

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 2010

BY DELEGATES HOWELL, CAPITO, L. PACK, REYNOLDS,

CLARK, LINVILLE, ESPINOSA, AND STORCH

[Introduced February 10, 2021; Referred to the
Committee on Government Organization]

1 A BILL to amend and reenact §11-16-9 of the Code of West Virginia, 1931, as amended; and to
2 amend and reenact §60-8-3 of said code, all relating to sales of nonintoxicating beer and
3 wine; providing for sales of nonintoxicating beer for off premises consumption; providing
4 that nonintoxicating beer sold for off premises consumption must meet certain
5 requirements; providing that the commissioner may not require a separate, additional
6 license or an additional fee for licensees to sell nonintoxicating beer for off premises
7 consumption; providing that the commissioner may not require a separate, additional
8 license or an additional fee for licensees to sell wine for off premises consumption.

Be it enacted by the Legislature of West Virginia:

CHAPTER 11. TAXATION

ARTICLE 16. NONINTOXICATING BEER.

§11-16-9. Amount of license tax; Class A and Class B retail dealers; purchase and sale of nonintoxicating beer permitted; distributors; brewers; brewpubs.

1 (a) All retail dealers, distributors, brewpubs, brewers and resident brewers of
2 nonintoxicating beer and of nonintoxicating craft beer shall pay an annual fee to maintain an active
3 license as required by this article. The license period begins on July 1 of each year and ends on
4 June 30 of the following year. If the license is granted for a shorter period, then the license fee
5 shall be computed semiannually in proportion to the remainder of the fiscal year: *Provided, That*
6 if a licensee fails to complete a renewal application and make payment of its annual license fee
7 in renewing its license on or before June 30 of any subsequent year, after initial application, then
8 an additional \$150 reactivation fee shall be charged and paid by the licensee; the fee may not be
9 prorated or refunded, prior to the processing of any renewal application and applicable full year
10 annual license fee; and furthermore a licensee who continues to operate upon the expiration of
11 its license is subject to all fines, penalties and sanctions available in §11-16-23 of this code, all
12 as determined by the commissioner.

13 (b) The annual license fees are as follows:

14 (1) Retail dealers shall be divided into two classes: Class A and Class B.

15 (A) For a Class A retail dealer, the license fee is \$150 for each place of business; the
16 license fee for social, fraternal or private clubs not operating for profit, and having been in
17 continuous operation for two years or more immediately preceding the date of application, is \$150:
18 *Provided*, That railroads operating in this state may dispense nonintoxicating beer upon payment
19 of an annual license tax of \$10 for each dining, club or buffet car in which the beer is dispensed.

20 Class A licenses issued for railroad dining, club or buffet cars authorize the licensee to
21 sell nonintoxicating beer at retail for consumption only on the licensed premises where sold. All
22 other Class A licenses authorize the licensee to sell nonintoxicating beer at retail for consumption
23 on or off the licensed premises. Sale of such nonintoxicating beer for off-premises consumption
24 shall be in sealed original containers, such as bottles or cans, subject to age verification during
25 the stated hours of operation and such sales by Class A licensees may include hard cider. The
26 commissioner may not require a separate, additional license or an additional fee from any Class
27 A licensee relating to sales of nonintoxicating beer for off premises consumption.

28 (B) For a Class B retail dealer, the license fee, authorizing the sale of both chilled and
29 unchilled beer, is \$150 for each place of business. A Class B license authorizes the licensee to
30 sell nonintoxicating beer at retail in bottles, cans or other sealed containers only, and only for
31 consumption off the licensed premises. A Class B retailer may sell to a patron, for personal use
32 and not for resale, quantities of draught beer in original containers that are no larger in size than
33 one-half barrel for off-premises consumption.

