

# LIQUOR CONTROL

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Report of the Committee appointed under  
authority of an Act approved  
August 29, 1933



Submitted to the General Assembly of Virginia  
January, 1934

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RICHMOND:  
DIVISION OF PURCHASE AND PRINTING  
1934

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# Report of Liquor Control Committee

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RICHMOND, VA., *December 13, 1933.*

*To the General Assembly of Virginia:*

By an act approved on August 29, 1933, the General Assembly of Virginia authorized the appointment of a committee of fifteen members to "prepare and present to the General assembly for consideration at its next regular session, a bill or bills, designed to carry into effect the will of the people as expressed by the majority vote" at the election held on October 3, 1933, on the "CONTINUATION OF STATE PROHIBITION" or the adoption in place thereof "A PLAN OF LIQUOR CONTROL."

## ORGANIZATION AND MEETINGS.

The majority of the votes cast at said election having been in favor of "A PLAN OF LIQUOR CONTROL," the Committee met and organized in the city of Richmond on the 11th day of October, 1933, by electing Hon. John W. Eggleston, its chairman, and Hon. Chas. W. Moss, its secretary. It thereafter met in Richmond on October 23 and 24, when it invited and heard a public discussion of the various problems incident to a plan of liquor control. Further meetings were held in Richmond on November 22 and 23 for the consideration of a tentative draft of an act prepared by a subcommittee with the assistance of Wm. R. Shands, Esq., Director of the Division of Statutory Research and Drafting, embodying a proposed plan. The Committee was again in session at Richmond on December 12 and 13, 1933, and at that time concluded its work.

The Committee wishes to bear witness to the extremely valuable and efficient services rendered to it in the preparation of the accompanying bill by Mr. Shands. He was present at every session of the Committee and of its subcommittee, aided us with helpful suggestions from time to time and performed work which expedited and simplified the labors of the Committee. Without his assistance our work would have been much more laborious and difficult and the expense much greater.

## APPROACH TO THE PROBLEM.

Your Committee deems beers and wines containing 3.2% or less of alcohol by weight as non-intoxicating, and these are not to be considered as included in the plan herein outlined.

Fortunately the repeal of the Eighteenth Amendment and the proposed repeal of the State dry law (the Layman Act) will wipe the slate clean for a new experiment in liquor control. There will be no vested or proprietary interests to be considered.

We have carefully examined the various systems of liquor control in operation in the Canadian provinces and the European countries, as well as those being formulated by the several States of the Union. We have read and considered the views expressed by leaders and others in the general field.

In our approach to the problem, we have also kept in mind the meaning of "A PLAN OF LIQUOR CONTROL" as defined in the act of the General Assembly of August 29, 1933, and printed on the ballot used in the referendum of October 3, 1933, namely:

"'A PLAN OF LIQUOR CONTROL' means a plan permitting and regulating the manufacture, sale, use and handling of intoxicating liquors under provisions prohibiting the saloon and reserving to each county and city the right by popular vote to prohibit the sale of such liquor within each such county or city."

#### GENERAL PRINCIPLES.

From our consideration of the problem the majority of your Committee has agreed upon the following fundamental principles which should be the basis of a plan of liquor control:

Temperance, social betterment and respect for law should be the prime objectives of any system of liquor control. Taxes should be levied as a method of promoting social control and not primarily for raising State or local revenues. The system should not have for its object the rehabilitation of the finances of any class of citizens, any industry or locality.

In order to survive, a liquor control system must have the respect and support of a large majority of the citizens of the State and the community. It should be strong enough to have the respect of all citizens, liberal enough to have the support of public opinion, and flexible enough to meet various and changing conditions. The act itself should provide the main guiding principles and vest in the State Control Authority wide discretionary powers to modify the details as the conditions demand.

Local option should be a cardinal principle. The system should provide for the sale of alcoholic beverages in those localities where a majority of the citizens wish it, and on the other hand the sale of such beverages should not be thrust upon those communities which do not desire it.

The sale of alcoholic beverages should be brought out in the open and placed upon a decent plane. The bootlegger should be eliminated. Our past experience has demonstrated the fact that he cannot be legislated out of existence. He exists by reason of the profits derived from the illicit liquor trade. Therefore, the system of liquor control should provide, so far as possible, for the sale of alcoholic beverages at such prices and under such conditions as will make it economically unprofitable and difficult for the bootlegger to compete with the lawful dispenser of these beverages.

The private profit motive, with its incentive to stimulate the sale and consumption of liquor, should be reduced to a minimum. No manufacturer of alcoholic beverages should be allowed to have any interest, direct or indirect, in any place or business where these beverages are authorized to be sold at retail.

The saloon as it existed in the pre-prohibition days, with its stimulated profits, political alliances and other attendant evils, must not return. On this subject, President Roosevelt in his proclamation of December 5, 1933, announcing the ratification of the Twenty-first Amendment said:

“I ask especially that no State shall by law or otherwise, authorize the return of the saloon either in its old form or in some modern guise.”

We are convinced that temperance will be measurably prompted by the encouragement of the drinking of light fermented beverages, such as beers and wines, and the discouragement of the use of distilled liquors of high alcoholic content. Therefore, a plan of liquor control should make wines and beers more easily obtainable by, and hard liquors less available to, the consumer.

No system of liquor control will be entirely satisfactory to all of the citizens in the various communities which may desire to have the plan in operation. It should be designed as a workable compromise to insure the greatest good to the greatest number of citizens as a whole.

### THE DISTRIBUTION OF ALCOHOLIC BEVERAGES.

Basically, there are two available methods of dispensing alcoholic beverages:

(1) The private licensing system, such as was generally employed in pre-prohibition days, and

(2) The State Control Plan, whereby the State government takes over as a public monopoly the retail sale, through its own stores, of certain alcoholic beverages in sealed packages for off-premises consumption.

The Committee recommends the adoption of a plan embodying a combination of these two methods of distribution and patterned after the system which has operated successfully in the Province of Quebec and in other Canadian provinces.

Believing that the discouragement of the consumption of distilled liquors will promote temperance, we recommend that private licensees, such as hotels, restaurants, clubs, dining cars and passenger boats, be permitted to sell only wines and beers at retail, by the glass, for consumption on the premises, with or without meals. Other licensees should be permitted to sell wines and beers in sealed packages for off-premises consumption. All such sales should be under regulations promulgated by a State central authority, hereinafter referred to as “the Board.”

Wines sold for off-premises consumption should be purchased from the Board.

The State stores should also be authorized to sell wines in sealed packages for off-premises consumption.

We recommend that distilled spirits, such as whiskey, brandy, gin, etc., be sold *exclusively* through a system of State stores, in sealed packages, in limited quantities, for off-premises consumption. Such State stores should be under the management and control of the Alcoholic Beverage Control Board hereinafter discussed.

We disapprove of the suggestion that hotels and restaurants be allowed to sell distilled liquors by the drink. By the referendum held last October we are bound to oppose the return of the saloon. No one has yet satisfactorily defined a saloon. It may be argued that a hotel or restaurant which serves distilled liquors at tables is not a saloon in the common acceptance of the word, but really the only difference is that the bar and the swinging doors are missing. In almost every other respect it would be the same and so deemed by the people of Virginia.

It is our opinion that if such a system of selling distilled liquors for consumption on the premises were initiated at this time, it would shortly be followed by agitation in many localities throughout the Commonwealth for local option elections and all of the disagreeable consequences thereof.

In short, we believe that a large majority of our people will approve and support the retail sale by the drink of wine and beer but not of distilled liquors. We recognize the fact that a great many people may be dissatisfied with the limitations imposed on the sale of distilled liquors but we deem it our duty to adopt a policy which we believe will be supported by a healthy majority opinion.

It is urged that some States now permit the sale of distilled liquors by the drink. This is true but in answer it need only be said that a control system which might be desirable in some States might be highly undesirable for this State.

#### STATE STORES V. PRIVATE LICENSING SYSTEM.

Our reasons for recommending the State Control Plan instead of the private licensing system are briefly as follows:

The former plan has for its purpose the control of the liquor traffic as a public enterprise for the benefit of society and the community. Its aim is temperance and respect for the law. It eliminates from the liquor traffic one of the greatest evils, namely, the private profit feature. Since all profits go into the public treasury, there is no incentive to stimulate sales and increase the consumption of liquor. The private licensing system, on the other hand, legalizes the liquor traffic as a private industry organized and conducted for private gain without regard to its influence or effect upon the community. The very livelihood of the licensee and his employees depends upon the volumes of his sales. It is inevitable that they should be interested in a larger



volume of business, a stimulation of sales, which means a greater consumption of liquor.

Under the State Control Plan there is no danger of the domination and control of the liquor traffic by the manufacturers, the brewers and the distillers—one of the evils of pre-prohibition days. Under the licensing system, regardless of what restrictions the General Assembly may place on the system, there is but one step from the individual licensees to a chain of liquor stores owned and operated, indirectly, perhaps, by large manufacturers of liquors, which will have but one object—their private gain—regardless of the welfare of the community.

State stores would have a great advantage in eliminating the bootlegger. The Alcoholic Beverage Control Board will be in a position to purchase liquors at a much lower price than private licensees by reason of the volume of its purchases and also in a position to sell its liquors at a much lower figure than such licensees—even at cost, temporarily, until the bootlegger is forced out of business.

The places of sale, under the State Control Plan, would always be respectable and on a high plane. Regulating the hours and conditions of sale would be comparatively simple. Drinking on the premises would not be tolerated. Despite the most stringent regulations the contrary would be true on the premises of numerous licensees, and we would have, in effect, a return of the saloon in many places.

Under the State Control Plan there would be in the business no proprietary or vested interest, always jealous and aggressive, to oppose restrictions or changes detrimental to the trade. A contrast is presented under the private licensing system. Immediately there would be a political scramble (such as we recently saw in New York) for the most coveted and highly remunerative privilege of selling liquor. Thereafter, each licensee would have a proprietary interest in his business. Collectively, such licensees might be expected to vigorously oppose any restriction of opportunities in their business. They would almost certainly become involved in both local and State politics. Every candidate for the General Assembly in each locality would be subject to their scrutiny as to his attitude towards the business of these proprietors. Each session of the General Assembly would witness their lobby on hand to see that their united interests were at least let alone, if not indeed, benefited by legislation. We would then find, as in the past, the liquor traffic projected into politics with all of the attendant corruption and evil resulting from the union.

Granted that the proposed State Control Plan is an experiment, it has another great advantage over the alternative method of control. Should a change prove necessary, a license plan could be substituted therefor. But should the step be first taken toward a private licensing system, a retreat therefrom would be difficult, if not impossible. The establishment of a licensed trade with large capital invested and various interests affected, would present a practically insurmountable obstacle to any change.

### LOCAL DISPENSARIES DISAPPROVED.

There has been some little agitation in certain quarters for local dispensaries. These we have considered and rejected. The dangers of such a system are too obvious to need extended comment. Such dispensaries run for revenue only would have exactly the same motive for promoting the sale of alcoholic beverages as would private licensees.

### DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL.

We recommend the creation as a department of the Commonwealth of Virginia, the *Department of Alcoholic Beverage Control*, with headquarters at Richmond, consisting of the Alcoholic Beverage Control Board, and its officers, agents and employees.

### ALCOHOLIC BEVERAGE CONTROL BOARD.

The Board should consist of three members appointed by the Governor, who should be empowered to suspend or remove them at his pleasure. They should also be subject to impeachment under the Constitution. One of the members should be appointed for a term of one year, one for a term of three years, and one for a term of five years. Subsequent appointments should be for a term of five years each, except appointments to fill vacancies which should be for the unexpired terms. The Governor should have power to designate one of the members of the Board as chairman thereof, and the Board, under rules adopted by it, should be authorized to elect one of its members chairman pro tempore, and another, or some other person, as secretary. Two members of the Board should constitute a quorum.

We emphasize that only men of the highest character, courage and unblemished integrity should be appointed to the Alcoholic Beverage Control Board. They should devote their full time to the performance of their official duties, and each member should be paid a salary commensurate with the duties and responsibilities of his office, to-wit, \$7,500.00 a year.

No member, officer, agent or employee of the Board should directly, or indirectly, individually or as a member of a partnership, or of an association, or as a member or stockholder of a corporation, have any interest whatsoever in the manufacture of, or dealing with, alcoholic beverages. Neither should he have any interest in any enterprise, industry or property or land where alcoholic beverages are manufactured or sold, other than his contract of employment made with the Board.

### POWERS, FUNCTIONS AND DUTIES OF THE BOARD.

In order that the system may be flexible and may meet various conditions, both as to time and place, we recommend that the Board be given broad powers. These powers should include:

- (1) The exclusive right within the State to sell or control the sale

of all alcoholic beverages, including spirits, wines, beers and ciders, containing more than 3.2 per cent of alcohol by weight.

(2) The right to establish, maintain and operate State stores for the sale of these distilled spirits and wines by the package to the consumer for off-premises consumption.

(3) The right to acquire, occupy and improve land and buildings for these purposes.

(4) The right to issue and revoke permits and licenses to private licensees for the sale of wine and beer at retail in sealed packages for off-premises consumption, and to establish the necessary regulations governing such sales.

(5) The right to issue and revoke permits and licenses to licensees such as hotels, restaurants, clubs, dining cars, passenger boats, for the sale of wines and beers with or without meals, for consumption on the premises and to establish the necessary regulations governing such sales.

(6) The right to issue permits and licenses to private licensees for the manufacture of alcoholic beverages and to establish the necessary regulations governing such manufacture, not inconsistent with the Federal statutes and regulations dealing with same.

(7) In establishing such stores and issuing such retail licenses the Board should respect the decision of communities which may exclude the same under the local option features of the Act.

(8) The power to hold hearings on complaints about matters in dispute, including the power to subpoena witnesses.

(9) The power to determine all policies and regulations for liquor control not specified in the law, and to promulgate all rules and regulations not inconsistent with the terms of the Act necessary for carrying out the provisions of the Act and to alter, amend or repeal the same.

The Board should keep an accurate account of all funds handled by it, should make regular reports of its transactions to the Governor and to the General Assembly, and its books and accounts should be subject to the necessary audits by the Auditor of Public Accounts.

#### GOVERNMENT STORES.

The Board should be authorized to establish, maintain and operate in such counties, cities and towns as shall be considered advisable by it, government stores for the sale of alcoholic beverages, except beer, at prices to be fixed by it, under regulations issued and promulgated by it. Each store should have a manager and such other necessary employees as the Board may appoint for the conduct of its affairs. These employees should be paid regular salaries not based on the revenues collected by such stores. Not more than one gallon of distilled spirits should be sold for off-premises consumption to any one person at any one time at any government store, and such beverages should be in sealed packages, properly labelled by the Board.

The government stores should be closed on Sundays, holidays, election days and at such other times as the Board may direct.

#### FINANCES OF BOARD.

All moneys received by the Board from the sale of alcoholic beverages and from State licenses should be deposited by the Board to its credit in such bank or banks as it may select, which should be required to give the security required of State depositories under the law.

The Board should make all payments necessary for the administration of the Act, including the payment of the salaries of the members of the Board and the other employees and all costs and expenses incurred in establishing and maintaining government stores, including the purchase of alcoholic beverages.

The Committee recommends that the net profits derived by the Board, after deducting a sum to be approved by the Governor for the creation of a reserve fund, be paid by the Board into the general fund of the State treasury.

The General Assembly should appropriate a sufficient fund to enable the Board to establish and commence operations under the plan, with the expectation that the profits from the business will more than restore to the State treasury, within a reasonable time, the original capital outlay.

#### LICENSES.

The Board should have the exclusive power to issue all State licenses for the manufacture, sale and distribution of alcoholic beverages in this State, and should be given broad authority to refuse, grant or revoke such licenses. Action of the Board in granting, refusing to grant, or revoking any license under the Act, should not be subject to review by any court, nor should any mandamus or injunction lie in any such case. We feel that these broad powers will greatly facilitate the Board in enforcing the provisions of the Act and regulations under which such licensees are to operate.

In addition to State licenses, the governing bodies of cities and towns should be authorized to issue local licenses to the holders of State licenses for the manufacture, sale and distribution of designated alcoholic beverages.

As heretofore pointed out, the Board should be authorized to establish and promulgate necessary regulations governing the conduct of business of such licensees and to enforce the same.

#### LOCAL OPTION.

The Act should provide for the calling and holding of local option elections in counties, cities and towns of 1,500 or more population. Such elections should be ordered by the appropriate court, or judge thereof in vacation, upon the petition of not less than thirty per cent of the number of votes counted for presidential electors in the last preceding presidential election in each such county, city or town.

