WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1969

ENROLLED
SENATE BILL NO. 228

(By Mr. Hubbard and Mr. Hulsek)

PASSED............February 19, 1969

In Effect.......July 1, 1969........Passage.

# 228
AN ACT to amend and reenact sections four and thirteen, article sixteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to sale of nonintoxicating beer; fees for licenses.

Be it enacted by the Legislature of West Virginia:

That sections four and thirteen, article sixteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 16. NONINTOXICATING BEER.

§11-16-4. Amount of license tax; Class A and Class B retail dealers.

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

(a) Retail dealers shall be divided into two classes,
Class A and Class B. In the case of a Class A retail dealer
the license fee shall be one hundred dollars for each
place of business; the license fee for social, fraternal
or private clubs not operating for profit, and having
been in continuous operation for two years or more
immediately preceding the date of application, shall be
one hundred dollars; and except that railroads operating
in this state may dispense nonintoxicating beer upon
payment of an annual license tax of ten dollars for each
dining, club, or buffet car in which the same is dispensed.

Class A licenses issued for social, fraternal or private
clubs and for railroad dining, club or buffet cars, as
herein provided, shall authorize the licensee to sell non-
intoxicating beer at retail for consumption only on the
licensed premises where sold. All other Class A licenses shall authorize the licensee to sell nonintoxicating beer at retail for consumption on or off the licensed premises.

In the case of a Class B retailer, there shall be two types of a Class B license, each type to be colored differently so as to be easily distinguished. The fee for a Class B license authorizing the sale of unchilled beer only shall be fifteen dollars. The fee for a Class B license authorizing the sale of both chilled and unchilled beer shall be one hundred dollars. A Class B license shall authorize the licensee to sell nonintoxicating beer at retail in bottles, cans or other sealed containers only, and only for consumption off the licensed premises. Sales under this license to any person at any one time must be in less quantities than five gallons. Such license may be issued only to the proprietor or owner of a grocery store.

For the purpose of this article the term "grocery store" means and includes any retail establishment commonly known as a grocery store or delicatessen, where food or food products are sold for consumption off the premises.
(b) In the case of a distributor the license fee shall be two hundred fifty dollars for each place of business.

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

§11-16-13. Unlawful acts of licensees; penalties.

It shall be unlawful:

(a) For any licensee, his, its or their servants, agents or employees to sell, give or dispense, or any individual to drink or consume, in or on any licensed premises or in any rooms directly connected therewith, nonintoxicating beer on weekdays between the hours of one o'clock a.m., and seven o'clock a.m. eastern standard time, or before one o'clock in the afternoon of any Sunday, except in private clubs licensed under the provisions of article seven, chapter sixty of this code, where the hours shall conform with the hours of sale of alcoholic liquors;

(b) For any licensee, his, its or their servants, agents or employees, to sell, furnish or give any nonintoxicating beer to any person visibly or noticeably intoxicated, or
to any insane person, or to any habitual drunkard, or to any person under the age of eighteen years;

(c) For any distributor to sell or offer to sell, or any retailer to purchase or receive, any nonintoxicating beer except for cash; and no right of action shall exist to collect any claims for credit extended contrary to the provisions of this clause. Nothing herein contained shall prohibit a licensee from crediting to a purchaser the actual price charged for packages or containers returned by the original purchaser as a credit on any sale, or from refunding to any purchaser the amount paid or deposited for such containers when title is retained by the vendor;

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

(e) For any brewer or distributor to give, furnish, rent or sell any equipment, fixtures, signs or supplies directly or indirectly or through a subsidiary or affiliate to any licensee engaged in selling products of the brewing industry at retail, or to offer any prize, premium, gift,
37 or other similar inducement, except advertising matter
38 of nominal value, to either trade or consumer buyers:
39 Provided, That nothing contained herein shall prohibit
40 a distributor from offering for sale or renting tanks of
41 carbonic gas;
42 (f) For any licensee to transport, sell, deliver or pur-
43 chase any nonintoxicating beer or product of the brew-
44 ing industry upon which there shall appear a label or
45 other informative data which in any manner refers to
46 the alcoholic content of such beer or product of the
47 brewing industry, or upon the label of which there
48 appears the word or words "strong," "full strength,"
49 "extra strength," "prewar strength," "high test" or other
50 similar expressions bearing upon the alcoholic content
51 of such product of the brewing industry, or which refers
52 in any manner to the original alcoholic strength, extract
53 or balling proof from which such beverage was produced,
54 except that such label shall contain a statement that the
55 alcoholic content thereof does not exceed three and two-
56 tenths percent by weight;
(g) For any licensee to permit in his premises any lewd, immoral or improper entertainment, conduct or practice;