34 A Class B license may be issued only to the proprietor or owner of a grocery store. For
35 the purpose of this article, the term "grocery store" means any retail establishment commonly
36 known as a grocery store or delicatessen, and caterer or party supply store, where food or food
37 products are sold for consumption off the premises, and includes a separate and segregated
38 portion of any other retail store which is dedicated solely to the sale of food, food products and

39 supplies for the table for consumption off the premises. Caterers or party supply stores are
40 required to purchase the appropriate licenses from the Alcohol Beverage Control Administration.

41 (2) For a distributor, the license fee is \$1,000 for each place of business.

42 (3) For a brewer or a resident brewer with its principal place of business or manufacture
43 located in this state and who produces:

44 (A) Twelve thousand five hundred barrels or less of nonintoxicating beer or nonintoxicating
45 craft beer, the license fee is \$500 for each place of manufacture;

46 (B) Twelve thousand five hundred one barrels and up to 25,000 barrels of nonintoxicating
47 beer or nonintoxicating craft beer, the license fee is \$1,000 for each place of manufacture;

48 (C) More than 25,001 barrels of nonintoxicating beer or nonintoxicating craft beer, the
49 license fee is \$1,500 for each place of manufacture.

50 (4) For a brewer whose principal place of business or manufacture is not located in this
51 state, the license fee is \$1,500. The brewer is exempt from the requirements set out in subsections
52 (c), (d) and (e) of this section: *Provided*, That a brewer whose principal place of business or
53 manufacture is not located in this state that produces less than 25,000 barrels of nonintoxicating
54 beer or nonintoxicating craft beer may choose to apply, in writing, to the commissioner to be
55 subject to the variable license fees of subdivision (3), subsection (b) of this section and the
56 requirements set out in subsections (c), (d) and (e) of this section subject to investigation and
57 approval by the commissioner as to brewer requirements.

58 (5) For a brewpub, the license fee is \$500 for each place of manufacture.

59 (c) As part of the application or renewal application and in order to determine a brewer or
60 resident brewer's license fee pursuant to this section, a brewer or resident brewer shall provide
61 the commissioner, on a form provided by the commissioner, with an estimate of the number of
62 nonintoxicating beer or nonintoxicating craft beer barrels and gallons it will produce during the
63 year based upon the production capacity of the brewer's or resident brewer's manufacturing
64 facilities, and the prior year's production and sales volume of nonintoxicating beer or

65 nonintoxicating craft beer.

66 (d) On or before July 15 of each year, every brewer or resident brewer who is granted a
67 license shall file a final report, on a form provided by the commissioner, that is dated as of June
68 30 of each year, stating the actual volume of nonintoxicating beer or nonintoxicating craft beer in
69 barrels and gallons produced at its principal place of business and manufacture during the prior
70 year.

71 (e) If the actual total production of nonintoxicating beer or nonintoxicating craft beer by the
72 brewer or resident brewer exceeded the brewer's or resident brewer's estimate that was filed with
73 the application or renewal for a brewer's or resident brewer's license for that period, then the
74 brewer or resident brewer shall include a remittance for the balance of the license fee pursuant
75 to this section that would be required for the final, higher level of production.

76 (f) Any brewer or resident brewer failing to file the reports required in subsections (c) and
77 (d) of this section, and who is not exempt from the reporting requirements, shall, at the discretion
78 of the commissioner, be subject to the penalties set forth in §11-16-23 of this code.

79 (g) Notwithstanding subsections (a) and (b) of this section, the license fee per event for a
80 nonintoxicating beer floor plan extension is \$100, and the fee may not be prorated or refunded,
81 and must be accompanied with a license application, certification that the event meets certain
82 requirements in the code and rules, and such other information as the commissioner may
83 reasonably require, at least 15 days prior to the event, all as determined by the commissioner.

CHAPTER 60. STATE CONTROL OF ALCOHOLIC LIQUORS.

ARTICLE 8. SALE OF WINES.

§60-8-3. Licenses; fees; general restrictions.