We recommend that two questions be submitted in the referendum, namely:

1. Shall the sale of beer and wine (containing more than 3.2 per cent of alcohol by weight), be permitted in said county, city or town?
2. Shall the sale of alcoholic beverages other than beer and wine be permitted in such county, city or town?

The Act should provide for the other necessary machinery in connection with holding such elections.

After a local option election shall have been held in any county, city or town, no other such election should be held therein until the expiration of four years from the date of such prior election.

In considering the general question of local option, the Committee recognized that the language of the Act under which this Committee is acting and the subsequent vote of the people pursuant thereto required the protection of this right. Judges Ingram and Paul felt that the principle of local option would not be violated by a recommendation to the General Assembly that it carefully consider the advisability of postponing the date of any given election for two years to give this plan a fair trial and that it also consider the question whether a bare majority or at least two-thirds of those voting in such an election should control.

#### INTERDICTION.

We do not recommend the adoption in Virginia of the permit system such as is in vogue in several of the Canadian provinces and in Sweden. However, the sale of alcoholic beverages should be prohibited to certain interdicted persons such as those who have been convicted of driving an automobile, car, truck, motorcycle, etc., while intoxicated, or to those who are habitual inebriates (except on physicians' prescriptions). The Act should provide for judicially determining who should be interdicted.

#### PENALTIES.

We have attempted to simplify the penalties provided for in the bill. It will be observed that with few exceptions one penalty applies to all violations. At this point, however, we direct attention to the fact that licensees who violate the provisions of the bill or the regulations of the Board face not only the punishment set up in the bill but more important still the forfeiture of their licenses. The forfeiture feature of the bill should largely assure compliance by licensees with the law.

We recommend that the bill include no provision concerning driving while intoxicated; this matter, we think should be fully covered in a separate bill and we so recommend.

#### ENFORCEMENT.

The Commission recommends that enforcement of this Act should be largely intrusted to the present local officers and police. Only a limited force of inspectors need be employed.

## THE PROPOSED BILL.

Your Committee has prepared and herewith presents to the General Assembly for its consideration a bill designed to carry into effect the plan of liquor control outlined in this report.

Respectfully submitted,

JOHN W. EGGLESTON, *Chairman*  
CHAS. W. MOSS, *Secretary*  
GEO. W. LAYMAN  
A. E. SHUMATE  
A. P. STAPLES  
MAITLAND H. BUSTARD  
WILBUR C. HALL  
Y. M. HODGES  
JAMES S. BARRON  
C. O'CONNOR GOOLRICK  
JOHN L. INGRAM  
JOHN PAUL

I am willing to unite in the report with the following explanatory reservation to appear above my signature: "As between the dispensary plan and the licensee system for the sale of alcoholic liquors I favor the dispensary plan. However, the report of the Commission and the proposed bill accompanying same include provisions and details of which I do not approve and omit safeguards that seem to be necessary."

G. WALTER MAPP.

CONCURRING STATEMENT OF MESSRS. EGGLESTON,  
BARRON, STAPLES, MOSS AND BUSTARD.

The undersigned members of the Committee heartily approve of the plan of liquor control outlined in the annexed report. The report makes no recommendation for the distribution of the profits derived from the operation of the State stores. A majority of the members thought that such a recommendation was beyond the scope of the Committee's authority. We recommend to the General Assembly that such net profits be divided one-third to the general fund of the State and two-thirds to the counties or cities in proportion to their population, or on some other equitable basis.

Our reasons for this recommendation are two-fold:

*First:* Such division of the net profits is in no way inconsistent with the fundamental principles of the plan of liquor control outlined in the report.

*Second:* Such a division of the profits is eminently fair and just. It is safe to assume that more than two-thirds of the profits derived from the operation of a store will come out of the pockets of the citizens of the county or city wherein such store is located. Furthermore, the plan does not provide for the creation of any State police

for the enforcement of the Act. Therefore, the entire policing of the system, and its proper enforcement, will fall directly on the counties and cities. It seems both unjust and unsound that the treasuries of the localities should shoulder this burden without sharing to some extent in its benefits.

JOHN W. EGGLESTON  
JAMES S. BARRON  
A. P. STAPLES  
CHAS. W. MOSS  
MAITLAND H. BUSTARD.

CONCURRING STATEMENT OF HON. C. O'CONOR  
GOOLRICK.

I concur in the recommendations set out above, but with this reservation, to-wit:

I believe that if there should be a distribution to the localities, that it should be for the specific purpose of helping them defray the instructional costs of public school education. This would be of material benefit to the public schools and at the same time might, and probably would, permit many of the localities to reduce the present tax on real estate, which is very desirable.

C. O'CONOR GOOLRICK.

MINORITY REPORT OF SENATOR HENRY T. WICKHAM.

December 13, 1933.

*To the Members of the General Assembly of Virginia:*

The undersigned begs leave to submit the following minority report:

While there are many provisions emphasized in the report of the majority with which I most heartily agree, yet the difference as outlined in the attached bill which I offered as a substitute are fundamental. I cannot agree to the establishment of the Liquor Control Board proposed to be set up with the extraordinary powers conferred upon it.

Sections 4 and 5 of the Committee's bill confer upon it dictatorial power; Legislative, Judicial and Executive—without substantial right of appeal, and violative of Section 5 of the Bill of Rights and therefore unconstitutional. They cannot be upheld under the police power. Broad, however, as is the scope of the police power its exercise is subject to the rule that the Legislature may not exercise any power that is explicitly or impliedly forbidden to it by the State Constitution.

It is given power to legislate by regulations having the force and effect of statutes passed by the General Assembly; power to construe their own regulations without appeal, which is judicial; and power to enforce which is executive; and furthermore such regulations need not be uniform in their application, which is tyranny, a government of men not law—a power to dispense justice and not merely liquor.

It is given express power to appoint officers, agents and employees in its discretion, with duties and powers absolutely in the

discretion of the Board, the only limitation being that remunerations in excess of \$1,000.00 per annum must be approved by the Governor. A vast political machine is erected which is absolutely opposed to the Democratic principles of a free and liberty loving people.

While the report of the majority suggests that the inspectors or under cover agents should be limited in number and authority, yet this suggestion is without sanction and constitutes no limitation upon the discretionary power conferred.

The Act recommended by the majority puts the State squarely in the liquor business. I am opposed to this. I respectfully submit that liquor has a corruptive influence. If the State goes into the business, judging by the past, its tendencies will be to corrupt the State itself.

I am not impressed by the action of the Canadian provinces or of European people. The Constitutions under which these governments are organized are different from ours, and the inhabitants of those countries differ greatly from our people.

The proposed substitute provides in lieu of the Control Board that licenses may be issued by the Commissioners of the Revenue and in certain specified instances by the State Tax Commissioner.

Sections 4 and 5 of the proposed substitute are as follows:

*Section 4.* Any person intending to apply to any Commissioner of the Revenue for any State license required by this Act shall first file with the circuit court of the county (or the judge thereof in vacation) or of the corporation court of the city (or the judge thereof in vacation) in which is located the place where the applicant proposes to carry on the business for which the license is to be applied for, a statement in writing and under oath setting forth (a) that the applicant, if an individual, or if a partnership or association, each of the members of the partnership or association, or if a corporation, each of its principal officers and each of its directors is not less than twenty-one years of age, is of good moral character, has never been convicted of any felony involving moral turpitude, (b) that the applicant intends to carry on the business to be covered by the license for himself and not as the agent of any individual, partnership, association, or corporation, (c) that in the case of an applicant for a retailer's license, no manufacturer, wholesaler or bottler of beverages, within or without this State, has any financial interest, direct or indirect, in the business for which the license is desired or in the premises in respect of which such license is to be issued, and that such business will not be conducted with any money, equipment, furniture, fixtures, or property rented from, or loaned or given by, any manufacturer, bottler or wholesaler of beverages, within or without this State, and (d) that the place described in the application is in all respects proper as respects school houses and churches.

Upon the filing of such statement as is herein required, the



court or judge, unless satisfied that the said statement is untrue in some material respect, shall issue a certificate setting forth that such statement has been filed in accordance with law and in due form, and that the place is in his opinion suitable and proper as respects school houses and places of religious assembly; but in the discretion of said court or judge such application shall be filed and heard in open court upon ten days' notice posted at the front door of the courthouse and the court shall hear such evidence as the applicant may produce and also any evidence that may be produced by any person who may consider that he or the Commonwealth would be aggrieved by the granting of the license for which the application is made and enter its order either granting or refusing the license, and from such order of said court there shall be no appeal.

The court or judge thereof in vacation, may require the applicant to enter into a bond payable to the Commonwealth in such penalty as such court or judge may deem reasonable with good and sufficient security that said applicant will pay all excise taxes properly chargeable against him; that he will not violate any of the provisions of law in relation to the manufacture or sale of any alcoholic liquor.

Every certificate to a manufacturer, bottler or wholesaler, issued under this section shall be good until such certificate or any license issued thereon is revoked, and as long as such certificate or any license thereon remains unrevoked, it shall not be necessary for a certificate-holder to renew such certificate or to obtain a new certificate in order that he may secure subsequent annual licenses, but it shall be necessary for the holder of a certificate as a retailer to renew such certificate or to obtain a new certificate in order that he may secure subsequent annual licenses. Fees of the Commissioner of the Revenue for issuing State license under this Act shall be the same as provided by general law for issuing State licenses.

*Section 5.* Each such license shall designate the place where the business of the licensee will be carried on. A separate license shall be required for each separate place of business. The peddling of alcoholic liquor is hereby prohibited. No license shall be transferable from one person to another, but may be amended to show a change in the place of business within the same county, city or town, provided said place be certified as a proper place as required in Section 4 of this Act. Each license issued under the provisions of this Act shall be kept posted in a conspicuous place by the licensee at the place where he carries on the business for which the license is issued.

The proposed substitute also provides that in addition to the State licenses the counties, cities and towns are authorized to impose license

taxes within such counties, cities and towns so as to give them also revenue for their local needs.

Excise taxes are also imposed by the State at low rates.

By Section 10, the State Tax Commissioner is authorized to issue special licenses to hotels, restaurants, clubs, and for various professional, scientific and occupational business.

Suitable penalties are provided for, especially for driving automobiles, trucks, etc., while under the influence of intoxicants, and other acts in violation of the law.

Section 16 provides fully and clearly for the exercise of local option by elections in counties, cities and towns to determine withdrawal from the operation of the Act.

It is respectfully submitted that the substitute bill completely fulfills the mandate of the people of Virginia expressed on their ballots cast on October 3, 1933, as respects "A Plan of Liquor Control" which is defined to mean "a plan permitting and regulating the manufacture, sale, use and handling of intoxicating liquors under provisions prohibiting the saloon, and reserving to each county and city the right by popular vote to prohibit the sale of such liquor within each such county or city."

The fundamental difference between the bill offered by the majority of the Committee and the proposed substitute is the Dispensing System set up with its arbitrary and as is claimed unconstitutional power as against the clearly constitutional power given to the circuit judges. I am well aware of the great and additional burden placed upon our judges. They are panoplied with the loftiest characteristics that ennoble human nature. They are panoplied with the reverence, love and devotion of our citizens. Their intimate knowledge of the needs and wishes of their localities qualifies them beyond all others. Their lives are spent in patriotic devotion to their country—we can trust them.

The plan suggested by the substitute bill is not the license system so criticised in the little book furnished to some members of the Assembly. At the proper place and at the proper time it will perhaps be stated more fully than is possible now considering the limitations of time of preparation of this report, the essential differences between the license system indicated in that little book and the limited license system set up in the suggested substitute bill.

The limitations of time above alluded to, prevent enlarging upon various other provisions of the bill proposed by the majority as respects the proposed "monopoly" conferred upon the proposed Board of Control as of doubtful constitutionality under the Constitution of the United States, especially the Commerce Clause, which may hereafter be fully gone into.

Finally, the proposed "monopoly" contemplates the expenditure of vast sums "to buy, import, and sell alcoholic beverages, and to have alcoholic beverages in its possession for sale" to make provision for the maintenance of warehouses and stores, and "to purchase, lease or

to acquire the use by any manner whatsoever of any plant or equipment which may be considered necessary or useful in carrying into effect the purpose of the Act, including rectifying, blending and processing plants, but not manufacturing plants." For the purposes of the Act the bill of the majority carries an appropriation of \$250,000.00. It will be within the functions of the General Assembly, if they can, to see that this sum is within the resources of the State for unquestionably the Assembly must see its way to have its appropriation honored at the State treasury. It is respectfully submitted that the sum of \$250,000.00 will be greatly inadequate and attention is directed to the following sections of the Constitution of Virginia to-wit: 184 The General Assembly may contract debts to meet casual deficit in the revenue, to redeem a previous liability of the State, to suppress insurrection, repel invasion, or defend the State in time of war. 184-a. No debt or liability, except the debts specified in Section one hundred and eighty-four shall be hereafter contracted by or on behalf of the State, unless such debt shall be authorized by law for some single purpose constituting new capital outlay, to be distinctly specified therein, and a vote of a majority of all the members elected to each house shall be necessary to the passage of such law. On the final passage of such law in either house of the General Assembly the question shall be taken by ayes and noes to be duly entered on the journal thereof and shall be "shall this bill pass, and ought the same to receive the sanction of the people?" No such law shall take effect until it shall have been submitted to the people at a general election, and shall have received a majority of all the votes cast for or against it. "Such law shall be published, as may be prescribed by law, for at least three months next preceding such election."

All of which is respectfully submitted,

HENRY T. WICKHAM.

DECLINATION OF HOWARD S. ZIGLER TO SIGN  
MAJORITY REPORT.

RICHMOND, *December 13, 1933.*

I desire to express my approval of many of the sections and provisions of the report and bill suggested by the Liquor Control Commission. However, there is one fundamental principle involved that prevents me from signing the majority report.

I am unalterably opposed to the adoption of a licensee system permitting the private handling of intoxicating liquors. It is true that the bill suggested does not permit the sale of distilled liquors, by private licensees, but limits such sales to beers, wines and fortified wines of high alcoholic content. Although limited to this extent the very nature of this system will stimulate the sales of these liquors and, in addition, will lead to political alliances and other attendant evils.

The permission for the consumption of these drinks on the premises of the licensees, in principle if not in fact, will defeat the mandate of the people in their vote of October 3rd, which provided for prohibiting the saloon. Under this system the old saloon will be allowed to return in a modern guise.

A plan of control permitting sale of intoxicating liquors by State dispensaries only, would not be ideal. However, this system would not stimulate sales of liquors and would prevent the development of a political liquor machine, which will dominate our government for years to come.

HOWARD S. ZIGLER.

# Appendix A

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## BILL PROPOSED BY THE COMMITTEE

### A BILL

To legalize, regulate and control the manufacture, bottling, sale, distribution, transportation, handling, advertising, possession, dispensing, drinking and use of alcohol, brandy, rum, whiskey, gin, wine, beer, lager beer, ale, porter, stout, and all liquids, beverages and articles containing alcohol obtained by distillation, fermentation or otherwise; to create a Department of Alcoholic Beverage Control and a Virginia Alcoholic Beverage Control Board and to define and provide for the functions, duties and powers thereof; to provide for the appointment, suspension, removal, compensation, costs, and expenses of such Board and its members, officers, agents and employees; to provide for licensing and taxing manufacturers, bottlers, wholesalers and retailers of alcohol, brandy, rum, whiskey, gin, wine, beer, lager beer, ale, porter, stout, and all liquids, beverages and articles containing alcohol, by the State and the counties, cities, and towns thereof; to impose excise taxes on such liquids, beverages and articles; to appropriate money for the administration of the act and to provide for the disposition of revenues collected under the act; to provide for the confiscation and disposition of articles declared contraband hereunder; to impose penalties for violations of the act; to repeal all acts and parts of acts in conflict herewith, and to provide that this act shall constitute and be designated and cited as "The Alcoholic Beverage Control Act."

1. Be it enacted by the General Assembly of Virginia as follows:

*Section 1. Title.*—This act may be cited as "The Alcoholic Beverage Control Act."

