

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1937



ENROLLED

SENATE BILL No. 153

(By Mr. Howard)



PASSED March 17th 1937

In Effect April 15, 1937 Passage

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Senate Bill No. 153

(BY MR. HOWARD)

[Passed March 11, 1937; in effect April 15, 1937.]

AN ACT to amend chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by repealing sections ninety-one to one hundred three, inclusive, of article twelve, and by adding article fifteen, all relating to nonintoxicating beer.

Be it enacted by the Legislature of West Virginia:

That chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by repealing sections ninety-one to one hundred three, inclusive, of article twelve, and by adding article fifteen to read as follows:

Section 1. This act may be cited as "The nonintoxicating
2 beer act."

Sec. 2. For the purpose of this article:

2 "Nonintoxicating beer" shall mean all cereal malt bever-
3 ages or products of the brewing industry commonly referred
4 to as beer, lager beer, ale, and all other mixtures and prepara-
5 tions produced by the brewing industry, and containing not
6 more than five per centum of alcohol by weight, which are
7 hereby declared to be nonintoxicating, and the word "liquor"
8 as used in chapter sixty of the code of West Virginia shall
9 not be construed to include or embrace any cereal malt
10 beverage or product of the brewing industry, or any mix-
11 ture or preparation of like nature containing not more than
12 five per centum of alcohol by weight.

13 "Person" shall mean and include an individual, firm, part-
14 nership, association or corporation.

15 "Retailer" shall mean any person selling, serving, deliver-
16 ing or otherwise dispensing nonintoxicating beer at his estab-
17 lished and licensed place of business.

18 "Distributor" shall mean any person, whose chief place
19 of business is within the state of West Virginia, jobbing or

20 distributing nonintoxicating beer to retailers at wholesale.

21 "Brewer" shall mean any person, firm, association, part-
22 nership or corporation manufacturing, bottling or otherwise
23 producing nonintoxicating beer for sale at wholesale.

24 "Original container" shall mean the container used by
25 the brewer at the place of manufacturing, bottling, or other-
26 wise producing nonintoxicating beer for sale at wholesale.

Sec. 3. No person shall manufacture, sell, possess for sale,
2 transport or distribute nonintoxicating beer except in accord-
3 ance with the provisions of this act, and after first obtain-
4 ing a state license therefor, as hereinafter provided.

Sec. 4. There is hereby levied and imposed an annual
2 license tax upon all dealers in and of nonintoxicating beer as
3 defined by this act, which license period shall begin on the
4 first day of July of each year and end on the thirtieth day
5 of June of the following year, and if granted for a less
6 period the same shall be computed quarterly in proportion
7 to the remainder of the fiscal year, as follows:

8 (a) In the case of a retail dealer the license fee shall
9 be one hundred dollars for each place of business; except
10 such license fee for social, fraternal or public clubs, not oper-

11 ating for profit, and having been in continuous operation
12 for two years or more immediately preceding the date of
13 application, shall be fifty dollars; and except that railroads
14 operating in this state may dispense nonintoxicating beer
15 upon payment of an annual license tax of ten dollars for
16 each dining, club or buffet car in which the same is dis-
17 pensed.

18 (b) In the case of a distributor the license fee shall be
19 two hundred fifty dollars for each place of business.

20 (c) In the case of a brewer, with its principal place of
21 business located in this state, the license fee shall be five
22 hundred dollars for each place of manufacture.

Sec. 5. In addition to furnishing the information re-
2 quired by this act, each brewer or distributor applying
3 for a license under this act shall furnish, as prerequisite
4 to a license, a bond in some solvent surety company, to be
5 approved by the tax commissioner of the state of West Vir-
6 ginia, payable to the state of West Virginia, conditioned
7 for the payment of any and all additional taxes accruing
8 during the period of such license, and conditioned further
9 for the faithful observance of the laws of the state of West

10 Virginia with respect to the sale, transportation, storage and
11 distribution of nonintoxicating beer; which said bond shall
12 be forfeited to the state upon the revocation of the license
13 of any such brewer or distributor. The amount of such
14 bond, in the case of a brewer, shall be not less than five
15 thousand dollars nor more than ten thousand dollars, and
16 in the case of a distributor, not less than two thousand
17 dollars nor more than five thousand dollars for each place
18 of business licensed and conducted within the state, the
19 amount of such bond, between the minimum and maximum
20 amounts, to be determined in the discretion of the tax com-
21 missioner.

