WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1939

ENROLLED

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 require every employee who collects fees or handles funds, or who has custody of equipment, supplies, and other property belonging to the state, to take the oath prescribed by section five, article four of the state constitution; and the commission shall require to be furnished by every employee, or shall itself obtain, a bond, insurance policy, indemnity
contract, or other contract, protecting and indemnifying the
state against any and all loss or damage that may be occasioned
by the failure of the employee faithfully to perform the duties
pertaining to his employment, and to account for, pay over
and deliver to the proper officer or agent of the commission
or state all moneys and other property which may come into
his custody or under his control by virtue of his employment.
Such bond, insurance policy, indemnity contract, or other
contract, shall be in such form, and in such sum, and with
such security, as may be prescribed or approved by the com-
mission, and may cover any one employee or any number of
employees. The premiums for all such bonds, insurance
policies, indemnity contracts, or other contracts, shall be paid
by the commission.

Article 3. Sales by Commission.

Section 7. Agencies Classified; Compensation and Bond of
Agent. The commission shall classify state agencies into not
more than five groups with respect to volume of business.
An agent shall be compensated in a fixed sum, uniform within
each group, and in an amount to be fixed by the commission,
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 dollars, or by confinement in jail not less than thirty days nor more than six months, or in the discretion of the court, by both such fine and imprisonment.

18 Members of the commission are hereby vested, and such officers, agents and employees of the commission as shall be designated by the commission, shall upon being so designated, be vested, with like power and authority to enforce the provisions of this chapter and the criminal laws of the state relating thereto as are vested in sheriffs of counties and members of the department of public safety.

Article 4. Licenses.

Section 2. Separate Licenses for Manufacture. The commission may grant licenses for the manufacture of alcoholic liquors. Separate licenses shall be issued to the following classes of manufacturing establishments:

1 (1) Distilleries, in which only alcoholic liquors other than 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
license is issued under the provisions of this chapter shall
pay, annually, to the commission a license fee as follows, for:

(1) Distilleries, five hundred dollars;
(2) Wineries, two hundred fifty dollars;
(3) Breweries, two hundred fifty dollars;
(4) Bottling plants, one hundred dollars;
(5) Wholesale druggists, fifty dollars;
(6) Institutions, ten dollars;
(7) Industrial use, fifty dollars;
(8) Industrial plants producing alcohol, two hundred fifty
dollars;
(9) Retail druggists, ten dollars.


Section 3. Act Not Applicable to Certain Uses of Ethyl Alcohol. The provisions of this chapter relating to state
monopoly shall not apply to ethyl alcohol used:

(1) For scientific, chemical, mechanical or industrial pur-
poses.
(2) By those authorized to procure ethyl alcohol tax-free
under the acts of congress and regulations thereunder.
(3) In the manufacture of denatured alcohol produced
and used as provided by the acts of congress and regulations thereunder.

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

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

Sec. 12. Transportation of Alcoholic Liquors Into or Through State; Permits; Penalties. The commission may adopt regulations governing the transportation of alcoholic liquors, lawfully acquired, within, into or through the state in quantities in excess of one gallon as it may deem necessary to confine such transportation to legitimate purposes and may issue transportation permits in accordance with such regulations, collect a fee therefor, and shall require each person to whom such a permit is issued to furnish a bond in such form and amount and with such surety as the commission shall direct, conditioned that he will exercise the privileges granted by such permit in conformity with the provisions
of this chapter and the regulations of the commission, or in default thereof forfeit to the state school fund the sum of one hundred dollars for each breach recoverable by motion upon ten days' notice in any court having jurisdiction of the parties.

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

Sec. 16. Places Deemed Common and Public Nuisances; Penalties; Abatement. A place where alcoholic liquor is manufactured, sold, stored, possessed, given away, or furnished contrary to law shall be deemed a common and public
nuisance. Boats, cars (including railroad and traction pas-

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

If two or more persons conspire to maintain such common
and public nuisance or to distill, manufacture, store, trans-
port, sell, give away, or furnish alcoholic liquor in violation
of any of the provisions of this chapter, and one or more of
such persons do any act to effect the object of the conspiracy,
each of the parties to such conspiracy shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars or by confinement in jail for not less than one month or more than six months, or in the discretion of the court, by both such fine and imprisonment.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the

Takes effect

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within...this the...day of..., 1939.

Governor.

Filed in the office of the Secretary of State of West Virginia...Wm. S. O'Brien, Secretary of State

MAR 9 1939