*Section 2. Definitions.*—The following terms, wherever used or referred to in this act, shall have the following meaning unless a different meaning clearly appears from the context:

(a) "Alcohol" shall mean the product known as ethyl or grain alcohol obtained by distillation of any fermented liquor, rectified either once or oftener, whatever may be the origin thereof, and shall include synthetic ethyl alcohol, but shall not include methyl alcohol and alcohol denatured in accordance with formulas approved by the government of the United States; the word "alcohol" when used in the phrase "more than three and two-tenths per centum of alcohol by weight" shall mean all alcohol whether obtained by distillation, fermentation or otherwise;

(b) "Alcoholic beverages" shall include the four varieties of liquor defined herein as alcohol, spirits, wine and beer, and any one or more of such varieties, and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed by a human being. Any liquid or solid containing more than one of the four varieties above defined shall be considered as belonging to that variety which has the higher percentage of alcohol, however obtained, according to the order in which they are set forth in this subsection;

(c) "Beer" shall mean any beverage obtained by the alcoholic fermentation of an infusion or decoction of barley, malt and hops or of any similar products in drinkable water and containing, unless otherwise expressly provided, more than three and two-tenths per centum of alcohol by weight; this definition shall include ale, porter and stout;

(d) "Board" shall mean the Virginia Alcoholic Beverage Control Board;

(e) "Bottle" shall mean any vessel intended to contain liquids and having a capacity of not more than forty-three ounces;

(f) "Club" shall mean any non-profit corporation or association which is the owner, lessee or occupant of an establishment operated solely for objects of a national, social, patriotic, political, or athletic nature, or the like, but not for pecuniary gain, the advantages of which belong to all the members; it also shall mean the establishment so operated;

(g) "Dentist" shall mean any person duly authorized to practice dentistry pursuant to the laws of Virginia;

(h) "Dining-room" shall mean a public room in which full meals are regularly served;

(i) "Druggist" shall mean any person duly authorized to operate a pharmacy pursuant to the laws of Virginia;

(j) "Establishment" shall mean any place where alcoholic beverages of one or more varieties are manufactured, sold or used pursuant to the provisions of this act;

(k) "Government store" shall mean a store established by the Board under this act for the sale of alcoholic beverages or any one or more varieties thereof;

(l) "Hotel" shall mean any duly licensed establishment, provided with special space and accommodation, where, in consideration of payment, food and lodging are habitually furnished to persons, and which has ten or more bedrooms; it shall also mean the person who operates such hotel;

(m) "Interdicted person" shall mean a person to whom the sale of alcoholic beverages is prohibited by order pursuant to this act;

(n) "Intoxicated": any person who has drunk enough alcoholic beverages to so affect his manner, disposition, speech, muscular movement, general appearance or behavior, as to be apparent to observation, shall be deemed to be intoxicated;

(o) "Manager" shall mean the appointee of the Board in charge of a government store;

(p) "Member of a club" shall mean a person who maintains his membership in the said club by the payment of monthly, quarterly or annual dues in the manner established by the rules and regulations thereof;

(q) "Package" shall mean any container, bottle, vessel or other receptacle used for holding alcoholic beverages;

(r) "Person" shall include an individual, partnership, association or corporation;

(s) "Physician" shall mean any person duly authorized to practice medicine, pursuant to the laws of Virginia;

(t) "Public place" shall mean any place, building or conveyance to which the public has, or is permitted to have, access, and any highway, street, lane, park, or place of public resort or amusement;

(u) "Residence" shall mean any building or part of a building or tent where a person resides, but does not include any part of a building which part is not actually and exclusively used as a private residence, nor any part of a hotel or club other than a private guest room thereof;

(v) "Restaurant" means any establishment, provided with special space and accommodation, where, in consideration of payment, food (without lodging) is habitually furnished to persons;

(w) "Sale" and "sell" shall include exchange, barter and traffic, and any delivery made otherwise than gratuitously, by any means whatsoever, of alcoholic beverages; to solicit or receive an order for alcoholic beverages; to keep, offer or expose the same for sale; to peddle;

(x) "Spirits" shall mean any beverage which contains alcohol obtained by distillation mixed with drinkable water and other substances in solution, and includes, among other things, brandy, rum, whiskey and gin; but shall not include any such liquors denatured in accordance with formulas approved by the United States;

(y) "Veterinary" shall mean any person duly authorized to practice veterinary science pursuant to the laws of Virginia;

(z) "Wine" shall mean any beverage obtained by the fermentation of the natural sugar contents of fruits or other agricultural products containing sugar, including honey and milk, either with or without additional sugar, and containing more than three and two-tenths per centum of alcohol by weight.

*Section 3. Department of Alcoholic Beverage Control; Virginia Alcoholic Beverage Control Board created.*—(a) There is hereby created as a department of the Commonwealth of Virginia the Department of Alcoholic Beverage Control. The said department shall consist of the Virginia Alcoholic Beverage Control Board and the officers, agents and employees of the Board.

(b) The Board shall consist of three members appointed by the Governor. One of the members of the Board shall be appointed for a term of one year, one for a term of three years, and one for a term of five years; subsequent appointments shall be for a term of five years each, except appointments to fill vacancies which shall be for the unexpired terms. The Governor shall designate one of the members of the Board chairman thereof. The board, under rules adopted by itself, may elect one of its members chairman pro tempore and another or some other person as secretary. Two members of the Board shall constitute a quorum.

(c) Each member of the Board shall receive a salary of seventy-five hundred dollars per annum.

(d) Members of the Board may be suspended or removed by the

Governor at his pleasure and shall also be subject to impeachment under the provisions of section fifty-four of the Constitution of Virginia.

(e) Each member of the Board shall, before entering upon the discharge of his duties, take and subscribe the oath of office required by section thirty-four of the Constitution of Virginia, and give bond payable to the Commonwealth of Virginia, in form approved by the Attorney General, in such penalty as shall be fixed from time to time by the Governor, with some surety or guaranty company duly authorized to do business in Virginia and approved by the Governor as security, conditioned upon the faithful discharge of his duties; the premium of such bonds shall be paid by the Board and the bonds shall be filed with and preserved by the Comptroller.

(f) Each member of the Board shall devote his full time to the performance of his official duties.

(g) No member, officer, agent or employee of the Board shall, directly or indirectly, individually, or as a member of a partnership or of an association, or as a member or stockholder of a corporation, have any interest whatsoever in the manufacture of or in dealing in alcoholic beverages, or in any enterprise or industry in which alcoholic beverages are required, or receive any commission or profit whatsoever from or have any interest whatsoever in the purchase or sale of alcoholic beverages by the Board or by any other person whatsoever, or have any interest in or mortgage or deed of trust on any land or building where alcoholic beverages are manufactured for sale, kept for sale, offered for sale or sold, or any personal property used therein, or in any contract, other than his contract of employment, made with the Board.

The provisions of this subsection shall not prevent any member, officer, agent or employee of the Board from purchasing and keeping in his possession, for the personal use of himself, members of his family or guests, alcoholic beverages which may be purchased or kept by any person by virtue of this act.

(h) The main office of the Board shall be located in the city of Richmond.

*Section 4. Functions, duties and powers of Board.*—The functions, duties and powers of the Board shall be as follows:

(a) To buy, import and sell alcoholic beverages other than beer, and to have alcoholic beverages in its possession for sale;

(b) To control the possession, sale, transportation and delivery of alcoholic beverages by the Board;

(c) To determine the localities within which government stores shall be established and operated and the location of such stores;

(d) To make provision for the maintenance of warehouses for alcoholic beverages and to control the delivery of alcoholic beverages to and from such warehouses, and the keeping of the same therein;

(e) To lease, occupy and improve any land or building required for the purposes of this act;

(f) With the consent of the Governor, to purchase or otherwise



acquire title to any land or building required for the purposes of this act and to sell the same;

(g) To purchase, lease or acquire the use by any manner whatsoever of any plant or equipment which may be considered necessary or useful in carrying into effect the purposes of this act, including rectifying, blending and processing plants, but not manufacturing plants;

(h) To determine the nature, form and capacity of all packages to be used for containing alcoholic beverages to be kept or sold under this act, and to prescribe the form and contents of all labels and seals to be placed thereon;

(i) To appoint every officer, agent and employee required for its operations, dismiss them, fix their salaries or remuneration, assign them their official positions and titles, define their respective duties and powers, require them or any of them to give bonds payable to the Commonwealth, in such penalty as shall be fixed by the Board, and engage the services of experts and of persons engaged in the practice of a profession; all salaries or remuneration in excess of one thousand dollars per annum shall first be approved by the Governor; members, officers, agents and employees of the Board are authorized and empowered to arrest persons for any disorderly conduct in or about any government stores or property of the Board or for violations of the provisions of this act, committed in their presence;

(j) To hold and conduct hearings, to issue subpoenas requiring the attendance of witnesses and the production of records, memoranda, papers and other documents before the Board or any officer or agent thereof, and to administer oaths and to take testimony thereunder; in its discretion to authorize any member, officer or agent of the Board to hold and conduct hearings, issue subpoenas, and administer oaths and take testimony thereunder;

(k) Generally to do all such things as may be deemed necessary or advisable by the Board for the purpose of carrying into effect the provisions of this act.

*Section 5. Power to make regulations; how published; effect thereof.*—(a) The Board may from time to time make such regulations not inconsistent with this act as the Board shall deem necessary for carrying out the provisions of this act, and from time to time alter, repeal, or amend such regulations or any of them. Such regulations shall be published at least once in some newspaper published in the city of Richmond and in any other manner which the Board may deem advisable, and upon being so published shall have the force and effect of law.

(b) Nothing in this act contained shall require such regulations to be uniform in their application.

(c) Prima facie evidence of any such regulation may be given in all courts and proceedings by the production of what purports to be an officially printed copy of such regulation, alteration, repeal or amendment.

*Section 6. Civil liability of Board members; suits by and against*

*Board.*—(a) No member of the Board may be sued civilly for doing or omitting to do any act in the performance of his duties as prescribed by this act, except by the Commonwealth, and then in the Circuit Court of the City of Richmond. Such proceedings by the Commonwealth shall be instituted and conducted by the Attorney General.

(b) The Board may in the name of the Commonwealth of Virginia at the relation of the Virginia Alcoholic Beverage Control Board be sued in the Circuit Court of the City of Richmond to enforce any contract made by the Board or to recover damages for any breach thereof and may defend such proceedings and may institute proceedings in any court. No such proceedings shall be taken against, or in the names of, the members of the Board.

*Section 7. Annual report to Governor; what shall be contained therein.*—(a) The Board shall from time to time make reports to the Governor covering such matters in connection with the administration and enforcement of this act as he may require, and shall annually make to the Governor a report for the twelve months ending on the thirtieth day of June in the year in which the report is made, which shall contain:

(1) A statement of the nature and amount of the business transacted by each government store under this act during the year;

(2) A statement of the assets and liabilities of the Board, including a profit and loss account, and such other accounts and matters as may be necessary to show the result of the operations of the Board for the year;

(3) A statement showing the taxes collected under this act during the year;

(4) General information and remarks as to the working of the law within the Commonwealth;

(5) Such other information as shall be requested by the Governor.

(b) Every such annual report shall forthwith be laid by the Governor before the General Assembly if then in session, or if not in session, before the General Assembly within fifteen days after the convening of the next session.

(c) The books and records of the Board shall at all times be subject to examination and audit by the Auditor of Public Accounts, and by such other persons as the Governor may authorize.

*Section 8. Records of Board; Auditor of Public Accounts to devise and install system of accounts.*—(a) The Board shall keep such complete and accurate records as shall be necessary to show:

(1) All moneys received by the Board;

(2) All disbursements of money made by the Board;

(3) The amount of money on deposit and on hand;

(4) The security given the Board by depositories of the Board;

(5) The kinds and amounts of alcoholic beverages on hand and the location thereof;

(6) All indebtedness and all contracts of the Board;

(7) The names, addresses, and compensation of all officers, agents and employees of the Board;

(8) All receipts from and costs and expenses incurred for and on behalf of each government store; and,

(9) All real estate owned or leased and all real estate sold by the Board.

(b) The Auditor of Public Accounts shall devise and install a system of accounts for the Board.

*Section 9. Board may establish, maintain and operate government stores for sale of alcoholic beverages.*—(a) The Board may establish, maintain and operate, in such counties, cities and towns as shall be considered advisable by the Board, government stores for the sale of alcoholic beverages, other than beer, in accordance with the provisions of this act and may discontinue any such store or stores when in its discretion it is advisable to do so.

(b) The Board shall from time to time fix the prices at which the various classes, varieties and brands of alcoholic beverages shall be sold in such stores.

(c) The sale of alcoholic beverages at each government store shall be conducted by a manager, and by such other officers, agents and employees as may be appointed hereunder, who shall, under the direction of the Board, be responsible for the carrying out of the provisions of this act and the regulations of the Board in so far as they relate to the conduct of such store and the sale of alcoholic beverages thereat.

(d) No alcoholic beverages shall be sold in a government store except in a closed package, sealed and containing such label as the Board shall prescribe.

(e) No alcoholic beverages shall be consumed in a government store by any person.

(f) Not more than one gallon of alcohol or spirits shall be sold to any one person at any one time in any government store; this provision shall not limit the amount that may be sold by the Board in government stores or otherwise for industrial purposes and to druggists licensed under this act.

(g) The Board may from time to time adopt regulations relating to the sale, delivery and shipment of alcoholic beverages, and alter, amend or repeal the same in order to prevent the unlawful sale and delivery thereof in and from government stores.

*Section 10. Orders of Board for alcoholic beverages; authentication of orders and cancellations thereof.*—(a) Every order of the Board for the purchase of alcoholic beverages shall be authenticated by the chairman of the Board or by a member of the Board authorized by the Board to authenticate such orders, and no order shall be binding unless so authenticated.

(b) A duplicate of every such order shall be kept on file in the office of the Board.

(c) All cancellations of orders made by the Board shall be authenti-

cated in the same manner and a duplicate thereof kept as herein provided.

*Section 11. When Board not required to purchase through Division of Purchase and Printing; printing of Board.*—(a) The provisions of law pertaining to the Division of Purchase and Printing and the purchasing of materials, equipment and supplies through the Division of Purchase and Printing shall not apply to the purchasing of alcoholic beverages, the making of leases and the purchasing of real estate by the Board under the provisions of this act.

(b) All printing required by the Board shall be done through the Division of Purchase and Printing and shall be paid for by the Board out of funds available for such purpose.

*Section 12. When government stores closed.*—No sale or delivery of alcoholic beverages shall be made at any government store, nor shall any such store be kept open for the sale of alcoholic beverages:

(a) On Sunday.

(b) On any public holiday fixed pursuant to the provisions of the laws of this State.

(c) In any county, city or town on any day on which an election is held therein.

(d) During such other periods and on such other days as the Board may direct.

*Section 13. Receipt, deposit and disbursement of money by Board.*—

(a) All moneys received by the Board from the sale of alcoholic beverages and from license taxes shall be deposited by the Board in such bank or banks or trust company or trust companies as shall be designated by the Board. Such depositories shall give the Board security for all deposits of such moneys, which security shall be the same as that required of State depositories under section twenty-one hundred and fifty-eight of the Code of Virginia; all banks and trust companies are authorized to give to the Board such security for such deposits.

(b) All disbursements of moneys so deposited by the Board shall be by check, draft or other order signed by the secretary of the Board and countersigned by the chairman, or another member of the Board designated by the Board, or by some officer or agent of the Board authorized and designated by the Board for such purpose.

*Section 14. Board shall pay costs and expenses.*—The Board shall make all payments necessary for the administration of this act, including the payment of the salaries and remuneration of the members, officers, agents and employees of the Board, and all costs and expenses incurred in establishing and maintaining government stores and in the administration of this act.

*Section 15. Accounts to be made quarterly and submitted to Governor; audit of accounts.*—(a) The accounts of the Board shall be made up to and including the thirty-first day of March, the thirtieth day of June, the thirtieth day of September, and thirty-first day of December in each year, and at such other times as may be determined by the Governor, and in every case the Board shall prepare a balance

sheet and statement of profit and loss and submit the same to the Governor.

(b) The accounts of the Board shall be audited quarterly as of March thirty-first, June thirtieth, September thirtieth, and December thirty-first of each year by the Auditor of Public Accounts, or by such other person as the Governor may designate, and the report of such auditor containing such particulars as the Governor may require shall be made to the Governor within thirty days after the close of each such quarterly period.

(c) The Governor may require that the accounts of the Board be audited by the Auditor of Public Accounts, or by such other person as the Governor may designate, at such other time or times as he may see fit.

*Section 16. Net profits, after deducting reserve fund, to be paid into general fund of State treasury.*—The net profits derived by the Board under the provisions of this act shall, after deducting therefrom such sums as may be allowed the Board by the Governor for the creation of a reserve fund to meet any losses that may be incurred by the Board in connection with the administration of this act and to provide for the depreciation on the buildings, plant and equipment owned, held or operated by the Board, be paid by the Board into the general fund of the State treasury quarterly, within forty days after the close of each quarter.

