

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1961

59 465
H.
ENROLLED

Committee Substitute For
HOUSE BILL No. 465.....

(By Mr. Watson and Mr. Hubbard)

PASSED March 11 1961

In Effect Ninety days from Passage

Filed in Office of the Secretary of State
of West Virginia MAR 17 1961

JOE F. BURDETT
SECRETARY OF STATE

ENROLLED

House Bill No. 465

[Originating in the Committee on Temperance.]

[Passed March 11, 1961; in effect ninety days from passage.]

AN ACT to provide for the submission to the voters of the state of an amendment to the constitution of the state, amending section forty-six, article six thereof, relating to the manufacture and sale of alcoholic liquors.

Be it enacted by the Legislature of West Virginia:

Section 1. *Submitting an Amendment to the State Constitution.*—That the question of the ratification or rejection of an amendment to the constitution of West Virginia, proposed in accordance with the provisions of section two, article fourteen of said constitution, shall be submitted to the voters of the state at the next general election, to be held in the year one thousand nine hundred sixty-two, which proposed amendment is as follows:

That section forty-six, article six of the constitution of West Virginia be amended to read as follows:

11 "Section 46. The Legislature shall by appropriate
12 legislation regulate the manufacture and sale of intoxicat-
13 ing liquors within the limits of this state.

14 Any law legalizing the sale of intoxicating liquors other
15 than by the state as now provided by law, shall provide:

16 (a) That intoxicating liquors shall be sold, dispensed
17 and/or served only in licensed, bona fide and legitimate
18 restaurants, hotels, clubs, and also in similar facilities
19 owned, controlled, leased or operated by or on behalf
20 of this state, or any municipality of this state, railroad
21 dining cars, aeroplanes and other conveyances moving
22 in interstate commerce.

23 (b) That intoxicating liquors shall not be sold, dis-
24 pensed and/or served between the hours of midnight on
25 Saturday and noon on the following Monday, at any time
26 between the hours of midnight and noon on the following
27 day, nor in a saloon or bar room nor to any person unless
28 such person is seated.

29 (c) That no advertisement, sign, placard or other devise
30 designating or advertising the situs of a licensee describ-
31 ing it as a place wherein intoxicating liquors are sold,

32 dispensed and/or served shall be exhibited thereon, in
33 any newspaper or magazine or in any other manner or
34 place whatsoever.

35 (d) That only one license for each one thousand per-
36 sons, in a county, in this state, shall be issued, except,
37 that in counties having less than ten thousand persons,
38 three additional licenses shall be permitted; in counties
39 where facilities described in subsection (a) controlled,
40 owned, leased or operated by or on behalf of this state,
41 or any municipality of this state, are located, additional
42 licenses, equal to the number of such facilities shall be
43 permitted and except, also, in those counties wherein race
44 tracks are located, an additional number of licenses equal
45 to the number of such race tracks shall be permitted.

46 (e) That no more than one license shall be issued to
47 a person.

48 (f) For special local option elections by a county, or
49 an incorporated municipality to determine whether such
50 sale other than by the state as now provided by law
51 shall be permitted within such county or municipality.
52 An incorporated municipality through such a local option

53 election shall have the sole power to forbid or permit
54 such sale within its corporate boundaries regardless of any
55 determination through a county-wide local option election
56 conducted in the county in which such municipality is lo-
57 cated.

58 (g) At least fifty per cent of all revenues from excise
59 and license taxes on the sale of intoxicating liquors other
60 than by the state as now provided by law shall be an-
61 nually appropriated to the support of schools."

Sec. 2. *Amendment to Be Known as the "Alcoholic
2 Liquor Control Amendment"*.—For convenience in referr-
3 ing to said proposed amendment, and in the preparation
4 of the form of the ballot hereinafter provided for, said
5 proposed amendment is hereby designated as the "Alco-
6 holic Liquor Control Amendment".

Sec. 3. *Form of Ballot; Election*.—For the purpose of
2 enabling the voters of the state to vote on the question
3 of said proposed amendment to the constitution at the said
4 general election to be held in the year one thousand nine
5 hundred sixty-two, the board of ballot commissioners of
6 each county is hereby required to place upon, and at the

7 foot of, the official ballot to be voted at that election, the
8 following:

9 Ballot on "Alcoholic Liquor Control Amendment".

10 ☐ For ratification of Alcoholic Liquor Control
11 Amendment.

12 ☐ Against ratification of Alcoholic Liquor Control
13 Amendment.

14 The said election on the proposed amendment at each
15 place of voting shall be superintended, conducted and re-
16 turned, and the result thereof ascertained by the same
17 officers and in the same manner as the election of officers
18 to be voted for at said election, and all the provisions of
19 the law relating to general elections, including all duties
20 to be performed by any officer or board, as far as prac-
21 ticable, and not inconsistent with anything herein con-
22 tained, shall apply to the election held under the pro-
23 visions of this act, except when it is herein otherwise pro-
24 vided. The ballots cast on the question of said proposed
25 amendment shall be counted as other ballots cast at said
26 election.

