

WEST VIRGINIA ADMINISTRATIVE REGULATIONS
Alcohol Beverage Control Commissioner

FILED IN THE OFFICE OF
SECRETARY OF STATE OF
WEST VIRGINIA

Chapter 60-2
Series III
(1972)

FEB 2 1976
THIS DATE _____

Subject: Chapter 60, Article 2, of the West Virginia Code of 1931, as amended, charges the Commissioner and his duly authorized agents and employees with the responsibility of enforcement of the provisions to be found in the aforesaid Chapter 60 and authorizes the Commissioner to adopt, promulgate, repeal, rescind and amend rules, regulations and standards for the sale of alcoholic liquors and for the operation of stores and agencies. These regulations are intended to repeal all existing regulations of the West Virginia Alcohol Beverage Control Commission other than those relating to private clubs effective July 9, 1972, marked Chapter 60-2, Section II, (1972), and in their place to enact new standards relative to the operation of the West Virginia Alcohol Beverage Control Commission and the sale of alcoholic liquors through said Commission's stores and agencies, thereby implementing the statutory requirements of Chapter 60, Article 2, of the West Virginia Code of 1931, as amended; the same to be applied in conjunction with such statute.

In conformity with the authority vested in the Commissioner by law, the following regulations have been adopted, superseding all prior regulations other than those relating to the operation of private clubs, effective July 9, 1972:

Section 1. GENERAL

1.01 Scope - These regulations repeal and rescind all other regulations hereinbefore filed in the Secretary of State's office by the Alcohol Beverage Control Commissioner excepting those regulations relating to the operation of private clubs effective July 9, 1972, and in their place the foregoing rules and regulations are promulgated.

1.02 Authority - These regulations are issued under the authority of Chapter 60, Article 2, of the West Virginia Code of 1931, as amended.

1.03 Effective Date - These regulations promulgated on the _____ day of July, 1972, and are to become effective by operation of law on the _____ day of August, 1972.

1.04 Filing Date - These regulations were filed in the Office of the Secretary of State on the ____ day of _____, 1972.

1.05 Certification - These regulations are certified authentic by the Alcohol Beverage Control Commissioner.

Section 2. ADVERTISING

2.01 Definition of "alcoholic liquor." - As used in these regulations, the term "alcoholic liquor" shall include alcohol, beer, wine, and spirits, and any liquid containing more than three and two-tenths per cent (3.2%) of alcohol by weight and capable of being used as a beverage.

2.02 General prohibition - All advertising of alcoholic liquor which encourages intemperance, induces minors to purchase, or tends to deceive or misrepresent, is hereby prohibited.

2.03 Permissible media - Printed advertising of alcoholic liquor in West Virginia shall be limited to billboards, newspapers, magazines, and similar publications. Radio and television may be used to advertise wine but shall not be used to advertise distilled spirits.

Part I - Distilled Spirits

2.04 Application - No person engaged in business as a producer, manufacturer, bottler, importer, wholesaler, or retailer of distilled spirits, directly or indirectly, or through an affiliate, shall publish or disseminate or cause to be published or disseminated in any billboard, newspaper, magazine, or similar publication any advertisement of distilled spirits, unless such advertisement is in conformity with these regulations: Provided, That these provision shall not apply to the publisher or standardized outdoor advertising company of any billboard, newspaper, magazine, or similar publication, unless such publisher or outdoor advertising company is engaged in business as a producer, manufacturer, bottler, importer, wholesaler, or retailer of distilled spirits, directly or indirectly, or through an affiliate.

2.05 Definitions - As used in this part, terms shall have the meaning ascribed below.

(a) Advertisement. The term "advertisement" includes any advertisement of distilled spirits through the medium of billboards, newspapers, magazines, or similar publications, except that such term shall not include:

(1) Any label affixed to any container of distilled spirits or any individual covering, carton, or other wrapper of such container.

(2) Any editorial or other reading matter in any periodical or publication or newspaper for the preparation or publication of which no money or other valuable consideration is paid or promised, directly or indirectly, by any person subject to these regulations.

(b) Distilled Spirits. "Distilled Spirits" means ethyl alcohol, ethanol, or spirits or wine, including all dilutions and mixtures thereof, from whatever source or by whatever process produced, for beverage use, and shall include, but not be limited to neutral spirits, whiskey, brandy, rum, gin, vodka, cordials, and liqueurs. Any alcoholic beverage containing more than 24% of alcohol by volume shall be deemed to be distilled spirits.

(c) Person. "Person" means any individual, partnership, joint-stock company, business trust, association,

corporation, or other form of business enterprise, including a receiver, trustee, or liquidating agent.

2.06 Mandatory statements.

(a) Responsible Advertiser. The advertisement shall state the name and address of the producer, manufacturer, bottler, importer, or wholesale responsible for its publication. Street name and number may be omitted in the address.

(b) Class, type, and distinctive designation. The advertisement shall contain a conspicuous statement of the class and type, or other designation of the product, corresponding with the complete designation which appears on the brand label of the product.

(c) Alcoholic content. The alcoholic content shall be stated in the manner and form in which it appears on the labels or distilled spirits advertised.

(d) Percentage of neutral spirits and name of commodity.
In the case of distilled spirits (other than cordials, liqueurs, and specialties) produced by blending or rectification, if neutral spirits have been used in the production thereof, there shall be stated in the advertisement the percentage of neutral spirits so used and the name of the commodity from which such neutral spirits have been distilled in substantially the manner and form in which these statements appear on the labels of the distilled spirits advertised. In the case of neutral spirits or of gin produced by a process of continuous distillation,

there shall be stated in the advertisement the name of the commodity from which such neutral spirits or gin has been distilled substantially in the manner and form in which this statement appears on the labels of the distilled spirits advertised.

(e) "Line" or "Brand" advertisements. Where an advertisement does not mention a specific product but merely refers to a class of distilled spirits such as "whiskey") and the advertiser markets more than one brand of distilled spirits of that class, or where the advertisement refers to several classes of distilled spirits (such as "whiskey", "brandy", "rum", "gin", "Liquor", etc.) marketed under a single brand, the only mandatory information prescribed by section 2.06 hereof applicable to such advertisement would be the name and address of the responsible advertiser.

2.07 Lettering.

(a) Conspicuousness of mandatory statements. Statements required by this Part to be stated in any written, printed, or graphic advertisement shall appear in lettering or type of a size, kind and color sufficient to render them both conspicuous and readily legible.

In particular:

(1) Required information shall be stated against a contrasting background and in type or lettering which is at least the equivalent of eight-point type.

(2) Required information shall be so stated as to appear to be a part of the advertisement and shall not be separated in any manner from the remainder of the advertisement.

(3) Where an advertisement relates to more than one product, the required information shall appear in such a manner as to clearly indicate the particular products to which it is applicable.

(4) Required information shall not be buried or concealed in unrequired descriptive matter or decorative designs,

2.08 Prohibited statements.

(a) Restrictions. An advertisement shall not contain:

(1) Any statement that is false or misleading in any material particular.¹

(2) Any statement that is disparaging or a competitor's product.²

(Examples of such prohibited statement are:

¹
Reproduction of medals or facsimiles of awards, when no medals or awards have been given or where the medals or awards were not given on a competitive or comparative basis.

²
"Contains no neutral spirits or alcohol," or
"This rum will not turn dark in the bottle.")

(3) Any statement, design, devise, or representation which is obscene or indecent.

(4) Any statement, design, devise, or representation of or relating to analyses, standards, or tests, irrespective of falsity, which is likely to mislead the consumer.

(5) Any statement, design, device, or representation of or relating to any guaranty, irrespective of falsity, which is likely to mislead the consumer.

Nothing in this section shall prohibit the use of any enforceable guaranty is substantially the following form: "We will refund the purchase price to the purchaser if he is in any manner dissatisfied with the contents of this package."

Blank to be filled in with the name of person making guaranty.

(6) Any statement that the product is produced, blended, made, bottled, packed, or sold under, or in accordance with, any authorization, law, or regulation of any municipality, county, or State, Federal or foreign government unless such statement is required or specifically authorized by the laws or regulations of such government; and if a municipal, county, State, or Federal

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Analyzed by the _____ Laboratory and found to be pure and free from deleterious ingredients," or "Tested and approved." Signed by the _____ Research Institute.

permit number is stated, such permit number shall not be accompanied by any additional statement relating thereto.

(b) Statements inconsistent with labeling. The advertisement shall not contain any statement concerning a brand or lot of distilled spirits that is inconsistent with any statement on the labeling thereof.

(c) Curative and therapeutic effects. The advertisement shall not contain any statement, design, or device representing that the use of any distilled spirits has curative or therapeutic effects, if such statement is untrue in any particular, or tends to create a misleading impression. 4

(d) Place of Origin - The advertisement shall not represent that the distilled spirits were manufactured in, or imported from, a place or country other than that of their actual origin, or were produced or processed by one who was not in fact the actual producer.

(e) Flags, seals, coats of arms, crests and other insignia - No advertisement shall contain any statement, design, device, or pictorial representation of or relating to, or capable of being construed as relating to the armed forces of the United States, or of the American flag, any State flag, or

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(Examples of such statements are:

(1) "_____ is good for you."

(2) "Conducive to well being.")

of any emblem, seal, insignia, or decoration associated with any such flag or the armed forces of the United States; nor shall any advertisement contain any statement, device, design or pictorial representation of or concerning any flag, seal, coat of arms, crest, or other insignia, likely to falsely lead the consumer to believe that the product has been endorsed, made, or used by, or produced for, or under the supervision of, or in accordance with the specifications of the government, organization, family, or individual with whom such flag, seal, coat of arms, crest, or insignia is associated.

2.09 Other prohibited statements.

(a) Restrictions. An advertisement for distilled spirits shall not contain:

(1) The words "bond", "bonded", "bottled in bond", "aged in bond", or phrases containing these or synonymous terms, unless such words or phrases appear upon the labels of the distilled spirits advertised, and are stated in the advertisement in the manner and form in which they appear upon the label.

(b) Statements of age. An advertisement for distilled spirits shall not contain any statement, design or device directly or by implication concerning age or maturity of any brand or lot of distilled spirits unless a statement of age appears on the labels of the advertised product. When any such statement, design or device concerning age or maturity is

contained in any advertisement, it shall include (in direct conjunction therewith and with substantially equal conspicuousness) all parts of the statement concerning age and percentages, if any, which appear on the label. However, an advertisement for any whiskey or brandy, which does not bear a statement of age on the label, or an advertisement for rum which is four years or more old, many contain general inconspicuous age, maturity or other similar representations, e.g., "Aged in wood", "Mellowed in fine oak casks".

Part II - Wine

2.10 Application - No person engaged in business as a producer, bottler, importer, or wholesale of wine, directly or indirectly, or through an affiliate, shall publish or disseminate or cause to be published or disseminated in any billboard, newspaper, magazine, or similar publication, any advertisement of wine unless such advertisement is in conformity with these regulations: Provided, That these provisions shall not apply to the publisher or standardized outdoor advertising company of any billboard, newspaper, magazine or similar publication unless such publisher or standardized outdoor advertising company is engaged in business as a producer, bottler, importer, wholesaler, or retailer of wine, directly or indirectly, or through an affiliate.

