

**H. B. 4455**

(By Delegates Manchin, Skinner, Caputo, Guthrie,  
Hunt, Skaff, Sponaugle, Wells,  
Ambler and E. Nelson)

[Introduced February 10, 2014; referred to the  
Committee on the Judiciary.]

A BILL to amend and reenact §60-4-3 and §60-4-3a of the Code of West Virginia, 1931, as amended; to amend and reenact §60-6-2 of said code; and to amend and reenact §60-7-11 of said code, all relating to the sale of alcohol by licensed manufacturers; authorizing licensed wineries, farm wineries, distilleries and mini-distilleries to make retail sales of wine and alcoholic liquors manufactured by the winery, farm-winery, distillery or mini-distillery for consumption off the premises on Sundays, beginning at ten thirty a.m.; authorizing licensed wineries, farm wineries, distilleries and mini-distilleries to offer complimentary samples for consumption on the premises on Sundays, beginning at ten thirty a.m.; and authorizing distilleries and mini-distilleries which manufacture less than fifty thousand gallons of alcoholic liquor per year to seek and hold a separate license to operate a private club on the premises of the distillery or mini-distillery; and allowing

1 for the sale of products manufactured on the premises of the  
2 distillery or mini-distillery, other than in sealed packages,  
3 for consumption on the premises of any such private club.

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

5 That §60-4-3 and §60-4-3a of the Code of West Virginia, 1931,  
6 as amended, be amended and reenacted; that §60-6-2 of said code be  
7 amended and reenacted; and that §60-7-11 of said code be amended and  
8 reenacted, all to read as follows:

9 **ARTICLE 4. LICENSES.**

10 **§60-4-3. To whom licensed manufacturer may sell.**

11 A person who is licensed to manufacture alcoholic liquors in  
12 this state may sell liquors in this state only to the West Virginia  
13 Alcohol Beverage Control Commissioner and to wholesalers and  
14 retailers licensed as provided in this chapter: *Provided*, That a  
15 holder of a winery or a farm winery license may offer complimentary  
16 samples and sell wines and a holder of a distillery or a  
17 mini-distillery license may offer complimentary samples and sell  
18 alcoholic liquors manufactured by it in this state in accordance  
19 with the provisions of sections one and two, article six of this  
20 chapter. Hours of retail sale by a winery or a farm winery or  
21 distillery or a mini-distillery are subject to regulation by the  
22 commissioner: *Provided*, That a licensed distillery or mini-  
23 distillery or a licensed winery or farm winery may offer

1 complimentary samples for consumption on premises and make retail  
2 sales of alcoholic liquors and wines manufactured by the licensee  
3 for off premises consumption on Sundays, beginning at ten thirty  
4 o'clock a.m. A winery, distillery, farm winery or mini-distillery  
5 may sell and ship alcoholic liquors outside of the state subject to  
6 provisions of this chapter. The permissible hours of operation for  
7 a private club operating on the premises of a distillery or  
8 mini-distillery are the same as any private club licensed under  
9 article seven, chapter sixty of this code.

10 **§60-4-3a. Distillery and mini-distillery license to manufacture**  
11 **and sell.**

12 (a) *Sales of liquor.* -- An operator of a distillery or a  
13 mini-distillery may offer liquor for retail sale to customers from  
14 the distillery or the mini-distillery for consumption off premises  
15 only. Except for free complimentary samples offered pursuant to  
16 section one, article six of this chapter, or sales for consumption  
17 offered under a valid private club license pursuant to article  
18 seven, chapter sixty of this code, customers are prohibited from  
19 consuming any liquor on the premises of the distillery or the  
20 mini-distillery. Distilleries that produce fifty thousand or more  
21 gallons of alcoholic liquor per year may not hold a private club  
22 license.

23 (b) *Retail sales.* -- Every licensed distillery or  
24 mini-distillery shall comply with the provisions of sections nine,

1 eleven, thirteen, sixteen, seventeen, eighteen, nineteen,  
2 twenty-two, twenty-three, twenty-four, twenty-five and twenty-six,  
3 article three-a of this chapter and the provisions of articles three  
4 and four of this chapter applicable to liquor retailers and  
5 distillers: Provided, That a licensed distillery or mini-distillery  
6 may offer complimentary samples for consumption on premises and make  
7 retail sales of alcoholic liquors and wines manufactured by that  
8 licensed distillery, mini-distillery, for consumption off the  
9 premises on Sundays, beginning at ten thirty o'clock a.m.

10 (c) *Payment of taxes and fees.* -- The distillery or  
11 mini-distillery shall pay all taxes and fees required of licensed  
12 retailers and meet applicable licensing provisions as required by  
13 this chapter and by rule of the commissioner.

14 (d) *Payments to market zone retailers.* -- Each distillery or  
15 mini-distillery shall submit to the commissioner ten percent of the  
16 gross sales price or each retail liquor sale for the value of all  
17 sales at the distillery or the mini-distillery each month. This  
18 collection shall be distributed by the commissioner, at least  
19 quarterly, to each market zone retailer located in the distillery  
20 or mini-distillery's market zone, proportionate to each market zone  
21 retailer's annual gross prior years pretax value sales.