1 (a) No person may engage in business in the capacity of a winery, farm winery, supplier,
2 distributor, retailer, private wine bed and breakfast, private wine restaurant, private wine spa, or
3 wine specialty shop without first obtaining a license from the commissioner, nor shall a person

4 continue to engage in any activity after his or her license has expired, been suspended, or
5 revoked. No person may be licensed simultaneously as a distributor and a retailer. No person,
6 except for a winery or farm winery, may be licensed simultaneously as a supplier and a retailer.
7 No person may be licensed simultaneously as a supplier and a private wine bed and breakfast,
8 private wine restaurant, or a private wine spa. No person may be licensed simultaneously as a
9 distributor and a private wine bed and breakfast, a private wine restaurant, or a private wine spa.
10 No person may be licensed simultaneously as a retailer and a private wine bed and breakfast, a
11 private wine restaurant, or a private wine spa.

12 (b) The commissioner shall collect an annual fee for licenses issued under this article as
13 follows:

14 (1) One hundred fifty dollars per year for a supplier's license;

15 (2) Two thousand five hundred dollars per year for a distributor's license and each
16 separate warehouse or other facility from which a distributor sells, transfers, or delivers wine shall
17 be separately licensed and there shall be collected with respect to each location the annual
18 license fee of \$2,500 as provided in this subdivision;

19 (3) One hundred fifty dollars per year for a retailer's license;

20 (4) Two hundred fifty dollars per year for a wine specialty shop license, in addition to any
21 other licensing fees paid by a winery or retailer holding a license. Except for the amount of the
22 license fee and the restriction to sales of winery or farm winery wines, a winery, or farm winery
23 acting as a wine specialty shop retailer is subject to all other provisions of this article which are
24 applicable to a wine specialty shop retailer as defined in §60-8-2 of this code;

25 (5) One hundred fifty dollars per year for a wine tasting license;

26 (6) One hundred fifty dollars per year for a private wine bed and breakfast license. Each
27 separate bed and breakfast from which a licensee sells wine shall be separately licensed and
28 there shall be collected with respect to each location the annual license fee of \$150 as provided
29 in this subdivision;

30 (7) Two hundred fifty dollars per year for a private wine restaurant license. Each separate
31 restaurant from which a licensee sells wine shall be separately licensed and there shall be
32 collected with respect to each location the annual license fee of \$250 as provided in this
33 subdivision;

34 (8) One hundred fifty dollars per year for a private wine spa license. Each separate private
35 wine spa from which a licensee sells wine shall be separately licensed and there shall be collected
36 with respect to each location the annual license fee of \$150 as provided in this subdivision;

37 (9) One hundred fifty dollars per year for a wine sampling license issued for a wine
38 specialty shop under subsection (n) of this section;

39 (10) No fee shall be charged for a special one-day license under subsection (p) of this
40 section or for a heritage fair and festival license under subsection (q) of this section;

41 (11) One hundred fifty dollars per year for a direct shipper's license for a licensee who
42 sells and ships only wine and \$250 per for a direct shipper's license who ships and sells wine,
43 nonfortified dessert wine, port, sherry, or Madeira wines; and

44 (12) Three hundred dollars per year for a multicapacity winery or farm winery license which
45 enables the holder to operate as a retailer, wine specialty shop, supplier, and direct shipper
46 without obtaining an individual license for each capacity.

47 (c) The license period begins on July 1 of each year and ends on June 30 of the following
48 year and if granted for a less period, the same shall be computed semiannually in proportion to
49 the remainder of the fiscal year.

50 (d) No retailer may be licensed as a private club as provided by §60-7-1 *et seq.* of this
51 code, except as provided by subsection (k) of this section.

52 (e) No retailer may be licensed as a Class A retail dealer in nonintoxicating beer as
53 provided by §11-16-1 *et seq.* of this code: *Provided*, That a delicatessen, a caterer, or party supply
54 store which is a grocery store as defined in §60-8-2 of this code and which is licensed as a Class
55 A retail dealer in nonintoxicating beer may be a retailer under this article: *Provided, however*, That

56 any delicatessen, caterer, or party supply store licensed in both capacities must maintain average
57 monthly sales exclusive of sales of wine and nonintoxicating beer which exceed the average
58 monthly sales of nonintoxicating beer.

