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# EXPLANATION OF THE WEST VIRGINIA PROHIBITION LAW

by

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VIRGINIA.

This law will be in effect on and after Wednesday, July 1, 1914.

The present generation is witnessing a remarkable change respecting intoxicating liquors. Formerly the employer was more or less indifferent to the habits of his employees, so far as sobriety goes—now it is different, for the reason that the men save their money, have happy wives and children and homes, feel good themselves, are more careful and do better work when they do not drink intoxicating liquors. The remarkable change referred to has been brought about by education and experience. The people of this state for a number of years desired to express themselves whether the state's organic law should be so amended that the manufacture, sale and keeping for sale of intoxicating liquors in the state should cease. After years of delay, the legislature submitted the question, and speaking from their education, and from their experience, the people by over ninety thousand majority said **that the sale of liquors in West Virginia should cease.** Pursuant to such mandate the legislature at the session of 1913 enacted Chapter 13, of the Acts of that session, known as the Yost bill. This enactment is the prohibition law of the state. The first section of the law

## DEFINES LIQUORS

to "embrace all malt, vinous or spirituous liquors, wine, porter, ale, beer or any other intoxicating drink, mixture or preparation of like nature; and all malt and brewed drinks, whether intoxicating or not, shall be deemed liquors within the meaning of this act; and all liquids, mixtures or prepar-

ations, whether patented or not, which shall produce intoxication, and all beverages, containing so much as one-half of one per cent of alcohol by volume, shall be deemed spirituous liquors, and all shall be embraced in the word 'liquors' as hereinafter used in this act."

The manufacture, sale, or keeping for sale or offering or exposing for sale of liquors is prohibited in the state, except pure grain alcohol for medicinal, pharmaceutical, mechanical and scientific purposes and wine for sacramental purposes. The act forbids and prohibits any liquors for beverages and no sale, keeping nor storing for sale of liquors can lawfully be done.

In other states, where prohibition amendments have been adopted, one of the sources of evil has been the

### DRUG STORE.

The law undertakes to do away, and it is believed effectively, with this source of evil. The great majority of those engaged in the drug business is law-abiding, and the legitimate drug store, honestly and legally conducted, is not the cause of trouble, but this legitimate business has been degraded by men, who, under the guise of conducting such business, have been violators of the law, elusive, hard to detect and difficult to convict. Manufacturers and wholesalers of pure grain alcohol may sell the same to druggists only, and druggists may sell pure grain alcohol to a person of temperate habits, not addicted to use of narcotic drugs, upon the written prescription of a reputable physician, who has examined the patient and in detail sets forth in the prescription the reasons for prescribing such alcohol and its use for external purposes. Alcohol may also be sold by retail druggists for mechanical, pharmaceutical and scientific purposes, (and no other) upon written affidavit of a person twenty-one years of age and over, who is of temperate habits and not addicted to the use of narcotic drugs, such affidavit stating the purposes for which the alcohol is to be used, and a record of all sales of alcohol upon prescription or affidavit must be kept. Druggists may also sell wine for sacramental pur-



poses upon affidavit of a person not of intemperate habits and who is over the age of twenty-one years. Severe penalties, including imprisonment, are prescribed by false statements by physicians, or persons making affidavits, or using alcohol or wine for purposes other than those mentioned in the prescription or affidavit. But mark you, no druggist or other person, or prescription or otherwise, can sell whisky, brandy, ale, or any drink, or any preparation that is intoxicating, or any beverage that contains so much as one-half of one percent of alcohol by volume; and no druggist, store-keeper, nor soda-fountain proprietor can sell any drink, malt or brewed, whether it is intoxicating or not. The malt and brewed clause in the statute was aimed at that class who sell what are known as "soft drinks" and under the guise of selling soft drinks, sell beer or imitations thereof. Let it once for all be understood, that any