*Section 17. Board may direct payment of all moneys into State treasury; appropriation thereof.*—If at any time the Board shall so direct, all moneys collected by the Board shall be paid into the State treasury. In such event, all moneys so paid into the State treasury, less the net profits determined as provided in section sixteen of this act, shall be set aside as and constitute a special fund for the payment of the salaries and remuneration of the members, officers, agents and employees of the Board, and all costs and expenses incurred in establishing and maintaining government stores and in the administration of the provisions of this act, and are hereby specifically appropriated for such purposes, to be paid out by the State Treasurer on warrants of the Comptroller issued on vouchers signed by the secretary of the Board and countersigned by the chairman, or another member of the Board designated by the Board, or by some officer or agent of the Board authorized and designated by the Board for such purpose.

*Section 18. State licenses which Board may grant and issue.*—The Board may grant the following licenses under the provisions of this act:

(a) Distillers' licenses, which shall authorize the licensees to manufacture alcoholic beverages other than wine and beer, and to sell and deliver or ship the same, in accordance with regulations of the Board, in barrels, bottles or other closed containers, to the Board, and to persons outside of Virginia for resale outside of Virginia, except that no deliveries or shipments shall be made into any State the laws of which prohibit the consignee from receiving or selling the same.

(b) Winery licenses, which shall authorize the licensees to manu-

facture wines and to sell and deliver or ship the same, in accordance with regulations of the Board, in barrels, bottles or other closed containers, to the Board, and to persons outside of Virginia for resale outside of Virginia, except that no deliveries or shipments shall be made into any State the laws of which prohibit the consignee from receiving or selling the same.

(c) Brewery licenses, which shall authorize the licensees to manufacture beer and to sell and deliver or ship the same, in accordance with regulations of the Board, in barrels, bottles or other closed containers, to the Board, to persons licensed under the provisions of this act to sell the same at wholesale or retail for the purpose of resale, and to persons outside of Virginia for resale outside of Virginia, except that no deliveries or shipments shall be made into any State the laws of which prohibit the consignee from receiving or selling the same.

(d) Bottlers' licenses, which shall authorize the licensees to acquire and receive deliveries and shipments of beer in barrels or other closed containers and to bottle, sell and deliver or ship the same, in accordance with regulations of the Board, to the Board, to persons licensed under the provisions of this act to sell the same at wholesale or retail for the purpose of resale, and to persons outside of Virginia for resale outside of Virginia, except that no deliveries or shipments shall be made into any State the laws of which prohibit the consignee from receiving or selling the same.

(e) Wholesale beer licenses, which shall authorize the licensees to acquire and receive deliveries and shipments of beer and to sell and deliver or ship the same, in accordance with regulations of the Board, in barrels, bottles, or other closed containers, to the Board, to persons licensed under the provisions of this act to sell the same at retail for the purpose of resale, and to persons outside of Virginia for resale outside of Virginia, except that no deliveries or shipments shall be made into any State the laws of which prohibit the consignee from receiving or selling the same.

(f) Retail on-premises wine and beer licenses to:

(1) Hotels, which licenses shall authorize the licensees to sell wine and beer in dining-rooms and other designated rooms thereof, either with or without meals, for consumption on the premises only in such rooms or in private guest rooms thereof;

(2) Restaurants, which licenses shall authorize the licensees to sell wine and beer in the dining-rooms thereof, either with or without meals, for consumption on the premises only in such dining-rooms;

(3) Clubs, which licenses shall authorize the licensees to sell wine and beer in the dining-rooms and other designated rooms thereof, either with or without meals, for consumption on the premises only in such rooms or in private guest rooms thereof;

(4) Persons operating boats, dining cars, buffet cars and club cars, which licenses shall authorize the licensees to sell on the boats, dining cars, buffet cars and club cars so operated by them wine and beer in the dining-rooms and other designated rooms of the boats and in the

dining cars, buffet cars and club cars of trains, either with or without meals, for consumption on the premises only in such rooms, or in such car when carrying passengers.

(g) Retail on-premises beer licenses to:

(1) Hotels, which licenses shall authorize the licensees to sell beer in the dining-rooms and other designated rooms thereof, either with or without meals, for consumption on the premises only in such rooms or in private guest rooms thereof;

(2) Restaurants, which licenses shall authorize the licensees to sell beer in dining-rooms thereof, either with or without meals, for consumption on the premises only in such dining-rooms;

(3) Clubs, which licenses shall authorize the licensees to sell beer in the dining-rooms and other designated rooms thereof, either with or without meals, for consumption on the premises only in such rooms or in private guest rooms thereof;

(4) Persons operating boats, dining cars, buffet cars and club cars, which licenses shall authorize the licensees to sell on the boats, dining cars, buffet cars and club cars so operated by them beer in the dining-rooms and other designated rooms of the boats and in the dining cars, buffet and club cars of trains, either with or without meals, for consumption on the premises only in such rooms, or in such cars when carrying passengers.

(h) Retail off-premises wine and beer licenses which shall authorize the licensees to sell wine and beer at retail only in closed packages for consumption off the premises of such licensees and to deliver or ship the same to the purchasers thereof, in accordance with regulations of the Board.

(i) Druggists' licenses to druggists, which licenses shall authorize the licensees to sell alcoholic beverages upon prescriptions as provided in section thirty-three of this act.

(j) Banquet licenses to persons in charge of banquets, which licenses shall authorize the licensees to sell wine and beer in designated rooms for consumption on the premises; a separate license shall be required for each banquet; but no such license shall be required of any hotel, restaurant or club holding a retail wine and beer license issued under the provisions of this act.

(k) The term "designated rooms" as used in this section shall mean rooms approved by the Board for particular licensees.

(l) The Board shall at least weekly certify to the State Tax Commissioner a list of all persons licensed hereunder, during the period covered by such certification.

*Section 19. Applications for licenses; publication of intent to apply.*—(a) Every person intending to apply for any license provided for under the provisions of this act, except banquet licenses, shall, not more than thirty days and not less than ten days before applying to the Board for such license, post a notice of such intention on the front door of the building, place or room where he proposes to engage in such business and publish a copy of such notice at least once in a

newspaper published in or having a general circulation in the county, city or town wherein such person proposes to engage in such business.

(b) Every person desiring a license under the provisions of this act shall, after publishing notice of his intention as provided in subsection (a) of this section, file with the Board an application therefor on forms provided by the Board and a statement in writing and under oath setting forth such information as the Board shall require.

*Section 20. When Board may refuse to grant licenses; effect thereof.*—(a) The Board shall refuse to grant any license mentioned in this act if it shall be of the opinion:

(1) That the applicant is not a suitable person to be so licensed; or  
(2) That the place to be occupied by the applicant is not a suitable place; or

(3) That a sufficient number of licenses have already been issued; or  
(4) That the license should not be issued.

(b) The Board shall refuse to grant any retail license, other than a druggist license, to any person to sell wine and beer or beer in any county or city, the qualified voters of which shall in accordance with the provisions of section thirty of this act vote that the sale of such alcoholic beverages be prohibited in such county or city.

(c) The Board shall not issue any license until the license tax required by section twenty-two of this act is paid to the Board.

(d) The action of the Board in granting or in refusing to grant any license under the provisions of this act shall not be subject to review by any court nor shall any mandamus or injunction lie in any such case.

*Section 21. No retail licenses to manufacturers, bottlers and wholesalers of alcoholic beverages; person not to be licensed to sell for both on-premises and off-premises consumption.*—(a) No retail on-premises wine and beer license, retail on-premises beer license, retail off-premises wine and beer license, druggist's license or banquet license, shall be issued to any manufacturer, bottler, or wholesaler of alcoholic beverages, whether licensed in this State or not, nor to any officer or director of any such manufacturer, bottler or wholesaler, nor to any partnership, association or corporation, any partner, member or stockholder of which is an officer or director of any such manufacturer, bottler or wholesaler.

(b) No person shall be licensed to sell wine and beer or beer for both on-premises and off-premises consumption.

*Section 22. Taxes on State licenses.*—(a) The taxes on State licenses issued pursuant to the provisions of this act shall be as follows:

(1) For each distiller's license, if to manufacture not in excess of five hundred gallons of alcohol or spirits, or both, during the year in which the license is issued, one hundred dollars; and if to manufacture more than five hundred gallons during such year, one thousand dollars, per annum;

(2) For each winery license, one thousand dollars per annum;

(3) For each brewery license, one thousand dollars per annum;



(4) For each bottler's license, five hundred dollars per annum;

(5) For each wholesale beer license, two hundred and fifty dollars per annum;

(6) For each retail on-premises wine and beer license to a hotel, restaurant or club, twenty dollars per annum; for each such license to a person operating a boat, dining car, buffet car or club car, twenty dollars per annum for each boat, dining car, buffet car or club car;

(7) For each retail on-premises beer license to a hotel, restaurant or club, ten dollars per annum; for each such license to a person operating a boat, dining car, buffet car or club car, ten dollars per annum for each boat, dining car, buffet car or club car;

(8) For each retail off-premises wine and beer license, twenty dollars per annum;

(9) For each druggist license, ten dollars per annum;

(10) For each banquet license, five dollars.

(b) All State licenses issued pursuant to this act shall expire on the thirty-first day of December, next following the date of issuance.

(c) The tax on each such license shall be subject to proration to the following extent: if the license is issued in the second quarter of any year the tax shall be decreased by one-fourth; if issued in the third quarter of any year the tax shall be decreased by one-half; and if in the fourth quarter of any year the tax shall be decreased by three-fourths.

(d) Every such license shall be in lieu of any State merchants' or State restaurant license on that portion of the business of the licensee covered thereby; but no such license shall relieve any licensee of any other State tax whatsoever.

*Section 23. Separate license for each separate place of business; when transfer allowed; to be kept posted.*—(a) Each license issued by the Board under the provisions of this act shall designate the place where the business of the licensee will be carried on. A separate license shall be required for each separate place of business.

(b) No such license shall be transferable from one person to another, but may be amended to show a change in the place of business within the same county or city.

(c) Each such license shall be kept posted in a conspicuous place by the licensee at the place where he carries on the business for which the license is issued.

*Section 24. Hours of sale for licensees.*—The Board shall prescribe by regulations, which it may from time to time alter, amend or repeal, between what hours and on what days wine and beer shall not be sold by persons licensed under the provisions of this act.

*Section 25. When Board may cancel licenses.*—The Board may cancel any licenses issued by it if it shall be of the opinion:

(1) That the licensee is not a suitable person to hold such license;

or

(2) That the place occupied by the licensee is not a suitable place;

or

- (3) That the number of licenses issued should be reduced; or
- (4) That the license should be revoked.

*Section 26. Local licenses.*—(a) In addition to the foregoing State licenses provided for in this act, the council or other governing body of each city and town in the State is hereby authorized to provide by ordinance for the issuance of city and town licenses, and to charge and collect license taxes therefor, to persons licensed by the Board to manufacture, bottle and/or sell, within said city or town, alcoholic beverages. The license taxes which may be charged and collected by such cities and towns shall not exceed the following sums:

- (1) For each distiller's license, one thousand dollars per annum; no such local license shall be required for any person who shall manufacture not more than five hundred gallons of alcohol or spirits or both during such license year;

- (2) For each winery license, one thousand dollars per annum;

- (3) For each brewery license, one thousand dollars per annum;

- (4) For each bottler's license, five hundred dollars per annum;

- (5) For each wholesale beer license, in a city of the first class, two hundred and fifty dollars, in a city of the second class, one hundred and twenty-five dollars, and in a town, seventy-five dollars, per annum;

- (6) For each retail off-premises wine and beer license for a hotel, restaurant or club, and for each retail off-premises wine and beer license, in a city of the first class one hundred and fifty dollars, in a city of the second class seventy-five dollars, and in a town thirty-seven dollars and fifty cents, per annum;

- (7) For each retail on-premises beer license for a hotel, restaurant or club, and for each druggist license, in a city of the first class, one hundred dollars, in a city of the second class, fifty dollars, and in a town, twenty-five dollars, per annum;

- (8) For each banquet license, five dollars.

(b) No local license tax shall be either charged or collected for the privilege of selling wine and beer, or beer, in dining-rooms and other designated rooms of boats, and dining cars, buffet cars and club cars of trains, when carrying passengers, for consumption on the premises only.

(c) The council or other governing body of a city may, in its discretion, classify licenses and graduate the license taxes therefor in such manner as it may deem proper.

(d) No city or town shall issue any such local license to any person, unless such person shall hold or shall secure simultaneously therewith the proper State license provided for in this act. If any person shall hold any such local license without at the same time holding the proper State license provided for by this act, such local license shall, during the period when such person does not hold the proper State license, confer no rights, powers or privileges under the provisions of this act upon such person.

*Section 27. Excise tax provided for; duties of State Tax Commissioner in connection therewith.*—(a) There is hereby levied on all beer

manufactured in Virginia an excise tax at the rate of.....  
.....per barrel of thirty-one gallons, and  
a tax at the same rate on such beer in containers of more or less than  
thirty-one (31) gallons, but on such beer in bottles of not more than  
twelve ounces each the tax shall be.....per bottle. Such  
tax shall be paid by the person who manufactures the said beer.

(b) There is hereby levied on all beer bottled in Virginia and on  
all beer sold in Virginia, an excise tax at the rate of.....  
.....per barrel of thirty-one (31) gallons, a tax  
at the same rate on such beer in containers of more or less than thirty-  
one (31) gallons, but on such beer in bottles of not more than twelve  
ounces each the tax shall be.....per bottle. The  
tax herein levied shall be paid by the respective bottlers and whole-  
salers of the said beer. No such tax shall be collected upon any beer  
bottled or sold in Virginia when the State excise tax provided for in  
this act shall have been previously levied and paid thereon in full; but  
if on beer bottled in Virginia there shall have been paid by the manu-  
facturer the excise tax herein levied on beer manufactured in Virginia,  
such bottler shall pay all additional excise taxes which may be due on  
such beer in bottled form.

(c) When any person shall sell or offer for sale in Virginia any  
beer purchased or obtained from any person not licensed either as a  
brewery, bottler or wholesaler under the provisions of this act, and on  
which the State excise tax herein levied has not been paid such person  
shall pay the tax levied in the preceding subsection.

(d) No retail license authorizing the licensee to sell beer under the  
provisions of this act shall be valid unless and until the person to whom  
such license is issued shall have filed with the State Tax Commissioner  
a bond, with a guaranty or surety company licensed to do business in  
this State as surety or personal surety approved by said State Tax  
Commissioner in such penalty as the said Commissioner may find to  
be sufficient to cover the tax liability of such person, but in no event  
to be less than one thousand dollars. The State Tax Commissioner,  
however, shall waive the bond requirement aforesaid with respect to  
any person who may file a satisfactory contract or agreement with the  
State Tax Commissioner that such person will purchase for resale beer  
from manufacturers, bottlers or wholesalers licensed in this State and  
from no one else. The State Tax Commissioner shall promptly notify  
the Board of each such bond filed, each such contract or agreement  
entered into, and each amendment, alteration or cancellation thereof.

(e) On or before the tenth day of each month every person manu-  
facturing, bottling or selling any beer in Virginia shall file with the  
State Tax Commissioner a report under oath on forms which shall be  
prescribed by the State Tax Commissioner showing the quantity of all  
beer manufactured, bottled and/or sold by such person during the pre-  
ceding month, the amount of tax for which such person is liable under  
the provisions of this act, and containing such other information as the  
State Tax Commissioner may require. At the same time such person

shall pay to the State Tax Commissioner all such excise taxes chargeable against him under the provisions of this act on all such beer so manufactured and/or sold during the preceding month.

The provisions of this subsection as to the filing of such monthly reports shall not be applicable to any person licensed hereunder to sell beer at retail who purchased beer from manufacturers, bottlers or wholesalers licensed in this State and from no one else, provided, such person shall have duly filed with the Board the contract or agreement mentioned in the preceding subsection.

(f) The excise tax herein provided for shall not be chargeable against any manufacturer, bottler or wholesaler on any beer sold to the Board or shipped out of this State by such manufacturer, bottler or wholesaler for resale out of this State, provided evidence satisfactory to the State Tax Commissioner be submitted to him in writing at the time when such tax would be otherwise payable that such beer was sold to the Board or shipped out of this State by such manufacturer, bottler or wholesaler for resale out of this State.

(g) All moneys collected by the State Tax Commissioner under the provisions of this act shall be promptly paid into the general fund of the State treasury.

