WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1961

ENROLLED
Committee Substitute For
HOUSE BILL No. 465

(By Mr. Watson [and] Mr. Hubbard)

PASSED March 16, 1961
In Effect Ninety days from Passage

Filed in Office of the Secretary of State
of West Virginia MAR 17 1961
JOSEPH F. BORDERTON
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:
“Section 46. The Legislature shall by appropriate legislation regulate the manufacture and sale of intoxicating liquors within the limits of this state.

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

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

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

(c) That no advertisement, sign, placard or other devise designating or advertising the situs of a licensee describing it as a place wherein intoxicating liquors are sold,
dispensed and/or served shall be exhibited thereon, in any newspaper or magazine or in any other manner or place whatsoever.

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

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

(f) For special local option elections by a county, or an incorporated municipality to determine whether such sale other than by the state as now provided by law shall be permitted within such county or municipality. An incorporated municipality through such a local option
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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
foot of, the official ballot to be voted at that election, the following:

Ballot on “Alcoholic Liquor Control Amendment”.

☐ For ratification of Alcoholic Liquor Control Amendment.

☐ Against ratification of Alcoholic Liquor Control Amendment.

The said election on the proposed amendment at each place of voting shall be superintended, conducted and returned, and the result thereof ascertained by the same officers and in the same manner as the election of officers to be voted for at said election, and all the provisions of the law relating to general elections, including all duties to be performed by any officer or board, as far as practicable, and not inconsistent with anything herein contained, shall apply to the election held under the provisions of this act, except when it is herein otherwise provided. The ballots cast on the question of said proposed amendment shall be counted as other ballots cast at said election.

Sec. 4. Certificates of Election Commissioners; Canvass
of Vote; Certifying Result.—As soon as the result is ascertained, the commissioners, or a majority of them, and the canvassers (if there be any), or a majority of them, at each place of voting, shall make out and sign two certificates thereof in the following form or the following effect:

"We, the undersigned, who acted as commissioners (or canvassers, as the case may be) of the election held at Precinct No. ......, in the district of .................................,

in the county of ................................., on the ______ day of ................................., one thousand nine hundred sixty-two, upon the question of the ratification or rejection of the proposed constitutional amendment, do hereby certify that the result of said election is as follows:

"For ratification of Alcoholic Liquor Control Amendment ................................ votes.

"Against ratification of Alcoholic Liquor Control Amendment................................ votes.

"Given under our hands this ........ day of ......................

.............., one thousand nine hundred sixty-two."

The said two certificates shall correspond with each
other in all respects and contain the full and true returns in said election at each place of voting on said question. The said commissioners, or any one of them (or said canvassers or any one of them, as the case may be), shall, within four days, excluding Sunday, after that on which said election was held, deliver one of said certificates to the clerk of the county court of his county, together with the ballots, and the other to the clerk of the circuit court of the county.

The said certificates, together with the ballots cast on the question of said proposed amendment, shall be laid before the commissioners of the county court at the court house at the same time the ballots, poll books, and the certificates of election of the members of the Legislature are laid before them; and as soon as the result of said election in the county upon the question of such ratification or rejection is ascertained, two certificates of such result shall be made out and signed by said commissioners as a board of canvassers, in the form or to the following effect:
"We, the board of canvassers of the county of ..............

.................., having carefully and impartially examin-
ed the returns of the election held in said county, in each
district thereof, on the............... day of November, one
thousand nine hundred sixty-two, do certify that the re-
results of the election in said county, on the question of
the ratification or rejection of the proposed amendment is
as follows:

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

"Against ratification of Alcoholic Liquor Control Amend-
ment ........................................ votes.

"Given under our hands this........ day of......................

.............., one thousand nine hundred sixty-two."

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

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

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