

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 18**

4 (By Senators Unger, Barnes, Foster and D. Facemire)

5 _____
6 [Originating in the Committee on Finance;
7 reported February 24, 2011.]
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11 A BILL to amend the Code of West Virginia, 1931, as amended, by
12 adding thereto a new section, designated §60-3A-3a; to amend
13 and reenact §60-3A-4 of said code; and to amend said code by
14 adding thereto a new section, designated §60-7-9, all relating
15 to requiring certain employees of licensed private clubs and
16 retail outlets selling alcoholic beverages to take the
17 techniques for education and alcohol management course, the
18 training for intervention procedures course, alcohol awareness
19 programs provided by the American Hotel and Lodging
20 Association or the National Restaurant Association or other
21 similar alcohol awareness education courses provided or
22 approved by the Alcohol Beverage Control Commissioner;
23 allowing for the training to be done on-site by a manager or
24 supervisor; and providing legislative rule-making authority.

1 *Be it enacted by the Legislature of West Virginia:*

2 That the Code of West Virginia, 1931, as amended, be amended
3 by adding thereto a new section, designated §60-3A-3a; that §60-3A-
4 4 of said code be amended and reenacted; and that said code be
5 amended by adding thereto a new section, designated §60-7-9, all to
6 read as follows:

7 **ARTICLE 3A. SALES BY RETAIL LIQUOR LICENSEES.**

8 **§60-3A-3a. Mandatory training for retail outlet employees.**

9 (a) Any point of sale employee of a retail outlet licensed
10 pursuant to the provisions of this article, who is hired on or
11 after July 1, 2011, shall participate in the techniques for
12 education and alcohol management program (TEAM), the training for
13 intervention procedures course (TIPS), alcohol awareness programs
14 provided by the American Hotel and Lodging Association or the
15 National Restaurant Association or other similar alcohol awareness
16 education programs provided or approved by the Commissioner, within
17 sixty days of commencing employment and at least once every three
18 years thereafter. Any point of sale employee who was employed
19 prior to July 1, 2011, shall participate in one of the training
20 programs specified in this section or other similar programs
21 provided or approved by the commissioner before July 1, 2012, and
22 at least once every three years thereafter.

23 (b) The Commissioner shall propose rules for legislative
24 approval in accordance with the provisions of article three,

1 chapter twenty-nine-a of this code to implement the provisions of
2 this section. These rules shall provide that the training may be
3 offered to point of sale employees by a supervisor or manager or
4 someone designated by the supervisor or manager to provide the
5 training once these individuals have successfully completed the
6 course and can offer the required training on-site without
7 requiring the point of sale employee to attend off-site training.

8 **§60-3A-4. Definitions.**

9 (a) "Active retail license" means a current license for a
10 retail outlet that has been open and in continuous operation for a
11 period of not less than twelve months prior to July 1, 2010, or
12 July 1 every ten years thereafter.

13 (b) "Active retail licensee" means a person who holds an
14 active retail license at the time of the effective date of the
15 amendments to this section during the first extraordinary session
16 of the Legislature in 2009 or that person's successor or any person
17 who holds an active retail license when it expires at the end of a
18 ten-year period.

19 (c) "Applicant" means any person who elects to pay a purchase
20 option for a Class A retail license, who bids for a retail license
21 or who seeks the commissioner's approval to purchase or otherwise
22 acquire a retail license from a retail licensee, in accordance with
23 the provisions of this article.

24 (d) "Application" means the form prescribed by the

1 commissioner which must be filed with the commissioner by any
2 person bidding for a retail license.

3 (e) "Board" means the Retail Liquor Licensing Board created by
4 this article.

5 (f) "Class A retail license" means a retail license permitting
6 the retail sale of liquor at a freestanding liquor retail outlet.

7 (g) "Class B retail license" means a retail license permitting
8 the sale of liquor at a mixed retail liquor outlet.

9 (h) "Commissioner" means the West Virginia Alcohol Beverage
10 Control Commissioner" as set forth in article 2 of this chapter.

