

COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 450**

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

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

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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.

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(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.)