

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

House Bill 2433

BY DELEGATES BLAIR AND GEARHEART

[Introduced February 14, 2017; Referred

to the Committee on Small Business,

Entrepreneurship and Economic Development then

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 provided in subsection (a)
18 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 10:00 a.m.

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

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

36 (e) *Limitations on licensees.* — No distillery or mini-distillery may sell more than three
37 thousand gallons of product at the distillery or mini-distillery location the initial two years of
38 licensure. The distillery or mini-distillery may increase sales at the distillery or mini-distillery
39 location by two thousand gallons following the initial twenty-four-month period of licensure and
40 may increase sales at the distillery or mini-distillery location each subsequent twenty-four-month
41 period by two thousand gallons, not to exceed ten thousand gallons a year of total sales at the

42 distillery or mini-distillery location. No licensed mini-distillery may produce more than fifty
43 thousand gallons per calendar year at the mini-distillery location. No more than one distillery or
44 mini-distillery license may be issued to a single person or entity and no person may hold both a
45 distillery and a mini-distillery license.

NOTE: The purpose of this bill is to allow a distillery or mini-distillery to offer liquor for retail sale and consumption on or off the premises if a licensed Class A private club is operating on the premises.

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