WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1971

ENROLLED
SENATE BILL NO. 147

(By Mr. HEDRICK)

PASSED FEbruary 8, 1971

In Effect. NINETY Days FROM Passage

FILED IN THE OFFICE
J ohn D. Rockefeller, IV
SECRETARY OF STATE
THIS DATE 2-15-71
AN ACT to amend and reenact section thirteen, article sixteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to unlawful acts of beer licensees and penalties thereof and changing the hours, other than in private clubs, during which beer may not be sold, given, dispensed, drunk or consumed in or on any licensed premises or in any rooms directly connected therewith.

Be it enacted by the Legislature of West Virginia:

That section 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.

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

1 It shall be unlawful:

2 (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, non-intoxicating beer on weekdays between the hours of two o'clock a.m., and seven o'clock a.m., or between the hours of two o'clock a.m., and one o'clock p.m., on 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;

3 (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;

4 (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 subdivision. 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, or other similar inducement, except advertising matter of nominal value, to either trade or consumer buyers:

Provided, That nothing contained herein shall prohibit
a distributor from offering for sale or renting tanks
of carbonic gas;

(f) For any licensee to transport, sell, deliver or pur-
chase any nonintoxicating beer or product of the brewing
industry upon which there shall appear a label or other
informative data which in any manner refers to the
alcoholic content of such beer or product of the brewing
industry, or upon the label of which there appears the
word or words “strong,” “full strength,” “extra strength,”
“pewar strength,” “high test” or other similar expres-
sions bearing upon the alcoholic content of such product
of the brewing industry, or which refers in any manner
to the original alcoholic strength, extract or balling
proof from which such beverage was produced, except
that such label shall contain a statement that the alco-
holic content thereof does not exceed three and two-
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 pro-
visions 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 simi-
lar 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 outside 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 knowingly 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, 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 law-
ful purchase of any items or commodities therein sold,
or for the purchase of and actually receiving any law-
ful 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 ma-
terial 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 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.

[Signatures]

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

To take effect 90 days from passage.

[Signatures]

Clerk of the Senate

Clerk of the House of Delegates

[Signatures]

President of the Senate

Speaker House of Delegates

The within approved this the 13th day of February, 1971.

[Signature]

Governor