

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

House Bill 2803

2015 Carryover

(BY DELEGATES ESPINOSA, SKINNER, CAPUTO, FERRO,
MANCHIN, WESTFALL, UPSON, MILLER AND E. NELSON)

[Introduced January 13, 2016; referred to the
Committee on the Judiciary.]

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

Be it enacted by the Legislature of West Virginia:

1 That §60-4-3a and §60-4-3b of the Code of West Virginia, 1931, as amended, be amended
 2 and reenacted; and that §60-7-11 of said code be amended and reenacted, all 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.
 3 Except for free complimentary samples offered pursuant to section one, article six of this chapter,
 4 or sales for consumption offered under a valid private club license held by a mini-distillery
 5 pursuant to article seven, chapter sixty of this code, customers are prohibited from consuming
 6 any liquor on the premises of the distillery or the mini-distillery. Mini-distilleries that produce fifty
 7 thousand or more gallons of alcoholic liquor per year may not hold a private club license.

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,
10 twenty-three, twenty-four, twenty-five and twenty-six, article three-a of this chapter and the
11 provisions of articles three and four of this chapter applicable to liquor retailers and distillers:
12 Provided, That a licensed distillery or mini-distillery may offer complimentary samples for
13 consumption on premises and make retail sales of alcoholic liquors manufactured by that licensed
14 distillery or mini-distillery, for consumption off the premises on Sundays, beginning at ten thirty
15 o'clock a.m.

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

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

25 (e) *Limitations on licensees.* -- No distillery or mini-distillery may sell more than three
26 thousand gallons of product at the distillery or mini-distillery location the initial two years of
27 licensure. The distillery or mini-distillery may increase sales at the distillery or mini-distillery
28 location by two thousand gallons following the initial 24-month period of licensure and may
29 increase sales at the distillery or mini-distillery location each subsequent 24-month period by two
30 thousand gallons, not to exceed ten thousand gallons a year of total sales at the distillery or
31 mini-distillery location. No licensed mini-distillery may produce more than twenty thousand
32 gallons per calendar year at the mini-distillery location. No more than one distillery or

33 mini-distillery license may be issued to a single person or entity and no person may hold both a
34 distillery and a mini-distillery license.

§60-4-3b. Winery and farm winery license to manufacture and sell.

1 (a) *Sales of wine.* -- An operator of a winery or farm winery may offer wine produced by
2 the winery or farm winery for retail sale to customers from the winery or farm winery for
3 consumption off the premises only. Except for free complimentary samples offered pursuant to
4 section one, article six of this chapter, customers are prohibited from consuming any wine on the
5 premises of the winery or farm winery, unless such winery or farm winery has obtained a
6 multicapacity winery or farm winery license.

7 (b) *Retail sales.* -- Every licensed winery or farm winery shall comply with the provisions
8 of articles three, four and eight of this chapter as applicable to wine retailers, wineries and
9 suppliers when properly licensed in such capacities: Provided, That a licensed winery or farm
10 winery may offer complimentary samples for consumption on premises and make retail sales of
11 wine manufactured by that licensed winery or farm winery, for consumption off the premises on
12 Sundays, beginning at ten thirty o'clock a.m.

13 (c) *Payment of taxes and fees.* -- The winery or farm winery shall pay all taxes and fees
14 required of licensed wine retailers and meet applicable licensing provisions as required by this
15 chapter and by rule of the commissioner. Each winery or farm winery acting as its own supplier
16 shall submit to the Tax Commissioner the liter tax for all sales at the winery or farm winery each
17 month, as provided in article eight of this chapter.

18 (d) *Advertising.* -- A winery or farm winery may advertise a particular brand or brands of
19 wine produced by it, and the price of the wine subject to federal requirements or restrictions.

20 (e) *Limitations on licensees.* -- A winery or farm winery must maintain separate winery or
21 farm winery supplier, retailer and direct shipper licenses when acting in one or more of those

22 capacities, and must pay all associated license fees, unless such winery or farm winery holds a
 23 license issued pursuant to the provisions of subdivision (12), subsection (b), section three, article
 24 eight of this chapter. A winery or farm winery, if holding the appropriate licenses or a
 25 multicapacity winery or farm winery license, may act as its own supplier; retailer for off-premises
 26 consumption of its wine as specified in section two, article six of this chapter; private wine
 27 restaurant; and direct shipper for wine produced by the winery or farm winery. All wineries must
 28 use a distributor to distribute and sell their wine in the state, except for farm wineries. No more
 29 than one winery or farm winery license may be issued to a single person or entity, and no person
 30 may hold both a winery and a farm winery license.

ARTICLE 7. LICENSES TO PRIVATE CLUBS.

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

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

11 (2) A licensee may by contract approved by the commissioner receive deliveries of
 12 alcoholic liquor from a retail liquor store, and the provisions of sections twelve and thirteen, article

13 six of this chapter shall not apply to the transportation of that alcoholic liquor.

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

18 (c) Notwithstanding the provisions of section thirty, article fifteen, chapter eleven of this
19 code to the contrary, the amount of the sales taxes collected by the Tax Commissioner shall be
20 deposited in a revolving fund account in the State Treasurer's Office, designated the "Drunk
21 Driving Prevention Fund", and administered by the commission on drunk driving prevention,
22 subject to appropriations by the Legislature.

NOTE: The purpose of this bill is to permit the retail sale of wine produced by licensed wineries and farm wineries at the 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 at the licensed distillery or mini-distillery 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 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 mini-distillery.

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