

The fee for services not herein specifically provided for shall be the same as for similar services.

Repeal.

Section 2. All acts and parts of acts, general, special or local, inconsistent with or supplied by the provisions of this act are hereby repealed.

APPROVED—The 4th day of May, A. D. 1933.

GIFFORD PINCHOT

No. 104

AN ACT

Imposing a State tax, payable by those herein defined as manufacturers and distributors, on certain alcoholic beverages used or sold and delivered within the Commonwealth; prescribing the method and manner of evidencing the payment and collection of such tax; conferring powers and imposing duties on the Department of Revenue, and those using or engaged in the sale, at retail or wholesale, of alcoholic beverages taxable hereunder; and providing penalties.

Beverage
Tax Law.

Section 1. Be it enacted, &c., That this act shall be known, and may be cited, as the "1933 Beverage Tax Law."

Definitions.

Section 2. The following words, terms, and phrases, when used in this act, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

"Beverages." Alcoholic beverages, which include beer, lager beer, ale, porter, wine, similar fermented malt or vinous liquor, and fruit juice, containing one-half of one per centum or more of alcohol, and not more than 3.2 per centum of alcohol by weight, by whatever name such liquors or fruit juices may be called, the manufacture and sale of which for beverage purposes it not prohibited by the laws of the United States.

"Department." Department of Revenue of this Commonwealth.

"Distributor." A person engaged in the purchase and resale of beverages in the original sealed packages as prepared for market by the manufacturer or bottler, including any who or which—

1. Imports or causes to be imported from any other state or territory of the United States, or from any foreign country, beverages for his own use in the Commonwealth of Pennsylvania, or for sale and delivery in and after reaching the Commonwealth, other than in the original package, receptacle, or container.

2. Imports or causes to be imported from any other state or territory of the United States, or from any foreign country, beverages for his own use in the Commonwealth of Pennsylvania, or for sale or delivery therein, after the same have come to rest or storage therein,

whether or not in the original package, receptacle, or container.

3. Purchases or receives beverages in the original package, receptacle, or container in the Commonwealth of Pennsylvania for his own use, or for sale and delivery therein, from any person who has imported the same from a foreign country.

4. Purchases or receives beverages in the original package, receptacle, or container in the Commonwealth of Pennsylvania for his own use therein, or for sale and delivery therein, from any person who has imported the same from any other state or territory of the United States, in case such beverages have not, prior to such purchase or receipt, come to rest or storage in the Commonwealth of Pennsylvania.

5. Receives and, in any manner, uses or distributes beverages in the Commonwealth of Pennsylvania on which the tax provided in this act has not been previously paid.

"Manufacturer." A person engaged in the brewing, manufacturing, or bottling of beverages for sale.

"Original Container." Bottle, cask, keg or other container that has been securely capped or corked by the manufacturer, with the name and address of the manufacturer permanently affixed to the bottle, cask, keg or other container, or to the cap or cork used in sealing the same.

"Person." An individual or an unincorporated association, including a partnership, a limited partnership, or any other form of unincorporated enterprise owned by two or more individuals, or a corporation. Whenever used in any clause prescribing and imposing a fine or imprisonment, or both, the term "person," as applied to a partnership, limited partnership, or any other form of unincorporated enterprise, shall mean the partners or members thereof, and as applied to corporations, the officers thereof.

"Retail Dealer." A person engaged in the retail sale of beverages either for consumption on the premises or not for consumption on the premises where sold.

"Sale." Any transfer for a consideration, exchange, barter, gift, offer for sale, and distribution in any manner or by any means whatsoever.

The singular shall include the plural, and the masculine shall include the feminine and the neuter.

Section 3. Each manufacturer or distributor shall be subject to pay to the Commonwealth the taxes imposed by this section upon all beverages manufactured in this Commonwealth when prepared for market, or imported into this Commonwealth when the same come to rest or storage in this Commonwealth. Such taxes shall be at the rate of one-half cent ($\frac{1}{2}c$) per pint of sixteen (16) fluid ounces, or fraction thereof.

Imposition and
rate of tax.

The tax rates per barrel, or standard fraction thereof, are as follows:

Standard Fraction	Malt Tax Rate	Volume
1 barrel	\$1.24	31 gal.
1/2 "	.62	15 1/2 gal.
1/3 "	.42	10 1/3 gal.
1/4 "	.31	7 3/4 gal.
1/6 "	.21	5 1/6 gal.
1/8 "	.16	3 7/8 gal.
1 gallon	.04	
1/2 "	.02	
1 quart	.01	
1 pint	.005	

Manufacturers and distributors shall be liable to the Commonwealth as taxpayers for the payment of the taxes imposed by this act.