22 (e) *Limitations on licensees.* -- No distillery or  
23 mini-distillery may sell more than three thousand gallons of product  
24 at the distillery or mini-distillery location the initial two years  
25 of licensure. The distillery or mini-distillery may increase sales

1 at the distillery or mini-distillery location by two thousand  
2 gallons following the initial 24-month period of licensure and may  
3 increase sales at the distillery or mini-distillery location each  
4 subsequent 24-month period by two thousand gallons, not to exceed  
5 ten thousand gallons a year of total sales at the distillery or  
6 mini-distillery location. No licensed mini-distillery may produce  
7 more than twenty thousand gallons per calendar year at the  
8 mini-distillery location. No more than one distillery or  
9 mini-distillery license may be issued to a single person or entity  
10 and no person may hold both a distillery and a mini-distillery  
11 license.

12 **ARTICLE 6. MISCELLANEOUS PROVISIONS.**

13 **§60-6-2. When lawful to manufacture and sell wine and cider.**

14 The provisions of this chapter may not prevent:

15 (1) A person from manufacturing wine at his or her residence  
16 for consumption at his or her residence as permitted by section one  
17 of this article;

18 (2) A person from manufacturing and selling unfermented cider;

19 (3) A person from manufacturing and selling cider made from  
20 apples produced by him or her within this state to persons holding  
21 distillery licenses, if the manufacture and sale is under the  
22 supervision and regulation of the commissioner;

23 (4) A person from manufacturing and selling wine made from  
24 fruit produced by him or her within this state to persons holding  
25 winery licenses, if the manufacture and sale is under the

1 supervision and regulation of the commissioner;

2 (5) The holder of a winery or a farm winery license from  
3 selling wine for off-premises consumption sold at retail at the  
4 winery or the farm winery, as provided in section four, article  
5 three-b of this chapter, or for any other person who is licensed  
6 under this chapter to sell wine as a wine supplier or distributor;  
7 and

8 (6) The holder of a distillery or a mini-distillery license  
9 from selling alcoholic liquor for off-premises consumption sold at  
10 retail at the distillery or the mini-distillery, as provided in  
11 section four, article three-a of this chapter.

12 (7) The holder of a distillery or mini-distillery license from  
13 selling alcoholic liquor, other than in sealed packages, for  
14 consumption at a private club located on the premises of the  
15 distillery or mini-distillery, if the holder of a distillery or  
16 mini-distillery license also holds a separate private club license  
17 for the premises under article seven, chapter sixty of this code,  
18 and the distillery or mini-distillery produces less than fifty  
19 thousand gallons of alcoholic liquor per year.

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

21 **§60-7-11. Licensee must purchase alcoholic liquors from or through**  
22 **commissioner or retail licensee; exceptions.**

23 (a) (1) All licensees shall purchase all alcoholic liquors sold  
24 by them from the West Virginia Alcohol Beverage Control Commissioner

1 at prices established by the commissioner for sales of the alcoholic  
2 liquors to the public generally or from any retail licensee licensed  
3 under the provisions of article three-a of this chapter, except that  
4 the licensees may purchase those wines permitted to be sold at  
5 retail pursuant to article eight of this chapter from those  
6 distributors licensed pursuant to said article at the same prices  
7 the distributors sell the wines to retailers licensed pursuant to  
8 ~~said~~ that article and distilleries or mini-distilleries licensed  
9 under article four, chapter sixty of this code may sell alcoholic  
10 liquor manufactured on the premises of the distillery or  
11 mini-distillery, other than in sealed packages, at a separately  
12 licensed private club established on the premises of the distillery  
13 or mini-distillery.

14 (2) A licensee may by contract approved by the commissioner  
15 receive deliveries of alcoholic liquor from a retail liquor store,  
16 and the provisions of sections twelve and thirteen, article six of  
17 this chapter shall not apply to the transportation of that alcoholic  
18 liquor.

19 (b) In all reports filed under section sixteen, article  
20 fifteen, chapter eleven of this code, retail licensees licensed  
21 under the provisions of article three-a of this chapter shall  
22 separately identify the amount of sales tax on sales of liquor to  
23 licensees in the manner required by the Tax Commissioner.

24 (c) Notwithstanding the provisions of section thirty, article  
25 fifteen, chapter eleven of this code to the contrary, the amount of

1 the sales taxes collected by the Tax Commissioner shall be deposited  
2 in a revolving fund account in the State Treasurer's Office,  
3 designated the "Drunk Driving Prevention Fund", and administered by  
4 the commission on drunk driving prevention, subject to  
5 appropriations by the Legislature.

NOTE: The purpose of this bill is to permit the retail sale of wine by licensed wineries and farm wineries between the hours of ten thirty a.m. and 1:00 p.m. on Sundays, and to permit the retail sale of alcoholic liquors manufactured and sold by licensed distilleries and mini-distilleries on Sundays, beginning at 10:30 a.m. The bill would also permit licensed wineries, farm wineries, distilleries and mini-distilleries to offer complimentary samples for consumption on premises on Sundays, beginning at 10:30 a.m. Finally, the bill would permit distilleries and mini-distilleries which produce less than 50,000 gallons of alcoholic liquor per year to seek and hold a separate license for a private club located on the premises of the distillery or mini-distillery.

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