22 Each and every retail dealer, in addition to furnishing the
23 information required by this act, shall furnish, as prerequi-
24 site to obtaining a license, a bond in some solvent surety
25 company, to be approved by the tax commissioner, payable
26 to the state of West Virginia, in an amount not less than
27 two hundred dollars, nor more than five hundred dollars,
28 within the discretion of the tax commissioner. All such
29 bonds shall be conditioned for the faithful observance of
30 the laws of the state of West Virginia with respect to the

31 distribution, sale and dispensing of nonintoxicating beer,
32 and shall be forfeited to the state upon the revocation of
33 the license of any such retail dealer.

Sec. 6. There is hereby levied and imposed, in addition
2 to the license taxes hereinabove provided for, a tax of one
3 dollar and thirty-seven and one-half cents on each barrel of
4 thirty-one gallons and in like ratio on each part barrel of non-
5 intoxicating beer manufactured in this state for sale within
6 this state, whether contained or sold in barrels, bottles or other
7 containers, and a like tax is hereby levied and imposed upon
8 all nonintoxicating beer manufactured outside of this state
9 and brought into this state for sale within this state; but no
10 nonintoxicating beer manufactured, sold or distributed in
11 this state shall be subject to more than one barrel tax. The
12 brewer manufacturing or producing nonintoxicating beer
13 within this state for sale within this state shall pay the
14 barrel tax on such nonintoxicating beer, and the distributor
15 who is the original consignee of nonintoxicating beer manu-
16 factured or produced outside of this state, or who brings
17 such nonintoxicating beer into this state, shall pay the

18 barrel tax on such nonintoxicating beer manufactured or
19 produced outside of this state.

20 On or before the tenth day of each calendar month dur-
21 ing the license period, every brewer or distributor shall
22 make a report in writing, under oath, to the tax commis-
23 sioner, in such form as may be required by the tax com-
24 missioner, showing the number of barrels of nonintoxicating
25 beer manufactured or distributed by such person for the
26 preceding calendar month, or part thereof, during which
27 such person was engaged in business, and at the same time
28 shall pay the tax thereon levied by this act. Within thirty
29 days after the end of any license tax year each brewer or
30 distributor shall make a report in writing, under oath, to
31 the tax commissioner, in such form as may be required by
32 the tax commissioner, showing the number of barrels of non-
33 intoxicating beer manufactured or distributed for the pre-
34 ceding tax year or part thereof by such person.

Sec. 7. If any person, whose report to the tax commis-
2 sioner as provided for in the next preceding section shows
3 him to be liable for any unpaid license taxes, shall fail to
4 pay the same to the tax commissioner as provided herein,

5 the tax commissioner shall be authorized to distrain im-
6 mediately therefor, or collect the amount thereof in any
7 appropriate legal proceeding instituted in the circuit court
8 of Kanawha county, West Virginia, and in addition the
9 state shall have a lien on all the property of such person
10 for the full amount of the unpaid tax as ascertained by the
11 tax commissioner; and in addition the tax commissioner
12 may revoke the license of any such person failing to pay
13 any such tax.

Sec. 8. Every brewer or distributor shall maintain, keep
2 and preserve for a period of two years such record or records
3 of nonintoxicating beer manufactured, sold or distributed
4 in this state, together with such invoices, records, receipts,
5 bills of lading and other pertinent papers as may be re-
6 quired by the tax commissioner, and the tax commissioner
7 shall have authority to inspect, by himself or through his
8 duly designated agent, the books, accounts, records and
9 memoranda of any person licensed under the provisions of
10 this act, and to examine, under oath, any officer, agent or
11 employee of any brewer or distributor. The tax commis-
12 sioner may require the production, within this state at such