Beverage tax stamps or crowns.

Section 4. The payment of the taxes herein provided shall be evidenced by the affixing of beverage tax stamps or crowns to the original containers in which all beverages are placed, received, stored, shipped or handled. Such stamps or crowns shall be affixed to each individual container or beverages by manufacturers within twenty-four (24) hours, and by distributors within forty-eight (48) hours, after such beverages are placed therein or received by them.

It is the intent and purpose of this section to require all manufacturers and distributors to affix the stamps or crowns provided for in this act to all original containers in which beverages are normally placed, prepared for market, received, sold or handled.

Penalty for failure to affix.

Any manufacturer or distributor who shall sell beverages to retail dealers or consumers without affixing to the containers the stamps or crowns required by this act shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced for the first offense to pay a fine of not less than one hundred dollars (\$100.00) or more than five hundred dollars (\$500.00), or to suffer imprisonment for a term not exceeding six (6) months, or both, in the discretion of the court, and in the case of a conviction of a second or subsequent offense hereunder, shall be sentenced to pay a fine of not less than two hundred dollars (\$200.00) or more than one thousand dollars (\$1,000.00), and to suffer imprisonment for a term of not less than six (6) months or more than three (3) years.

Convicted person to be adjudged to pay tax due.

Any manufacturer or distributor who shall be convicted of a misdemeanor under this section shall, in addition to the punishment heretofore prescribed, be adjudged to pay to the Commonwealth the tax due, together with interest at the rate of twelve (12) per centum per annum from the date when due and payable. Such adjudication shall be certified to the prothonotary of the

Adjudication to have effect of judgment.

county, and shall be indexed as, and have the effect of, a judgment for the amount of such tax and interest.

Section 5. The department shall prescribe, prepare, and furnish stamps or crowns of such denominations and quantities as may be necessary for the payment of the tax imposed and assessed by this act. The department shall make provision for the sale of such stamps or crowns in such places and at such times as it may deem necessary.

Preparation and sale of stamps and crowns.

The department may appoint persons, within or without the Commonwealth, as agents for the sale of stamps or crowns to be used in paying the tax herein imposed upon sales of beverages; and whenever the department shall sell, consign, or deliver to any such agent any such stamps or crowns for sale or use, such agent shall be entitled to receive as compensation for his services and expenses as such agent, and to retain out of the moneys to be paid by him for such stamps, a commission of one-half of one per centum on the face value thereof. The department is hereby authorized and required to allow such commission or compensation in the settlement of the accounts of such agent upon payment by him into the State Treasury, through the department, of any moneys which may be or become due to the Commonwealth by reason of the sale, delivery, or consignment to such agent of such stamps or crowns.

Agents for sale of stamps.

Agent's commission.

Section 6. Stamps shall be affixed in such manner that their removal will require continued application of steam or water.

Manner of affixing stamps.

Section 7. For the purpose of verifying the stamp requirements, it shall be the duty of every manufacturer and distributor, on or before the fifth day of the succeeding month, to transmit to the department, on forms supplied by the department, a report, under oath or affirmation, of beverages prepared for market, or which were imported and came to rest or storage, at his place of business in this Commonwealth during the preceding month. Such report shall show the number of barrels, or standard fraction thereof, prepared for market or imported during the period for which it is made, and such further information as the department shall prescribe. Each manufacturer and distributor shall maintain and keep, for a period of two (2) years, such record or records of beverages manufactured or imported, together with invoices, bills of lading and other pertinent papers, as may be required by the department.

Manufacturer's and distributor's report.

Retention of records.

Section 8. The department, or any agent appointed in writing by it, is hereby authorized to examine the books, papers, invoices and other records, and the stock of beverages in and upon any premises where the same are placed, stored or sold, to verify the payment of or liability for the tax imposed by this act. Any person in possession of such beverages is hereby directed and required to give the Secretary of Revenue, or his duly au-

Examination of records and stock.

thorized representative, the means, facilities and opportunity for such examinations.

Purchase and use of stamps or crowns by foreign producers.

