

# **WEST VIRGINIA LEGISLATURE**

## **2016 REGULAR SESSION**

**Introduced**

### **Senate Bill 481**

BY SENATOR WALTERS

[Introduced February 2, 2016;

Referred to Committee on the Judiciary.]

1 A BILL to amend and reenact §60-4-3a of the Code of West Virginia, 1931, as amended, relating  
 2 to authorizing operators of a distillery or mini-distillery to offer for purchase and  
 3 consumption liquor on the premises if purchased and consumed at a restaurant operating  
 4 on the premises of the distillery or mini-distillery.

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

1 That §60-4-3a of the Code of West Virginia, 1931, as amended, be amended and  
 2 reenacted to read as follows:

**ARTICLE 4. LICENSES.**

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

1 (a) *Sales of liquor.* -- An operator of a distillery or a mini-distillery may offer liquor for retail  
 2 sale to customers from the distillery or the mini-distillery for consumption off premises only, unless  
 3 a restaurant is operating on the premises, in which case the restaurant may offer liquor for retail  
 4 sale and consumption at the restaurant. Except for free complimentary samples offered pursuant  
 5 to section one, article six of this chapter, and on premise restaurant sales for consumption on the  
 6 premises, customers are prohibited from consuming any liquor on the premises of the distillery or  
 7 the mini-distillery.

8 (b) *Retail sales.* -- Every licensed distillery or mini-distillery shall comply with the provisions  
 9 of sections nine, eleven, thirteen, sixteen, seventeen, eighteen, nineteen, twenty-two, twenty-  
 10 three, twenty-four, twenty-five and twenty-six, article three-a of this chapter and the provisions of  
 11 articles three and four of this chapter applicable to liquor retailers and distillers.

12 (c) *Payment of taxes and fees.* -- The distillery or mini-distillery shall pay all taxes and fees  
 13 required of licensed retailers and meet applicable licensing provisions as required by this chapter  
 14 and by rule of the commissioner, except for payments of the wholesale markup percentage and  
 15 the handling fee provided by rule of the commissioner: *Provided,* That all liquor for sale to  
 16 customers from the distillery or the mini-distillery for off-premises consumption shall be subject of  
 17 a five percent wholesale markup fee and an 80¢ per case bailment fee to be paid to the

18 commissioner: *Provided, however,* That no liquor sold by the distillery or mini-distillery shall be  
19 priced less than the price set by the commissioner pursuant to section seventeen, article three-a  
20 of this chapter.

21 (d) *Payments to market zone retailers.* -- Each distillery or mini-distillery shall submit to  
22 the commissioner two percent of the gross sales price of each retail liquor sale for the value of all  
23 sales at the distillery or the mini-distillery each month. This collection shall be distributed by the  
24 commissioner, at least quarterly, to each market zone retailer located in the distillery or mini-  
25 distillery's market zone, proportionate to each market zone retailer's annual gross prior years  
26 pretax value sales. The maximum amount of market zone payments that a distillery or mini-  
27 distillery shall be required to submit to the commissioner is \$15,000 per annum.

28 (e) *Limitations on licensees.* -- No distillery or mini-distillery may sell more than three  
29 thousand gallons of product at the distillery or mini-distillery location the initial two years of  
30 licensure. The distillery or mini-distillery may increase sales at the distillery or mini-distillery  
31 location by two thousand gallons following the initial twenty-four month period of licensure and  
32 may increase sales at the distillery or mini-distillery location each subsequent twenty-four month  
33 period by two thousand gallons, not to exceed ten thousand gallons a year of total sales at the  
34 distillery or mini-distillery location. No licensed mini-distillery may produce more than fifty  
35 thousand gallons per calendar year at the mini-distillery location. No more than one distillery or  
36 mini-distillery license may be issued to a single person or entity and no person may hold both a  
37 distillery and a mini-distillery license.

NOTE: The purpose of this bill is to authorize operators of a distillery or mini-distillery to offer for purchase and consumption liquor on the premises if purchased and consumed at a restaurant operating on the premises of the distillery or mini-distillery.

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