(h) If any person licensed under the provisions of this act shall give or furnish gratuitously to any person in Virginia any beer on which the excise tax herein provided for has not been paid, such gift or furnishing shall for the purpose of this section be considered a sale.

*Section 28. State Tax Commissioner authorized to adopt rules and regulations for collection of excise tax; may require use of stamps and crowns.*—(a) The State Tax Commissioner is hereby authorized to adopt such rules and regulations as he may find expedient for the enforcement of the excise tax provisions of this act. He is specifically authorized to require the use of stamps upon any packages containing beer taxable under this act and offered for sale in Virginia, evidencing the payment of the said excise tax upon the contents of every such package; with respect to beer manufactured and bottled, or bottled, in this State he may require to be used on such bottles crowns, to be prescribed by the State Tax Commissioner, evidencing the payment of the said excise tax upon all such beer so bottled. He is further authorized to promulgate rules and regulations governing the purchase, sale and distribution of such stamps and crowns, and to provide for the sale of such stamps through county and city treasurers.

(b) If the State Tax Commissioner shall require the use of stamps and crowns, or of stamps or of crowns, as authorized in this section, the State Tax Commissioner may waive so much of subsection (e) of section twenty-seven of this act as the State Tax Commissioner may regard unnecessary for the efficient administration of this act.

*Section 29. Records which must be kept by licensees; examination of records and places of business.*—(a) Every person who is licensed in Virginia to manufacture, to bottle or to sell at wholesale any alcoholic beverages shall keep a complete and accurate record of all alcoholic

beverages manufactured, bottled and/or sold by him. Such records shall show the quantities of all such alcoholic beverages manufactured and/or bottled by him, the dates of all sales and deliveries or shipments, the names and addresses of all persons to whom sales and deliveries or shipments are made, the quantities and kinds of alcoholic beverages sold and delivered or shipped and the prices charged therefor.

(b) Every person licensed to sell at retail any alcoholic beverages shall keep a complete and accurate record of all purchases thereof, the dates of such purchases, the kinds and quantities of alcoholic beverages purchased, the prices charged such licensee therefor, and the names and addresses of the persons from whom purchased. Every such licensee shall also preserve all invoices showing his purchases. He shall, unless he has signed the agreement provided in subsection (d) of section twenty-seven of this act, also keep an accurate account of daily sales, showing quantities of alcoholic beverages sold and the total price charged by him therefor; such account need not give the names or addresses of the purchasers thereof.

(c) All such records, invoices and accounts shall at all times be open to inspection by the Board, by the State Tax Commissioner and any person or persons that may be designated as an agent by them or either of them.

(d) The Board, the State Tax Commissioner and the agents duly authorized by them or either of them shall at all times be allowed free access during business hours to every place in this State where alcoholic beverages are manufactured, bottled, stored, offered for sale or sold, for the purpose of examining and inspecting such place and all records, invoices and accounts therein.

*Section 30. Local option provided for; how and when elections may be held.*—(a) Upon a petition of the qualified voters in any county, city or town having a population of fifteen hundred or more inhabitants according to the last preceding United States census filed with the circuit court of the county, the corporation court of the city, or the circuit court of the county wherein the town or the greater part thereof is situated, or the judge thereof in vacation, signed by a number, not less than thirty per centum of the number of votes counted for presidential electors in the last preceding presidential election in the said county, city, or town, but in no event less than one hundred, asking that a referendum be held on the questions (1) shall the sale of beer and wine be permitted in the said county, city, or town and (2) shall the sale of alcoholic beverages, other than beer and wine, be permitted in the said county, city, or town, the court, or the judge thereof in vacation, shall by order entered of record require the regular election officials of the county, city, or town, on the date fixed in the order, to open the poll and take the sense of the qualified voters of the county, city, or town, on the questions submitted as herein provided. Subject to the provisions contained in subsection (b) of this section, such election shall be held not more than ninety days nor less than sixty days from the filing of the petition, but shall not be held on any day that any

other election is held in the said county, city, or town. The clerk of the county, or of the circuit or corporation court of the city, shall cause a notice of such election to be published in some newspaper published in or having a general circulation in the said county, city or town once a week for three consecutive weeks.

The regular election officers of the county, city or town at the time designated in the order authorizing the vote shall open the polls at the various voting places in the county, city or town and conduct the election in such manner as is provided by law in other elections in so far as the same is applicable. The election shall be by ballot and the ballot shall be prepared by the electoral board and distributed to the various election precincts as in other elections. On the ballot used shall be printed the following:

1. Shall the sale of beer and wine (containing more than 3.2% of alcohol by weight) be permitted in.....?

Yes

No

(Strike out one.)

2. Shall the sale of alcoholic beverages, other than beer and wine, be permitted in.....?

Yes

No

(Strike out one.)

In the blanks shall be inserted the name of the county, city or town in which the election is held.

Any voter desiring to vote "Yes" in answer to either question shall draw a line through the word "No" and leave the word "Yes" unscratched; any voter desiring to vote "No" shall draw a line through the word "Yes" and leave the word "No" unscratched.

The ballots shall be counted, returns made and canvassed as in other elections and the results certified by the commissioners of election to the circuit court of the county or the corporation court of the city, or the judge thereof in vacation. Thereupon the court, or judge thereof in vacation, shall enter of record an order duly certified by the clerk of the court to be transmitted to the Board and to the board of supervisors, council or other governing body of the county, city or town.

(b) No election herein provided for shall be held within six months after this act becomes effective, nor thereafter in any county, city or town in any year in which there is in such county, city or town a general election for the election of a Commonwealth's attorney, treasurer and commissioner of the revenue or either or any of such officers. After an election, such as is provided for in this section, shall have been held in any county, city or town, no other such election shall be held in the said county, city or town until the expiration of four years from the date of such prior election.

Section 31. *Effect of elections held under preceding section.*—(a) If in any election held pursuant to the next preceding section in any county, city or town a majority of the qualified voters voting therein

shall vote "No" on the question shall the sale of beer and wine be permitted therein, then on and after sixty days from the date on which the order of the court, or of the judge thereof in vacation, setting forth the results of such election shall be entered of record, no beer or wine shall be sold in such county, city or town except for delivery or shipment to persons outside of or to druggists in such county, city or town authorized under this act to acquire the same for the purpose of resale.

(b) If in any such election a majority of the qualified voters voting therein shall vote "No" on the question shall the sale of alcoholic beverages other than beer and wine be permitted in the said county, city or town, then on and after sixty days from the day on which the order of the court, or of the judge thereof in vacation, setting forth the results of such election shall be entered of record, no alcoholic beverages other than beer and wine shall be sold therein, except for delivery or shipment to persons outside of and to druggists in such county, city or town authorized under this act to acquire the same for the purpose of resale.

(c) If any such election be held in any county, city or town in which a majority of the qualified voters thereof shall have previously voted against permitting the sale of beer and wine or against permitting the sale of alcoholic beverages other than beer and wine, or both, therein and in such subsequent election a majority of the voters voting therein vote "Yes" on the questions shall the sale of beer and wine be permitted in the said county, city or town, and shall the sale of alcoholic beverages other than beer and wine be permitted in the said county, city or town, or vote "Yes" on either of the said questions, beer and wine, or alcoholic beverages other than beer and wine, or both, as the case may be, may in accordance with the provisions of this act be sold within the said county, city or town, on and after sixty days from the day on which the order of the court, or of the judge thereof in vacation, setting forth the results of such election shall be entered of record.

(d) The provisions of this section shall not be construed to prevent in any county, city or town, the sale and delivery or shipment of alcoholic beverages specified in sections thirty-two, thirty-three and thirty-four to and by persons therein authorized to sell the same, not to prevent the delivery or shipment of alcoholic beverages under regulations of the Board into any county, city or town, except as otherwise prohibited by this act.

*Section 32. Manufacture and sale of medicines, toilet and antiseptic preparations, flavoring extracts, and canned heat permitted.*—The provisions of this act shall not be construed to prevent in any county, city or town, nor to require any person to be licensed under the provisions of this act to engage in:

(a) The manufacture, sale, and delivery or shipment by persons authorized under existing laws to engage in such business, of any medicine containing sufficient medication to prevent the same being used as a beverage;

(b) The manufacture, sale, and delivery or shipment by persons

authorized under existing laws to engage in such business, of any medicinal preparations manufactured in accordance with formulas prescribed by the United States pharmacopoeia, and national formulary, patent and proprietary preparations, and other bona fide medicinal and technical preparations, which contain no more alcohol than is necessary to extract the medicinal properties of the drugs contained in such preparations, and no more alcohol than is necessary to hold the medicinal agents in solution and to preserve the same, and which are manufactured and sold to be used exclusively as medicine and not as beverages;

(c) The manufacture, sale, and delivery or shipment, of toilet, medicinal and antiseptic preparations and solutions not intended for internal human use nor to be sold as beverages;

(d) The manufacture and sale of food products known as flavoring extracts which shall be so manufactured and sold for cooking and culinary purposes only and not to be sold for beverage purposes;

(e) The Board may by regulations, which it may from time to time alter, amend or repeal, permit the manufacture, sale, delivery and shipment of "sterno," canned heats, and other similar substances, without requiring a license therefor.

*Section 33. Sale of alcoholic beverages by druggists upon prescriptions.*—Except as otherwise provided in section thirty-two of this act, persons holding druggist's licenses issued under the provisions of this act shall sell alcoholic beverages only for medicinal purposes and then only upon a written prescription of a physician, setting forth the name and address of the person for whom prescribed, the kind and quantity of alcoholic beverages prescribed.

Each druggist shall preserve, separate from other prescriptions, for a period of two years from the date filled, all prescriptions for alcoholic beverages filled by him. Such prescriptions shall at all times be open to the inspection of the Board and of any duly authorized agent thereof.

*Section 34. Physicians, dentists, veterinarians, hospitals and sanatoriums permitted to administer alcoholic beverages.*—(a) A physician may administer alcoholic beverages to a bona fide patient in cases of actual need when in the judgment of the physician the use of alcoholic beverages is necessary;

(b) A dentist who deems it necessary that a bona fide patient being then under treatment by him is in actual need of and should be supplied with alcoholic beverages as a stimulant or restorative, may administer to the patient alcoholic beverages;

(c) A veterinary who deems it necessary may in the course of his practice administer or cause to be administered alcoholic beverages to a dumb animal;

(d) A person in charge of an institution regularly conducted as a hospital or sanatorium for the care of persons in ill health, or as a home devoted exclusively to the care of aged people, may administer or cause to be administered alcoholic beverages to any bona fide patient or inmate of the institution who is in need of the same, either by way



of external application or otherwise for emergency medicinal purposes, and may charge for the alcoholic beverages so administered.

*Section 35. When and how person may be interdicted; how notice thereof given; effect of order of interdiction; order may be altered, amended or cancelled.*—(a) When after hearing upon due notice it shall be made to appear to the satisfaction of the circuit court of any county or the corporation court of any city, or the judge thereof in vacation, that any person, resident or sojourning within Virginia, has on or after the day on which this act becomes effective been convicted of driving or running any automobile, car, truck, motorcycle, engine or train while intoxicated or has shown himself to be an improper person to be allowed to purchase alcoholic beverages, the court, or the judge thereof in vacation, may make an order of interdiction prohibiting the sale of alcoholic beverages to such person until further ordered. The court or judge entering any such order shall cause a copy of the same to be forthwith filed with the Board.

(b) Upon any such order being filed with the Board, the Board shall forthwith notify, in such manner as it may provide by its regulations, the interdicted person, the managers of all government stores and all persons licensed under the provisions of this act to sell alcoholic beverages at retail, of such order. It shall thereafter as long as such order shall remain in effect be unlawful for any one to sell alcoholic beverages to such interdicted person except in accordance with the provisions of sections thirty-two, thirty-three and thirty-four of this act.

(c) The court or judge entering any order of interdiction may thereafter at any time alter, amend or cancel the same as in its judgment it shall deem proper. A copy of each such alteration, amendment and cancellation shall be filed with the Board and notice thereof given by the Board as hereinbefore provided as to orders of interdiction.

(d) Any hearing or investigation under this section by any court or judge may be held in private if the court or judge shall so direct.

*Section 36. What alcoholic beverages, materials and other articles are contraband; forfeited to Commonwealth.*—All alcoholic beverages and materials used in the manufacture of alcoholic beverages and containers in which alcoholic beverages are manufactured, kept, stored, possessed, sold, or in any manner used, in violation of the provisions of this act, shall be deemed contraband and shall be forfeited to the Commonwealth.

*Section 37. Issuance of search warrants; where they may be executed and before whom returnable.*—(a) If there be complaint on oath that alcoholic beverages are being manufactured, sold, kept, stored, or in any manner held, used or concealed in a particular house, or other place, in violation of law, the justice of the peace, trial justice, police justice, civil and police justice, circuit or corporation court or judge thereof in vacation, or the mayor of any city or town, to whom such complaint is made, if satisfied that there is a reasonable cause for such belief, shall issue a warrant to search such house or other place for

alcoholic beverages. Such warrants, except as herein otherwise provided, shall be issued, directed and executed in accordance with the laws of Virginia pertaining to search warrants.

(b) Warrants issued under this act for the search of any automobile, boat, conveyance or vehicle, whether of like kind or not, or for the search of any trunk, grip or other article of baggage, whether of like kind or not, for alcoholic beverages, may be executed in any part of the Commonwealth where the same are overtaken, and shall be made returnable before any justice of the peace, trial justice, police justice, civil and police justice, circuit or corporation court or judge thereof in vacation, or the mayor of any city or town, within whose jurisdiction such automobile, boat, conveyance, vehicle, truck, grip or other article or baggage, or any of them, were transported or attempted to be transported contrary to law.

*Section 38. How contraband articles may be confiscated.*—All proceedings for the confiscation of articles declared contraband and forfeited to the Commonwealth under this act shall be proceeded against as provided in this section:

(a) Whenever any article, which under the provisions of this act is declared contraband and required to be forfeited to the Commonwealth, has been seized, with or without a warrant, by any officer charged with the enforcement of this act, he shall produce the same, and the person in whose possession it was found, if any, and if no person be found in possession of said articles the return shall so state. A copy of said warrant shall be posted on the door of the building or room wherein the same was found, or if there be no door, then in any conspicuous place upon the premises.

(b) Upon the return of the warrant as provided in this section, the justice of the peace, trial justice, police justice, civil and police justice, court, judge or mayor shall fix a time not less than ten days and not more than thirty days thereafter, for the hearing of said return, when he shall proceed to hear and determine whether or not the articles so seized, or any part thereof, were used or in any manner kept, stored or possessed in violation of any of the provisions of this act.

At such hearing if no claimant shall appear, the justice of the peace, trial justice, police justice, civil and police justice, court, judge or mayor shall declare the articles seized forfeited to the Commonwealth and, if such articles be not necessary as evidence in any pending prosecution, shall turn the same over to the Board as herein required. At such hearing any person claiming any interest in any of the articles seized may appear and file a written claim setting forth particularly the character and extent of his interest, whereupon, if the trial be before a justice of the peace, trial justice, police justice, civil and police justice, or mayor, he shall forthwith certify the warrant and the articles seized along with the claim filed therein to the circuit, corporation or hustings court having jurisdiction, which court shall docket the case, but any prosecution pending against any person for a violation of the provisions of this act in relation to said alcoholic beverages shall have precedence

on the docket of such court. Thereupon the court shall hear and determine the validity of such claim. But upon such hearing the sworn complaint or affidavit upon which the search warrant was issued and the possession of such alcoholic beverages shall constitute prima facie evidence of the contraband character of the alcoholic beverages and articles seized, and the burden shall rest upon the claimant to show, by competent evidence, his property right or interest in the articles claimed and that the same were not kept, stored, possessed or in any manner used in violation of any of the provisions of this act.

If, upon such hearing, the evidence warrants, the court shall thereupon enter a judgment of forfeiture, and order the article so seized to be turned over to the Board as is herein required. Action under this section and the forfeiture of any articles thereunder shall not be a bar to any prosecution under any other provisions of this act.

(c) Any articles forfeited to the Commonwealth and turned over to the Board in accordance with the provisions of this section, shall either be destroyed or sold by the Board as in its discretion shall be deemed proper. The net proceeds from every such sale shall be paid into the Literary Fund.

*Section 39. Illegal manufacture and bottling, a misdemeanor; how person found at distillery, winery, or brewery may be punished.*—(a) Except as otherwise provided in section thirty-two and sixty-one of this act, if any person shall manufacture in this State alcoholic beverages without being licensed under the provisions of this act to manufacture such alcoholic beverages, or if any person other than one who holds a brewery license or a bottlers license under the provisions of this act shall bottle beer for sale, he shall be guilty of a misdemeanor.