Sec. 4. Certificates of Election Commissioners; Canvass

2 of Vote; *Certifying Result*.—As soon as the result is as-
3 certained, the commissioners, or a majority of them, and
4 the canvassers (if there be any), or a majority of them,
5 at each place of voting, shall make out and sign two certifi-
6 cates thereof in the following form or the following effect:

7 “We, the undersigned, who acted as commissioners (or
8 canvassers, as the case may be) of the election held at
9 Precinct No., in the district of..... ,
10 in the county of, on the
11 day of, one thousand nine hun-
12 dred sixty-two, upon the question of the ratification or
13 rejection of the proposed constitutional amendment, do
14 hereby certify that the result of said election is as fol-
15 lows:

16 “For ratification of Alcoholic Liquor Control Amend-
17 ment votes.

18 “Against ratification of Alcoholic Liquor Control
19 Amendment.....votes.

20 “Given under our hands this day of
21, one thousand nine hundred sixty-two.”

22 The said two certificates shall correspond with each

23 other in all respects and contain the full and true returns
 24 in said election at each place of voting on said question.
 25 The said commissioners, or any one of them (or said can-
 26 vassers or any one of them, as the case may be), shall,
 27 within four days, excluding Sunday, after that on which
 28 said election was held, deliver one of said certificates to
 29 the clerk of the county court of his county, together with
 30 the ballots, and the other to the clerk of the circuit court of
 31 the county.

32 The said certificates, together with the ballots cast on
 33 the question of said proposed amendment, shall be laid
 34 before the commissioners of the county court at the court
 35 house at the same time the ballots, poll books, and the
 36 certificates of election of the members of the Legislature
 37 are laid before them; and as soon as the result of said
 38 election in the county upon the question of such ratifica-
 39 tion or rejection is ascertained, two certificates of such
 40 result shall be made out and signed by said commissioners
 41 as a board of canvassers, in the form or to the following
 42 effect:

43 "We, the board of canvassers of the county of.....
44, having carefully and impartially examin-
45 ed the returns of the election held in said county, in each
46 district thereof, on the..... day of November, one
47 thousand nine hundred sixty-two, do certify that the re-
48 sults of the election in said county, on the question of
49 the ratification or rejection of the proposed amendment is
50 as follows:

51 "For ratification of Alcoholic Liquor Control Amend-
52 ment votes.

53 "Against ratification of Alcoholic Liquor Control Amend-
54 mentvotes.

55 "Given under our hands this.....day of.....
56, one thousand nine hundred sixty-two."

57 One of the certificates shall be filed in the office of the
58 clerk of the county court, and the other forwarded by
59 mail to the secretary of state, who shall file and preserve
60 the same until the day on which the result of said election
61 in the state is to be ascertained, as hereinafter stated.

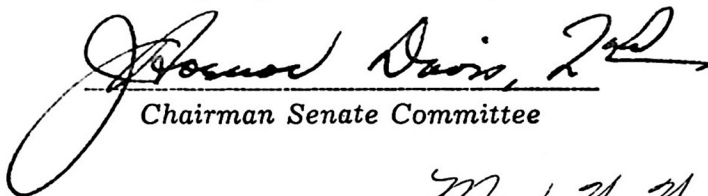
Sec. 5. Proclamation of Result of Election by Governor.

2 —On the twenty-fifth day after the election is held, or as

3 soon thereafter as practicable, the said certificates shall
4 be laid before the governor, whose duty it shall be to as-
5 certain therefrom the result of said election in the state,
6 and declare the same by proclamation published in one
7 or more newspapers printed in the seat of government. If
8 a majority of the votes cast at said election upon said
9 question be for ratification of said amendment, the pro-
10 posed amendment so ratified shall be in force and effect
11 from and after the time of such ratification, as part of the
12 constitution of the state.

Sec. 6. *Publication of Proposed Amendment by Gover-*
2 *nor.*—The governor shall cause the said proposed amend-
3 ment, with the proper designation for the same as here-
4 inbefore adopted, to be published one time at least three
5 months before such election in some newspaper in every
6 county in which a newspaper is printed, at a price to be
7 agreed upon in advance, in writing, and the cost of such
8 advertising shall be in the first instance, if found neces-
9 sary by him, be paid out of the governor's contingent fund
10 and be afterwards repaid to such fund by appropriation
11 of the Legislature.

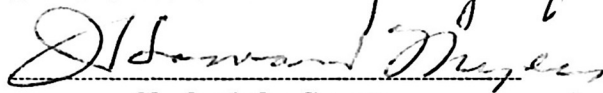
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

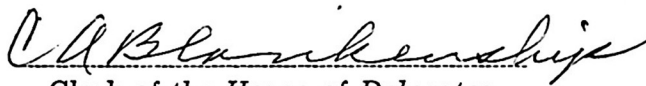

Chairman Senate Committee



Chairman House Committee

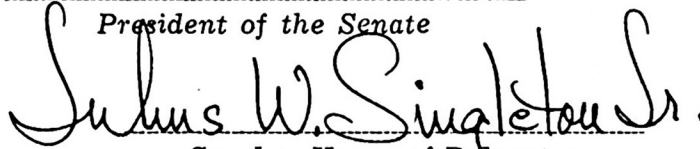
Originated in the House.

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 17th
day of March, 1961.


Governor



Filed in Office of the Secretary of State
of West Virginia MAR 17 1961
JOE F. BURDETT
SECRETARY OF STATE