

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

House Bill 3099

BY DELEGATES PUSHKIN, CRISS, ESTEP-BURTON,

ROBINSON, FLUHARTY, SKAFF AND PYLES

[Introduced February 12, 2019; Referred
to the Committee on Government Organization.]

1 A BILL to amend and reenact §60-4-3a of the Code of West Virginia, 1931, as amended, relating
2 to eliminating payments to the Alcohol Beverage Control Commissioner from distilleries
3 and mini-distilleries that the commissioner distributes to market zone retailers.

Be it enacted by the Legislature of West Virginia:

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. Except
3 for free complimentary samples offered pursuant to §60-6-1 of this code, customers are prohibited
4 from consuming any liquor on the premises of the distillery or the mini-distillery: *Provided,* That a
5 licensed distillery or mini-distillery may offer complimentary samples per this subsection of
6 alcoholic liquors manufactured by that licensed distillery or mini-distillery for consumption on the
7 premises only on Sundays beginning at 10 o'clock a.m. in any county in which the same has been
8 approved as provided for in §7-1-3pp of this code.

9 (b) *Retail sales.* — Every licensed distillery or mini-distillery shall comply with the
10 provisions of §60-3A-9, §60-3A-11, §60-3A-13, §60-3A-16, §60-3A-17, §60-3A-18, §60-3A-19,
11 §60-3A-22, §60-3A-23, §60-3A-24, §60-3A-25, and §60-3A-26 of this code applicable to liquor
12 retailers and distillers.

13 (c) *Payment of taxes and fees.* — The distillery or mini-distillery shall pay all taxes and
14 fees required of licensed retailers and meet applicable licensing provisions as required by this
15 chapter and by rule of the commissioner, except for payments of the wholesale markup
16 percentage and the handling fee provided by rule of the commissioner: *Provided,* That all liquor
17 for sale to customers from the distillery or the mini-distillery for off-premises consumption shall be
18 subject of a five percent wholesale markup fee and an 80 cents per case bailment fee to be paid
19 to the commissioner: *Provided, however,* That no liquor sold by the distillery or mini-distillery shall
20 be priced less than the price set by the commissioner pursuant to §60-3A-17 of this code.

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) (d) *Limitations on licensees.* — No distillery or mini-distillery may sell more than 3,000~~
29 ~~gallons of product at the distillery or mini-distillery location the initial two years of licensure. The~~
30 ~~distillery or mini-distillery may increase sales at the distillery or mini-distillery location by 2,000~~
31 ~~gallons following the initial 24-month period of licensure and may increase sales at the distillery~~
32 ~~or mini-distillery location each subsequent 24-month period by 2,000 gallons, not to exceed~~
33 ~~10,000 gallons a year of total sales at the distillery or mini-distillery location. No licensed mini-~~
34 ~~distillery may produce more than 50,000 gallons per calendar year at the mini-distillery location.~~
35 ~~No more than one distillery or mini-distillery license may be issued to a single person or entity and~~
36 ~~no person may hold both a distillery and a mini-distillery license.~~

NOTE: The purpose of this bill is to eliminate certain payments to the Alcohol Beverage Control Commissioner from distilleries and mini-distilleries that the commissioner distributes to market zone retailers.

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