2.11 Definitions - As used in this Part, terms shall have the meaning ascribed below.

(a) Advertisement. The term "advertisement" includes any advertisement of wine through the medium of billboards, newspapers, magazines, or similar publications, except that such term shall not include:

(1) Any label affixed to any container of wine, or any individual covering, carton, or other wrapper of such container.

(2) Any editorial or other reading matter in any periodical or publication of which no money or other valuable consideration is paid or promised, directly or indirectly, by any person subject to these regulations.

(b) Wine. The term "wine" means any alcoholic beverage obtained by the fermentation of the natural contents of fruits, or other agricultural products, containing sugar, and includes, but is not limited to still wines, champagne and other sparkling wines, carbonated wines, imitation wines, vermouth, cider, perry sake, or any other product offered for sale or sold as wine.

(c) Person. "Person" means any individual, partnership, joint-stock company, business trust, association, corporation, or other form of business enterprise, including a receiver, trustee, or liquidating agent.

2.12 Mandatory statements.

(a) Responsible advertiser. The advertisement shall state the name and address of the producer, bottler, importer, or wholesaler responsible for its publication. Street name and

number may be omitted in the address.

(b) Class, type, and distinctive designation. The advertisement shall contain a conspicuous statement of the class and type, or other designation of the product, corresponding with the complete designation which appears on the brand label of the product.

2.13 Lettering.

(a) Conspicuousness of mandatory statements. Statements required by this Part to be stated in any written, printed, or graphic advertisement shall appear in lettering or type of a size, kind and color sufficient to render them both conspicuous and readily legible.

In particular:

(1) Required information shall be stated against a contrasting background and in a type or lettering which is at least the equivalent of eight-point type.

(2) Required information shall be so stated as to appear to be a part of the advertisement and shall not be separated in any manner from the remainder of the advertisement.

(3) Where an advertisement relates to more than one product, the required information shall appear in such manner as to clearly indicate the particular products to which it is applicable.

(4) Required information shall not be buried or concealed in unrequired descriptive matter or decorative designs.

2.14 Prohibited statements.

(a) Restrictions. An advertisement shall not contain:

- (1) Any statement that is false or misleading in any¹ material particular.
- (2) Any statement that is disparaging of a competitor's² products.
- (3) Any statement, design, device, or representation which is obscene or indecent.
- (4) Any statements, design, device, or representation of or relating to analyses, standards, or tests, irrespective of falsity, which is likely to mislead the consumer.³
- (5) Any statement, design, device, or representation of or relating to any guaranty, irrespective of falsity, which is likely to mislead the consumer.

Nothing in this section shall prohibit the sue of an enforceable guaranty in substantially the following form: "We will refund the purchase price to the purchaser if he is in any manner dissatisfied with the contents of this package."

Blank to be filled in with the name of person making guaranty.

Examples of such prohibited statements are:

- 1
Genuine Sherry is made only in Spain.
- 2
"All good wines are bottled at the winery."
- 3
Example of such prohibited statements:
"Tested and approved." Signed by The _____
Research Institute.

(6) Any statement that the product is produced, blended, made, bottled, packed, or sold under, or in accordance with, any authorization, law or regulations of any municipality, county, or State, Federal or foreign government unless such statement is required or specifically authorized by the laws or regulations of such government; and if a municipal, county, State, or Federal permit number is stated, such permit number shall not be accompanied by any additional statement relating thereto.

(b) Statements inconsistent with labeling. The advertisement shall not contain any statement concerning a brand or lot of wine that is inconsistent with any statement on the labeling thereof.

(c) Curative and therapeutic effects. The advertisement shall not contain any statement, design, or device representing that the use of any wine has curative or therapeutic effects, if such statement is untrue in any particular, or tends to create a misleading impression.

(d) Place of origin. The advertisement shall not represent that the wine was manufactured in, or imported from, a place or country other than that of the actual origin, or was produced or processed by one who was not in fact the actual producer or processor.

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Examples of such prohibited statements are:
"Be healthy drink _____," _____,
a tonic or digestive."

(e) Flags, seals, coats of arms, crest, and other insignia. No advertisement shall contain any statement, design, device, or pictorial representation of or relating to, or capable of being construed as relating to, the armed forces of the United States, or of the American flag, any State flag, or of any emblem, seal, insignia, or decoration associated with any such flag or the armed forces of the United States; nor shall any advertisement contain any statement, device, design, or pictorial representation of or concerning any flag, seal, coat of arms, crest, or other insignia, likely to falsely lead the consumer to believe that the product has been endorsed, made, or used by, or produced for or under the supervision of, or in accordance with the specifications of the government, organization, family, or individual with whom such flag, seal, coat of arms, crest, or insignia is associated.

2.15 Other prohibited statements.

(a) Restrictions. An advertisement for wine shall not contain:

(1) Any statement of bonded winecellar and bonded winery numbers unless stated in direct conjunction with the name and address of the person operating such winery or storeroom. Statement of bonded winecellar and bonded winery numbers may be made in the following form: "Bonded Winecellar No. _____," "Bonded Winery No. _____" "B.W.C. No. _____," "B.W.No. _____,"

No additional reference thereto shall be made, nor shall any use be made of such statement that may convey the impression that the wine has been made or matured under U. S. Government or any State Government supervision or in accordance with U. S. Government or any State Government specifications or standards.

(2) Any statement, design, device, or representation which relates to alcoholic content or which tends to create the impression that a wine is "unfortified" or has been "fortified", or has intoxicating qualities, or contains distilled spirits (except for a reference to distilled spirits in a statement of composition where such statement is required by these regulations to appear as a part of the designation of the product).

(b) Statement of age. No statement of age or representation relative to age (including words or devices in any brand name or mark) shall be made, except that:

(1) In the case of vintage wine, the year of vintage may be stated if it appears on the label.

(2) Truthful references of a general and informative nature relating to methods of production involving storage or aging, such as "This wine has been mellowed in oak casks," "Stored in small barrels" or "Matured at regulated temperatures in our cellars" may be made.

(c) Statement of bottling dates. The statement of any bottling date shall not be deemed to be a representation relative to age, if such statement appears without undue emphasis in the following form: "Bottled in _____"
(inserting the year in which the wine was bottled.)

(d) Statement of miscellaneous dates. No date, except as provided in paragraphs (b) and (c) of this section with respect to statement of vintage year and bottling date, shall be stated unless, in addition thereto, and direct conjunction therein, in the same size and kind of printing there shall be stated in explanation of the significance of such date:
Provided, That if any date refers to the date of establishment of any business, such date shall be stated without undue emphasis and in direct conjunction with the name of the person to whom it refers.

2.16 Advertising in stores and agencies - No store or agency operated by the West Virginia Alcohol Beverage Control Commission shall display, distribute or make use of any advertising matter of any kind or character, insofar as advertising of alcoholic liquors, as defined is concerned.

Section 3. MANUFACTURES

3.01 License - Applicants for manufacturers licenses (as a distillery, winery, brewery, bottling plant and industrial plant) under Chapter 60 of the West Virginia Code of 1931, as

amended, are to furnish to the Commissioner, at the time application is made, the following information in addition to that required in the Commissioner's Application Form for such license:

(1) Copy of all information filed and all information proposed to be filed by the applicant with the Federal Alcohol Administration.

(2) Copy of all information filed and all information proposed to be filed by the applicant with the United States Department of the Treasury, Internal Revenue Service.

(3) The applicant shall swear to the truth and correctness of the above required information.

(4) The foregoing requirements shall apply to original applicants only.

(5) The application for manufacturing license and notice of intent to apply for license shall be in the form set forth below:

NOTICE OF APPLICATION FOR LICENSE UNDER THE
PROVISIONS OF CHAPTER 60 ARTICEL 4 SECTION 10
OF THE CODE OF WEST VIRGINIA FOR THE
MANUFACTURE OF ALCOHOLIC LIQUORS

To Whom It May Concern:

Notice is hereby given that _____
will, not more than thirty (30) days nor less than ten (10) days
from date hereof, file with the West Virginia Liquor Control
Commission at Charleston, West Virginia, its formal application

under the provisions of Chapter 60, Article 4, Section 2 of the Code of West Virginia known as the Liquor Control Act for license to conduct the business of operating a _____ for the manufacture of alcoholic liquors at the manufacturing plant of the applicant at _____
_____ County, West Virginia.

Date at _____, West Virginia,
this _____ date of _____, 1972.

NOTICE OF APPLICATION FOR LICENSE UNDER THE
PROVISIONS OF CHAPTER 60 ARTICLE 4, SECTION 10
OF THE CODE OF WEST VIRGINIA FOR THE
MANUFACTURE OF ALCOHOLIC LIQUORS

To Whom It May Concern:

Notice is hereby given that _____ will, not more than thirty (30) days nor less than ten (10) days from date hereof, file with the West Virginia Liquor Control Commission, at Charleston, West Virginia, its formal application under the provisions of Chapter 60, Article 4, Section 2, of the Code of West Virginia known as the Liquor Control Act for license to conduct the business of operating a _____ for the manufacture of alcoholic liquors at the manufacturing

plant of the applicant at _____,
_____ County, West Virginia.

Dated at _____, West Virginia,
this ____ date of _____, 19 ____.

3.02 Change of Style of Bottles - Before any manufacturer or vendor furnishing alcoholic liquor to the Commissioner shall change the style or type of bottle or other container in which such alcoholic liquors are being supplied, the manufacturer and/or vendor shall first obtain the Commissioner's written approval of such change by first submitting to the Commissioner a sample of bottle or other container currently in use and a sample of the bottle or other container proposed to be used.

Section 1 STORE AND AGENCY OPERATION

4.01 The West Virginia Alcohol Beverage Control Commissioner has been established by law as a part of the State Government in order to control the distribution of alcoholic liquors to the public in the way which best promotes the public interest.

4.02 Every employee must read and thoroughly know the law under which the stores and agencies operate. This law establishes the fundamental things which he may or may not do.

4.03 Employees of the West Virginia Alcohol Beverage Control Commission stores and agencies must also remember that they are public servants hired to operate these stores and agencies that every customer is a fellow citizen who must be treated with respect and courtesy. As your store or agency is judged, so are all state Alcohol Beverage Control Commission stores and agencies judged. The people of West Virginia will not long tolerate the existence of an establishment which does not serve them efficiently and well.

4.04 Store and agency managers, cashiers and clerks must follow instructions closely and accurately, and particularly must they report carefully and accurately information required to be submitted to the central office. The store supervisors and the central office will give every assistance in their power.

4.05 All store employees are responsible to their manager and subject to his direction. The manager, in turn, is responsible to his district supervisor. All matters pertaining to the operation of the store must be taken up with the field supervisor, who in turn will refer them to the general field supervisor, if necessary. From here, they will be submitted to the Commissioner for final action.

4.06 Any question regarding the advancement of store personnel, other than classified service employees, or store classification shall be taken up with the employee's immediate superior or direct with the Commissioner.

4.07 Store Hours - The state Alcohol Beverage Control Commission stores will open from 10 a.m. to 8 p.m. These hours will remain the same unless written instructions to the contrary are received from the Commissioner's office.

