

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1982



ENROLLED

SENATE BILL NO. 359

(By Mr. Susman and Mr. Boehner)



PASSED MARCH 13, 1982

In Effect ninety days from Passage



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Senate Bill No. 359

(BY MR. SUSMAN AND MR. BOETTNER)

[Passed March 13, 1982; in effect ninety days from passage.]

AN ACT to amend and reenact sections two, four and thirty-four, article eight, chapter sixty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to state control of alcoholic liquor; sale of wines; definitions; altering the volume tax and retail sale hours.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 8. SALE OF WINES.

PART II. SALE OF WINE GENERALLY.

§60-8-2. Definitions.

1 Unless the context in which used clearly requires a
2 different meaning, as used in this article:

3 "Commissioner" means the West Virginia alcohol beverage
4 control commissioner.

5 "Distributor" means any person whose principal place of
6 business is within the state of West Virginia, and who is
7 engaged in selling or distributing wine to retailers under
8 authority of this article and actually maintains a warehouse in
9 this state for the distribution of wine.

10 "Fortified wine" means any wine to which more than
11 twenty percent brandy or other alcohol has been added and
12 includes dessert wines which are not fortified.

13 "Grocery store" means any retail establishment, commonly
14 known as a grocery store, supermarket or delicatessen, where
15 food, food products and supplies for the table are sold for
16 consumption off the premises with average monthly sales
17 (exclusive of sales of wine) of not less than three thousand
18 dollars and an average monthly inventory (exclusive of
19 inventory of wine) of not less than three thousand dollars. The

20 term "grocery store" shall also include and mean a separate
21 and segregated portion of any other retail store which is
22 dedicated solely to the sale of food, food products and
23 supplies for the table for consumption off the premises with
24 average monthly sales with respect to such separate or
25 segregated portion (exclusive of sales of wine) of not less than
26 three thousand dollars and an average monthly inventory
27 (exclusive of inventory of wine) of not less than three
28 thousand dollars.

29 "Licensee" means the holder of a license granted under the
30 provisions of this article.

31 "Retailer" means any person licensed to sell wine at retail
32 to the public at his established place of business for
33 off-premises consumption and who is licensed to do so under
34 authority of this article.

35 "Tax" includes within its meaning interest, additions to tax
36 and penalties.

37 "Taxpayer" means any person liable for any tax, interest,
38 additions to tax or penalty under the provisions of this article
39 and any person claiming a refund of tax.

40 "Varietal wine" means any wine labeled according to the
41 grape variety from which such wine is made.

42 "Vintage wine" or "vintage-dated wine" means wines from
43 which the grapes used to produce such wine or harvested
44 during a particular year or wines produced from the grapes of
45 a particular harvest in a particular region of production.

46 "Wine" means any alcoholic beverage obtained by the
47 natural fermentation of the natural content of grapes, other
48 fruits or honey or other agricultural products containing
49 sugar and to which no alcohol has been added and shall
50 include table wine, and shall exclude fortified wine.

51 "Wine specialty shop" means a retailer who shall deal
52 principally in the sale of table wine, wine accessories and
53 food or foodstuffs normally associated with wine and who
54 shall maintain a representative number of such wines for sale
55 in his inventory which are designated by label as varietal
56 wine, vintage, generic and/or according to region of
57 production and such inventory shall contain not less than
58 fifteen percent vintage or vintage-dated wine by actual bottle
59 count.

§60-8-4. Gallonage and liter tax.

1 The tax of one dollar per gallon and in like ratio on other
2 volumes heretofore levied and imposed on all wine sold by

3 distributors to retailers is continued through March
4 thirty-one, one thousand nine hundred eighty-two. There is
5 also hereby levied and imposed on all wine in the inventory of
6 distributors at the end of business on March thirty-one, one
7 thousand nine hundred eighty-two, a tax of \$0.26406 per liter.

8 Before the sixteenth day of April, one thousand nine
9 hundred eighty-two, every distributor shall make a written
10 report under oath, to the commissioner, showing the
11 quantity, label and alcoholic content of wine sold or
12 purchased by the distributor during the preceding month
13 and, further, shall report the quantity of liters in inventory at
14 the end of business on March thirty-one, one thousand nine
15 hundred eighty-two, and at that time shall pay the tax thereon
16 imposed by this article on the wine sold prior to April one,
17 one thousand nine hundred eighty-two, and the wine in
18 inventory at the end of business on March thirty-one, one
19 thousand nine hundred eighty-two.

20 There is further hereby levied and imposed on all wine sold
21 after March thirty-one, one thousand nine hundred
22 eighty-two, by suppliers to distributors, except wine sold to
23 the commissioner, a tax of \$0.26406 per liter.

24 Before the sixteenth day of May and the sixteenth day of
25 each month, thereafter, every supplier shall make a written
26 report under oath, to the commissioner, showing the identity
27 of the purchaser, the quantity, label and alcoholic content of
28 wine sold by the supplier to West Virginia distributors during
29 the preceding month, and at the same time shall pay the tax
30 imposed by this article on the wine sold to the distributor
31 during the preceding month.

32 Such reports shall contain other information and be in the
33 form the commissioner may require. For purposes of this
34 article, the reports required by this section shall be
35 considered tax returns.

36 No wine imported, sold or distributed in this state shall be
37 subject to more than one gallonage or liter tax.

§60-8-34. When retail sales prohibited.

1 It shall be unlawful for a retailer, his servants, agents or
2 employees to sell or deliver wine on any general or primary
3 election day, or between the hours of two o'clock a.m. and one
4 o'clock p.m. on Sundays, or between the hours of eleven
5 o'clock p.m. and seven o'clock a.m. on weekdays and
6 Saturdays.

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

R. P. Bayler

Chairman Senate Committee

Tony E. Whetlow

Chairman House Committee

Originated in the Senate.

To take effect ninety days from passage.

Todd C. Winkler

Clerk of the Senate

C. A. Blankenship

Clerk of the House of Delegates

Warren R. McLaw

President of the Senate

W. H. Lee, Jr.

Speaker House of Delegates

The within is disapproved this the 31

day of ~~March~~ March, 1982.

John D. Raley

Governor

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