**SALE OF A MALT OR BREWED DRINK,** whether intoxicating or not, is a violation of the law.

### **THE CLUB.**

The law does away with this source of trouble, and it therefore provides that every person who shall directly or indirectly keep or maintain by himself, or by associating with others, or who in any manner aid, assist or abet in keeping any club house, or other place where liquor is kept for use, gift, barter or sold for a beverage, or for distribution among the members of any club or association whatsoever; and who shall use, barter, sell or give away, or assist in bartering or giving away any liquors so received or kept, shall be deemed guilty of a misdemeanor and upon conviction thereof be punished by a fine of not less than one hundred nor more than five hundred dollars, and by imprisonment in the county jail not less than thirty days nor more than six months; and further, in all cases the members, shareholders or associates in any club or association shall be competent witnesses to prove any violation of the act, or of any fact tending thereto. The act further makes such club, if the law

is violated, a common and public nuisance, and gives to the courts the right to abate the same. Such provisions of the law, intended not only that the club should not exist for the purpose of being a cloak to those who would keep, sell or barter any liquor, but further, prohibits the member of any club from having or keeping liquors about the same. These provisions of the law not only apply to the club organized for the purpose of evasion, but also to any club, regardless of how ever respectable the membership may be. There are a number of highly respectable clubs in the state, but the law forbids them to receive or keep liquors about their premises, individually or collectively. One cannot associate with another, or others, to purchase liquors, nor distribute such liquors. To do so means fine and imprisonment

**EVERY RAILROAD, EXPRESS COMPANY,** and any kind of transportation company, including steamboats and vessels carrying freight or express, either from another state into ours, or from one part of our state to another part, must obey the law of this state respecting liquors. In pursuance to this, every one of the transportation companies named, including steamboats and other vessels, will be required to keep special separate records at the point of delivery showing the receipt of liquors, the kind and quantity, to whom consigned, when delivered, and the consignee must sign in person for the shipment. In addition to the requirement to keep such special records, none of these carriers will be permitted to receive consignments of liquors for delivery to any point where there is not a regularly employed agent to keep such records, and have them open for inspection at all time.

**ONE CANNOT GET LIQUORS FOR ANOTHER,**

and it will be well for all to observe the provisions of the law respecting this proposition. In the first place, if one acts as the agent of the seller, he is guilty of selling. If one acts as agent for the purchaser, he is guilty of selling. In other words, if one has occasion to go to some point out of the state, and a friend hands him a



dollar and requests that he purchase for him some whisky or other drink, and he does it and delivers it to him, he is guilty of making the sale, and by the act is guilty of making it, not where he purchased it, but where he delivered it in the state. Again, the representatives of those who sell liquors cannot come into the state to solicit verbally, by letter, circular or otherwise. There is only one of two ways that a citizen of this state may bring liquors into it; he may, upon his own initiative, order it and have it sent to himself, by common carrier, for his personal use and not for any illegal purpose, or he may go and get it. But in either even he cannot bring it here for unlawful purposes. If he orders it shipped by common carrier, a record is made, open to inspection; if he goes after it and brings it with him, intending to use for unlawful purposes, he may be arrested and the liquor seized, so soon as he comes into the state. Let it be repeated, if he sends the other fellow for it, then the other fellow is guilty of selling. In this connection any scheme, device, shift or plan to evade the law, such as saying it is given away, when in fact it is not, is a violation of the law.

### **THE ENFORCEMENT OF THE LAW.**

The officers of the state are charged with the enforcement of the prohibition law, from the Governor down to constable, including every judge, sheriff, mayor, policeman, prosecuting attorney, justice and constable. Efficient municipal police service will be one of the greatest factors in successful enforcement. The State Tax Commissioner, ex-officio, is Commissioner of Prohibition, and he, his deputies and agents are charged with the duty to superintend the enforcement of the laws of the state pertaining to intoxicating liquors. The citizen himself has a very great part in the enforcement of the law. The remedies are summary, and in the enforcement of it most liberal interpretation is to be given to the law to attain the spirit of the amendment and of the law. Any citizen has the right to make complaint upon information. Upon that information, the judge, mayor, or justice shall issue

warrants for arrest and for seizure. All persons found in the premises shall be arrested and the liquor seized. The officers executing the warrant have the right to break open, if necessary, to enter the premises. And in this connection, it will be well to observe that if liquors are found in the premises searched, that a prima facie case is made against the owner, occupant or proprietor of the place, and the payment of the special tax required of liquor dealers by the United States makes prima facie case against the person named in the certificate of the collector of revenue, and against the agents and employees of such person. If the government will continue to collect the retail liquor dealer's tax, we will make the best use of it that we can. The justice, mayor or judge before whom the accused is brought, if probable cause is shown, must commit him to jail in default of bond of five hundred dollars. Not only must he commit him to jail in default of such bond, but he must also take additional bond from him that he will not engage in the liquor business until after adjournment of the next grand jury, and in default of bond of five hundred dollars the accused shall be committed to jail. Any citizen has the right in the name of the state