4.08 Stores must open and close promptly. No employee shall sell to anyone after closing hours except customers who are in the store when the door is locked, and no customer shall be admitted after closing hours. Managers should use discretion, however, and where lobbies are small and a line forms on the outside of the store before the doors are closed, such customers should be admitted.

4.09 Agency Hours - Agencies shall observe the same hours as state Alcohol Beverage Control Commission stores; that is, they shall sell alcoholic beverages from 10 a.m. to 8 p.m. An agent, however, is not required to sell beverages until 8. p.m. if he regularly closes his place of business before that hour.

4.10 Under no conditions shall an agent sell alcoholic beverages before 10 a.m. or after 8 p.m.

4.11 All store or agency employees may be required to work extra hours, as situations arise, arranging stock, taking inventory, cleaning premises, taking care of customers in rush periods, etc.

4.12 State Alcoholic Beverage stores shall be open and agencies shall sell alcoholic beverages, on every day of the year, except that State beverage stores shall not be open, nor shall agencies sell alcoholic beverages, on all days appointed and recommended by the Alcohol Beverage Control Commissioner, by order.

4.13 Store Manager's Responsibility - The store or agency manager is responsible for:

- (a) Safekeeping of the stock;
- (b) Security of the cash;
- (c) Keeping the premises clean and in order;
- (d) Maintaining good conduct among the employees;
- (e) Maintaining courteous relationship among the employees and customers;
- (f) Accuracy of records covering all store and agency transactions;
- (g) Prompt mailing of all reports to the central office;
- (h) Prompt attention to all correspondence;
- (i) Arranging daily working hours of each store employee under the supervisor's direction.

4.14 The directions to the employees which he gives in order to achieve these and other purposes of good management must be obeyed by employees.

4.15 The store or agency manager's responsibility shall extend throughout the store hours. He will be required to be on duty (8 hours at least) for such time and during such hours as the store business demands.

4.16 No person shall be allowed behind the counter of a state Alcohol Beverage Control Commission store or agency except its employees, field supervisors and representatives of the central office on official business. This does not mean that representatives of Federal or State Governments, insurance or building inspectors and meter readers shall not be permitted access to make necessary inspections, but they shall have proper credentials and must be accompanied at all times by an employee of the Commissioner while behind the counter.

4.17 Liquor Salesmen - No liquor salesmen shall visit a store or agency, for any purpose except to make a regular purchase, as any other customer. Nor shall any manager, cashier or clerk accept, directly or indirectly, any liquor, wine or other present of any kind or character from any representative of a distillery or winery. Salesmen must not contact store employees while they are off duty and must not entertain them in any way. If such offers of presents or entertainment are made, employees are instructed to report that fact directly by wire collect to the Commissioner. Any employee who fails to carry out this instruction will subject himself to immediate discharge without notice.

4.18 Conduct of Employees

(a) Employees of state Alcohol Beverage Control Commission stores and agencies will be expected at all times, on duty and off, to conduct themselves with propriety. The public will naturally judge the store or agency by the conduct of its employees.

(b) Employees, other than classified service employees, committing a breach of law or of the regulations of the Commissioner may be suspended by his manager or supervisor while a report is made to the central office for investigation. This does not give any employee of the Commissioner permission to impose unfairly upon other employees under his supervision. Those found guilty of arbitrary or unfair imposition will be disciplined.

(c) The Commissioner will not tolerate the practice of employees contracting personal debts beyond their ability to pay. Personal obligations must be met promptly. The Commissioner will not be annoyed by letters trying to collect employees obligations. Neither will it permit employees to remain in the service who issue checks that are returned unpaid.

(d) Employees must conduct themselves toward their customers with patience, courtesy and tact, and always with good humor.

(e) In speaking to customers employees must be clear, intelligible and thoughtful and must show a thorough, friendly interest in the customer's desires.

(f) Employees must be sure that their customers are supplied with exactly the goods asked for.

(g) Employees are strictly forbidden to recommend any particular brand of liquor to any customer. Each customer should be required to make his own selection from the price list. This will avoid customer dissatisfaction and deserved criticism which may be embarrassing to employees of the Commissioner.

(h) Employees are not permitted to assist purchasers in carrying packages from the store.

(i) Employees should not carry on a conversation with third persons while waiting on a customer.

(j) Employees should be cheerful at all times and show this in their greeting to customers.

(k) The use of tobacco in any form is strictly forbidden while waiting on customers. Chewing tobacco, pipes, cigars or cigarettes should not remain in the employee's mouth in the presence of customers.

(l) Hats must be off. Card playing is prohibited. Boisterous or loud talking or other "horseplay" must not be carried on.

(m) Coats are furnished for the use of store employees, and all employees must wear clean coats while on duty.

(n) The drinking of non-intoxicating beer or intoxicating liquor while on duty, or about the Alcohol Beverage Control Commission store premises at any time, is strictly forbidden. All employees are forbidden to drink from a bottle of any description while on duty or about the Alcohol Beverage Control Commission store premises. Any employee who violates this rule will be immediately discharged as an employee of the West Virginia Alcohol Beverage Control Commission.

(o) Money orders, certified checks, cashiers check or travelers check are to be treated as cash and may be accepted in payment of a purchase from a State Store or Agency.

} OBSOLETE
} 11-27-74

(p) Employees are not permitted to cash or discount script or accept it in any manner, nor shall they lend money to any customer.

(q) Be sure that you have your change ready for the next days operations. Under no condition mix your personal money with the state's funds. If you do not have the change in your drawer, let the manager give you change from his funds to avoid mixing your personal money with the state's funds.

(r) Do not allow neighboring stores to use your store for a convenience in getting their change.

(s) Each employee of the Commissioner is a peace officer as far as the enforcement of the Liquor Control Act is concerned in and around stores, agencies and warehouses.

FILED IN THE OFFICE OF
SECRETARY OF STATE OF
WEST VIRGINIA

THIS DATE NOV 27 1974

Adm. Reg. 60-2
Series III

Sec. 4.18

(o) Money Orders, certified checks, cashier's checks or traveler's checks are to be treated as cash and may be accepted in payment of a purchase from a State Store or Agency. In addition thereto a personal check from a duly licensed private club will be treated as cash if a guaranty bond issued from a bonding company licensed to do business in West Virginia is posted in advance with the Commissioner in a sum sufficient to bond the total amount of such purchase or purchases; provided that such purchase or purchases shall not exceed the total of the bond and in this regard purchases insofar as the bond is concerned shall be treated as cumulative until such time as the check or checks shall clear and be honored by the bank upon which such check is drawn. Further, a duly licensed private club may, in addition to method provided above, purchase by personal check if there is posted in advance with the Commissioner, a line of credit issued by a duly organized national or state banking institution; provided that such purchase or purchases shall not exceed the total of the posted line of credit and in this regard purchases insofar as the line of credit is concerned shall be treated as

TO: The Honorable Edgar F. Heiskell, III
Secretary of State
State of West Virginia

FROM: J. Richard Barber
West Virginia Alcohol Beverage Control Commissioner

DATE: November 27, 1974

Enclosed herewith please find an original and two copies of a proposed amendment to existing regulation 4.18 which is a part of Series 4 of regulations presently on file in your office and promulgated by the West Virginia Alcohol Beverage Control Commissioner the purpose to this regulation is to amend subsection (o) of existing regulation 4.18 but in all other respects regulation 4.18 is to remain in full force and effect, other than herein noted.

In addition, I enclose herewith an original and two copies of regulation 3.16 which is to made a part of Series II regulations herein before promulgated for the West Virginia Alcohol Beverage Control Commissioner. This regulation is new and does not repeal or amend any existing regulation on the subject.

I request that these regulations be put on file in your office as of November 27, 1974, and thirty (30) days thereafter, in the event that no action is filed, then and in such event, these regulations shall have the force and effect of law.

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THIS DATE NOV 27 1974

cumulative until such times as the check or checks shall clear and be honored by the making bank or the bank upon which the check or checks are drawn. Applications for the purpose of purchasing by personal check when guaranteed by a guaranty bond or line of credit shall be obtainable from the Commissioner at his office in Charleston, West Virginia. In the event that any check is returned for insufficient funds then, and in that event, the Commissioner shall notify the bonding company or bank issuing the line of credit and shall forthwith make demand for payment, and in addition thereto they shall be charged a handling fee of \$5.00, such sum to be charged in addition to the amount shown due on the face of the subject check or checks.

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(t) Employees shall immediately report to the Commissioner instances of violations of the Liquor Control Act or of the Commissioner's regulations which come to their attention. Such reports when made by subordinate employees shall be made in writing to their department heads, with a copy direct to the Commissioner. Any employee who fails to report immediately any violation of the Liquor Control Act or of the Commissioner's regulations which may come to his attention shall be dismissed without notice. The purpose of this regulation is to place all Commissioner's employees on the alert to discover and report violations, so that those guilty shall not go unpunished.

(u) These, and similar suggestions, while simple, will go a long way toward establishing the reputation of the state, Alcohol Beverage Control Commission stores as well conducted, signified places of business. The Commissioner's policy will be to maintain such a reputation.

(v) The service of any employee at the West Virginia Alcohol Beverage Control Commission shall be automatically severed should he or she become a candidate for or accept appointment to any public or political office, national, state, county, district or municipal, or take public part in any political activities whatsoever.

4.19 Working Hours - Time Sheets

(a) All stores shall keep a daily record of the time worked by each employee in time books furnished for that purpose. DAILY ENTIRES shall be made in this time book for each employee.

(b) The store manager, together with the supervisor, shall fix the working hours of each employee, and if an employee is present during the time fixed for him he shall be credited with a full day.

(c) If an employee is absent during any portion of the time fixed for him, his time shall be entered accordingly.

(d) On holidays recognized by the Commissioner, employees are not to be considered as present, but that day should be left vacant, or the letter "h" inserted, and this absence shall not be charged against the employee in carrying out your totals in the columns "Absent this month" and "Vacation this month." An employee on vacation is not to be charged with a holiday occurring during the vacation period.

(e) Immediately at the close of business on the last day of the month, a time sheet (Form ABCC31a) shall be prepared from the record in the time book, and it shall be properly certified and forwarded to the general field supervisor. All time books shall be inspected by field supervisors and auditors each time they visit a store. The time book furnished is to run from July 1, to June 30, and

at the end of the fiscal year is to be sent to the central office for filing. In preparing the time sheet, the date shown on it should be for the current month. For example: June 1, to June 30.

4.20 Overages and Shortages

(a) There is to be no making up of any shortages, either of Liquor or cash. All receipts must be deposited intact for each day's business. A day's business consists of all sales made during the regular hours the store or agency is open for business. All shortages and overages of each store employee shall be balanced after the books are closed for the periods ending December 31 and June 30. Any overages credited to any employee shall be allowed as an off-set against such employee's shortages, and at the end of each of the periods provided, proper deductions shall be made for each employee's earnings and his account shall be closed. Any cash overage resulting from an employee charging the old retail price after a new price list is effective showing a reduction, will not be credited to the over account of such employee. It shall be credited to the Commissioner.