(b) Every person found at any distillery, winery or brewery where alcoholic beverages are being manufactured in violation of the provisions of this act shall be deemed prima facie guilty of manufacturing the same or aiding and abetting in such manufacture and upon conviction thereof shall be punished as if personally manufacturing the same.

*Section 40. Illegal sale of alcoholic beverages.*—If any person who is not licensed under the provisions of this act to sell alcoholic beverages in this State shall sell any alcoholic beverages other than permitted by the provisions of this act, he shall be guilty of a misdemeanor.

*Section 41. Illegal sale of alcoholic beverages by licensees; when keeping alcoholic beverages by licensees not permitted.*—If any person who holds a license issued under the provisions of this act,

(a) shall sell any alcoholic beverages of a kind other than that which such license or this act authorizes him to sell, or

(b) shall sell beer to which wine, spirits, or alcohol, or more than one of any such alcoholic beverages, has been added, or

(c) shall sell wine to which spirits or alcohol, or both, have been added, otherwise than as required in the manufacture thereof under regulations of the Board, or

(d) shall sell alcoholic beverages of a kind which such license or this act authorizes him to sell, but to any person other than to those to whom such license or this act authorizes him to sell, or

(e) shall sell alcoholic beverages which such license or this act authorizes him to sell, but in any place or in any manner other than such license or this act authorizes him to sell, or

(f) shall sell any alcoholic beverages when forbidden by the provisions of this act, or

(g) shall keep or allow to be kept, other than in his residence and for his personal use, any alcoholic beverages other than that which he is authorized to sell by such license or by this act, he shall be guilty of a misdemeanor.

*Section 42. Persons to whom alcoholic beverage may not be sold.*—If any person shall, except pursuant to the provisions of sections thirty-two, thirty-three or thirty-four of this act, sell any alcoholic beverages

(a) to any person less than eighteen years of age, or

(b) to any interdicted person, or

(c) to any person who is intoxicated, or

(d) to any patient under the supervision or control of any State hospital, whether such patient be on furlough or otherwise, he shall be guilty of a misdemeanor.

*Section 43. Sale of wine not purchased from Board, illegal.*—If any person licensed under the provisions of this act to sell wine at retail shall sell any wine not purchased from the Board he shall be guilty of a misdemeanor.

*Section 44. Failure or refusal to pay excise tax or to deliver, keep and preserve records, invoices and accounts, or to allow examination of records, invoices and accounts and place of business, a misdemeanor.*—Any person licensed under the provisions of this act who shall fail or refuse to pay any excise tax provided for in section twenty-seven of this act, or shall fail or refuse to deliver, keep and preserve such records, invoices, and accounts as are required by section twenty-nine of this act, or shall fail or refuse to allow such records, invoices and accounts or his place of business to be examined and inspected as herein provided, shall be guilty of a misdemeanor.

*Section 45. Violation of contract with State Tax Commissioner, a misdemeanor; effect of conviction.*—If any person shall violate the terms of any contract or agreement entered into pursuant to section twenty-seven of this act between such person and the State Tax Commissioner by the purchase by such person of any beer for resale from any one other than a manufacturer, bottler or wholesaler licensed in this State, such person shall be guilty of a misdemeanor, and punished as provided in section sixty-two of this act; upon such conviction the license of such person shall also be automatically revoked.

*Section 46. Illegal sale and use of crowns and stamps, and forging or counterfeiting thereof; how punished.*—If the use of crowns and stamps, or of crowns or stamps, shall be required by the State Tax Commissioner under the authority of this act, it shall be a misdemeanor

for any person to distribute, deal in or use any crowns or stamps except in accordance with rules and regulations prescribed by the State Tax Commissioner; the forging or counterfeiting of any such stamps or crowns shall constitute a felony punishable by confinement in the penitentiary for not less than two nor more than ten years.

*Section 47. Mixing deleterious substances with alcoholic beverages kept for sale or sold or supplied as a beverage, a misdemeanor.*—If any person shall for any purpose whatsoever, mix or permit or cause to be mixed with any alcoholic beverages kept for sale, sold or supplied by him as a beverage, any drug, or any form of methyl alcohol, or any crude, unrectified or impure form of ethel alcohol, or any other deleterious substance or liquid, he shall be guilty of a misdemeanor.

*Section 48. Illegal advertising; how punished.*—If any person shall advertise in or send any advertising matter into this State, except in accordance with rules and regulations of the Board, he shall be guilty of a misdemeanor.

*Section 49. Purchase of alcoholic beverages from person not authorized to sell same, a misdemeanor.*—If any person shall buy alcoholic beverages from any person other than a government store or some person authorized under the provisions of this act to sell the same he shall be guilty of a misdemeanor.

*Section 50. Having, possessing, keeping, carrying, shipping and transporting alcoholic beverages illegally acquired, a misdemeanor.*—If any person, other than a common carrier, shall have, possess, keep, carry, ship or transport alcoholic beverages which are acquired by such person or any person for whom he is acting in violation of the provisions of this act he shall be guilty of a misdemeanor.

*Section 51. Being at or in public place while intoxicated; how punished.*—If any person shall while intoxicated be at or in any public place he shall be guilty of a misdemeanor.

*Section 52. Drinking alcoholic beverages in public place; how punished; exceptions.*—(a) If any person shall take a drink of alcoholic beverages or shall offer a drink of alcoholic beverages to another, whether accepted or not, at or in any public place, he shall be guilty of a misdemeanor.

(b) This section shall not prevent any person from drinking alcoholic beverages or offering a drink of alcoholic beverages to another in the dining room or other designated room, as defined in section eighteen of this act, of a hotel, restaurant, club or boat or in a dining car, club car, or buffet car of any train, provided such hotel, restaurant, club, boat, dining car, club car, or buffet car, or the person who operates the same, is licensed to sell for consumption in such dining room, room, or car, such alcoholic beverages, and the alcoholic beverages drunk or offered were purchased therein.

*Section 53. Manufacturers, bottlers and wholesalers not to rent, lend or give to retail licensee or to owner of premises any money, equipment, furniture, fixtures or property; how violations punished.*—(a) If any manufacturer, bottler or wholesaler of alcoholic beverages, whether

licensed in this State or not, or any officer or director of any such manufacturer, bottler or wholesaler shall have any financial interest, direct or indirect, in the business for which any retail license is issued, under the provisions of this act, or in the premises where the business of any person to whom any such retail license has been issued is conducted, or either directly or indirectly shall rent, lend, or give to any person who holds any retail license issued under the provisions of this act, or to the owner of the premises on which the business of any such person so licensed is conducted, any money, equipment, furniture, fixtures or property with which the business of such retailer is or may be conducted, he shall be guilty of a misdemeanor.

(b) If any person licensed hereunder to sell at retail any alcoholic beverages shall consent to any violation of this section, he shall be guilty of a misdemeanor.

*Section 54. Members, officers, agents and employees of Board forbidden to have interest in business dealing in alcoholic beverages; not to solicit or receive remuneration or gifts from persons selling alcoholic beverages; how punished.*—If any member, officer, agent or employee of the Board shall be directly or indirectly interested or engaged in any other business or undertaking dealing in alcoholic beverages, whether as owner, part owner, partner, member of syndicate, shareholder, agent or employee and whether for his own benefit or in a fiduciary capacity for some other person, or if any member, officer, agent or employee of the Board or any employee of Virginia shall solicit or receive, directly or indirectly, any commission, remuneration or gift whatsoever from any person or corporation having sold, selling or offering alcoholic beverages for sale to the Board in pursuance of this act, or if any person selling or offering for sale to, or purchasing alcoholic beverages from, the Board shall, either directly or indirectly, offer to pay or pay any commission, profit or remuneration, or make any gift, to any member, officer, agent or employee of the Board, or to anyone on behalf of any such member, officer, agent or employee, he shall be guilty of a misdemeanor.

*Section 55. What deemed common nuisances; how person punished for maintaining, or for aiding and abetting or knowingly associating with others in maintaining same; bonds.*—All houses, boat-houses, buildings, tents, club, fraternity and lodge rooms, boats, cars and places of every description including drug stores, where alcoholic beverages are manufactured, stored, sold, dispensed, given away or used contrary to law by any scheme, or device whatever, shall be held, taken and deemed common nuisances. Any person who shall maintain, or who shall aid or abet or knowingly be associated with others in maintaining such common nuisances, shall be guilty of a misdemeanor, and judgment shall be given that such house, building, tent, boat-house, car or other place, or any room or part thereof, be closed up, but the court may upon the owner giving bond in the penalty of not less than five hundred dollars and with security to be approved by the court, conditioned that the premises shall not be used for unlawful purposes, or in violation of

the provisions of this act, turn the same over to its owner; or proceedings may be had in equity as provided in section fifty-six of this act.

*Section 56. How premises where nuisances exist may be closed by injunction; how violation of injunction is punished.*—The Board, duly authorized agents of the Board, the attorney for the Commonwealth, or any citizen of the county, city or town, where such a nuisance as is defined in section fifty-five of this act exists, or is kept or maintained, may, in addition to the remedies given in and punishment imposed by this act, maintain a suit in equity in the name of the Commonwealth to abate and perpetually to enjoin the same. The courts of equity shall have jurisdiction thereof, and in every case where the bill charges, on the knowledge or belief of complainant, and is sworn to by two reputable citizens, that alcoholic beverages are manufactured, stored, sold, dispensed, given away, or used in any house, building, boat-house, club-room, fraternity room, lodge room, hotel, boarding house, apartment house, lodging house, boat, tent, or any place contrary to the laws of this State, an injunction shall be granted as soon as the bill is presented to the court or judge in vacation, and no bond shall be required. The injunction shall enjoin and restrain the owners, tenants, their agents, employees, servants, and any person connected with said house, building or other place named in this section, and all persons whomsoever from manufacturing, storing, selling, dispensing, giving away, or using alcoholic beverages in said house, building, boat-house, club-room, fraternity room, boat, tent, or other place named in this section, and shall also restrain all persons from removing any alcoholic beverages then on said premises until the further order of the court. Upon the hearing of the cause, when it shall have been matured and set for hearing as required by law, upon deposition of witnesses, documentary and oral evidence, of the court or judge in vacation, shall be satisfied that the material allegations of the bill are true, although the premises complained of may not then be unlawfully used, it or he shall continue the injunction against such house, building or place, if it shall be a drug store, for one year, and in all other cases the injunction shall be perpetual.

Any person violating any of the provisions of the injunction granted under this section shall be summarily punished for contempt of court without the empaneling of a jury, by a fine of not less than one hundred nor more than five hundred dollars and confinement in jail not less than one nor more than six months.

*Section 57. Unlawful manufacture, transportation, or sale of alcoholic beverages by person having in possession any firearm or weapon of like kind; punishment therefor.*—If any person shall unlawfully manufacture, transport, or sell any alcoholic beverages, as herein defined, and at the time of such unlawful manufacturing, transporting, or selling or aiding or assisting in any manner in such act, shall carry on or about his person, or have on or in any vehicle which he may be using to aid him in any such purpose, or have in his possession, actual or constructive, at or within one hundred yards of any place where any

such alcoholic beverages is being unlawfully manufactured, transported or sold, any firearm, or any weapon of like kind, he shall be guilty of a felony, and on conviction shall be confined in the penitentiary not less than one year, nor more than three years, or, in the discretion of the jury, or the court trying the case without a jury, confined in the jail for not less than six months, nor more than twelve months.

*Section 58. Illegal importation, shipment and transportation of alcoholic beverages; how punished.*—(a) No alcoholic beverages other than wines or beer shall be imported, shipped, transported or brought into this State unless the same be consigned to the Board; the Board may, however, permit such alcoholic beverages ordered by it from without this State for persons for industrial purposes or for druggists to be shipped or transported direct to such persons.

(b) No wine shall be imported, shipped, transported or brought into this State unless the same be consigned to the Board; the Board may, however, permit wine ordered by it from without this State for persons licensed under this act to sell the same at retail, to be shipped or transported direct to such persons for purposes of resale.

(c) No beer shall be imported, shipped, transported or brought into this State except to the Board or to persons licensed under the provisions of this act to sell the same.

*Section 59. How attempts punished; aiding or abetting.*—It shall be unlawful for any person to attempt to do any of the things prohibited by this act or to aid or abet another in doing, or attempting to do, any of the things prohibited by this act.

On an indictment, information or warrant for the violation of any provision of this act, the jury or the court or justice trying the case without a jury may find the defendant guilty of an attempt, or of being an accessory, and the punishment shall be the same as if the defendant were solely guilty of such violation.

*Section 60. No action may be maintained to recover price of alcoholic beverages sold in violation of act.*—No action to recover the price of any alcoholic beverages sold in contravention of the provisions of this act may be maintained.

*Section 61. Act not to prohibit manufacture of wines and beer for domestic consumption and not for sale; manufacture and sale of cider to distillers; possession and use of alcoholic beverages in residences; licensed clubs allowed to keep alcoholic beverages for members of club.*—The provisions of this act shall not be construed to prevent

(a) Any person from manufacturing at his residence for domestic consumption at his residence, but not to be sold, dispensed or given away, except as hereinafter provided, wine or beer or both;

(b) Any person from manufacturing and selling cider to persons holding distillery licenses issued under the provisions of this act;

(c) Any person from keeping and possessing alcoholic beverages in his residence for the personal use of himself, his family, his servants or his guests, if such alcoholic beverages shall have been lawfully acquired by him, nor to prevent such person, his family, or servants, from giving



or serving such alcoholic beverages to guests in the said residence when such gift or service is in no wise a shift or device to evade the provisions of this act;

(d) Any club licensed under the provisions of this act from keeping for members of such club alcoholic beverages lawfully acquired by such members, provided such alcoholic beverages shall not be sold, dispensed or given away in violation of any provision of this act.

*Section 62. Punishment prescribed for violations of act and for violations of regulations made by Board; bond may be required by justices, mayor, court or judge; not to prevent Board from cancelling license.—*

(a) Any person convicted of a misdemeanor under the provisions of this act, or convicted of violating any other provision of this act, or convicted of violating any regulation made by the Board under the provisions of this act, shall, unless otherwise provided, be punished by a fine not exceeding five hundred dollars or confinement in jail not exceeding twelve months or both in the discretion of the jury or of the justice or of the mayor or of the court trying the case without a jury.

(b) In addition to the penalties imposed by this act for violations thereof, any justice, mayor or court, before whom any person is convicted of violating any provision of this act, may require such defendant to execute bond, with approved security, in the penalty of not more than one thousand dollars, conditioned that the said defendant will not violate any of the provisions of this act, for the term of one year. If any such bond be required and be not given, the defendant shall be committed to jail until it is given, or until he is discharged by the said justice, mayor or court, provided he shall not be confined therefor for a longer period than six months. If any such bond required by a court be not given during the term of the court by which conviction is had, it may be given before the judge thereof in vacation or before the clerk of the said court.

(c) The provisions of this act shall not be construed to prevent the Board from cancelling the license of any person convicted of violating any provisions of this act.

*Section 63. No person to be excused from testifying for Commonwealth because testimony may incriminate himself.—*No person shall be excused for testifying for the Commonwealth as to any offense committed by another under this act by reason of his testimony tending to incriminate himself, but the testimony given by such person on behalf of the Commonwealth when called to the stand by the justice, mayor or court trying the case, or by the attorney for the Commonwealth, or when summoned by the Commonwealth and sworn as a witness by the court or clerk and sent before the grand jury, shall in no case be used against him nor shall he be prosecuted as to the offense as to which he testifies.

*Section 64. Clerks of courts, justices and mayors to report to Board cases tried under act; penalty for failure to make report.—*It shall be the duty of the clerk of each circuit and corporation court and of each justice and mayor in this State on the first day of each calendar month

to report to the Board every case tried in such court or before such justice or mayor during the preceding month, for violations of the provisions of this act. Said report shall contain the full name and address of the defendant, a brief statement of the charge, and the judgment thereon. Whenever any clerk, justice or mayor shall fail to make such report he shall be subject to a penalty of twenty-five dollars, and it shall be the duty of the attorney for the Commonwealth of such county or city to institute and conduct the proper civil proceedings to recover said penalty.

