

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

Senate Bill 290

FISCAL
NOTE

BY SENATORS WELD, STOLLINGS, TAKUBO AND RUCKER

[Introduced February 14, 2017; Referred
to the Committee on Economic Development; and
then to the 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 licensed Class A
4 private club operating on the premises of the distillery or mini-distillery; and allowing
5 distilleries and mini-distilleries to sell and serve alcohol beginning at 10:00 a.m. on
6 Sundays.

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 licensed Class A private club operating pursuant to article seven of this chapter is operating on
4 the premises, in which case the licensed Class A private club may offer liquor for retail sale and
5 consumption on premises. Except for free complimentary samples offered pursuant to section
6 one, article six of this chapter, and in on-premise Class A private club operations, customers are
7 prohibited from consuming any liquor on the premises of the distillery or the mini-distillery:
8 *Provided,* That a licensed distillery or mini-distillery may offer complimentary samples per this
9 subsection of alcoholic liquors manufactured by that licensed distillery or mini-distillery for
10 consumption on the premises only on Sundays beginning at ten o'clock a.m. in any county in
11 which the same has been approved as provided for in section three-pp, article one, chapter seven
12 of this code.

13 (b) *Retail sales.* — Every licensed distillery or mini-distillery shall comply with the
14 provisions of sections nine, eleven, thirteen, sixteen, seventeen, eighteen, nineteen, twenty-two,
15 twenty-three, twenty-four, twenty-five and twenty-six, article three-a of this chapter and the

16 provisions of articles three and four of this chapter applicable to liquor retailers and distillers:
17 Provided, That a licensed distillery or mini-distillery may offer samples as provided in subsection
18 (a) of this section and make retail sales of alcoholic liquors manufactured by that licensed distillery
19 or mini-distillery for consumption off the premises on Sundays beginning at 1:00 p.m. or at 10:00
20 a.m. if the county or municipality in which the business is located permits the sale of alcohol on
21 Sundays beginning at that time.

22 (c) *Payment of taxes and fees.* — The distillery or mini-distillery shall pay all taxes and
23 fees required of licensed retailers and meet applicable licensing provisions as required by this
24 chapter and by rule of the commissioner, except for payments of the wholesale markup
25 percentage and the handling fee provided by rule of the commissioner: *Provided, That all liquor*
26 *for sale to customers from the distillery or the mini-distillery for off-premises consumption shall be*
27 *subject of a five percent wholesale markup fee and an 80 cents per case bailment fee to be paid*
28 *to the commissioner: Provided, however, That no liquor sold by the distillery or mini-distillery shall*
29 *be priced less than the price set by the commissioner pursuant to section seventeen, article three-*
30 *a of this chapter.*

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

38 (e) *Limitations on licensees.* — No distillery or mini-distillery may sell more than three
39 thousand gallons of product at the distillery or mini-distillery location the initial two years of
40 licensure. The distillery or mini-distillery may increase sales at the distillery or mini-distillery
41 location by two thousand gallons following the initial twenty-four-month period of licensure and

42 may increase sales at the distillery or mini-distillery location each subsequent twenty-four-month
43 period by two thousand gallons, not to exceed ten thousand gallons a year of total sales at the
44 distillery or mini-distillery location. No licensed mini-distillery may produce more than fifty
45 thousand gallons per calendar year at the mini-distillery location. No more than one distillery or
46 mini-distillery license may be issued to a single person or entity and no person may hold both a
47 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 on Sundays beginning at 10:00 a.m.

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