(b) Any overage credited to an employee above and beyond any shortage charged against him shall not be carried over after the dates provided for closing, all accounts, but instead shall be credited to the Commissioner as of those dates.

(c) Whenever an accumulated shortage charged against any individual store employee reaches or exceeds

the sum of \$15.00, it shall be deducted from the employee's salary and the fact shall be reported to the Commissioner immediately by the Director of the Division of Finance and Stock Control.

4.21 Management and Operation of the Store

(a) Information concerning a store, agency, or its employees, or the extent of its business, must not be divulged except by the manager, and then only with reference to definite, actual and, if possible, recorded matters. Local newspapers desiring information are to be offered co-operation by the manager in the release of facts about his store or agency, but in no case is the manager to speculate about the Commissioner's operations, or to express opinions about any official activities. To such questions from customers as -

How much do you sell?

Does Mr. _____ buy here?

Where do you deposit your money?

What brands of whiskey sell best?

How does _____ brand sell?

What brand do you recommend?

and the like, the answer must be that it is not permitted that such matters be discussed.

(b) Doors and windows must be securely shut and fastened at night. The back door must be kept locked or fastened at all times. See that everything is off the counters each night, and put trash from the lobby in the rear so that people passing in the early morning will be impressed

with the cleanliness of your store. Leave one light in the rear of the store burning at night.

- (c) Counter gate must be kept closed at all times.
- (d) Pavements must be swept and kept clean, and all snow and ice removed promptly.
- (e) Windows must be washed and kept clean at all times.
- (f) Stores must be swept and dusted daily.
- (g) Litter and trash must be gathered up promptly, kept out of sight and disposed of as the manager may direct.
- (h) No paper cartons shall be sold, given away or disposed of in any manner. They shall be returned to the warehouse after they have been properly baled. (See directions for cutting down cartons, Section 30).
- (i) During idle time stock should be replenished, bottles and shelves wiped and dusted, stock arranged attractively.
- (j) Stock should not be mixed on shelves so that errors in selections are promoted. "Strays" are always annoying and troublesome. Shelves should be assigned so that employees always know where to locate particular items promptly. Clerks should check the bottle against bin marker when making the sale.
- (k) Items for which there is considerable demand should be kept nearest the counter, with precautions taken that employees do not become confused in making selections.

(l) Domestic and foreign goods may have exactly the same names. This should be watched to prevent mistakes, customer annoyance and out-of-balance inventories.

(m) The labels on the bottles are glazed paper glued on. They will scar easily, and the appearance of the bottle will be marred. Dampness will loosen the label and cause it to come off, thus losing all identification. This must be guarded against.

(n) Cash and deposits must be safeguarded.

(o) The full price, plus sales tax, must be collected for each sale by the cashier.

(p) The proper items and the proper amounts must be delivered to each customer.

(q) Manager's daily reports and inventory reports must be accurate. Inaccuracy in these reports will throw out of gear the bookkeeping, purchasing, warehouse, distribution and store procedures.

(r) Permit no sales to intoxicated or insane persons, persons addicted to the use of drugs, or to those under the age of 18 years, or habituates. Before selling to any individual between the age of 18 and 21 years, all employees shall require proof of age of the purchaser by way of an Alcohol Beverage Control Commission Certificate of Age or require at least three (3) documents certifying the age of the individual, one of which shall be a valid birth certificate, or copy thereof, showing the holder is at least eighteen (18) years of age. The following are considered to be valid proof of age:

(a) A valid State Drivers License showing that the holder is at least eighteen (18) years of age.

(b) A Selective Service card showing that the holder is at least eighteen (18) years of age.

(c) A Voters Registration Card showing that the holder is at least eighteen (18) years of age.

(d) Any other valid means acceptable to the Commissioner of proving that the individual is at least eighteen (18) years of age.

(s) The failure to produce satisfactory proof of age upon demand requires that the employee refuse to sell alcoholic liquor to the individual attempting to purchase the same.

(t) A customer, as well as an employee, while on the premises of a state store or agency, shall not:

Break the seal upon any package of alcoholic liquors;
Consume alcoholic liquors.

(u) The Federal law provides: "All tax stamps on shipping containers of wine and alcohol must be destroyed or obliterated at the time such containers are completely emptied, under the penalty of a fine not exceeding \$5,000 or imprisonment for not more than five years or both."

(v) When an auditor or supervisor audits a store, all keys and necessary papers must be placed at his disposal.

(w) After Daily Sales Reports are made up, the sales tickets are to be put in a box or container. All the tickets covering the sales for each month are to be kept in

your store for at least thirty days before they are destroyed. It will be the duty of the Field Supervisors to destroy these tickets. The only method to be used in destroying them is by burning them.

(x) The Commissioner has adopted a standard label, which he requires all distillers to apply on the outside of the case, to be used whenever there is a change in the specification of the product. This label will be applied only on the first two shipments into the state after a change has been made. When any merchandise comes to your store carrying this label, see that the merchandise of the same brand received prior to this shipment is moved first.

(y) Form ABCC7 (invoice) is to be made out in ink or upon typewriter and is to include date, store number and postoffice address.

(z) You will keep on hand a supply of compensation application blanks to be used when anyone is injured in line of duty. These blanks must be filled out at once and must be in the hands of the Division of Finance and Stock Control within 24 hours after the injury occurs. These blanks must be prepared in triplicate, and all three copies must be completely filled out.

(aa) Notary public fees will not be allowed.

(bb) Requisitions for supplies shall be made upon Form ABCC 38-A, which will be furnished you. You are to order 30 days' supply at one time, and it will be necessary to anticipate your needs two weeks in advance. Supplies

which you have ordered on a requisition and are not included in the shipment covering that order are to be recorded by you on your next requisition. Do not waste supplies, as such waste will reflect in your store cost and count against your store efficiency record. Supplies will be billed on invoice, Form ABCC 38. You are to sign all copies and distribute them as instructed on the bottom of this form.

(cc) If any article is found in the store, the manager shall try to locate the owner. In the event that the owner is not found within one week from the time the article was left in the store, the manager shall make a report, describing the article found, to the central office, following which he shall await instructions concerning the article's disposal.

4.22 Sales Tickets - Form ABCC 29-(a)-All sales tickets shall be identified by the clerk who fills the order by stamping on the face of the ticket the number assigned to him.

(b) After Daily Sales Reports are made up, the sales tickets are to be put in a box or container. All the tickets covering the sales for each month are to be kept in your Store for at least thirty days before they are destroyed. It will be the duty of the Field Supervisors to destroy these tickets. The only method to be used in destroying them is by burning them.

4.23 Price Lists - Store and agency managers must not under any circumstances, change age or proof of any item appearing on retail price lists without specific authority from the central office.

4.24 Breakage - "Breakage must be controlled. Since the stock is carried in glass containers there will be breakage due to unavoidable accidents. Managers must control the breakage which may be caused by too much haste and by carelessness. The store personnel will be held responsible for all losses and breakage in goods charged to their stores and agencies. It is not the intent of the Commissioner to deal unfairly with the employees in this regard, but employees must realize that it is important in the operation of the stores and agencies that losses to the Commissioner through carelessness or mistakes of employees shall be guarded against. The manager must preserve the neck of the bottle broken, with the cork in it and stamp intact. Under the accounting and reporting instructions it is provided that breakage and the person responsible shall be reported. The central office keeps a record for each store's agency's and each manager's responsibility for breakage."

4.25 Confiscated Liquors - All confiscated alcoholic beverages turned over to the state stores and agencies must be reported immediately to the Division of Finance and Stock Control. It is necessary that the number and size of bottles and brands be listed, and the report must show whether

or not West Virginia seals are attached to the bottles or seals of other states. You will then hold the confiscated liquors intact until you have been advised by the Division of Finance and Stock Control as to what disposition is to be made of them.

4.26 Procedure in Emergencies

(a) All of the possible occurrences in the operation of a store cannot be foretold and plans made in advance to meet them. Warehouse, store and field employees must be resourceful. The Commissioner is imposing a trust here which he asks to be respected.

(b) Damage to the premises which impairs protection to stock or service to customers must be remedied.

(c) Emergency exhaustion of supplies must not be permitted to interfere with the store's functions.

(d) Store managers are not permitted to make purchase of any kind unless in extreme emergency without permission from the Procurement Division. Even in the event of extreme emergency, expenditures exceeding five dollars will not be approved unless you have permission from the Procurement Division before making such expenditure. In the event of extreme emergencies requiring an expenditure of more than five dollars, telephone your field supervisor.

(e) In case of flood, fire, theft or hold-up, or other similar emergency, the manager must immediately notify the District supervisor by telephone. If the manager is unable to get in touch with the District Supervisor, he should

then notify the General Field Supervisor.

4.27 Change and Postage Funds

(a) You have been provided with a change fund to be used for change only and a postage fund to be used for postage only. You are to render monthly on invoice Form ABCC 7 an itemized statement of postage used during this month. On this statement you will show the amount of the Postage Fund, the amount of postage on hand, and the amount of postage used for that month.

(b) On no account, and for no reason, pay out any money from store's cash for an arrangements made in an emergency or otherwise.

4.28 Sales Receipts

(a) All cash received from sales shall be deposited intact each morning, or as you are individually instructed, for the sales of the previous day. Make three copies of deposit slip, one copy for the bank, one copy for the store or agency and one copy to be attached to the daily sales report to the central office. The store and central office copies of the deposit slip must be dated, and the bank cashier or teller receiving them shall sign his or her full name on the tickets, and not merely initial them.

(b) At frequent intervals each day the manager should check the accumulations of money to see whether the change requirements have been exceeded. When they have, the manager should place the surplus cash in the safe immediately. Your close and constant attention to this im-

matter of daily routine will protect you from possible embarrassment, and the Commissioner from needless loss.

4.29 Store Equipment

(a) Most machines are covered by a service agreement for repairs and upkeep.

For repairs on these machines call the nearest repair office which is on the list furnished to you by the Procurement Division.

(b) Do not allow equipment of any kind to leave your possession unless the transfer is authorized on Form ABCC 146, Equipment Transfer.

(c) No worn, broken or damaged equipment or furniture is to be destroyed. It must be returned to the warehouse, using Form ABCC 146. All equipment to be sent in for repairs must be authorized on Form ABCC 146. Requests for the transfer of equipment is to be sent to the Procurement Division.

(d) For repairs or replacement of equipment request a transfer order.

(e) On major repairs contact the Procurement Division.

(f) When sending equipment in for repairs or replacement, send a report stating the nature of the trouble.

4.30 Directions for Cutting Down Cartons

(a) Cut open the top and bottom of each case with flash opener and press the cartons with the liners and

dividers in them flat, turning the top flap to one side and bottom flap to another side forming an L, then press these, one on top of another, alternately so as to make a square package, taking care to make this bundle as nearly uniform and neat as possible. (Pint and quart cartons should be bundled separately).

(b) Chains are provided for binding up these bundles. The trucking company will leave with you on each trip the same number of chains that he picks up on bundles of paper. These chains are to be used in preference to twine as they make much more secure packages and also by their reuse costs much less money. However, if for any reason chains are not obtainable at certain times, it is permissible to use twine temporarily. Be sure, however, that the bundles are compressed tightly by the knee and securely tied.