59 (f) A wine specialty shop under this article may also hold a wine tasting license authorizing
60 the retailer to serve complimentary samples of wine in moderate quantities for tasting. Such wine
61 specialty shop shall organize a wine taster's club, which has at least 50 duly elected or approved
62 dues-paying members in good standing. Such club shall meet on the wine specialty shop's
63 premises not more than one time per week and shall either meet at a time when the premises are
64 closed to the general public or shall meet in a separate segregated facility on the premises to
65 which the general public is not admitted. Attendance at tastings shall be limited to duly elected or
66 approved dues-paying members and their guests.

67 (g) A retailer who has more than one place of retail business shall obtain a license for
68 each separate retail establishment. A retailer's license may be issued only to the proprietor or
69 owner of a bona fide grocery store or wine specialty shop.

70 (h)(1) The commissioner may issue a license for the retail sale of wine at any festival or
71 fair which is endorsed or sponsored by the governing body of a municipality or a county
72 commission. Such license shall be issued for a term of no longer than 10 consecutive days and
73 the fee for the license shall be \$250 regardless of the term of the license. The application for the
74 license shall contain information required by the commissioner and shall be submitted to the
75 commissioner at least 30 days prior to the first day when wine is to be sold at the festival or fair.

76 (2) Notwithstanding subdivision (1) of this subsection, if the applicant for the festival or fair
77 license is the manufacturer of said wine, a winery, or a farm winery as defined in §60-1-5a of this
78 code, and the event is located on the premises of a winery or a farm winery, then the license fee
79 is \$50 per festival or fair.

80 (3) A licensed winery or a farm winery, which has the festival or fair licensee's written
81 authorization and approval from the commissioner, may, in addition to or in conjunction with the

82 festival and fair licensee, exhibit, conduct complimentary tastings, or sell samples not to exceed
83 three, two-fluid ounce, tastings or samples per patron, for consumption on the premises during
84 the operation of a festival or fair only; and may sell wine for off-premises consumption only:
85 *Provided*, That for licensed wineries or farm wineries at a licensed festival or fair the tastings,
86 samples and off-premises sales shall occur under the hours of operation as required in this article,
87 except on Sunday, tastings, samples, and off-premises sales are unlawful between the hours of
88 2:00 a.m. and 10:00 a.m.

89 (4) A festival or fair license may be issued to a "wine club" as defined in this subdivision
90 for a license fee of \$250. The festival or fair committee or the governing body shall designate a
91 person to organize a club under a name which includes the name of the festival or fair and the
92 words "wine club". The license shall be issued in the name of the wine club. A licensee may not
93 commence the sale of wine as provided in this subdivision until the wine club has at least 50 dues-
94 paying members who have been enrolled, and to whom membership cards have been issued.
95 Thereafter, new members may be enrolled and issued membership cards at any time during the
96 period for which the license is issued. A wine club licensed under the provisions of this subdivision
97 may sell wine only to its members, and in portions not to exceed eight ounces per serving. The
98 sales shall take place on premises or in an area cordoned or segregated so as to be closed to
99 the general public, and the general public shall not be admitted to the premises or area. A wine
100 club licensee under the provisions of this subdivision may serve complimentary samples of wine
101 in moderate quantities for tasting. A wine club may not make wine purchases from a direct shipper
102 where the wine may be consumed on the licensed premises of any Class A private wine retail
103 license or private club. A wine club which violates the provisions of this subdivision is subject to
104 the penalties in this article.