13 time and place as he may designate, of any books, accounts,
14 papers or records kept within or without the state, or veri-
15 fied copies in lieu thereof, in order that an examination
16 thereof may be made by the tax commissioner or his duly
17 designated agents. If, as the result of such examination,
18 it shall be found that any nonintoxicating beer subject to
19 the payment of a license tax, has been manufactured, brewed,
20 sold or distributed by any person, upon which the tax has
21 not been paid, the tax commissioner shall make an assess-
22 ment of the amount of the tax so found to be due, and in
23 addition thereto and as a part thereof shall assess a penalty
24 of fifty per cent of the amount of such tax and shall notify
25 such person of the additional amount due. If the same re-
26 mains unpaid for a period of thirty days the tax commis-
27 sioner shall have authority to revoke any license held at
28 the time by the licensee and in addition thereto to collect
29 the amount found to be due by an appropriate legal pro-
30 ceeding in the circuit court of Kanawha county, West Vir-
31 ginia, unless an appeal is taken from the action of the tax
32 commissioner as hereinafter provided.

33 Within thirty days after the receipt of notice of any

34 additional amount claimed to be due from any person as
35 shown by an examination by the tax commissioner, the
36 licensee shall have the right of appeal from his findings
37 to the circuit court of Kanawha county, West Virginia,
38 and such appeal shall be heard by the said circuit court
39 de novo. Whether the finding of the tax commissioner is
40 affirmed or reversed the circuit court shall enter an order
41 accordingly and either party shall then have the right of
42 appeal to the supreme court of appeals of the state.

Sec. 9. No brewer whose chief place of business is out-
2 side the state of West Virginia shall offer for sale or sell
3 nonintoxicating beer in the state of West Virginia, or offer
4 such beer for shipment into this state, except to a distributor
5 who is duly licensed under this act, and no such brewer
6 shall consign, ship or deliver any nonintoxicating beer to
7 any person within the state of West Virginia, or sell and
8 deliver such beer outside the state of West Virginia to be
9 transported into the state of West Virginia, except to a
10 duly licensed distributor for delivery at the place of busi-
11 ness of such distributor as set forth in his license. No
12 such brewer shall have any interest in the business of any

13 distributor or retailer, nor be connected directly or in-
14 directly with any distributor or retailer. Every such brewer
15 shall mail to the tax commissioner at Charleston, West Vir-
16 ginia, on or before the tenth day of each calendar month,
17 a sworn statement showing all such sales and shipments
18 of nonintoxicating beer made by such brewer during the
19 preceding calendar month. If any such brewer shall violate
20 any of the provisions of this act, he shall not be permitted
21 to sell, ship or deliver any nonintoxicating beer to any
22 distributor, or otherwise engage in the nonintoxicating beer
23 business, for a period of one year from the date the notice
24 shall be mailed to such brewer by the tax commissioner of
25 the fact that such brewer has violated the provisions of
26 this act. During such period of one year it shall be un-
27 lawful for any distributor, or for any other person within
28 the jurisdiction of the state of West Virginia, to buy or
29 receive from such brewer any nonintoxicating beer or have
30 any dealings with such brewer with respect thereto. A
31 distributor, who has not qualified with residence require-
32 ments of this act or whose chief place of business is outside
33 the state of West Virginia shall not sell, ship, transport,

34 convey or deliver, or cause to be sold, shipped, transported,
35 conveyed or delivered, directly or indirectly, any nonin-
36 toxicating beer to any distributor within the state of West
37 Virginia. If any such distributor shall violate any of the
38 provisions of this act, he shall be punished in like manner
39 as provided for any non-resident brewer who shall violate
40 any provisions of this section.

