

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1972

ENROLLED

HOUSE BILL No. 631

(By Mr. Mykes And Mr. SEIBERT)

PASSED FEBRUARY 28, 1972

In Effect JULY 1, 1972 Passage



THIS DATE 3-7-72

631

ENROLLED
COMMITTEE SUBSTITUTE
FOR
House Bill No. 631
(By Mr. Myles and Mr. Seibert)

[Passed February 28, 1972; in effect July 1, 1972.]

AN ACT to repeal section eight, article seven, chapter sixty of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact sections four, six, seven, ten, eleven and twelve of said article seven; and to further amend said article seven, by adding thereto a new section, designated section thirteen-a, relating to alcoholic liquors and licenses for private clubs for the sale thereof; providing that a license to operate a private club of a specified type shall not be issued to applicants who discriminate because of race or color; increasing the amount of the bond required for a license to operate a private club; changing the state fees required for a license to operate a private club; providing for the payment of the annual state license fees; relating to the municipal fees for private clubs located within the corporate limits of such municipality; repealing the bottle tax imposed upon alcoholic liquor sold in private clubs and provisions with respect to a bottle marker, stamp or designation in connection therewith; relating to the powers and duties of the alcohol beverage control commissioner and his duly authorized agents with respect to private clubs; specifying certain prohibited acts; providing criminal penalties; and providing for reports of violations to county prosecuting attorneys.

Be it enacted by the Legislature of West Virginia:

That section eight, article seven, chapter sixty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; that sections four, six, seven, ten, eleven and twelve of said article seven be amended and reenacted; and that said article seven be further amended by adding thereto a new section, designated section thirteen-a, all to read as follows:

ARTICLE 7. LICENSES TO PRIVATE CLUBS.

§60-7-4. Application for license; information required; verification; application to be accompanied by fees; bond; college fraternities and sororities ineligible for license.

- 1 (a) Application for a license to operate a private club
- 2 shall be made on such form as may be prescribed by
- 3 the commissioner and shall include:
- 4 (1) The name of the applicant;
- 5 (2) If such applicant be an unincorporated associa-
- 6 tion, the names and addresses of the members of its
- 7 governing board;
- 8 (3) If such applicant be a corporation, the names and
- 9 addresses of its officers and directors;
- 10 (4) The place at which such applicant will conduct
- 11 its operations and whether the same is owned or leased
- 12 by the applicant;
- 13 (5) The number of members of the applicant;
- 14 (6) The name or names of any national organizations
- 15 with which applicant is affiliated and the nature of such
- 16 affiliation;
- 17 (7) The size and nature of the dining and kitchen
- 18 facilities operated by applicant; and
- 19 (8) Such other information as the commissioner may
- 20 reasonably require which shall include, but not be limited
- 21 to, the criminal records, if any, of each member of the
- 22 applicant's governing board and/or its officers and di-
- 23 rectors who have been convicted of a felony or a crime
- 24 involving moral turpitude.
- 25 (b) Such application shall be verified by each mem-
- 26 ber of the governing board of the applicant if an unin-

27 corporated association or, if the applicant be a corpora-
28 tion, by each of its officers and all members of its board
29 of directors. Such application shall be accompanied by
30 the license fee hereinafter prescribed and by a bond of
31 the applicant in the penal sum of five thousand dollars
32 with a corporate surety authorized to transact business
33 in the state of West Virginia, payable to the state of
34 West Virginia, which bond shall be conditioned on the
35 payment of all fees herein prescribed and on the faithful
36 performance of and compliance with the provisions of
37 this article.

38 (c) Under no circumstance shall any college fraternity
39 or sorority be issued a license to operate a private club.

40 (d) No license to operate a private club will be issued
41 to applicants who discriminate against any person or
42 group of persons because of race or color of such person
43 or group of persons except clubs as defined in clauses (1)
44 and (2), subdivision (a), section two of this article.

§60-7-6. Annual license fee; partial fee.

1 (a) The annual license fee for a license issued under
2 the provisions of this article to a fraternal or veterans
3 organization or a nonprofit social club shall be seven
4 hundred fifty dollars.

5 (b) The annual license fee for a license issued under
6 the provisions of this article to a private club other than
7 a private club of the type specified in subsection (a)
8 of this section shall be one thousand dollars if such pri-
9 vate club has less than one thousand members and two
10 thousand five hundred dollars if such private club has
11 one thousand or more members.

12 (c) The fee for any such license issued following the
13 first day of January of any year and to expire on the
14 thirtieth day of June of such year shall be one half of
15 the annual license fee prescribed by subsections (a) and
16 (b) of this section six.

17 (e) All such fees shall be paid by the commissioner
18 to the state treasurer and credited to the general revenue
19 of the state.

§60-7-7. Municipal fee.

1 Any municipality in this state is hereby authorized
2 to levy a fee for revenue purposes only upon any licensee
3 whose premises are situate within such municipality,
4 which fee shall not exceed one half the amount of the
5 license fee levied by this state under the provisions of
6 section six of this article. Any such municipality is hereby
7 authorized and empowered to enact and adopt ordinances
8 necessary for the collection and enforcement of such fee.