(c) All cases shall be cut down promptly after being emptied, and bundles returned by the truck delivering your shipment at least once each week to the Charleston ABCC Warehouse, or to such other point as may be designated by the Commissioner. No accumulation of loose materials shall be permitted in or about the stores. It shall be the duty of the district store supervisors to make careful observation as to any such conditions.

(d) Each store and agency will be supplied with receipts (ABCC 156) in triplicate to be used in returning bundles of paper cartons to the warehouse. These receipts

must be properly filled in by showing number of bundles and total number of cartons, and the truck driver's signature obtained. The original, or white copy, is to be mailed to the central office with the daily report. The second, or pink copy, is to be given to the truck driver, and the third, or yellow copy is to be retained by the store or agency for file.

(e) All wooden cases must be broken up immediately after they have been emptied, and disposed of as the manager may direct.

4.31 Fire Extinguishers - Each store is furnished with a fire extinguisher. These extinguishers must be examined and refilled once a year. The refills shall be ordered on the regular supply requisition, Form ABCC-38A.

4.32 Display of Advertising

(a) No store operated by the Commissioner shall display, distribute or make use of any advertising matter of any kind or character, but this shall in no way prevent the posting of any statement supplying information concerning conditions brought about by reason of the present emergency. "Advertising Matter," as here used, shall include window cards, calendars, clocks, desk pads, pens, pencils, matches and every article or device bearing printed matter or illustrations designed to advertise any product or undertaking. This regulation shall apply to agencies operated by the Commissioner insofar as the advertising of alcoholic beverages, as defined by statute

is concerned.

(b) Cartons shall not be stacked in the lobby or in front of the bins.

4.33 Surety Bonds - All employees are bonded to the state to indemnify it against loss. Employees must realize their responsibilities under this Bond.

4.34 State Automobiles - Where state-owned are furnished employees for business use they are forbidden to use these automobiles for personal use.

4.35 Merchandise Returned by Customer - In case merchandise is returned by the customer, the manager shall have the customer fill out a "Customer's Statement," Form ABCC 30.

4.36 Shipping Days - Deliveries to most stores and agencies according to a schedule furnished by the Superintendent of the Warehouse.

4.37 Receiving Reports - Form ABCC 77 must be sent in for petty purchases, or upon the receipt of any other articles not listed on the regular supply invoice, with the exception of all store utilities.

4.38 Correspondence

(a) All correspondence from the central office requiring a reply must be answered promptly. All letters received from the central office must be retained in the store or agency and properly filed so that they may be available for inspection by the supervisor.

(b) Each store and agency is supplied with regular interdepartmental letter-heads, and all correspondence with the central office must be on these letter-heads. Letters written the central office must be written about one subject only. If two or more subjects are to be covered, a separate letter must be written for each subject.

(c) The words "West Virginia Alcohol Beverage Control Commissioner," and similar words of the same meaning, shall be used in a letter-head only by the Commissioner, or as directed by the Commissioner. Their use by any employee or any organization or association of employees, or by any store or agency of the Commissioner shall not be permitted or approved.

4.39 Soliciting and Contributions

(a) No person or persons shall be permitted to solicit funds for any purpose in a state ABC store, or in the offices of the Commissioner.

(b) No donations or contributions from funds belonging to the Commissioner shall be made for any purpose by the Commissioner or by any of its stores or agencies.

4.40 Compliance with Regulations; Orders from Commissioner - Any order issued by the Commissioner to

to his employees shall be obeyed. The failure of an employee to carry out any order, directive or command of the Commissioner shall constitute sufficient basis for the dismissal of the offending employee. Also, noncompliance with these regulations by an employee shall constitute sufficient basis for such dismissal.

4.41 Consumers Sales and Service Taxes - Shall be collected by the state stores at the time of said sale, provided, however, that a private club licensed under article seven of chapter 60 of the West Virginia Code of 1931, as amended, may tender an exemption certificate. This tax shall be posted separately and according to store number and a check issued by the 15th of each succeeding month to the West Virginia Tax Commissioner for the complete three (3) percent collected.

OBSOLETE
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4.42 Municipal Taxes - Shall be collected by the state stores at the time of sale, provided, however, that the municipality has levied said tax pursuant to chapter 8, article 4, section 13a of the West Virginia Code of 1931, as amended. This tax shall be posted separately and according to store number and by the 15th day of each succeeding month all stores shall be listed that are within a municipality and all said taxes shall be paid to the West Virginia Treasurer who shall in turn distribute said taxes quarterly upon warrants of the auditor payable to said municipalities.

TO: The Honorable Edgar F. Heiskell, III
Secretary of State
State of West Virginia

FROM: J. Richard Barber *JRB*
West Virginia Alcohol Beverage Control Commissioner

DATE: August 12, 1974

The foregoing regulations 4.41 "Consumers Sales and Service Taxes", 4.42(a) "Municipal Taxes, and 4.42(b) "County Taxes" attached hereto are promulgated as Amendments to those certain regulations establishing the procedure for the collection of Consumers Sales Tax and Municipal Taxes hereinbefore filed June 8, 1972, effective July 9, 1972.

Pursuant to law these Amendments will become effective and have the force and effect of law thirty (30) days after the same have been filed in your office.

**FILED IN THE OFFICE OF
SECRETARY OF STATE OF
WEST VIRGINIA**

THIS DATE AUG 12 1974

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SECRETARY OF STATE OF
WEST VIRGINIA

THIS DATE AUG 12 1974

Adm. Reg. 60-2
Series III

Sec. 4.41

4.41 Consumers Sales and Service Taxes --There shall be collected by all state stores or agencies at the time of sale of all intoxicating liquor an amount equal to three percent (3%) of the purchase price of such intoxicating liquor, provided, however, that a private club licensed under the provision of Article Seven of Chapter Sixty of the West Virginia Code of 1931, as last amended, may tender an exemption certificate which certificate upon presentation at time of purchase of such intoxicating liquor shall abate the collection of such tax at the time of purchase. This tax shall be posted seperately according to store number and a check issued by the fifteenth (15th) of each succeeding month to the West Virginia Tax Commissioner for the three percent (3%) so collected.

4.42(a) Municipal Taxes --There shall be collected by all state stores or agencies at the time of sale of all intoxicating liquor an amount equal to three percent (3%) of the purchase price of such intoxicating liquor in addition to the tax provided for in Regulation 4.41. This tax shall

be collected on all sales occurring in such municipality or within one mile of the corporate limits of the same and if there be more than one municipality within one mile of the place of collection of such tax, then and in such event all such tax so collected shall be divided equally among each of such municipalities. Such one mile area shall be measured by the most direct hard surface road or access way usually and customarily used as ingress and egress to the place of tax collection. This tax shall be posted separately according to store number, and by the fifteenth (15th) day of each succeeding month all stores shall be listed that are within a municipality or within one mile of the corporate limits of the same and all said taxes shall be paid to the West Virginia Treasurer who shall in turn distribute said taxes quarterly upon warrants of the West Virginia Auditor payable to said municipalities: provided, however, that a private club licensed under Article Seven of Chapter Sixty of the West Virginia Code of 1931, as last Amended, may tender an exemption certificate as provided in Regulation 4.41.

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THIS DATE AUG 12 1974

4.42(b) County Taxes --There shall be collected by all state stores or agencies at the time of sale of all intoxicating liquor an amount equal to three percent (3%) of the purchase price of such intoxicating liquor in addition to the tax provided for in Regulation 4.41 where such sale occurs outside of one mile of the corporate limits of any municipality. Any tax so collected shall be posted separately according to store number, and by the fifteenth (15th) day of each succeeding month all stores shall be listed that are outside of one mile of the corporate limits of any municipality and all said taxes shall be paid to the West Virginia Treasurer who shall in turn distribute said taxes quarterly upon warrants of the West Virginia Auditor payable to said counties for the tax so collected in such county; provided, however, that a private club licensed under Article Seven of Chapter Sixty of the West Virginia Code of 1931, as last Amended, may tender an exemption certificate as provided in Regulation 4.41.

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4.43 License Fees - Shall be collected by the Alcohol Beverage Control Commissioner under chapter 60, article 7 of the West Virginia Code of 1931, as amended. This fee shall be remitted by the 15th of each succeeding month to the West Virginia Treasurer for deposit in the General Revenue Fund.

4.44 Profits - All receipts accruing to and available for the General Revenue Fund as profits from the Alcohol Beverage Control Commissioner shall be remitted by the 15th of each succeeding month to the West Virginia Treasurer for deposit in the General Revenue Fund.

Section 5. CIVIL SERVICE

5.01 Extent of Coverage - All employees of the Commissioner excepting the Commissioner, Deputy Commissioner, the Commissioner's secretary, part-time personnel, Clerks in the stores are covered within the classified service of the State of West Virginia and have all the rights accruing thereto.

5.02 Resignation - Any employee, within the classified service, who resigns shall present the reasons therefor in writing to the Commissioner or the employee's immediate supervisors.

5.03 Dismissals - The Commissioner, after fifteen (15) days notice in writing to a permanent employee stating specific reasons therefor, may dismiss an

employee who is negligent or inefficient in his or her duties, or unfit to perform his or her duties, or who is found to be guilty of gross misconduct, or who is convicted of a crime involving moral turpitude. Such notice shall not be required for employees in cases where the Civil Service Commission of the State of West Virginia determines that the public interest is best served by withholding such notice, and in instances where the Commissioner dismisses for cause of misconduct.

5.04 Suspension - The Commissioner may, upon notice in writing, suspend any employee without pay for delinquency or misconduct for a period not to exceed thirty (30) days in any one calendar year.

5.05 Appeals - Any permanent employee, within classified service, who is dismissed, suspended for more than thirty (30) days or demoted, shall have the right to appeal to the Civil Service Commission not later than thirty (30) days after the effective date of such dismissal, suspension, or demotion. Such appeal shall be in writing and is to be transmitted to the Director of the Civil Service Commission who shall then arrange a formal hearing before the Civil Service Commission within thirty (30) days after receipt of such appeal.

5.06 Probationary Period of Employment - All employees assuming a position with the Commission, within classified service, shall serve in such position

as a probationary employee for a four (4) week period. Upon the expiration of such period, the Commissioner shall receive a statement in writing from the employee's supervisor that such probationary be continued as a permanent employee or that such employee not be continued as an employee of the West Virginia Alcohol Beverage Control Commission. The statement provided by the supervisor shall include an appraisal of the value of the employee's service and shall include a service rating upon forms prescribed by the Director of Personnel for the Civil Service Commission of West Virginia. In the event the Commissioner takes no action on the status of the probationary employee before the expiration of the probationary period, either to retain or terminate, the employee shall be considered as having attained permanent status.

Section 6. MANUAL OF SPECIFIC STORE AND AGENCY PROCEDURES.

6.01 Stock of Alcoholic Beverages in Stores - (a)

The invoices for alcoholic beverages sent to all state stores will be made up and controlled by the division of Merchandising. The amount of stock shipped will be determined from the store weekly inventory report, and it is required that this weekly inventory report be mailed not later than the afternoon of the day following the receipt of the regular shipment.

