

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1969

ENROLLED

SENATE BILL NO. 228

(By Mr. Hubbard and Mr. Heilmick)

PASSED February 19, 1969

In Effect July 1, 1969 Passage

228

THE CLERK OF THE OFFICE
K. M. TO WHEELER, IV
SECRETARY OF STATE
THIS DATE 2-27-69

ENROLLED
Senate Bill No. 228

(By MR. HUBBARD and MR. HEDRICK)

[Passed February 19, 1969; in effect July 1, 1969.]

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
2 tax upon all dealers in and of nonintoxicating beer as

3 defined by this article, which license period shall begin
4 on the first day of July of each year and end on the
5 thirtieth day of June of the following year, and if granted
6 for a less period the same shall be computed quarterly
7 in proportion to the remainder of the fiscal year as
8 follows:

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

20 Class A licenses issued for social, fraternal or private
21 clubs and for railroad dining, club or buffet cars, as
22 herein provided, shall authorize the licensee to sell non-
23 intoxicating beer at retail for consumption only on the

24 licensed premises where sold. All other Class A licenses
25 shall authorize the licensee to sell nonintoxicating beer
26 at retail for consumption on or off the licensed premises.

27 In the case of a Class B retailer, there shall be two
28 types of a Class B license, each type to be colored dif-
29 ferently so as to be easily distinguished. The fee for a
30 Class B license authorizing the sale of unchilled beer
31 only shall be fifteen dollars. The fee for a Class B license
32 authorizing the sale of both chilled and unchilled beer
33 shall be one hundred dollars. A Class B license shall
34 authorize the licensee to sell nonintoxicating beer at retail
35 in bottles, cans or other sealed containers only, and only
36 for consumption off the licensed premises. Sales under
37 this license to any person at any one time must be in
38 less quantities than five gallons. Such license may be
39 issued only to the proprietor or owner of a grocery store.
40 For the purpose of this article the term "grocery store"
41 means and includes any retail establishment commonly
42 known as a grocery store or delicatessen, where food or
43 food products are sold for consumption off the premises.

44 (b) In the case of a distributor the license fee shall
45 be two hundred fifty dollars for each place of business.

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

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

1 It shall be unlawful:

2 (a) For any licensee, his, its or their servants, agents
3 or employees to sell, give or dispense, or any individual
4 to drink or consume, in or on any licensed premises
5 or in any rooms directly connected therewith, nonin-
6 toxicating beer on weekdays between the hours of one
7 o'clock a.m., and seven o'clock a.m. eastern standard
8 time, or before one o'clock in the afternoon of any
9 Sunday, except in private clubs licensed under the pro-
10 visions of article seven, chapter sixty of this code, where
11 the hours shall conform with the hours of sale of alcoholic
12 liquors;

13 (b) For any licensee, his, its or their servants, agents
14 or employees, to sell, furnish or give any nonintoxicating
15 beer to any person visibly or noticeably intoxicated, or

16 to any insane person, or to any habitual drunkard, or to
17 any person under the age of eighteen years;

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

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

32 (e) For any brewer or distributor to give, furnish,
33 rent or sell any equipment, fixtures, signs or supplies
34 directly or indirectly or through a subsidiary or affiliate
35 to any licensee engaged in selling products of the brewing
36 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;

57 (g) For any licensee to permit in his premises any
58 lewd, immoral or improper entertainment, conduct or
59 practice;

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

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

75 (j) For any licensee to manufacture, import, sell,
76 trade, barter, possess, or acquiesce in the sale, possession
77 or consumption of any alcoholic liquors on the premises

78 covered by such license or on premises directly or in-
79 directly used in connection therewith: *Provided*, That
80 the prohibitions contained in this subdivision with respect
81 to the selling or possessing or to the acquiescence in the
82 sale, possession or consumption of alcoholic liquors shall
83 not be applicable with respect to the holder of a license
84 to operate a private club issued under the provisions of
85 article seven, chapter sixty of this code;

86 (k) For any licensee to print, paint or place upon the
87 door, window, or in any other public place in or about
88 the premises, the word "saloon" or word of similar
89 character or nature, or for the word "saloon" or similar
90 words to be used in any advertisement by the licensee;
91 *l* (1) For any retail licensee to sell or dispense non-
92 intoxicating beer purchased or acquired from any source
93 other than a licensed distributor or brewer under the
94 laws of this state;

95 (m) For any licensee to permit loud, boisterous or
96 disorderly conduct of any kind upon his premises or to
97 permit the use of loud musical instruments if either or
98 any of the same may disturb the peace and quietude

99 of the community wherein such business is located:

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

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

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

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

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

117 (r) For any licensee, his, its or their servants, agents,
118 or employees, or for any licensee by or through such
119 servants, agents or employees, to allow, suffer or permit

120 any person under the age of eighteen years to loiter
121 in or upon any licensed premises; except, however,
122 that the provisions of this subdivision shall not apply
123 where such person under the age of eighteen years, is
124 in, on or upon such premises in the immediate company
125 of his or her parent or parents, or where and while such
126 person under the age of eighteen years is in, on or upon
127 such premises for the purpose of and actually making
128 a lawful purchase of any items or commodities therein
129 sold, or for the purchase of and actually receiving any
130 lawful service therein rendered, including the consump-
131 tion of any item of food, drink or soft drink therein law-
132 fully prepared and served or sold for consumption on
133 such premises.

134 Any person who violates any provision of this article
135 or who makes any false statement concerning any ma-
136 terial fact in submitting application for license or for
137 a renewal of a license or in any hearing concerning the
138 revocation thereof, or who commits any of the acts herein
139 declared to be unlawful, shall be guilty of a misdemeanor,
140 and shall be punished for each offense by a fine of not

141 less than twenty-five dollars, nor more than five hun-
142 dred dollars, or imprisoned in the county jail for not less
143 than thirty days or more than six months, or by both
144 fine and imprisonment in the discretion of the court.
145 Justices of the peace shall have concurrent jurisdiction
146 with the circuit court, and any other courts having
147 criminal jurisdiction in their county, for the trial of all
148 misdemeanors arising under this article.

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

William Tompau
Chairman Senate Committee

Clayton C. Davidson
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1969.

Honorable Keegan
Clerk of the Senate

A Blankenship
Clerk of the House of Delegates

Ledyford
President of the Senate

Tom F. Bauer
Speaker House of Delegates

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

Arch A. Shaver Jr.
Governor



PRESENTED TO THE
GOVERNOR

Date 2/21/69

Time 3:50 p.m.

RECEIVED

FEB 27 4 53 PM '69

OFFICE OF
SECRETARY OF STATE
STATE OF WEST VIRGINIA