

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 450

(By Senators Walters, Blair, Carmichael, McCabe, Palumbo
and Wells)

[Originating in the Committee on the Judiciary;
reported February 5, 2014.]

A BILL to amend and reenact §60-1-5 of the Code of West Virginia, 1931, as amended, relating to the sale and consumption of alcoholic liquors in outdoor dining areas adjoining an ABCA-licensed facility.

Be it enacted by the Legislature of West Virginia:

That §60-1-5 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 1. GENERAL PROVISIONS.

§60-1-5. Definitions.

1 For the purposes of this chapter:

2 “Alcohol” shall mean ethyl alcohol whatever its origin
3 and shall include synthetic ethyl alcohol but not denatured
4 alcohol.

5 “Beer” shall mean any beverage obtained by the
6 fermentation of barley, malt, hops or any other similar
7 product or substitute, and containing more alcohol than that
8 of nonintoxicating beer.

9 “Nonintoxicating beer” shall mean any beverage,
10 obtained by the fermentation of barley, malt, hops or similar
11 products or substitute, and containing not more alcohol than
12 that specified by section two, article sixteen, chapter eleven
13 of this code.

14 “Wine” shall mean any alcoholic beverage obtained by
15 the fermentation of the natural content of fruits, or other
16 agricultural products, containing sugar.

17 “Spirits” shall mean any alcoholic beverage obtained by
18 distillation and mixed with potable water and other
19 substances in solution, and includes brandy, rum, whiskey,
20 cordials and gin.

21 “Alcoholic liquor” shall include alcohol, beer, wine and
22 spirits, and any liquid or solid capable of being used as a
23 beverage, but shall not include nonintoxicating beer.

24 “Original package” shall mean any closed or sealed
25 container or receptacle used for holding alcoholic liquor.

26 “Sale” shall mean any transfer, exchange or barter in any
27 manner or by any means, for a consideration, and shall
28 include all sales made by principal, proprietor, agent or
29 employee.

30 “Selling” shall include solicitation or receipt of orders;
31 possession for sale; and possession with intent to sell.

32 “Person” shall mean an individual, firm, partnership,
33 limited partnership, corporation or voluntary association.

34 “Manufacture” means to distill, rectify, ferment, brew,
35 make, mix, concoct, process, blend, bottle or fill an original
36 package with any alcoholic liquor.

37 “Manufacturer” shall mean any person engaged in the
38 manufacture of any alcoholic liquor, and among others
39 includes a distiller, a rectifier, a wine maker and a brewer.

40 “Brewery” shall mean an establishment where beer is
41 manufactured or in any way prepared.

42 “Winery” shall mean an establishment where wine is
43 manufactured or in any way prepared.

44 “Distillery” shall mean an establishment where alcoholic
45 liquor other than wine or beer is manufactured or in any way
46 prepared.

47 “Public place” shall mean any place, building or
48 conveyance to which the public has, or is permitted to have
49 access, including restaurants, soda fountains, hotel dining
50 rooms, lobbies and corridors of hotels and any highway,
51 street, lane, park or place of public resort or amusement:

52 *Provided*, That the term “public place” shall not mean or
53 include any of the above-named places or any portion or
54 portions thereof which qualify and are licensed under the
55 provisions of this chapter to sell alcoholic liquors for
56 consumption on the premises: *Provided, however, That the*
57 term “public place” shall not mean or include a demarcated
58 dining area adjoining any portion or portions of a premises
59 that qualifies and is licensed under the provisions of this

60 chapter to sell alcoholic liquors for consumption

61 thereupon.

62 “State liquor store” shall mean a store established and
63 operated by the commission under this chapter for the sale of
64 alcoholic liquor in the original package for consumption off the
65 premises.

66 “An agency” shall mean a drugstore, grocery store or
67 general store designated by the commission as a retail
68 distributor of alcoholic liquor for the West Virginia Alcohol
69 Beverage Control Commissioner.

70 “Department” shall mean the organization through which
71 the commission exercises powers imposed upon it by this
72 chapter.

73 “Commissioner” or “commission” shall mean the West
74 Virginia Alcohol Beverage Control Commissioner.

75 “Intoxicated” shall mean having one’s faculties impaired
76 by alcohol or other drugs to the point where physical or
77 mental control or both are markedly diminished.

(NOTE: The purpose of this bill is to define “public place” to clarify that facilities duly licensed to sell alcoholic liquors on the premises may do so in demarcated outdoor dining areas adjoining the ABCA-licensed facility.

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