*Section 65. Counties, cities and towns forbidden to pass or adopt ordinances or resolutions regulating or prohibiting the manufacture, bottling, possession, sale, etc., of alcoholic beverages; exception as to licenses.*—No county, city or town shall, except as otherwise provided in section twenty-six of this act providing for the issuance of local licenses, pass or adopt any ordinance or resolution regulating or prohibiting the manufacture, bottling, possession, sale, distribution, handling, transportation, drinking, use, advertising or dispensing of alcoholic beverages in Virginia.

*Section 66. Act does not apply to beverages containing not more than three and two-tenths per centum of alcohol by weight.*—The provisions of this act shall not apply to the manufacture, bottling, selling, offering for sale, distributing, carrying, shipping, transporting, possession, drinking, using, advertising and dispensing in Virginia of beer, lager beer, ale, porter, wine, similar fermented malt or vinous liquor, and fruit juice, containing not more than three and two-tenths per centum of alcohol by weight.

*Section 67. Appropriation.*—For the purpose of paying the salaries and remuneration of the members, officers, agents and employees of the Board, and all costs and expenses incurred by the Board in establishing and maintaining government stores and in the administration of the provisions of this act there is hereby appropriated from funds in the State treasury not otherwise appropriated the sum of two hundred and fifty thousand dollars or so much thereof as shall be necessary, to be paid out by the State Treasurer on warrants of the Comptroller issued on vouchers signed by the Secretary of the Board and countersigned by the Chairman, or other member of the Board designated by the Board, or by some officer or agent of the Board authorized and designated by the Board for such purpose.

*Section 68. Constitutionality.*—If any part or parts, section, subsection, sentence, clause or phrase of this act is for any reason declared unconstitutional, such decision shall not affect the validity of the remaining portions of this act which shall remain in force as if such act had been passed with the unconstitutional part or parts, section, subsection, sentence, clause or phrase thereof eliminated; and the General Assembly hereby declares that it would have passed this act if such unconstitutional part or parts, section, subsection, sentence, clause, or phrase had not been included herein.

2. Be it further enacted by the General Assembly of Virginia as follows:

(a) The following sections of the Code of Virginia, and all amendments of such sections, are hereby repealed;

Sections forty-five hundred and eighty-one to forty-six hundred and seventy-five, both inclusive (sections 4581-4675).

(b) The following acts of the General Assembly, and all amendments of such acts, are hereby repealed:

(1) "An act to define ardent spirits and to prohibit the manufacture, use, sale, offering for sale, transportation, keeping for sale, and giving away of ardent spirits, or drugs, as herein defined, except as provided herein; declaring certain ardent spirits contraband, and prescribing procedure for search therefor and forfeiture thereof; to prohibit advertisement of such ardent spirits; to prescribe the jurisdiction for trial and appeals of cases arising under this act; to prescribe the force and effect of certain evidence and prosecutions for violation of this act; to create the office of commissioner of prohibition and to define his duties and powers and compensation; defining intoxication and who is a person of intemperate habits within the meaning of this act; prescribing a penalty for intoxication; prescribing certain rules of evidence in certain prosecutions under this act; defining soft drinks, providing how they may be sold, regulating the sale of toilet, antiseptic preparations, patent and proprietary medicines, and flavoring extracts; exempting certain counties and cities from certain provisions of this act and authorizing additional restrictions and limitations beyond the provisions of this act as to sale, manufacture or delivery of ardent spirits in certain counties and cities; to provide for the enforcement of this act and to prescribe penalties for the violation of this act; to appropriate out of the treasury of the State necessary moneys for the enforcement of this act; and to repeal chapter one hundred and forty-six of Acts of Assembly, nineteen hundred and sixteen, approved March tenth, nineteen hundred and sixteen, and all other acts or parts of acts in conflict with this act," approved March nineteenth, nineteen hundred and eighteen.

(2) "An act to define ardent spirits and to prohibit the manufacture, use, sale, offering for sale, transportation, keeping for sale, and giving away of ardent spirits, or drugs, as herein defined, except as provided herein; declaring certain ardent spirits contraband, and prescribing procedure for search therefor and forfeiture thereof; to prohibit advertisement of such ardent spirits; to prescribe the jurisdiction for trial and appeals of cases arising under this act; to prescribe the force and effect of certain evidence and prosecutions for violation of this act; defining intoxication and who is a person of intemperate habits within the meaning of this act; prescribing a penalty for intoxication; prescribing certain rules of evidence in certain prosecutions under this act; defining soft drinks, providing how they may be sold, regulating the sale of toilet, antiseptic preparations, patent and proprietary medicines, and flavoring extracts; exempting certain counties and cities from cer-

tain provisions of this act and authorizing additional restrictions and limitations beyond the provisions of this act as to sale, manufacture or delivery of ardent spirits in certain counties and cities; to provide for the enforcement of this act and to prescribe penalties for the violation of this act; to make it an offense to operate an automobile, engine, or other motor vehicle while intoxicated or under the influence of liquor, and to prescribe penalties therefor; to appropriate out of the treasury of the State necessary moneys for the enforcement of this act; and to repeal chapter three hundred and forty-five of Acts of Assembly, nineteen hundred and twenty-two, approved March twenty-third, nineteen hundred and twenty-two, and all other acts or parts of acts in conflict with this act," approved March twentieth, nineteen hundred and twenty-four.

(c) All acts and parts of acts, general, special, private and local, including charter provisions and ordinances of cities and towns, inconsistent with any of the provisions of this act, are hereby repealed to the extent of such inconsistency.

(d) This act and the repeal of the foregoing sections of the Code of Virginia, Acts of the General Assembly, and amendments thereof, set forth in this section, shall, as to offenses committed against such sections and acts, and as to acts done, penalties, forfeitures and punishments incurred, and rights accrued, and claims arising under such sections, acts, and amendments thereof be construed in conformity with section six of the Code of Virginia.

(e) This act shall not repeal the following act of the General Assembly or any part of such act: "An act to legalize, regulate and control the manufacture, bottling, sale and disposition of beer, lager beer, ale, porter, wine, similar fermented malt or vinous liquor, and fruit juice, containing one-half of one per centum or more of alcohol by volume, and not more than 3.2 per centum of alcohol by weight; to provide for licensing and taxing manufacturers, bottlers, wholesalers and retailers of such beverages by the State and the counties, cities and towns thereof; to impose an excise tax upon all such beverages; to appropriate a portion of the revenue derived hereunder for the collection of the taxes herein imposed and for the administration of the act; to provide for the dismissal of pending prosecutions for alleged violations of laws heretofore in force declaring illegal the beverages legalized by this act where such prosecutions are founded upon the then illegality of such beverages; to impose penalties for violations of the act; and to repeal all acts and parts of acts in conflict herewith," approved August twenty-ninth, nineteen hundred and thirty-three.

3. An emergency existing, this act shall be in force on and after five days from its passage.

# Appendix B

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## BILL PROPOSED

By SENATOR HENRY T. WICKHAM, *In His Minority Report.*

### A BILL

To regulate and control the sale of alcoholic liquors within the State of Virginia; providing for local option in counties, towns and cities; providing penalties for violation of this Act, and making an appropriation therefor.

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Be it enacted by the General Assembly of Virginia:

*Section 1. Definition of terms:*

(1) The term "Alcoholic Liquor" shall include all liquors or liquids used or intended to be used for beverage purposes, containing more than three and two-tenths per centum (3.2) of alcohol by weight.

(2) The term "Manufacturer" shall include every distiller or person operating one or more stills or appliances for making or blending alcoholic liquor.

(3) The term "Bottler" shall include every person receiving alcoholic liquor in barrels or other closed containers and bottling and/or blending the same for resale only.

(4) The term "Wholesaler" shall include every person who shall possess for the purpose of sale, sell or offer for sale alcoholic liquors to any bottler, or retailer.

(5) The term "Retailer" shall include any persons possessing for sale, or selling or offering for sale any alcoholic liquors in sealed packages, bottles or other containers holding less than five gallons for beverage purposes, having also unbroken label or labels, declaring that all excise taxes State and Federal have been duly paid thereon.

(6) The term "Person" as used in this Act, unless otherwise specified, shall include all human beings, male or female, and all firms, partnerships, corporations and associations.

*Section 2.* The manufacture, bottling, possessing for sale, selling or offering for sale of alcoholic liquors is hereby prohibited in the State of Virginia, except upon the conditions specified in this Act, and on and after the day this Act becomes effective, it shall be lawful to manufacture, bottle, blend, possess for the purpose of sale, sell or offer for sale, carry, ship, transport for the purpose of sale, and/or retail in Virginia such alcoholic liquors having first obtained the license

or licenses required under the provisions of this Act, namely: for each *Manufacturer*, a graded license tax proportioned to the capacity per month of the plant; that is to say for the capacity of 10,000 gallons or over per month the sum of \$2,000.00 per annum, for the capacity of 5,000 and not exceeding 10,000 gallons per month the sum of \$1,000.00 per annum, for the capacity of 1,000 gallons and not exceeding 5,000 gallons per month the sum of \$200.00 per annum, for the capacity of less than 1,000 gallons per month. For each *Bottler* the sum of \$1,000.00 per annum. For each *Wholesaler* the sum of \$1,000.00 per annum. For each *Retailer* the sum of \$200.00 per annum, which retailer's license shall permit such retailer to sell to the purchaser either directly, or by mail or express order, as herein licensed and provided.

*Section 3.* Except as hereinafter otherwise provided State licenses for "manufacturers", "bottlers", "wholesalers" and "retailers" as defined in this Act shall be issued by the Commissioners of the Revenue of the counties and cities of the State on application filed with them and the license taxes thereon shall be paid by the applicants to the county and city treasurers as is now provided in the case of other State licenses issuable by Commissioners of the Revenue. No such license shall be issued, however, until there shall have been filed with the Commissioner of the Revenue authorized to issue such license the certificate of the court, or of the judge thereof in vacation as hereinafter provided.

*Section 4.* Any person intending to apply to any Commissioner of the Revenue for any State license required by this Act shall first file with the circuit court of the county (or the judge thereof in vacation) or of the corporation court of the city (or the judge thereof in vacation) in which is located the place where the applicant proposes to carry on the business for which the license is to be applied for, a statement in writing and under oath setting forth (a) that the applicant, if an individual, or if a partnership or association, each of the members of the partnership or association, or if a corporation, each of its principal officers and each of its directors, is not less than twenty-one years of age, is of good moral character, has never been convicted of any felony involving moral turpitude, (b) that the applicant intends to carry on the business to be covered by the license for himself and not as the agent of any individual, partnership, association, or corporation, (c) that in the case of an applicant for a retailer's license, no manufacturer, wholesaler or bottler of beverages, within or without this State, has any financial interest, direct or indirect, in the business for which the license is desired or in the premises in respect of which such license is to be issued, and that such business will not be conducted with any money, equipment, furniture, fixtures, or property rented from, or loaned or given by, any manufacturer, bottler or wholesaler of beverages, within or without this State, and (d) that the place described in the application is in all respects proper as respects school houses and churches.

Upon the filing of such statement as is herein required, the court or judge, unless satisfied that the said statement is untrue in some material respects, shall issue a certificate setting forth that such statement has been filed in accordance with law and in due form, and that the place is in his opinion suitable and proper as respects school houses and places of religious assembly; but in the discretion of said court or judge such application shall be filed and heard in open court upon ten days' notice posted at the front door of the courthouse and the court shall hear such evidence as the applicant may produce and also any evidence that may be produced by any person who may consider that he or the Commonwealth would be aggrieved by the granting of the license for which the application is made and enter its order either granting or refusing the license, and from such order of said court there shall be no appeal.

The court or judge thereof in vacation may require the applicant to enter into a bond payable to the Commonwealth in such penalty as such court or judge may deem reasonable with good and sufficient security that said applicant will pay all excise taxes properly chargeable against him; that he will not violate any of the provisions of law in relation to the manufacture or sale of any alcoholic liquor.

Every certificate to a manufacturer, bottler or wholesaler, issued under this section shall be good until such certificate or any license issued thereon is revoked, and as long as such certificate or any license thereon remains unrevoked, it shall not be necessary for a certificate-holder to renew such certificate or to obtain a new certificate in order that he may secure subsequent annual licenses, but it shall be necessary for the holder of a certificate as a retailer to renew such certificate or to obtain a new certificate in order that he may secure subsequent annual licenses. Fees of the Commissioner of the Revenue for issuing State license under this Act shall be the same as provided by general law for issuing State licenses.

*Section 5.* Each such license shall designate the place where the business of the licensee will be carried on. A separate license shall be required for each separate place of business. The peddling of alcoholic liquor is hereby prohibited. No license shall be transferable from one person to another, but may be amended to show a change in the place of business within the same county, city or town, provided said place be certified as a proper place as required in Section 4 of this Act. Each license issued under the provisions of this Act shall be kept posted in a conspicuous place by the licensee at the place where he carries on the business for which the license is issued.

*Section 6.* In addition to the foregoing State licenses provided for in this Act, the board of supervisors or other governing body of each county, and the council or other governing body of each city and town in the State, is hereby authorized to provide by ordinance for the issuance of county, city and town licenses, and to charge and collect license taxes therefor, to persons to manufacture, bottle, and sell, within said county, city or town, beverages. The provisions of any general

law or any special act requiring ordinances adopted by counties to be published and advertised shall apply to ordinances provided for under this section, and any such ordinances adopted by any county shall become effective as provided therein.

The license taxes which may be charged and collected by such counties, cities and towns shall not exceed the following sums: For each manufacturer's license, \$1,000.00 per annum. For each bottler's license \$1,000.00 per annum. For each wholesaler's license \$1,000.00 per annum, and for each retailer's license by a county or town \$200.00 per annum, and for each retailer's license by a city of the first class \$1,000.00 per annum, and for each retailer's license by a city of the second class \$500.00 per annum, and the council or other governing body of each city may, in its discretion, classify licenses and graduate the said licenses in such manner as it may deem proper.

For each distributing house or place in any county, city or town operated by any person and used in whole or in part for distributing alcoholic liquors among his retail stores in this State, such county, city or town may require a separate license, and if such license is so required the tax thereon shall be the same as the license tax imposed by such county, city or town on a wholesaler therein.

No county, city or town shall issue any such local license to any person, unless such person shall hold or shall secure simultaneously therewith the proper State license provided for in this Act.

*Section 7.* (a) There is hereby levied on all alcoholic liquor manufactured in Virginia an excise tax at the rate of fifty cents per gallon. Such tax shall be paid by the person who manufactures the said liquors.

(b) There is hereby levied on all alcoholic liquors bottled in Virginia and on all alcoholic liquors sold in Virginia, an excise tax at the rate of ten cents per quart. The excise tax herein levied shall be paid by the respective bottlers and wholesalers of the said liquors. No such tax shall be collected upon any alcoholic liquors bottled or sold in Virginia when the State excise tax provided in this Act shall have been previously levied and paid thereon in full but if on such liquor bottled in Virginia there shall have been paid by the manufacturer the excise tax herein levied on such liquors manufactured in Virginia, such bottler shall pay all additional excise taxes which may be due on such liquor in bottled form.

(c) When any person shall sell or offer for sale in Virginia any alcoholic liquors purchased or obtained from any person not licensed either as a manufacturer, bottler or wholesaler under the provisions of this Act, and on which the State excise tax herein levied had not been paid, such person shall pay such tax, and unless bond has been required by the court or judge thereof as hereinbefore provided, no license issued to a retailer under this Act shall be valid unless and until such retailer shall have filed with the State Tax Commissioner a bond, with a guaranty or surety company licensed to do business in this State as surety or personal surety approved by said State Tax Commissioner, in such penalty as the State Tax Commissioner may



find to be sufficient to cover the tax liability of such retailer, but in no event to be less than one thousand dollars. The State Tax Commissioner, however, shall waive the bond requirement aforesaid with respect to any retailer who may file a satisfactory contract or agreement with the State Tax Commissioner that such retailer will purchase for resale alcoholic liquor from manufacturers, wholesalers or bottlers licensed in this State and from no one else. The violation of the terms of any such contract or agreement between any such retailer and the State Tax Commissioner by the purchase by such retailer of any such liquor for resale from any one other than a manufacturer, bottler, or wholesaler licensed in this State shall automatically revoke the license of any such retailer and such dispenser or retailer shall moreover be guilty of a misdemeanor.