Sec. 10. No person shall be licensed in more than one
2 capacity under the terms of this act, and there shall be no
3 connection whatsoever between any retailer or distributor
4 or brewer, and no person shall be interested directly or
5 indirectly through the ownership of corporate stock, member-
6 ship in a partnership, or in any other way in the business
7 of a retailer, if such person is at the same time interested
8 in the business of a brewer or distributor; but a brewer
9 whose place of business is located within the state of West
10 Virginia may act as distributor of his own product from
11 the place of manufacture, or bottling but must have dis-
12 tributor's license for distribution from a place other than
13 the place of manufacture, and a brewer or distributor may
14 sell to a consumer, for personal use and not for resale,

15 draught beer in quantities of one-eighth, one-fourth and one-
16 half barrels in the original container: *Provided, however,*
17 That nothing herein contained shall prevent a brewer who
18 bottles beer manufactured by another from obtaining a
19 license as, and engaging in the business of, a distributor,
20 but on all beer bottled by a brewer other than the manu-
21 facturer of the beer the label on each bottle shall plainly
22 indicate the name of the brewer by whom the said beer
23 was manufactured.

Sec. 11. No license issued under the provisions of this act
2 shall be transferred to another person, nor shall the location
3 of the premises to which the license relates be changed with-
4 out the written consent of the tax commissioner, which
5 consent may be refused, in his discretion.

Sec. 12. A license may be issued by the tax commissioner
2 to any person who submits an application therefor, accom-
3 panied by license fee and bond, stating under oath:

4 (a) The name and residence of the applicant, how long
5 he has resided there, that he has been a resident of the
6 state for a period of two years next preceding the date
7 of his application, that he is twenty-one years of age, and,

8 if a firm, association, partnership or corporation, the resi-
9 dence of the members or officers for a period of two years
10 next preceding the date of such application: *Provided*, That
11 if any person, firm, partnership, association or corporation
12 applies for a license as a distributor, such person, or in the
13 case of a firm, partnership, association or corporation, the
14 members or officers thereof, shall state under oath that he
15 or they have been bona fide residents of the state for four
16 years next preceding the date of such application.

17 (b) The place of birth of applicant and, if a naturalized
18 citizen, when and where naturalized; and, if a corporation,
19 organized or authorized to do business under the laws of
20 the state, when and where incorporated, with the names and
21 address of each officer; and, if a firm or partnership, the
22 place of birth or place when and where naturalized of each
23 member of the firm or partnership, each of whom must
24 qualify and sign the application;

25 (c) The particular place for which the license is desired
26 and a detailed description thereof;

27 (d) The name of the owner of the building and, if the

28 owner is not the applicant, that such applicant is the actual
29 and bona fide lessee of the premises;

30 (e) That the place or building in which it is proposed to
31 do business conforms to all laws of health and fire regula-
32 tions applicable thereto, and is a safe and proper place or
33 building;

34 (f) That the applicant has never been convicted of a
35 felony, or a violation of the liquor laws either federal or state;

36 (g) That the applicant is the only person in any manner
37 pecuniarily interested in the business so asked to be licensed
38 and that no other person shall be in any manner pecuniarily
39 interested therein during the continuance of the license;

40 (h) That the applicant has not during one year next
41 immediately preceding the date of said application had a
42 nonintoxicating beer license revoked, nor during the same
43 period been convicted of any criminal offense;

44 The foregoing provisions and requirements are mandatory
45 prerequisites for the issuance of a license, and in the event
46 any applicant fails to qualify under the same, license shall
47 be refused. In addition to the information furnished in
48 any application, the tax commissioner may make such addi-

49 tional and independent investigation of each applicant, and
50 of the place to be occupied, as deemed necessary or advis-
51 able; and for this reason each and all applications, with
52 license fee and bond, must be filed thirty days prior to
53 the beginning of any fiscal year, and if application is for
54 an unexpired portion of any fiscal year, issuance of license
55 may be withheld for such reasonable time as necessary for
56 investigation.

57 The tax commissioner may refuse a license to any appli-
58 cant under the provisions of this act if he shall be of the
59 opinion:

60 (a) That the applicant is not a suitable person to be
61 licensed; or

62 (b) That the place to be occupied by the applicant is
63 not a suitable place; or

64 (c) That the license should not be issued, for reason of
65 conduct declared to be unlawful by this act:

Sec. 13. It shall be unlawful:

2 (a) For any licensee, his, its or their servants, agents
3 or employees to sell, give or dispense, or any individual
4 to drink or consume, in or on any licensed premises or

5 in any rooms directly connected therewith, nonintoxicating
6 beer between the hours of midnight and seven o'clock the
7 following morning.

