

1 COMMITTEE SUBSTITUTE

2 FOR

3 **H. B. 3145**

4 (By Delegates Miley, Manchin, Ferro, Wells
5 and Skinner)

6 (Originating in the Committee on Finance)

7 [March 28, 2013]

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9

10 A BILL to amend and reenact §11-16-9 of the Code of West Virginia,
11 1931, as amended, relating to sales of nonintoxicating beer;
12 and removing the existing maximum quantities of beer that
13 retailers can sell for off premises consumption.

14 *Be it enacted by the Legislature of West Virginia:*

15 That §11-16-9 of the Code of West Virginia, 1931, as amended,
16 be amended and reenacted to read as follows:

17 **ARTICLE 16. NONINTOXICATING BEER.**

18 **§11-16-9. Amount of license tax; Class A and Class B retail**
19 **dealers; purchase and sale of nonintoxicating beer**
20 **permitted; distributors; brewers; brewpubs.**

21 There is hereby levied and imposed an annual license tax upon
22 all dealers in and of nonintoxicating beer as defined by this
23 article, which license period ~~shall begin~~ begins on July 1, of each
24 year and ~~end~~ ends on June 30 of the following year, and, if granted
25 for a less period, ~~the same~~ it shall be computed semiannually in
26 proportion to the remainder of the fiscal year as follows:

1 (1) Retail dealers shall be divided into two classes, Class A
2 and Class B. In the case of a Class A retail dealer the license
3 fee ~~shall be~~ is \$150 for each place of business; the license fee
4 for social, fraternal or private clubs not operating for profit,
5 and having been in continuous operation for two years or more
6 immediately preceding the date of application, ~~shall be~~ is \$150:
7 *Provided*, That railroads operating in this state may dispense
8 nonintoxicating beer upon payment of an annual license tax of \$10
9 for each dining, club or buffet car in which the ~~same~~ beer is
10 dispensed.

11 Class A licenses issued for railroad dining, club or buffet
12 cars ~~as herein provided, shall~~ authorize the licensee to sell
13 nonintoxicating beer at retail for consumption only on the licensed
14 premises where sold. All other Class A licenses ~~shall~~ authorize
15 the licensee to sell nonintoxicating beer at retail for consumption
16 on or off the licensed premises.

17 In the case of a Class B retailer, the fee for a Class B
18 license authorizing the sale of both chilled and unchilled beer
19 ~~shall be~~ is \$150 for each place of business. A Class B license
20 ~~shall authorize~~ authorizes the licensee to sell nonintoxicating
21 beer at retail in bottles, cans or other sealed containers only,
22 and only for consumption off the licensed premises. ~~Sales under~~
23 ~~this license to any person at any one time must be in less~~
24 ~~quantities than five gallons: *Provided*, That~~ A Class B retailer
25 may sell to a consumer, for personal use and not for resale,
26 draught beer in quantities of one-eighth, one-fourth and one-half

1 barrels in the original containers. ~~Such~~

2 A Class B license may be issued only to the proprietor or
3 owner of a grocery store. For the purpose of this article the term
4 "grocery store" means and includes any retail establishment
5 commonly known as a grocery store or delicatessen and caterer or
6 party supply store, where food or food products are sold for
7 consumption off the premises, and ~~shall include and mean~~ means a
8 separate and segregated portion of any other retail store which is
9 dedicated solely to the sale of food, food products and supplies
10 for the table for consumption off the premises. The commissioner
11 may ~~promulgate~~ propose for legislative approval legislative rules
12 pursuant to chapter twenty-nine-a of this code necessary to carry
13 this provision into effect. Caterers or party supply stores ~~will~~
14 ~~be~~ are required to purchase the appropriate licenses from the
15 alcohol beverage control administration.

16 (2) In the case of distributors, the license fee ~~shall be~~ is
17 \$1,000 for each place of business.

18 (3) In the case of a brewer with its principal place of
19 business located in this state, the license fee ~~shall be~~ is \$1,500
20 for each place of manufacture.

21 (4) In the case of a brewpub, the license fee ~~shall be~~ is
22 \$1,000 for each place of manufacture.