105 (5) A licensed winery or farm winery approved to participate in a festival or fair under the
106 provisions of this section and the licensee holding the license, or the licensed winery or farm
107 winery approved to attend a licensed festival or fair, is subject to all other provisions of this article

108 and the rules and orders of the commissioner relating to the license: *Provided*, That the
109 commissioner may by rule or order provide for certain waivers or exceptions with respect to the
110 provisions, rules, or orders as the circumstances of each festival or fair may require, including,
111 without limitation, the right to revoke or suspend any license issued pursuant to this section prior
112 to any notice or hearing notwithstanding the provisions §60-8-27 and §60-8-28 of this code:
113 *Provided, however*, That under no circumstances shall the provisions of §60-8-20(c) or §60-8-
114 20(d) of this code be waived nor shall any exception be granted with respect to those subsections.

115 (6) A license issued under the provisions of this section and the licensee holding the
116 license are not subject to the provisions of subsection (g) of this section.

117 (7) An unlicensed winery temporarily licensed and meeting the requirements set forth in
118 subsection (q) of this section may conduct the same sampling and sales set forth in subsection
119 (q) of this section at a licensed fair and festival upon approval of the licensee holding the fair and
120 festival license and temporary and limited licensure by the commissioner. An unlicensed winery
121 shall be subject to the same limits, fees, requirements, restrictions and penalties set forth in
122 subsection (q) of this section: *Provided*, That the commissioner may by rule or order provide for
123 certain waivers or exceptions with respect to the provisions, rules, or orders as the circumstances
124 of each festival or fair may require, including, without limitation, the right to revoke or suspend any
125 license issued pursuant to this section prior to any notice or hearing notwithstanding the
126 provisions §60-8-27 and §60-8-28 of this code: *Provided, however*, That under no circumstances
127 shall the provisions of §60-8-20(c) or §60-8-20(d) of this code be waived nor shall any exception
128 be granted with respect to those subsections.

129 (i)(1) The commissioner may issue a special license for the retail sale of wine in a
130 professional baseball stadium. A license to sell wine granted pursuant to this subsection entitles
131 the licensee to sell and serve wine, for consumption in a professional baseball stadium. For the
132 purpose of this subsection, "professional baseball stadium" means a facility constructed primarily
133 for the use of a major or minor league baseball franchisee affiliated with the National Association

134 of Professional Baseball Leagues, Inc., or its successor, and used as a major or minor league
135 baseball park. Any special license issued pursuant to this subsection shall be for a term beginning
136 on the date of issuance and ending on the next following June 30, and its fee is \$250 regardless
137 of the length of the term of the license. The application for the special license shall contain
138 information required by the commissioner and must be submitted to the commissioner at least 30
139 days prior to the first day when wine is to be sold at the professional baseball stadium. The special
140 license may be issued in the name of the baseball franchisee or the name of the primary food and
141 beverage vendor under contract with the baseball franchisee. These sales must take place within
142 the confines of the professional baseball stadium. The exterior of the area where wine sales may
143 occur must be surrounded by a fence or other barrier prohibiting entry except upon the
144 franchisee's express permission, and under the conditions and restrictions established by the
145 franchisee, so that the wine sales area is closed to free and unrestricted entry by the general
146 public.

147 (2) A license issued under this subsection and the licensee holding the license are subject
148 to all other provisions of this article and the rules and orders of the commissioner relating to the
149 special license: *Provided*, That the commissioner may by rule or order grant certain waivers or
150 exceptions to those rules or orders as the circumstances of each professional baseball stadium
151 may require, including, without limitation, the right to revoke or suspend any license issued
152 pursuant to this section prior to any notice or hearing notwithstanding §60-8-27 and §60-8-28 of
153 this code; and *Provided, however*, That under no circumstances may §60-8-20(c) or §60-8-20(d)
154 of this code be waived nor shall any exception be granted concerning those subsections.

155 (3) The commissioner may propose rules for promulgation in accordance with §29A-3-1
156 *et seq.* of this code to implement this subsection.

