

TITLE III

AMENDMENTS TO LEGISLATIVE APPROPRIATION ACT, FISCAL YEAR, 1933

Legislative Act, fiscal year 1933.
Vol. 47, pp. 414, 1519, amended.

Executive orders to be transmitted to Congress.

Effective date.

Department reorganization, etc.
Orders to be transmitted within two years.
Vol. 47, p. 413.

SECTION 1. Sections 407 and 409 of Title IV of Part II of the Legislative Appropriation Act, fiscal year 1933, as amended by section 17 of the Treasury and Post Office Appropriation Act, approved March 3, 1933, are amended to read as follows:

"SEC. 407. Whenever the President makes an Executive order under the provisions of this title, such Executive order shall be submitted to the Congress while in session and shall not become effective until after the expiration of sixty calendar days after such transmission, unless Congress shall by law provide for an earlier effective date of such Executive order or orders.

"SEC. 409. No Executive order issued by the President in pursuance of the provisions of section 403 of this title shall become effective unless transmitted to the Congress within two years from the date of the enactment of this Act."

Approved, March 20, 1933.

[CHAPTER 4.]

AN ACT

March 22, 1933.
[H.R. 3341.]
[Public, No. 3.]

To provide revenue by the taxation of certain nonintoxicating liquor, and for other purposes.

Revenue tax provisions on certain nonintoxicating liquors.
Post, pp. 315, 467.
Alcoholic content.

Vol. 41, p. 308, amended.
U.S.C., p. 853.
Tax rate.

To be in lieu of present tax.

Higher or lower alcoholic strength.

Terms defined.

R.S. sec. 3244, p. 622.
U.S.C., p. 740.

Brewer's tax on each brewery.
Post, p. 315.
Brewer defined.

Laws not repealed.
Vol. 40, p. 1105; Vol. 45, p. 868.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) there shall be levied and collected on all beer, lager beer, ale, porter, wine, similar fermented malt or vinous liquor, and fruit juice, containing one-half of 1 per centum or more of alcohol by volume, and not more than 3.2 per centum of alcohol by weight, brewed or manufactured and, on or after the effective date of this Act, sold, or removed for consumption or sale, within the United States, by whatever name such liquors or fruit juices may be called, a tax of \$5 for every barrel containing not more than thirty-one gallons, and at a like rate for any other quantity or for the fractional parts of a barrel authorized and defined by law, to be collected under the provisions of existing law. The tax imposed by this section upon any beverage shall, if any tax is now imposed thereon by law, be in lieu of such tax from the time the tax imposed by this section takes effect. Nothing in this section shall in any manner affect the internal-revenue tax on beer, lager beer, ale, porter, wine, similar fermented malt or vinous liquor, or fruit juice, containing more than 3.2 per centum of alcohol by weight, or less than one-half of 1 per centum of alcohol by volume. As used in this section the term "United States" includes only the States, the Territories of Alaska and Hawaii, and the District of Columbia.

(b) Paragraph "First" of section 3244 of the Revised Statutes (U. S. C., title 26, sec. 202) is amended to read as follows:

"First. Brewers shall pay \$1,000 in respect of each brewery. Every person who manufactures fermented liquors of any name or description for sale, from malt, wholly or in part, or from any substitute therefor, containing one-half of 1 per centum or more of alcohol by volume, shall be deemed a brewer."

(c) Nothing in this Act shall be construed as repealing any special tax or administrative provision of the internal revenue laws applicable in respect of any of the following containing one-half of 1 per centum or more of alcohol by volume and not more than 3.2

per centum of alcohol by weight: Beer, ale, porter, wine, similar fermented malt or vinous liquor, or fruit juice.

SEC. 2. The second, third, and fourth paragraphs of section 37 of Title II of the National Prohibition Act, as amended and supplemented (U. S. C., title 27, secs. 58, 59, and 60), are hereby repealed.

SEC. 3. (a) Nothing in the National Prohibition Act, as amended and supplemented, shall apply to any of the following, or to any act or failure to act in respect of any of the following, containing not more than 3.2 per centum of alcohol by weight: Beer, ale, porter, wine, similar fermented malt or vinous liquor, or fruit juice; but the National Prohibition Act, as amended and supplemented, shall apply to any of the foregoing, or to any act or failure to act in respect of any of the foregoing, contained in bottles, casks, barrels, kegs, or other containers, not labeled and sealed as may be prescribed by regulations.

