

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 18

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

[Originating in the Committee on Finance;
reported February 24, 2011.]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §60-3A-3a; to amend and reenact §60-3A-4 of said code; and to amend said code by adding thereto a new section, designated §60-7-9, all relating to requiring 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; allowing for the training to be done on-site by a manager or supervisor; and providing legislative rule-making authority.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 3A. SALES BY RETAIL LIQUOR LICENSEES.

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

1 (a) Any point of sale employee of a retail outlet licensed
2 pursuant to the provisions of this article, who is hired on or
3 after July 1, 2011, shall participate in the techniques for
4 education and alcohol management program (TEAM), the
5 training for intervention procedures course (TIPS), alcohol
6 awareness programs provided by the American Hotel and
7 Lodging Association or the National Restaurant Association
8 or other similar alcohol awareness education programs
9 provided or approved by the Commissioner, within sixty
10 days of commencing employment and at least once every
11 three years thereafter. Any point of sale employee who was

12 employed prior to July 1, 2011, shall participate in one of the
13 training programs specified in this section or other similar
14 programs provided or approved by the commissioner before
15 July 1, 2012, and at least once every three years thereafter.

16 (b) The Commissioner shall propose rules for legislative
17 approval in accordance with the provisions of article three,
18 chapter twenty-nine-a of this code to implement the provi-
19 sions of this section. These rules shall provide that the
20 training may be offered to point of sale employees by a
21 supervisor or manager or someone designated by the supervi-
22 sor or manager to provide the training once these individuals
23 have successfully completed the course and can offer the
24 required training on-site without requiring the point of sale
25 employee to attend off-site training.

§60-3A-4. Definitions.

1 (a) “Active retail license” means a current license for a
2 retail outlet that has been open and in continuous operation
3 for a period of not less than twelve months prior to July 1,
4 2010, or July 1 every ten years thereafter.

5 (b) “Active retail licensee” means a person who holds an
6 active retail license at the time of the effective date of the
7 amendments to this section during the first extraordinary

8 session of the Legislature in 2009 or that person's successor
9 or any person who holds an active retail license when it
10 expires at the end of a ten-year period.

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

16 (d) "Application" means the form prescribed by the
17 commissioner which must be filed with the commissioner by
18 any person bidding for a retail license.

19 (e) "Board" means the Retail Liquor Licensing Board
20 created by this article.

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

23 (g) "Class B retail license" means a retail license permit-
24 ting the sale of liquor at a mixed retail liquor outlet.

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

28 ~~(h)~~ (i) "Current retail licensee" means a person who holds
29 a retail license at the time of the effective date of the amend-

30 ments to this section during the first extraordinary session of
31 the Legislature in 2009 or that person's successor or any
32 person who holds a retail license when it expires at the end
33 of a ten-year period.

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

36 ~~(j)~~ (k) "Executive officer" means the president or other
37 principal officer, partner or member of an applicant or retail
38 licensee, any vice president or other principal officer, partner
39 or member of an applicant or retail licensee in charge of a
40 principal business unit or division, or any other officer,
41 partner or member of an applicant or retail licensee who
42 performs a policy-making function.

43 ~~(k)~~ (l) "Freestanding liquor retail outlet" means a retail
44 outlet that sells only liquor, beer, nonintoxicating beer and
45 other alcohol-related products, including tobacco related
46 products.

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

51 ~~(m)~~ (n) “Market zone” means a geographic area designated
52 as such by the board for the purpose of issuing retail li-
53 censes.

54 ~~(n)~~ (o) “Mixed retail liquor outlet” means a retail outlet
55 that sells liquor, beer, nonintoxicating beer and other
56 alcohol-related products, including tobacco related products,
57 in addition to convenience and other retail products.

58 ~~(o)~~ (p) “Person” means an individual, firm, corporation,
59 association, partnership, limited partnership, limited
60 liability company or other entity, regardless of its form,
61 structure or nature.

62 (q) “Point of sale employee” means an employee of a retail
63 outlet as defined in this section or a private club as defined
64 in subsection (a), section 2, article 7 of this chapter at the
65 place where the sale or purchase of liquor is made.

66 ~~(p)~~ (r) “Retail license” means a license issued under the
67 provisions of this article permitting the sale of liquor at
68 retail.

69 ~~(q)~~ (s) “Retail licensee” means the holder of a retail license.

70 ~~(r)~~ (t) “Retail outlet” means a specific location where
71 liquor may be lawfully sold by a retail licensee under the
72 provisions of this article.

ARTICLE 7. LICENSES TO PRIVATE CLUBS.**§60-7-9. Mandatory training for private club employees.**

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

17 (b) The Commissioner shall propose rules for legislative
18 approval in accordance with the provisions of article three,
19 chapter twenty-nine-a of this code to implement the provi-
20 sions of this section. These rules shall provide that the

21 training may be offered to point of sale employees by a
22 supervisor or manager or someone designated by the supervi-
23 sor or manager to provide the training once these individuals
24 have successfully completed the course and can offer the
25 required training on-site without requiring the point of sale
26 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.)