

1 **H. B. 2169**

2
3 (By Delegate Doyle)

4 [Introduced January 12, 2011; referred to the
5 Committee on the Judiciary.]

6 **FISCAL**
7 **NOTE**

8
9
10 A BILL to amend the Code of West Virginia, 1931, as amended, by
11 adding thereto a new article, designated §60-6A-1 and §60-6A-
12 2, all relating to requiring that bartenders be licensed by
13 the Alcohol Beverage Control Commissioner.

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

15 That the Code of West Virginia, 1931, as amended, be amended
16 by adding thereto a new article, designated §60-6A-1 and §60-6A-2,
17 all to read as follows:

18 **ARTICLE 6A. ALCOHOL SERVER PERMITS.**

19 **§60-6A-1. Definitions.**

20 For purposes of this article, unless the context clearly
21 requires otherwise, the following words and phrases, and any
22 variations thereof required by the context, have the meanings
23 ascribed to them in this section:

1 (1) "Alcohol server" means any person serving or selling
2 alcoholic liquor or nonintoxicating beer for on-premises
3 consumption at a private club or at a retail dealer's place of
4 business as a regular requirement of his or her employment.

5 (2) "Private club" means a private club as defined by the
6 provisions of section two, article seven of this chapter.

7 (3) "Retail dealer" means a Class A retailer licensed to sell
8 nonintoxicating beer at retail for consumption on or off the
9 licensed premises, in accordance with the provisions of section
10 nine, article sixteen, chapter eleven of this code.

11 **§60-6A-2. Alcohol server permit required.**

12 (a) Each manager or bartender selling or mixing alcohol liquor
13 or nonintoxicating beer for consumption on the premises of a
14 private club or a retail dealer shall have an alcohol server
15 permit.

16 (b) (1) Effective July 1, 2011, except as provided in
17 subdivision (4) of this subsection, every person employed, under
18 contract or otherwise, by a private club or retail dealer, who as
19 part of his or her employment participates in any manner in the
20 sale or service of alcoholic beverages for on-premises consumption
21 shall have issued to them an alcohol server permit.

22 (2) Every alcohol server permit issued shall be issued in the
23 name of the applicant and no other person may use the permit of a
24 permit holder. The holder shall present the permit upon request

1 for inspection by a representative of the commissioner. The
2 alcohol server permit is valid for employment at any private club
3 or retail dealer.

4 (3) No private club licensee or retail dealer, except as
5 provided in subdivision (4) of this subsection, may employ or
6 accept the services of any person to participate in the sale or
7 service of alcoholic liquor or nonintoxicating beer for on-
8 premises consumption without the person first having a valid
9 alcohol server.

10 (4) Within sixty days after his or her initial employment,
11 every person whose duties include the mixing, sale, service or
12 handling of alcoholic liquor or nonintoxicating beer for
13 consumption on the premises of a private club or a retail dealer
14 shall have an alcohol server permit.

15 (c) A permit issued by the commissioner pursuant to this
16 article is valid for employment at any private club or retail
17 dealer for a period of three years, unless sooner suspended or
18 revoked by the commissioner. Every applicant for an initial
19 alcohol server permit, and for each renewal alcohol server permit,
20 shall pay to the commissioner a fee of \$25.

21 (d) The commissioner may refuse to issue a permit or may
22 suspend or revoke an existing permit if any of the following occur:

23 (1) The applicant or permittee has been convicted of violating
24 any of the state or local laws of this state pertaining to the sale

1 of alcoholic liquor or nonintoxicating beer for consumption on the
2 premises of a private club or a retail dealer or has been convicted
3 at any time of a felony; or

4 (2) The permittee has performed or permitted an act that
5 constitutes a violation of this article or of a rule promulgated by
6 the commissioner.

7 (e) The suspension or revocation of a permit under this
8 section does not relieve a private club licensee or retail dealer
9 from responsibility for any act of an employee or agent while
10 employed upon the premises. The commissioner may, as appropriate,
11 suspend or revoke either the alcohol server permit of the employee
12 who committed the violation or the license of the private club or
13 retail dealer upon whose premises the offense occurred, or both the
14 permit and the license. The commissioner may consider the proper
15 permitting of employees in mitigation of sanctions for an
16 employee's illegal sale of an alcoholic beverage.

17 (f) After July 1, 2012, it is a violation of this article for
18 any private club licensee or retail dealer to employ in the sale or
19 service of alcoholic liquor or nonintoxicating beer for on-premises
20 consumption, any person who does not have a valid alcohol server
21 permit or whose permit has been revoked, suspended or denied.

22 (g) The commissioner shall adopt procedural and interpretive
23 rules or propose legislative rules for legislative approval, as
24 appropriate, under the provisions of article three, chapter twenty-

1 nine-a of this code, for executing the purposes of this article.

NOTE: The purpose of this bill is to require that alcohol servers obtain alcohol server permits.

This article is new; therefore, it has been completely underscored.