WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1982

ENROLLED
SENATE BILL NO. 359

(By Mr. Sutphin and Mr. Pastore)

PASSED March 13, 1982

In Effect ninety days from Passage
ENROLLED
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 different meaning, as used in this article:
3 “Commissioner” means the West Virginia alcohol beverage control commissioner.
5 “Distributor” means any person whose principal place of business is within the state of West Virginia, and who is engaged in selling or distributing wine to retailers under authority of this article and actually maintains a warehouse in this state for the distribution of wine.
7 “Fortified wine” means any wine to which more than twenty percent brandy or other alcohol has been added and includes dessert wines which are not fortified.
9 “Grocery store” means any retail establishment, commonly known as a grocery store, supermarket or delicatessen, where food, food products and supplies for the table are sold for consumption off the premises with average monthly sales (exclusive of sales of wine) of not less than three thousand dollars and an average monthly inventory (exclusive of inventory of wine) of not less than three thousand dollars. The
term "grocery store" shall also include and mean a separate
and segregated portion of any other retail store which is
dedicated solely to the sale of food, food products and
supplies for the table for consumption off the premises with
average monthly sales with respect to such separate or
segregated portion (exclusive of sales of wine) of not less than
three thousand dollars and an average monthly inventory
(exclusive of inventory of wine) of not less than three
dozen dollars.

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

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

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

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

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

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

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

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

§60-8-4. Gallonage and liter tax.

1. The tax of one dollar per gallon and in like ratio on other
volumes heretofore levied and imposed on all wine sold by
distributors to retailers is continued through March thirty-one, one thousand nine hundred eighty-two. There is also hereby levied and imposed on all wine in the inventory of distributors at the end of business on March thirty-one, one thousand nine hundred eighty-two, a tax of $0.26406 per liter.

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

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

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

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

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

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

It shall be unlawful for a retailer, his servants, agents or employees to sell or deliver wine on any general or primary election day, or between the hours of two o’clock a.m. and one o’clock p.m. on Sundays, or between the hours of eleven o’clock p.m. and seven o’clock a.m. on weekdays and Saturdays.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

To take effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is disapproved this the 31

day of March, 1982.

Governor