(b) All stores will be supplied with FORM 116.

This report must be filled out and mailed with the regular inventory. It is required that this report be sent in weekly, regardless of whether you sell out of any brand or have unusual sales, or expect unusual sales. If you have no remarks to make, simply write across the face of the report "Normal Sales." If you experience unusual sales and sell out of any brand, you are to list each and every code sold out, stating on the report why such unusual sales for the week following your next delivery, you will give the reason on this report.

(c) The weekly inventory and Form ABCC 116 are to be mailed in the large envelope, together with other reports, and not in envelopes by themselves.

6.02 Ordering Alcoholic Beverages-Agencies-The agent, or person designated by him, shall make out a requisition on Form ABCC 48-A for alcoholic beverages to be sold at the

agency. This form, ABCC 48-A, at the time of ordering liquors, should be made out in pencil.

6.03 Receiving Alcoholic Beverages - (a) The store or agency will receive with each shipment three copies, giving the date and hour of arrival and the number of cases received. If there are any discrepancies, you will notify the Division of Finance and Stock Control at once by letter. You will also make notations of the discrepancies on all copies of the invoice itself in the space provided, "Remarks." One copy shall be returned to the truck driver as his receipt. One copy shall be receipted and mailed to the central office, with the daily sales report on which the shipment is entered. One copy will be retained by store or agency for file.

(b) If, upon receiving a shipment or transfer of liquor by truck, a case is found wet or appears to have been tampered with, it should be opened and the contents examined immediately in the presence of the truck driver. If upon examining the contents, a shortage or any broken or damaged bottles are discovered, a "Report of Loss and Damage", Form ABCC 54, with respect to same should be filled out at once covering the shortage or damage in question, and this report must be signed by the truck driver. Managers and agents should carefully check each shipment to see that they receive all items as billed on the invoice, and if any items are short, they should note it on all copies of the invoice and require the truck driver to sign it.

(c) All split cases and all cases which have been re-packed must be opened immediately, and in any event not later than the next day after receipt in your store. The contents of these cases must be carefully checked, and if and discrepancies are found, you will notify the Division of Finance and Stock Control at once by letter.

(d) If the above-prescribed procedure is not followed, the shortage or damage will be charged to the store or agency manager at retail value.

6.04 Placing Alcoholic Beverages in Bins - (a) There should be in the bins enough bottles of each brand and size to cover at least the maximum of sales for one day for any one brand or size.

(b) There must be a bin card for each brand or bottle size of alcoholic beverage which is kept stocked in the bins.

(c) The bin cards, Form ABCC 40, shall be attached to the bins where they may be readily seen.

(d) It is the responsibility of the stock clerk, or someone designated by the manager, to see that the bins are kept properly stocked.

(e) The number of bottles of each brand and size sold or removed from the bins and the number of bottles placed in them each day should be entered on the bin cards in the corresponding columns.

(f) All bottles of sparkling wines and champagne with cork stoppers are to be laid on their sides on the bin shelves so that corks will be constantly wet. All wines should be kept away from stoves and other heating apparatus and should be placed as near to the floor as possible. Avoid storing wines where there is the slightest danger of freezing.

6.05 Cash Registers - For instruction regarding the operation of Burroughs Cash Registering Machines see "Appendix" to this booklet.

Preparation of Reports for Central Office - Reports to be made out daily:

6.06 Daily Sales Report - Form ABCC 15 (a) - The daily sales report is to be made out daily in triplicate. The original copies are to be placed in numerical order and stapled together at the top. You will do the same with the pink copies, and will mail both the original and pink copies to the central office. The yellow copies are to be kept for the store or agency file.

(b) This report is to be prepared in the morning for the business of the previous day and is to be sent to the central office immediately.

(c) In preparing this report the sales tickets for the entire day should be removed from the bins and kept segregated according to code numbers.

(d) The bottles sold as shown on the tickets are then added for each code number, and the total is entered on the

daily sales report in the column "Sales", under the heading "Bottles Disposed Of," on the line corresponding to each particular code number.

(e) These sales for each code are then multiplied by the corresponding unit prices are shown on Form ABCC 15 AP. The resulting values are extended into the "Value" column. Each month all stores and agencies will receive from the central office new price forms, ABCC 16-AP, with the corresponding month printed on the bottom of the form. After the first of the month you are not to use the old form of the previous month in preparing the daily sales report. Old forms should be filed for future reference.

(f) Bottles shipped to the warehouse or to another store or agency on a transfer order are entered in the column "Transfer" under the heading "Bottles Disposed Of," A copy of the transfer order, showing the shipment, must be attached to the report and sent in to the central office. No values are to be shown on the daily sales report for bottles transferred, but the number of bottles transferred shall be deducted from the bottles on hand the previous day.

(g) Claims and store breakage are to be entered in the column "Claim" under the heading "Bottles Disposed Of." Each entry in this column must be shown on an "Adjustment Report," Form ABCC 19, and must be supported by a "Report of Loss and Damage," Form ABCC 54, together with any necessary affidavit.

(h) Receipts from the warehouse on invoice are entered in the column "Whse." under the heading "Receipts." A properly signed copy of the invoice must be mailed with the report.

(i) Receipts on transfer orders are to be entered in the column "Transfer" under the heading "Receipts". A copy of the transfer order (properly signed) is to be attached to the report and sent to the central office.

(j) Receipts of confiscated liquor, when you are instructed to take into your stock, must be entered in the "Transfer" column under the heading "Receipts".

(k) After properly filling in these columns the bottles on hand are to be calculated and extended into the "Bottles on Hand", column. This is done by taking the number of bottles on hand at the close of the previous day, as shown by the previous day's report, adding to this the number of bottles received, if any, and deducting the number of bottles disposed of during the day, either by sales, transfers, breakage or claims.

(l) At the bottom of each section there are two total lines. The first, or upper, total line of each section shall show the total of each column of that section. The second or lower line is to be left blank except on the last section. On the last section the second or lower total line shall show the grand total of all columns for all sections.

(m) At such times as Form ABCC 15 is changed, due to listing of new codes and dropping old codes, those codes that are dropped are to be handled in the following manner: On the last day of the month instead of listing your inventory on codes that are being dropped in the column "Bottles on Hand," they shall be listed in the column "Transfer" under the heading "Bottles Disposed Of."

(n) Each section on the daily sales report must be properly dated, and the number of the store or agency and the location must be shown, at the bottom of each section.

6.07 Daily Summary - Form ABCC 26-(a) At the beginning of each day you are to place the daily summary in the cash register, or registers, and print on it the reading of the cash register. In like manner at the close of business the closing register, or register readings shall be printed on the daily summary.

(b) The first step in the preparation of the daily summary is to date, fill in location and store or agency number in the spaces provided at the top and bottom of the daily summary, then enter the cash register reading as printed on the corner of the daily summary in the block entitled "Register Readings."

(c) The first reading of the day is entered on the line marked "Previous" and the last reading of the day is entered on the line marked "Present." The difference between the two readings is brought down on the line marked

"Today," and represents the sum the cashier or person operating the register must account for.

(d) The lines marked "Clerk" are used only in cases where the operator of a cash register is relieved during the day by another operator, and an intermediate reading is taken at the time in order to establish the amounts each operator is accountable for. In cases of this sort each operator's number or initials are entered on separate lines marked "Clerk," and the corresponding sums for which they must account are entered on the same lines. The total must agree with the total sum to be accounted for that day as shown above.

(e) There are two columns for register readings in case two machines are in use.

(f) The second step in the preparation of the daily summary is to fill in the block captioned "Reconciliation". The total of the register readings, as shown in the first book captioned "Register Readings," is brought down and entered on the first line marked "Total Register Readings."

(g) On the second line should be entered the total of all tickets which have been voided. All void tickets must be sent to the central office together with the daily summary on which they are used. The void tickets, including tax, are to be listed in numerical order, under "Void Tickets," on the back of the daily summary, and the total must agree with the total shown in the "Reconciliation."

When the sales tax is registered separate from the sale on the register tape, it shall be included in the amount of the void ticket on the back of the daily summary, giving the serial numbers for the sale and for the tax. For example, If serial number 00111 is for Code No. 28 @ \$1.55, and serial number 00112 is for the tax of 4 cents, this shall be listed on the back of the daily summary under "Void Tickets" in the following manner:

<u>SERIAL</u> <u>NO.</u>	<u>REGISTER</u> <u>NO.</u>	<u>CODE</u> <u>NO.</u>	<u>AMOUNT</u>
00111-12	80	28	\$1.59

All void tickets shall be marked "Void" on the register tape.

(h) All tickets must be voided on which the sale price or code number has been rung up incorrectly, and a new ticket should be rung up at the correct sales price or code number to take its place. By doing this and not changing the code number on the ticket and tape, much confusion will be avoided. The foregoing refers, of course, to errors which are discovered at the time of the sale. A ticket should not be voided if the error is discovered after the sale is effected and the customer has left the store, but a memorandum should be taken of the difference, and it should be taken into account in the "Reconciliation" by the use of the proper Plus and Minus Adjustment.

(i) On the line marked "Minus Adjustments" should be entered the total of all ticket differences of items rung up on the register over and above the correct salesprice for

sales actually made exclusive of voided tickets, which are shown separately. These items will consist, for example, of sales which were run up without having the ticket in the machine and which had to be rung up again in order to validate the ticket on the machine. In a case of this sort two sales have been rung up, whereas only one actually has been made; consequently one must be deducted from the register as a "Minus Adjustment." Another example would be a case where the cashier rang up and collected more for a sale than the correct price. The difference would be deducted from the register readings as a "Minus Adjustment." Another example would be where the cashier apparently had collected the proper amount of a sale, but had obviously rung up too much and the ticket had not been caught either by himself or the clerk at the time, but was discovered after the close of business.

Example

Cashier rings up-
15349 May 1 460 4.60 WVA

15

As Code No. 460 sells for \$1.00, if the cashier checks out \$3.60 short at the end of the day it may be assumed quite safely that he collected only \$1.00 and rang up the code number in error. The difference of \$3.60 should be deducted from the register readings as a "Minus Adjustment." In short, any item or difference which has caused the register reading to run above correct sales price for actual sales

(other than voided tickets, which are shown separately, should figure as a "Minus Adjustment" to bring them down to what should have been rung up.

(j) The contrary is true of any item rung up at a figure lower than the correct sales price of an actual sale. This should be corrected by entering the difference on the next line marked "Plus Adjustment Tickets" and added to the register readings in order to bring them up to what should have been rung up. About the only items of this sort will be undercharges by the cashier. Corrections are not to be made on the register tape by registering the amount necessary to bring an incorrect ticket up to the sales price. This type of correction must be made by the use of a "Plus Adjustment". In the same manner consumers' sales tax omitted must not be registered further down the tape. This must be corrected by use of a "Plus Adjustment."

