

Rec., Mar. 11, 1933

359

ENROLLED BILL

(REGULAR SESSION, 1933)

House Bill No. 359

(By Mr. Beacon)

Passed March 11, 1933

In Effect ninety days from Passage

Originated in the House..... Takes effect ninety days from passage

Clerk of the House of Delegates

Clerk

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Chairman Senate Committee

Chairman House Committee

ENROLLED BILL

(H. B. No. 359)

[Passed March 11, 1933; in effect ninety days from passage.]

AN ACT to amend and reenact section one, article one, and section six, article two, chapter sixty of the code of West Virginia, one thousand nine hundred thirty-one, providing for the raising of additional public revenue by a tax upon the sale of non-intoxicating beer; to provide for the collection of such tax; to amend and reenact certain existing statutes; and to repeal all provisions of laws inconsistent with the purpose of this enactment.

Be it enacted by the Legislature of West Virginia:

That section one, article one, chapter sixty of the code of West Virginia, one thousand nine hundred thirty-one be amended and reenacted to read as follows:

Section 1. For the purposes of this act, the following words, 2 terms and phrases are defined as follows:

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3 "Nonintoxicating beer" shall mean and include all beer, lager
4 beer, ale, porter, malt liquor and other similar fermented liquors
5 containing not more than three and five hundredths percentum
6 of alcohol by weight. "Package dealer" shall include any per-
7 son, firm, association, partnership or corporation selling, de-
8 livering or otherwise distributing within the State of West Vir-
9 ginia nonintoxicating beer in glass bottles for consumption at a
10 place other than such place of sale or delivery. "Dispenser" shall
11 include any person, firm, association, partnership or corporation
12 selling, serving, delivering or otherwise distributing within the
13 State of West Virginia, nonintoxicating beer, either in glass bot-
14 tles or on draught for consumption at the place of such sale, serv-
15 ice or delivery. "A manufacturer or brewer" shall include any
16 person, firm or corporation manufacturing nonintoxicating
17 beer for sale at wholesale. "Distributor" shall include any
18 person, firm or corporation jobbing or distributing nonintoxi-
19 cating beer to a retailer at wholesale.

ARTICLE 2.

Section 6-(a). There is hereby levied and imposed upon
2 package dealers, as herein defined, an annual license tax of
3 fifty dollars, and upon dispensers, as herein defined, an annual

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4 license tax of one hundred dollars. The license tax on a manu-
5 facturer or brewer operating within the state shall be five
6 hundred dollars per year, and in addition thereto one dollar on
7 each barrel, and in like ratio on part barrel, and eight cents on
8 each case, or part case, so manufactured in this state. The
9 license tax on a distributor (wholesale) shall be two hundred
10 fifty dollars, and in addition thereto one dollar on each barrel,
11 and in like ratio on part barrel, and eight cents on each case,
12 or part case, so distributed in this state.

13 Each such package dealer, dispenser, manufacturer or brewer
14 and distributor being engaged in the business of selling, de-
15 livering or otherwise distributing nonintoxicating beer at more
16 than one place within the State of West Virginia shall pay the
17 full amount of the tax hereby imposed for each such place of
18 business.

19 The taxes levied by the next preceding section shall be paid
20 by such package dealers, dispensers, manufacturers or brewers
21 and distributors, to the state tax commissioner on or before
22 the first day of January of each year.

23 (c) Each such package dealer or dispenser, manufacturer or
24 brewer and distributor, on or before the first Monday of Decem-

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Wm. H. Hays

James L. Smith

James L. Smith

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Chairman House Committee.

ber shall make out and deliver to the state tax commissioner, upon a blank to be furnished by such commissioner for that purpose, a statement showing the name of such package dealer or dispenser, manufacturer or brewer and distributor, a brief and accurate description of the place or places where his business as such package dealer or dispenser, manufacturer or brewer and distributor is conducted and by whom owned. Such statement shall be signed and sworn to before a notary public or other officer empowered to take acknowledgement to deeds.

(d) All monies collected by the state tax commissioner from licenses taxes imposed by this act shall be paid into the state treasury for credit to the general revenue fund.

(e) The word "liquors" as used in this chapter, shall be construed to embrace all malt, vinous or spiritous liquors, wine, porter, ale, beer, or any drink, mixture or preparation of like nature containing more than three and five hundredths percentum of alcohol by weight, but shall not include beer, lager beer, ale, porter, malt liquor and other similar fermented liquors containing not more than three and five hundredths percentum of alcohol by weight: *Provided further,* That the word "liquors," as used in this chapter shall not be construed as

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46 including liquids, mixtures or preparations intended for non-
47 beverage purposes which have been manufactured and prepared
48 for the market in accordance with the laws of the United
49 States.

50 (f) Wherever liquors shall be seized in any room, building or
51 place which has been searched under the provisions of this act
52 the finding of such liquors in such room shall be prima facie
53 evidence of the unlawful selling, and keeping and storing for
54 sale of the same by the person, or persons, occupying such
55 premises, or his associates, agents or employees thereunder;
56 and the proprietor or other persons in charge of the premises
57 where such liquor was found and his associates shall be subject
58 to trial by due process of law, on the charge of selling or keep-
59 ing or storing for sale unlawfully such liquor, under the in-
60 dictment and form prescribed in section three of this act, and
61 upon his conviction of selling, offering, storing or exposing for
62 sale liquor unlawfully, the liquor found upon said premises
63 shall at once be publicly destroyed by some responsible person
64 to be appointed by the court.

65 That all provisions of law inconsistent with the provisions of
66 this act be, and the same are, hereby repealed.

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James D. H. H. H.
Chairman Senate Committee.

Wm. S. O'Brien
Speaker of the House of Delegates.

Wm. S. O'Brien
Clerk of the House of Delegates.

Wm. S. O'Brien
President of the Senate.

James D. H. H. H.
Chairman House Committee.

Wm. S. O'Brien
Clerk of the Senate.

The within is.....

this.....day of....., 1933.

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Governor.

Filed in the office of the Secretary of State
of West Virginia. **MAR 18 1933**
Wm. S. O'BRIEN,
Secretary of State