WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1953

ENROLLED

SENATE BILL NO. 89

(By Mr. Love)

PASSED February 28, 1953

In Effect on Passage

Filed in the Office of the Secretary of State
of West Virginia, MAR 5 1953
D. Pitt O'Brien,
SECRETARY OF STATE
ENROLLED

Senate Bill No. 89
(By Mr. Love)

[Passed February 28, 1953; in effect ninety days from passage.]

AN ACT to amend and reenact sections twenty-six, twenty-nine and thirty-six, article one, chapter forty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the size and capacity of bottles and containers used for the retail sale of milk and cream, the weight of a barrel of flour and fixing of offenses and penalties under the weights and measures law.

Be it enacted by the Legislature of West Virginia:

That sections twenty-six, twenty-nine and thirty-six, article one, chapter forty-seven of the code of West Virginia, one thousand nine hundred thirty-one be amended and reenacted to read as follows:
Section 26. *Bottles and Containers For Milk And Cream.*—Bottles and containers used for the retail sale of milk or cream shall be of the capacity of one gallon, one-half gallon, three pints, one quart, one pint, one-half pint, and one gill, when filled within one-fourth of an inch of the cap seat or stopple. The following variations on individual bottles, containers, or jars may be allowed, but the average contents of not less than twenty-five bottles, containers, or jars selected at random from at least four times the number tested must not be in error more than one quarter of these tolerances: Ten drams above and ten drams below on the gallon; six drams above and six drams below on the half gallon; five drams above and five drams below on three pints; four drams above and four drams below on the quart; three drams above and three drams below on the pint; two drams above and two drams below on the gill. Bottles, containers, or jars used for the sale of milk or cream shall have clearly blown, or otherwise permanently marked, in the side of the bottle, container or jar, the capacity of the bottle and the word “sealed”; and in the side or bottom of the bottle,
container or jar, the name, initial, or trade-mark, which designating number shall be different for each manufacturer and may be used in identifying the bottles. The designating number shall be furnished by the state commissioner of weights and measures upon application by the manufacturer, and upon the filing by the manufacturer, of a bond in the sum of one thousand dollars, with sureties to be approved by the attorney general, conditioned upon his conformance with the requirements of this section. A record of the bonds furnished, and the designating numbers and to whom furnished, shall be kept in the office of the commissioner of weights and measures.

Any manufacturer who sells or offers to sell milk or cream bottles, containers, or jars, to be used in this state that do not comply as to size and markings with the provisions of this section shall suffer a penalty of five hundred dollars, to be recovered by the attorney general in an action against the offender's bondsman to be brought in the name of the state of West Virginia. Any dealer who uses, for the purpose of selling milk or cream jars,
bottles or containers that do not comply with the requirements of this section as to marking and capacity shall be deemed guilty of using a false and insufficient measure.

Sealers of weights and measures are not required to seal bottles, jars, or containers for milk or cream marked as in this section provided, but they shall have the power to, and shall from time to time, make tests on individual bottles, containers or jars, used by various dealers in the territory over which they have jurisdiction in order to ascertain if the above provisions are being complied with, and they shall immediately report violations found to the state commissioner of weights and measures.

Sec. 29. Barrel of Flour.—One barrel of flour shall contain two hundred pounds, one-half barrel, one hundred pounds, one-quarter barrel, fifty pounds and one-eighth barrel twenty-five pounds, net weight.

Sec. 36. Offenses; Penalties.—Any person who, by himself or by his servant or agent, or as the servant or agent of another person, shall knowingly offer or expose for sale, sell, use in the buying or selling of any commodity or thing or for hire or reward, or retain in his possession,
a false weight or measure, or weighing or measuring de-
vice which has not been sealed by a sealer or deputy sealer
of weights and measures, or shall dispose of any measure or weighing or measuring device contrary to law,
or remove any tag placed thereon by a sealer or deputy sealer of weights and measures, shall be guilty of a mis-
demeanor, and upon a first conviction, shall be fined not
less than ten nor more than one hundred dollars, or im-
prisoned for not more than sixty days, or both fined and
imprisoned; and upon a second or subsequent conviction,
he shall be fined not less than ten nor more than five hun-
dred dollars, or imprisoned in the county jail for not more
than sixty days, or both fined and imprisoned.

Any person who, by himself or by his servant or agent,
or as the servant or agent of another person, who shall
sell or offer or expose for sale less than the quantity he
represents, or shall take or attempt to take more than the
quantity he represents, when, as the buyer, he furnishes
the weights, measures, or weighing device by means of
which the amount of commodity is determined; or who
shall keep for the purpose of sale, offer or expose for sale,
or sell any commodity in a manner contrary to law; or
who shall sell or offer for sale, or use or have in his pos-
session for the purpose of selling or using, any device or
instrument to be used to or calculated to falsify any
weights or measures; or who shall violate any provision
of this article for which a specific penalty has not been
provided, shall be guilty of a misdemeanor, and, upon a
first conviction, shall be fined not less than ten nor more
than one hundred dollars, or imprisoned for not more
than sixty days, or both fined and imprisoned for not
more than sixty days; and upon a second or subsequent
conviction, he shall be fined not less than ten nor more
than five hundred dollars, or imprisoned in the county
jail for not more than sixty days, or both fined and im-
prisoned.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within approved this the 5th day of , 1953.

Governor.