(b) The following Acts and parts of Acts shall be subject to a like limitation as to their application:

(1) The Act entitled "An Act to prohibit the sale, manufacture, and importation of intoxicating liquors in the Territory of Hawaii during the period of the war, except as hereinafter provided," approved May 23, 1918 (U. S. C., title 48, sec. 520);

(2) Section 2 of the Act entitled "An Act to provide a civil government for Porto Rico, and for other purposes," approved March 2, 1917;

(3) The Act entitled "An Act to prohibit the manufacture or sale of alcoholic liquors in the Territory of Alaska, and for other purposes," approved February 14, 1917 (U. S. C., title 48, secs. 261 to 291, both inclusive).

(c) Nothing in section 5 of the Act entitled "An Act making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1918, and for other purposes," approved March 3, 1917, as amended and supplemented (U. S. C., title 18, sec. 341; Supp. VI, title 18, sec. 341), shall prohibit the deposit in or carriage by the mails of the United States, or the delivery by any postmaster or letter carrier, of any mail matter containing any advertisement of, or any solicitation of an order or orders for, any of the following containing not more than 3.2 per centum of alcohol by weight: Beer, ale, porter, wine, similar fermented malt or vinous liquor, or fruit juice.

SEC. 4. (a) The manufacturer for sale of beer, ale, porter, wine, similar fermented malt or vinous liquor, or fruit juice, containing one-half of 1 per centum of alcohol by volume and not more than 3.2 per centum of alcohol by weight, shall, before engaging in business, secure a permit authorizing him to engage in such manufacture, which permit shall be obtained in the same manner as a permit under the National Prohibition Act, as amended and supplemented, to manufacture intoxicating liquor, and be subject to all the provisions of law relating to such a permit. Such permit may be issued to a manufacturer for sale of any such fermented malt or vinous liquor or fruit juice, containing less than one-half of 1 per centum of alcohol by volume, if he desires to take advantage of the provisions of paragraph (2) of subsection (b) of this section. No permit shall be issued under this section for the manufacture of fermented malt or vinous liquor or fruit juice in any State, Territory, or the District of Columbia, or political subdivision of any State or Territory, if such manufacture is prohibited by the law thereof.

(b) (1) Such permit shall specify a maximum alcoholic content permissible for such fermented malt or vinous liquor or fruit juice at the time of withdrawal from the factory or other disposition,

National Prohibition Act.
Certain provisions repealed.
Vol. 41, p. 318.
U. S. C., p. 860.
Acts not affected by.
Post, p. 430.

Application to containers, not labeled, etc.

Limitation of application further extended.

Hawaii.
Vol. 40, p. 560.
U. S. C., p. 1601.
Post, p. 467.

Puerto Rico.
Vol. 39, p. 951.
U. S. C., p. 1616.

Alaska.
Vol. 39, p. 903.
U. S. C., p. 1580.
Post, p. 583.

Advertisement, etc., by mail.
Vol. 39, p. 1069; Vol. 41, p. 313.
U. S. C., p. 483; Supp. VI, p. 242.
Post, p. 316.

Permits to manufacture, etc.

If containing less than one half of 1 per cent.

Issue forbidden if local laws prohibit.

Specifications of permit.

which shall not be greater than 3.2 per centum of alcohol by weight, nor greater than the maximum alcoholic content permissible under the law of the State, Territory, or the District of Columbia, or the political subdivision of a State or Territory, in which such liquor or fruit juice is manufactured.

Reduction of excess alcoholic content.