157 (j) A license to sell wine granted to a private wine bed and breakfast, private wine
158 restaurant, private wine spa, or a private club under the provisions of this article entitles the
159 operator to sell and serve wine, for consumption on the premises of the licensee, when the sale

160 accompanies the serving of food or a meal to its members and their guests in accordance with
161 the provisions of this article: *Provided*, That a licensed private wine bed and breakfast, private
162 wine restaurant, private wine spa, or a private club may permit a person over 21 years of age to
163 purchase wine, consume wine, and recork or reseal, using a tamper resistant cork or seal, up to
164 two separate bottles of unconsumed wine in conjunction with the serving of food or a meal to its
165 members and their guests in accordance with the provisions of this article and in accordance with
166 rules promulgated by the commissioner for the purpose of consumption of said wine off premises;
167 *Provided, however*, That for this article, food or a meal provided by the private licensee means
168 that the total food purchase, excluding beverage purchases, taxes, gratuity, or other fees is at
169 least \$15; and *Provided further*, That a licensed private wine restaurant or a private club may offer
170 for sale, for consumption off the premises, sealed bottles of wine to its customers provided that
171 no more than one bottle is sold per each person over 21 years of age, as verified by the private
172 wine restaurant or private club, for consumption off the premises. Such licensees are authorized
173 to keep and maintain on their premises a supply of wine in quantities appropriate for the conduct
174 of operations thereof. Any sale of wine is subject to all restrictions set forth in §60-8-20 of this
175 code. A private wine restaurant may also be licensed as a Class A retail dealer in nonintoxicating
176 beer as provided by §11-16-1 *et seq.* of this code.

177 (k) With respect to subsections (h), (i), (j), (o), and (p) of this section, the commissioner
178 shall propose rules for promulgation in accordance with §29A-1-1 *et seq.* of this code, including,
179 but not limited to, the form of the applications and the suitability of both the applicant and location
180 of the licensed premises: *Provided*, That no rule shall require a separate, additional license or an
181 additional fee relating to wine sales for off premises consumption.

182 (l) The commissioner shall propose rules for promulgation in accordance with the
183 provisions of §29A-1-1 *et seq.* of this code to allow restaurants, or qualifying private clubs, to
184 serve wine with meals, and to sell wine by the bottle for off-premises consumption as provided in
185 subsection (j) of this section. ~~Each licensed restaurant shall be charged an additional \$100 per~~

186 ~~year fee~~

187 (m) The commissioner shall establish guidelines to permit wines to be sold in all stores
188 licensed for retail sales.

189 (n) Wineries and farm wineries may advertise off premises as provided in §17-22-7 of this
190 code.

191 (o) A wine specialty shop under this article may also hold a wine sampling license
192 authorizing the wine specialty shop to conduct special wine sampling events at a licensed wine
193 specialty shop location during regular hours of business. The wine specialty shop may serve up
194 to three complimentary samples of wine, consisting of no more than two fluid ounces each, to any
195 one consumer in one day. Persons serving the complimentary samples must be 21 years of age
196 and an authorized representative of the licensed wine specialty shop, winery, farm winery, or a
197 representative of a distributor or registered supplier. Distributor and supplier representatives
198 attending wine sampling events must be registered with the commissioner. No licensee,
199 employee, or representative may furnish, give, sell, or serve complimentary samples of wine to
200 any person less than 21 years of age or to a person who is physically incapacitated due to the
201 consumption of alcoholic liquor or the use of drugs. The wine specialty shop shall notify and
202 secure permission from the commissioner for all wine sampling events one month prior to the
203 event. Wine sampling events may not exceed six hours per calendar day. Licensees must
204 purchase all wines used during these events from a licensed farm winery or a licensed distributor.

