

# **WEST VIRGINIA LEGISLATURE**

## **2021 REGULAR SESSION**

**Introduced**

## **House Bill 2612**

BY DELEGATES PUSHKIN, HOWELL, MCGEEHAN, AND

WALKER

[Introduced February 19, 2021; Referred 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; and to  
2 amend and reenact §60-7-11 of said code, all relating to allowing a bar to purchase liquor  
3 from a distillery or a mini-distillery if it is within 10 miles of the distillery or mini-distillery  
4 and the liquor was made at the distillery or mini-distillery.

*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, mini-distillery, or micro-distillery may offer  
2 liquor for retail sale:

3 (1) To customers from the distillery, mini-distillery, or micro-distillery for consumption off  
4 premises only. Except for free complimentary samples offered pursuant to §60-6-1 of this code,  
5 customers are prohibited from consuming any liquor on the premises of the distillery, mini-  
6 distillery, or micro-distillery: Provided, That a licensed distillery, mini-distillery, or micro-distillery  
7 may offer complimentary samples per this subsection of alcoholic liquors manufactured by that  
8 licensed distillery, mini-distillery, or micro-distillery for consumption on the premises only on  
9 Sundays beginning at 10:00 a.m. in any county in which the same has been approved as provided  
10 for in §7-1-3pp of this code.

11 (2) To a licensee under §60-7-1 et seq. of this code when the licensed operation is within  
12 10 miles of the distillery or the mini-distillery.

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

18 (c) Payment of taxes and fees. — The distillery, mini-distillery, or micro-distillery shall pay  
19 all taxes and fees required of licensed retailers and meet applicable licensing provisions as

20 required by this chapter and by rule of the commissioner, except for payments of the wholesale  
21 markup percentage and the handling fee provided by rule of the commissioner: Provided, That all  
22 liquor for sale to customers from the distillery, mini-distillery, or micro-distillery for off-premises  
23 consumption shall be and licensees under §60-7-1 et seq. of this code, as allowed by §60-4-  
24 3a(a)(2), are subject ~~of~~ to a five percent wholesale markup fee and an 80 cents per case bailment  
25 fee to be paid to the commissioner: Provided, however, That no liquor sold by the distillery, mini-  
26 distillery, or micro-distillery shall be priced less than the price set by the commissioner pursuant  
27 §60-3A-17 of this code.

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

36 (e) Limitations on licensees. — No distillery, mini-distillery, or micro-distillery may sell more  
37 than 3,000 gallons of product at the distillery, mini-distillery, or micro-distillery location the initial  
38 two years of licensure. The distillery, mini-distillery, or micro-distillery may increase sales at the  
39 distillery, mini-distillery, micro-distillery location by 2,000 gallons following the initial 24 month  
40 period of licensure and may increase sales at the distillery, mini-distillery, or micro-distillery  
41 location each subsequent 24 month period by 2,000 gallons, not to exceed 10,000 gallons a year  
42 of total sales at the distillery, mini-distillery, or micro-distillery location. No licensed mini-distillery  
43 may produce more than 50,000 gallons per calendar year at the mini-distillery location. No  
44 licensed micro-distillery may produce more than 10,000 gallons per calendar year at the micro-  
45 distillery location. No more than one distillery or mini-distillery license may be issued to a single

46 person or entity and no person may hold both a distillery and a mini-distillery license.

## ARTICLE 7. LICENSES TO PRIVATE CLUBS.

### §60-7-11. Licensee must purchase alcoholic liquors from or through commissioner or retail licensee; exceptions.

1 (a)(1) All licensees shall purchase all alcoholic liquors sold by them from the West Virginia  
2 Alcohol Beverage Control Commissioner at prices established by the commissioner for sales of  
3 the alcoholic liquors to the public generally or from any retail licensee licensed under the  
4 provisions of article three-a of this chapter, except that the:

5 (A) Licensees may purchase those wines permitted to be sold at retail pursuant to article  
6 eight of this chapter from those distributors licensed pursuant to said article at the same prices  
7 the distributors sell the wines to retailers licensed pursuant to said article; and

8 (B) Licensees may make purchases from a distillery or a mini-distillery as allowed by §60-  
9 4-3a(a)(2) of this code.

10 (2) A licensee may by contract approved by the commissioner receive deliveries of  
11 alcoholic liquor from a retail liquor store, and the provisions of sections twelve and thirteen, article  
12 six of this chapter shall not apply to the transportation of that alcoholic liquor.

13 (b) In all reports filed under section sixteen, article fifteen, chapter eleven of this code,  
14 retail licensees licensed under the provisions of article three-a of this chapter shall separately  
15 identify the amount of sales tax on sales of liquor to licensees in the manner required by the Tax  
16 Commissioner.

17 (c) Notwithstanding the provisions of section thirty, article fifteen, chapter eleven of this  
18 code to the contrary, the amount of the sales taxes collected by the Tax Commissioner shall be  
19 deposited in a revolving fund account in the State Treasurer's office, designated the "drunk driving  
20 prevention fund", and administered by the commission on drunk driving prevention, subject to  
21 appropriations by the Legislature.

NOTE: The purpose of this bill is to allow a bar to purchase liquor from a distillery or a mini-

distillery if it is within 10 miles of the distillery or mini-distillery.

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