(2) In such permit may be included permission to develop in the manufacture of such fermented malt or vinous liquor or fruit juice by the usual methods of fermentation and fortification or otherwise a liquid such as beer, ale, porter, wine, or fruit juice, of an alcoholic content in excess of the maximum specified in the permit; but before any such liquid is withdrawn from the factory or otherwise disposed of the alcoholic content shall, if in excess of the maximum specified in the permit, be reduced, under such regulations as may be prescribed, to or below such maximum; but such liquid may be removed and transported, under bond and under such regulations as may be prescribed, from one bonded plant or warehouse to another for the purpose of having the percentage of alcohol reduced to the maximum specified in the permit by dilution or extraction. Such liquids may be developed, under permit under the National Prohibition Act, as amended and supplemented, by persons other than manufacturers of beverages containing not more than 3.2 per centum of alcohol by weight, and sold to such manufacturers for conversion into such beverages. The alcohol removed from such liquid, if evaporated, and not condensed and saved, shall not be subject to tax; if saved, it shall be subject to the same law as other alcoholic liquors. Credit shall be allowed on the tax due on any alcohol so saved to the amount of any tax paid upon distilled spirits or brandy used in the fortification of the liquor from which the same is saved.

Removal for reduction, under bond.

Tax.

Credit allowed.

Fortified wines.

(3) When fortified wines are made and used for the production of nonbeverage alcohol, and dealcoholized wines containing not more than 3.2 per centum of alcohol by weight, no tax shall be assessed or paid on the spirits used in such fortification, and such dealcoholized wines produced under the provisions of this section, whether carbonated or not, shall be subject to the tax imposed by section 1.

Burden of proof.

(4) In any case where the manufacturer is charged with manufacturing or selling for beverage purposes any beer, ale, porter, wine, similar fermented malt or vinous liquor, or fruit juice, containing more than 3.2 per centum of alcohol by weight, the burden of proof shall be on such manufacturer to show that the liquid so manufactured or sold contained no more than 3.2 per centum of alcohol by weight. In any case where a manufacturer, who has been permitted to develop a liquid such as beer, ale, porter, wine, or fruit juice, containing more than the maximum alcoholic content specified in the permit, is charged with failure to reduce the alcoholic content to or below such maximum before such liquid was withdrawn from the factory or otherwise disposed of, then the burden of proof shall be on such manufacturer to show that the alcoholic content of such liquid so manufactured, sold, withdrawn, or otherwise disposed of did not exceed the maximum specified in the permit. In any suit or proceeding involving the alcoholic content of any beverage, the reasonable expense of analysis of such beverage shall be taxed as costs in the case.

Expense of analysis.

Penalty provisions.

(c) Whoever engages in the manufacture for sale of beer, ale, porter, wine, similar fermented malt or vinous liquor, or fruit juice, without such permit if such permit is required, or violates any permit issued to him, shall be subject to the penalties and proceedings provided by law in the case of similar violations of the National Prohibition Act, as amended and supplemented.

(d) This section shall have the same geographical application as the National Prohibition Act, as amended and supplemented.

Geographical application.

SEC. 5. Except to the extent provided in section 4 (b) (2), nothing in section 1 or 4 of this Act shall be construed as in any manner authorizing or making lawful the manufacture of any beer, ale, porter, wine, similar fermented malt or vinous liquor, or fruit juice, which at the time of sale or removal for consumption or sale contains more than 3.2 per centum of alcohol by weight.

Excessive alcoholic content prohibited.

SEC. 6. In order that beer, ale, porter, wine, similar fermented malt or vinous liquor, and fruit juice, containing 3.2 per centum or less of alcohol by weight, may be divested of their interstate character in certain cases, the shipment or transportation thereof in any manner or by any means whatsoever, from one State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, or from any foreign country, into any State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, which fermented malt or vinous liquor or fruit juice, is intended, by any person interested therein, to be received, possessed, sold, or in any manner used, either in the original package or otherwise, in violation of any law of such State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, is hereby prohibited. Nothing in this section shall be construed as making lawful the shipment or transportation of any liquor or fruit juice the shipment or transportation of which is prohibited by the Act of March 1, 1913, entitled "An Act divesting intoxicating liquors of their interstate character in certain cases" (U. S. C., Supp. VI, title 27, sec. 122).

Interstate shipment.

Transportation into State contrary to its laws.
Vol. 37, p. 699.
U.S.C. Supp. VI, p. 598.

