

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 2200

BY DELEGATES J. JEFFERIES, MCGEEHAN,

FOSTER, AND MANDT

[Introduced February 10, 2021; Referred to the
Committee on Small Business, Entrepreneurship and
Economic Development then Finance]

1 A BILL to amend and reenact §11-16-11b of the Code of West Virginia, 1931, as amended; and
 2 to amend said code by adding thereto a new section, designated §60-7-9, all relating to
 3 special licenses for one-day charitable events for the sale, serving, and auctioning of
 4 nonintoxicating beer, nonintoxicating craft beer, and alcoholic liquors when raising money
 5 for artistic, athletic, charitable, educational, or religious purposes.

Be it enacted by the Legislature of West Virginia:

CHAPTER 11. TAXATION.

ARTICLE 16. NONINTOXICATING BEER.

§11-16-11b. Special license for one-day charitable events; application; license subject to provisions of article; exception.

1 (1) The commissioner may issue a special one-day license to be designated a Class S1
 2 license for the retail sale of nonintoxicating beer and nonintoxicating craft beer, and may, if
 3 applicable, also allow the charitable auctioning of certain sealed containers of nonintoxicating
 4 beer or nonintoxicating craft beer for off-premises consumption only, to a duly-organized nonprofit
 5 corporation, limited liability entity, or an association having received federal tax exempt status
 6 allowing the sale and serving of nonintoxicating beer or nonintoxicating craft beer when raising
 7 money for artistic, athletic, charitable, educational, or religious purposes. The commissioner may
 8 not charge a fee to the applicant that meets requirements for licensure. The special license shall
 9 be issued for a term no longer than one day. No more than six licenses may be issued to any
 10 single licensee during any calendar year. The license application shall contain a copy of the
 11 documents showing approved federal tax-exempt status and other information required by the
 12 commissioner and shall be submitted to the commissioner at least 15 days prior to the event.
 13 Nonintoxicating beer or nonintoxicating craft beer served and sold during the event shall be
 14 purchased from a licensed distributor or resident brewer, acting in the limited capacity of a
 15 distributor for its own products, that services the location where the festival, fair, or other event is

16 occurring. All distributors and resident brewers in the area must be notified in writing by mail,
 17 facsimile or electronic mail of the event in advance and be presented with the opportunity to
 18 participate in the event. Licensed representatives of distributors, brewers, or resident brewers
 19 may attend the one-day event and discuss their products, but may not engage in the serving or
 20 selling of the nonintoxicating beer or nonintoxicating craft beer. A licensee licensed by this section
 21 may use bona fide employees or volunteers of the charitable entity to sell and serve
 22 nonintoxicating beer and nonintoxicating craft beer.

23 (2) A license issued under the provisions of this section and the licensee holding the
 24 license are subject to all other provisions of this article and the rules and orders of the
 25 commissioner relating to the special license: *Provided*, That the commissioner may by rule or
 26 order allow certain waivers or exceptions with respect to those provisions, rules, or orders as the
 27 circumstances of each event requires, including, without limitation, the right to revoke or suspend
 28 any license issued pursuant to this section prior to any notice or hearing notwithstanding the
 29 provisions of §11-16-24 of this code: *Provided, however*, That under no circumstances may the
 30 provisions §11-16-18(a)(1), §11-16-18(a)(2), or §11-16-18(a)(3) of this code, be waived or an
 31 exception granted with respect to those provisions.

CHAPTER 60. STATE CONTROL OF ALCOHOLIC LIQUORS.

ARTICLE 7. LICENSES TO PRIVATE CLUBS.

§60-7-9. Special license for one-day charitable events.

1 The commissioner may issue special one-day licenses to duly organized, nonprofit
 2 corporations and associations allowing the sale and serving of alcoholic liquors, and may, if
 3 applicable, also allow the charitable auctioning of certain sealed bottles of alcoholic liquors for off-
 4 premises consumption only, when raising money for athletic, charitable, educational, or religious
 5 purposes. "Auction or auctioning", for the purposes of this subsection, means any silent, physical
 6 act, or verbal bid auction, whether or not the auction requires in-presence bidding or online

7 Internet-based electronic bidding through a secure application or website, but may not include
8 any action in violation of §47-20-10, §47-20-11, or §61-10-1 et seq. of this code. The license
9 application shall contain information required by the commissioner and shall be submitted to the
10 commissioner at least 30 days prior to the event. Alcoholic liquors used during these events may
11 be donated by, or purchased from, a licensed retailer, a distributor, distillery, or mini-distillery. A
12 licensed distillery, or mini-distillery which is authorized in writing by a representative of the duly
13 organized, nonprofit corporation and association which has obtained the one-day license; is in
14 good standing with the state; and obtains the commissioner's approval prior to the one-day license
15 event may, in conjunction with the one-day licensee, exhibit, conduct complimentary tastings, or
16 sell samples not to exceed three one-fluid ounce tastings or samples per patron, for consumption
17 on the premises during the operation of the one-day license event; and may sell certain sealed
18 alcoholic liquor bottles manufactured by the licensed distillery or mini-distillery for off-premises
19 consumption: *Provided*, That for a licensed distillery or mini-distillery at a licensed one-day event,
20 the tastings, samples and off-premises sales shall occur under the hours of operation as required
21 in this article. Under no circumstances may the provisions of §60-7-12 of this code be waived nor
22 may any exception be granted with respect to that section.

NOTE: The purpose of this bill is to allow the issuance of special licenses for one-day charitable events for the sale, serving, and auctioning of nonintoxicating beer, nonintoxicating craft beer, and alcoholic liquors when raising money for artistic, athletic, charitable, educational, or religious purposes.

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