8 (b) For any licensee to sell, furnish or give any non-
9 intoxicating beer to any person visibly or noticeably intoxi-
10 cated, or to any insane person, or to any habitual drunkard,
11 or to any person under the age of eighteen years.

12 (c) For any distributor to sell or offer to sell, or any
13 retailer to purchase or receive, any nonintoxicating beer
14 except for cash; and no right of action shall exist to
15 collect any claims for credit extended contrary to the pro-
16 visions of this clause. Nothing herein contained shall pro-
17 hibit a licensee from crediting to a purchaser the actual
18 price charged for packages or containers returned by the
19 original purchaser as a credit on any sale, or from refund-
20 ing to any purchaser the amount paid or deposited for
21 such containers when title is retained by the vendor.

22 (d) For any brewer or distributor or his, its or their
23 agents, to transport or deliver nonintoxicating beer to any
24 retail licensee on Sunday.

25 (e) For any brewer or distributor to give, furnish, rent

26 or sell any equipment, fixtures, signs or supplies directly or
27 indirectly or through a subsidiary or affiliate to any licensee
28 engaged in selling products of the brewing industry at
29 retail, or to offer any prize, premium, gift or other similar
30 inducement, except advertising matter of nominal value, to
31 either trade or consumer buyers.

32 (f) For any licensee to transport, sell, deliver or pur-
33 chase any nonintoxicating beer or product of the brewing
34 industry upon which there shall appear a label or other
35 informative data which in any manner refers to the alcoholic
36 content of such beer or product of the brewing industry,
37 or upon the label of which there appears the word or
38 words "strong," "full strength," "extra strength," "pre-
39 war strength," "high test" or other similar expressions
40 bearing upon the alcoholic content of such product of the
41 brewing industry, or which refers in any manner to the
42 original alcoholic strength, extract or balling proof from
43 which such beverage was produced.

44 (g) For any licensee to permit in his premises any
45 lewd, immoral or improper entertainment, conduct or
46 practises.

47 (h) For any licensee to possess a federal license, tax
48 receipt or other permit, entitling, authorizing or allowing
49 such licensee to sell liquor or alcoholic drinks.

50 (i) For any licensee to obstruct the view of the interior
51 of his premises by enclosure, lattice, drapes or any means
52 which would prevent plain view of the patrons occupying
53 such premises. The interior of all licensed premises shall
54 be adequately lighted at all times.

55 (j) For any licensee to manufacture, import, sell, trade,
56 barter, possess, or acquiesce in the sale, possession or con-
57 sumption of any alcoholic liquors on the premises covered
58 by such license or on premises directly or indirectly used
59 in connection therewith.

60 (k) To print, paint or place upon the door, window, or
61 in any other public place in or about the premises, the
62 word "saloon" or word of similar character or nature,
63 or for the word "saloon" or similar words to be used in
64 any advertisement by the licensee.

65 (l) For any retail licensee to sell or dispense non-
66 intoxicating beer purchased or acquired from any source
67 other than a licensed distributor or brewer under the laws

68 of this state.

69 (m) For any licensee to permit loud, boistrous or dis-
70 orderly conduct of any kind upon his premises or to permit
71 the use of loud musical instruments if either or any of the
72 same may disturb the peace and quietude of the community
73 wherein such business is located.

74 (n) For any person whose license has been revoked, as
75 in this act provided, to obtain employment with any re-
76 tailer within the period of one year from the date of such
77 revocation, or for any retailer to employ knowingly any
78 such person within such time.

79 (o) For any distributor to sell, possess for sale, trans-
80 port or distribute nonintoxicating beer except in the original
81 container.

82 Any person who violates any provision of this act or who
83 makes any false statement concerning any material fact in
84 submitting application for license or for a renewal of a
85 license or in any hearing concerning the revocation thereof,
86 or who commits any of the acts herein declared to be un-
87 lawful, shall be guilty of a misdemeanor, and shall be
88 punished for each offense by a fine of not less than twenty-

89 five dollars nor more than five hundred dollars, or imprisoned
90 in the county jail for not less than thirty days or more
91 than six months, or by both fine and imprisonment in the
92 discretion of the court. Justices of the peace shall have
93 concurrent jurisdiction with the circuit court, and any
94 other courts having criminal jurisdiction in their county,
95 for the trial of all misdemeanors arising under this act.