11 ~~(h)~~ (i) "Current retail licensee" means a person who holds a
12 retail license at the time of the effective date of the amendments
13 to this section during the first extraordinary session of the
14 Legislature in 2009 or that person's successor or any person who
15 holds a retail license when it expires at the end of a ten-year
16 period.

17 ~~(i)~~ (j) "Designated areas" means one or more geographic areas
18 within a market zone designated as such by the board.

19 ~~(j)~~ (k) "Executive officer" means the president or other
20 principal officer, partner or member of an applicant or retail
21 licensee, any vice president or other principal officer, partner or
22 member of an applicant or retail licensee in charge of a principal
23 business unit or division, or any other officer, partner or member
24 of an applicant or retail licensee who performs a policy-making

1 function.

2 ~~(k)~~ (l) "Freestanding liquor retail outlet" means a retail
3 outlet that sells only liquor, beer, nonintoxicating beer and other
4 alcohol-related products, including tobacco related products.

5 ~~(l)~~ (m) "Liquor" means alcoholic liquor as defined in section
6 five, article one of this chapter and also includes both wine and
7 fortified wines as those terms are defined in section two, article
8 eight of this chapter.

9 ~~(m)~~ (n) "Market zone" means a geographic area designated as
10 such by the board for the purpose of issuing retail licenses.

11 ~~(n)~~ (o) "Mixed retail liquor outlet" means a retail outlet
12 that sells liquor, beer, nonintoxicating beer and other alcohol-
13 related products, including tobacco related products, in addition
14 to convenience and other retail products.

15 ~~(o)~~ (p) "Person" means an individual, firm, corporation,
16 association, partnership, limited partnership, limited liability
17 company or other entity, regardless of its form, structure or
18 nature.

19 (q) "point of sale employee" means and employee of a retail
20 outlet as defined in this section or a private club as defined in
21 subsection (a), section 2, article 7 of this chapter at the place
22 where the sale or purchase of liquor is made.

23 ~~(p)~~ (r) "Retail license" means a license issued under the
24 provisions of this article permitting the sale of liquor at retail.

1 ~~(q)~~ (s) "Retail licensee" means the holder of a retail
2 license.

3 ~~(r)~~ (t) "Retail outlet" means a specific location where liquor
4 may be lawfully sold by a retail licensee under the provisions of
5 this article.

6 **ARTICLE 7. LICENSES TO PRIVATE CLUBS.**

7 **§60-7-9. Mandatory training for private club employees.**

8 (a) Any employee of a private club licensed pursuant to the
9 provisions of this article, who serves alcohol and who is hired on
10 or after July 1, 2011, shall participate in the techniques for
11 education and alcohol management program (TEAM), the training for
12 intervention procedures course (TIPS), alcohol awareness programs
13 provided by the American Hotel and Lodging Association or the
14 National Restaurant Association or other similar alcohol awareness
15 education programs provided or approved by the Commissioner, within
16 sixty days of commencing employment and at least once every three
17 years thereafter. Any employee who serves alcohol and who was
18 employed prior to July 1, 2011, shall participate in one of the
19 training programs specified in this section or other similar
20 programs provided or approved by the Commissioner before July 1,
21 2012, and at least once every three years thereafter.

22 (b) The Commissioner shall propose rules for legislative
23 approval in accordance with the provisions of article three,
24 chapter twenty-nine-a of this code to implement the provisions of

1 this section. These rules shall provide that the training may be
2 offered to point of sale employees by a supervisor or manager or
3 someone designated by the supervisor or manager to provide the
4 training once these individuals have successfully completed the
5 course and can offer the required training on-site without
6 requiring the point of sale employee to attend off-site training.

(NOTE: The purpose of this bill is to require certain employees of licensed private clubs and retail outlets selling alcoholic beverages to take the techniques for education and alcohol management course, the training for intervention procedures course, alcohol awareness programs provided by the American Hotel and Lodging Association or the National Restaurant Association or other similar alcohol awareness education courses provided or approved by the Alcohol Beverage Control Commissioner.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.

§60-3A-3a and §60-7-9 are new; therefore, strike-throughs and underscoring have been omitted.)