

Senate Bill No. 409

(By Senators K. Facemyer, Kessler (Mr. President) and Beach)

[Introduced January 24, 2012; referred to
the Committee on the Judiciary.]

A BILL to amend and reenact §60-3A-24 of the Code of West Virginia, 1931, as amended, relating to substituting community service for confinement in jail for a person under the age of twenty-one who purchases, consumes, sells, serves or possesses alcoholic liquor or who misrepresents his or her age to purchase alcoholic liquor.

Be it enacted by the Legislature of West Virginia:

That §60-3A-24 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 3A. SALES BY RETAIL LIQUOR LICENSEES.

§60-3A-24. Unlawful acts by persons.

- 1 (a) (1) Any person who is under the age of twenty-one
- 2 years who purchases, consumes, sells, serves or possesses

3 alcoholic liquor is guilty of a misdemeanor and, upon
4 conviction thereof, shall be fined an amount not to exceed
5 \$500 ~~or shall be confined in jail, or, in the case of a juvenile,~~
6 ~~a detention center, for a period not to exceed seventy-two~~
7 ~~hours or both fined and imprisoned or, in lieu of such fine~~
8 ~~and incarceration, and shall complete community service for~~
9 a period not to exceed seventy-two hours. A person may, for
10 the first offense, be placed on probation for a period not to
11 exceed one year.

12 (2) Nothing in this article, nor any rule ~~or regulation~~ of
13 the commissioner, ~~shall prevent or be deemed to prohibit any~~
14 prevents or prohibits a person who is at least eighteen years
15 of age from serving in the lawful employment of a licensee
16 which includes the sale and serving of alcoholic liquor.

17 (3) Nothing in this subsection ~~shall prohibit~~ prohibits a
18 person who is at least eighteen years of age from purchasing
19 or possessing alcoholic liquor when he or she is acting upon
20 the request of or under the direction and control of any
21 member of a state, federal or local law-enforcement agency
22 or the West Virginia Alcohol Beverage Control Administra-
23 tion while the agency is conducting an investigation or other
24 activity relating to the enforcement of the alcohol beverage

25 control statutes and the rules ~~and regulations~~ of the commis-
26 sioner.

27 (b) Any person under the age of twenty-one years who,
28 for the purpose of purchasing liquor from a retail licensee,
29 misrepresents his or her age or who for such purpose pres-
30 ents or offers any written evidence of age which is false,
31 fraudulent or not actually his or her own or who illegally
32 attempts to purchase liquor from a retail licensee is guilty of
33 a misdemeanor and, upon conviction thereof, shall be fined
34 an amount not to exceed \$100 ~~or confined in jail, or, in the~~
35 ~~case of a juvenile, a detention facility, for a period not to~~
36 ~~exceed seventy-two hours, or both fined and confined or, in~~
37 ~~lieu of such fine and imprisonment, and shall complete~~
38 community service for a period of time not to exceed
39 seventy-two hours. A person may, for the first offense, be
40 placed on probation for a period not exceeding one year. Any
41 person convicted under this section may be sentenced
42 pursuant to the provisions of section one-a, article eleven-a,
43 chapter sixty-two of this code.

44 (c) Any person who knowingly buys for, gives to or
45 furnishes to anyone under the age of twenty-one to whom he
46 or she is not related by blood or marriage any liquor from

47 whatever source is guilty of a misdemeanor and, upon
48 conviction thereof, shall be fined an amount not to exceed
49 \$250 or confined in jail for a period not to exceed ten days,
50 or both fined and confined.

51 (d) No person while on the premises of a retail outlet may
52 consume liquor or break the seal on any package or bottle of
53 liquor. Any person who violates the provisions of this
54 subsection is guilty of a misdemeanor and, upon conviction
55 thereof, shall be fined an amount not to exceed \$100 or
56 confined in jail for a period not to exceed ten days, or both
57 fined and confined.

(NOTE: The purpose of this bill is to substitute community service for confinement in jail for persons who are under the age of twenty-one and who purchases, consumes, sells, serves or possesses alcoholic liquor or who misrepresents his or her age to purchase alcoholic liquor.

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