205 (p) The commissioner may issue special one-day licenses to duly organized, nonprofit
206 corporations and associations allowing the sale and serving of wine, and may, if applicable, also
207 allow the charitable auctioning of certain sealed bottles of wine for off-premises consumption only,
208 when raising money for athletic, charitable, educational, or religious purposes. "Auction or
209 auctioning", for the purposes of this subsection, means any silent, physical act, or verbal bid
210 auction, whether or not such auction requires in-presence bidding or online Internet-based
211 electronic bidding through a secure application or website, but shall not include any action in

212 violation of §47-20-10, §47-20-11, or §61-10-1 *et seq.* of this code. The license application shall
213 contain information required by the commissioner and shall be submitted to the commissioner at
214 least 30 days prior to the event. Wines used during these events may be donated by, or purchased
215 from, a licensed retailer, a distributor, winery, or a farm winery. A licensed winery or farm winery
216 which is authorized in writing by a representative of the duly organized, nonprofit corporation and
217 association which has obtained the one-day license; is in good standing with the state; and obtains
218 the commissioner's approval prior to the one-day license event may, in conjunction with the one-
219 day licensee, exhibit, conduct complimentary tastings, or sell samples not to exceed three, two-
220 fluid ounce tastings or samples per patron, for consumption on the premises during the operation
221 of the one-day license event; and may sell certain sealed wine bottles manufactured by the
222 licensed winery or farm winery for off-premises consumption: *Provided*, That for a licensed winery
223 or farm winery at a licensed one-day event, the tastings, samples and off-premises sales shall
224 occur under the hours of operation as required in this article, except on Sunday, tastings, samples,
225 and off-premises sales are unlawful between the hours of 2:00 a.m. and 10:00 a.m., from the one-
226 day licensee's submitted floor plan for the event subject to the requirements in the code and rules.
227 Under no circumstances may the provisions of §60-8-20(c) or §60-8-20(f) of this code be waived
228 nor may any exception be granted with respect to those subsections. No more than six licenses
229 may be issued to any single licensee during any calendar year.

230 (q)(1) In addition to the authorization granted to licensed wineries and farm wineries in
231 sub-sections (h) and (p), an unlicensed winery, regardless of its designation in another state, but
232 that is duly licensed in its domicile state, may pay a \$150 nonrefundable and nonprorated fee and
233 submit an application for temporary licensure on a one-day basis for temporary sampling and sale
234 of wine in sealed containers for off-premises consumption at a special one-day license nonprofit
235 event.

236 (2) The application shall include, but is not limited to, the person or entity's name, address,
237 taxpayer identification number, and location; a copy of its licensure in its domicile state; a signed

238 and notarized verification that it produces 50,000 gallons or less of wine per year; a signed and
239 notarized verification that it is in good standing with its domicile state; copies of its federal
240 certificate of label approvals and certified lab alcohol analysis for the wines it desires to
241 temporarily provide samples and temporarily sell wine in sealed containers for off-premises
242 consumption at a special one-day license for a nonprofit event issued under sub-section (p); and
243 such other information as the commissioner may reasonably require.

244 (3) The applicant winery shall include a list of all wines proposed to be temporarily sampled
245 and temporarily sold in sealed containers at a special one-day license for a nonprofit event so
246 that the wines may be reviewed in the interest of public health and safety. Once approved, the
247 submitted wine list will create a temporary wine brand registration for up to two special one-day
248 license for a nonprofit event for no additional fee.

249 (4) An applicant winery that receives this temporary special one-day license for a nonprofit
250 event will provide a signed and notarized agreement where the applicant winery agrees to pay all
251 municipal, local, and sales taxes applicable to the sale of wine in West Virginia.

252 (5) An application must be submitted per special one-day license for a nonprofit event the
253 applicant winery desires to attend, and the license fee shall cover up to two special one-day
254 license for nonprofit events before an additional fee would be paid. In no circumstance would such
255 a winery be permitted to attend more than four special one-day license for nonprofit events per
256 year. Any such applicant or unlicensed winery desiring to attend more than four special one-day
257 license for nonprofit events per year or otherwise operate in West Virginia would need to seek
258 appropriate licensure as a winery or a farm winery in this state.

