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WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 1998



ENROLLED

Com. Sub. for House Bill No. 2394

(By Delegates Leach, Beane, Hubbard,
Pulliam and Facemyer)



Passed March 14, 1998

In Effect Ninety Days from Passage

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OFFICE OF THE CLERK
LEGISLATURE OF WEST VIRGINIA

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COMMITTEE SUBSTITUTE

FOR

H. B. 2394

(BY DELEGATES LEACH, BEANE, HUBBARD,
PULLIAM AND FACEMYER)

[Passed March 14, 1998; in effect ninety days from passage.]

AN ACT to amend article six, chapter sixty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section twenty-five, relating to requiring all persons licensed to sell alcoholic liquor, wine or nonintoxicating beer at retail, either for consumption on-premises or off-premises, or both, to display signs warning of the possible danger of birth defects that may be caused by the consumption of alcohol during pregnancy; placement of signs; duties of commissioner to make signs available; imposition of civil administrative penalty for violation; legislative rules; creation of "fetal alcohol syndrome fund"; and disposition of moneys.

Be it enacted by the Legislature of West Virginia:

That article six, chapter sixty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section twenty-five, to read as follows:

ARTICLE 6. MISCELLANEOUS PROVISIONS.

§60-6-25. Mandatory signs to be posted warning of the possible dangers of consumption of alcohol during pregnancy.

1 (a) Beginning the first day of July, one thousand nine
2 hundred ninety-eight, all persons licensed to sell alcoholic
3 liquor, wine or nonintoxicating beer at retail, either for
4 consumption on-premises or off-premises, or both, shall
5 display signs provided by the alcohol beverage control
6 commissioner warning of the possible danger of birth
7 defects which may result from the consumption of alcohol
8 during pregnancy. These signs shall be displayed upon
9 the licensed premises in the following manner:

10 (1) If a licensee holds a license providing for the retail
11 sale of alcoholic liquor, wine or nonintoxicating beer for
12 on-premises consumption, the sign shall be posted in an
13 open and prominent place in the licensed portion of the
14 establishment: *Provided*, That self-service "mini-bars" in
15 hotel guest rooms are exempt: *Provided, however*, That
16 airports, convention centers, sports facilities and other
17 licensed premises with more than one authorized location
18 of sales, service and consumption shall post signs in plain
19 view to the majority of patrons entering or approaching
20 the licensed portion of the premises.

21 (2) If the licensee holds a license providing for the
22 retail sale of alcoholic liquor, wine or nonintoxicating beer
23 for off-premises consumption, the sign shall be posted in
24 plain view at the main entrance to the licensed premises.

25 (3) If the licensee is a liquor manufacturer, the notices
26 shall be posted in plain view at the main entrance to areas
27 where alcohol is sold for off-premises consumption. If a
28 manufacturer's tasting rooms have separate buildings or
29 separate entrances, the sign shall be posted in plain view at
30 the main entrance to the tasting area.

31 (b) The alcohol beverage control commissioner shall
32 make signs and replacements warning of the possible

33 danger of birth defects which may result from the
34 consumption of alcohol during pregnancy available to
35 each licensee governed by the provisions of this section.

36 (c)(1) Upon a determination by the commissioner that
37 a licensee has failed to comply with the provisions of this
38 section, the commissioner may impose a civil
39 administrative penalty of not less than one hundred dollars
40 nor more than one thousand dollars for each violation.
41 The provisions of section fifteen of this article shall not
42 apply to a violation of this section.

43 (2) The commissioner shall propose legislative rules
44 for promulgation pursuant to the provisions of chapter
45 twenty-nine-a of this code setting forth:

46 (A) Objective criteria against which the exercise of the
47 commissioner's discretion in the determination of whether
48 to impose a civil administrative penalty is to be measured;
49 and

50 (B) Procedures meeting the requirements of due
51 process through which an alleged violation of this section
52 may be contested.

53 (3) The proceeds of civil administrative penalties
54 collected for violations of this section shall be deposited in
55 a fund hereby established in the state treasury to be known
56 as the "fetal alcohol syndrome fund". The commissioner
57 shall expend the moneys deposited in the fund to educate
58 the public concerning the dangers of fetal alcohol
59 syndrome without appropriation except as provided in this
60 subsection. After the sum of five thousand dollars has
61 been deposited into the fund during a fiscal year, any
62 additional deposits shall be divided as follows: (1) an
63 amount necessary to allow the commissioner to carry out
64 his or her duties pursuant to this section, not to exceed one
65 half of such additional deposits, shall be deposited in the
66 alcohol beverage control administration fund, and (2) the
67 remainder of such additional deposits shall be made to the
68 state fund, general revenue. Any moneys remaining in the
69 fund on the thirtieth day of June of each year shall be

70 subject to reappropriation for expenditure during the
71 following fiscal year. The commissioner shall annually file
72 a report with the president of the Senate and the speaker
73 of the House of Delegates, informing the Legislature as to
74 the amounts deposited in the funds, and the purposes for
75 which the amounts deposited in the alcohol beverage
76 control administration fund were expended.


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

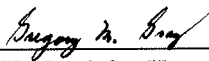

Chairman Senate Committee

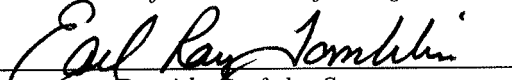

Chairman House Committee


Originating in the House.

Takes effect ninety days from passage.

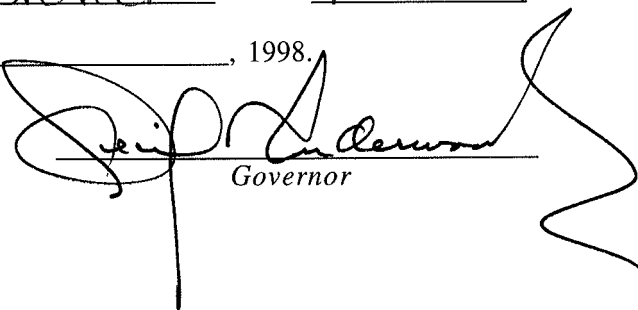

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within approved this the 1st
day of April, 1998.


Governor

PRESENTED TO THE

GOVERNOR

Date 3/31/98

Time 2:26pm