(k) All plus and minus adjustments must be listed in the spaces provided on the back of the daily summary. Under "Serial Number," list the serial number of the sales ticket; under "Register Number," the number of the cash register as shown on the tape. Under "Code Number" shall be entered the code number registered on the ticket, and the code number delivered. In the first section headed "Amount" shall be entered the value as registered along with the correct value' in the second section headed "Amount" shall be entered the amount minus or plus. The total of the minus column and the total of the plus column must each be shown

on the lines marked "Total Adjustments." Under "Name of Cashier or Clerk" shall be entered the name of the person responsible for the adjustment. The total of the minus column under amount must agree with the amount shown as less minus adjustments in the "Reconciliation". Likewise, the total of the column headed "Plus" must agree with the amount entered as add plus adjustments tickets under "Reconciliation."

(l) After deducting the voided tickets and minus adjustments from the register readings and adding the plus adjustments, we arrive at the correct figure of what should have been collected for the total sales.

(m) Any difference between this figure and the amount of cash turned in by the cashier, after all necessary plus and minus adjustments have been made, should be entered as cash over or cash short on the next corresponding lines. In the event that some other collections have been made for any reason, they also should be entered on the line marked "other Collections" in order to balance the total sales figure with the cash deposited.

(n) The third step is to fill in the block entitled "Daily Cash Summary".

(o) From the "Daily Sales Report" the totals of the "Value columns of the sections are entered on the corresponding lines.

(p) The line entitled "Stock Adjustments" is to be left blank, as this is for central office use only.

(q) On the line entitled "Short-CASH-Over are to be entered cash shortages and overages. "Cash shortages" shall be entered as a debit in the debit column and must correspond with the total shortage as shown under the section entitled "Cashier's Cash Differences." "Cash Overages" shall be entered as a "Credit" in the credit column under the section entitled "Cashier's Cash Differences."

(r) Any cash overage resulting from an employee charging the old retail price after a new price list is effective, showing a reduction in retail price, is to be entered in the "Cashier's Cash Differences" section as "Commissioner's Overage", and must be deposited with the daily sales receipts.

(s) A price list is considered a new price list until such time as another list is issued. This list then becomes the new price list, and only price changes shown by it, as compared to the previous list, are to be considered in connection with commission overages.

(t) If an incorrect price is registered for a code on which a price change is effective and the error is detected while the customer is in the store, the ticket must be voided and a new ticket registered immediately at the correct price. If the error is not detected while the customer is in the store, a minus adjustment shall be made to correct the amount of the ticket, and the cash collected shall be deposited with the daily sales receipts.

(u) If a customer later returns and the manager is satisfied that he is due a refund, the customer shall be refunded and a receipt shall be obtained. On the report of the day that the refund is made the entry shall be made in the section "Cashier's Cash Differences" as a "Commissioner's Shortage." The signed receipt from the customer shall be attached to the daily summary.

(v) "Other collections" are entered in the "Credit" column.

(w) The register tape is to be folded "accordian style" in uniform folds of 10 to 12 inches - in no case exceeding 12 inches. The tax tape is to be folded in the same manner. When the tapes are so folded, the store number, name and date at the beginning of the tapes will show on the outside of the folded tapes.

(x) Each operator of a cash register must sign the tape, giving the time at which he starts operating the register. At the time he ceases operation he shall again sign the tape, giving the time. After the close of business each night the register tape must be removed from the cash register and placed in the outer compartment of the safe.

(y) It is the cashier's responsibility to collect and register the consumer's sales tax. If an error is made, the cashier shall report this to the manager for the proper plus or minus adjustment.

(z) It is the store manager's responsibility to make

any necessary corrections to bring the consumers' sales tax to the correct amount for each sale by making the necessary plus or minus adjustment.

(aa) The amount of the deposit is entered in the "Debit" column, and then both columns are added and must total the same amount. If they do not total the same amount it will be necessary for you to recheck and balance your report.

(bb) In the block under the caption "Cashier's Cash Differences" enter any employees' shortages or overages; for which they must sign on the corresponding lines.

(cc) The "Remarks" block is to be used to explain any items appearing on the report which seem to require an explanation so that the central office may understand them.

(dd) If a store or agency is closed for any reason it will be necessary to send in a "Daily Summary" for each date the store is closed, with the reason written across the face of the summary.

(ee) The daily summary must show the date, location and store or manager must sign the daily summary and show the store or agency number and location in the space provided in the lower right-hand corner.

6.08 Stock Adjustments - All stock adjustments will be made in the central office.

(a) The next day after a store or agency is inventoried by an auditor, supervisor, or by the manager on the last day of the month, the daily sales report for that day must be made from the bottles on hand, as shown by the inventory. The sales reports will be proved to the inventory in the central office, and any necessary stock adjustments will be made in the central office. The store or agency will be mailed a copy of the stock adjustments at the time they are made by the central office.

(b) If occasion should arise between the times of inventory when it is necessary to make a stock adjustment, it shall be made in the following manner: The store or agency will make the desired change in the bottles on hand. To the report on which this change is made a letter must be attached, giving full explanation as to why the change in bottles is made. The necessary stock adjustment will then be made in the central office, and a copy mailed to the store or agency. The bottles on hand must not be changed in any other manner.

6.09 Weekly Inventory - Form ABCC 15-A - (a) The Weekly inventory will be made each week at the close of business on the day that the regular shipment of liquor is received and after the shipment has been added to the store stock.

(b) The weekly inventory is to cover the same period each time it is made. For example, if your regular receiving day is Wednesday, and the total sales on all codes are to be shown from the opening of business the previous Thursday morning until the close of business on Wednesday.

(c) In the event that your shipment is received on a later day than scheduled you will compute your sales in the same manner as outlined above, but you will withhold this report until your shipment is received. After the shipment is received you will add the bottles received to the bottles on hand, as shown by your sales report for the regularly scheduled receiving day, and enter on the inventory the totals of each code of the bottles on hand.

(d) In the event your shipment is received on a day earlier than the schedule, the inventory is to be withheld until the day on which the shipment is regularly scheduled.

(e) Should you receive a shipment either late or in advance of schedule, you are to enter shipment on the daily sales report for the day the shipment actually arrives. In no instance are you to withhold the entering of a shipment on the daily sales report on the day the shipment is received, nor are you to hold up daily sales report awaiting receipt of a shipment.

(f) The weekly inventory report is to be made on Form ABCC 15-A, "Weekly Inventory and Retail Price." Each store will be sent five sets in triplicate of this form for the month.

(g) This report is to be made out weekly in triplicate. The original copies are to be placed in numerical order and stapled together at the top. You will do the same with the pink copies, and will mail both the original and pink copies to the division of merchandise. The yellow copies are to be kept for your file.

(h) In the column "Bottles Sold" is to be shown only the total bottles sold for the week, as shown by the "Sales" column of the daily sales reports. Transfers and claims must not be shown in this weekly inventory report.

(i) All stores will be supplied with Form ABCC 116. This report must be filled out and mailed with the regular inventory. It is absolutely necessary that this report shall be sent in weekly, regardless of whether you sell out of any brand or have unusual sales, or expect unusual sales. If you have no remarks to make, simply write across the face of the report "Normal Sales." If you experience unusual sales and sell out of any codes, you are to list each and every code sold out, stating on the report why such unusual sales were experienced during the week. If you are expecting unusual sales for the week following your delivery, you will give the reason on this report.

(j) The weekly inventory ABCC 15-A and Form ABCC 116 are to be mailed to the division of merchandise.

(k) At the time when Forms ABCC 15 and ABCC 15-A are changed, due to adding new codes and dropping old codes,

the weekly inventory shall be prepared on the new forms. Sales must be shown only on the codes carried on the new form. Codes which are dropped shall not appear on this inventory. In preparing this report it will be necessary to compute the sales made during the part of the week in the previous month on the old form, and to them shall be added the sales for each code made for the balance of the period covered by the new report form. The report sent to the central office shall be the inventory on the new form showing the total sales for the week's period and the inventory of the codes on hand the last day of the period.

6.10 Monthly Inventory - Form ABCC 48 - (a) Each manager and agent is required to take a true and accurate inventory after the close of business on the last working day of each month using "Auditor's Inventory," Form ABCC 48. This inventory shall be an actual physical count, and the certification, shall be signed by the manager or agent instead of by the auditor.

(b) You will mail the original of this inventory to the Division of Finance and Stock Control with your daily sales report for the last day of the month. You are to check your daily sales report for the last day of the month with the inventory, and if any codes are found to be out of balance you will list each code that is out of balance, giving the number of bottles which are out and the reason for the difference. This list is to be attached to

the inventory. The necessary stock adjustments, if any, will be made in the central office.

(c) Upon taking a physical inventory, the manager must count all bottles in the bins, and all cases in stock. He should examine the cases to make sure that they have not been tampered with and that they are all full cases.

(d) When preparing your daily sales report for the first day of the following month, you will pick up the bottles on hand from the inventory, and not from the daily sales report for the last day of the month.

6.11 Merchandise Returned by Customer - (a) If merchandise is returned by the customer, the manager shall have the customer fill out a "Customer's Statement," Form ABCC 30.

(b) In no instance may the store refund a customer the purchase price of merchandise bought. If the merchandise is returned because of a faulty cap or cork or because of chipped glass under or around the cap, or because of a faulty or damaged bottle, the store manager may replace the bottle. In addition to the "Customer's Statement" the manager shall fill out and furnish Form ABCC 54, "Report of Loss and Damage," and Form ABCC 23, "Affidavit Concerning Damage".

(c) This replacement is entered in the "Claim" column on the daily sales report, and the "Customer's Statement," Report of Loss and Damage" and Affidavit Concerning Damage" are sent to the central office with the daily sales report.

(d) If the customer does not want a replacement the manager shall have the customer fill out the "Customer's Statement," asking for a refund. The manager shall fill out the "Report of Loss and Damage" and the "Affidavit Concerning Damage." All of these forms are to be forwarded to the central office in triplicate, together with a letter from the manager with his recommendations. If, upon examination, the claim is allowed, the customer will be mailed a check to cover the claim. No entry is made on the daily sales report for this transaction.

(e) If a customer returns merchandise and claims that the contents are faulty, the manager shall not make a replacement. He shall have the customer fill out the "Customer's Statement," and shall forward this statement to the central office with his written recommendation. The manager shall hold the bottle for instructions from the central office. If upon analysis, the contents prove faulty, the customer will be mailed a refund check. If the contents are not faulty, a refund is not made, and the customer loses the returned merchandise. This is done to keep down spurious complaints.

6.12 Transfers - Forms ABCC 70 and ABCC 13 - (a)

In the event of an emergency demand in a state store or agency, the manager should get in touch with the district field supervisor and ask him to make the transfer to the store or agency on "Emergency Transfer Order," Form ABCC 70. The field supervisor is authorized to make such transfers from store to store or agency, when necessary to meet emergency needs. Regular, non-emergency transfers are to be made on Form ABCC 13.

(b) Stock shipped on a transfer order shall be carefully packed, sealed and labeled by the store or agency making the shipment. The store or agency shall enter on each copy of the transfer order the number of cases or packages in which the merchandise is packed and shall require the truck driver to receipt all copies for the number of cases delivered to him. The store, agency or warehouse receiving the shipment shall receipt to the transportation company for the number of cases received and shall also receipt the copy of the transfer order sent to the central office with the daily sales report.