Sec. 14. To effectively carry out the provisions of this
2 article the tax commissioner shall have the power and author-
3 ity to adopt, promulgate, repeal, rescind and amend, in any
4 manner required, rules, regulations, standards, requirements
5 and orders, including the following:

6 (a) Prescribing records and accounts, pertaining to the
7 manufacture, distribution and sale of nonintoxicating beer,
8 to be kept by the licensee;

9 (b) Requiring the reporting of such information by li-
10 censees as may be necessary for the effective administration
11 of this article;

12 (c) Regulating the branding and labeling of packages,
13 bottles or other containers in which nonintoxicating beer
14 may be sold;

15 (d) Prohibiting shipment into the state and sale within
16 the state of low grade or under-standard nonintoxicating
17 beer;

18 (e) Referring to licenses and the issuance and revocation
19 of the same.

20 (f) Requiring licensees to keep their places of business
21 where nonintoxicating beer is sold at retail and the equip-
22 ment used in connection therewith clean and in a sanitary
23 condition.

Sec. 15. The tax commissioner may revoke the license of
2 any licensee:

3 (a) For any of the reasons and upon any grounds de-
4 clared to be unlawful by section thirteen of this act.

5 (b) For any reason or ground upon which a license might
6 have been refused in the first instance had the facts at the
7 time of the issuance of such license been known to the tax
8 commissioner.

9 (c) For the violation of any rule, regulation or order
10 promulgated by the tax commissioner under authority of
11 this article.

12 No such revocation shall be made unless and until a

13 hearing shall be held after ten days notice to the licensee
14 of the time and place of such hearing, which notice shall
15 contain a statement or specification of the charges, grounds
16 or reasons for such proposed or contemplated action, and
17 which shall be served upon the licensee as other notices,
18 or by registered mail to the address for which license was
19 issued; at which time and place, so designated in the notice,
20 the licensee shall have the right to appear and produce evi-
21 dence in his behalf, and to be represented by counsel.

22 If, at the request of the licensee or on his motion, the
23 hearing shall be continued and shall not take place on the
24 day fixed for the tax commissioner in the notice above
25 provided for, then such licensee's license shall be suspended
26 until the hearing and decision of the tax commissioner,
27 and in the event of revocation of such license, upon
28 hearing before the tax commissioner, the licensee shall
29 not be permitted to sell beer unless and until an appeal
30 has been perfected as provided by this act. Any person con-
31 tinuing to sell beer after his license has been suspended or
32 revoked, as hereinbefore provided, shall be guilty of a mis-

33 demeanor and shall be punished as provided in section thir-
34 teen of this act.

35 The action of the tax commissioner in revoking a license
36 shall be subject to review, upon certiorari by the circuit court
37 of Kanawha County, West Virginia, when such licensee may
38 be aggrieved by such revocation. The granting of such re-
39 view, upon certiorari, shall be in the sound discretion of the
40 judge of the circuit court of Kanawha County, and petition
41 for such review must be filed with said circuit court within a
42 period of thirty days from and after the date of revocation
43 by the tax commissioner; and any licensee obtaining an order
44 of review shall be required to pay the costs and fees incident
45 to transcribing, certifying and transmitting the records per-
46 taining to such matter to the circuit court. An application
47 to the supreme court of appeals of West Virginia for a writ
48 of error from and supersedeas to any final order of the circuit
49 court in any such matter shall be made within thirty days
50 from and after the entry of such final order.

51 All such hearings, upon notice to show cause why license
52 should not be revoked, before the tax commissioner, shall be
53 held in the offices of the tax commissioner in the capitol

54 building, Charleston, Kanawha county, West Virginia, unless
55 otherwise provided in such notice, or agreed upon between
56 the licensee and the tax commissioner; and when such hear-
57 ing is held elsewhere than in the tax commissioner's office the
58 licensee may be required to make deposit of the estimated
59 costs of such hearing.