§60-7-10. Duties and powers of commissioner.

1 The commissioner is hereby authorized:

2 (a) To enforce the provisions of this article.

3 (b) To enter the premises of any licensee at reason-
4 able times for the purpose of inspecting the same, and
5 determining the compliance of said licensee with the
6 provisions of this article and any rules and regulations
7 promulgated by the commissioner pursuant to the pro-
8 visions of this article.

9 (c) To promulgate such reasonable rules and regula-
10 tions as may be necessary for the execution and enforce-
11 ment of the provisions of this article, which may include
12 but shall not be limited to the hours during which
13 licensees may sell alcoholic liquors, and the use, handling,
14 service and sale of such alcoholic liquors. Such rules and
15 regulations shall be promulgated in accordance with the
16 provisions of article three, chapter twenty-nine-a of the
17 code in like manner as if said article three of said chap-
18 ter twenty-nine-a were set forth in extenso in this sub-
19 division.

20 (d) To issue subpoenas and subpoenas duces tecum
21 for the purposes of conducting hearings under the pro-
22 visions of section thirteen of this article, which subpoenas
23 and subpoenas duces tecum shall be issued in the time,
24 for the fees, and shall be enforced in the manner speci-
25 fied in section one, article five, chapter twenty-nine-a of
26 this code with like effect as if said section one were set
27 forth in extenso in this subdivision.

28 The authority granted in subdivisions (a), (b), and
29 (d) of this section may also be exercised by the duly
30 authorized agents of the commissioner.

§60-7-11. Licensee must purchase alcoholic liquors from or through commissioner.

1 All licensees shall purchase all alcoholic liquors sold
2 by them from the West Virginia alcohol beverage con-
3 trol commissioner at prices established by such commis-
4 sioner for sales of such alcoholic liquors to the public
5 generally.

§60-7-12. Certain acts of licensee prohibited; penalties.

1 (a) It shall be unlawful for any licensee, or agent,
2 employee or member thereof, on such licensee's prem-
3 ises to:

4 (1) Sell or offer for sale any alcoholic liquors other
5 than from the original package or container;

6 (2) Authorize or permit any disturbance of the peace;
7 obscene, lewd, immoral or improper entertainment, con-
8 duct or practice; gambling or any slot machine, multiple
9 coin console machine, multiple coin console slot machine
10 or device in the nature of a slot machine;

11 (3) Sell, give away, or permit the sale of, gift to, or
12 the procurement of any alcoholic liquors, for any minor,
13 mental incompetent, or person who is physically inca-
14 pacitated due to the consumption of alcoholic liquor, or
15 the use of drugs;

16 (4) Sell, give or dispense alcoholic liquors in or on
17 any licensed premises or in any rooms directly con-
18 nected therewith, between the hours of three o'clock a.m.
19 and one o'clock p.m. on any Sunday;

20 (5) Permit the consumption by, or serve to, on the
21 licensed premises any alcoholic liquors, covered by this ar-
22 ticle, to any person under the age of twenty-one years;

23 (6) With the intent to defraud, alter, change or mis-
24 represent the quality, quantity or brand name of any
25 alcoholic liquor;

26 (7) Sell or offer for sale any alcoholic liquor to any
27 person who is not a duly elected or approved dues pay-
28 ing member in good standing of said private club or a
29 guest of such member; or

30 (8) Violate any reasonable rule or regulation of the
31 commissioner.

32 (b) It shall further be unlawful for any licensee to
33 advertise in any news media or other means, outside of
34 the licensee's premises, the fact that alcoholic liquors
35 may be purchased thereat.

36 (c) Any person who violates any of the foregoing
37 provisions shall be guilty of a misdemeanor, and, upon
38 conviction thereof, shall be punished by a fine of not less
39 than one hundred dollars nor more than five hundred
40 dollars, or by imprisonment in the county jail for a
41 period not to exceed one year, or by both fine and im-
42 prisonment.

**§60-7-13a. Commissioner to report violations to prosecuting
attorney.**

1 The commissioner shall report violations of any of the
2 provisions of section twelve of this article to the prosecut-
3 ing attorney of the county in which the licensed premise
4 is located.

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

Fussell H. Beard

Chairman Senate Committee

Phyllis R. Rutledge

Chairman House Committee

Originated in the House.

Takes effect July 1, 1972.

Howard S. Larson

Clerk of the Senate

C. A. Blankenship

Clerk of the House of Delegates

G. Spont

President of the Senate

Lewis T. H. Shann

Speaker House of Delegates

The within *approved* this the *6th*
March
day of _____, 1972.

Hubert A. Sasser, Jr.

Governor



PRESENTED TO THE
GOVERNOR

Date 3/1/72

Time 9:12 a.m.

MAR 7 2 23 PM '72

OFFICE OF
SECRETARY OF STATE
STATE OF WEST VIRGINIA