(c) When packing cases for transfer the following procedure is followed: The carton into which the liquor is being packed has been cut around three sides about 1-1/2 inches below the top. A piece of sealing tape is passed around the box, over the cut, and sealed. Two

strips are passed around the width of the box and sealed. Then one long strip of tape is passed lengthwise entirely around the carton, lapped over itself, and across the tape is written the store number, date and signature of person packing the box.

(d) A "Transfer Packing List," Form ABCC 145, is to be used in preparing each transfer. Such lists are to be filled out, and the original copy inserted inside of the packing case; the pink copy is to be kept in your files.

(e) "Transfer Labels," Form ABCC 68, will be furnished by the central office with all transfer orders' issued. These labels must be attached to each case in the transfer. On the line entitled "Transfer No." you must enter the number of the transfer order. On the line entitled "Code No." you must enter the code or code numbers and the number of bottles of each code packed in the case. On the line entitled "No. of Cases in Transfer" you must enter the total number of cases or packages in the shipment.

(f) The store manager should carefully inspect all merchandise that is to be transferred and make sure that it has been properly packed so as to avoid unnecessary breakage. In the event that any breakage on transfers is due to faulty packing, the breakage will be charged to the store manager at retail value.

6.13 Breakage and Shortage - Breakage must be controlled. Since the stock is carried in glass containers, there will be breakage due to unavoidable accidents. Managers must control the breakage which may be caused by too much haste and by carelessness. The store personnel will be held responsible for all losses and breakage in goods charged to their stores and agencies. It is not the intent of the Commissioner to deal unfairly with the employees in this regard, but employees must realize that it is important in the operation of the stores and agencies that losses to the Commissioner through carelessness or mistakes of employees shall be guarded against. The manager must preserve the neck of the bottle broken, with the cork in it and stamp intact. This bottle neck, cork and stamp may not be disposed of except by the auditor or inspector as required by Section 16 of this Manual. Under the accounting and reporting instruction it is provided that breakage and the person responsible shall be reported. The central office will keep a record of each store's, agency's employee's and manager's responsibility for breakage.

(b) Cases that show stains or broken seals or in which there is a rattle of broken glass indicate breakage. Stores must not accept or receipt for stock which is obviously damaged, unless damaged cases are opened in the presence of the truck driver and the amount of damage ascertained. The manager must then obtain the truck driver's signature on Form ABCC 54 as required in this Manual.

(c) When merchandise is received by the stores all cases are to be carefully examined, and any showing evidence of leakage or tampering are to be opened and the truck driver required to sign report of loss and damage ABCC 54 acknowledging responsibility. Claim is then filed against, the transportation company. After a receipt is given the truck driver the manager will be held responsible for any damaged or short merchandise.

(d) Wet breakages discovered in stores are charged against that particular store. For instance - a case is opened in the store and a bottle is found broken, with no evidence of defective bottle. It is assumed that the bottle was broken in placing stock.

(e) Cracked and broken bottles discovered on shelves in stores are charged against store breakage, unless such bottles show that they are defective and have flaws.

(f) All accidental breakages by clerks may be charged against the store employees.

(g) A complete record is kept of each claim in the offices of the Division of Finance and Stock Control. Defective bottles and bottles with foreign matter, or with leaking caps or corks, shall be returned to the central office for examination by distiller's representatives.

(h) If the store or agency accepts damaged merchandise without obtaining the truck driver's signature on the proper form, such merchandise will be charged to the store or agency manager.

(i) Have the truck driver stack the shipment in your store in such a manner that it can be accurately checked before the driver is given a receipt.

(j) By no means knowingly sell damaged or questionable goods, or bottles with brand label or federal stamps missing.

(k) If all cases are carefully examined upon receipt from the warehouse, it is felt that responsibility for certain classes of damage lies with the vendor. Therefore, deductions are made for the following classes of damage:

(l) Dry Breakages - Instances where the bottle and case are entirely dry and the fillers and partitions in case show evidence of an old break.

(m) Defective Bottles - Instances where the bottle shows a flaw from which the crack or break started.

(n) Shortages - Instances where a bottle or bottles are short and the case shows no evidence of tampering or having been opened, and has original seals. Such evidence shows that it was packed short at the bottling plant.

(o) Leaking Cap or Cork - Instances where the cap or cork leaks due to cap being insecurely fastened on, or where bottle has chipped under cap. Instances where cork leaks.

(p) Faulty Contents of Bottle - Instances where the bottle contains foreign matter such as insects or sediment.

6.14 Claims - (a) Whenever a shortage or damage is discovered which is legitimate claim against the vendor and affidavit with respect to same shall be made out either on Form ABCC 23, "Damage," or ABCC 25, "Shortage," at the same time Form ABCC 54, "Report of Loss and Damage", shall be filled out. Whenever a shortage or damage is discovered which is a claim against the Trucking Company making the delivery to your store, only Form ABCC 54 "Report of Loss and Damage", is required. One copy of each of these forms is to be retained by the store or agency for its files, and the original and two copies are to be mailed to the central office with the daily sales report for the same day.

(b) The number of bottles found short or damaged is to be entered on the daily sales report in the column entitled "Claim."

(c) All claims must be listed on an "Adjustment Report", Form ABCC 19, and in the explanation column must be given the nature of the claim for each code, such as "Faulty Bottle," "Dry Breakage," "Case Packed Short," etc.

(d) If a shortage is discovered in a case, the empty case shall be held in the store for a period of 15 days after the report of all the shortage is sent to the central office. If, within this period, you do not receive instructions from the central office to return the case to the warehouse for inspection, you may cut the case apart and bundle it with other cases. In making claims for short-packed cases, the packing slip in a short-packed case must be attached to the claim papers.

(e) If upon opening a case of alcoholic liquor it is found that the federal stamps adhere to the top of the case and are damaged, a claim shall be made against the vendor.

6.15 Store Breakage - Form ABCC 54 and ABCC 19 - (a)
For each store breakage entered on the daily sales report there must be mailed with the report a "Report of Loss and Damage, Form ABCC 54. An "Adjustment," Form ABCC 19, must be mailed with the daily sales report on which a store breakage is entered. Each breakage shall be listed on the adjustment report, and in the explanation column the nature of the breakage of each code, such as "Found Cracked in Bin," "Bottle Dropped" etc., must be given.

(b) Store breakage is not to be considered as a claim. The entry is made in the claim column on the daily sales report so as not to require an additional column on the report for store breakage.

(c) All claims for shortages and defective bottles, and reports of store breakage, must be filed immediately upon discovery of the shortage, defective bottle or breakage, and must be entered on the daily sales report. Proper papers to substantiate the claim (or, in instances of breakage, a report of the breakage) must be sent to the central office on the same day entry is made on the daily sales report.

6.16 Disposition of Damaged and Broken Bottles - (a)
Managers must preserve the necks of all broken bottles, with cork and stamp intact. These bottle necks, corks and

stamps may not be disposed of except by the field auditors or store supervisors.

(b) Defective bottles, and bottles with foreign matter, or with leaking caps or corks, are to be returned to the central office for examination by distillers' representatives. Each bottle is kept in the store, with the store claim number affixed to the bottle, until the store is inventoried by the store supervisor or field auditor. The store supervisor or field auditor will then return all bottles with leaking caps or foreign matter, or which are defective, to the central office.

6.17 Receipts - (a) All cash received from the sale of alcoholic liquors, miscellaneous sales and collections and the consumers' sales tax shall be deposited intact daily, or as you are individually instructed, in the bank designated by the Commissioner. Make three copies of deposit slip, one copy for the bank, one copy for the store or agency and one copy to be attached to the daily sales report and sent to the central office. The store and central office copies of the deposit slip must be receipted and dated by the bank cashier or teller. The bank cashier or teller must sign his or her name in full on the deposit tickets. Initialled will not be accepted.

(b) At frequent intervals each day the manager should check accumulations of money to see whether the change requirements have been exceeded. When they have the manager

should immediately place the surplus cash in the safe. Close and constant attention to this important matter of daily routine will protect you from possible embarrassment, and the Commissioner from needless loss.

6.18. Working Hours - Time Sheets - (a) All stores shall keep a daily record of the time worked by each employee in time books furnished for that purpose. Daily entries shall be made in this time book for each employee.

(b) The store manager, together with the supervisor, shall fix the working hours of each employee, and if an employee is present during the time fixed for him he shall be credited with a full day.

(c) If an employee is absent during any portion of the time fixed for him, his time shall be entered accordingly. It is the intent of the time book to keep a permanent record of the faithfulness of each employee.

(d) On holidays recognized by the Commissioner, employees are not to be considered as present, but that day should be left vacant, or the letter "h" inserted, and his absence shall not be charged against the employee in carrying out your totals in the columns "Absent this month", and "Vacation this month." An employee on vacation is not to be charged with a holiday occurring during the vacation period.

(e) Immediately at the close of business on the last day of the month, a time sheet (Form ABCC 31) shall be prepared from the record in the time book and it shall be inspected by field supervisors and auditors each time they visit a store. The time book furnished is to run from July 1 to June 30, and at the end of the fiscal year is to be sent to the central office for filing. In preparing the time sheets, the date shown on it should be for the current month. For example: June 1, to June 30.

(f) When the monthly payroll is received, Form ABCC 134 must be signed by each employee on the line opposite his name. The manager will then return the original copy to the central office.

6.19 Confiscated Alcoholic Beverages - All confiscated alcoholic beverages turned over to the state stores and agencies must be reported immediately to the Finance and Stock Control. It is necessary that the number and size of bottles and brands shall be listed. You will then hold the confiscated alcoholic beverages intact until you have been advised by the Division of Finance and Stock Control as to what disposition is to be made of them.

6.20 Necessary Procedure in Stores and Agencies
When Report Forms ABCC 15 are Changed - (a) It will be necessary for each store or agency to prepare a supplementary report on the new daily sales report, Form ABCC 15. On this supplementary report bottles on hand for each code

are to be shown only. The bottle shown for each code must be the same as shown on the inventory taken at the close of business for the preceding month. This supplementary report is to be dated the last day of the month and must be mailed with the daily report of the last day of the month.

(b) The inventory for the last day of the month is to be prepared on the old inventory form; that is, the form which corresponds to the month for which inventory is taken.

**FILED IN THE OFFICE OF
SECRETARY OF STATE OF
WEST VIRGINIA**

FEB 2 1976
THIS DATE

TO: The Honorable James R. McCartney
Secretary of State
State of West Virginia

FROM: J. Richard Barber
West Virginia Alcohol Beverage Control Commissioner

DATE: October 21, 1975

Enclosed herewith please find an original and two copies of Series 1, Chapter 60, Article 3 Administrative Regulations (1975) promulgated for the West Virginia Alcohol Beverage Control Commissioner. This regulation is new and does not repeal or amend any existing regulation on the subject.

I request that these regulations be put on file in your office as of October 21, 1975, and thirty (30) days thereafter, in the event that no action is filed, then and in such event, these regulations shall have the force and effect of law.

**FILED IN THE OFFICE OF
SECRETARY OF STATE OF
WEST VIRGINIA**

THIS DATE OCT 21 1975