(d) On or before the 15th day of each month every person manufacturing, bottling or selling any alcoholic liquor in Virginia shall file with the State Tax Commissioner a report under oath on forms which shall be prescribed by the State Tax Commissioner showing the quantity of all such liquor manufactured, bottled and/or sold by such person during the preceding month, the amount of tax for which such person is liable under the provisions of this Act, and containing such other information as the State Tax Commissioner may require. At the same time such person shall pay to the State Tax Commissioner all such excise taxes chargeable against him under the provisions of this Act on all such alcoholic liquors so manufactured, bottled and/or sold during the preceding month. The provisions of this subsection as to the filing of such monthly reports shall not be applicable to any retailer who purchased alcoholic liquors from manufacturers, wholesalers or bottlers licensed in this State and from no one else, provided, such retailer shall have duly filed with the State Tax Commissioner the contract or agreement mentioned in the preceding subsection.

(e) The excise tax herein provided for shall not be chargeable against any manufacturer, bottler or wholesaler on any alcoholic liquor shipped out of this State by such manufacturer, bottler or wholesaler for resale out of the State, provided evidence satisfactory to the State Tax Commissioner be submitted to him in writing at the time when such tax would be otherwise payable that such liquors were shipped out of the State by such manufacturer, bottler or wholesaler for resale out of the State.

(f) All monies collected by the State Tax Commissioner under the provisions of this Act shall be promptly paid into the general fund of the State treasury.

The State Tax Commissioner is hereby authorized to adopt such rules and regulations as he may find expedient for the enforcement of the tax provisions of this Act. He is directed to require the use of stamps upon any containers containing liquor taxable under this Act and offered for sale in Virginia, evidencing the payment of the said excise tax upon the contents of every such container; he is further authorized to promulgate rules and regulations, governing the purchase,

sale and distribution of such stamps, and to provide for the sale of such stamps through county and city treasurers.

It shall be a misdemeanor for any person to distribute, deal in or use any such stamps except in accordance with rules and regulations prescribed by the State Tax Commissioner; the forging or counterfeiting of any such stamps shall constitute a felony punishable by confinement in the penitentiary for not less than two nor more than ten years.

*Section 8.* (a) Every manufacturer, bottler and wholesaler licensed in Virginia shall keep a complete and accurate record of all alcoholic liquors manufactured and/or bottled by him and all alcoholic liquors sold by him. Such record shall show the quantities of all such alcoholic liquors manufactured and/or bottled by him, the dates of all sales and shipments, the names and addresses of all persons to whom sales and shipments are made, the quantities and kinds of alcoholic liquors sold and shipped, and the prices charged therefor. Each such manufacturer, bottler and wholesaler shall prepare and transmit to each person purchasing any such liquors an invoice showing the date of the shipment, the quantity and kinds of such liquor purchased, and the prices charged therefor and no such liquor shall be delivered to any retailer on any Sunday.

(b) Every retailer shall keep a complete and accurate record of all purchases of alcoholic liquor, the dates of such purchases, the kinds and quantities of alcoholic liquor purchased, the prices charged him therefor, and the names and addresses of the persons from whom purchased. Every retailer shall also preserve all invoices showing his purchases, and it shall be a misdemeanor for any retailer of such liquors in this State to have in his possession for sale any such liquors, for which he has no invoice showing the purchase thereof. Every retailer shall keep an accurate account of daily sales showing the quantities of such alcoholic liquor sold and the total price charged by him therefor; such accounts need not give the names or addresses of purchasers.

(c) All such records, invoices and accounts shall at all times be open to inspection by the State Tax Commissioner, and any person or persons that he may designate as his agent.

(d) The State Tax Commissioner and his duly authorized agents shall at all times be allowed free access during business hours to every place in this State where alcoholic liquors are manufactured, bottled, stored, offered for sale and/or sold, for the purpose of examining and inspecting such place and all records, invoices and accounts therein, and may require evidence from such retailers that the excise taxes imposed by the government of the United States has been duly paid or provided for.

*Section 9.* (a) No person licensed under this Act shall sell or serve any alcoholic liquors to any person under 21 years of age.

(b) No person licensed under this Act shall sell or offer for sale, or permit the consumption of any such liquors behind a screen or any other similar device in his place of business which screen or device may conceal such sale, offering for sale, or consumption from the view of

persons who may be in such place of business and not behind such screen or other similar device.

*Section 10.* (a) The State Tax Commissioner is hereby authorized to issue special retailer's licenses to any duly licensed hotel or to establishments provided with special space and accommodation, when in consideration of payment, food and lodging are habitually furnished to persons and which have ten (10) or more bedrooms, permitting the sale and consumption of alcoholic liquors in the dining-rooms thereof, in which full meals are regularly served or in private guest rooms thereof. The tax on each such license shall be two hundred dollars per annum.

(b) The State Tax Commissioner is hereby authorized to issue special retailer's licenses to any duly licensed restaurant and/or establishment provided with special space and accommodation, where, in consideration of payment, food (without lodging) is habitually furnished to persons, and which habitually keep open ten or more tables, permitting the sale and consumption of alcoholic liquors in the dining-rooms thereof, in which substantial meals are regularly served. The tax on each such license shall be one hundred and fifty dollars per annum.

(c) The State Tax Commissioner is hereby authorized to issue special retailer's licenses to any corporation or association which is the owner, lessee, or occupant of an establishment or club operated solely for objects of a national, social, patriotic, political, or athletic nature or the like, but not for pecuniary gain, and the property as well as the advantages of which belong to all the members numbering not less than fifty paying regular ones, aggregating not less than fifty dollars per annum, permitting the sale and consumption on the premises of alcoholic liquors. The tax on each such license shall be one hundred dollars per annum.

(d) The State Tax Commissioner is hereby authorized to issue retailer's licenses permitting the sale of alcoholic liquors at retail for consumption on passenger trains in dining cars, buffet cars and club cars, on vessels (engaged in the transportation of passengers), in dining-rooms and restaurants thereon, and in aircraft engaged in the transportation of passengers when such aircraft are equipped for serving meals thereon. The tax on each such license shall be ten dollars per annum for each such car, vessel and aircraft and on vessels engaged in the transportation of passengers.

Every such license shall expire on December 31st of the year in which issued. The tax thereon shall be subject to proration.

Every such license shall be good throughout the State as a State license. Only one such license shall be required for all cars, vessels or aircraft operated in this State by the same owner or operator. Such licenses shall be issued only to the owners or operators of such cars, vessels or aircraft, but shall cover the privilege of selling such liquors by persons authorized by such owners or operators to sell the same on their cars, vessels or aircraft. No further license tax shall be required by any county, city or town for the privilege of selling beverages on such cars, vessels or aircraft.

Licenses under this section shall have thirty days from the end of each month within which to file the monthly reports required by paragraph (d) of Section 7 of this Act.

*Section 11.* (Provisions as to druggists to be supplied.)

*Section 12.* (Provisions as to hours of sale to be supplied.)

*Section 13.* No manufacturer, bottler or wholesaler of alcoholic liquors whether licensed in this State or not, nor any officer or director of any such manufacturer, bottler or wholesaler shall have any financial interest, direct or indirect, in the business for which any retailer's license under this Act is issued, or in the premises where the business of any person to whom a retailer's license has been issued hereunder is conducted; nor shall any manufacturer, bottler or wholesaler of such liquors whether licensed in this State or not, nor any officer or director of any such manufacturer, bottler or wholesaler, rent, lend, or give to any person licensed hereunder as a retailer, or to the owner of the premises on which the business of any such retailer is conducted, any money, equipment, furniture, fixtures or property with which the business of such retailer is or may be conducted. Any person violating the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be punished accordingly.

Any retailer consenting to any violation of this section shall likewise be guilty of a misdemeanor and upon conviction shall be punished accordingly.

*Section 14.* Any person who shall manufacture or bottle for sale or sell or offer for sale any alcoholic liquors without being licensed as required by this Act, or shall fail or refuse to pay any tax provided for herein, or shall fail or refuse to deliver, keep and preserve such records, invoices and accounts as are required by Section 8 of this Act, or shall fail or refuse to allow such records, invoices and accounts or his place of business to be examined and inspected as herein provided, or shall violate any other provision of this Act for which no other penalty is prescribed, shall be deemed guilty of a misdemeanor and shall, upon conviction, be punished accordingly.

*Section 15.* Any person licensed under the provisions of this Act, who shall sell, or promote any sale on his premises or in connection with his business or otherwise, of any alcoholic liquors unless otherwise permitted by law so to do, shall, upon conviction thereof, in addition to any punishment imposed by law for such offense, forfeit any license issued to him under this Act, and no other license shall be issued to him hereunder within three years from the date of such forfeiture.

*Section 16.* (a) It shall be unlawful for any person to drive or run any automobile, car, truck, motorcycle, engine, or train while under the influence of intoxicants or narcotic drugs, or any other self-administered intoxicants of whatsoever nature. If any person violates the provisions of this section he shall be guilty of a misdemeanor, punishable by a fine of not less than one hundred dollars nor more than one thousand dollars, or confinement in jail not less than thirty days nor more than twelve months, or both, for the first offense. Any person convicted of

a second or subsequent offense under this section shall be punishable by a fine of not less than one hundred dollars and not more than one thousand dollars and by imprisonment for not less than one month nor more than two years, and no court shall suspend the sentence.

(b) The judgment of conviction for a first offense under this section or a conviction under any city or town ordinance making it unlawful to drive or run an automobile, motorcycle, car, truck, engine or train while under the influence of intoxicants or narcotic drugs, or other self-administered intoxicants of whatever nature shall of itself operate to deprive the person convicted, of his right to drive any such vehicle or conveyance anywhere within the State of Virginia for a period of one year from the date of such judgment, and if the judgment of conviction be for a second or subsequent offense under this section, by the same person, it shall operate to deprive him of his right to drive any such vehicle or conveyance anywhere within the State of Virginia for a period of three years from the date of said judgment.

(c) If any person convicted of a violation of this section or of a city or town ordinance making it unlawful to drive or run an automobile, motorcycle, car, truck, engine or train while under the influence of intoxicants or narcotic drugs, or other self-administered intoxicants shall, during the time for which he is deprived of his right to drive, drive any such vehicle or conveyance, he shall be guilty of a misdemeanor.

(d) The clerks of all courts of record and every justice of the peace, including police, civil and police justice, trial and juvenile justices, are hereby required, within thirty days after final conviction of any person under this section in his court, to report the fact thereof and the name and address of such person, together with the license plate number on the vehicle operated by such person, to the Director of the Division of Motor Vehicles, who shall preserve a record thereof in his office.

(e) Nothing in this section shall be construed as conflicting with or repealing any ordinance or resolution of any city, town or county, heretofore or hereafter adopted, which restricts still further than this section the rights of such person to drive any such vehicle or conveyance.

*Section 17.* For the exercise of the powers conferred and the performance of the duties imposed upon the State Tax Commissioner by this Act, including the employment of necessary assistants, there is hereby appropriated to the State Tax Commissioner the sum of fifty thousand dollars, or so much thereof as may be necessary, per annum for the biennium ending June 30, 1936.

*Section 18. Election in counties, cities or towns to determine withdrawal from the operation of this Act.*—It shall be lawful for any county, city or town to exercise the right of local option and withdrawal from the operation of this Act. And in order that the qualified voters of each county, city or town, may so determine, and to establish within the limits of said county, city or town, local option, the circuit court of such county, or the corporation court of such city or town, or the judge thereof, re-

spectively, in vacation, upon the petition of qualified voters of such county, city or town, not less than twenty-five (25) per centum of the number counted for presidential electors in the last presidential election in said county, city or town, but in no event less than ....., filed on or before ....., 1934, but not thereafter, shall forthwith make an order requiring the judges of election at a special election to be held on ..... day of ....., 1934, to open a poll and take the sense of the qualified voters of the county, city or town, on the question whether or not such county, city or town shall withdraw from the operation of this Act. The form of the ballot for use in such election shall be as follows:

Shall ..... county, city or town (the name of such county, city or town, to be inserted) withdraw from the operation of the Act of the General Assembly of February ....., 1934, regulating and controlling the sale of alcoholic liquors?

Yes.

No.

Any voter qualified to vote at the latest general election of county, city or town officers in such county, city or town, and any since qualified in such county, city or town, at least thirty (30) days prior to the special election held hereunder shall be qualified to vote on the question herein provided. The regular election officers of such county, city or town shall open the polls at the various voting places in said county, city or town, are eligible to vote under the provisions of this Act, and shall conduct such election and close the polls in such manner as is provided by law for other elections. The ballots to be used in such election shall be printed and furnished by the election officials of such county, city or town as in any regular elections. At such election each qualified voter who shall approve the withdrawal of such county, city or town, from operating under the provisions of this Act shall answer the question printed, "Yes" by striking out the word "No" on the ballot; and each qualified voter who shall disapprove the withdrawal of such county, city or town, from operating under the provisions of this Act shall answer such question "No" by striking out "Yes" on the ballot. The judges of election at the several voting places immediately after the close of the polls at each of the said places shall count the ballots deposited, and shall within two (2) days after said election make returns thereof as is provided in other elections. The commissioners of election of such county, city or town, shall within the two days after the judges of election have made return of the ballot boxes and ballots, as aforesaid, meet at the place as provided in other elections, and having taken an oath, before an officer authorized to administer oaths, to faithfully discharge their duties, canvass the return and certify the result as in other elections; and the court or judge in vacation shall thereupon enter of record in the current common law order book an order setting out the results of said election and confirming the decision of the qualified voters of such county, city or town, in such election; and shall cause copies of such order duly certified by the clerk to be transmitted

to the board of supervisors and council or other governing body of such county, city or town.

Any election held under the provisions of this Act and the returns thereof shall be subject to the inquiry, determination and judgment of the circuit court of the county or corporation court of such city or town, respectively, as the case may be, in which such election was held, upon the written complaint of twenty-five (25) or more of the qualified voters of such county, city or town, of an undue election or false return, at least two of whom shall take an oath that the facts set forth in such complaint are true to the best of their knowledge and belief, and the court shall, in the judging of such election and return, proceed upon the merits thereof and determine the same according to the Constitution and laws of this State. But no such complaint shall be valid unless it shall have been filed within ..... days after said election in the clerk's office of said circuit or corporation court, respectively. The board of supervisors of a county, or the council or other governing body of a city or town, respectively, shall be made a defendant to such complaint by summons or notice to its chairman of the filing thereof, and a copy of such complaint shall be served on the attorney for the Commonwealth of such county, city or town, respectively, who shall defend the same. After such service either party, upon reasonable notice to the other, shall be at liberty to take depositions to sustain or invalidate such election. Service of notice on any three of the complainants, or upon the attorney of record for the complainants, shall be sufficient. Immediately upon the filing of such complaint the clerk of such court, respectively, in whose office it is filed shall notify in writing the State Tax Commissioner thereof. The court shall proceed at the next term after the serving of such summons or notice to determine the contest, without a jury, on the evidence, oral or written, unless good cause be shown for a continuance, and shall make a proper record of its judgment; and the judgment of such court shall be final. Copies of such judgment, duly certified by the clerk, shall forthwith be filed with the chairman of the board of supervisors, or other governing body of said county, city or town, respectively, and the State Tax Commissioner.

If, as a result of such election, such county, city or town, shall withdraw from the operation of this Act, it shall be lawful for said county, city or town, to adopt an ordinance, upon due notice and publication, as under general or prescribed, making it unlawful for any firm or corporation in any capacity whatever to sell, barter, or exchange any alcoholic liquors of any kind in the county, city or town, so withdrawing from the operation of this Act; and in lieu thereof to adopt such penalties not in violation of the Constitution of the State of Virginia as said board of supervisors, or other governing body may determine.

*Section 19.* Any conspiracy to prevent the due and lawful enforcement of this Act shall be deemed a misdemeanor and punishable as such, and if said conspiracy be accompanied by any violence parties convicted thereof shall be deemed guilty of a felony and shall be punishable by

fine not exceeding five thousand dollars (\$5,000.00) and confinement in the penitentiary for not less than one (1) nor more than five (5) years.

*Section 20.* (a) Sections 4581 to 4675, both inclusive, of the Code of Virginia and all amendments thereof are hereby repealed.

(b) The Act approved March 19, 1918, defining ardent spirits, etc., and the Act approved March 20, 1924, in reference to ardent spirits, etc., are hereby repealed.

(c) All acts and parts of acts, general, special, private and local, including charter provisions of cities and towns, inconsistent with any of the provisions of this Act, are hereby repealed to the extent of such inconsistency.

*Section 21.* If any part or parts of this Act be declared invalid, all the remaining parts shall be and remain in full force and effect, and it shall be the duty of the Attorney General of the State of Virginia to represent and appear for the said Commonwealth and prosecute any and all appeal or appeals from the courts of inferior jurisdiction to the appellate courts.

2. An emergency existing, this Act shall be in force on and after ..... days from its passage.