan. 29, 1934

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**ENROLLED BILL**  
(SECOND EXTRAORDINARY SESSION, 1933)

House Bill No. 43

(By Mr. Beacom)

Passed January 24, 1934

In Effect from Passage

Passage

Takes effect

Originated in the

*James H. Smith*  
*James H. Smith*  
Clerk of House of Delegates.

*James H. Smith*  
*James H. Smith*  
Clerk.

CORRECTLY ENROLLED

*James H. Smith*  
Chairman Senate Committee.

*James H. Smith*  
Chairman House Committee.

## ENROLLED BILL

(H. B. No. 43)

[Passed January 24, 1934; in effect from passage.]

AN ACT to amend and reenact sections ninety-three, ninety-three-

(a) and ninety-five, chapter twenty of the acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, relating to the issuance of licenses to manufacturers, brewers, distributors, package dealers and dispensers of nonintoxicating beer, reports to be made to the tax commissioner and payment of license taxes and the raising of revenues therefrom.

*Be it enacted by the Legislature of West Virginia:*

That sections ninety-three, ninety-three-(a) and ninety-five, chapter twenty of the acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, be amended and reenacted so as to read as follows:

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*James D. Henry, Jr.*

*Chairman Senate Committee.*

*James L. Smith*

*Chairman House Committee.*

Section 93. There is hereby levied and imposed upon pack-  
2 age dealers, as herein defined, an annual license tax of fifty  
3 dollars, and upon dispensers, as herein defined, an annual  
4 license tax of one hundred dollars. There is hereby levied  
5 and imposed upon manufacturers or brewers, as herein de-  
6 fined, manufacturing nonintoxicating beer within this state,  
7 an initial license tax of five hundred dollars per year, and  
8 whether such nonintoxicating beer be kept or sold in barrels  
9 or other containers, an additional tax of one dollar on each  
10 barrel of thirty-one gallons, and in like ratio on each part bar-  
11 rel so manufactured in this state. There is hereby levied and  
12 imposed upon distributors, as herein defined, an initial license  
13 tax of two hundred fifty dollars per year, and an additional tax  
14 of one dollar on each barrel, and in like ratio on each part  
15 barrel of nonintoxicating beer, whether distributed in barrels  
16 or other containers, so distributed in this state: *Provided, how-*  
17 *ever,* That the barrel tax herein levied shall, as to nonintoxicat-  
18 ing beer made in West Virginia, be paid by the manufacturer  
19 or brewer, and the barrel tax on nonintoxicating beer made  
20 outside of West Virginia shall be paid by the original con-  
21 signee thereof within this state, who shall be deemed the dis-

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*Henry D. Rogers,*

*Chairman Senate Committee.*

*James L. Smith*

*Chairman House Committee.*

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22 tributor for the purposes of this act, and required to take out  
23 a license as such, and the issuance of such distributor's license  
24 shall operate as a forfeiture of any package dealer's or dis-  
25 penser's license held by him; and no nonintoxicating beer  
26 manufactured, sold or distributed in West Virginia shall be  
27 subject to more than one barrel tax.

28 Each such package dealer, dispenser, manufacturer or brewer  
29 and distributor being engaged in the business of selling, de-  
30 livering or otherwise distributing nonintoxicating beer, and  
31 having more than one place of business within the state of  
32 West Virginia, shall pay the full amount of the initial tax  
33 hereby imposed for each such place of business: *Provided,*  
34 *further,* That any social, fraternal or business clubs not oper-  
35 ating for profit, and having been in continuous operation for  
36 five years or more prior to the enactment of this law, shall  
37 pay an annual license tax of fifty dollars, as a dispenser  
38 hereunder: *And provided further,* That railroads operating  
39 in this state may dispense nonintoxicating beer upon pay-  
40 ment of an annual license tax of ten dollars for each dining,  
41 club or buffet car in which it is dispensed.

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*James A. Hays*

*Chairman Senate Committee.*

*James L. Smith*

*Chairman House Committee.*

Sec. 93-(a). No person, firm or corporation having an interest in the manufacture or wholesale distribution of non-intoxicating beer shall be permitted, either directly or indirectly, to be connected with, or have an interest in the sale or dispensing of nonintoxicating beer, either under a package dealer or a dispenser's license, or any interest, whatsoever, in any equipment used in connection with the sale or dispensing of nonintoxicating beer.

Sec. 95. All licenses under this act for manufacturers, brewers, distributors, package dealers and dispensers shall be issued by the tax commissioner upon the filing of the application herein required except that such tax commissioner shall not be required to renew the licenses of any such manufacturer, brewer, distributor, package dealer or dispenser who shall have failed and refused to comply with any of the provisions of this act, or any lawful regulation of the tax commissioner with relation to such business, during the time when any such applicant shall have operated under any license theretofore issued to him.