### **TO APPLY FOR AN INJUNCTION**

to restrain the sale of liquor, and to abate club houses, boats, houses or other places as nuisances where liquors are sold or kept for sale. In such proceedings the court is required to tax as part of the costs against the defendant, if the injunction is sustained, reasonable attorney's fees. In other words, the citizen can employ counsel to prosecute such injunction, and require the defendant to pay the fees of the citizen. Any citizen, or organization of citizens, has the right to employ attorneys to appear as special prosecuting attorneys, with the prosecuting attorney, and no prosecution shall be dismissed over the objections of such special prosecuting attorneys, unless the grounds for the dismissal are set forth in writing and the written objections thereto are argued and determined by the court. In addi-



tion to other penalties set forth in the act, upon conviction of the defendant, the court may require him to enter into bond with good security to be approved by the court in the penalty of one thousand dollars conditioned not to violate any of the provisions of the act for the term of two years, and in default thereof, to commit the defendant to jail for the term of two years, unless the bond be sooner given. A violation of any injunction in a proceeding under the statute, shall be punished for contempt summarily by the court without the impaneling of a jury to try the same, by a fine of not less than one hundred nor more than five hundred dollars, and by imprisonment in the county jail not less than thirty days nor more than six months.

### ADVERTISEMENTS.

After the 30th day of next June, it shall be unlawful in the state for any person to advertise or give notice by signs, billboards, newspapers, periodicals or otherwise, for himself or another, of the sale or keeping for sale of liquors. Nor shall any person circulate or distribute any price lists, circulars or order blanks advertising liquors, or publish any newspaper, magazine or periodical, or other written or printed papers, in which such advertisements or notices are given; nor permit any such notices or any advertisements or liquors, including billboards, to be posted upon his premises, or premises under his control, nor shall permit the same to so remain upon such premises. A violation of any of these provisions is a misdemeanor, punishable by fine of not less than one hundred nor more than five hundred dollars. Under this section of the law, if any one has upon his premises a barn or building, or signboard, upon which is posted a sign advertising intoxicating liquors, it must be removed not later than the 30th day of next June.

### PATENT MEDICINES.

The question has been asked to what extent merchants and others may sell patent medicines and other preparations that contain alcohol. The answer is very short and very simple. Mer-

chants may sell patent medicines, or other preparations, but they cannot lawfully sell a patent medicine, or any other preparation that can be used as a beverage, containing so much as one-half of one per cent of alcohol in volume. Nor can a merchant or other person sell a patent medicine or other preparation that will produce intoxication. There are patent medicines and preparations that may be sold by merchants, that contain more than one-half of one per cent of alcohol by volume, but are so medicated that they cannot be used as a beverage, nor a person become intoxicated by the use thereof. Doubtless unscrupulous manufacturers will endeavor to manufacture preparations, in the guise of proprietary medicines and other preparations for the purpose of being used as beverages, and for the purpose of producing intoxication. Merchants must be careful, and must act at their peril in handling preparations containing alcohol. The merchant is put upon inquiry, whether the preparation is a beverage or can be used as such, and the amount of alcohol contained in it, and he is upon inquiry as to whether such patent medicine, or other preparation, that contains alcohol can be used as a beverage, and whether it will produce intoxication.

### IN PARTICULAR.

Any person, who, on and after Wednesday, July 1st, 1914, sells, or keeps, or stores for sale, barter or trade whisky, brandy, wine, ale, gin, beer or any other intoxicating drink, beverage, mixture or preparation, or malt or brewed drink, or any malt, vinous or spirituous liquors, is violating the law. Upon first conviction, the person guilty will be subjected to heavy fine and long time in jail; on second violation, heavy fine and not less than one year in state penitentiary.

Let every one be very careful not to violate this law.

Copies of a pamphlet containing the entire law, the Amendment, the Webb-Kenyon Act, and interpretations of the law, may be had upon application to Fred C. Blue, State Tax Commissioner, Charleston, West Virginia.