Sec. 16. No license shall be issued to any person who has
2 formerly held a license, under the provisions of this act or
3 of chapter six of the acts of the Legislature of West Vir-
4 ginia, one thousand nine hundred thirty-five, which has been
5 revoked by the tax commissioner, within a period of one year
6 from the date of such revocation; nor shall any license be
7 issued hereunder to any person who was an officer or stock-
8 holder of a corporation whose license was revoked as afore-
9 said, nor to any person who was a member of a partnership
10 or association whose license was revoked as aforesaid, nor
11 to the wife or husband or employee of any person whose
12 license was revoked as aforesaid, within said period of one
13 year from the date of revocation; nor shall any license be
14 issued to any corporation having a stockholder or director
15 who has had a license revoked as aforesaid, within said period

16 of one year from the date of the revocation of such person's
17 license.

Sec. 17. Any municipal corporation in this state shall
2 have authority to levy a license tax under the provisions of
3 this act upon any retailer, distributor or brewer of nonintoxi-
4 cating beer whose place of business is situated within such
5 municipality, but the amount of the license tax levied by such
6 municipal corporation shall in no event exceed the amount
7 fixed herein to be levied by the state: *Provided, however,*
8 that but one municipal tax is to be so imposed and that only
9 by the municipality in which the place of business, or ware-
10 house, is located. Cities and incorporated towns are hereby
11 empowered to enact ordinances for the enforcement of this
12 act in conformity with the provisions of the same.

Sec. 18. The administration of this act is vested in and
2 shall be exercised by the tax commissioner of West Virginia,
3 to whom is hereby given all necessary power and authority in
4 the premises; the tax commissioner may designate an assist-
5 ant who may perform any of the duties of the tax commis-
6 sioner authorized by this act.

7 In addition to the service of the assistant hereinabove pro-
8 vided for, the tax commissioner shall appoint an adequate
9 number of competent persons to serve as agents of the tax
10 commissioner for the purpose of keeping all necessary ac-
11 counts and records required under the provisions of this
12 article; investigating the books, accounts, records and other
13 papers of retailers, distributors and brewers; investigating
14 applicants for license and the places of business of retailers,
15 distributors and brewers; procuring evidence with respect to
16 violations of the provisions of this act, and particularly for
17 use at hearings held by the tax commissioner for the purpose
18 of revoking licenses hereunder; and such agents shall per-
19 form such other duties as the tax commissioner may direct.
20 The compensation of such assistant, employees and agents
21 shall be fixed by the tax commissioner.

Sec. 19. Taxes imposed and collected under the provisions
2 of this article shall be paid to the state treasurer in the man-
3 ner provided by law, and credited to the state fund, general
4 revenue. The expenses of administration and enforcement
5 shall be paid out of the taxes collected under this article, but
6 shall not exceed fifteen per cent of the amount so collected.

Sec. 20. A license now in effect authorizing the manufacture, distribution or sale of nonintoxicating beer shall remain in effect until June thirtieth, one thousand nine hundred thirty-seven, unless sooner revoked in accordance with the provisions of this article.

Sec. 21. Sections ninety-one, to one hundred three, inclusive, article twelve, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, are hereby repealed.

Sec. 22. The provisions of this article shall be construed to be severable, and if any are held unconstitutional or otherwise invalid such invalidity shall not affect the operation of the remaining portions.

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

Carl B. Galbreath
.....
Chairman Senate Committee

Wesley B. Baltes
.....
Chairman House Committee

Originated in the.....

Takes effect.....passage.

Charles A. ...
.....
Clerk of the Senate

Wm. S. Hall
.....
Clerk of the House of Delegates

Chas. E. Hays
.....
President of the Senate

J. T. Thomas
.....
Speaker House of Delegates

The within *Approved* this the *18th*

day of *March*, 1937.

James A. ...
.....
Governor

JARRETT PRINTING COMPANY, CHARLESTON, W. VA. 

Filed in the office of the Secretary of State
of West Virginia. **MAR 19 1937**
Wm. S. O'BRIEN,
Secretary of State