Section 9. Producers or other vendors of beverages from without this Commonwealth may purchase stamps or crowns from the department, and affix them, in the manner prescribed by the department, to original containers of beverages to be sold in this Commonwealth, in which case the recipient of such beverages within this Commonwealth shall not be required to purchase and affix stamps or crowns thereon.

Refund of stamps or crowns used on shipments to other states.

Section 10. In case any beverages upon which stamps or crowns have been placed by manufacturers or distributors have been sold and shipped to a regular dealer in such beverages in another state, the seller in this Commonwealth shall be entitled to a refund of the actual amount of tax paid, upon condition that the seller in this Commonwealth shall make affidavit that the beverages were so sold and shipped, and that he shall furnish from the purchaser a written acknowledgment that he has received such beverages and the amount of stamps or crowns thereon, together with the name and address of the purchaser, whereupon the department shall, with the approval of the Board of Finance and Revenue, issue to the seller in this Commonwealth stamps or crowns of sufficient value to cover the refund.

Regulations for out of State shipments.

Section 11. The department may promulgate rules and regulations to relieve manufacturers or distributors from affixing the stamps or crowns on such goods as are sold and shipped to points outside this Commonwealth.

Acceptance of taxable beverages without stamps or crowns.

Section 12. It shall be unlawful for any retail dealer, consumer or other person to accept delivery of taxable beverages in containers upon which stamps or crowns do not appear, and, upon conviction thereof in a summary proceeding before a magistrate, alderman, or justice of the peace, he shall be fined ten dollars (\$10.00), and, in default of payment thereof, shall undergo imprisonment for not more than five (5) days.

Penalty.

Violations.

Section 13. Any person who shall fail, neglect, or refuse to comply with or shall violate the rules and regulations prescribed, adopted, and promulgated by the department under the provisions of this act, or who shall refuse to permit the department, or any agent appointed by it in writing, to examine his books, papers, invoices and other records, his stock of beverages in and upon any premises where the same are prepared, stored, and sold, and his equipment pertaining to the manufacture or sale of beverages taxable under this act, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine of not less than one hundred dollars (\$100.00) or more than five hundred dollars (\$500.00), or to suffer imprisonment of not more than six (6) months, or both, in the discretion of the court.

Penalty.

Counterfeiting or wrongful use of stamps or crowns.

Section 14. Any person who falsely or fraudulently makes, forges, or alters or counterfeits any stamp or

crown prescribed by the department under the provisions of this act, or causes or procures to be falsely or fraudulently made, forged, altered or counterfeited any such stamp or crown, or knowingly and wilfully utters, publishes, passes or tenders, as true, any such false, altered, forged or counterfeited stamp or crown, or uses more than once any stamp or crown provided for and required by this act, for the purpose of evading the tax hereby imposed and assessed, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to suffer imprisonment for a term of not less than two (2) years or more than five (5) years.

Penalty.

Section 15. The department is hereby charged with the enforcement of the provisions of this act, and is hereby authorized and empowered to prescribe, adopt, promulgate, and enforce rules and regulations relating to any matter or thing pertaining to the administration and enforcement of the provisions of this act, and the collection of taxes, penalties and interest imposed by this act.

Enforcement.

Rules and regulations.

Section 16. All taxes, fines, penalties and interest received, collected or accruing, under the provisions of this act, shall be paid into the general fund of the State Treasury by and through the department.

Disposition of tax, fines, etc.

Section 17. The provisions of this act are severable, and if any of its provisions shall be held to be unconstitutional, the decision of the court shall not affect or impair any of the remaining provisions of this act. It is hereby declared to be the legislative intent that this act would have been adopted had such unconstitutional provisions not been included herein.

Constitutionality.

Section 18. This act shall become effective on the date of its approval by the Governor.

When effective.

APPROVED—The 5th day of May, A. D. 1933.

GIFFORD PINCHOT

—
No. 105

AN ACT

Relating to nonprofit corporations; defining and providing for the organization, merger, consolidation, and dissolution of such corporations; conferring certain rights, powers, duties, and immunities upon them and their officers and members; prescribing the conditions on which such corporations may exercise their powers; providing for the inclusion of certain existing corporations of the first class within the provisions of this act; prescribing the terms and conditions upon which foreign nonprofit corporations may be admitted or may continue to do business within the Commonwealth; conferring powers and imposing duties on the courts of common pleas, prothonotaries of such courts, recorders of deeds, and certain State departments, commissions, and officers; authorizing certain local public officers and State departments to collect fees for services