259 (6) Notwithstanding the provisions of this article and requirements for licensure, wine
260 brand registration, payment of wine liter tax, and the winery's appointment of suppliers and
261 distributors, this temporary special one-day license for a nonprofit event, once granted, permits
262 such a winery to operate in this limited capacity only at the approved specific, special one-day
263 license for a nonprofit event subject to the limitations noted in this section.

264 (7) The applicant winery will need to further apply for and receive a transportation permit
265 in order to legally transport wine in the state per §60-6-12 of this code.

266 (8) The applicant winery is subject to all applicable violations and/or penalties under this
267 article and the legislative rules that is not otherwise excepted by this sub-section: *Provided*, That
268 the commissioner may by rule or order provide for certain waivers or exceptions with respect to
269 the provisions, rules, or orders as the circumstances of each festival or fair may require, including,
270 without limitation, the right to revoke or suspend any license issued pursuant to this section prior
271 to any notice or hearing notwithstanding the provisions §60-8-27 and §60-8-28 of this code:
272 *Provided, however*, That under no circumstances shall the provisions of §60-8-20(c) or §60-8-
273 20(d) of this code be waived nor shall any exception be granted with respect to those subsections.

274 (r) The commissioner may issue special licenses to heritage fairs and festivals allowing
275 the sale, serving, and sampling of wine from a licensed farm winery. The license application shall
276 contain information required by the commissioner and shall be submitted to the commissioner at
277 least 30 days prior to the event. Wines used during these events may be donated by or purchased
278 from a licensed farm winery. Under no circumstances may the provision of §60-8-20(c) of this
279 code be waived nor may any exception be granted with respect thereto. The commissioner shall
280 propose rules for legislative approval in accordance with §29A-3-1 *et seq.* of this code to
281 implement the provisions of this subsection.

282 (s)(1) The commissioner may issue a special license for the retail sale of wine in a college
283 stadium. A license to sell wine granted pursuant to this subsection entitles the licensee to sell and
284 serve wine for consumption in a college stadium. For the purpose of this subsection, "college
285 stadium" means a facility constructed primarily for the use of a Division I, II, or III college that is a
286 member of the National Collegiate Athletic Association, or its successor, and used as a football,
287 basketball, baseball, soccer, or other Division I, II, or III sports stadium. A special license issued
288 pursuant to this subsection shall be for a term beginning on the date of its issuance and ending
289 on the next following June 30, and its fee is \$250 regardless of the length of the term of the

290 license. The application for the special license shall contain information required by the
291 commissioner and must be submitted to the commissioner at least 30 days prior to the first day
292 when wine is to be sold. The special license may be issued in the name of the National Collegiate
293 Athletic Association Division I, II, or III college or university or the name of the primary food and
294 beverage vendor under contract with that college or university. These sales must take place within
295 the confines of the college stadium: *Provided*, That the exterior of the area where wine sales may
296 occur must be surrounded by a fence or other barrier prohibiting entry except upon the college or
297 university's express permission, and under the conditions and restrictions established by the
298 college or university, so that the wine sales area is closed to free and unrestricted entry by the
299 general public.

300 (2) A license issued under this subsection and the licensee are subject to the other
301 requirements of this article and the rules and orders of the commissioner relating to the special
302 license: *Provided*, That the commissioner may by rule or order grant certain waivers or exceptions
303 to those rules or orders as the circumstances of each the college stadium may require, including,
304 without limitation, the right to revoke or immediately suspend any license issued pursuant to this
305 section prior to any notice or hearing notwithstanding §60-8-27 and §60-8-28 of this code; and
306 *Provided, however*, That §60-8-20(c) or §60-8-20(d) of this code may not be waived, nor shall any
307 exception be granted concerning those subsections.

308 (3) The commissioner may propose rules for promulgation in accordance with §29A-3-1
309 *et seq.* of this code to implement this subsection.

NOTE: The purpose of this bill is to permit licensees to continue to sell nonintoxicating beer and wine for off premises consumption without additional licenses or fees.

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