Every such package dealer or dispenser, on or before the first day of July of any year, shall make out and deliver to the

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*Chairman Senate Committee.*

*James L. Smith*

*Chairman House Committee.*

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14 state tax commissioner, on the blank to be furnished by the  
15 commissioner for that purpose, a statement showing the name  
16 of such package dealer or dispenser, a brief and accurate de-  
17 scription of the place or places where his business as such  
18 package dealer or dispenser is conducted and by whom owned.

19 Such statement shall be signed and sworn to before a notary  
20 public or other officer empowered to administer oath.

21 Every manufacturer, brewer and distributor applying for  
22 license under this act shall, in addition to furnishing the in-  
23 formation required in the last preceding section, furnish a  
24 bond in some solvent surety company to be approved by the tax  
25 commissioner, payable to the state of West Virginia, in the  
26 minimum amount of one thousand dollars, and, within the dis-  
27 cretion of the tax commissioner, in the maximum amount of  
28 ten thousand dollars, conditioned for the payment of any and  
29 all additional taxes accruing during the period of such license.

30 In lieu of such bond, a manufacturer, brewer or distributor may  
31 deposit securities of the United States of America, the state of  
32 West Virginia, or any subdivision thereof, to be approved by  
33 the tax commissioner, in such amount as he may prescribe,  
34 for which security the tax commissioner shall execute a re-

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*James A. Henry*

*Chairman Senate Committee.*

*James L. Smith*

*Chairman House Committee.*

35 ceipt showing the purpose for which the same were deposited,  
36 and which security shall be kept in the joint custody of the  
37 state treasurer and the state tax commissioner and may be  
38 sold by the state tax commissioner if it becomes necessary so  
39 to do, in order to recover any sums due from such manufac-  
40 turer, brewer or distributor pursuant to this article; but no such  
41 sale shall be had until after such manufacturer, brewer and dis-  
42 tributor shall have had an opportunity to litigate the validity of  
43 any tax, if he elects so to do. In any such sale, a surplus, if any,  
44 above the sum due under this article, shall be returned to such  
45 manufacturer, brewer or distributor. Such sale shall be made by  
46 the state tax commissioner at his office in the state capitol and  
47 shall not be made until at least ten days' notice thereof shall  
48 have been mailed by registered letter to the manufacturer,  
49 brewer or distributor at the place of business named in his  
50 license. And the state tax commissioner may give such other  
51 notice of such sale as he may deem necessary.

52 On or before the tenth day of each calendar month during  
53 the license period, every such manufacturer, brewer or dis-  
54-64 tributor shall make a report in writing under oath to the tax  
65 commissioner, in such form as may be required by the tax com-

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*James L. Smith*

*Chairman House Committee.*

*James A. Hays*

*Chairman Senate Committee.*

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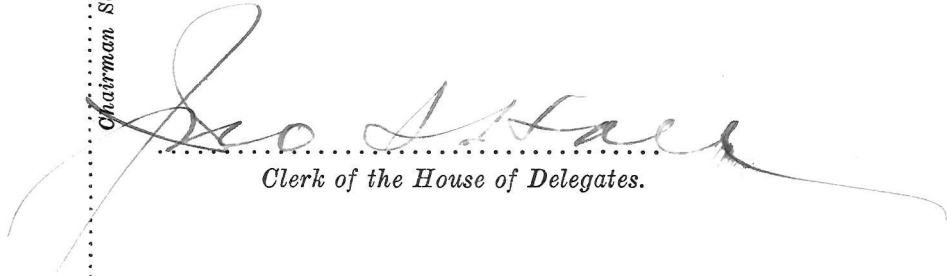
66 missioner, showing the number of barrels of nonintoxicating  
67 beer manufactured or distributed by such manufacturer,  
68 brewer or distributor for the preceding calendar month, or part  
69 thereof during which such manufacturer, brewer or distribu-  
70 tor was engaged in business, and at the same time pay the tax  
71 thereon levied by this act.



Chairman Senate Committee.



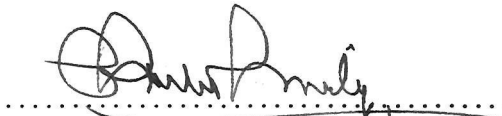
Speaker of the House of Delegates.



Clerk of the House of Delegates.



President of the Senate.



Clerk of the Senate.

The within is..........this 20 day of February, 1934.

Governor.

CORRECTLY ENROLLED

Chairman House Committee.

Filed in the office of the Secretary of State  
of West Virginia. **FEB 2 1934**Wm. S. O'BRIEN,  
Secretary of State