(h) For any licensee except the holder of a license to operate a private club issued under the provisions of article seven, chapter sixty of this code, to possess a federal license, tax receipt or other permit entitling, authorizing or allowing such licensee to sell liquor or alcoholic drinks;

(i) For any licensee to obstruct the view of the interior of his premises by enclosure, lattice, drapes or any means which would prevent plain view of the patrons occupying such premises. The interior of all licensed premises shall be adequately lighted at all times: Provided, That provisions of this subdivision shall not apply to the premises of a Class B retailer or to the premises of a private club licensed under the provisions of article seven, chapter sixty of this code;

(j) For any licensee to manufacture, import, sell, trade, barter, possess, or acquiesce in the sale, possession or consumption of any alcoholic liquors on the premises.
covered by such license or on premises directly or indirectly used in connection therewith: Provided, That the prohibitions contained in this subdivision with respect to the selling or possessing or to the acquiescence in the sale, possession or consumption of alcoholic liquors shall not be applicable with respect to the holder of a license to operate a private club issued under the provisions of article seven, chapter sixty of this code;

(k) For any licensee to print, paint or place upon the door, window, or in any other public place in or about the premises, the word "saloon" or word of similar character or nature, or for the word "saloon" or similar words to be used in any advertisement by the licensee;

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

(m) For any licensee to permit loud, boisterous or disorderly conduct of any kind upon his premises or to permit the use of loud musical instruments if either or any of the same may disturb the peace and quietude
of the community wherein such business is located:

Provided, That no licensee shall have in connection with
his place of business any loudspeaker located on the out-
side of the licensed premises that broadcasts or carries
music of any kind;

(n) For any person whose license has been revoked,
as in this article provided, to obtain employment with
any retailer within the period of one year from the date
of such revocation, or for any retailer to employ know-
ingly any such person within such time;

(o) For any distributor to sell, possess for sale,
transport or distribute nonintoxicating beer except in
the original container;

(p) For any licensee to permit any act to be done
upon the licensed premises, the commission of which
constitutes a crime under the laws of this state;

(q) For any Class B retailer to permit the consumption
of nonintoxicating beer upon his licensed premises;

(r) For any licensee, his, its or their servants, agents,
or employees, or for any licensee by or through such
servants, agents or employees, to allow, suffer or permit
any person under the age of eighteen years to loiter in or upon any licensed premises; except, however, that the provisions of this subdivision shall not apply where such person under the age of eighteen years, is in, on or upon such premises in the immediate company of his or her parent or parents, or where and while such person under the age of eighteen years is in, on or upon such premises for the purpose of and actually making a lawful purchase of any items or commodities therein sold, or for the purchase of and actually receiving any lawful service therein rendered, including the consumption of any item of food, drink or soft drink therein lawfully prepared and served or sold for consumption on such premises.

Any person who violates any provision of this article or who makes any false statement concerning any material fact in submitting application for license or for a renewal of a license or in any hearing concerning the revocation thereof, or who commits any of the acts herein declared to be unlawful, shall be guilty of a misdemeanor, and shall be punished for each offense by a fine of not
less than twenty-five dollars, nor more than five hundred dollars, or imprisoned in the county jail for not less than thirty days or more than six months, or by both fine and imprisonment in the discretion of the court. Justices of the peace shall have concurrent jurisdiction with the circuit court, and any other courts having criminal jurisdiction in their county, for the trial of all misdemeanors arising under this article.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

William Hoppyn               Clyn ton C. D a w id ste n
Chairman Senate Committee     Chairman House Committee

Originated in the Senate.  

To take effect July 1, 1969.

Homo r de c U t c e n
Clerk of the Senate

E. A. Blakenship
Clerk of the House of Delegates

Lloyd Fox
President of the Senate

J. H. R. R. m
Speaker House of Delegates

The within is approved this the 25th day of February, 1969.

Arich E. Shall Jr.
Governor
PRESENTED TO THE
GOVERNOR

Date  2/21/69
Time  2:50 p.m.

Feb 27  4:59 PM '69

STATE OF WEST VIRGINIA