SEC. 7. Whoever orders, purchases, or causes beer, ale, porter, wine, similar fermented malt or vinous liquor, or fruit juice, containing 3.2 per centum or less of alcohol by weight, to be transported in interstate commerce, except for scientific, sacramental, medicinal, or mechanical purposes, into any State, Territory, or the District of Columbia, the laws of which State, Territory, or District prohibit the manufacture or sale therein of such fermented malt or vinous liquor or fruit juice for beverage purposes, shall be fined not more than \$1,000 or imprisoned not more than six months, or both; and for any subsequent offense shall be imprisoned for not more than one year. If any person is convicted under this section any permit issued to him shall be revoked. Nothing in this section shall be construed as making lawful the shipment or transportation of any liquor or fruit juice the shipment or transportation of which is prohibited by section 5 of the Act entitled "An Act making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1918, and for other purposes," approved March 3, 1917, as amended and supplemented (U. S. C., Supp. VI, title 27, sec. 123).

Penalty for violation.

Revocation of permit.
Advertisements, etc.

Vol. 39, p. 1069.
U.S.C. Supp. VI, p. 598.

SEC. 8. Any offense committed, or any right accrued, or any penalty or obligation incurred, or any seizure or forfeiture made, prior to the effective date of this Act, under the provisions of the National Prohibition Act, as amended and supplemented, or under any permit or regulation issued thereunder, may be prosecuted or enforced in the same manner and with the same effect as if this Act had not been enacted.

Preexisting offenses, rights, etc.

SEC. 9. This Act shall take effect on the expiration of fifteen days after the date of its enactment, except that permits referred to under section 4 may be issued at any time after the date of enactment, and except that liquor taxable under section 1 may be removed prior to the effective date of this Act for bottling and storage on

Effective date.

the permit premises until such date and when so removed shall be subject to tax at the rate provided by section 1.

Separability clause.

SEC. 10. If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

Approved, March 22, 1933.

[CHAPTER 5.]

JOINT RESOLUTION

March 23, 1933.

[S.J. Res. 14.]

[Pub. Res., No. 2.]

To authorize the Reconstruction Finance Corporation to make loans for financing the repair or reconstruction of buildings damaged by earthquake in 1933.

Reconstruction Finance Corporation.
Vol. 47, p. 712, amended.
U.S.C. Supp. VI, p. 175.

Loans, authorized for repair of earthquake damage in 1933.
Post, pp. 99, 120, 283.

Acceptable collateral.
Private property.

Municipalities, etc.

Application for, not denied by constitutional, etc., inhibitions.

Maturities, security.

Limitations.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 201 (a) of the Emergency Relief and Construction Act of 1932 (U. S. C., Supp. VI, title 15, sec. 605b) is amended by adding to such subsection (a) after paragraph (5) the following:

"(6) To make loans to nonprofit corporations, with or without capital stock, organized for the purpose of financing the repair or reconstruction of buildings damaged by earthquake in the year 1933 and deemed by the Reconstruction Finance Corporation economically useful. Obligations accepted hereunder shall be collateralized (a) in the case of loans for the repair or reconstruction of private property, by the obligations of the owner of such property secured by a paramount lien except as to taxes and special assessments on the property repaired or reconstructed, and (b) in the case of municipalities or political subdivisions of States or their public agencies, by an obligation of such municipality, political subdivision, or public agency. The corporation shall not deny an otherwise acceptable application for loans for repair or reconstruction of the buildings of municipalities, political subdivisions, or their public agencies because of constitutional or other legal inhibitions affecting the collateral. The collateral obligations may have maturities not exceeding ten years. Loans under this paragraph shall be fully and adequately secured. No loan hereunder shall be made after December 31, 1933. The aggregate of the loans made under this paragraph shall not exceed \$5,000,000."

Approved, March 23, 1933.

[CHAPTER 8.]

AN ACT

March 24, 1933.

[H.R. 3757.]

[Public, No. 4.]

To provide for direct loans by Federal reserve banks to State banks and trust companies in certain cases, and for other purposes.

National banking system.
Ante, p. 7.

Direct loans to State banks and trust companies authorized.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Title IV of the Act entitled "An Act to provide relief in the existing national emergency in banking, and for other purposes," approved March 9, 1933, is amended by adding at the end thereof the following new section:

"SEC. 404. During the existing emergency in banking, or until this section shall be declared no longer operative by proclamation of the President, but in no event beyond the period of one year from the date this section takes effect, any State bank or trust company not a member of the Federal reserve system may apply to the Federal reserve bank in the district in which it is located and